

# COMPENDIUM of INSTRUCTIONS

VOLUME 2

**ELECTION COMMISSION OF INDIA**

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## NOMINATION, SCRUTINY AND RELATED INSTRUCTIONS



भारत निर्वाचन आयोग  
*Election Commission of India*

# **COMPENDIUM OF INSTRUCTIONS ON CONDUCT OF ELECTIONS**

**VOLUME – II**

**Nomination, Scrutiny and  
Related Instructions**

**2009**

**Nirvachan Sadan, Ashoka Road  
New Delhi – 110001**

## **VOLUME - II**

### **Nomination, Scrutiny and Related Instructions**

- A – NOMINATION, SCRUTINY, WITHDRAWAL AND ALLOTMENT OF SYMBOLS**
- B – POSTAL BALLOT**
- C – ELECTION AGENTS / POLLING AGENTS / COUNTING AGENTS**
- D – RESTRICTION ON USE OF VEHICLES**
- E – DEFACEMENT OF PROPERTY**
- F – MEDIA**
- G – VIDEOGRAPHY**
- H – OBSERVERS / MICRO-OBSERVERS**

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CONTENTS

A – NOMINATION, SCRUTINY, WITHDRAWAL AND ALLOTMENT OF SYMBOLS

INST Sl. No.	Letter No.	Date	Subject	Page No.
1	3/ER/2003/JS-II	27.03.2003	Supreme Court’s order dated 13th March, 2003 relating to right to information of electors regarding criminal antecedents, assets and liabilities and educational qualifications of candidates - implementation of the order.	3-15
2	3/ER/2005/JS-II	17.01.2006	Affidavits to be furnished by candidates along with nomination papers – regarding.	16-17
3	3/ER/2004/JS-II	09.03.2004	Affidavit to be filed by candidates along with nomination paper – modification of format in the light of Delhi High Court’s order.	18-20
4	3/ER/2004/JS-II	01.04.2004	Affidavit to be filed by candidates along with nomination paper.	21
5	3/ER/2004/JS-II	02.06.2004	Commission’s order dated 27.3.2003, regarding right to information of the electors about the background of candidates.	22
6	464/INST/2007/PLN-I	09.02.2007	Restriction on number of vehicles and people at the time of nominations.	23

7	509/1/2005/JS-I	14.01.2005	PIL matter before Patna High Court regarding absconders contesting elections (CWJC No. 7252/2004-The Indian Medical Association Vs. State Govt. and others).	24
8	3/ER/2008/JS-II (Vol.II)	04.07.2008	Filing of nomination papers by candidates – requirement of filing two affidavits – regarding.	25
9	509/5/2005/JS-I	14.01.2005	Representation of the People Act, 1951- Sections 8(3) and 8(4) Interpretation thereof by the Supreme Court of India – CA No. 8213 of 2001 with Civil Appeal No. 6691 of 2002 – Forwarding of Judgment dated 11.1.2005 of the Hon’ble Supreme Court– regarding.	26-27
10	509/5/2005/JS-I	20.01.2005	Judgement dated 11.1.2005 of the Hon’ble Supreme Court regarding interpretation of Sections 8(3) and 8(4) – clarification.	28
11	576/11/94/JS-II (Vol-I)	16.12.1994	Providing the Presiding Officers with a set of specimen signatures of candidates and their Election Agents – directions.	29-30
12	576/14/2006/PLN-1	01.04.2006	General Elections to State Legislative Assemblies, 2006 – Prohibition on sale of liquor etc.	31
13	3/ER/94/JS-II	27.04.1994	Multiplicity of candidates at elections - Measures to reduce – regarding.	32-34

14	3/ER/94/JS-II	16.08.1994	Prevention, intimidation, use of force, etc. in the matter of nomination of candidates belonging to weaker sections and bribery and for setting up or securing withdrawal of candidates.	35-37
15	3/1/94/JS-II	05.12.1994	Countermanding of Poll under Section 52 of the Representation of the People Act, 1951 on account of the death of a contesting candidate set up by Recognised Political Party – regarding.	38-41
16	3/ER/94/JS-II (Vol.II)	07.12.1994	Multiplicity of candidates at elections – Measures to reduce – regarding.	42
17	4/3/2008/JS-II (Vol.III)	02.07.2008	Scrutiny of nomination papers – regarding.	43
18	3/4/2008/JS-II	16.09.2008	List of contesting candidates in Form 7A for elections to the Legislative Assembly – regarding.	44-53
19	56/2009/PPS-II	14.01.2009	Conditions for treating a candidate as one set up by political party – requirements to be followed – regarding.	54-55
20	56/2009/PPS-II	14.01.2009	Concession under paragraph 10 of the Election Symbols (Reservation and Allotment) Order, 1968 to use the reserved symbol of the State Party in other States.	56-57

21	56/Gen/96-JS-II	25.03.1996	Concessions to candidates set up by recognized State Parties at elections in other States under para 10 of the Election Symbols (Reservation and Allotment) Order, 1968 – regarding.	58-60
22	56/228/96-JS-II	14.08.1996	Registered un-recognized political parties under Section 29-A of the R.P. Act, 1951 are registered parties for all States/UTs.	61
23	576/3/96-JS-II	20.09.1996	Clarification of setting up of a candidate of a recognised state party in a State in which it is not recognized.	62-63
24	576/4/2001-JS-II	12.10.2001	Election Petition No. 1 of 1996 - Shri Suresh Chand Gupta alias Bacchu Babu, Advocate Vs. Shri Harnath Singh Yadav & others - Directions of the High Court of Judicature at Allahabad – Commission's instructions – regarding.	64-65

## B – POSTAL BALLOT

25	52/2008/JS-II	21.10.2008	Guidelines for smooth management of Postal Ballot Papers – regarding.	69-76
26	52/1/84	06.11.1984	General Elections/Bye - elections - Dispatch of postal ballot papers to persons residing in Indian Missions abroad.	77
27	576/3/98/JS-II	12.10.1998	Protection of voting rights of electors subjected to preventive detention.	78

28	3/1/2003/JS-II	23.09.2003	Facilities of voting through proxy to classified service voters -Amendments in the Conduct of Elections Rules, 1961.	79-81
29	3/1/2003/JS-II	20.10.2003	Facilities of voting through proxy to classified service voters-Amendments in the Conduct of Elections Rules, 1961.	82-83
30	30/MIZ/2008	13.11.2008	General Election to Mizoram Legislative Assembly – Issue of Postal Ballot Papers to Bru Displaced Peoples residing in camps – Procedure - regarding.	84-87
31	52/2009/SDR	04.02.2009	Additional guidelines on management of Postal Ballot Papers and the use of Election Duty Certificate.	88-93

## C – ELECTION AGENTS / POLLING AGENTS / COUNTING AGENTS

32	464/INST/2007-PLN-I	12.10.2007	Appointment of Polling Agents – Comprehensive instructions/directions – regarding.	97-98
33	576/11/94/JS-II (Vol.I)	16.12.1994	Providing the Presiding Officers with a set of specimen signatures of candidates and their Election Agents – directions.	99-100
34	464/INST/2006-PLN-I	07.04.2006	Appointment of Polling Agents – Comprehensive directions – regarding.	101-104
35	576/3/2009/SDR	06.01.2009	Replacement of EVM during poll – requirements to be followed – regarding.	105

36	464/INST/2008/EPS	14.10.2008	Persons having security cover to be prohibited from being appointed as Election Agent, Polling Agent or Counting Agent – regarding.	106-107
----	-------------------	------------	---	---------

## D – RESTRICTION ON USE OF VEHICLES

37	437/6/96/PLN-III	15.01.1996	General elections/bye elections - Prevention of misuse of 'official vehicles' during elections.	111-113
38	437/6/96/PLN-III	16.01.1996	General Elections/Bye Elections – Restrictions on misuse of vehicles.	114-116
39	437/6/97-PLN-III	18.03.1997	General Elections/Bye-Elections to Lok Sabha and State Legislative Assemblies -Instructions on misuse of vehicles during election period – regarding.	117-118
40	437/6/2007-PLN-III (Vol-III)	16.3.2007	Use of vehicles for campaign purpose by candidates and political parties.	119
41	437/6/2006-PLN-III	23.11.2007	Prevention of misuse of vehicles during elections.	120-124

## E – DEFACEMENT OF PROPERTY

42	3/7/2008/JS-II	07.10.2008	Prevention of defacement of property and other campaign related items– revised instructions – regarding.	127-136
43	3/7/2008/J.S.-II/SDR	10.11.2008	Instructions on defacement of property – regarding.	137

## F – MEDIA

44	491/96/MCS	27.03.1996	Facilities to be provided to media persons for coverage of process of election.	141-150
45	491/97/MCS-Vol.II	25.03.1997	Issue of authority letters - facilities to be provided to media persons for the coverage of process of election – regarding.	151
46			Code of Conduct for Television broadcasts in connection with elections.	152-153
47			Scheme of Broadcast over Akashvani and Doordarshan by Recognized Political Parties during Elections to the Lok Sabha/State Assemblies.	154-156
48	509/75/2004/JS-I	15.04.2004	Supreme Court's Order dated 13th April 2004 relating to advertisements of political nature on TV Channel and cable networks.	157-168
49	509/75/2004-JS.I	22.07.2004	Commission's Order dated 15.4.2004 relating to advertisements of political nature on TV Channel and cable networks - reg.	169-171
50	509/75/2004/JS-I/ Vol.II/RCC	21.11.2008	Advertisement of political nature on Radio – regarding.	172-173

## G – VIDEOGRAPHY

51	464/INST/2005-PLN-I	15.10.2005	General Election to the Legislative Assembly of Bihar - Photography/ videography of electors and poll proceedings inside the polling stations - regarding.	177-178
----	---------------------	------------	--	---------

52	447/2007-PLN-IV	17.01.2007	Use of Videography and digital cameras during elections – Consolidated Instructions thereon.	179-184
53	4/2008/SDR	29.01.2009	Videographing of critical events relating to the conduct of elections – Supply of CDs – regarding.	185-186

## H – OBSERVERS / MICRO OBSERVERS

54	No.464/OBS/2007/PLN-I/Vol.II	02.01.2007	General elections to the Legislative Assemblies of Manipur, Punjab and Uttaranchal – Appointment of Nodal Officers – regarding.	189
55	No.464/OBS/2007/PLN-I	03.01.2007	General Elections to Legislative Assemblies, 2007 – Facilities for Observers – regarding.	190
56	No. 464/OBS/2007/PLN-I	09.01.2007	Provision of facilities for Observers.	191-195
57	No.464/INST/2007-PLN-I	12.10.2007	Engagement of videographers for the observers.	196
58	No. 464/INST/2008-EPS	24.10.2008	Appointment of Micro Observers – Guidelines & Check List - regarding.	197-211
59	No. 464/INST/2008-EPS	21.01.2009	Appointment of Micro Observers – additional instructions – reg.	212
60	23/BLA/2008/ERS	19.11.2008	Revision of Electoral Rolls w.r.t. 1/1/2009 as the qualifying date – regarding.	213-225
61	23/BLA/2008/ERS	28.11.2008	Revision of Electoral Rolls w.r.t. 1/1/2009 as the qualifying date – Booth Level Agent – Clarifications – regarding.	226-227

# A

## NOMINATION, SCRUTINY, WITHDRAWAL AND ALLOTMENT OF SYMBOLS



INSTRUCTION SL. NO. 1

Election Commission’s letter number 3/ER/2003/JS-II dated 27.03.2003 addressed to The Chief Electoral Officers of all States and Union Territories. [Please also refer to Election Commission’s letter No.3/ER/2005/JS-II, dated 17.01.2006 (ITEM NO.128)]

**Subject: Supreme Court’s order dated 13th March, 2003 relating to right to information of electors regarding criminal antecedents, assets and liabilities and educational qualifications of candidates - implementation of the order**

I am directed to say that the Hon’ble Supreme Court of India, by its order dated 13th March, 2003 in Civil Appeal No.490 of 2002 (People’s Union for Civil Liberties and another v Union of India) has directed as follows:

“XXXXXXXXXXXXXXXXXXXX

- “4. The Court has to take a holistic view and adopt a balanced approach in examining the legislation providing for right to information and laying down the parameters of that right.
- 5. Section 33B inserted by the Representation of the People (3rd Amendment) Act, 2002 does not pass the test of constitutionality firstly for the reason that it imposes blanket ban on dissemination of information other than that spelt out in the enactment irrespective of the need of the hour and the future exigencies and expedients and secondly for the reason that the ban operates despite the fact that the disclosure of information now provided for is deficient and inadequate.
- 6. The right to information provided for by the Parliament under Section 33A in regard to the pending criminal cases and past involvement in such cases is reasonably adequate to safeguard the right to information vested in the voter/ citizen. However, there is no good reason for excluding the pending cases in which cognizance has been taken by Court from the ambit of disclosure.
- 7. The provision made in Section 75A regarding declaration of assets and liabilities of the elected candidates to the Speaker or the Chairman of the House has failed to effectuate the right to information and the freedom of expression of the voters/ citizens. Having accepted the need to insist on disclosure of assets and liabilities of the elected candidate together with those of spouse or dependent children, the Parliament ought to have made a provision for furnishing this information at the time of filing the nomination. Failure to do so has resulted in the violation of guarantee under Article 19(1)(a).

XXXXXXXXXXXXXXXXXXXX

- 9. The Election Commission has to issue revised instructions to ensure implementation of Section 33A subject to what is laid down in this judgement regarding the cases in which cognizance has been taken. The Election Commission’s orders related to disclosure of assets and liabilities will still hold good and continue to be operative.

Annexure-A

However, direction No.4 of para 14 insofar as verification of assets and liabilities by means of summary enquiry and rejection of nomination paper on the ground of furnishing wrong information or suppressing material information should not be enforced.”

2. Therefore, in pursuance of the said order dated 13th March, 2003 of the Hon’ble Court, the Commission has made a detailed order on 27th March, 2003, under Article 324 of the Constitution, containing norms and modalities to carry out and give effect to the directions of the Hon’ble Supreme Court reproduced in para 1 above. A copy of the said order bearing No.3/ER/2003/JS.II, dated 27th March, 2003, is forwarded herewith for information and strict compliance by all concerned.
3. A perusal of the Commission’s Order will show that the Commission has prescribed, in para 16 of the Order, an affidavit (Annexure-1 to the said Order) which will have to be filed by each candidate at the time of filing his nomination paper for any election to the Council of States, House of the People, Legislative Assembly of a State or Legislative Council of a State. The consequences of failure on the part of the candidate to furnish the said affidavit have also been spelt out clearly in para 16 (3) of the Order. The manner of dissemination of the information furnished by the candidate in the said affidavit has also been specified in paras 16 (4) and 16 (5) of the Order.
4. The copies of the Commission’s Order and its Annexure should be immediately supplied to all the District Election Officers, Returning Officers, Assistant Returning Officers and other election authorities concerned. They should get the copies of this Order and its Annexure printed or photocopied in sufficient number and they should supply a copy each of the Order and the format of the affidavit alongwith the form of the nomination paper as and when any intending candidate is supplied with a form of the nomination paper. Failure of any election related officer to do so would be viewed seriously.
5. If any candidate fails to file the said affidavit along with his nomination paper, he shall be reminded to do the needful by the Returning Officer by a written memorandum. A standard draft of such reminder to the candidate is annexed hereto as Annexure-A to this letter. This reminder should be issued immediately to the candidate or his proposer presenting the nomination paper.
6. Copies of this Order should also be supplied to all political parties with a request to bring its contents to the notice of all candidates set up by them. The matter should also be given widest publicity through all media of mass communication, print as well as electronic media.
7. The receipt of the letter may kindly be acknowledged.

Memo No. \_\_\_\_\_ Dated \_\_\_\_\_

From: Returning Officer for \_\_\_\_\_

To,

(Name of the candidate)

**Subject: Election to \_\_\_\_\_ from constituency \_\_\_\_\_  
filing of the required affidavit**

You have filed your nomination paper for the above election today, but you have not filed, along with your nomination paper, the affidavit prescribed by the Election Commission vide its Order No.3/ER/2003/JS-II, dated 27th March, 2003. A copy each of the said Order and the format of the requisite affidavit is enclosed for your ready reference.

2. You are required hereby to furnish the requisite information in the prescribed affidavit, duly sworn before a Magistrate of the First Class or a Notary Public or Oath Commissioner appointed by the High Court.
3. It should be noted that the requisite affidavit must be furnished by you immediately and positively before \_\_\_\_\_ hrs. on \_\_\_\_\_ (time and date fixed for scrutiny of nominations).
4. You may also note the consequences of not filing the requisite affidavit as explained in para 16(3) of the above referred Order of the Commission.

(Returning Officer)

Election Commission's order no. 3/ER/2003/JS-II dated 27.03.2003

**Subject: Supreme Court's order dated 13th March, 2003 relating to right to information of electors regarding criminal antecedents, assets and liabilities and educational qualifications of candidates - implementation of the order.**

### ORDER

1. Whereas, the superintendence, direction and control, inter alia, of all elections to Parliament and to the Legislature of every State are vested in the Election Commission by Article 324 (1) of the Constitution of India;
2. And whereas, the Hon'ble Supreme Court of India had, by its order dated 2nd May, 2002, in Civil Appeal No. 7178 of 2001 - Union of India Vs Association for Democratic Reforms and another, held as follows: -
  - “(1) The jurisdiction of the Election Commission is wide enough to include all powers necessary for smooth conduct of elections and the word ‘elections’ is used in a wide sense to include the entire process of election which consists of several stages and embraces many steps.
  - (2) The limitation on plenary character of power is when the Parliament or state legislature has made a valid law relating to or in connection with elections, the Commission is required to act in conformity with the said provisions. In case where law is silent, Art 324 is a reservoir of power to act for the avowed purpose of having free and fair election. Constitution has taken care of leaving scope for exercise of residuary power by the Commission in its own right as a creature of the Constitution in the infinite variety of situations that may emerge from time to time in a large democracy, as every contingency could not be foreseen or anticipated by the enacted laws or the rules. By issuing necessary directions Commission can fill the vacuum till there is legislation on the subject. In Kanhiya Lal Omar's case (AIR 1986 SC 111), the court construed the expressions ‘superintendence, direction and control’ in Art 324(1) and held that a direction may mean an order issued to a particular individual or a precept which may have to follow and it may be a specific or a general order and such phrase should be construed liberally empowering the Election Commission to issue such orders.
  - (3) The word ‘elections’ includes the entire process of election which consists of several stages and it embraces many steps, some of which have an important bearing on the process of choosing a candidate. Fair election contemplates disclosure by the candidate of his past including the assets held by him so as to give a proper choice to the candidate (sic) (elector) according to his thinking and opinion. As stated earlier, in Common Cause case [(1996) 2 SCC 752], the court dealt with a contention that elections in the country are fought with the help of money power which is gathered from black sources and once elected to power, it becomes easy to collect tons of black money, which is used for retaining power and for re-election. If, on

affidavit a candidate is required to disclose the assets held by him at the time of election, voter can decide whether he could be re-elected even in case where he has collected tons of money.

XXX XXX

- (4) To maintain the purity of elections and in particular to bring transparency in the process of election, the Commission can ask the candidates about the expenditure incurred by the political parties and this transparency in the process of election would include transparency of a candidate who seeks election or re-election. In a democracy, the electoral process has a strategic role. The little man of this country would have basic elementary right to know full particulars of a candidate who is to represent him in Parliament where laws to bind his liberty and property may be enacted.
- (5) The right to get information in democracy is recognized all throughout and it is natural right flowing from the concept of democracy. At this stage, we would refer to Art 19(1) and (2) of the International Covenant of Civil and Political Rights which is as under:-
  - (1) Everyone shall have the right to hold opinions without interference.
  - (2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
- (6) Cumulative reading of plethora of decisions of this court as referred to, it is clear that if the field meant for legislature and executive is left unoccupied detrimental to the public interest, this court would have ample jurisdiction under Art 32 read with Arts 141 and 142 of the Constitution to issue necessary directions to the executive to subserve public interest.
- (7) Under our Constitution, Art 19(1) (a) provides for freedom of speech and expression. Voters' speech or expression in case of election would include casting of votes that is to say, voter speaks out or expresses by casting vote. For this purpose, information about the candidate to be selected is must. Voter's (little man-citizen's) right to know antecedents including criminal past of his candidate contesting election for MP or MLA is much more fundamental and basic for survival of democracy. The little man may think over before making his choice of electing law breakers as law makers”.
3. And whereas, the Hon'ble Supreme Court, by its aforesaid order dated 2nd May, 2002, had directed as follows: -

“The Election Commission is directed to call for information on affidavit by issuing necessary order in exercise of its power under art 324 of the Constitution of India from each candidate seeking election to Parliament

or a state legislature as a necessary part of his nomination paper, furnishing therein, information on the following aspects in relation to his/her candidature:-

- (1) Whether the candidate is convicted/acquitted/ discharged of any criminal offence in the past - if any, whether he is punished with imprisonment or fine?
  - (2) Prior to six months of filing of nomination, whether the candidate is accused in any pending case, of any offence punishable with imprisonment for two years or more, and in which charge is framed or cognizance is taken by the court of law. If so, the details thereof.
  - (3) The assets (immovable, movable, bank balances etc) of a candidate and of his/her spouse and that of dependants.
  - (4) Liabilities, if any, particularly whether there are any over dues of any public financial institution or government dues.
  - (5) The educational qualifications of the candidate.”
4. And whereas, the Hon’ble Supreme Court, in its aforesaid order dated 2nd May, 2002, further observed that ‘the Election Commission has from time to time issued instructions in order to meet with the situation where the field is unoccupied by the legislation’ and had further directed that ‘the norms and modalities to carry out and give effect to the aforesaid directions should be drawn up properly by the Election Commission as early as possible and in any case within two months’;
5. And whereas, the Election Commission had, in pursuance of the above referred Judgement and Order dated 2nd May, 2002 of the Hon’ble Supreme Court and in exercise of the powers, conferred on it by Article 324 of the Constitution, directed by an Order dated 28th June, 2002, inter alia, in para 14 of the said Order as follows:-
- “(1) Every candidate at the time of filing his nomination paper for any election to the Council of States, House of the People, Legislative Assembly of a State or the Legislative Council of a State having such a council, shall furnish full and complete information in regard to all the five matters, specified by the Hon’ble Supreme Court and quoted in para 5 above (reproduced in para 3 herein), in an affidavit, the format whereof is annexed hereto as Annexure-1 to this order.
- (2) The said affidavit by each candidate shall be duly sworn before a Magistrate of the First Class or a Notary Public or a Commissioner of Oaths appointed by the High Court of the State concerned.
- (3) Non-furnishing of the affidavit by any candidate shall be considered to be violation of the order of the Hon’ble Supreme Court and the nomination of

the candidate concerned shall be liable to rejection by the returning officer at the time of scrutiny of nominations for such non- furnishing of the affidavit.

- (4) Furnishing of any wrong or incomplete information or suppression of any material information by any candidate in or from the said affidavit may also result in the rejection of his nomination paper where such wrong or incomplete information or suppression of material information is considered by the returning officer to be a defect of substantial character, apart from inviting penal consequences under the Indian Penal Code for furnishing wrong information to a public servant or suppression of material facts before him:
- Provided that only such information shall be considered to be wrong or incomplete or amounting to suppression of material information as is capable of easy verification by the returning officer by reference to documentary proof adduced before him in the summary inquiry conducted by him at the time of scrutiny of nominations under Section 36 (2) of the Representation of the People Act 1951, and only the information so verified shall be taken into account by him for further consideration of the question whether the same is a defect of substantial character.
- (5) The information so furnished by each candidate in the aforesaid affidavit shall be disseminated by the respective returning officers by displaying a copy of the affidavit on the notice board of his office and also by making the copies thereof available freely and liberally to all other candidates and the representatives of the print and electronic media.
  - (6) If any rival candidate furnishes information to the contrary, by means of a duly sworn affidavit, then such affidavit of the rival candidate shall also be disseminated along with the affidavit of the candidate concerned in the manner directed above.”;
6. And whereas, the President of India promulgated the Representation of People (Amendment) Ordinance, 2002 (No.4 of 2002) on the 24th August, 2002 further to amend the Representation of the People Act, 1951 inserting Sections 33A and 33B and 125A and amending Section 169 of the Representation of the People Act, 1951;
7. And whereas, by virtue of Section 33B of the said Ordinance, the Order of the Election Commission dated the 28th June, 2002, was rendered ineffective and the said Section 33B read as under:-
- “Section 33B.- Notwithstanding anything contained in any judgement, decree or order of any court or any direction, order or any other instruction issued by the Election Commission, no candidate shall be liable to disclose or furnish any such information, in respect of his election, which is not required to be disclosed or furnished under this Act or the rules made thereunder.”;



8. And whereas, the Government of India by notification dated 3rd September, 2002 amended the Conduct of the Elections Rules, 1961 to give effect to the said Ordinance;
9. And whereas, the Association for Democratic Reforms, People's Union for Civil Liberties, and Lok Satta, filed three separate writ petitions before the Hon'ble Supreme Court of India challenging the constitutional validity of the Presidential Ordinance dated 24th August, 2002;
10. And whereas, by the Notification dated the 28th December, 2002, the Representation of the People Act, 1951 was amended by the Representation of the People (Third Amendment) Act, 2002 which substituted the aforesaid Ordinance dated 24th August, 2002;
11. And whereas, the said petitioners filed applications to treat the said writ petitions as challenging the constitutional validity of the Representation of the People (Third Amendment) Act, 2002;
12. And whereas, the Hon'ble Supreme Court in its order/judgement, dated the 13th March, 2003 declared Section 33B of the Amended Act as illegal, null and void;
13. And whereas, the following directions were issued in the Judgement of Hon'ble Mr. Justice R.V. Reddi, which was concurred by Mr. Justice D.M. Dharmadhikari:-

“xxxxxxxxxxxx

“The right to information provided for by the Parliament under Section 33A in regard to the pending criminal cases and past involvement in such cases is reasonably adequate to safeguard the right to information vested in the voter/citizen. However, there is no good reason for excluding the pending cases in which cognizance has been taken by Court from the ambit of disclosure.”

Xxxxxxxxxxxxx

“The Election Commission has to issue revised instructions to ensure implementation of Section 33A subject to what is laid down in this judgement regarding the cases in which cognizance has been taken. The Election Commission's orders related to disclosure of assets and liabilities will still hold good and continue to be operative. However, direction No.4 of para 14 insofar as verification of assets and liabilities by means of summary enquiry and rejection of nomination paper on the ground of furnishing wrong information or suppressing material information should not be enforced.”;

14. And whereas, the Judgement of Hon'ble Mr. Justice M.B. Shah, also held that Section 33B was illegal, null and void and further that the Election Commission

would be required to revise its instructions in the light of the directions therein as under:-

“It is true that the aforesaid directions issued by the Election Commission is not under challenge but at the same time prima facie it appears that the Election Commission is required to revise its instructions in the light of directions issued in Association for Democratic Reforms case (supra) and as provided under the Representation of the People Act and its 3rd Amendment.”;

15. And whereas, by virtue of the Judgement dated the 13th March, 2003 of the Supreme Court declaring Section 33B of the Representation of the People Act, 1951 to be illegal, null and void, the earlier instructions of the Election Commission dated 28th June, 2002 would continue to be operative subject to the aforementioned directions of the Supreme Court, and are therefore required to be revised and reissued;
16. Now, therefore, the Election Commission, in pursuance of the above referred order dated 13th March, 2003, of the Hon'ble Supreme Court and in exercise of the powers, conferred on it by Article 324 of the Constitution, of superintendence, direction and control, inter alia, of conduct of elections to Parliament and State Legislatures, hereby issues, in supersession of its earlier order dated 28th June, 2002, its revised directions as follows: -
  - (1) Every candidate at the time of filing his nomination paper for any election to the Council of States, House of the People, Legislative Assembly of a State or the Legislative Council of a State having such a council, shall furnish full and complete information in regard to the matters specified by the Hon'ble Supreme Court and quoted in paras 13 and 14 above, in an affidavit, the format whereof is annexed hereto as Annexure-1 to this order.
  - (2) The said affidavit by each candidate shall be duly sworn before a Magistrate of the First class or a Notary Public or a Commissioner of Oaths appointed by the High Court of the State concerned.
  - (3) Non-furnishing of the affidavit by any candidate shall be considered to be violation of the order of the Hon'ble Supreme Court and the nomination of the candidate concerned shall be liable to rejection by the returning officer at the time of scrutiny of nominations for such non-furnishing of the affidavit.
  - (4) The information so furnished by each candidate in the aforesaid affidavit shall be disseminated by the respective returning officers by displaying a copy of the affidavit on the notice board of his office and also by making the copies thereof available freely and liberally to all other candidates and the representatives of the print and electronic media.

**Annexure-I**

**Affidavit to be furnished by candidate along  
with nomination paper**

Before the Returning Officer for election to \_\_\_\_\_  
(name of the House) from \_\_\_\_\_ constituency ( name of  
the constituency)

I, \_\_\_\_\_, son/daughter/wife of \_\_\_\_\_  
aged \_\_\_\_\_ years, resident of \_\_\_\_\_, candidate  
at the above election, do hereby solemnly affirm and state on oath as under:-  
[Strike out whichever not applicable]

- (1) The following case(s) is/are pending against me in which cognizance has been taken by the court:-
  - (i) Section of the Act and description of the offence for which cognizance taken :
  - (ii) The Court which has taken cognizance:
  - (iii) Case No. :
  - (iv) Date of order of the Court taking cognizance:
  - (v) Details of appeal(s) / application(s) for revision, etc., if any, filed against above order taking cognizance:

That I give herein below the details of the assets (immovable, movable, bank balance, etc.) of myself, my spouse and dependents\*:

**A. Details of movable assets**

(Assets in joint name indicating the extent of joint ownership will also have to be given)

S. No.	Description	Self Spouse Names	Names Etc.	Names
			(Dependent-1) (Dependent-3)	(Dependent-2) Names

**Cash**

- 1. Deposits in banks, Financial Institutions and Non-Banking Financial Companies
- 2. Bonds, Debentures and Shares in companies
- 3. Motor Vehicles (details of make, etc.)

