NOTA - GS II MAINS

Q. Examine the implications of the option 'NOTA' in the Indian democracy. Bring out the measures needed to be taken to give a strong-hold to NOTA in Indian elections. (15 marks, 250 words)

News: *On plea for fresh elections in places where NOTA emerges winner, SC seeks EC reply*

What's in the news?

- The Supreme Court recently issued a notice to the Election Commission on a plea calling for fresh elections in a constituency where the 'none of the above' option on the EVM gets the maximum votes.

NOTA (None of the Above):

- It is a **ballot option** that a voter can choose to apply for instead of giving their vote to anyof the contesting candidates.
- NOTA empowers the electors to **express their negative opinions** and a lack of support for the contenders.
- It gives them the **right to reject** while maintaining the secrecy of their decision.

Backdrop:

- NOTA was used for **the first time in the 2013 Assembly elections** in five states-Chhattisgarh, Mizoram, Rajasthan, Delhi, and Madhya Pradesh-and later in the 2014 General Elections.
- It was introduced into the electoral process following the **2013 Supreme Court directive in the PUCL versus Union of India case.**

Procedure:

- The NOTA option in the Electronic Voting Machines (EVMs) is given at the **bottom of the candidates' list.**
- Earlier, in order to cast a negative ballot, a voter had to inform the presiding officer at the polling booth.
- Now the voter has just to press the NOTA option on the EVM.

Counting and Impact of NOTA:

- The Election Commission clarified that votes cast as NOTA are counted, but are considered **'invalid votes'.**
- Even if NOTA votes get the most number of votes in a constituency, the next candidate with the second-most number of votes is declared the winner.
- Therefore, votes made to NOTA **will not change the outcome of the election.**

Uniqueness:

- The NOTA option is meant **only for universal adult suffrage and direct elections** and not for polls held by the system of proportional representation.

NOTA not used in:
- Election to President.
- Election to Vice-President.
- Election to Rajya Sabha.
- Election to State Legislative Councils.

Significance of NOTA Option:

1. Disapproval:
- NOTA gives people dissatisfied with contesting candidates an opportunity to express their disapproval.
- For instance, a group of women activists in Kerala out on the road urging people not to elect any candidate if no woman was present in the fray, and a youth group in Tamil Nadu that campaigned for NOTA as a protest vote against corruption.

2. Participation in Voting:
- NOTA motivates citizens to participate in elections. Observations have been made that NOTA can influence more citizens to participate in voting.

3. Prevent Bogus Votes:
- With increased chances of more people turning up to cast their votes, even if they do not support any candidate, it decreases the count of bogus votes.

4. Enable Right to Reject:
- NOTA enables voters to exercise their right not to choose a candidate and register a vote of rejection.

5. Right to Secrecy:
- Earlier, since the ballot paper or EVM showed only the list of candidates, a voter could record his vote under Section 49-O (None of the above) but had to inform the presiding officer at the election booth. This compromised the secrecy of his ballot. NOTA removed this provision and enabled maintenance of citizen's right to secrecy.

NOTA - a Toothless Option:

1. No Electoral Value:
- The vote does not hold any electoral value and is merely symbolic in nature.
- Even if a majority of votes were cast for NOTA, the candidate with the largest vote share would still be the winner.

2. Not a Right to Reject:

- It has been argued that NOTA is not 'the right to reject' the candidates standing in the election, but instead the 'right to register a negative opinion'.

3. Lack of Awareness:
- NOTA has not reached the grassroots level and most people are unaware about the option on the EVM machine or what it entail.

4. Caste Bias:
- It has been observed that some of the highest NOTA votes polled are consistently seen in reserved constituencies.
- This could be interpreted as a refusal of general category voters to vote for an SC/ST candidate- a scenario where NOTA is being misused to uphold caste-based bias.

Way Forward:

1. Re-elections:
- If NOTA receives the highest number of votes, re-election should be held in that constituency with a new and fresh candidate. In 2018, the Maharashtra State Election Commission (SEC) issued an order that 'if NOTA received the highest number of valid votes, a fresh election shall be held'.

2. Barring Candidates:
- The candidates securing votes less than NOTA would be barred from contesting in that re-election.
- In November 2018, the SEC of Haryana issued an order where NOTA is treated like a 'fictional candidate' in municipal polls. If NOTA gets maximum vote, none of the 'real' candidates will be declared elected and the elections will be held afresh.
- The candidates securing votes less than NOTA would be barred from contesting in that re-election.

3. Cost on Candidates:
- Political parties that lose to NOTA should bear the cost of re-election. When conducting re-elections, the NOTA button may be disabled to avoid a series of re-elections.

4. Short Time Ban:
- The candidates who lose to NOTA should not be allowed to contest elections for a defined period of time.

5. Awareness:
- While NOTA is definitely providing a voice to dissent, it needs to be accompanied with efforts to raise voter awareness to prevent the misuse of this measure.

The Supreme Court has anticipated, there will be a systemic change with NOTA and the political parties will be forced to field candidates who are known for their integrity. Efforts must be made to 'strengthen' the impact of NOTA by providing it the power to reject and asking for re-elections if NOTA wins the majority.