(5) If any rival candidate furnishes information to the contrary, by means of a duly sworn affidavit, then such affidavit of the rival candidate shall also be disseminated along with the affidavit of the candidate concerned in the manner directed above.

- 17. For the removal of doubt, it is hereby clarified that the earlier direction contained in para 14 (4) of the earlier order dated 28th June, 2002, in so far as verification of assets and liabilities by means of summary enquiry and rejection of nomination paper on the ground of furnishing wrong information or suppressing material information is not enforceable in pursuance of the order dated 13th March, 2003 of the Apex Court. It is further clarified that apart from the affidavit in Annexure-1 hereto referred to in para 16(1) above, the candidate shall have to comply with all the other requirements as spelt out in the Representation of the People Act, 1951, as amended by the Representation of the People (Third Amendment) Act, 2002, and the Conduct of Elections Rules, 1961, as amended by the Conduct of Elections (Amendment) Rules , 2002.
- 18. In so far as elections to the Legislative Assembly and Legislative Council of the State of Jammu and Kashmir are concerned, the directions of the Election Commission contained in the preceding para 16 shall be deemed to have been issued under the provisions of Section 138 of the Constitution of Jammu and Kashmir which are akin to Article 324 (1) of the Constitution of India and vest the superintendence, direction and control of the conduct of all elections to either House of the Legislature of that State in the Election Commission.
- 19. All Returning Officers shall ensure that the copies of affidavit prescribed herein by the Commission shall be delivered to the candidates along with the forms of nomination papers as part of the nomination paper.

- 4. Other Financial instruments NSS, Postal Savings, LIC, Policies, etc.
- 5. Jewellery (give details of weight and value)
- 6. Other assets, such as values of claims / interests

**Note: Value of Bonds / Shares / Debentures as per the latest market value in Stock Exchange in respect of listed companies and as per books in the case of non listed companies should be given.**

*\* Dependent here means a person substantially dependent on the income of the candidate.*

**B. Details of Immovable assets**

[Note: Properties in joint ownership indicating the extent of joint ownership will also have to be indicated]

S. No.	Description	Self Spouse Names	Names Etc.	Names
			(Dependent-1) (Dependent-3)	(Dependent-2) Names
1.	Agricultural Land- Location(s) - Survey number(s)- Extent (Total measurement)- current market value			
2.	Non-Agricultural Land-Location(s)-Survey number(s)-Extent(Total measurement) - current market value			
3.	Buildings (commercial and residential)- Location(s)- Survey/ door number(s)- Extent (Total measurement)- current market value			
4.	Houses/Apartments, etc. - Location(s)- Survey / door number(s)- Extent (Total measurement) - current market value			
5.	Others (such as interest in property)			

I give herein below the details of my liabilities / over dues to public financial institutions and government dues: -

**[Note: Please give separate details for each item]**

S. No.	Description	Name and Address of Bank / Financial Institution(s)/ Department(s)	Amount Outstanding as on	Description
--------	-------------	--	--------------------------	-------------

- A. i Loans from Banks
- ii Loans from financial institutions
- iii Government dues (other than income tax and wealth tax) (No Due Certificate to be enclosed in case holding or having held any public office)
- B. i Income Tax including surcharge [Also indicate the assessment year up to which Income Tax Return filed. Give also Permanent Account Number (PAN)]
- ii Wealth Tax [Also indicate the assessment year upto which Wealth Tax return filed.]
- iii Sales Tax [Only in case of proprietary business]
- Property Tax

4) My educational qualifications are as under :-

(GIVE DETAILS OF SCHOOL AND UNIVERSITY EDUCATION)

(Name of School / University and the year in which the course was completed should also be given.)

**DEPONENT VERIFICATION**

I, the deponent above named, do hereby verify and declare that the contents of this affidavit are true and correct to the best of my knowledge and belief; no part of it is false and nothing material has been concealed there from.

Verified at ..... this the ..... day of ....., 200 .....

**DEPONENT**

**INSTRUCTION SL. NO. 2**

Election Commission's letter No.3/ER/2005/JS-II, dated 17.01.2006 addressed to the Chief Electoral Officers of all States and Union Territories

**Subject : Affidavits to be furnished by candidates along with nomination papers-regarding.**

I am directed to invite your attention to the Commission's Order dated 27-3-2003, wherein the Commission prescribed the format of affidavit in which the candidates are required to disclose information relating to pending criminal cases, assets, liabilities and educational qualifications.

2. In the Commission's covering letter No.3/ER/2003/JS-II, dated 27-3-2003, forwarding the above referred order, it was mentioned that if any candidate does not file the affidavit at the time of submitting the nomination papers, the Returning Officer shall give a notice to the candidate (in the format annexed to the said letter) pointing out the requirement of filing affidavit, and advising the candidate to file the affidavit before the time fixed for scrutiny of nomination papers. The other affidavit required to be filed by candidates (in Form 26) is also, by practice and for convenience, being permitted to be filed up to the time fixed for scrutiny of nominations.
3. The Hon'ble Madras High Court, in its judgment dated 2-8-2005 in Election Petition Nos.1 & 2 of 2004, has observed that filing the said affidavits by the last date and hour fixed for filing of nomination papers would be permissible.
4. The Commission has accordingly reviewed the instructions referred to above and decided that the **two affidavits (one in Form 26 and the other in the format prescribed by the Commission vide the abovementioned order dated 27-3-2003) should be filed latest by 3.00 p.m. on the last date of filing nominations.** This is in consonance with the observation of the Madras High Court mentioned in para 3 above and also with the letter and spirit of Section 33A of Representation of the People Act, 1951 and the directions in the judgment of the Hon'ble Supreme Court in Civil appeal No.490/2002. The failure to submit the affidavits by the aforesaid date and time will be considered a defect of substantial nature entailing rejection of the nomination paper at the time of scrutiny.
5. The format of written memorandum to remind the candidates regarding filing of affidavits referred to in para 2 above, has also been suitably amended in accordance with the above decision. The revised format of the reminder is annexed hereto as **Annexure-A**. The reminder, should be issued to the candidate wherever required, or the proposer who filed the nomination papers on behalf of the candidate, immediately after the nomination paper is submitted.
6. The above instructions may be brought to the notice of all the Returning Officers,

District Election Officers and also all Political Parties in your State -- both recognized and unrecognized.

7. The instructions in Chapter V, paragraph 20.1 of the Handbook for Returning Officers 2004, shall be deemed to have been amended to the above effect.
8. Kindly acknowledge receipt and intimate action taken in the matter.

**Annexure-A**

Memo No. \_\_\_\_\_

Dated \_\_\_\_\_

From: Returning Officer for \_\_\_\_\_

To,

\_\_\_\_\_

(Name of the candidate)

**Subject: Election to \_\_\_\_\_ from constituency \_\_\_\_\_  
filing of the required affidavit**

You have filed your nomination paper for the above election today, but you have not filed, along with your nomination paper, the affidavit prescribed by the Election Commission vide its Order No.3/ER/ 2003/JS-II, dated 27th March, 2003. A copy each of the said Order and the format of the requisite affidavit is enclosed for your ready reference.

You are required hereby to furnish the requisite information in the prescribed affidavit, duly sworn before a Magistrate of the First Class or a Notary Public or Oath Commissioner appointed by the High Court.

It should be noted that the requisite affidavit must be furnished by you immediately and positively before \_\_\_\_\_ hrs. on \_\_\_\_\_ (time and date fixed for scrutiny of nominations).

You may also note the consequences of not filing the requisite affidavit as explained in para 16(3) of the above referred Order of the Commission.

(Returning Officer)



INSTRUCTION SI. No. 3

Election Commission’s letter No.3/ER/2004/JS-II, dated 09.03.2004 addressed to the Chief Electoral officers of, all States and Union Territories

**Subject: - Affidavit to be filed by candidates along with nomination paper -modification of format in the light of Delhi High Court’s order.**

I am directed to invite a reference to the order No. 3/ER/2003 JS-II, dated 27th March, 2003 of the Commission, relating to right to information of electors regarding the background of the candidates. The Commission had prescribed a format in which the candidates are required to submit information about criminal background, assets, liabilities and educational qualifications. In item (3) (a) (iii) relating to “government dues”, it was mentioned that ‘No Due Certificate’ was to be enclosed in case of persons holding or having held public office. In view of representations received from various individuals and departments regarding difficulty in obtaining the said certificate, the Commission has decided that “No Due Certificate” is not required to be submitted along with the affidavit.

In C.W.P. No. 4912 of 1998 (Kushra Bharat Vs. Union of India & Others), the Delhi High Court has directed on 1st March, 2004 that information relating to government dues owed by candidates to the departments dealing with government accommodation, electricity, water, telephone and transport (including aircrafts and helicopters) and any other dues, should be furnished by the candidates and this information should be published by the election authorities under the Commission in at least two newspapers having local circulations for information of electors. Accordingly, the Commission has modified item (3) (a) (iii) of the format of the affidavit, relating to “government dues”. A copy of the revised format of the said item (3) (a) (iii) is enclosed. There is no change in any other item of the affidavit.

The Commission has directed that the information furnished by the contesting candidates in relation to the dues to the departments mentioned above [in item (3) (a) (iii) of the affidavit], should be published by the Returning Officers concerned in at least two newspapers having local circulation, one of which should be a vernacular newspaper. This should be published by the Returning Officer within two days after preparing the list of contesting candidates. A format in which the Returning Officers may publish the information is also enclosed.

If there is more than one constituency in a District, the District Election Officer may publish the above information in a consolidated form in respect of all constituencies (constituency-wise) in that district, by suitably modifying the above-referred format.

The above instructions may be immediately brought to the notice of all election authorities and political parties in your State.

Kindly acknowledge receipt.

**Revised format of item 3(a) (iii) of the affidavit prescribed vide Election Commission’s order No.3/ER/2003/JS-II, dated 27th March, 2003.**

S.No.	Description	Name and address of department	Amount outstanding as on...
(iii)	Government dues:-		
	(a) dues to departments dealing with government accommodation		
	(b) dues to departments dealing with supply of water		
	(c) dues to departments dealing with supply of electricity		
	(d) dues to departments dealing with telephones		
	(e) dues to departments dealing with government transport (including aircrafts and helicopters)		
	(f) other dues. if any		

**Format in which the Returning Officer may publish the information relating to government dues**

(To be published in two newspapers having local circulation)

General / Bye-Election to \_\_\_\_\_ from \_\_\_\_\_ constituency

**Public Notice**

Information as furnished by the contesting candidates in their affidavits in respect of Government dues is hereby published for

information of all electors:-

S. No.	Name of candidate	Party affiliation, if any	Government dues to departments dealing with					Other Government dues, if any
			Government accommodation	Supply of water	Supply of elements	Tele-phones	Government transport (including aircrafts and helicopters)	
1.	2.	3.	4.	5.	6.	7	8	9.
1.								
2.								
3.								
4.								
5.								
etc.								

(Returning Officer for \_\_\_\_\_constituency)

INSTRUCTION SL. NO. 4

Election Commission’s letter No. 3/ER/2004/J.S.II, dated 01.04.2004 addressed to the Chief Electoral Officers of all States/Union Territories.

**Subject:- Affidavit to be filed by candidates along with nomination paper.**

I am directed to say that it has been brought to the notice of the Commission that in many cases, the affidavits filed by candidates along with the nomination paper are not properly filled up. As a consequence, the information that is required to be disseminated to the public remains incomplete, thereby defeating the purpose for which such disclosures are made by contesting candidates.

The Commission after taking into account all relevant factors has directed that: -

- (i) All entries in the affidavits (both in Form 26 and in the format prescribed by the Commission) should be preferably typed, or if hand written, the entries should be legible.
- (ii) No columns are to be left blank in the affidavits. If there is nothing to be shown against any particular item, either “NIL” or “NA” (to mean not applicable) should be mentioned.
- (iii) For the measurements in various items in the Part relating to assets, the locally used and accepted units of measurements should alone be given.

The Commission has already directed that copies of the affidavits will be made available freely and liberally to all candidates, media representatives etc. at the level of the Returning Officers, and the District Election Officers will compile all the affidavits in the constituencies within the district and supply them on demand, on payment basis. For uniformity and convenience, the Commission has prescribed Rs. 10/- as the fees for copy of one set of nomination paper and affidavits of a candidate. This fee may be obtained in cash, for convenience, against proper receipt etc. It may also be noted that copies of nomination papers, affidavits, and copies of counter affidavits etc., should be supplied on demand to any individual, political party, organisation, agency etc. without any discrimination.

This may be brought to the notice of all Returning Officers and District Election Officers.

**INSTRUCTION SL. NO. 5**

Election Commission's letter No. 3/ER/2004-JS-II, dated 02.06.2004 addressed to the Chief Electoral Officers of all States and Union Territories

**Subject:- Commission's order dated 27.3.2003, regarding right to information of the Electors about the background of candidates.**

I am directed to invite reference to the provisions of Rule 4A of the Conduct of elections Rules, 1961, and the Commission's order cited above. In pursuance of the said Rule 4A each candidate has to file an affidavit in Form 26 appended to the Conduct of Elections Rules, 1961 and as per the Commission's order dated 27.3.2003 the candidates have to file a further affidavit about pending cases, their assets including that of their dependents their liabilities including dues to Govt. Departments, etc. and about their educational qualifications, in the format prescribed by the Commission.

The Commission has received complaints that in many cases, the candidates do not give the correct information in the affidavits, especially in the part relating to the assets. In this context, it may be noted that Section 125A of the Representation of the People Act, 1951, deals with penal provisions for furnishing false information in the affidavit filed in terms of Section 33A, and Section 177 of Indian Penal Code contains penal provision for furnishing false information to a public servant in general. Under Section 195 of the Code of Criminal Procedure, 1973, no Court shall take cognizance of any offence punishable under Section 177 of the Indian Penal Code, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate.

In order to deal with cases of filing false information, the Commission has directed that where any complaint regarding furnishing of false information by any candidate is submitted by anyone, supported by some documentary evidence, the Returning Officers concerned should initiate action to prosecute the candidates concerned by filing formal complaints before the appropriate authority.

Kindly acknowledge receipt.

**INSTRUCTION SL. NO. 6**

Election Commission's letter No. 464/INST/2007/PLN-I Dated : 9th February, 2007 addressed to the Chief Electoral officers of, all States and Union Territories

**Subject:- Restriction on number of vehicles and people at the time of nominations.**

It was brought to the notice of the Election Commission of India that at the time of filing of nominations in the offices of Returning Officers, proper control and order was not being maintained due to overcrowding by the supporters of the candidates. The Commission took note of this issue and issued an instruction during general elections to Bihar Legislative Assembly and a copy of that instruction has also been placed in the website of the Election Commission of India as Item No. 127 of the Compendium of Instructions of Conduct of Elections.

Notwithstanding this, it is observed that the problem of overcrowding of the offices of Returning Officer at the time of filing of nomination still persists. The Commission after considering the issue carefully has decided to issue the following directions :-

**“All District Election Officers may inform various political parties and interest groups that the maximum number of vehicles that will be allowed to come within the periphery of 100 mtrs. of Returning Officers/Assistant Returning Officers office shall be three and maximum number of persons that will be allowed to enter the office of Returning Officers/Assistant Returning Officers at the time of filing nomination shall be the candidate plus four other individuals which may include any proposer/proposers proposing the nomination of the candidate i.e. there can be only five people (including the candidate) who can remain present inside the Returning Officers/Assistant Returning Officers room at the time of filing nomination. The expenditure on the vehicles that will be coming along with the candidate at the time of the filing of nominations shall be taken into account for calculating his expenditure if he remains in the fray.”**

**INSTRUCTION SL. NO. 7**

Election Commission's letter No.: 509/1/2005/JS-I, dated 14.01.2005 addressed to the Chief Secretaries/Chief Electoral Officers of all States/Union Territories

**Subject: PIL matter before Patna High Court regarding absconders contesting elections (CWJC No. 7252/2004-The Indian Medical Association Vs. State Govt. and others).**

I am directed to forward herewith a copy of the order dated 7.1.2005 of the Hon'ble Patna High Court in the above cited matter for information and strict compliance.

It may be noted that the Hon'ble Patna High Court has directed Police Officers In-charge to be present at the time of nomination in the offices of Returning Officers/Assistant Returning Officers, and if absconders/persons against whom arrest warrant is pending, come to file nomination, such persons should be arrested while permitting them to file their nomination.

The directions of the Hon'ble High Court should be complied at all elections.

Kindly acknowledge the receipt.

**INSTRUCTION SL. NO. 8**

Election Commission's letter No.3/ER/2008/JS-II/Vol.II Dated : 4th July, 2008 addressed to the Chief Electoral Officers of all States and Union Territories.

**Sub: Filing of nomination papers by candidates – requirement of filing two affidavits – regarding.**

The candidates filing nomination papers for elections to the Parliament and State Legislatures are required to file **two** affidavits – one in Form 26 and the other as per the format prescribed by the Commission vide its Order No. 3/ER/2003, dated 27-03-2003, issued in pursuance of the judgment of the Hon'ble Supreme Court in W.P. 490/2002 (PUCL & others vs. Union of India & others – AIR 2003 SC 2363).

2. In the affidavit in Form 26, information regarding pending cases which are punishable with imprisonment for a minimum of two years in which charges have been framed, and cases of conviction accompanied by sentence of one year or more, is required to be furnished. In the second affidavit prescribed vide the above mentioned order dated 27-03-2003, in Part-I relating to criminal antecedents, details of all pending cases irrespective of framing of charges, are required to be given. This has been done in pursuance of a specific observation/direction of the Hon'ble Supreme Court in the above-referred case of PUCL.
3. There have been cases of misinterpretation/confusion in this regard in that some candidates have taken the position that it is only the cases in which charges have been framed that are required to be mentioned in the two affidavits. In this context, **it is clarified that in the second affidavit to be filed in the format prescribed by the Commission's order dated 27-03-2003, all pending cases are required to be mentioned even if charges have not been framed in the cases as directed by the Hon'ble Supreme Court.**
4. Attention in this connection is also invited to the Commission's letter No. 3/ER/2004/JS.II, dated 02-06-2004, regarding filing of complaints before the competent Magistrate in the case of false affidavits. In cases where complaints regarding false information with regard to pending cases are filed, the complaints should clearly bring out the position that information regarding all pending cases is required to be furnished in the affidavit prescribed vide the Commission's Order dated 27-03-2003.

These clarifications may be brought to the notice of all election authorities in the State/ Union Territory. Further, this should also be brought to the notice of all political parties, which have headquarters in your State.

**INSTRUCTION SL. NO. 9**

Election Commission's letter No.: 509/5/2005-JS.I, dated 14.01.2005 addressed to the Chief Secretaries/Chief Electoral Officers of all States and Union Territories

**Subject: Representation of the People Act, 1951- Sections 8(3) and 8(4) Interpretation thereof by the Supreme Court of India – CA No. 8213 of 2001 with Civil Appeal No. 6691 of 2002 – Forwarding of Judgment dated 11.1.2005 of the Hon'ble Supreme Court-regarding.**

I am directed to forward herewith a copy of the judgment of the Hon'ble Supreme Court of India dated 11.1.2005 in the matter cited above.

2. It may be noted that the Hon'ble Supreme Court in the above judgment has, inter-alia, held that :
  - (i) in the case of conviction of a person for more than one offence, in a common trial and with the sentences of imprisonment to run consecutively, for the purposes of Section 8(3) of the Representation of the People Act, 1951, the period of sentences of imprisonment for each offence should be added and if the total length of time for which a person has been ordered to remain in prison consequent upon such conviction and sentences is two years or more, the convicted person shall be disqualified under the said Section 8(3) of the Representation of the People Act, 1951;
  - (ii) the protection given under sub-section (4) of Section 8 of RP Act 1951 to a sitting member of Parliament or State Legislature from incurring disqualification will be available only so long as the House to which he belongs continues to exist and the person continues to be a member of that House.
3. You are requested to bring the above order of the Hon'ble Supreme Court to the notice of all returning officers and other authorities concerned for strict compliance in future. Where elections are in progress now, this should be brought to the notice of all Returning Officers immediately and in any case before the date of scrutiny of nominations.
4. In this context, it may be clarified that the interpretation placed by the Hon'ble Supreme Court on the provision of Section 8(3) of the Representation of the People Act, 1951 would be equally applicable to the provision of Section 8(2) of the said Act.
5. Further, to remove any ambiguity, it is also clarified in conformity with the above decision of the Hon'ble Supreme Court, that if any sitting MLA or MP, who is presently protected under Section 8(4) of the said Act till the dissolution of the existing House to which he belongs, files his nomination for any election held subsequent to his conviction, either for constituting a new House on the dissolution of the existing House or even for a bye-election to an existing House, he shall

not get the protection of the said Section 8(4) and he shall be deemed to be disqualified under Section 8(1), 8(2) or 8(3) of the Act, as may be applicable to him.

6. The receipt of this letter may kindly be acknowledged and copy of instruction issued in this behalf to the Returning Officers, etc. may be endorsed to the Commission for its information and record.



**INSTRUCTION SL. NO. 10**

Election Commission’s letter No.509/5/2005-JS.I, dated 20.01.2005 addressed to the Chief Secretaries/Chief Electoral Officers of all States and Union Territories

**Subject: Judgment dated 11.1.2005 of the Hon’ble Supreme Court regarding interpretation of Sections 8(3) and 8(4) - clarification.**

I am directed to invite a reference to the Commission’s letter of even number, dated 14.1.2005 in the above matter. It has been brought to the notice of the Commission that there is some confusion regarding the position explained in paragraph 5 of the said letter. To remove any doubt in the interpretation, the words “on the dissolution of the existing House” appearing in lines 5 and 6 of the said paragraph may be treated as deleted. The interpretation, as explained in the said paragraph, is that protection under paragraph 8(4) would be available to a sitting MP/MLA only for the membership of the House to which he/she belongs on the date of conviction and not for any future election.

This may kindly be brought to the notice of all concerned.

**INSTRUCTION SL. NO. 11**

Letter number 576/11 /94/J.S-II Vol. I Dated 16th December 1994 addressed to the Chief Electoral Officer of all States and Union Territories

**Subject: Providing the Presiding Officers with a set of specimen signatures of candidates and their Election Agents - Directions**

I am directed to state that Section 46 of the Representation of the People Act, 1951 read with Rule 13 of the Conduct of Elections Rules, 1961 provides that at every election each candidate or his election agent can appoint one polling agent and two relief polling agents at each polling station. However, only one polling agent of a candidate should be allowed inside the polling station at any given time. Every polling agent must produce before the Presiding Officer of the polling station the appointment letter in Form 10 appended to the Conduct of Elections Rules, 1961 by which the candidate or his election agent has appointed him.

2. However, the Presiding Officer of a polling station is not in a position to verify the signature of the candidate or his election agent as given in appointment letter in Form 10 presented to him by the polling agent as he will not be having the specimen signatures of the candidates or their election agents. This may result sometimes in presentation of spurious Form 10 by unscrupulous persons with the purported/ forged signatures.
3. In order to prevent any such malpractices and unscrupulous methods at the polling stations, the Commission has devised a Format for obtaining and circulating the specimen signatures of the candidates and their election agents, which is forwarded herewith.
4. A copy of the Format may be furnished to all Returning Officers in your State/ Union Territory with the direction that the specimen signatures of all the candidate them on the Format and after taking photocopies thereof in sufficient numbers, supply to each Presiding Officer, Observers of the Commission, Zonal Magistrate and Sector Magistrate, etc., in the constituency.
5. Under the law, it is not obligatory on the part of the candidates to appoint an election agent. Therefore, if any of the candidates has not appointed any election agent, then in the column meant for the signature of the election agent, the words “No Election Agent appointed” may be recorded in the Format. The candidates are further at liberty to revoke the appointment of an election agent and to appoint another person as the election agent. If such a change in the appointment is made at the last moment when the Presiding Officers have already been supplied with the copy of the Format containing the specimen signatures as originally furnished by the contesting candidate, then it shall be the responsibility of the candidate concerned to supply a copy of Form 9 revoking the appointment of the election agent and a copy of Form 8 appointing the new election agent to each Presiding Officer.

6. The Commission hereby further directs that if any candidate and/or his election agent refuse(s) to affix specimen signature on the Format, they may be informed that the Presiding Officer may not entertain any appointment letter in Form 10 from the polling agents appointed by them if the Presiding Officer is in reasonable doubt as to the genuineness of the signature of the candidate or his election agent whose specimen signature is not available in the prescribed Format.
7. This procedure shall be followed at every election to be announced from now onwards without fail. A copy of these instructions translated into regional languages be supplied to each person at the time of filing of nominations. A suitable Press Note shall also be issued at the time of each election.
8. Copies of these instructions may also be forwarded to all the political parties in the State/Union Territory.
9. Receipt of this letter with its enclosures shall be acknowledged immediately.

Format for Specimen Signature of Candidates and their Election Agents \*General/ Biennial/Byelection (Month/year)

No. Name of \* Assembly Lok Sabha Constituency \_\_\_\_\_  
Leg. Council \_\_\_\_\_

(\*Delete whatever is not applicable)

The specimen signatures of contesting candidates and their Election Agents are given below for the purpose of verification of their signatures by the Presiding Officer in the letters of appointment of Polling Agents at the time of poll :-

Name of Contesting Signature	Specimen Signature	Name of his/ her Election Agent	Specimen Signature
1. Shri/Smt./Ms. (Candidate No. 1)	.....	Shri/Smt./Ms.	.....
2. Shri/Smt./Ms. (Candidate No. 2)	.....	Shri/Smt./Ms.	.....
3. Shri/Smt./Ms. (Candidate No. 3)	.....	Shri/Smt./Ms.	.....

Place \_\_\_\_\_ Signature: \_\_\_\_\_  
Date: \_\_\_\_\_ (SEAL)  
Returning Officer

INSTRUCTION SL. NO. 12

Letter No.576/14/2006/PLN-I Dated : 1st April, 2006 addressed to the Chief Secretaries and to the Chief Electoral Officers, Govt. of Assam, Kerala, Tamil Nadu, West Bengal and Pondicherry.

**Subject:- General Elections to State Legislative Assemblies, 2006 – Prohibition on sale of liquor etc.**

I am directed to invite your attention to Section 135C of the Representation of the People Act, 1951 which provides that no spirituous, fermented or intoxicating liquors or other substances of like nature shall be sold, given or distributed at a hotel, eating house, tavern, shop or any other place, public or private, within a polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of poll for any election in the polling area.

2. In view of the statutory provision as above, ‘Dry Day’ shall be declared and notified under the relevant State laws as is appropriate during 48 hours, ending with the hours fixed for conclusion of poll as indicated in the notification with respect to polling day for an election in that polling area.
3. The Commission further directs that the day i.e.11th May, 2006 on which counting of votes is to be taken up, shall be declared ‘Dry Day’ under the relevant laws in the State/UT.
4. No liquor shops, hotels, restaurants, clubs and other establishments selling/ serving liquor, shall be permitted to sell/serve liquor to anyone whosoever, on the aforesaid days.
5. Non-proprietary clubs, star hotels, restaurants etc. and hotels run by anyone even if they are issued different categories of licenses for possession and supply of liquor, should also not be permitted to serve liquor on these days.
6. The storage of liquor by individuals shall be curtailed during the above period and the restrictions provided in the excise law on the storage of liquor in unlicensed premises shall be vigorously enforced.
7. The Commission directs that the state governments shall strictly implement the above measures. They are required to issue detailed and comprehensive instructions to all concerned authorities to take appropriate and legally effective measures to implement the above prohibitions and assist the election authorities in peaceful and smooth conduct of free and fair poll.
8. The receipt of this letter may kindly be acknowledged.

**INSTRUCTION SL. NO. 13**

Election Commission Letter No. 3/ER/94/J.S.-II dated 27.04.1994, addressed to (1) the Chief Secretaries of all States and Union Territories and (2) the Chief Electoral Officers of all States and Union Territories. [Please also see Commission's Letters No.3/ER/ESO1 1/94/JSII dated 7th Sept., 1994 (Item No.195) and No. 3/ER/94/J.S.II/Vol. II, dated 7-12-1994 (Item No.197) for further modifications on these instructions].

**Subject: Multiplicity of candidates at elections – Measures to reduce – regarding**

The Commission has observed with concern the increasing multiplicity of the candidates at every succeeding election to the House of the People and the State Legislative Assemblies. A very large percentage of such candidates are Independent Candidates - and barring a few exceptions, almost all of them lose their deposits having failed to secure the minimum number of votes required for the return of their deposits.

2. While increase in the number of candidates in every succeeding election may be ascribed, to some extent, to the increasing awareness about the democratic rights on the part of the general public, one other possibility is that some contesting candidates put up dummy candidates with the aim of procuring in their favour additional facilities and manpower in the form of polling agents and counting agents during the process of the elections by availing of those facilities and manpower which would be available to those dummy candidates.
3. Some of the provisions of law and Standing Orders of the Commission providing for certain facilities to the candidates which are misused in this connection are as follows:-
  - (i) Section 40 of the Representation of the People Act, 1951 which authorizes a contesting candidate to appoint one person other than himself to be his election agent.
  - (ii) Section 46 of Representation of the People Act, 1951 read with Rule 13 of the Conduct of Elections Rules, 1961 which authorises a contesting candidate or his election agent to appoint one polling agent and two relief polling agents at every polling station.
  - (iii) Section 47 of the Representation of the People Act, 1951 read with Rule 52 of the Conduct of Elections Rules 1961 which authorises a contesting candidate or his election agent to appoint counting agents up to 16 for every place of counting, subject to the Commission's directions.
  - (iv) The instructions issued by the Commission to all State Governments to provide personal security to all contesting candidates and their agents.
  - (v) The instructions of the Commission to every Returning Officer to allow each contesting candidate to ply on the day of poll (i) one vehicle for his own use, and (ii) one more vehicle for each assembly constituency/assembly segment in the case of Parliamentary Constituency, for the use of his agents.

4. The candidates who put up dummy candidates appoint their own men as polling agents and counting agents in the name of such dummy candidates whereby they get additional manpower and often muscle power, at the polling stations and counting agents. These dummy candidates also help in getting extra policemen by way of security personnel provided to candidate. Instances have come to the notice of the Commission where these armed escorts provided to the candidates have been used to overawe and brow-beat the voters. In some cases they have even helped in booth capturing.
5. Apart from the above-mentioned additional facilities and manpower thus manipulated by some contesting candidates through their dummy candidates, the latter also help the former in covering unauthorised expenditure for which a ceiling is prescribed under the law.
6. The Commission is also aware of the administrative problems created due to the over-crowding of polling stations and places of counting due to the agents of dummy candidates.
7. The Commission suggested to the Government some concrete measures to check and reduce the multiplicity of the candidates at elections in its package of proposals for electoral reforms sent to the Government on 10th February, 1992. No response whatsoever has been received from the Government by the Commission so far.
8. With a view to protecting the purity of election process so that the elections reflect the true choice of electorate exercised in free and fair manner, the Commission considers that some measures which are permissible within the existing provisions of law are called for urgently to put a check as far as possible on the practice of dummy candidates.
9. After a careful consideration of all relevant factors, the Commission, in exercise of its plenary powers under Article 324 of the Constitution, the powers to issue specific and general directions under Rule 52 of the Conduct of Elections Rules, 1961 and all other powers enabling it in this behalf, directs hereby as follows:-
  - (i) If at any stage during the process of election after the last date for the withdrawal of the candidatures, a candidate publicly announces that he is retiring from contest in favour of another candidate or for any other reason, whatsoever, or publicly announces, extends or solicits support for any other candidate, the Returning Officer shall direct forthwith the concerned police and other authorities to withdraw all such facilities like personal security permits to ply vehicles, etc., as have been extended to him under any of directions or the instructions of the Election Commission. In case the said candidate refuses to give such a statement in writing, the Returning Officer will cause such a refusal to be widely publicized in order to eliminate the impact of his unfounded statement on the free and fair contest.



- (ii) If at any stage on the day of poll, the Returning Officer, on a complaint or a report or otherwise, comes to the conclusion that any vehicle authorized to ply for the personal use of a particular candidate and/or his agent(s) is being used by any other candidate or for any purpose other than the authorized use of the said candidate or his agents the Returning Officer shall direct the District Superintendent of Police or any other competent authority to impound the said vehicles and shall not release it till the end of the process of polling.
  - (iii) The seating arrangement at the polling stations for the polling agents of candidates shall be guided by the following categories of priority:
    1. Candidates of National Recognized Political Parties;
    2. Candidates of recognized State Parties;
    3. Candidates of recognized State Parties of other States who have been permitted to use their reserved symbols in the Constituency;
    4. Candidates of registered-unrecognized political parties;
    5. Independent Candidates;
  - (iv) The seating arrangement for counting agents at each counting table in a place for counting shall also be determined in accordance with the priorities indicated in Para (iii) above.
  - (v) If at any stage in the process of election, a complaint or report is received that any candidate is allowing the security personnel provided to him for ensuring his personal security to be used by any other candidate or for any purpose other than the purpose of providing security personnel so provided shall be withdrawn by the police authorities concerned in consultation with the Returning Officer.
10. The receipt of these directions should be immediately acknowledged and be given wide publicity through quickest means.

## INSTRUCTION SI. No. 14

Election Commission's Letter No. 3/ER/94/J.S.II dated 16.08.1994, addressed to the Chief Electoral Officers (All States and Union Territories) and the Chief Secretaries, (All States and Union Territories).

### **Subject: Prevention, intimidation, use of force, etc. in the matter of nomination of candidates belonging to weaker sections and bribery and for setting up or securing withdrawal of candidates**

I am directed to say that instances have come to the notice of the Election Commission where candidates belonging to weaker sections are prevented from filing their nomination by coercion, abduction, intimidation, wrongful confinement or use of force, etc., Similarly, instances have also come to the notice of the Commission where bribery and undue influence are resorted to by some influential candidates or their election agents or supporters for securing withdrawal of candidatures.

2. The Commission takes a very serious view of these practices which erode the very basic principles of free and fair elections. The Commission is constrained to say that even though under the Election Law and the Indian Penal Code these acts constitute election offences deserving severe punishment, most of these offences are not taken note of or enquired into leave alone punishing the culprits.

- 3.1 The specific provisions which exist in the Indian Penal Code to deal with such cases of electoral offences are reproduced below :-

“Section 171B of the Indian Penal Code-Bribery at elections :

(1) Whoever-

- (i) gives a gratification to any person with the object of including him or any other person to exercise any electoral right or of rewarding any person for having exercise any intimidation, wrongful confinement or use of force, intimidation, wrongful confinement or use of force, such right; or
- (ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right, commits the offence of bribery:

(1) Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

- (3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

Section 171C of the Indian Penal Code Under influence at elections :-

- (1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.
- (2) Without prejudice to the generality of the provisions of Sub-Section (1) whoever:-
  - (a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or
  - (b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be render an object of divine displeasure or of spiritual pleasure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of Sub-section (1)".

3.2 Section 171A of the Indian Penal Code defines Electoral Right to mean the right of a person to stand, or not to stand as, or to withdraw from being a candidate, or to vote or to refrain from voting at an election. The offences of 'bribery' and 'undue influence' under Sections 171B and 171C are punishable with imprisonment up to one year or with fine or with both under Sections 171E and 171F of the IPC.

3.3 Under Sections 123(1) and 123(2) of the Representation of the People Act, 1951, 'bribery' and 'undue influence' to interfere with the free exercise of electoral right of a person are corrupt practices which are grounds for declaring the election as void by the High Court and for disqualifying the persons found guilty.

4. While the jurisdiction to take action for a corrupt practice is vested with the High Court on an election petition, penal action can be initiated against the offenders in these cases under the relevant provisions of the Indian Penal Code by the Police authorities when the matter is reported to them by any one.
5. The Commission desired that as soon as any complaint or information of prevention, intimidation or use of force, bribery or undue influence, in the matter of nomination of candidates, or securing withdrawal of a candidate at any election is received by any Returning Officer or District Election Officer or Chief Electoral Officer, he shall report the matter forthwith to the Police Authorities for making necessary enquiries and to prosecute the offenders. The Returning Office/District

Election Officer/Chief Electoral Officer shall at the same time, report the facts of each case to the Commission and send report on the progress on each such complaint periodically till such time the offenders are dealt with by the appropriate Courts at such time as the Commission directs the officers concerned not to send the progress reports anymore.

6. The above instructions of the Commission shall be scrupulously followed by all officers concerned.
7. Acknowledgement of the receipt of this letter is requested.

**INSTRUCTION SL. NO. 15**

Election Commission's Letter No. 3/1/94/J.S.II dated 05.12.1994, addressed to the Chief Electoral Officers of all States and Union Territories

**Subject: Countermanding of Poll under Section 52 of the Representation of the People Act, 1951 on account of the death of a contesting candidate set up by Recognised Political Party - regarding**

I am directed to state that a question has been raised whether the election will be countermanded or not under the amended Section 52 of the Representation of the People Act, 1951 on the death of a candidate set up by a political party which is recognized in another State but not in the State in which the candidate set up by that party after obtaining the concession under Para 10 of the Election Symbols (Reservation and Allotment) Order, 1968.

2. The legal position in this regard has been examined in detail and is stated as hereunder.
3. The said Section 52, as amended in 1982, provides as follows:

“52. Death of candidate before the poll. - If a candidate, set up by a recognised political party,

- (a) dies at anytime after 11 A.M. on the last date for making nominations and his nomination is found valid on scrutiny under Section 36; or
- (b) whose nomination has been found valid on scrutiny under Section 36 and who has not withdrawn his candidature under Section 33, dies; and in either case, a report of his death is received at any time before the publication of the list of contesting candidates under Section 38; or
- (c) dies as a contesting candidate and a report of his death is received before the commencement of the poll,

the returning officer shall, upon being satisfied about the fact of the death of the candidate, by order, countermand the poll and report the fact to the Election Commission and also to the appropriate authority and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election:

Provided that no order for countermanding a poll should be made in a case referred to in clause (a) except after the scrutiny of all the nominations including the nomination of the deceased candidate:

Provided further that no further nomination shall be necessary in the case of a person who was a contesting candidate at the time of the countermanding of the poll;

Provided also that no person who has given a notice of withdrawal of his candidature under sub-section (1) of Section 37 before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding.

*Explanation:* For the purposes of this section, “recognised political party” means a political party recognised by the Election Commission under the Election Symbols (Reservation and Allotment) Order, 1968”.

4. Under the scheme of the Representation of the People Act, 1951, election from each Parliamentary or Assembly Constituency is a separate election as has been held by the Supreme Court in *Inderjit Barua V. Election Commission and others* (AIR 198 SC 1912). Therefore, the above-mentioned amended provisions of Section 52 of the said Act would be attracted only in the case of a candidate set up by a political party which is recognised in the constituency concerned.
5. Section 52 does not expressly spell out whether the recognised political party referred to therein means a party recognised in any State or in the State concerned. That section only says by way of explanation that “recognised political party” means a political party recognised by the Election Commission under the Election Symbols (Reservation and Allotment) Order, 1968. Therefore, the precise meaning of that expression will have to be gathered from the provisions of the said Symbols Order.
6. Under the Symbols Order, recognised political parties are of two categories, i.e., National Parties and State Parties (Vide Para 7). A National Party is recognised in all States and Union Territories in India, that is to say, in all Parliamentary and Assembly Constituencies throughout India. A State Party is recognized only in that State or States where it is specifically recognised by the Commission, that is to say, only in the Parliamentary and Assembly Constituencies in the State concerned. It is not a recognised party for the purposes of the other States. In such other States, it is only a registered-unrecognized party under the Symbols Order.
7. It is true that a State party recognised in one or more States may be granted concession by the Commission, on an application by that party under Para 10 of the Symbols Order and subject to fulfillment of conditions specified therein, allowing its candidates to use the symbol reserved for it in the State or States in which it is recognised, in an another State in which it is not so recognised as a State Party. But that would not make it a recognised as a State party in such other State where it is not so recognised for the purposes of the Symbols Order. Its candidates can ask for the concession of allotment of the party's symbol only in those specified constituencies in respect of which the Commission has granted the said concession and not in any other constituency. The grant of such concession would not carry with it the recognition of that party as a recognised State party in the constituencies concerned.

8. One of the essential attributes of recognition of a party in a State is the exclusive reservation of a symbol for that party in all constituencies, whether Parliamentary or Assembly, of that State. Its reserved symbol cannot be allotted in that State to any other candidate in any constituency even where the party has not set up its candidates. But this is not so in other States. A symbol reserved for a State Party in one State may be reserved for another State Party in another State or even may be specified as a free symbol in such other States. If a State Party is granted the above-mentioned concession under Para 10 of the Symbols Order to use its symbol in another State, its symbol may be allotted to its candidates only in those specified constituencies in relation to which it has been granted concession by the Commission. That symbol will be available for allotment to candidates of other registered-unrecognised parties and independent candidates in all other constituencies, if that symbol is specified as a free symbol in that State. Even if such symbol is not allotted or available for allotment to other candidates for the reason that it is not specified as a free symbol in that State, the legal position remains unchanged that such symbol is not exclusively reserved for that party in the said State as that party is not recognised State party in that State.
9. Another important aspect of recognition as a National Party or State Party in a State is that the party is supplied, free of cost, with copies of electoral rolls of every constituency in the State. No such grant of free copies of electoral rolls is available to any other party which is not recognised in that State, notwithstanding that it may be a recognised State Party in some other States and may have been granted the above-mentioned concession under Para 10 of the Symbols Order in the former State. Similarly, yet another major benefit of recognition of a party in a State is the facility of political telecast and broadcasts over the Doordarshan and AIR at the time of a general election in the State concerned. But such benefit is not extended in any circumstances to the political parties recognised in other States, notwithstanding the grant of above-referred concession to such parties under Para 10 of the Symbols Order.
10. Viewed from all these angles, the logical conclusion is that the “recognised political party” for the purposes of Section 52 of the Representation of the People Act, 1951 is only that party which is recognised either as a National Party or as a State Party in the State concerned and not a party which may be recognised in some other State. Otherwise, the whole distinction between the National and State Parties under the Symbols Order would be obliterated for the purposes of said Section 52, and the State Parties would be at par with the National Parties in all States and Union Territories (even in those States/Union Territories where they are not recognised as State Parties) which can not be the intention of the law, as amended.
11. The above interpretation would also be in consonance with, and will further the object underlying the amendment made to the provisions of Section 52. Under the amended provisions, the election is to be countermanded only on the death of a candidate set up by a recognised party and not on the death of a candidate

set up by unrecognised party. This discrimination made in Section 52 has been upheld by the Supreme Court as a valid discrimination and classification in the case of Rama Kant Pandey V. Union of India [Judgement Today 1993 (1) SC 340]. As mentioned above, a party recognised as a State Party in one State is a registered-unrecognised party in other States and the death of a candidate set up by such party in a State in which it is not recognised should be considered at par with the death of a candidate of any other registered-unrecognised party.

12. Having regard to the above legal position, the election should not be countermanded under the amended Section 52 of the Representation of the People Act, 1951 on the death of a candidate set up by a political party which is not recognised in the State concerned notwithstanding that the said party may be a recognised state party in some State and may have been given concession under Para 10 of the Symbols Order even in the constituency concerned.
13. The above may be brought to the notice of all the Returning Officers in the State/ Union Territory.
14. The receipt of this letter be acknowledged by an immediate message.



**INSTRUCTION SL. NO. 16**

Election Commission's Letter No. 3/ER/94/J.S.II/Vol. II, dated 07.12.1994, addressed to The Chief Electoral Officers of all States and Union Territories.

**Subject: Multiplicity of candidates at elections – Measures to reduce – regarding**

I am directed to invite your attention to Commission's letter No. 3/ER/94/J.S.II dated the 27th April, 1994, on the subject cited and to say that a question had arisen whether the candidate referred to in para 9(i) of that letter, i.e., the candidate who has announced retirement from contest or announced his support in favour of another candidate, can be permitted to appoint election agents, polling agents and counting agents.

2. Announcement of retirement from contest after the last date of withdrawal of candidatures has no validity in the eyes of law and such candidate continues to be a "contesting candidate". He is therefore, entitled under the law, i.e., Sections 40 to 51 of the Representation of the People Act, 1951 read with Rules 12,13,14 and 52 of the Conduct of Election Rules, 1961 to appoint his election agents, polling agents and counting agents, if he so likes.
3. The Commission has already directed vide letter dated 27.4.94, referred to above that only such of the facilities as have been given to such candidates under the direction/instructions of the Commission, like, the provision of security, permits for plying vehicles, etc., alone should be withdrawn. Facilities which are available to contesting candidates under the law cannot be withdrawn.
4. The receipt of this letter should be immediately acknowledged.

**INSTRUCTION SI. No. 17**

Election Commission's Letter No.4/3/2008/JS-II/Vol.III Dated :2nd July 2008 addressed to the Chief Electoral Officers of all States and Union Territories.

**Sub: Scrutiny of nomination papers – regarding.**

The qualifications for contesting election to the House of the People and State Legislative Assemblies are given in Articles 84 and 173 of the Constitution and in Part II of the Representation of the People Act, 1951. Under Sections 4,5 and 5A of the Representation of the People Act, 1951 as the said Part II, for contesting election from a constituency reserved for SCs/STs, a candidate must belong to SC or ST, as the case may be. Under the law, the Returning Officer is the authority to determine whether a candidate fulfils the requisite qualifications.

2. There have been complaints that in certain cases, candidates who do not belong to SC/ST have managed to contest elections from reserved seats by giving false declaration, or on the basis of false documents, etc. There have also been several cases of Election Petitions on the issue of Caste/Tribe status of candidates elected from reserved constituencies.
3. In order to prevent cases of non-SC/ST persons contesting election from reserved constituencies, the Returning Officers at the time of scrutiny of nominations should satisfy themselves that the candidates contesting from reserved constituencies belong to SC or ST, as the case may be. Wherever in doubt, the Returning Officer must insist on production of SC/ST certificate issued by competent authorities. Where, however, the certificate produced by the candidate is also challenged, the Returning Officer need not go into that question, except where it is alleged that the certificate produced is forged or is not issued by competent authority. In the case of any allegation/suspicion about the genuineness of the certificate, the Returning Officer should get the position cross-checked with the authority which purportedly issued the SC/ST certificate in question, before deciding the validity of the nomination paper of the candidate concerned. If on such cross-checking/verification, the Returning Officer is satisfied that the certificate in question is not genuine, he should not only reject the nomination of the candidate concerned but should also initiate criminal proceeding against the candidate for adducing forged documentary evidence before him.
4. The above instructions may be brought to the notice of all the Returning Officers, District Election Officers and also all political parties in your State, both recognized and un-recognized.

INSTRUCTION SL. NO. 18

Election Commission’s Letter No. 3/4/2008/JS-II Dated: 16th September, 2008 addressed to the Chief Electoral Officers of all States and Union Territories. (Except, CEOs of Jammu & Kashmir, Andaman & Nicobar Islands, Chandigarh, Daman & Diu, Dadra & Nagar Haveli and Lakshadweep).

**Subject:- List of contesting candidates in Form 7A for elections to the Legislative Assembly - regarding**

I am directed to state that following the delimitation of the constituencies under the Delimitation Act, 2002, the Commission has reviewed the language of Form 7A (list of contesting candidates for elections to the Legislative Assembly). A copy of the Commission’s Direction dated 16-09-2008 issued in this regard under Rule 10 of the Conduct of Elections Rules, 1961 is enclosed herewith.

Separate direction will be issued subsequently in respect of election from Parliamentary Constituencies, for which you have already been requested to submit your proposals regarding the language(s).

The contents of the aforesaid Direction may be brought to the notice of all the District Election Officers, Returning Officers and other authorities in your State/Union Territory.

The Direction may be published in the Govt. Gazette of the States & Union Territories and five copies thereof sent to the Commission for its record.

Election Commission’s Letter No. 3/4/2008/JS-II Dated: 16th September, 2008 addressed to the Chief Electoral Officers of all States and Union Territories.

**DIRECTION**

In pursuance of sub-rules (1) and (3) of Rule 10 of the Conduct of Elections Rules 1961, and in supersession of its direction S.O. 1/87, dated 17th July, 1987, the Election Commission hereby directs that the list of contesting candidates in Form 7A, at an election to the Legislative Assembly of the State/UT mentioned in column (1) of the Table below, from the Assembly Constituencies mentioned under column (2) of the Table shall be prepared in the language or languages specified against that constituency in column (3) of the said table, and that where the list is prepared in more than one language, the name, of candidates shall be arranged alphabetically according to the script of the language first specified in column (3) :-

When any such list is forwarded to the Election Commission, it shall, if not in English, be accompanied by a translation in English.

TABLE

State/Union Territory	No. and Name of Assembly Constituencies	Language/Languages
1	2	3
1-Andhra Pradesh	(a) 8-Boath (ST) 10-Mudhole and 13-Jukkal (SC)	Telugu and Marathi
	(b) 57-Musheerabad 58-Malakpet 59-Amberpet 60-Khairatabad 61-Jubilee Hills 62-Sanathnagar 63-Nampally 64-Karwan 65-Goshamahall 66-Charminar 67-Chandrayangutta 68-Yakutpura 69-Bahadurpura 70-Secunderabad and 71-Secunderabad Cantt. (SC)	Telugu, English and Urdu
	(c) All other Assembly Constituencies	Telugu
2-Arunachal Pradesh	All Assembly Constituencies	English
3-Assam	(a) 1-Ratabari(SC) 2-Patharkandi 3-Karimganj North 4-Karimganj South 5-Badarpur 6-Hailakandi 7-Katlichera 8-Algapur 9-Silchar 10-Sonai 11-Dholai(SC) 12-Udharbond 13-Lakhipur 14-Barkhola and 15-Katigora	Bengali
		English

	(b) 16-Haflong (ST)	Assamese			167-Vijay Nagar 168-Chamrajpet 169-Chickpet 170-Basavanagudi 173-Jayanagar
	(c) All other Assembly Constituencies				
4-Bihar	All Assembly Constituencies	Hindi			
5-Chhattisgarh	All Assembly Constituencies	Hindi			(d) All other Assembly Constituencies Kannada
6-Goa	All Assembly Constituencies	English and Konkani/ Marathi in Devnagari script	12-Kerala	(a) 1-Manjeswar 2-Kasaragod	Malayalam and Kannada
7-Gujarat	All Assembly Constituencies	Gujarati		(b) 88-Devikulam(SC)	Malayalam and Tamil
8-Haryana	All Assembly Constituencies	Hindi		(c) All other assembly constituencies	Malayalam
9-Himachal Pradesh	All Assembly Constituencies	Hindi	13-Madhya Pradesh	(a) 150-Bhopal Uttar 151-Narela 152-Bhopal Dakshin-Paschim 153-Bhopal Madhya and 180-Burhanpur	Hindi and Urdu
10-Jharkhand	All Assembly Constituencies	Hindi			
*11-Karnataka	(a) 1-Nippani 2-Chikkodi-Sadalga 11-Belgaum Uttar 12-Belgaum Dakshin 13-Belgaum Rural 14-Khanapur 47-Basavakalyan 51-Bhalki 52-Aurad (SC) 76-Haliyal 77-Karwar	Kannada and Marathi	14-Maharashtra	(b) All other Assembly Constituencies	Hindi
	(b) 44-Gulbarga Dakshin 45-Gulbarga Uttar	Kannada and Urdu		(a) 52-Nagpur South West 53-Nagpur South 54-Nagpur East 55-Nagpur Central 56-Nagpur West 57-Nagpur North (SC) 146-Ovala Majiwada 147-Kopri Pachpakhadi 148-Thane 149-Mumbra Kalwa 150-Airoli 151-Belapur 152-Borivali 153-Dahisar 154-Magathane 155-Mulund 156-Vikhroli 157-Bhandup West 158-Jogeshwari East 159-Dindoshi 160-Kandivali East 161-Charkip	Marathi and English
	(c) 146-Kolar Gold Fields (SC) 154-Rajarajeshwarinagar 156-Mahalakshmi Layout 157-Malleswaram 159-Pulakeshinagar (SC) 160-Sarvagnanagar 161-C.V. Raman Nagar (SC) 162-Shivajinagar 163-Shanti Nagar 164-Gandhi Nagar 165-Rajaji Nagar 166-Govindaraj Nagar	Kannada and English			

	162-Malad West	
	163-Goregaon	
	164-Versova	
	165-Andheri West	
	166-Andheri East	
	167-Vile Parle	
	168-Chandvali	
	169-Ghatkopar West	
	170-Ghatkopar East	
	171-Nankhurd Shivaji Nagar	
	172-Anushakti Nagar	
	173-Chembur	
	176-Vandre East,	
	177-Vandre West	
	178-Dharavi(SC)	
	179-Sion Koliwada	
	180-Wadala	
	182-Worli	
	183-Shivadi	
	185-Malabar Hill	
Maharashtra	187-Colaba	Marathi and English
	205-Chinchwad	
	206-Pimpri (SC)	
	207-Bhosari	
	208-Vadgaon Sheri	
	209-Shivajinagar	
	210-Kothrud	
	211-Khadakwasala	
	212-Parvati	
	213-Hadapsar	
	214-Pune Cantonment (SC) and	
	215-Kasba Peth	
	(b) 86-Nanded North	Marathi and Urdu
	87-Nanded South	
	106-Phulambri	
	107-Aurangabad Central	
	108-Aurangabad West (SC)	
	109-Aurangabad East	
	114-Malegaon Central	
	115-Malegaon Outer	
	136-Bhiwandi West and	
	137-Bhiwandi East	
	(c) 174-Krula (SC)	Marathi, English and
	175-Kalina	Urdu

	181-Mahim 184-Byculla and 186-Mumbadevi	
	(d) 250-Akkalkot 251-Solapur South 271-Chandgad 280-Shirol and 288-Jat	Marathi and Kannada
	(e) All other Assembly Constituencies	Marathi
15-Manipur	(a) 41-Chandel (ST) 42-Tengnoupal (ST) 43-Phunyar (ST) 44-Ukhrul (ST) 45-Chingai (ST) 46-Saikul (ST) 47-Karong (ST) 48-Mao (ST) 49-Tadubi (ST) 50-Kanpokpi 51-Saitu 52-Tamei (ST) 53-Temenglong (ST) 54-Nungba (ST) 55-Tipaimukh (ST) 56-Thanlon (ST) 57-Henglep (ST) 58-Churachandpur (ST) 59-Saikot (ST) 60-Singhat (ST)	English                     Manipur
	(b) All other Assembly Constituencies	English
16-Meghalaya	All Assembly Constituencies	English
17-Mizoram	All Assembly Constituencies	English
18-Nagaland	All Assembly Constituencies	English
19-Orissa	(a) 127-Chhatrapur (SC) 133-Berhampur 137-Paralakhemundi 138-Gunupur (ST) and 140-Rayagada (ST)	Oriya and Telugu



	(b) All other Assembly Constituencies	Oriya
20-Punjab	All Assembly Constituencies	Punjabi
21-Rajasthan	All Assembly Constituencies	Hindi
22-Sikkim	All Assembly Constituencies	English
23-Tamil Nadu	(a) 3-Tiruttani	Tamil and Telugu
	(b) 11-Dr. Radhakrishnan Nagar 12-Perambur 13-Kolathur 14-Villivakkam 15-Thiru-Vi-ka-Nagar (SC) 16-Egmore (SC) 17-Royapuram 18-Harbour 19-Chepauk Thiruvallikeni 20-Thousand Lights 21-Anna Nagar 22-Virugampakkam 23-Saidapet 24-Thiyagarayanagar 25-Mylapore 26-Velachery	Tamil and English
	(c) 54-Veppanahalli 55-Hosur 56-Thalli	Tamil, Telugu & Kannada
	(d) 109-Gudalur (SC) 232-Padmanabhapuram 233-Vilavancode 234-Killiyoor	Tamil and Malayalam
	(e) All other Assembly Constituencies	Tamil
24-Tripura	All Assembly Constituencies	Bengali
25-Uttar Pradesh	(a) 3-Saharanpur Nagar 4-Saharanpur 7-Gangoh 8-Kairana 14-Muzaffar Nagar 17-Najibabad	Hindi and Urdu

18-Nagina (SC)  
 19-Barhapur  
 20-Dhampur  
 21-Nehtaur (SC)  
 22-Bijnor  
 23-Chandpur  
 24-Noorpur  
 25-Kanth  
 26-Thakurdwara  
 27-Moradabad Rural  
 28-Moradabad Nagar  
 29-Kundarki  
 30-Bilari  
 31-Chandausi (SC)  
 32-Asmoli  
 33-Sambhal  
 34-Suar  
 35-Chamraua  
 37-Rampur  
 40-Naugawan Sadat  
 41-Amroha  
 47-Meerut Cantt.  
 48-Meerut  
 49-Meerut South  
 60-Garhmukteshwar  
 75-Koil  
 76-Aligarh  
 97-Firozabad  
 115-Badaun  
 124-Bareilly  
 125-Bareilly Cantt.  
 127-Pilibhit  
 135-Shahjahanpur  
 171-Lucknow West  
 174-Lucknow Central  
 213-Sishamau  
 214-Arya Nagar  
 278-Tanda  
 286-Bahraich  
 312-Mehendawal  
 313-Khalilabad and  
 356-Mau

Hindi and Urdu

	(b) All other Assembly Constituencies	Hindi
26-Uttarakhand	All Assembly Constituencies	Hindi
27-West Bengal	(a) 22-Kalimpong 23-Darjeeling 24-Kurseong 25-Matigara Naxalbari (SC) 26-Siliguri 27-Phansidewa (ST)	Bengali and Nepali
	(b) 29-Islampur 30-Goalpokhar 31-Chakulia	Bengali and Hindi
	(c) 115-Rajarhat New Town 116-Bidhannagar 153-Behala Purba 154-Behala Paschim 157-Metiaburaz 158-Kolkata Port 159-Bhabanipur 160-Rashbehari 161-Ballygunge 162-Chowrangee 163-Entally 164-Beleghata 165-Jorasanko 166-Shyampukur 167-Maniktala 168-Kashipur Belgachhia	English
	(d) 224-Kharagpur Sadar	Bengali and English
	(e) All other Assembly Constituencies	Bengali
28-NCT of Delhi	(a) 20-Chandni Chowk 21-Matia Mahal 22-Ballimaran 54-Okhla 63-Seemapuri (SC) 65-Seelampur and 69-Mustafabad	Hindi, Urdu and English

	(b) All other Assembly Constituencies	Hindi and English
29-Puducherry	(a) 29-Mahe	Malayalam
	(b) 30-Yanam	Telugu
	(c) All other Assembly Constituencies	Tamil

\* vide Direction No. 3/4/2008/J.S.II, dated 10th April, 2008

**INSTRUCTION SL. NO. 19**

Election Commission's letter No.56/2009/PPS-II Dated:14th January, 2009 addressed to the President/General Secretary of all recognized National and State Parties

**Subject: Conditions for treating a candidate as one set up by political party– Requirements to be followed – regarding.**

Paragraph 13 of the Election Symbols (Reservation & Allotment) Order, 1968, prescribes the conditions to be followed for treating a candidate as a candidate set up by a political party.

The requirements to be fulfilled in this regard are explained below for clarity of understanding:

- The candidate concerned should declare in the relevant part of the nomination paper that he has been set up by the said political party. In cases where a party nominates the main candidate and the substitute candidate, there is a provision that if the nomination paper of the main candidate is rejected, then the substitute candidate can be treated as the party's candidate. In such cases also, the substitute candidate should have made a declaration in his nomination paper (at least in one set of nomination papers if such candidate has filed more than one set) that he/she has been set up by the said political party.
- Notices in Form-A and Form-B, signed in original, are required to be submitted to the Returning Officers of the constituencies where the party is setting up its candidates **by 3.00P.M. on the last date of filing nominations**. Separate Forms A & B are to be filed in respect of each constituency before the RO concerned.
- The Forms A & B should be duly filled up in all respects.
- **Photo-copies/forms with facsimile signatures or forms transmitted by FAX/ email are not acceptable.**
- Form A in which the party authorizes office-bearer(s) to sign notices in Form B **should be from the Central Office of the party.**
- Form A should be submitted separately to the Chief Electoral Officer of the State also in addition to submitting to the Returning Officers. If one single office bearer has been nominated on behalf of the party in Form-A, for the entire State, it is enough to submit one duly signed Form A to the Chief Electoral Officer. However, separate Forms A, all signed in original, should be submitted to individual ROs along with Form-B. By way of illustration, if a party is setting up candidates in 50 constituencies in a State, 50 Forms A, all duly signed in original, should be submitted to each of the 50 ROs along with Forms B for each constituency, duly signed in original, by the authorised office bearer.

- It is the duty of the party/candidate to submit Forms A & B (in original) to the Chief Electoral Officer/Returning Officer. It may be noted that these forms are not required to be sent to the Commission and the Commission will not take any action on such Forms if sent to it by the party/candidate.
- In the event of rescinding of notice in Form-B, submitted in favour of a candidate, the fresh notice in Form-B signed by the same authorized person, and clearly indicating therein that the earlier notice is being rescinded should be submitted **by the prescribed time limit (i.e. by 3.00 P.M. on the last date of filing nominations)** as per the provisions of Para 13A of the Symbols Order. No other form of communication regarding rescinding of notice will be accepted as valid.

These clarifications may be noted and also brought to the notice of the cadres of the party at all levels.

Copy to the Chief Electoral Officers of all States/UTs for information, with the instruction to send a copy of this letter to all political parties based in the State(all registered unrecognized parties as well as to the State units of all recognized parties).

**INSTRUCTION SI. No. 20**

Election Commission's letter No.56/2009/PPS-II Dated : 14th January, 2009 addressed The President/General Secretary of all recognized State Parties

**Sub: Concession under paragraph 10 of the Election Symbols (Reservation and Allotment) Order, 1968 to use the reserved symbol of the State Party in other States.**

Under paragraph 10 of the Election Symbols (Reservation and Allotment) Order, 1968, a State Party can seek concession for allotment of its reserved symbol to the candidates set up by the party in States where the party is not recognized. It has been observed in the past that many of the State Parties are not clear about the procedure for seeking concession under this paragraph.

**2. The procedure to be followed by the parties is explained below for clarity and guidance:**

- Application seeking concession should be submitted in the Commission's Secretariat by the **3rd day** after the notification of election. For example, if election is notified on 01-01-2009, the application seeking concession under para-10 should reach the Commission's Secretariat latest by 04-01-2009. Applications received after the prescribed period will not be considered under any circumstance.
- The application should clearly indicate the name(s) of constituency(ies) where the party is setting up candidate(s) and seeking concession for allotment of symbol to the candidate(s). For this purpose, a complete list of the constituencies in which concession is sought should be enclosed. Care should be taken that the number(s) and name(s) of constituency(ies) are correctly mentioned.
- The application should be submitted to the Commission. No action will be taken on applications submitted to Chief Electoral Officers, District Election Officers, Returning Officers, etc.
- The application should be made by the Central Office of the party from the headquarters as per the address registered with the Commission. Applications received from any other address/unit of the party will be rejected.
- All procedural requirements of paragraph 13 of the Symbols Order should be fulfilled separately by the party/candidate in the matter of setting up of candidates in the constituency concerned.

**3. The above clarifications may be noted and brought to the notice of the various units of the party.**

Copy to the Chief Electoral Officers of all States/UTs. The Commission has directed that at every General Election, there should be a nodal officer appointed in the office of the Chief Electoral Officer to track the cases where the Commission has granted concession

under para 10 or 10A, and to ensure that the instructions are communicated to the Returning Officers concerned before the stage of allotment of symbols. The nodal officer should get in touch with the Under Secretary Incharge of the Political Parties Section in the Secretariat of the Commission for this purpose by the date fixed for scrutiny of nomination papers. It shall be the responsibility of the nodal officer to ensure that all Orders under para 10/10A are communicated to the ROs concerned.

**INSTRUCTION SL. NO. 21**

Election Commission's letter No. 56/Gen/96-J.S.-II Dated 25.03.1996 addressed to all Recognized State Parties (as per list attached)

**Subject: Concessions to candidates set up by recognized State Parties at elections in other States under para 10 of the Election Symbols (Reservation and Allotment) Order, 1968 – Regarding**

I am directed to say that a recognized State party may be granted concession by the Commission in the matter of allotment of symbol reserved for it in the State in which it is recognised as a State party to the candidates set up by it in another State in which it is not so recognised. This concession may be granted if each of the conditions specified in para 10 of the Election Symbols (Reservation and Allotment) Order, 1968 is fulfilled. The said para 10 is reproduced below for ready reference:-

“Concessions to candidates set up by State party at elections in other State - If a candidate set up by a State party at an election in any constituency in a State in which that is not a State party, intends to choose or chooses symbol reserved for it in the State or States in which it is a State party, then such candidate shall be allotted that symbol to the exclusion of any other candidate, and no other symbol, on fulfillment of each of the following conditions, namely:-

- (a) that an application is made to the Commission by the party for exclusive allotment of that symbol to the candidate set up by it not later than the third day after the publication in the official Gazette of the notification calling the election;
  - (b) if the block for the symbol is not already available, that there is sufficient time for preparing the block;
  - (c) that sufficient time is available to the Commission for sending intimation to the returning officer of the constituency on or before the last date for withdrawal of candidature;
  - (d) that in the opinion of the Commission there is no reasonable ground for refusing the application for such allotment.
2. It will be observed from the above that the concession under the said para 10 may be granted by the Commission (1) to specific candidates set up by the said recognised State party, (2) in specified constituencies in the other State, and (3) the application for the purpose must be made by the party to the Commission not later than the third day after the publication in the Official Gazette of the notification calling the election in the said constituencies.
  3. In the past, some recognised State parties were making omnibus requests for above concession in a State going to the polls without specifying the constituencies in which they were setting up their candidates. Such requests were not in conformity with the provisions of the above-referred para 10 of the

Election Symbols (Reservation and Allotment) Order, 1968.

4. The Commission hereby makes it unequivocally clear that such omnibus requests will not be entertained by it at any general election or bye election to the House of the People or a State Legislative Assembly.
5. Accordingly, if any recognised State party hereafter intends to avail of the concession under the said para 10 of the Election Symbols (Reservation and allotment) order 1968.

IT MUST SPECIFY IN ITS APPLICATION UNDER THE SAID PARA 10 THE NAME OR NAMES OF THE CONSTITUENCY OR CONSTITUENCIES IN WHICH IT IS SETTING UP ITS CANDIDATES IN RELATION TO WHOM SUCH CONCESSION IS SOUGHT. ANY OMNIBUS APPLICATION WILL BE STRAIGHTWAY REJECTED.

6. It is also clarified in this context that if any State party states in its application that it will set up its candidates in all constituencies in a State and seeks concession in respect of all such constituencies, any concession granted by the Commission on such misleading statement and understanding may be withdrawn by the Commission if the party does not set up or fails to set up its candidates in all the constituencies for any reason whatsoever. The allotment of symbols made to the party candidates in all other constituencies in pursuance of the above concession will be liable to be withdrawn and they may be allotted some other symbol from out of the list of free symbols for the State concerned.
7. Further, the application of the party so specifying the name of each constituency in which the above concession is sought must reach repeat reach the office of the Commission not later than 1730 hours (i.e., the official closing hours of the Commission's office) of the third day after the publication in the Official Gazette of the notification calling the election. For example, the Commission has announced on 19.3.1996, the programme for general elections to the House of People and State Legislative Assemblies of Assam, Haryana, Kerala, Tamil Nadu, West Bengal, Pondicherry and some bye-elections. According to the programme announced, the notifications calling the general elections will be issued on 27.3.96. Any application for the above-mentioned concession in respect of any specified constituency or constituencies in these States must reach the office of the Commission not later than 1730 hours on 30.3.1996. Any application received thereafter will be summarily rejected as time-barred.
8. In the next place, attention may be specially invited to clause (d) of the said para 10 of the Election Symbols (Reservation and Allotment) Order, 1968 which provides that the concession applied for may be granted if, among other things, “in the opinion of the Commission there is no reasonable ground for refusing the application for such allotment”. The Commission would like to clarify that if there is any dispute with regard to the office bearers of a recognized State party and more than one person claims to be the office bearer or person authorised by the party to make the application under para 10 or send the notice with regard to the



name of the official candidate of the party under para 13 of the Election Symbols (Reservation and Allotment) Order, 1968, the Commission may refuse to grant the concession under the said para 10(d) unless the Commission is satisfied with regard to the claim of any particular office bearer or authorized person of the party to make the requisite application or send the requisite notice.

Kindly acknowledge receipt of this letter immediately.

## INSTRUCTION SL. NO. 22

Election Commission's letter No. 56/228/96/JUD.-II, dated 14.08.1996, addressed to the Chief Electoral Officers of all States and Union Territories.

**Subject: Registered un-recognized political parties under Section 29-A of the R.P. Act, 1951 are registered parties for all States/UTs.**

You are aware that political parties are registered with the Commission under the provisions of Section 29A of the Representation of the People Act, 1951. After a party is registered by the Commission under the provisions of aforesaid section, a letter is addressed to the party with regard to its registration and a copy of the same is endorsed to all the Chief Electoral Officers. Thereafter, the names of such parties are notified in table III (containing the list of registered un-recognized political parties) of the Commission's notification issued under para 17 of Election Symbols (Reservation and Allotment) Order, 1968, from time to time.

2. A party so registered with the Commission is registered for the purposes of all elections to Parliament and State Legislature held in any State/Union Territory.
3. It has been brought to the notice of the Commission that certain Chief Electoral Officers/Returning Officers are not accepting these parties as a registered party in their States/ Union Territories on the ground that the registered address of the party is outside that State/Union Territory.
4. It is again clarified that a party registered by the Commission under Section 29A of the Representation of the People Act, 1951 is a registered party for all States/ Union Territories and such party can contest election from anywhere for any House of Parliament or state legislature of any State/Union Territory.

This may be brought to the notice of all District Election Officers/Returning Officer and all others concerned in your State/Union Territory.

**INSTRUCTION SL. NO. 23**

Election Commission's message No.576/3/96-JUD.-II, dated 20.09.1996, addressed to Chief Electoral Officers of All State and Union Territories.

**Subject: Clarification of setting up of a candidate of a recognised state party in a State in which it is not recognised.**

A CLARIFICATION HAS BEEN SOUGHT WHETHER A CANDIDATE OF A RECOGNISED STATE PARTY (SAY, RECOGNISED IN ANDHRA PRADESH) SET UP IN ANOTHER STATE (SAY, UTTAR PRADESH) IN WHICH IT IS NOT REPEAT NOT RECOGNISED AS STATE PARTY SHALL BE TREATED AS A CANDIDATE SET UP BY A RECOGNISED STATE PARTY FOR THE PURPOSES OF SECTIONS 33(1), 38(2) AND 52 OF THE REPRESENTATION OF THE PEOPLE ACT, 1951, AS AMENDED BY THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ACT, 1996(.)

2. IT IS HEREBY CLARIFIED THAT SUCH CANDIDATE SHALL BE TREATED AS HAVING BEEN SET UP ONLY BY A REGISTERED-UNRECOGNISED REPEAT REGISTERED-UNRECOGNISED POLITICAL PARTY FOR THE PURPOSE OF THE ABOVE SECTIONS(.) AS A PARTY RECOGNISED AS A STATE PARTY IN ONE STATE IN ONLY A REGISTERED - UNRECOGNISED POLITICAL PARTY IN ALL OTHER UNDER THE ELECTION SYMBOLS (RESERVATION AND ALLOTMENT) ORDER, 1968(.). IT IS FURTHER CLARIFIED THAT EVEN IF SUCH RECOGNISED PARTY ASKS FOR CONCESSION UNDER PARA 10 OF THE SYMBOL ORDER FOR USING ITS RESERVED SYMBOL IN ANOTHER STATE AND SUCH CONCESSION GRANTED BY COMMISSION(.) THE CANDIDATE SET UP BY THAT PARTY IN THE SAID OTHER STATE SHALL BE REGARDED AS HAVING BEEN SET UP ONLY BY A REGISTERED UNRECOGNISED POLITICAL PARTY FOR THE PURPOSE OF THE ABOVE-MENTIONED SECTIONS 33(1), 38(2) AND 52 OF THE REPRESENTATION OF THE PEOPLE ACT, 1951(.). ACCORDINGLY, THE NOMINATION PAPERS OF SUCH CANDIDATES SHOULD BE SUBSCRIBED BY TEN ELECTORS AS PROPOSERS AND NAMES OF SUCH CANDIDATES SHOULD BE SHOWN UNDER CATEGORY (II) IN FORM 4 (LIST OF VALIDLY NOMINATED CANDIDATES) AND FORM 7A (LIST OF CONTESTING CANDIDATES)(.) ATTENTION IN THIS CONTEXT IS ALSO INVITED TO LEGAL POSITION AS CLARIFIED IN THE COMMISSION'S LETTER NO. 3/1/94/JS.II, DATED 5.12.1994, REPRODUCED AS ITEM 49 IN THE COMPENDIUM OF INSTRUCTIONS ON CONDUCT OF ELECTIONS, 1996(.).
3. A CLARIFICATION HAS ALSO BEEN SOUGHT THAT IF THE NOMINATIONS FILED BY BOTH THE MAIN AND SUBSTITUTE CANDIDATES OF A RECOGNISED NATIONAL/STATE PARTY ARE ACCEPTED AFTER SCRUTINY BY RETURNING OFFICER AND IF THE MAIN CANDIDATE WITHDRAWS HIS CANDIDATURE WITHIN(.) WHETHER IN SUCH CASE THE SUBSTITUTE CANDIDATE CAN BE CONSIDERED AS PARTY CANDIDATE AND THE PARTY'S RESERVED SYMBOL ALLOTTED TO HIM(.).

4. IT IS HEREBY CLARIFIED THAT SUCH SUBSTITUTE CANDIDATE SHALL BE TREATED AS HAVING BEEN DULY SET UP BY THE SAID PARTY AND ALLOTTED THE PARTY'S RESERVED SYMBOL IF THE FOLLOWING CONDITIONS ARE FULFILLED IN HIS CASE, NAMELY: -
  - (I) SUCH SUBSTITUTE CANDIDATE HAS MADE A DECLARATION IN ANY ONE OF HIS FOUR NOMINATION PAPERS (EVEN IF THAT PARTICULAR NOMINATION PAPER IS REJECTED ON ANY GROUND) THAT HE HAS BEEN SET UP BY THE SAID PARTY(.) AS REQUIRED UNDER PARA 13(A) OF THE ELECTION SYMBOLS (RESERVATION AND ALLOTMENT) ORDER, 1968; AND
  - (II) THE NAME AND OTHER PARTICULARS OF SUCH SUBSTITUTE CANDIDATE ARE ALREADY FURNISHED BY THE PARTY CONCERNED IN COLUMNS (5) TO (7) OF FORM 'B' WHICH HAS BEEN DULY RECEIVED BY RETURNING OFFICER FROM THE SAID PARTY NOT LATER THAN 3 P.M. ON THE LAST DATE FOR MAKING NOMINATIONS(.).
5. INFORM IMMEDIATELY ALL RETURNING OFFICERS AND OTHER ELECTION AUTHORITIES CONCERNED OF THE ABOVE CLARIFICATIONS FOR THEIR INFORMATION AND GUIDANCE(.) THESE CLARIFICATIONS MAY ALSO BE BROUGHT TO NOTICE IMMEDIATELY OF ALL RECOGNISED PARTIES IN YOUR STATE AND GIVEN WIDE PUBLICITY(.).

**INSTRUCTION SL. NO. 24**

Election Commission's letter No. 576/4/2001/J.S. II dated 12.10.2001 addressed to the Chief Electoral Officers of all States & Union Territories.

**Subject: Election Petition No. 1 of 1996 – Shri Suresh Chand Gupta alias Bacchu Babu, Advocate Vs. Shri Harnath Singh Yadav & others – Directions of the High Court of Judicature at Allahabad – Commission's instructions – regarding.**

I am directed to invite your attention to Rules 22(3) & 30(3) of the Conduct of Elections Rules, 1961 which inter-alia provide that if two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner. There will also be no objection to the addition of any honorific, academic, hereditary, professional or any other title to the name of a candidate. Your attention is further invited to the Commission's instructions contained in para 16 of Chapter VI of the Handbook for Returning Officers for Elections to the Council of States and State Legislative Councils, wherein the Commission had given detailed instructions in the matter.

While disposing of Election Petition No. 1 of 1996 filed by Shri Suresh Chand Gupta alias Bacchu Babu, Advocate, in connection with biennial election held to the Uttar Pradesh Legislative Council from Agra Division Graduate's Constituency, the Allahabad High Court has observed that the Returning Officer for the said election had violated proviso to Rule 8(2) and Rule 30(3) of the Conduct of Elections Rules 1961, by refusing the request of the petitioner for adding the suffix "Advocate" after his name since there were more than one candidate of identical name, and the acceptance of the said request by the Returning Officer to have the suffix "Advocate" after the name of the petitioner would not possibly cause any prejudice to any other candidate or give any unfair advantage to the petitioner at the poll.

In the above Election Petition, the High Court also observed that the ballot papers relating to the said election were not available for inspection as the same were reportedly missing.

In view of the above observations of the Allahabad High Court, the provisions of the rules and the Commission's instructions referred to in paragraph 1 above, are reiterated to all Returning Officers to ensure strict compliance of the same and the rules provided under the Conduct of Elections Rules, 1961. All Returning Officers, Assistant Returning Officers and other election authorities connected with the conduct of elections may be directed to scrupulously follow rules and the Commission's instructions in the matter.

Regarding preservation of records relating to elections, attention of all District Election Officers and Returning Officers is invited to the instructions and directions of the Commission as given in Chapter XV of the Handbook for Returning Officers for Biennial Elections and in Chapter XVIII of the Handbook for Returning Officers (for elections to House of the People and Legislative Assemblies). It should be noted that the sealed packets of used ballot papers should be retained for a period of one year after the completion of election, and in cases where an Election Petition or any other matter in respect of an election is pending for trial

before a Court, the papers relating to the election concerned, should not be destroyed until the expiry of six months from the date of final disposal of the petition or matter.

Kindly acknowledge receipt of this letter.

**B**

**POSTAL BALLOT**

## INSTRUCTION SL. NO. 25

Election Commission's letter No. 52/2008/J.S.II Date: 21st October, 2008 to all Chief Electoral officers of all States/U.T.s.

**Subject: Guidelines for smooth management of Postal Ballot Papers – regarding.**

The statutory provisions regarding postal ballot papers, electors entitled for postal ballot, issue of postal ballot papers, recording of votes on postal ballots and return of ballot papers are given in Part III of the Conduct of Elections Rules, 1961. The Commission's instructions in carrying out these provisions have been given in Chapter X of the Hand Book for Returning Officers.

2. In spite of detailed instructions, the general experience and feedback is that due to delay in dispatching and further postal delays in delivering the postal ballot to the eligible voters and in receiving the ballots back from them the postal ballot system is not functioning as effectively as it should be. In order to ensure that all the voters who are entitled to postal ballot are in a position to exercise their voting right and in order to ensure that the system of postal ballot is implemented without any scope for any grievance from any quarters, the Commission has decided to issue the following instructions to be followed by the Chief Electoral Officers, all DEOs/ ROs and all concerned.
3. Before the postal ballot paper is issued, the facsimile signature of the RO will be stamped on the reverse side of the postal ballot paper two times, one which will appear in full and the other in such a manner that part of the signature appears on the reverse side of postal ballot paper and the remaining part appears on the reverse of counterfoil of the ballot paper. A sample is enclosed for guidance.

### Issue of Postal Ballot Papers to Service Electors

4. Service voters (other than those who have opted for proxy voting) are eligible to receive postal ballot. There is grievance among the service voters that their postal ballots do not reach them in time and on many occasions the postal ballots after casting of the vote by the service electors reach the Returning Officer after the counting is over. The Commission has directed that the following methodology shall be followed in order to avoid delay.
5. As soon as the list of contesting candidates is drawn up after the period for withdrawal of candidatures is over, postal ballot papers for all Assembly Constituencies in the District will be printed at the level of DEOs under proper security cover and under direct supervision of a responsible officer. As soon as the postal ballot papers are ready, the postal ballot papers for the service electors will be centrally dispatched from the District Headquarters itself. For this purpose, each Returning Officer shall depute a team of officers including an ARO with details of Service Electors to whom postal ballot papers are to be dispatched along with envelopes and other forms and papers already prepared



for this purpose on the basis of the last part of the electoral roll and the stamp containing facsimile signature of the RO. They will perform the work of dispatch of postal ballots to the service voters and their wives enrolled in the last part from the central location and all statutory formalities for dispatch of postal ballot papers will necessarily have to be followed while sending the postal ballots.

6. The District Electoral Officer will appoint a suitable officer as the nodal officer to supervise the entire process of dispatching postal ballots to service electors. The DEO will co-ordinate with the senior officials of the Postal Department and shall ensure that a team of postal department officials receives covers containing the postal ballot papers and they, in turn, will ensure that the ballots are sent to the right address without any delay. The details of postal ballots sent AC-wise shall be maintained in the form of a register giving the details and the signature of the postal authorities shall be obtained in the register.
7. One of the Observers available in the District Headquarters shall personally monitor the entire process of dispatch and send a detailed report to the Commission as soon as the dispatch of postal ballots meant for service voters is completed. The process indicated above shall be video graphed.
8. When the Returning Officers start receiving the polled postal ballot papers from the service voters he shall give a daily report to the observer concerned indicating the number of such polled ballots received every day and also indicating the cumulative figure. When the observers leave the constituency after the poll is over they shall indicate the number of postal ballots received till the date of departure in their report to the Commission.

#### Issue of Postal Ballots to Polling Officials

9. The ROs shall follow the following procedures for receiving of applications, issue of postal ballot papers and receiving back the polled postal ballot papers from government officials (other than police and security personnel) appointed on polling duty.

#### 10. Polling Officials

The data base on the government staff to be used as polling personnel shall contain the AC No and Name, Part No and Serial No details of each official where he or she is registered as an elector. This information can be collected through the sponsoring authorities of such staff or through any other method convenient to the DEO. Enough scope shall be provided to the government staff/ sponsoring authorities to locate such electoral registration details through various measures such as helpline, availability of electoral roll data in pdf format in various government offices etc., The order of appointment sent to the polling personnel asking them to attend the training shall contain AC/Part/Serial No detail of each staff.

11. All the polling officials shall, without exception, be provided Form 12 for applying for postal ballot paper along with their appointment letter. They should be asked to submit duly filled Form 12 on the first day of training. Adequate number of Form

12 shall also be kept at the training venue so that any polling personnel who are in need of Form 12 can access it. It should be clarified to the appointed polling officials that in view of the fact that the postal ballot paper will be issued to them personally at the training venue itself they need not mention any address in Form 12 for sending the ballot papers for that would be infructuous. At the training centre, there will be a separate arrangement to receive the Form 12 from the persons drafted for polling duty. At the time of submitting Form 12, the person concerned along with his appointment letter, shall also produce the EPIC issued to him or a copy of any ID including service ID, if any, issued to him. The applications (Form 12) received from the polling officials shall be processed immediately by the concerned Returning Officer/Assistant Returning Officer before the second round of training.

Hence, it is imperative that the second round of training is held after the postal ballot papers are printed and ready for issue.

12. On the day of second round of training, there shall be separate and proper arrangements for issuing the postal ballot to the persons concerned. As the trainees on election duty may belong to different ACs it becomes imperative that all ROs/ AROs along with their staff will remain present at the training venue for the above purpose. The cover containing the postal ballot paper should be handed over to the respective polling officials only after verifying their identification through EPIC or any other photo ID as well as appointment order. Simultaneously, entry (PB) shall be made using red ink in the marked copy of the electoral roll which shall be used in the polling station by the presiding officer on the poll day. The record of issuance of PBs should be separately maintained in Format given in the Hand Book for Returning Officer with one more column indicating place of posting (in which Assembly Constituency the person is serving). Concerned RO/ARO should sign the above Register. Once a PB is issued to a polling personnel called for training he shall after that cast his vote only through postal ballot even if he is exempted from election duty subsequently or kept in reserve.
13. Considering the postal delays and inconvenience caused to the electors in dispatching the PB, the Commission has decided to encourage the system in which the voters on receiving the PB from RO/ARO record their vote on the PB paper then and there. Necessary arrangements for attestation of Form 13 A and collection of polled postal ballots shall be made in the form of a 'postal ballot facilitation center.' The polling officials should be advised to cast their vote on postal ballot paper and to drop the polled ballot paper personally in a sealed box to be kept there for the purpose under direct supervision of the concerned Returning Officer/Assistant Returning Officer. ECI observers will be present and supervise the entire process. The whole process shall be recorded in videos.
14. The DEO/SP/SDM shall personally inspect the training venue cum postal ballot facilitation center in advance in order to ensure adequate security measures are in place. As the electors will be casting their vote at the training venue, proper arrangements shall be ensured to restrict entry to the venue only to the appointed

polling staff and other authorized government servants and no other person (subject to para 15 below). When the voters mark the ballot to indicate their vote the secrecy of ballot shall be enforced without compromise.

15. The contesting candidates should be informed in advance about the postal ballot voting in the facilitation centre. If any authorized representatives of a contesting candidate remain present at the facilitation center, proper seating arrangement shall be made for them. The presence of such representatives shall be registered by obtaining their signature in a register.
16. The above system of issuing PB and enabling the polling personnel to mark their vote at the facilitation center shall be equally applicable to other civil staff to be engaged in election duty on the poll day such as micro observers, sector or zonal officers, liaison officers of observers and so on.
17. If any election duty staff is not able to vote at the facilitation centre, he may send the postal ballot later through registered post or may drop it in the drop box kept for the purpose in the ROs office.
18. It should be noted that all instructions in Form 13D shall be followed by the election duty staff voting through postal ballot, whether at the facilitation centre or otherwise. Therefore, the requirements of the law, such as duly filling, signing and getting attestation in the declaration in Form-13A, putting the marked ballot papers in the envelope in Form 13B, and sending the declaration and the envelope containing the marked postal ballot in the envelope in Form 13C should be explained to them. It should be made clear that the declaration in Form 13A should not be put inside the envelope in Form 13B, which is meant only for the marked ballot paper.

### 19. Police and Security Personnel

It is relevant to note that among the police personnel, only those who will be engaged in election related duties on the day of poll shall only be eligible for obtaining PB. Hence, it becomes imperative to obtain the list of such police personnel well in advance. District-wise nodal officers shall be identified by the SPs for preparing data of such police personnel. The data shall indicate the names of each such police personnel, service ID no, details of AC No, Part No, serial no etc. Similar nodal officers shall be identified for State Armed Police Forces, Battalion HQ-wise. While preparing such list, care shall be taken to ensure that names of police personnel who are not connected with the election related duties and names of such persons who will be in a position to exercise their voting right by going to their respective polling stations as a general voter are not included in the list. SPs shall take proper care about this aspect and the list of such persons shall be ultimately submitted by the SP to the DEO concerned and, on being accepted by the DEO, that list will become an approved list of police personnel on election duty. Such lists will have to be submitted about seven days before the date of poll to enable the ROs to complete all formalities including making the necessary entries in the marked copy of the electoral roll.

20. As the police personnel are posted in various locations and bringing all of them to one or two locations in the district on the same day will not be feasible, it has been decided to enable the police personnel to exercise their voting right by issuing their PB using postal services and receiving back the same by Post or through drop box kept in the office of RO. For this purpose, an efficient coordination shall be ensured between the election authorities and postal authorities. Unlike in the past, it has been decided to send the PB by Registered Post and the police personnel will also send their marked PB through registered post and the postal charges will be paid by the addressee i.e. the Returning Officer, and necessary arrangement in this regard shall be worked out for the whole state by the CEO in coordination with the senior postal authorities. In order to cut down the delay in this process, identification of police personnel who would be on election related duty and who will not be able to get to their polling station and their AC No/Part No/ Serial No details, making Form 12 available to them easily, receipt of duly filled in Form 12 from them etc shall be efficiently ensured in advance through a network of nodal officer arrangements.
21. The initial task of the nodal officer is to arrange to disburse blank applications in Form 12 for issue of postal ballot papers to the police personnel to be deployed on election duty. Along with Form 12, a guideline for filling up the said Form shall also be given to the relevant electors. The electors shall be informed that while filling up the Form 12, in the space provided for indicating the address for the dispatch of postal ballot, they should invariably mention only the full postal address of their present place of posting. In addition to this, they should also mention the address where they are registered as an elector in the vacant space available in the Form. The elector shall mention the serial no and part no as well as the name of the constituency where he is registered as an elector. In case, he is not in a position to mention the serial no. Part no. etc., he shall mention the complete address where he is registered as elector stated above, so that attempt will be made to locate his name and fill up the details. The said Nodal Officers shall also arrange to collect duly filled Form 12 from the security personnel without any delay.
22. All the applications received in Form 12 shall be sorted out district wise, as there is possibility of a police personnel registered in one district having been posted in another district. Hence, these Form 12 applications shall be sorted AC wise/ district wise. The Form 12 applications pertaining to the ACs within the same district shall be dealt with at the district Hqs itself without physically sending the same to the RO's Hqs located outside the district Hqs. For this purpose, an authorized ARO of each AC shall come to the district Hqs and dispatch the PB to the respective voter (police personnel) on election duty by Registered Post with AD, while simultaneously marking 'PB' in red ink in the marked copy of the relevant Part and maintaining a register indicating such names with serial number, Part wise. Postal authorities may be clearly instructed that the PB sent by Registered Post shall be handed over only to the person concerned and not to any other person under any circumstance.

23. While dealing with the Form 12 applications pertaining to the home district in the above manner, the nodal officer shall also without any delay make a district wise parcel for other districts containing AC wise envelopes having Form 12 applications and send the respective parcels to the other districts, through special messengers. The special messenger shall meet the said nodal officer of the relevant district and obtain acknowledgement in token of such receipt. On receiving such envelopes from various districts, the nodal officer shall take the follow up action in the same manner in which he dealt with the Form 12 applications received from his home district as mentioned earlier.
24. The elector on receiving the postal ballot paper will mark his vote and send the same to the Returning Officer by Registered Post or he may put the marked postal ballot in the 'drop-box' kept in the office of the Returning Officer. The voter while recording his vote and returning the postal ballot has to follow the instructions contained in Form 13D, including signing the declaration in Form 13A, placing the marked ballot paper in Form 13B envelope, and returning both Forms 13A and 13B in the envelope in Form 13C.

## 25. Drivers, Cleaners and Helpers

The system of receiving applications for the issue of postal ballot papers to the voters on election duty (other than the polling personnel or security personnel) like drivers, cleaners and helpers, who will be performing duties in connection with the election, needs to be streamlined and closely tracked. There has to be a time limit up to which the duly-filled in Form 12 can be received from such voters. For this purpose, the DEO shall make an advance plan to assess the requirements for vehicles to be requisitioned. At the time of requisitioning the vehicles, all relevant details about the drivers and cleaners shall be collected in a proforma to be approved for this purpose by the CEO and to be followed uniformly throughout the state.

The Returning Officer shall prepare a document indicating the details of such persons and give a copy to the observer. The CEO shall fix up a time table for appointment of such drivers and cleaners and fix up a clear deadline up to which the applications for postal ballot papers can be received from them. It shall be made clear to such electors that the address to be mentioned in Form 12 for dispatch of postal ballot shall be the address at which he is registered as an elector and not any other address. The postal ballot papers will be issued to them by the RO only by registered post with A/D. In case, any such voter instead of opting to receive his PB by post chooses to collect the PB personally, he may do so within the deadline to be specified by RO (CEO shall ensure uniformity in this matter throughout the state). After that, the elector may follow the procedure contained in Form 13D and exercise his voting right within stipulated time.

26. For the benefit of those voters who may belong to any of the category of voters to whom PB has been issued, each RO shall have a special box placed in his office with secured lock duly sealed, so that any such voters can come and drop their marked PB in the sealed cover in Form 13C (provided to each voter along with PB). Necessary arrangements for attestation of Form 13A of such persons

who wish to record their votes after collecting their postal ballot personally shall be made.

27. Apart from marking 'PB' against the name of each and every elector in whose favour postal ballot had been issued in the relevant part of the electoral roll, an **additional information sheet** (AIS) polling station wise shall be prepared indicating the serial number, name, relation name, age and sex of such electors. This part-wise additional information sheet shall be signed by RO or by an authorized ARO and a copy of such information sheet shall be handed over to the presiding officer of the relevant polling station at the time of dispatch of the polling party. Apart from one ink-signed copy, adequate number of photo-copies of the AIS shall also be handed over to the presiding officer. On the poll day, before starting the mock poll in the presence of the polling agents, the presiding officers shall verify the marked copy of the electoral roll in comparison with the additional information sheet on 'PB' voters and confirm whether the entry 'PB' has been made against each and every name that is mentioned in the additional information sheet. No elector whose name has been marked as 'PB' can be permitted to vote in person at the polling station under any circumstances.
28. These instructions shall be brought to the notice of all concerned including observers immediately. This guideline is issued as an additional instruction and as a part of working methodology to streamline the system of postal ballot. Other existing instructions as contained in Chapter X of the Hand Book for Returning Officers are also to be studied for a synchronized understanding and implementation of the system of postal ballot in a holistic manner.
29. The recent feedbacks received about the working of postal ballot system indicate lack of awareness among the government employees about various crucial aspects of postal ballot system. It may be desirable to quickly launch some initiatives to spread awareness in this behalf in the poll going States. This may include preparation of some IEC material for circulation. Easy access to Form 12, proper arrangement for attestation procedure, an easy to understand checklist for the benefit of PB voters so that they don't miss out on some crucial aspects/ omissions that may render the postal ballot invalid would be some of the measures that may improve the working of postal ballot system.
30. The receipt of this instruction and action taken may be confirmed. Further instructions, if any, to the field officials in the light of these instructions may be issued at the level of Chief Electoral Officer for the smooth implementation of these guidelines under information to the Commission.
31. For the other category of electors entitled to postal ballot papers (i.e. special voters and electors subjected to preventive detention) the dispatch may continue to be done as per the existing procedure from the headquarters of the ROs.
32. Kindly acknowledge receipt.



SAMPLE

(Reverse side of the counterfoil)

(Reverse side of the postal ballot)

(Perforation)

SIGNATURE

INSTRUCTION SI. No. 26

Election Commission’s letter No. 52/1/84, dated 06.11.1984 to all Chief Electoral officers and Ministry of External Affairs, New Delhi.

**Subject: General Elections/Bye-elections – Dispatch of postal ballot papers to persons residing in Indian Missions abroad.**

I am directed to say that in order to avoid delay and ensure prompt delivery of postal ballot papers for general/bye-elections to persons serving in Indian Missions abroad and their wives whose names registered in the last part of the electoral rolls, the Ministry of External Affairs has already agreed in 1979 to send the postal ballot papers through Diplomatic Bags to all Indian Missions abroad. I am accordingly to request that all the Returning Officers of Parliamentary/Assembly constituencies may be advised to dispatch the postal ballot papers for voters serving in Indian Missions abroad and their wives through the Ministry of External Affairs. Every cover containing the postal ballot papers should bear clear and full particulars of the name of the voter, the Mission where it is to be sent, and it should be addressed to C/o the Ministry of External Affairs, New Delhi, as indicated below:-

“Shri/Smt ..... (name of officer/  
his wife Embassy of India) .....(Name of Capital)  
.....(Name of Country)  
C/o The Ministry of External Affairs, New Delhi-110 011”.

The Returning Officers may accordingly be instructed immediately to dispatch well in time all postal ballot papers intended for persons working in Indian Missions abroad and their wives, to the Ministry of External Affairs, New Delhi, as indicated above. This may be treated as standing instructions.

This supersedes the earlier directions issued vide Commission’s letter No. 24/79, dated the 1st December, 1979.

The receipt of this letter may kindly be acknowledged.

- 1. Copy forwarded for information and necessary action to the Secretary to the Government of India, Ministry of External Affairs, New Delhi. It is requested that a daily record may please be maintained as to the number of postal ballot papers received in the Ministry and the number dispatched by diplomatic bags. This will help in studying the usefulness of this procedure.
- 2. Copy to the Secretary to the Government of India, Ministry of Law, Justice and Company Affairs (Legislative Department), New Delhi.

**INSTRUCTION SL. NO. 27**

Election Commission's letter No. 576/3/98/JS-II dated 12-10-1998 addressed to  
1. Secretary to the Govt. of India, Ministry of Home Affairs, North Block, New Delhi 2. Chief Secretaries of all States & UTs.

**Subject: Protection of voting rights of electors subjected to preventive detention.**

I am directed to draw your attention to the subject of voting rights of electors subjected to preventive detention.

2. Proviso of Sub-section (5) of Section 62 of Representation of the People Act, 1951 confers voting right on the electors subjected to preventive detention. As per Rule 18 of CE Rules, 1961, the electors on preventive detention are entitled to cast their votes by post.
3. In this connection, your attention is invited to Rule 21(1) of C.E Rules, 1961 which provides that the appropriate Govt. shall intimate to the Returning Officers, the names of the electors, if any, subjected to preventive detention together with their addresses, electoral roll numbers and places of detention, within fifteen days of calling an election. This will enable the Returning Officers to send postal ballot papers to such electors to facilitate the exercising of their franchise at the election.
4. The Commission desires that instructions be issued to the concerned authorities to ensure that the provisions of Rule 21 (1) of Conduct of Elections Rules, 1961 mentioned above are strictly complied with at future elections and there is no ground for any grievance on account of non-compliance of the provisions of the said Rule.
5. Kindly acknowledge receipt.

**INSTRUCTION SI. No. 28**

Election Commission's letter number No. 3/1/2003/JS-II, dated 23.09.2003 addressed to the Chief Electoral Officers of all States and Union Territories.

**Subject: Facilities of voting through proxy to classified service voters – Amendments in the Conduct of Elections Rules, 1961.**

I am directed to send herewith a copy each of The Election Laws (Amendment) Act, 2003 and the Conduct of Elections (Amendment) Rules, 2003. These have come into force w.e.f. 22.9.2003. Copies of separate notifications issued in this behalf are also enclosed.

2. It may be noted that by these amendments in the Act and the Rules, those service voters belonging to the Armed Forces and members belonging to a Force to which provisions of the Army Act applies, have been provided the facility to opt to vote either through proxy or through postal ballot papers. Such service voters who opt to vote through proxy, have been categorized as "classified service voters" (CSVs). The CSVs are required to appoint a person who is resident of the area covered by the constituency concerned, as his proxy. The proxy should be of at least 18 years of age and shall not be disqualified for registration as an elector. The appointment is to be made in Form 13F, newly inserted. An appointment once made will be valid for all future elections so long as the person making the appointment continues to be a service voter or till the appointment is revoked or the proxy dies. The CSV has the option to revoke the appointment and appoint a new proxy on the death of the earlier proxy or for other reasons. Such revocation of appointment is to be done in the newly inserted Form 13G.

**Action by the Returning Officer**

3. On receipt of intimation of appointment of proxy by a CSV, the Returning Officers are required to mark the letters 'CSV' against the name of the service voter in the last part of the electoral roll to indicate that the elector has appointed a proxy to cast vote on his behalf. For using the facility of proxy voting at the next earliest election, intimation of appointment of proxy should reach the Returning Officer concerned by the last date for making nomination at that election. The Returning Officer is also required to maintain a separate list of CSVs and their proxies with their complete addresses in the form and manner specified by the Commission. The Form specified by the Commission in this behalf is enclosed as **Appendix I**. After the last date for making nominations, the Returning Officers are to prepare polling station-wise sub- lists of all CSVs and their proxies. These sub-lists are to be added at the end of the part of the electoral roll pertaining to the polling station concerned and the part of the electoral roll along with the sub-list will be the marked copy of the electoral roll for that polling station.
4. The proxy will record the vote on behalf of the CSVs at the polling station to which the CSV is assigned, in the same manner as any other elector assigned to that polling station. It may be noted that in the case of proxy, marking of the indelible



ink under Rule 37 will be done on the middle finger of the left hand of the proxy. The proxy will be entitled to vote on behalf of the CSV in addition to the vote that he may cast in his own name if he is a registered elector in the Constituency, at the polling station to which he has been normally assigned.

5. This may be brought to the notice of all election authorities concerned and all political parties in the State.
6. Kindly acknowledge receipt of this letter immediately.

APPENDIX-I

LIST OF CLASSIFIED SERVICE VOTERS AND PROXIES

(Under Rule 27P(2) of Conduct of Elections Rules 1961)

(1) Name of State :												
(2) No. & Name of Constituency :												
Sl. No.	Name of the Classified Service Voter	Name of the Force to which he belongs & Service ID No.	Age	Father's/Husband's/Mother's Name	Address	S.No. of his name in the last part of the Electoral Roll of the Constituency	Name of the Proxy	Age of the Proxy	Father's/Husband's Mother's Name	Full Address of the Proxy	Date on which Intimation about appointment was received by RO Intimation about revocation if any, was received by RO	
1	2	3	4	5	6	7	8	9	10	11	12	13

Signature of Returning Office

INSTRUCTION SL. NO. 29

Election Commission’s letter number 3/1/2003/JS-II, dated 20.10.2003 addressed to the CEO, Rajasthan and copy to CEOs of all other States and Union Territories, along with a copy of the format prescribed under sub-rule(3) of Rule 27P.

**Subject: Facilities of voting through proxy to classified service voters – Amendments in the Conduct of Elections Rules, 1961.**

I am directed to refer to your letter No. F.3 (1)(14) 1 /Election/2003, dated 3rd October, 2003 on the subject cited. Point-wise clarification is furnished below:

- (1) The Forms (No. 13F) will be serially numbered by the Returning Officer on the basis of the order of their receipt, i.e., the first request received in Form No. 13F will be given Sl. No. 1, the second request will be given Sl. No. 2 and so on, and the same number will be shown in the list under Rule 27P(2) of Conduct of Elections Rules.
- (2 ) & (3) The CSV, who is in the field, has the option to put his signature on Form 13F before the Commanding Officer of the Unit and then send the Form to his proxy for affixing his signature before Notary/First Class Magistrate. Thereafter, the proxy can submit the Form to the Returning Officer concerned. When the CSV is in his native place, he, along with his proxy, can sign the Form before Notary/First Class Magistrate.
- (4) The Commission has prescribed a separate format for maintaining polling station wise sub-lists, under sub Rule (3) of rule 27P. A copy of the same is enclosed herewith.
- (5) It has been made clear in Footnote (1) to Form 13F that the proxy shall be ordinarily resident in the constituency concerned and shall NOT be disqualified for registration as an elector in an electoral roll U/ S 16 of the Representation of the People Act, 1950. It is not necessary for such proxy to be enlisted as an elector in the electoral roll. If a proxy is registered as an elector, he will furnish his particulars as given in the electoral roll, in Form 13F; in other cases, the relevant column will remain blank.
- (6) Attention is invited to sub-rule (2) of Rule 27 Q wherein it has been laid down that the person voting as proxy shall record the vote on behalf of the classified service voter at the polling station concerned, in the same manner as any other elector assigned to that polling station. All procedural requirements for recording of votes by ordinary electors will be applicable to proxy voters also including the procedure for identification.

POLLING STATION-WISE SUB LIST OF CLASSIFIED SERVICE  
VOTERS AND PROXIES

(Under Rule 27P(3) of Conduct of Elections Rules 1961)

(1) No. & Name of Constituency :

(2) Part No. of Electoral Roll :

Sl.No.	Name of the Classified Service Voter (CSV)	Name of the Force which he belongs & Service ID No.	Age	Father's/ Husband's/ Mother's Name	Address	Sl.No. of his Name in the last part of the Electoral Roll	Name of the Proxy	Age of the Proxy	Father's/ Husband's/ Mother's Name	Full Address of the Proxy
1	2	3	4	5	6	7	8	9	10	11

Signature of Returning Officer

**INSTRUCTION SL. NO. 30**

Election Commission's letter No. 30/MIZ/2008, dated 13-11-2008 addressed to Chief Electoral Officer, Mizoram, Aizawl.

**Sub: General Election to Mizoram Legislative Assembly – Issue of Postal Ballot Papers to Bru Displaced Peoples residing in camps – Procedure – regarding.**

I am directed to invite a reference to the subject cited and to state that the Commission had been making special arrangements for affording the right to franchise to Bru (Reang) voters residing in the temporary camps in the territory of the State of Tripura bordering Mizoram, who left the State of Mizoram in the year 1997, following a tension during that year. In the year 1999 General Election to Lok Sabha, a writ petition was filed in the Delhi High Court seeking provision of voting rights for the Reang voters and following the court order, two polling stations in the border areas of Mizoram were created and Bru voters cast their votes at Kanhmun village. The said place of voting was 80-90 km away from the camps so Government transport was also arranged. Similar arrangements were made during the General Election to Mizoram Legislative Assembly year, 2003 also, but the voting percentage was dismally low around 11.8%. The Commission then decided to afford the said voters the facility to vote through postal ballot papers during the 2004 Lok Sabha General Elections by making special dispensation in consultation with the Government of India and treating such voters as notified voters under section 60(c) of the RP Act, 1951. The voting percentage improved at this General Election, but here also some of the ballot papers posted could not reach the office of the RO for counting in time. To overcome this problem the Commission has now decided to make some changes in the methodology of postal balloting for Reang voters and is detailed hereinafter as under:-

**Arrangement in the Camps**

1. Voting for Reang voters will be arranged in "Postal Ballot Facilitation Centre" (PBFC) in each camp. Such PBFC will have constituency-wise "Desks" manned by officials who will have attested marked copy of the Electoral Roll, envelop containing 13A and PB, Form 'R' to record details of PB and other items of stationery etc. There will be a "Nodal Officer" who will remain in overall charge of PBFC and will have attested copy of Electoral Roll, Form 12C, Seal of Election Commission of India and other stationery items.
2. Postal ballot papers to Reang voters will be issued to them in the camp itself and can be dropped in the drop boxes after recording of vote, provided in the camps, which will be transported to the concerned Returning Officers under security. Receipt and recording of PB will be done in the "PBFC" under the overall control of Nodal Officer. The desks for each constituency will be made in the centre and will be manned by two officials. There will be seating arrangement for the representatives of the contesting candidates so that they can watch the proceedings from a distance. Appointments of these representatives will be made in the same manner as the polling agents are appointed.

**Working Hours of "PBFC"**

The PBFC will function in all the six camps located in Tripura on the 26th and 27th November, 2008 from 8.00 am to 4.00 pm. The Nodal Officers, desk officials and other assisting staff should be present in the "PBFC" by 7.00 am sharp.

Action to be taken by the respective ROs:- Each Returning Officer of ten (10) ACs namely, 1-Hachhek, 2-Dampa, 3-Mamit, 4-Tuirial, 5-Kolasib, 6-Serlui, 33-Lunglei S, 34-Thorang, 35-West Tuipui, 37-Lawngtlai W under whose jurisdiction the names of the Reang voters are registered, will get one ARO specially notified to be entrusted with voting arrangement of Reang voters. The RO has to take following steps:-

- i. Prepare marked copy of electoral roll and generate 8 attested copies thereof;
- ii. Prepare envelops containing Forms 13A, 13B, 13C and 13D and postal ballot papers camp-wise within his constituency. There will be separate bundles for each camp & for each constituency and if feasible arrangement may be made for envelops of different colour for each constituency; and
- iii. The RO will hand over bundles of PB envelop to AROs specifically designated for the purpose with acknowledgment. One ARO may look after more than one AC and so he may have to maintain separate account of postal ballot papers for each camp and the constituency to which they belong.

Appointment of Nodal Officers and their duties:- There will be 6 nodal officers posted in each of the camps namely, Naisingpara, Kaskau, Ashapara, Hazachera under Kanchanpur Sub division of North Tripura. These officers will be in-charge of the PBFC process in the camps and will be the gazetted officers of the Govt. of Mizoram and their functions will include following duties:-

- a. Nodal officers will be overall in-charge of the polling stations and will provide Form12C after verifying their identity in the roll with the help of EPIC and photo roll;
- b. He will receive the bundles of envelops containing PB for each constituency from the AROs at 7.00 am of 26th November, 2008;
- c. One of their duties will be to attest Form13A (attestation forms) of voters;
- d. He will identify the voters with their EPIC or the photograph available with the camp authorities and then only authorize the official manning the particular desk having copy of the marked copy of the roll and PB of the constituency to issue PB and desk officer will tick mark the name in the roll.

**Appointment of desks officials and their duties:-**

- a. There will be as many desks in a camp as are the number of constituencies to which the Reang voters belong in a particular camp. Their desks will be arranged after the Nodal Officer's seat.

- b. One of the desk officials manning desk will get the Form 13A duly filled and get it attested by the NO and then issue envelop containing the PB.
- c. He will then note the details of the voter in the format enclosed.
- d. He will then direct the voter to record the vote in the compartment and see that voter puts the attestation form and the PB (in Form 13B) in the envelop and (Form 13C) closes the envelop (Form 13C) and then drops the envelop in the drop box (common box for all ACs).
- e. The voting facilitation centre will remain open till 4.00 pm in the evening of the 26th November, 2008 and thereafter it will be closed. The PB envelops, marked copy of roll and the drop box should be sealed and then taken to a strong room made for the purpose under proper security. Nodal officers of all the six camps will deposit the poll material in the same strong room. Next day, the strong room will be opened at 7.00 am in the presence of representatives of the candidates if they so desire, who will be informed in advance of the scheme. The poll material will be then taken to the respective camps by the nodal officer themselves. The process will again commence at 8.00 am and continue till all the postal ballot voters record their vote or till 4.00 pm whichever is earlier.

**Observers to be Appointed for Camps:-**

There will be officers posted in the camps as Observer for observing the proceedings at the “PBFC”. These officers will be drawn from the EC. The opening of the drop boxes carried from the six camps will be opened in the headquarters of 1-Hachhack AC in the presence of the observer of the Commission posted for the constituency.

**Videography Arrangements:-**

Video cameras will be arranged in all the six camps to record entire proceedings of the “PBFC” covering each and every stage of the process till the sealing of polling material on the 26th November, 2008 and again on the 27th November, 2008, video recordings will also be made from the opening of sealed poll material to sealing of polled material after close of proceedings at the “PBFC”. Opening of the drop boxes and segregation of constituency wise PB in the office of the RO at Hachhack and putting then under seal constituency –wise, will also be video recorded.

**Action to be taken after close of poll:-**

Drop box containing the PB envelops should be got sealed and it should be covered with white cloth and sealed. A copy of the information on PB prepared for each constituency must be prepared and handed over to the ARO in-charge. The Observer of the EC in the constituency should be present to see the sealing process. Entire sealed material should be sent to the central location, identified before hand, so that opening of the drop box and segregation of the envelops according to the constituencies could be done under the supervision of the EC observer, DEO and the representatives of the candidates. After segregation, the envelopes should be handed over to the concerned RO to be sealed and kept in a separate box and to be opened on the day of counting.

For the removal of doubt, it is clarified that drop box for the Reang voters is different from the drop boxes arranged for other service voters, officials, police personnel etc. in the offices of RO.

Kindly take necessary action and confirm action taken.

**FORM-R**

**Format for compilation of information of postal ballot papers issued and received in drop box**

**PART- I**

**1. Name of Camp**

**2. SI.No. and Name of A.C.**

**3. Name of Nodal Officer**

S.No.	Name of voter	S.No. in E.R	Date of issue of PB	Date of receipt of PB in drop box	Remarks*

**\*Please mention whether PB issued to voter dropped in the drop box after recording of vote or not.**

**Signature of Official**  
**(Name and Designation)**

**Part II**

**To be prepared after Close of poll**

- 1. No. of PB issued
- 2. No. of PB dropped in the drop box
- 3. No. of PB not dropped in the drop box



**INSTRUCTION SL. NO. 31**

Election Commission's letter No. 52/2009/SDR Date: 4th February, 2009 addressed to The Chief Electoral Officers of all States/UTs.

**Sub.-Additional guidelines on management of Postal Ballot Papers and the use of Election Duty Certificate.**

Sir/Madam,

The Election Commission of India issued detailed guideline on smooth management of postal ballot papers vide its letter no. 52/2008/J.S. II dated 21st October, 2008. While reiterating that those guidelines with regard to management of postal ballot papers shall be implemented properly by all the CEOs/DEOs and ROs, in the specific context of ensuring Lok Sabha election 2009, the following additional instructions are issued by the Commission which need to be read in the overall context of the elaborate instruction issued earlier.

1. During the ensuing parliamentary election, polling staff would be primarily drawn from within the district and deployed in various assembly segments coming under specific parliamentary constituency. While deploying, care shall be taken to ensure that no polling staff is deployed in election duty in any of the assembly segments where he is a voter or working or in the constituency of his native place. Subject to these conditions, polling staff can be posted within the district. In this process, there is a fairly good chance of the majority of polling staff being deployed within the **PC** in which they are registered as electors.
2.
  - (a) If an official deputed for polling duty in a polling station is an elector of the PC in which he is deployed on election duty, he should be given **Election Duty Certificate (EDC)** so that he can exercise his franchise on the basis of the EDC at the polling station in person where he is deployed on poll duty.
  - b) Similarly, when an official is deployed on election duty in the capacity of zonal Magistrate or sector official in a parliamentary constituency where he is a voter, he should also be given EDC so that he can exercise his franchise in any one of the polling stations that comes under the zone/sector allotted to him. For this purpose, the RO of the constituency will decide about the polling station in which the particular sector officer/zonal officer will exercise his franchise and will issue the EDC accordingly.
3. The question whether a particular polling personnel deployed on election duty or in reserve will use EDC facility or postal ballot facility, can be decided immediately after first randomization. At that stage, the number of staff going to be deployed outside the PC will be known. However, the group formation and the details of the polling station at which the individual polling staff is going to be deployed shall not be decided at that stage.

4. In the case of the officials referred to in para 2 above, who would be eligible for EDC, they should be briefed about the EDC facilities at the first training. The distribution of Form 12 A (application for EDC) in their case, shall be done at the second training session which should be held after the second stage randomization in which the formation of polling parties will be done. The officials should be instructed to fill in the relevant particulars in the Form and submit the same duly signed, then and there (at the second training). The existing instructions for keeping the electoral rolls of the constituencies at the venue of the training classes will be applicable in this case also to enable the polling personnel to mention in Form-12A the particulars relating to their electoral roll entries (Sl No., Part No. of entries in the electoral roll). The copies of the electoral rolls will be kept in separate counters, assembly segment wise with sufficient number of staff to assist the election duty officials to locate their name in the roll. One of the particulars to be entered in Form-12A is the number and name of the polling station in which the polling personnel would be on duty. However, in the present system of allotment of polling stations, the details relating to the polling stations in which the polling personnel would be deployed on duty would be known only at the stage of the third randomization which is done just prior to the dispatch of polling parties to the polling stations. Therefore, the column relating to details of duty polling stations need not be filled in by the polling personnel when they submit the application. Applications in Form-12A, completed in other respects and duly signed by the polling personnel, would be collected at the second training class itself. These, again, should be collected assembly segment wise and the applications from the members of a polling party should be tagged together for convenience at the time of issue of EDC later. A register of names of polling personnel who have submitted these applications should be prepared and maintained assembly segment wise and polling station-wise within the Assembly segments.
5. In the case of officials appointed as micro observers also, the same facility of EDC will be provided in all cases where they are voters in the same P.C. Issue of EDC in their case will be done as soon as the polling stations are assigned to them.
6. In the scheme for receiving of applications in Form-12A and the issue of EDC, as explained above, it would be seen that all polling officials will need to be present for the second training and at the time of dispatch of parties/materials.
7. In view of the EDC system to be adopted, Form-12, which is the application format for postal ballot, should not be sent to the polling personnel at the stage of requisitioning of staff or while calling them for training. In the case of all such polling personnel eligible for EDC, only Form-12A should be supplied.
8. The polling staff and persons on election duty to be deployed outside the PC, shall be given postal ballot facility and their voting by postal ballot at the postal ballot facilitation center shall be coordinated by the DEO of the district in which the official is registered as elector, as the initial training classes will be organized at their level.



9. The polling stations assigned to the polling parties would be known after the third randomization done just prior to the dispatch of polling personnel, and, therefore, EDC can be issued only at this stage. Immediately after the third randomization, EDCs shall be prepared for distribution to the polling personnel. There should be adequate arrangement with sufficient manpower to issue EDC to the polling personnel. This should also be done assembly segment wise with adequate number of separate counters for each assembly segment to avoid crowding and confusion. The name of the assembly segment and the polling station numbers handled by each counter should be prominently written and displayed on each counter. At this stage also, the record of issue of EDC should be maintained in a register. The names of the polling personnel issued with EDC should be entered in the register and the signature of the polling personnel obtained against their names as and when EDC is issued to them. The register should show the serial number of all polling stations, the names of polling personnel allotted to the polling stations and their signatures after obtaining the EDC. A format for maintaining the register is **annexed** to this letter.
10. Although the EDC is issued only at the time of dispatch of parties, marking of 'EDC' in the marked copies of electoral roll should be done as early as possible after the second training at which the officials would have submitted applications for EDC in Form 12A. 'EDC' shall be marked in the marked copies of electoral roll against the names of all officials who have submitted applications in Form 12A and are eligible for issue of EDCs. Preparation of marked copy of electoral roll should not be delayed till the stage of issue of EDC. Once Form 12A application is submitted, the officials concerned can only vote using the EDC at the polling station mentioned therein, irrespective of whether they are on active duty or kept as reserves.
11. If an official is deployed on election duty at the polling station or in the polling area outside the PC in which he is a voter, he/she shall be given postal ballot facility. The responsibility for issuing Form-12 and organizing facilitation center for exercising franchise by such voters shall be that of the RO of the constituency in which the official concerned is enrolled as a voter. This facilitation shall be done well in advance before the official concerned is deputed on election duty outside the PC area. In this case also, proper record of all postal ballot paper issued to the polling personnel should be maintained as per the existing instructions.
12. In case of last moment dispatch of a polling staff due to any contingency from one PC area to another PC area within the district or from outside the district and in case sufficient time is not available for extending facilitation center based postal ballot opportunity for him, then due care shall be taken to provide postal ballot facility separately to the official to enable him to exercise his franchise. In such cases, the officials concerned should be advised to return the postal ballot by post. In this case also, the responsibility shall lie with the RO of the constituency where the official is enrolled as a voter.
13. For the polling personnel kept as reserves, the RO shall decide the polling stations in which they are to cast vote using EDC since they are not assigned to any particular polling station in advance. The polling stations for casting of vote by such personnel should be the one located near the place where the reserve personnel are to assemble and remain before they are moved to any polling station, as and when required. If the number of reserve polling personnel in a location is large, different polling stations near the location should be allotted for them to cast vote using the EDC so that one polling station is not clogged due to very large number of EDC voters. Invariably in all cases, the polling station in which they are to vote should be mentioned while issuing EDCs. Hence, it is necessary to identify the polling stations in advance, taking into account the location of the reserve polling personnel's assembling place. Adequate transport facility as may be required should be provided at the locations.
14. At the polling stations, the Presiding Officers should brief the polling agents about the facility provided to the polling personnel to vote in that polling station using EDC, and the number of polling personnel issued with the EDC to vote in that polling station should be informed to them. The exercise of franchise using EDC by the polling staff shall take place only after briefing the polling agents and the P.O in their diary and in the relevant column of Form 17C shall mention about the number of votes polled by the polling staff using EDC. In the Form 17A (register of voters), in the column meant for serial number of elector in the electoral roll, the serial number, part number and the names of Assembly Segment shall be mentioned. For example, if the EDC holder is enrolled at Sl. No. 415 in part No. 25 of Assembly Segment 'XYZ', the entries in column 2 of Form 17A in that case would be '415/25/XYZ'. In the remarks column of Form 17A, "EDC voter" shall be written. The polling personnel using EDC facility should cast vote only when the polling agents are present. If in any polling station, no polling agent turns up, the polling personnel will vote when the Observer visits the polling station. In the case of the reserve polling personnel, they should be advised to vote as soon as possible in the beginning itself, as they may be required later or to be shifted to different polling stations to meet emergent situations.
15. In Form 17C, the Presiding officers are required to mention the number of votes cast in the EVM on the basis of EDC. They should be specifically briefed to fill up this column and also to note down the number of EDC votes on a separate sheet of paper and to hand it over at the reception centre in a separate counter set up only for receiving this sheet. The sheet should indicate the name of the assembly segment and the polling station number also. The ROs should later find out the total number of votes cast on EDC and see whether the number tallies with the number of EDCs issued. If there is any discrepancy, the position should be cross-checked with the Presiding Officer of the polling station in which discrepancy has occurred.
16. Only a perfect coordination between the sponsoring authority who sponsors the names of the officials for election duty and the RO of the constituency where the

officials is a voter can ensure a proper functioning of the above system The DEO shall monitor the progress very closely.

17. In the above process in the management of postal ballot system and EDC, voting by officials on election duty will, operate in three methods i.e (I). Election Duty Certificate (II) Postal Ballot given to the polling staff and receipt of ballot papers after marking the vote received from them at **postal ballot facilitation** center (III). Postal Ballots given to persons on election duty and received back by post or through drop-box kept in the RO's office.
18. In order to ensure that there is no confusion in any of the above three methods, the DEO will play a crucial role. Even before the database of the persons to be deployed on election duty is made ready for randomization, a proper verification shall be done to ensure the electoral details of each and every individual polling staff indicating the AC number, Part number and Sl. number of that polling staff in the electoral roll, is properly filled in. The sponsoring authority shall be asked to fill in the details. In case such details are not available, efforts shall be made to trace the details and incorporate those details in the database. The DEOs should also take pro-active initiative to ensure that if any polling personnel is not enrolled as elector, he/she is given Form-6 so that they can apply for enrolment and become an elector under continuous updating before the last date for making nominations.
19. In case of last moment deployment of any staff on election duty outside the PC **on the basis of the appointment letter**, the RO/ARO of the assembly segment where such a staff is a voter, shall give the staff concerned the Form-12, and later the postal ballot alongwith Forms-13A, 13B, 13C and 13D.
20. The above instruction may be brought to the notice of all concerned for implementation without any deviation.

Annexure

Account of EDC issued

Name of PC .....

I Name of Assembly Segment .....

Sl. No. of Polling Station	Name of Polling Personnel	Signature
1.	1. 2. 3.	
2.	1. 2. 3.	
.....		
.....		

Total no. of polling personnel In the Assembly Segment \_\_\_\_\_  
issued with EDC

II. Name of Assembly Segment .....

.....

.....

.....

Total no. of polling personnel In the Assembly Segment \_\_\_\_\_  
issued with EDC

III. ....

.....

Grand total of polling personnel in the P.C. \_\_\_\_\_  
issued with EDC

C

ELECTION AGENTS/  
POLLING AGENTS/  
COUNTING AGENTS

**INSTURCTION SL. NO. 32**

Election Commission’s Letter No. 464/INST/2007-PLN-I Dated :12thOctober, 2007 addressed to the Chief Secretaries and Chief Electoral Officer of all States and Union Territories

**Subject:- Appointment of Polling Agents – Comprehensive instructions/directions – regarding.**

I am directed to invite your attention to Commission’s letter No. 464/Inst/2006/PLN-I, dated 7th April 2006, (copy enclosed for ready reference) which inter-alia provides that candidates should appoint only such persons as their polling agents who are registered electors and who have an EPIC or any other document issued by the Govt. or any Government agency which bears his/her photograph and establishes his/her identity. All polling agents shall display their EPIC or other identification document prominently on their persons on the day of poll for easy and quick identification.

2. Further, the Commission’s standing directions as contained in Chapter-IV of Handbook for Presiding Officers inter-alia provides that the set up of polling stations should be so arranged that polling agents are seated in such a way that they can see the face of an elector as and when he enters the polling station so that they can challenge the identity of the elector, if needed. They should also be able to watch entire operation inside the polling station including his/her movement to the voting compartment and his/her exit from the polling station after recording his/her vote. But they should not, in any event, be seated in a place where they have the chance of seeing voter actually recording his/her vote by pressing particular button;
3. The Commission has further reviewed its earlier instructions/directions in the aforesaid matter and decided to modify these directions/instructions to the extent as given below to be followed scrupulously:-
  - (i) The polling agents who are appointed by contesting candidates **shall be ordinarily resident and electors of the concerned polling areas only,**
  - (ii) Such polling agents must have electors’ photo identity cards.
  - (iii) If any person who is a registered elector in the polling area and proposed to be appointed as polling agent by the contesting candidate but does not have Elector’s Photo Identity Card, in that case, the Returning Officer shall make necessary arrangement for issue of Elector’s Photo Identity Card to such elector on written request from the concerned contesting candidate or his election agent.
  - (iv) All polling agents shall display their Elector’s Photo Identity Cards prominently on their persons on the day of poll for easy and quick identification.

- (v) The set up of polling stations should be made in such a way that the **polling agents are seated inside the polling stations** so that they may see the face of an elector as and when he enters the polling station so that they can challenge the identity of the elector, if needed. **They should also be able to watch entire operation inside the polling station including his/her movement to the voting compartment and his/her exit from the polling station after recording his/her vote.** But they should not, in any event, be seated in a place where they have the chance of seeing voter actually recording his/her vote which would compromise secrecy of voting.
  - (vi) In case polling station has very small & insufficient space or where the respective constituency is having abnormally large number of contesting candidates warranting the presence of a large number of polling agents, in such cases where polling agents can not be accommodated, Observer(s) shall be consulted for appropriate advice and consent of the Observer(s) shall be obtained.
  - (vii) For identifying such polling stations having very small & insufficient space or where the respective constituency is having abnormally large number of contesting candidates warranting the presence of a large number of polling agents, the District Election Officer shall make survey well in advance, so that appropriate decisions may be arrived at well in time. A list of such polling stations shall be prepared and provided to concerned Observer(s).
4. All other instructions/directions as contained in its letter dated 7th April 2006 referred to above shall also be followed scrupulously.
  5. These instructions/directions may be brought to the notice of all the District Election Officers/Returning Officers for bringing the contents of this instruction to the notice of Presiding Officers/Polling Officers during their training and other election related officers immediately for strict compliance.
  6. Copy of these instructions shall also be forwarded to all the political parties in the State and brought to the notice of the electors as well through a suitable press release.

### INSTURCTION SL. NO. 33

Election Commission's Letter number 576/11 /94/J.S-II Vol. I Dated 16th December, 1994 addressed to the Chief Electoral Officer of all States and Union Territories.

**Subject: Providing the Presiding Officers with a set of specimen signatures of candidates and their Election Agents – Directions.**

I am directed to state that Section 46 of the Representation of the People Act, 1951 read with rule 13 of the Conduct of Elections Rules, 1961 provides that at every election each candidate or his election agent can appoint one polling agent and two relief polling agents at each polling station. However, only one polling agent of a candidate should be allowed inside the polling station at any given time. Every polling agent must produce before the Presiding Officer of the polling station the appointment letter in Form 10 appended to the Conduct of Elections Rules, 1961 by which the candidate or his election agent has appointed him.

2. However, the Presiding Officer of a polling station is not in a position to verify the signature of the candidate or his election agent as given in appointment letter in Form 10 presented to him by the polling agent as he will not be having the specimen signatures of the candidates or their election agents. This may result sometimes in presentation of spurious Form 10 by unscrupulous persons with the purported/ forged signatures.
3. In order to prevent any such malpractices and unscrupulous methods at the polling stations, the Commission has devised a Format for obtaining and circulating the specimen signatures of the candidates and their election agents, which is forwarded herewith.
4. A copy of the Format may be furnished to all Returning Officers in your State/Union Territory with the direction that the specimen signatures of all the contesting them on the Format and after taking photocopies thereof in sufficient numbers, supply to each Presiding Officer, Observers of the Commission, Zonal Magistrates and Sector Magistrates etc. in the constituency.
5. Under the law, it is not obligatory on the part of the candidates to appoint an election agent. Therefore, if any of the candidates has not appointed any election agent, then in the column meant for the signature of the election agent, the words "No Election Agent appointed" may be recorded in the Format. The candidates are further at liberty to revoke the appointment of an election agent and to appoint another person as the election agent. If such a change in the appointment is made at the last moment when the Presiding Officers have already been supplied with the copy of the Format containing the specimen signatures as originally furnished by the contesting candidate, then it shall be the responsibility of the candidate concerned to supply a copy of Form 9 revoking the appointment of the election agent and a copy of Form 8 appointing the new election agent to each Presiding Officer.



6. The Commission hereby further directs that if any candidate and/or his election agent refuse(s) to affix specimen signature on the Format, they may be informed that the Presiding Officer may not entertain any appointment letter in Form 10 from the polling agents appointed by them if the Presiding Officer is in reasonable doubt as to the genuineness of the signature of the candidate or his election agent whose specimen signature is not available in the prescribed Format.
7. This procedure shall be followed at every election to be announced from now onwards without fail. A copy of these instructions translated into regional languages be supplied to each person at the time of filing of nominations. A suitable Press Note shall also be issued at the time of each election.
8. Copies of these instructions may also be forwarded to all the political parties in the State/Union Territory.
9. Receipt of this letter with its enclosures shall be acknowledged immediately.

**Format for Specimen Signature of Candidates and their Election Agents \*General/ Biennial/Bye- election (Month/year)**

No. & Name of \* Assembly/Lok Sabha Constituency \_\_\_\_\_  
Leg. Council \_\_\_\_\_  
(\*Delete whatever is not applicable)

The specimen signatures of contesting candidates and their Election Agents are given below for the purpose of verification of their signatures by the Presiding Officer in the letters of appointment of Polling Agents at the time of poll :-

Name of Contesting Candidate	Specimen Signature	Name of his/her Election Agent	Specimen Signature
1. Shri/Smt./Ms (Candidate No. 1)	.....	Shri/Smt./Ms.	.....
2. Shri/Smt./Ms. (Candidate No. 2)	.....	Shri/Smt./Ms.	.....
3. Shri/Smt./Ms. (Candidate No. 3)	.....	Shri/Smt./Ms.	.....

Place Signature:

Date:

(SEAL)  
Returning Officer

**INSTURCTION SL. NO. 34**

Election Commission’s Letter No. 464/INST/2006-PLN-I Dated:7th April, 2006 addressed to the Chief Electoral Officers of Kerala, Pondicherry, Tamil Nadu and West Bengal.

**Subject: Appointment of Polling Agents – Comprehensive directions – Regarding.**

I am directed to state that Section 46 of the Representation of the People Act, 1951, read with Rule 13 of the Conduct of Elections Rules, 1961 provides that at every election, each candidate or his election agent can appoint one polling agent and two relief polling agents at each polling station.

The Commission in the past had issued guidelines on various aspects of appointment of polling agents. However, the Commission has received inputs that show that there exists still a lack of clarity and scope for improvement so that the purpose of appointing the polling agents as an instrument for ensuring transparency in the conduct of free and fair poll is fully served.

In the matter of appointment and functioning of polling agents, the following are the areas of concern.

- The presence of more than one polling agent of the same candidate at a time in a polling station.
- The identity of polling agents in a polling station not being verified and established properly.
- Threat and intimidation to the polling agent resulting in their inability to function as polling agent and protect the interest of the candidate whom they represent which has a serious bearing on the free and fair election.

The Commission having considered the above issues has directed the following instructions to be followed scrupulously;

1. In order to ensure that not more than one poling agent or relief agent remain present inside the polling station at any given point of time, a system of “Entry Pass” needs to be introduced. As the number of contesting candidates is already known the presiding officer should be issued with that many number of entry passes. When the polling agents make over their appointment letters in Form 10 at the polling station [Refer Rule 13(2) of Conduct of Election Rules], the presiding officer shall issue the Entry Pass in favour of the polling agent of each of the candidates remain present after filling the details on the body of the entry pass. If any of the relief agents remain present then he should be sent out immediately. The presiding officer shall maintain a record of entry passes issued and submit the report in the prescribed format as enclosed in **Annexure-I** and shall deposit it in an envelope to be handed over at the time of depositing poll material at the reception centre. It is made clear that the agent or relief agent can enter and remain present inside the polling station only after showing his entry pass and displayed on his person. For

this purpose, the additional polling officer who would verify as to whether electors standing in queue to cast their vote are carrying proper identification documents or not (refer: Letter No. 464/WB – LA/2006/374 Dated 18.03.2006 addressed to CEO, WB) should be suitably briefed to ensure that no agent or relief agent enters the polling station with entry pass. The CPMF jawan present at the entry point of the polling station shall keep a watch over the proceedings inside the polling station shall keep a watch on this aspect also. The observers and sector magistrate shall verify the compliance of the above arrangement. Further, in order to ensure that system works as stipulated, the sector officers shall verify well in advance as to whether the presiding officers have received the required number of entry passes as per this guideline. This item of work should form part of their checklist. For the smooth implementation of this arrangement, adequate number of entry passes shall be printed as per the format given in **Annexure-II** in advance and kept in readiness. Adequate care should be taken at the time of issue of poll materials at the dispatch centres to ensure proper compliance to this order.

2.
- In order to ensure that only the authorized persons represent the candidate as polling agent/relief agent the instructions given in Letter No. 576/11/94/JS-II dated 16.12.1994 (copy enclosed for ready reference) should be followed strictly without deviation. It is relevant to note that the ECI guidelines cited above provides for obtaining the specimen signature of candidate/election agent and for supplying the specimen signatures to presiding officers and others. For this purpose a format had also been prescribed in the above instruction, which shall be followed, in this regard, **the Commission has further decided that candidates should appoint only such persons as their polling agents who are registered electors and who have an EPIC or any other document issued by the Government or any Government agency which bears his/her photograph and establishes his/her identity. All polling agents shall display their EPIC or other identification document prominently on their persons on the day of poll for easy and quick identification.**
3.
- The presence of the polling agents of the contesting candidates during the poll is a sure indicator of transparency in the process. It also reduces the scope for malpractices and thereby scope for complaints. Hence, it becomes imperative on the part of electoral machinery and observers to keep a vigil and observe whether the polling agents of the contesting candidates remain present during the poll or not. As per the instructions enumerated above there is no question of more than one agent of any candidate remaining present inside polling station at an given point of time. However, it would be the duty of the sector magistrates and the observers to keenly observe this aspect. Wherever they come across any thing anomalous with regard to presence or absence of the polling agents, they should further verify the situation from the point of view of possible threat of intimidation to the polling agents of any of the contesting candidates.

Copies of these instructions shall be forwarded to all the political parties in the State as well as the candidates and brought to the notice of the voters as well through a suitable press release.

This may also be brought to the notice of all Observers/DEOs/ROs without fail.

Receipt of this letter with its enclosures shall be acknowledge immediately.

**Annexure-I**

**Account of entry passes issued to polling agents**

1.
- Number and Name of Assembly Constituency
2.
- Number and Name of Polling Station
3.
- Total Number of contesting candidates
4.
- Number of entry passes received with poll material
5.
- Details of entry passes issued to poling agents

Name of candidate	Whether entry passes issued	Signature of the polling agent/ relief agent.

**6. Unused entry passes**

Signature and seal of  
Presiding Officer

***Annexure-II***

Specimen of entry pass

To be issued by Presiding Officer on poll day

Sl. No. _____
<b>ENTRY PASS</b>
AC No. & Name: _____
Polling Station No. & Name: _____
Name of Candidate: _____
Name of Polling Agent: _____
Name of Relief Agents, if any: _____
Signature of Presiding Officer

**INSTURCTION SL. NO. 35**

Election Commission’s Letter No.576/3/2009/SDR Dated : 6th January, 2009 addressed to the Chief Electoral Officer of all States and Union Territories.

**Subject: Replacement of EVM during poll- requirements to be followed – regarding.**

There are occasions when EVMs are required to be replaced in the polling station after commencement of poll. Such situation arises when the EVMs develop problems in the midst of poll. When replacement EVMs are used, the Presiding and Polling Officers should ensure that the requirement of conducting mock poll should be fulfilled in the case of new EVMs also, and the **new EVMs should be put to use only after conducting the mock poll, clearing of the data of mock poll and recording the certificate of mock poll, as in the case of the originally allotted EVMs.**

Necessary instructions may be issued to all DEOs, ROs and all other election authorities in the State/UT, with clear directions that this aspect should be covered in the training classes for the polling personnel.

Please acknowledge receipt of this letter.

**INSTURCTION SI. No. 36**

Election Commission's Letter No. 464/INST/2008/EPS Dated: 14th October, 2008 addressed to the Chief Electoral Officer of all States and Union Territories.

**Subject:- Persons having security cover to be prohibited from being appointed as Election Agent, Polling Agent or Counting Agent – Regarding.**

I am to invite your attention to Commission's letter No.464/INST/2007-PLN-I dated 24th February, 2007 which, inter-alia, provides that as per Section 134(B)(1) of the Representation of the People Act, 1951, no person, other than the Returning Officer, the Presiding Officer, any Police Officer and any other person appointed to maintain peace and order, at a polling station who is on duty at polling station, shall, on a polling day, go armed with arms, as defined in the Arms Act, 1959(54 of 1959), of any kind within the neighbourhood of a polling station. Movement of persons carrying arms in the Constituency and particularly in the vicinity of the polling station on the date of poll will not only intimidate and overawe the electors, polling staff and the general public but can also lead to violence and law and order problems by misuse or accidental use of such fire arms disturbing seriously the conduct of free, fair and peaceful poll.

2. A tendency has been observed on the part of some candidates to appoint a sitting Minister/M.P/M.L.A/MLC as their Election/Polling/Counting Agents. These persons generally have security cover provided to them by the State/Security Agencies. On several occasions in the past, requests had been received by the Returning Officers from the above category of persons that they are willing to relinquish the security cover provided to them in order to enable them to act as Election/Polling/Counting agents. The aspect that a recipient of such security cannot be allowed to deliberately jeopardize his own security which has been provided to him by the State/Security agencies on the basis of threat perception to him should be kept in view by all the Returning Officers/Presiding Officers at the time of approving of the appointments of Election/Polling/Counting Agents.
3. During recent elections it has been observed that many such protectees are surrendering their security in order to act as such agent for a contesting candidate which is a matter of great concern as any untoward incident involving them may have serious repercussions in the conduct of free, fair and peaceful election.
4. It has also been observed that if an MP, MLA/MLC or a sitting Minister acts as an agent of a candidate that would not be desirable from the point of view maintaining the level playing field during an election apart from their security being compromised.
5. The Commission, keeping in view all the relevant factors in this regard, has decided that henceforth no sitting Minister either of Union Government or of a State Government, sitting Member of Parliament, sitting Member of Legislative Assembly/Legislative Council or any other person having security cover provided by the State (both Union and State Govts.) will be allowed to act as Election

Agent, Polling Agent or Counting Agent of any candidate during an election. Also any person having security cover will not be allowed to surrender his security cover to act as such agent of a candidate during an election.

This may be brought to the notice of all concerned for compliance by the candidates while they appoint such agents to watch their interest during an election. Kindly acknowledge receipt.



D

RESTRICTION ON USE OF  
VEHICLES

**INSTRUCTION SI. No. 37**

Election Commission’s Order No. 437/6/96/PLN -III, dated 15.01.1996.

**ORDER**

**Subject: General elections/bye-elections - Prevention of misuse of ‘official vehicles’ during elections.**

In the interest of preserving the purity of election process and rendering the same reflective of true choice of the people, the Commission has been issuing instructions and directions regarding the use of official vehicles. The Commission has been particularly concerned about the increasingly vitiating role of criminality and muscle power at elections and has been giving directions for taking a number of measures for ensuring peaceful, free and fair poll.

2. The Commission has now decided that the following shall be standing instructions for all general/ bye elections to the Lok Sabha, and in State Legislative Assemblies. This will be equally applicable to all biennial/bye-elections from Graduates’ and Teachers’ constituencies of Legislative councils in the concerned States. These shall be in supersession of all earlier instructions on the subject.
3. These instructions shall come into effect from the date of announcement of elections till the completion of elections.
4. For the purpose of these instructions vehicles means, and shall include, any vehicles used or capable of being used for the purpose of transport, whether propelled by mechanical power or otherwise and will include trucks, lorries, tempos, jeeps, cars, auto rickshaws, buses, belonging to the (1) Central Government, (2) State Government, (3) Public Undertakings of the Central and State Government. (4) Joint Sector Undertakings of Central and State Government, (5) Local Bodies, (6) Municipal Corporations, (7) Municipalities, (8) Marketing Boards, (by whatever name known) (9) Cooperative Societies, (10) Autonomous district councils or any other body in which public funds, howsoever small a portion of the total are invested and also include those belonging to the Ministry of Defence and the Central Public Organisations under the Ministry of Home Affairs and State Government.
5. The Commission directs that there shall be a total and absolute ban on the use of official vehicles for campaigning, electioneering or election related travel during elections. There shall be a total prohibition on the use of any vehicles such as helicopters, aircraft, (except as regulated by the Commission’s order on the subject) cars, jeeps, in automobiles, boat, hovercrafts etc. belonging to the (i) Central Government, (ii) State Government, (iii) Public undertakings of the Central and State Government, (iv) Joint sector undertakings Central and State Government, (v) Local bodies, (vi) Marketing boards, (vii) Co-operative societies, (viii) Autonomous District Councils or any other body in which public

funds, however, portion of the total, are invested for any purpose connected with the elections, by any political party, candidate or any other person connected with election.

6. It is clarified that the ban on the use of vehicles will equally apply to the vehicles in or from any States not going to the polls but whose vehicles are attempted to be used for campaign either openly or clandestinely in any other State going to poll. The Chief Secretary of each State/Union Territory will be personally responsible for preventing misuse of any vehicle within his State and the Secretary to the Government of India in the concerned Department will be personally responsible for any misuse of any vehicle under Ministry/Department and also belonging to any of the public sector or joint sector undertakings or Autonomous Bodies or attached and offices under that Ministry/Department. The officers under whose charge such vehicles are entrusted will also be equally responsible for any violation.
7. The use of such vehicles belonging to any of these authorities by anyone including Ministers of the Central or a State Government, even on payment, for campaigning or on tours connected with elections but with the alleged and bogusly certified purpose of election work in their capacity as Ministers is totally prohibited. The only exception from the prohibition will be the Prime Minister and other political personalities who might, in view of extremist and terrorist activities and threat to their lives, require security of a high order and whose security requirements are governed by any statutory provisions made by Parliament or the State Legislature in this behalf. The above restrictions shall also not apply in the case of President and Vice-President of India, Speaker and Deputy Speaker of Lok Sabha and Deputy Chairman of Rajya Sabha and such other dignitaries visiting the State from other States. In the case of Speaker, Deputy Speaker of Lok Sabha and Deputy Chairman of Rajya Sabha these restrictions will be applicable at the time of General Elections to the Lok Sabha. It is, however, clarified that such exceptions shall not be made in respect of any Ministers of the Union or any State Government.
- 7 (a) The Commission would like to make it clear that if it has any material to doubt that the assessment of security requirements made by the authorities under Special Protection Group Act, 1988 or any other special enactment/instruction of the Government have been manifestly or unduly excessive with the intention of promoting indirectly the electoral interests of a particular party or candidate, the Commission will bring the matter to the notice of the concerned Government for immediate and appropriate corrective steps.
- 7.(b) For this purpose, the Commission may call for any information from the Central Government or the State Government concerned with regard to the assessment of the security requirements made in respect of any such personality. Such information shall be furnished to the Commission by the concerned government forthwith.

8. The Commission further directs that cars/vehicles shall, under no circumstances, be allowed to move in convoys of more than three vehicles. All bigger convoys shall be broken up, even if they are carrying any Minister of Central or State Government or any other person. This shall, however, be subject to any security instructions issued in respect of any such individual.
9. The Commission further directs that from the date of announcement of elections till the completion of elections, the District Administration shall keep a close watch on the use of all the abovementioned vehicles to see whether any such vehicles is being misused for electioneering for, or by, any candidate. If it is found that any of the abovementioned vehicles of Central Government or State Government, including those of public sector undertakings or local bodies is being used for electioneering purposes, the District Magistrate shall, forthwith, requisition or cause to be requisitioned such vehicles, after following due procedure, for election work, to be used by officers performing election related duties under Section 160 of the Representation of the People Act, 1951. The vehicles so requisitioned shall not be released until after the completion of the process of elections.
10. The above directions of the Commission are issued under the powers conferred on it by Article 324 of the Constitution and all other powers enabling it in that behalf.
11. This should be brought to the notice of all concerned. A copy of this order in English/Hindi and any local official language(s) shall be made available to the units of all recognised National and State political parties and to each candidate or the agent authorized by him, at the time of his nomination(s) (repeat nomination and not scrutiny of nomination) under acknowledgement.

**INSTRUCTION SL. NO. 38**

Election Commission's Order No. 437/6/96/PLN-III, dated 16.01.1996.

**ORDER****Subject: General Elections/Bye-elections - Restrictions on misuse of vehicles.**

The Commission has been issuing instructions on the subject of restrictions to be followed and observed on the misuse of vehicles during elections from time to time. The Commission has now directed that the following instructions in suppression of all earlier instructions shall be the standing instructions for all general/bye elections to the House of the people and the State Legislative Assemblies. These instructions are issued under Article 324 of the Constitution and all other powers enabling the Commission in this behalf.

2. Section 123(5) of the Representation of the People Act, 1951 provides that the hiring or procuring or use of vehicles by a candidate or his agent or by any other person with the consent of the candidate or his election agent for the free conveyance of the voters to and from the polling station shall be a 'corrupt practice' for the purposes of the Act. Such a 'corrupt practice' attracts penalty and is punishable with fine which may extend to five hundred rupees under section 133 of the Representation of the People Act, 1951.
3. For an election to the House of the People, each contesting candidate, on the day of poll, will be entitled to:
  - (a) one vehicle for his own use in respect of the entire constituency.
  - (b) In addition, one vehicle for use of his election agent or workers or party workers, as the case may be, in each of the assembly segment comprised in the Parliamentary Constituency.
4. For an election to the State Legislative Assembly, on the date of poll in that Constituency each contesting candidate is entitled to:
  - (a) One vehicle for his own use
  - (b) One vehicle in total for the use of his election agent or workers or his party workers, as the case may be, for the vehicles, indicated above.
5. The permits for the vehicles indicated above will be issued by the District Magistrate/ Returning Officer. The candidates are required to register their vehicles with the authorities concerned and display the permits issued by the authorities on the wind-screen of the vehicles. No other vehicles shall be allowed to be used by the leaders of the political parties including ministers, workers, agents and sympathizers of any candidate. No exception shall be made, irrespective of the status of the candidate.

6. The aforementioned restrictions shall apply to all vehicles propelled by mechanical power or otherwise including but not restricted to taxies, private cars, trucks, tractors with or without trailers, auto- rickshaws, scooters, mini buses, station wagons etc.
7. Penal action, both under the provisions of the R.P. Act, 1951 and Chapter IX A of the Indian Penal Code, shall be taken against anyone offending the above directions, in addition to action under the Motor Vehicles Act. All vehicles being used in violation of these directions shall be confiscated.
8. There is no intention on the part of the Commission to put a complete ban on all vehicular traffic on the polling day and thereby create difficulties or cause harassment to the public. For genuine bonafide use for purposes other than election, the following types of vehicles shall also be allowed to be plied on the day of poll and there will be no exception:
  - (a) Private vehicles being used by the owners for their private use, not connected with elections;
  - (b) Private vehicles being used by owners either for themselves or for members of their own family for going to the polling booth to exercise their franchise, but not going anywhere within a radius of 200 metres of a polling station;
  - (c) Vehicles used for essential services namely hospital vans, ambulance, milk vans, water tankers, electricity emergency duty vans, police on duty, officers on election duty;
  - (d) Public transport carriages like buses plying between fixed termini and on fixed routes;
  - (e) Taxis, three wheeler scooters, rickshaws etc. for going to airports, railway stations, inter-state bus stands, hospitals for journeys which cannot be avoided;
  - (f) Private vehicles used by sick or disabled persons for their own use.
9. In addition, it has been experienced that during the period of electioneering private vehicles are used by the candidates, their agents and party leaders and supporters for carting the supporters of a candidate within the constituency and on many occasions anti-social elements with muscle power are openly paraded to instill a sense of fear in the minds of the electorate, so that they either vote in favour of particular party/candidate or abstain from voting altogether. These vehicles are also used sometimes to smuggle illicit arms and ammunition with a view to creating disturbances during elections.
10. In order to curb such undesirable/illegal activities, the Commission further directs that the District Administration shall keep a close watch on the vehicles used by persons accompanying the contesting candidates and their party's leaders for



any possible mischief, including criminal activities like carrying of illegal arms and weapons. If any of these vehicles, either of a party or a private owner, is found to be involved in any such act or for carting anti-social elements with a view to intimidating or creating terror in the mind of the electorate, it shall be the duty of the local administration to impound such vehicles and not to release them till the process of elections is completed. In addition, criminal action against the owner, the occupant(s) and the candidate/political party which is involved in such illegal activities shall also be taken as per law.

11. So as to ensure free, fair and peaceful elections, the District Administration shall launch such drive for checking the vehicles immediately upon the announcement of the elections and shall continue the drive till the completion of the process of elections.
12. All authorities concerned shall fully ensure that these directions are scrupulously followed in respect of all vehicles. Utmost care shall also be taken to ensure that no misuse of any vehicle is made in the garb of use for “bonafide” purposes or personal use.

### INSTRUCTION SL. NO. 39

Election Commission's letter No.437/6/97-PLN-III dated 18.03.1997 addressed to CEOs of all States and UTs.

**Subject: General Election/Bye-elections to Lok Sabha and State Legislative Assemblies - Instructions on misuse of vehicles during election period – Regarding.**

The Commission has been issuing instructions on the subject of restrictions to be followed and observed on the misuse of vehicles during the election period. In the interest of preserving the purity of election process and rendering the same reflective of true choice of the people, the Commission has now directed that the following instructions shall be strictly followed at all the General and Bye-elections to the Lok Sabha and Assembly constituencies. These instructions are issued under article 324 of the Constitution and all other powers enabling the Commission in this behalf.

1. Cars/vehicles being used for electioneering purposes, shall, under no circumstances, be allowed to move in convoys of more than three vehicles from the date of notification till the completion of election process in any constituency. All bigger convoys shall be broken up, even if they are carrying any minister of Central or State Govt. This shall, however, be subject to any security instructions issued in respect of any such individual. In other words the convoy shall not in any case exceed three vehicle of any person plus the security vehicles allowed in view of the security gradation of that particular person.
2. From the date of notification of the election till the completion of election process in any constituency, the district administration shall keep a close watch on the vehicles used by the contesting candidates, persons accompanying the contesting candidates and other party leaders and ensure that the Commission's instructions are not abused.
3. If any person moves in a convoy of vehicles exceeding the limits prescribed above, in spite of the convoy having been broken, it shall be the duty of the local administration to ensure that such vehicles are not allowed to be used by flouting the Commission's directions till the process of election is completed.
4. The contesting candidates be asked to get the details of all the vehicles that they are using in the election campaign lodged with the District Election Officer or such other officer(s) as may be specifically authorised by the District Election Officer in this behalf before the campaigning commences. Any further deployment of any additional vehicles can take place only after notice to this effect is given by the candidates or his agent well before the actual deployment of the vehicles. While conveying the details of the vehicles that are being deployed for election campaign the details of the areas [(tehsil(s))] in which the vehicle would operate, should also be conveyed.

5. The details so obtained should be conveyed by District Election Officer to the Election Expenditure Observers.
6. The vehicles employed for election campaign as per intimation given by the candidates or their election agents to the District Administration should not be requisitioned by the administration.
7. Any vehicle that has not been registered for campaigning with the district administration if found being used for campaigning, shall be deemed to be unauthorised campaigning for the candidate and may attract penal provisions of Chapter IX A of the Indian Penal Code and shall therefore be immediately taken out of the campaigning exercise.

The receipt of this letter may please be acknowledged.

### INSTRUCTION SL. NO. 40

Election Commission's letter No. 437/6/2007-PLN-III(Vol-III) Dated: 16th March, 2007 addressed to the Chief Electoral Officers of all States and Union Territories.

**Subject: Use of vehicles for campaign purpose by candidates and political parties.**

It has come to the notice of the Commission that vehicles are used for campaign purpose by candidates and political parties during the various elections / bye-elections without proper authorization from Returning Officers. Further, the vehicles authorized by Returning Officers are not displaying the permits issued to them on the windscreen.

All concerned may be directed to ensure that vehicles for the campaign purpose may ply only with the prior approval of the Returning Officers and must display the permit issued in original (not photocopy) prominently on the windscreen. Permit issued should be of sufficient dimension so that it could be seen from a distance. The permit must bear the number of the vehicle and name of the candidate in whose favour it is issued.

In past, the Commission has noticed the tendencies on part of candidates and political parties to take photocopies of the permits issued and misuse them. This tendency should be curbed. A list of permits issued to various candidates for plying vehicles for campaign purpose should be immediately given to all observers and if any addition is done in the list, the same again should be furnished to the observers.

The responsibility for enforcing these instructions shall lie with the Superintendent of Police of the concerned District.

**INSTRUCTION SL. NO. 41**

Election Commission's letter No. 437/6/2006-PLN-III Dated: 23rd November, 2007 addressed to The Cabinet Secretary, Government of India, the Chief Secretaries of all States and Union Territories & the Chief Electoral Officers of all States and Union Territories.

**Subject: Prevention of misuse of vehicles during elections.**

The Commission has, in the past, issued various instructions from time to time regarding applicability of Model Code of Conduct on prevention of misuse of vehicles during elections. For convenience of all concerned, these instructions have now been consolidated for observance during the period when the Model Code of Conduct is in force. These instructions regarding restrictions on misuse of vehicles during elections have been issued under Article 324 of the Constitution and all other powers enabling the Commission in this behalf.

**During Polls**

- (i) Section 123(5) of the Representation of the People Act, 1951 provides that the hiring or procuring or use of vehicles by a candidate or his agent or by any other person with the consent of the candidate or his election agent for the free conveyance of the voters to and from the polling station shall be a 'corrupt practice' for the purposes of the Act. Such a 'corrupt practice' attracts penalty and is punishable with fine, which may extend to five hundred rupees under section 133 of the Representation of the People Act, 1951. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996)
- (ii) For an election to the House of the People, each contesting candidate, on the day of Poll, will be entitled to:
  - (a) One vehicle for his own use in respect of the entire constituency;
  - (b) One vehicle for use of his election agent for entire constituency;
- (c) In addition, one vehicle for use of his election agent or workers or party workers, as the case may be, in each of the assembly segments comprised in the Parliamentary Constituency. (See Election Commission's instruction no. 437/6/2006-PLN-III dated 20.11.06).
- (iii) For an election to the State Legislative Assembly, on the date of poll in that Constituency each contesting candidate is entitled to:
  - (a) One vehicle for his own use;
  - (b) One vehicle for the use of his election agent
- (c) In addition, one vehicle for use of his workers or party workers. (See Election Commission's instruction no. 437/6/96-PLN-III dated 24.03.2007)

- (iv) The permits for the vehicles indicated above will be issued by the District Magistrate/ Returning Officer. The candidates are required to register their vehicles with the authorities concerned and display the permits issued by the authorities on the wind- screen of the vehicles. No other vehicles shall be allowed to be used by the leaders of the political parties including ministers, workers, agents and sympathizers of any candidate. No exception shall be made, irrespective of the status of the candidate. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996).
- (v) It is clarified that, henceforth, the candidate or his agent or party workers or workers will be allowed to use only four/three/two wheeler vehicles i.e. cars (of all types) taxies, auto rickshaws, rickshaws and two wheelers. In these four wheel vehicles not more than 5 persons including driver will be allowed to move on the day of poll. It is further clarified that on the day of poll no other person will be allowed to use the Vehicle allotted for candidate's or his election agent's use. (See Election Commission's instruction no. 437/6/2006-PLN-III dated 20.11.2006).
- (vi) These instructions on plying vehicles will be applicable on all two wheelers like motorcycles and scooters (except bicycles) also and shall be made applicable for a period of 24 hours before the time fixed for closure of poll and till the completion of poll. These restrictions would not, however, apply to any Govt. servant on duty or in case where such vehicle is being used to transport a patient or old/infirm persons. (See Election Commission's instruction no. 437/6/2004-PLN-III dated 08.05.2004).
- (vii) Penal action, both under the provisions of the R.P Act, 1951 and Chapter IXA of the Indian Penal Code, shall be taken against anyone offending the above directions, in addition to action under the Motor Vehicles Act. All vehicles being used in violation of these directions shall be confiscated. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996).
- (viii) There is, however, no intention on the part of the Commission to put a complete ban on all vehicular traffic on the polling day and thereby create difficulties or cause harassment to the public. For genuine bonafide use for purposes other than election, the following types of vehicles shall also be allowed to be plied on the day of poll and there will be no exception:
  - (a) Private vehicles being used by the owners for their private use, not connected with elections;
  - (b) Private vehicles being used by owners either for themselves or for members of their own family for going to the polling booth to exercise their franchise, but not going anywhere within a radius of 200 meters of a polling station;
  - (c) Vehicles used for essential services namely hospital vans, ambulance, milk vans, water tankers, electricity emergency duty vans, police on duty, officers on election duty;



- (d) Public transport carriages like buses plying between fixed termini and on fixed routes;
- (e) Taxis, three wheeler scooters, rickshaws etc. for going to airports, railway stations, inter state bus stands, hospitals for journeys which cannot be avoided;
- (f) Private vehicles used by sick or disabled persons for their own use. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996).

### During Filing of Nominations

The maximum number of vehicles that will be allowed to come within the periphery of 100 meters of Returning Officers/Assistant Returning Officers office shall be three. (See ECI instruction No. 464/INST/2007/PLN-I dated 09.02. 2007).

### During Period of Electioneering

- (ix) It has been experienced that during the period of electioneering private vehicles are used by the candidates, their agents and party leaders and supporters for carting the supporters of a candidate within the constituency and on many occasions anti-social elements with muscle power are openly paraded to instill a sense of fear in the minds of the electorate, so that they either vote in favour of particular party/candidate or abstain from voting altogether. These vehicles are also used sometimes to smuggle illicit arms and ammunition with a view to creating disturbances during elections. In order to curb such undesirable/illegal activities, the Commission further directs that the District Administration shall keep a close watch on the vehicles used by persons accompanying the contesting candidates and their party's leaders for any possible mischief, including criminal activities like carrying of illegal arms and weapons. If any of these vehicles, either of a party or a private owner, is found to be involved in any such act or for carting anti-social elements with a view to intimidating or creating terror in the mind of the electorate, it shall be the duty of the local administration to impound such vehicles and not to release them till the process of elections is completed. In addition, criminal action against the owner, the occupant(s) and the candidate/political party which is involved in such illegal activities shall also be taken as per law. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996)
- (x) So as to ensure free, fair and peaceful elections, the District Administration shall launch such drive for checking the vehicles immediately upon the announcement of the elections and shall continue the drive till the completion of the process of elections. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996)
- (xi) Cars/vehicles being used for electioneering purposes shall, under no circumstances, be allowed to move in convoys of more than three vehicles from the date of notification till the completion of election process in any constituency. All bigger convoys shall be broken up, even if they are carrying any minister of Central or

State Govt. This shall, however, be subject to any security instructions issued in respect of any such individual. In other words the convoy shall not in any case exceed three vehicles of any person plus the security vehicles allowed in view of the security gradation of that particular person. (See Election Commission's instruction no. 437/6/97-PLN-III dated 18.03.97). Such broken up convoys must have a distance of at least 200 meters between them. (See ECI instruction no. 464/UP-LA/2007 dated 05.04.2007).

- (xii) If any person moves in a convoy of vehicles exceeding the limits prescribed above, in spite of the convoy having been broken, it shall be the duty of the local administration to ensure that such vehicles are not allowed to be used by flouting the Commission's directions till the process of election is completed.
- (xiii) In case the mode of road transport is to be availed of by leaders of political parties availing the benefit of clause (a) of explanation given under Sec. 77 (1) of R. P. Act, 1951, the permit will be issued centrally by the Chief Electoral Officer, irrespective of whether the same vehicle is to be used by any leader for election campaigning throughout the State or different vehicles are to be used by such party leaders in different areas. The permit will be issued against the name of the person concerned who will display it prominently on the windscreen of the vehicle being used by him/her in any area. The permits so issued by the CEO will be of distinctly different colour from the permits to be issued by the DEOs/ROs for candidates. (See ECI instruction no. 464/UP-LA/2007 dated 05.04.2007).
- (xiv) In case of Video – Vans etc. to be used by a political party for campaign across the states, before any permission to use Video-Vans for campaign is given, it should be ensured by Chief Electoral Officer that such use of vehicle is in accordance with the Motor Vehicle Act. Attention in this context is invited to the judgments dated 23.06.2006 and 14.02.2007 of the Allahabad High Court in writ petition No. 3648 (MB) of 2006. (See ECI instruction no. 464/UP-LA/2007 dated 05.04.2007).
- (xv) From the date of notification of the election till the completion of election process in any constituency, the district administration shall keep a close watch on the vehicles used by the contesting candidates, persons accompanying the contesting candidates and other party leaders and ensure that the Commission's instructions are not abused. (See Election Commission's instruction no. 437/6/97-PLN-III dated 18.03.97)
- (xvi) The contesting candidates be asked to get the details of all the vehicles that they are using in the election campaign lodged with the District Election Officer or such other officer(s) as may be specifically authorized by the District Election Officer in this behalf before the campaigning commences. Any further deployment of any additional vehicles can take place only after notice to this effect is given by the candidate or his agent well before the actual deployment of the vehicles. While conveying the details of the vehicles that are being deployed for election campaign the details of the areas, tehsil(s) in which the vehicle would operate,



should also be conveyed. (See Election Commission's instruction no. 437/6/97-PLN-III dated 18.03.97).

- (xvii) The details so obtained should be conveyed by District Election Officer to the Election Expenditure Observers. The vehicles employed for election campaign as per intimation given by the candidates or their election agents to the District Administration should not be requisitioned by the administration. Any vehicle that has not been registered for campaigning with the district administration if found being used for campaigning, shall be deemed to be unauthorized campaigning for the candidate and may attract penal provisions of Chapter IX A of the Indian Penal Code and shall therefore be immediately taken out of the campaigning exercise. (See Election Commission's instruction no. 437/6/97-PLN-III dated 18.03.97).
- (xviii) A cycle rickshaw is also a vehicle as defined in Section 160 of Representation of People Act, 1951, which may be used for election campaign. If it is being used, then a candidate has to account for its expenditure in his account of election expenses. To ensure this, the candidate should give details of such rickshaws being used for his election campaign and, if the rickshaw does not have any municipal registration/permit for its identification, the rickshaw driver may be given a permit in his personal name by the Returning Officer which the rickshaw driver should carry on his person while using that rickshaw for campaign purposes. However, rickshaws being used for normal purposes of carrying passengers in ordinary course etc. may be exempted, if they are displaying only one poster showing the name or party symbol of a candidate, presuming they are doing so on their own free will. (See Election Commission's instruction no. 437/6/2006-PLN-III (vol-ix) dated 12.07.2006).
- (2) The above instructions may be brought to the notice of all concerned for strict compliance.

E

DEFACEMENT OF PROPERTY

**INSTURCTION SL. NO. 42**

Election Commission’s letter No. 3/7/2008/JS-II Dated: 7th October, 2008 addressed to the Secretary, Govt. of India, Chief Secretaries and the Chief Electoral Officers of All States and Union Territories.

**Sub: Prevention of defacement of property and other campaign related items – revised instructions – regarding.**

I am directed to invite a reference to the Commission’s letter No. 3/7/2007/JS-II, dated 16th October, 2007, regarding prevention of defacement of property in connection with election campaign.

- 2. In the past, the Commission has suggested the enactment of special laws by state governments for dealing with defacement of properties effectively. Some states have enacted special legislations to govern and regulate defacement of property, while the other states have legislation that either only cover specific areas, like municipalities etc, or have no legislation at all. A tabular statement on respective positions obtaining in the states in this respect based on the information available in the Commission is enclosed in the schedule appended to this circular (marked as **Annexure-I**). Since a uniform law throughout the country is not available, what is enforceable differs from state to state. Keeping in view the forthcoming general election to the Lok Sabha due in 2009, it has become necessary to lay down, for smooth conduct of campaign during elections and for clear understanding of all authorities who have the responsibility for the implementation at the field level as also of the observers who are deputed to oversee the elections in different states/ constituencies, a comprehensive set of guidelines with respect to defacement of property.
- 3. After considering all aspects of the matter in depth, the Commission has, in supersession of the earlier instructions, laid down the following directions, to the followed by political parties, candidates, individuals and organizations etc. during the election period:

**DEFACEMENT OF PUBLIC PLACES**

- 4. (a) No wall writing, pasting of posters/papers or defacement in any other form, or erecting/displaying of cutouts, hoardings, banners flags etc. shall be permitted on any Government premise (including civil structures therein). For this purpose a Government premise would include any Govt. office and the campus wherein the office building is situated.
- (b) If the local law expressly permits or provides for writing of slogans, displaying posters, etc., or erecting cut-outs, hoardings, banners, political advertisement, etc., in any public place, (as against a Govt. premise) on payment or otherwise, this may be allowed strictly in accordance with the relevant provisions of the law and subject to Court orders, if any on this subject. It should be ensured that

any such place is not dominated/monopolized by any particular party(ies) or candidate(s). All parties and candidates should be provided equal opportunity in this regard.

- (c) If there is a specifically earmarked place provided for displaying advertisements in a public place, e.g. bill boards, hoardings etc. and if such space is already let out to any agency for further allocation to individual clients, the District Election Officer through the municipal authority concerned, if any, should ensure that all political parties and candidates get equitable opportunity to have access to such advertisement space for election related advertisements during the election period.

### DEFACEMENT OF PRIVATE PLACES

5. (a) In the States where there is no local law on the subject, and subject to the restrictions under the law where there is a law, temporary and easily removable advertisement materials, such as flags and banners may be put up in private premises with the voluntary permission of the occupant. The permission should be an act of free will and not extracted by any pressure or threat. Such banner or flag should not create any nuisance to others. Photo-copy of the voluntary permission in writing obtained in this connection should be submitted to the Returning Officer within 3 days of putting up the flags and banners in such cases in the manner prescribed in sub-para(c) below.
- (b) If the local law does not expressly permit wall writing, pasting of posters, and similar other permanent/semi-permanent defacement which is not easily removable, the same shall not be resorted to under any circumstances, even on the pretext of having obtained the consent of the owner of the property. This will also apply in the states where there is no local law on the subject of prevention of defacement of property.
- (c) Where the local law expressly permits wall writings and pasting of posters, putting up hoardings, banners, etc. on private premises with the owner's permission, the contesting candidates or the political parties concerned shall obtain prior written permission from the owner of the property and submit photocopies of the same within 3 days to the Returning Officer or an officer designated by him for the purpose, together with a statement in the enclosed proforma (marked as **Annexure-II**). The statement in such cases and in the cases mentioned in sub-para (a) above should clearly mention therein the name and address of the owner of the property from whom such permission has been obtained together with expenditure incurred or likely to be incurred for the purpose. Nothing inflammatory or likely to incite disaffection amongst communities shall be permissible in such writings/display.

The expenditure incurred in this mode on specific campaign of candidate(s) shall be added to the election expenditure made by the candidate. Expenditure incurred on exclusive campaign for a party without indicating any candidate shall not be

added to candidates expenditure. The contesting candidate shall furnish such information village/locality/town-wise, to the Returning Officer, or the authorized officer within 3 days of obtaining the requisite permission, for easy checking by the Returning Officer or the Election Observer or any officer connected with the conduct of elections.

- (d) Subject to any restrictions under any local law or any court orders in force, the political parties, candidates, their agents, workers and supporters may put up banners, buntings, flags, cut-outs, on their own property, provided they do so on their own volition, voluntarily and without any pressure from any party, organization or person, and provided further that these do not cause any inconvenience in any manner to anyone else. If such display of banners, flags etc. aims to solicit vote for any particular candidate, then the provisions of Section 171H of the IPC would be attracted and would have to be followed. Section 171H of the IPC stipulates that whoever without the general or special authority in writing of a candidate incurs or authorises expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees: Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

### DEFACEMENT OF HALLS/AUDITORIUMS AND OTHER PUBLIC PROPERTIES

6. In the case of Halls/Auditoriums/Meeting venues owned/controlled by the Government/local authorities/PSUs/Cooperatives, if the law/guidelines governing their use do not preclude political meetings therein, there is no objection to it. It shall be ensured that the allocation is done on equitable basis and that there is no monopolization by any political party or candidates. In such venues, displaying of banners, buntings, flags, cut-outs, may be permitted during the period of meetings subject to any restrictions under the law/guidelines in force. Such banners, flags, etc. shall be got removed by the party/individual who used the premises immediately after conclusion of the meeting, and in any case within a reasonable period after the meeting is over. Permanent/semi-permanent defacement such as wall writing/pasting of posters etc. shall not be permitted in such premises.
7. If any political party/association/candidate/person indulges in defacement of any property in violation of the local law, if any, or the above instructions, the Returning Officer/ District Election Officer shall issue notice to the offender for removing the defacement forthwith. If the political party/association/candidate/person does not respond promptly, the district authorities may take action to remove the defacement, and the expenses incurred in the process shall be recovered from the political party/association/candidate/person responsible for the defacement. Further, the amount also shall be added to the election expenditure of the candidate concerned, and action should also be initiated to prosecute the offender under the

provisions of the relevant law (under the law relating to prevention of defacement, if any, or under the provisions of the general law for causing willful damage to the property of others).

Annexure-1

DEFACEMENT OF VEHICLES

8. (a) In private vehicles, subject to the provisions of the Motor Vehicles Act, Rules thereunder and subject to court orders in force, if any, flags and stickers may be put on the vehicles by the owner of the vehicle on his own volition, in such a manner that they do not cause any inconvenience or distraction to other road users. If such display of flags and stickers aims to solicit vote for any particular candidate, then the provisions of Section 171H of the IPC would be attracted and would have to be followed.
- (b) On commercial vehicles, display of any flag, sticker etc. shall not be permitted, unless such vehicle is a vehicle validly used for election campaign after obtaining the requisite permit from the District Election Officer/Returning Officer and the display thereof in original on the wind screen.
- (c) External modification of vehicles including fitting of Loudspeaker thereon, would be subject to the provisions of the Motor Vehicles Act/Rules and any other Local Act/Rules. Vehicles with modifications and special campaign vehicles like Video Rath etc., can be used only after obtaining the requisite permission from the competent authorities under the Motor Vehicles Act.

OTHER CAMPAIGN RELATED ITEMS

9. Subject to accounting for the expenditure, the following may be permitted:-
- (a) In processions and rallies etc., flags, banners, cutouts etc. can be carried subject to local laws and prohibitory orders in force;
- (b) In such procession, wearing of party/candidate supplied special accessories like cap, mask, scarf etc. may be permitted. However, supply of main apparels like saree, shirt, etc. by party/candidate is not permitted.
- (c) Educational institutions including their grounds {whether Govt. aided, private or Govt.} shall not be used for political campaigns and rallies.
10. The Chief Electoral Officers are requested to bring the directions of the Commission to the notice of the District Election Officers, Returning Officers and all other election related authorities, and all political parties in the State, including State units of recognized National and State parties, and all registered un-recognized parties based in the State, and also the contesting candidates (at the time of elections) for information and compliance.
11. Please acknowledge receipt of this letter. The Chief Electoral Officers may kindly confirm that action as required above has been taken.

Defacement of Properties – Law			
SL. No.	Name of State/UT	Name of Act/Rule	Extent of applicability
1	Andhra Pradesh	The Andhra Pradesh Prevention of Disfigurement of Open Places and Prohibition of Obscene and Objectionable Posters and Advertisements Act, 1997.	It extends to the entire State.
2	Arunachal Pradesh	The Arunachal Pradesh Prevention of Disfigurement of Property Act, 1997.	It extends to the entire State.
3	Bihar	The Bihar Pradesh Prevention of Disfigurement Property Act, 1997.	It extends to the entire State.
4	Chhattisgarh	No separate law/Act framed by the Sate. But the Madhya Pradesh Sampatti Virupan Nivaran Adhiniyam. 1994 is applicable in the state.	It extends to the entire State.
5	Goa	The Goa Prevention of Defacement of Property Act, 1988 as amended vide Act of 1992 and 2001.	It extends to the entire State.
6	Haryana	The Haryana Prevention of Defacement of Property Act, 1989 as amended vide Act of 1996.	It extends to the entire State.
7	Himachal Pradesh	The Himachal Pradesh Open Places (Prevention of Disfigurement) Act, 1985.	It extends to the entire State and come into force in the areas comprised in the Municipal Corporation of Shimla at once and shall come into force in the remaining part of the State on such date as the State Govt. may by notification, appoint.
8	Jharkhand	No separate law/Act but the Bihar Prevention of Defacement of Property Act, 1985 is applicable in the state.	It extends to the entire State.



9	Jammu & Kashmir	The Jammu & Kashmir Prevention of Defacement of Property Act No. XIX of 1985.	It extends to the entire State.
10	Karnataka	The Karnataka Open places (Prevention of Disfigurement) Act, 1981 as amended vide Act of 1983.	It extends to Bangalore, Mysore, Hubli, Dharwar, Mangalore and Belgaun constituted or continued under the Karnataka Municipal Corporation Act - 1976, or under any other law on 5.5.81 and come into force in the Municipalities, notified areas, sanitary Boards, constituted or continued under the Karnataka Municipalities Act -1964, or under any other law, or in any other local area, on such date, as the State Govt. may by notification appoint.
11	Madhya Pradesh	The Madhya Pradesh Sampatti Virupan Nivaran Adhiniyam, 1994. It extends to the entire State.	It extends to the entire State.
12	Maharashtra	Maharashtra Act No. VIII of 1995 – regarding Prevention of Defacement of Property	Nothing is specifically mentioned about the extent of applicability.
13	Mizoram	The Mizoram Prevention of Defacement of Property Act, 1995. It extends to the entire State.	It extends to the entire State.

14	Nagaland	The Nagaland Prevention of Defacement of Property Act, 1985.	It extends to the notified areas constituted under the Assam Tribal Areas (Administration of Town Committee) regulation 1950, or in any other local area or areas, on such date, as the State Govt. may by notification may appoint.
15.	Punjab	The Punjab Prevention of Defacement of Property Act, 1998.	It extends to the entire State.
16.	Sikkim	The Sikkim Prevention of Defacement of Property Act, 1988.	It extends to the entire State.
17.	Tamil Nadu	The Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, as amended vide Act of 1992	It extends to the entire State.
18.	Tripura	The Tripura Prevention of Defacement of Property Act, 1976 in conjunction with Tripura (Prevention of Defacement of Property) Amendment Bill, 1998 now in force in the State.	It extends to the entire State and shall apply in the first instance to municipal limits of Agartala Town, but the State Govt. may from time to time by notification in the official Gazette, apply to such other local areas or areas as may be specified in the notification.
19.	Uttarakhand	The Uttaranchal Prevention of Defacement of Public Property Act, 2003.	It extends to the entire State.
20.	Andaman & Nicobar	The Andaman & Nicobar Islands Prevention of Defacement of Property Regulation, 1987.	It extends to the entire Union Territory of the Andaman and Nicobar Islands.

21	Chandigarh UT	The West Bengal Prevention of Defacement of Property Act, 1976 has been made applicable in Chandigarh UT.	It extends to the entire State.
22	Delhi	The West Bengal Prevention of Defacement of Property Act, 1976 was made applicable in Delhi. (A separate act is under consideration).	It extends to whole of the Union Territory of the Pondicherry.
23	Pondicherry	The Pondicherry Open Places (Prevention of Disfigurement) Act, 2000.	

States in which there is no specific Law on the subject of Prevention of Defacement of Property

Sl. No.	Name of State/UT	
1.	Assam	No law/Act
2.	Gujarat	No law/Act
3.	Kerala	No law/Act
4.	Manipur	No law/Act
5.	Meghalaya	No law/Act
6.	Orissa	No law/Act
7.	Rajasthan	No specific law on the subject but there is a provision in Section 198 of Rajasthan Municipalities Act, 1959 that without the consent of the owner or occupier and in case of Municipal property, without the permission in writing of the board, affixing any poster, bill, placard or other paper or means of advertisement is punishable with fine which may extend to twenty rupees.
8.	Uttar Pradesh	No law/Act
9.	West Bengal	The earlier West Bengal Prevention of Defacement of Property Act, 1976.(West Bengal Act XXI of 1976). This Act has since been repealed.
10.	Dadra & N. Haveli	No law/Act
11.	Daman and Diu	No law/Act
12.	Lakshdweep	No law/Act

### Annexure-2

Statement showing the details of wall-writings / posters / hoardings / banners, etc. displayed by Shri / Smt. / Ms. \_\_\_\_\_, contesting candidate in \_\_\_\_\_ Parliamentary Constituency / Assembly Constituency

Name of the Village / Town /Locality

S.No.	Name and address of the owner of the private property from whom written permission has been obtained	Details of Wall – Writing or Hoardings or Banners or Poster (Size of wall writing/ hoarding/ banner / poster shall be indicated	Expenditure incurred or likely to be incurred on the wall-writing/ hoarding/banner/ posters, etc. (Rs.)
<b>Total</b>			

### INSTRUTION SL. NO. 43

Election Commissions letter No.3/7/2008/J.S.-II/SDR Dated : 10th November, 2008 addressed to the Chief Secretaries of all states & Union Territories.

**Subject:- Instructions on defacement of property- regarding.**

I am directed to invite a reference to the Commission's letter No. 3/7/2008/JS-II dated 7th October, 2008, on the subject cited above.

It is reported that there is some confusion in understanding the instructions of the Commission with regard to defacement of private property. The instructions in this regard are further elaborated below.

### Defacement of private property

Where there is a Law which prohibits defacement

In States which have a Law that prohibits defacement of private property in any manner, the provisions of the law would apply, meaning thereby that there cannot be any defacement in such cases even with the consent of the owner of the property.

**Where the Law permits defacement of private property**

In States where the Law has express provisions permitting any kind of defacement of private property, with or without conditions, the Commission's instructions provide that the written permission of the owner/occupant of the property should be obtained by the party/candidate/person concerned and a copy of the same should be submitted to the Returning Officers concerned.

### Where there is no Law on defacement

In States where there is no Law on defacement of private property, as per the Commission's instructions, temporary and easily removable campaign material such as flags and banners would be permitted with the written permission of the owner/occupant of the property. The permission should be a voluntary one, and copy of the written permission obtained is to be submitted to the Returning Officers concerned.

Please acknowledge receipt of this letter.

F

MEDIA



**INSTRUCTION SL. NO. 44**

Election Commission's order 491/96/MCS dated 27.03.1996 addressed to Chief Secretary/ CEOs of all States/UTs, Principal Information Officer, M/o I & B, New Delhi ,The Secretary General, Lok Sabha, New Delhi, The Secretary General Rajya Sabha, New Delhi. The Secretary to the Govt. of India, Ministry of Information & Broadcasting, New Delhi, The Secretary to the Govt. of India, Ministry of Home Affairs, New Delhi, The Secretary to the Govt. of India, Ministry of Law, Justice & Company Affairs, Legislative Department, New Delhi, and Secretaries, Information & Public Relations of all State/Union Territory Governments and Directors of Information & Public Relations all State/Union Territory Governments.

**ORDER**

**Subject: Facilities to be provided to media persons for coverage of process of election**

In partial modification of commission's order of even no., dated 14.12.94 the following order is issued.

- I. Elections are an important event of mass participation in public affairs and the Election Commission attaches the greatest importance to the Conduct of elections with as much transparency as practicable. The following guidelines for media coverage of elections have been framed to make this possible and to provide every reasonable facility to the media to provide adequate and effective coverage of the election process however without impinging adversely on the rules for the elections and the rights of the electorate.

**Issue of Authority Letters**

- 1. Rule 32 of the Conduct of Election Rules, 1961, which regulates the entry into polling stations is reproduced below for facility of ready reference:-
  - “32. Admission to polling stations - The Presiding Officer shall regulate the number of electors, to be admitted at any one time inside the polling station and shall exclude there from all persons other than:
    - (a) Polling officers;
    - (b) Public Servants on duty in connection with election;
    - (c) Persons authorized by the Election Commission;
    - (d) Candidates, their election agents and subject to the provisions of rule 13, one polling agent of each candidate;
    - (e) A child in arms accompanying an elector.
    - (f) A persons accompanying a blind or infirm elector who cannot move without help; and

- (g) Such other persons as the Returning Officer or the Presiding Officer may employ under Sub-rule (2) of Rule 34 of Sub-Rule 35.”
2. Entry to any place fixed for counting of votes is governed by the provisions of rule 53(1) of the Conduct of Elections Rules, 1961, which is reproduced below:
- “53. Admission to the place fixed for counting - The Returning Officer shall exclude from the place fixed for counting of votes all persons except:-
- Such persons (to be known as counting Supervisors and counting assistants) as he may appoint to assist him in the counting;
  - persons authorized by the Election Commission;
  - Public servants on duty in connection with the election; and
  - candidates, their election agents and counting agents.
3. above rules apply to elections to the
- Council of State,
  - House of the People,
  - State Legislative Councils and
  - State Legislative Assemblies.
4. In the case of Presidential and Vice-Presidential Elections, the corresponding rules are rule 13 and rule 28 of the “Presidential and Vice-Presidential Elections Rules, 1974” which are reproduced below:-
- “13. Admission to place of polling - The Presiding Officer shall exclude, from the place of polling all persons except:
- the polling officers and other public servants on duty;
  - the candidates, and one representative authorised in writing by each candidate;
  - the electors;
  - persons authorised by the Election Commission;
  - such other persons as the Presiding Officer may from time to time admit for the purpose of assisting him in taking the poll.”

“28. Admission to the place fixed for counting.

The Returning Officer shall exclude from the place fixed for counting of notes every single persons except.

- such persons as he my appoint to assist him in the counting;
  - the candidates and one representative at a time authorised in writing by each candidate;
  - public servants on duty in connection with the election; and
  - persons authorised by the Election Commission.”
5. Subject to the powers of the authorities competent to impose any restriction in pursuit of the maintenance of law and order, the permission of the Election Commission is not needed by any person, including media persons, for visiting and moving around in any constituency where election is being held and every person is free to observe the elections. Entry into the polling stations and counting centres is however fully regulated by the statutory provisions mentioned above.
6. No one can enter into any polling station or a counting centre as a matter of right except to the extent mentioned in the above quoted rules.
7. In addition to the persons directly connected with poll and counting, such persons as are specifically authorised by the Election Commission can alone enter the polling stations and counting centres. The exclusive power of the Election Commission to issue entry passes to persons including media persons, also includes the power to refuse an entry pass to any person if in the Commission’s opinion, there are sufficient reasons to do so.
8. The subject of laying down standard guidelines for the facilities to be made available to media persons interested in covering the process of an election conducted under superintendence, direction and control of the Commission, has been engaging the attention of the Commission. The Commission has reviewed past experience in this regard and the requirement to address the concerns of the media for being able to cover the election process.
9. After a careful consideration of all relevant factors and in suppression of all earlier instructions in this regard, the following guidelines are laid down to be strictly and uniformly observed hereafter at all elections to the council of State, House of the People, State Legislative Assemblies and State Legislative Councils.
10. As soon as practicable, after the announcement of general elections/bye-elections/ biennial elections, the Commission will issue a letter or message to the Sponsoring Authorities which will include (1) Principal Information Officer for media persons accredited by PIB at national level and (2) the Director Information and Public relations (or equivalent officer) of the respective states including the National Capital Territory of Delhi and to the Chief Electoral Officers of the State/Union Territories concerned for obtaining and forwarding, with specific recommendations, requests received from media persons for issue of Authority Letters for entry into polling stations and counting centres within a specified time limit.

The sponsoring authorities will sponsor only names of those media persons, about whose identity as a genuine media person they are satisfied. The total number of media persons recommended for issue of authority letters will be within reasonable numbers.

- 10.1 The Commission will prescribe in the case of each election a deadline for the receipt in the Commission's office of the duly sponsored requests for authority letters from the sponsoring authorities/CEOs which will be fixed after taking into account the date of poll/counting with a view to timely decision on such requests to reach the PIO and CEOs for preparation and dispatch of authority letters to the media persons. The deadline to receive the duly sponsored requests shall not be later than 15 days prior to the date of poll.
- 10.2 It will be for the sponsoring authorities/CEOs to inform all media persons about the deadline fixed by the Commission in each case and to ensure that their recommendations reach the Commission within the deadline. Any request received after the deadline will be considered only in the exceptional cases of acts of God, death or illness etc. on the recommendation of the sponsoring authority concerned who should be personally satisfied about the genuineness and difficulty and set out to the Commission before making such recommendations. Such recommendations should be given only in exceptional cases.
- 10.3 In respect of media persons in Delhi, for those accredited to the PIB, written requests for authority letters should be sponsored by the Principal Information Officer and a consolidated list sent by the Principal Information Officer to the Commission directly and within the stipulated time limit referred to in para 10.2. For other mediapersons at Delhi accredited by the State Directorate of Information & Public Relations but not accredited by PIB, similar recommendations will be made by the said Director to the Commission within the stipulated date, in consultation with CEO Delhi.
- 10.4 In the case of media persons outside Delhi, their requests should be duly scrutinized and sponsored by the Directorate of Information and Public Relations or equivalent (by whatever name known in a State/Union Territory) and should be forwarded to the Chief Electoral Officer who after such consultation with the State Directors, I&PR concerned as may be needed forward consolidated list to the Election Commission within the stipulated time referred to in Para 10.2.
- 10.5 In addition to accredited correspondents other genuine media persons can also be sponsored for issue of authority letters. It is up to the PIO and concerned state departments of I&PR to scrutinize and sponsor names of such media persons and to lay down appropriate policies including providing temporary or casual accreditation, even for the limited period of the covering the election process. Election Commission will, however consider only such cases as are duly recommended by the concerned sponsoring authority.
- 10.6 No piece-meal requests from the sponsoring authorities/Chief Electoral Officers will be entertained.

- 10.7 Each applicants should give full particulars including his name, designation, news agency/ newspapers/periodical/electronic media channel which the applicant represents and the name(s) of the State/constituency (ies) he wants to cover. There will be no restriction on the number of constituencies which an applicant may like to cover. For electronic media team with more than one person each individual member will need a separate authority letter.
- 10.8 Under no circumstances will any omnibus authority letter be issued by the Commission. The sponsoring authority and the Chief Electoral Officers/ State Information Departments should meticulously screen all the requests received and their recommendations should be within reasonable numbers keeping in mind all relevant factors.
- 10.9 The Commission will normally not entertain any requests directly from any person agency for media/news coverage.
11. It is for the sponsoring authority/Chief Electoral Officers through the State Information Departments, to give wide publicity in the procedure to be followed for obtaining authority letters and ensuring that the recommendations are sent to the Commission well in time.
12. Machine numbered/security printed authority letters as per requirement of each State and Union Territory will be sent to the Chief Electoral Officer concerned in advance, after noting down the serial numbers thereof in a register. Press Information Officer and Chief Electoral Officer of concerned State in consultation with State Directorate of Information and Public Relations will sponsor names of media persons for issue of authority letters to the Commission within the deadline prescribed. Specific written approval of the Election Commission to the list of persons to whom the authority letters are to be issued shall be intimated to the Chief Electoral Officer of the State/ Union Territory concerned with the direction that he should fill up particulars in the authority letter. The Chief Electoral Officer will be authorised to sign the authority letters on behalf of the Commission. They will sign each such authority letters in their own hand (no facsimile or rubber stamps shall be used) as per the approved list and hand over the same to the person concerned. They shall also maintain a list in a register in which they should note down the particular of the person and the serial numbers of the authority letter issued. The names on the approved list are not, repeat not, locally transferable to another person.
- 12.1 The Returning Officer, the Presiding Officers and any other election related officials have absolute right and responsibility to keep persons without such authority letters away from the place of polling/counting.
13. Authority letters issued will be subject to the conditions imposed by the Commission as are mentioned on the authority letters. Any violation of such condition will automatically invalidate the authority letter.



14. As for coverage of actual polling inside the polling stations media persons with authority letters can be allowed enter inside the polling station by the Presiding Officers after verification of such authority letters. However, they will be allowed inside in very small numbers in batches and the actual numbers will be determined taking into account the size of the room and the space available, the number of electors waiting to cast their votes and other relevant factors. The Presiding Officer will have full discretion regarding the entry of the media persons inside the polling booth taking into account the situation obtaining at the relevant time and all other relevant factors as he alone will be to do so on the spot. While allowing such media persons inside the polling station the Presiding Officer may also further regulate the actual coverage by indicating a definite position beyond which they should not proceed. It is expected that in polling stations which are likely to attract large media attention, appropriate additional arrangements for security and law and order arrangements would be made by the concerned State/ Union Territory Government. Entry inside the polling station and coverage of the events even in small numbers in batches would be regulated in such a manner that under no circumstances is the secrecy of the ballot of any voter violated even by accident. The Presiding Officer will also be free to use regulatory measures as he may feel necessary in this regard taking into account the situation at hand. It is expected that all media persons will extend necessary co-operation in this regard and under no circumstances, the process of polling will be allowed to be disturbed because of the large number of media persons present at a given time in a single booth. This will be ensured by each Presiding Officer in a suitable manner. In short, for coverage of actual polling inside the polling station, the entry of media person inside the polling booth in manageable groups will be permitted by the Presiding Officer on the basis of authority letters issued by the Election Commission, subject to restriction that media persons will not be allowed to go near voting compartments to take photographs/ films so that the secrecy of the vote is not violated.
15. In relation to elections to the office of PRESIDENT or VICE-PRESIDENT of INDIA, requests for entry into the place of polling/counting in NEW DELHI will be sponsored by the Returning Officer for the election and no one else.
16. For entry into other places of polling at the State headquarters for Presidential Election, the requests will be forwarded to the Commission by the Assistant Returning Officers appointed for the purpose in the State concerned and no one else.
17. The instructions given in paragraph 10 above will be applicable mutatis mutandis to the Returning Officers, Assistant Returning Officers in the states concerned in the matter of sponsoring requests of entry passes for Presidential and Vice-Presidential Elections.
18. Representatives of the government owned media like Akashvani and Doordarshan and the officials of the Ministry of Information and Broadcasting, Press Information Bureau, Public Relations Departments, Directorates of Information, field publicity

units etc., either of the central or any state governments are not entitled to any special facilities or preferential treatment whatsoever in the matter of entry into a place of polling or a place for counting. They are totally on par with other media persons and can be allowed entry only if they are in possession of a valid authority letter issued by the Commission. The same restrictions will apply to all foreign media/ journalists also. No one can be given any special facilities of access etc. Any Chief Electoral Officer, or any one else who gives or permits extra facilities in violation of the directions of the Commission to central government or state government media or to foreign press and media or members of any state department connected with information and publicity by whatever name known, will do so at his own risk and will face the consequences thereof.

19. Whenever any poll or counting takes place in the premises of Parliament or of a state Legislature, such a place of poll or counting is fully under the control of the Election Commission. Entry into any such place of poll or counting of any media person shall be allowed only on the basis of valid entry passes issued by the Commission alone and not by any other authority. Entry passes issued by any other authority to any media persons for covering Parliamentary/Assembly proceedings do not entitle them to enter the place of poll/place of counting during an election. In this connection, attention is drawn to the decision of the Supreme Court in Pashupati Nath Sukul Vs. Nemchandra Jain and others (74ELR-83) wherein the Supreme Court clearly held that all the steps taken in the course of an election to the Council Of States in which elected members of state legislative assembly participate fall outside the proceedings that take place at the meeting of the house. The same is true in the case of Presidential/Vice-Presidential elections in which the members of Parliament and state legislative Assemblies participate.
20. These will be brought to the notice of all the concerned. Any violation will attract severe disciplinary action.
21. The Returning Officer will at the time of counting announce the round-wise results through the public address system with sound boxes fixed outside the counting hall and also do so after completion of each round of counting. Limited coverage of short duration by manageable audio visual groups can be allowed and the groups, may be conducted by the official designated for this purpose by the officers in charge of counting. In so far as the trend of counting is concerned, existing instructions will continue. In so far as the transmission of the messages detailed result messages from the Returning Officers after the declaration of the result of in a prescribed format may be reiterated and a copy of the message may be endorsed to All India Radio/Press Information Bureau/Doordarshan.
22. The holders of the authority letters, while covering the counting process, can and should be allowed to come out of the counting hall(s) if they so desire, during the counting. They should also be allowed to re-enter on the basis of the very same authority letters. All entry at all times however, is subject to the over-all requirement of maintenance of law and order, proper decorum and the conduct of peaceful counting.



- 23. Likewise, in the case of such holders of authority letters for their entry into the polling stations on the date(s) of poll, entry and re-entry into the polling stations during the process of poll, on the basis of such authority letters shall be allowed as in the case of entry in connection with the counting process. This will again be subject to the over-all requirements of maintenance of law and order and proper decorum in the conduct of peaceful polling.
- 24. The media centres should have required infrastructural facilities like telephones with ISD/ STD, Fax machines, necessary furniture, Teleprinters, etc. These may be provided by the concerned State/Union Territory Governments who shall be free to decide the charges, if any, are to be levied for various facilities.
- 25. No special arrangements can be made to answer queries telephonically.
- 26. The arrangements indicated in the preceding paragraphs will also be applicable mutatis mutandis to representatives of private electronic media. They will also be required to obtain authority letters and their cases will be sponsored by the sponsoring authority namely the PIO or the State Director Information and Publicity concerned as the cases may be.
- 27. In exceptional case, the Principal Information Officer may recommend the cases of senior correspondents of print and electronic medias of national and international standing to cover more than one state.

Media Centres

- 28. Media centres will be set up in the office Campus of the Chief Electoral Officer, and the District Election Officers, specially for the purpose of disseminating election related information. Officers of the level of District Information Officer will be put incharge of Media centres and their contact address & telephone numbers will be circulated in advance. These centres will commence functioning from the date of notification of election and will remain open during office hours up to the end of the period of electioneering and thereafter round the clock up to the end of the process of election. The media should have reasonable communication facilities like telephones, ISD\STD etc. fax machines, necessary furniture, teleprinters, etc. Subject to availability and on payment of full charges these facilities can also be provided by the District Election Officer. Each State/Union Territory Government shall be free to decide the charges to be levied for various facilities.
- 29. Copies of statistical reports and documents of previous elections will be made available in these media centres for the purpose of reference to the extent feasible.
- 30. One such media centre will be set up in the premises of the Election Commission also during every election.

- 31. An officer not below the rank of roughly a Deputy Collector/District Information Officer duly assisted by staff will be specifically made responsible for management of the media centre at the District.
- 32. The Chief Electoral Officers and the District Election Officers concerned shall issue daily press notes containing comprehensive statistical and all other information as pertains to their jurisdiction and whose publication in their view is not prejudicial to the conduct of peaceful free and fair elections or is not otherwise specifically prohibited for publication, commencing with the announcement of election up to the completion of the process of election.
- 33. District Magistrates and District Superintendents of Police shall jointly hold press briefings at least five times during the process of election in the districts in which an election is held. Comprehensive press handouts shall be distributed among the media persons at these briefings. Subject to the requirements of law and order, confidentiality, and peaceful free and fair poll, the subjects to be compulsorily included in the press handouts and in the briefings at these press meets, and their timings shall be as follows:

No.	Timing	Subject
1.	Date of Notification	i) Map of the constituency showing locations of polling stations, and routes ii) List of recognized political parties, their office Telephone numbers. iii) Number of electors, number of women electors and like such statistical information, iv) Names, addresses and telephone numbers of statutory officers, v) Gist of important instructions issue by the Election Commission, vi) The programme of election, vii) Preparedness to hold peaceful free and fair poll, viii) Model Code of Conduct and preparedness to ensure its observance.
2.	Last day of Withdrawal	i)Final list of contesting candidates, addresses as per electoral roll and the symbols allotted to them, ii) in preparedness to hold peaceful, free and fair poll
3.	End of Electioneering	i) Incidents of violation of Model Code of Conduct during the period of elections and action taken thereon, ii) Incidents of electoral offences during the period of elections and action taken thereon, iii) Action taken against errant officials, iv) Preparedness to hold peaceful free and fair poll.

4.

End of Polling

i) Incidents of electoral offences and malpractice and action taken on them on the day of poll, ii) Preparedness to hold re-poll if any. iii) Preparedness to hold peaceful free and fair counting.
5.

End of Election Process

i) All Publishable statistical information about the elections

INSTRUCTION SL. NO. 45

Election Commission’s letter No. 491/97/MCS-Vol.II dated 25.03.1997 addressed to the Chief Electoral Officers of all States and Union Territories.

**Subject: Issue of authority letters - facilities to be provided to media persons for the coverage of process of election – regarding.**

I am directed to invite a reference to para 12 of the Commission’s Order No.491/97/MCS dated 27-3-96 on the subject cited and to say that as per the instructions contained therein the Chief Electoral Officer would sign authority letter in their own hand (no facsimile or rubber stamps shall be used). These instructions have since been modified in accordance with the decision taken under Item V(24) of the Summary of Discussions and recommendations of Chief Electoral Officer’s Conference held on 14-1-97 which was forwarded to you with the Commission’s letter No.505/97/PLN-IV dated 18-2-97. According to these instructions now one additional officer in the Chief Electoral Officer’s establishment shall be authorized to sign the authority letters in addition to the Chief Electoral Officer.

Kindly acknowledge receipt of this letter immediately.

**INSTRUCTION SL. NO. 46**

**Subject: Code of Conduct for Television broadcasts in Connection with elections.**

1. The Election Commission (EC) recognized the significance of television in the coverage of elections. Its reach is widespread and its impact substantial. On the one hand television can be misused to favour one party or another. But, on the other hand, the EC recognizes that television can, if used properly be an important source of information for voters across the country, it can provide the widest first hand education for voters on political parties; their symbols, the various leaders, the different issues in the election.  
  
This is why television all over the world is the single biggest source of information of voters in terms of debates, campaign, coverage etc.
2. It is essential therefore that a model code of conduct is established for television both to ensure it is not misused as well as to ensure it is used in the best interests of democracy and the voter.
3. Listed below are the do's and don'ts for election coverage on television.
  - (a) **Don'ts**
    - (1) There should be no coverage of any election speeches or other material that incites violence, one religion against, another one caste against another one language group against another etc.
    - (2) In any constituency only one candidate should not be projected. While it is not necessary to cover every single candidate (as some constituencies may have several candidates) at least the more important should be covered in any report from a constituency.
  - (b) **Do's**
    - (1) The following could be covered in a balanced and fair manner:  
  
campaigning and excerpts from campaign speeches:  
  
symbols, banners, flags and other campaign material of parties:  
  
results of opinion polls by non-political, professional organisations with a proven track record party manifestoes (critical analysis of which is also perfectly legitimate):  
  
candidates and their views in different constituencies across the country:  
  
the positions taken by the main parties on different issues important to the electorate:

debates between major parties and candidates:

analysis of previous voting patterns, victory margins, swings, etc.

4. By "balanced and fair" it is meant that among that major political parties:  
  
no one political party should be given substantially more coverage than others. This "balance" need not be achieved in any single day or in a single story, but over a reasonable period of time, say one week.  
  
balance does not mean each party must get exactly the same air time to the last second, but parties should be given broadly the same amount of time.  
  
balance implies that to no reasonable person should it appear that one political party is being projected to the exclusion of others.

**5. Procedures**

All producers must record a copy of their programme off air for use as reference in case of any disputes.

The EC shall be the final arbiter in any dispute.

6. The final interpretation of any disputed passage or story should be with the Election Commission. In case of a disagreement with the broadcaster, one authority could be nominated by the Election Commission who could take a decision immediately when approached.

**INSTRUCTION SL. NO. 47**

**Subject: Scheme of Broadcast over Akashvani and Doordarshan by Recognized Political Parties during Election to the Lok Sabha/State Assemblies.**

1. Facilities of broadcasts on Akashvani and Doordarshan may be given to political parties recognised as 'National' parties and 'State' parties by the Election Commission under the Election Symbols (Reservation and Allotment) Order, 1968.
- 2(a) In the case of elections to the Lok Sabha, 'National' and 'State' parties may be given facilities for broadcasting from the principal Akashvani station and Doordarshan Kendra (where there is one) in every State in which general election to the Lok Sabha is to be held.
- (b) Broadcast from the principal station in the State will be radiated from all other Akashvani Stations in the State.
- (c) In addition, 'National' parties may be given facilities to have Central broadcasts from All India Radio, Delhi and Delhi Doordarshan Kendra which will be relayed from all AIR Stations/ Doordarshan Kendras.
- (d) In the States where a general election to the Legislative Assembly of the State is held simultaneously with the general election to Lok Sabha, there may not be any need for giving separate time for broadcast/telecast for such Assembly Election.
3. In case a 'State' party recognised by the Election Commission in one or more States under the Election Symbols (Reservation and Allotment) Order 1968, fields a sizeable number of candidates for election in a state in which it is not so recognised, a gist of the election broadcast made by the said 'State' party in any one of the states will be covered in the regional news bulletins of the Radio Stations in that State.
4. Broadcast on Akashvani may be of 30 minutes duration (in two broadcasts of 15 minutes each). Telecast from Doordarshan may be of 15 minutes duration.
5. The dates of Radio broadcasts/telecasts will be predetermined in consultation with the Chief Election Commissioner or his representative, in the case of Central and National Broadcasts/telecasts from Delhi, and the Chief Electoral Officer of the State, in the case of broadcasts/telecasts from the Principal Akashvani Stations and Doordarshan Kendras.
6. The order in which and the dates on which the various recognised political parties may broadcast/ telecast from Akashvani and Doordarshan will be determined by draw of matching lots by the authorities concerned as mentioned in item 5 above.

7. The time for radio broadcasts and telecasts at the national level will be as follows:

Broadcasts ..... Between ..... and .....  
Telecasts ..... Between ..... and .....

The time for the radio broadcasts and telecasts at the State level will be between ..... and .....

8. The actual persons participating in the broadcasts may be chosen by the 'National' or the 'State' parties, as the case may be.
9. The broadcasts on Akashvani/Doordarshan will not permit:
  - i) Criticism of friendly Countries;
  - ii) Attack on religions or communities;
  - iii) Anything obscene or defamatory;
  - iv) Incitement to violence;
  - v) Anything amounting to contempt of court;
  - vi) Aspersions against the integrity of the President and Judiciary;
  - vii) Anything affecting the unity and integrity of the Nation;
  - viii) Any criticism by name of any person;
  - ix) Exhibition of films on or after the date of issue of notification under section 30 of the R.R Act 1951 and date (s) of poll projecting the image of cine actors and actresses who have joined politics;
  - x) Sponsored programmes by political parties to telecast/broadcast during election period; and
  - xi) Telecast/broadcast of programmes of Prime Minister/Chief Ministers/ Ministers having a direct relation or bearing on election. However, telecast/ broadcast or programmes on official activities of the Prime Minister/Chief Minister/Minister will be permitted.

Note: The parties or their representatives shall submit the script of their broadcast in advance.

10. The 'party' broadcasts will be in addition to any panel discussions or other programmes of political education organized in the course of the ordinary functioning of the broadcasting media.



11. The 'party' broadcast will be made after the notification calling for elections is issued and will be concluded forty eight hours before the end of the first polling date.
12. No.' party' will be allotted time either on Radio or Doordarshan on Sundays.

### INSTRUCTION SL. NO. 48

Election Commission's letter No. 509/75/2004/JS-I, dated 15.04.2004 addressed to the Chief Electoral Officers of all States Union Territories.

**Subject: - Supreme Court's Order dated 13th April 2004 relating to advertisements of political nature on TV Channel and cable networks.**

I am directed to enclose herewith a copy of the order dated 15th April. 2004 passed by the Commission in pursuance of the Order dated 13th April. 2004 of the Hon'ble Supreme Court in SLP (C. No. 6679 of 2004 Ministry of Information and Broadcasting Vs. M s. Gemini TV Pvt. Ltd. and others).

2. It may be noted that the Commission has directed that for pre-viewing, scrutinizing and certifying advertisements to be telecast over TV channels and cable networks by any registered political party or by any group or organization association, having headquarters in NCT of Delhi, the Chief Electoral Officer. Delhi is to constitute a Committee as directed in paragraph 6 (i) of the Order. Similarly, the Chief Electoral Officers of other States / Union Territories will constitute Committees for dealing with applications by political parties and other associations / groups with headquarters in their States Union Territories, as per paragraph 6 (iii). Vide paragraph 6 iv) of the Order, the Returning Officer of even' Parliamentary Constituency have been declared as Designated Officer for previewing, scrutinizing and certifying advertisements by individual candidates contesting election from the constituency concerned. For the candidates contesting the current general election to the Legislative Assemblies of Andhra Pradesh, Karnataka, Orissa and Sikkim and the bye-elections in some States, the Returning Officer of the Parliamentary Constituency comprising the Assembly Constituency concerned will entertain applications for certification of advertisements.
3. The Chief Electoral Officers of all States / Union Territories are also required to constitute further a Committee to attend to complaints / grievances in regard to the decision of the Committees Designated Officers on the application for certification of advertisements.
4. Each application for certification is to be submitted before the Committee concerned or the Designated Officer concerned in a statement as per the format prescribed in Annexure-A appended to the Order. The certificate for telecast for an advertisement is to be given by the Committee / Designated Officer in the format as given in Annexure-B appended to the Order. The applicants are required to submit two copies of the proposed advertisements in electronic form alongwith an attested transcript thereof.
5. A proper record in a register should be maintained for all applications received for certification. Each application should be serially numbered and the serial numbers should also be indicated on the two copies in electronic form and the receiving officer should affix his signature on the electronic copy. After issue of certificate,

one electronic copy of the advertisement as certified for telecast, should be retained by the Committee Designated Officer.

6. All Chief Electoral Officers may take immediate action for acquiring by hiring or purchase, necessary equipments infrastructure, such as television, VCR, VCD. etc. that may be required for the purpose of previewing and scrutinizing of advertisements by the Committees and Designated Officer in their State/ Union Territory. Any purchase made are to be in accordance with the rates and procedures approved by the State Governments for similar items.
7. The Commission's order may be given wide publicity and this may be specifically brought to the notice of all District Election Officers District Magistrates. Returning Officers, TV Channels, cable operators and political parties in the State Union Territory.

Kindly acknowledge receipt.

**No. 509/75/2004/JS-I Dated 15th April 2004.**

### **ORDER**

Whereas Section 6 of the Cable Television (Regulation) Act. 1995 provides that no person shall transmit or re-transmit through a cable service any advertisement unless such advertisement is in conformity with the prescribed advertisement code: and

2. Whereas Sub-rule (3) of Rule 7 of the Cable Television Network (Regulations) Rules, 1994 laying down the advertising code in terms of the abovementioned Section 6 provides that "no advertisement shall be permitted the objects whereof are wholly or mainly of a religious or political nature advertisements must not be directed towards any religious or political end" and
3. Whereas the High Court of Andhra Pradesh, by its judgement and order dated 23-03-2004 in WPMP No.5214/2004 (Gemini TV Pvt. Ltd. Vs. Election Commission of India and others) suspended the above-mentioned provisions of Rule 7(3) of the Cable Television Network (Regulation) Rules. 1994: and
4. Whereas the Hon'ble Supreme court by its interim order dated 2-4-2004 in SLP (Civil) No.6679 2004 (Ministry of Information & Broadcasting Vs Ms Gemini TV and Others), in substitution of the order under challenge, had directed as below.—
  - (i) No cable operator or TV channel shall telecast any advertisement, which does not conform to the law of the country and which offends the morality, decency and susceptibility of views or which is shocking, disgusting and revolting;
  - (ii) The telecast shall be monitored by the Election Commissioner of India;
  - (iii) The question as to whether the expenditure incurred by the candidate on inserting such advertisement should or should not be included, shall be considered on 5th April, 2004; and
  - (iv) The modalities whether such advertisements are in conformity with law, shall be laid down by the Election Commission of India.
5. Whereas the Hon'ble Supreme Court of India by its further order dated 13th April, 2004, in SLP (Civil) No.6679/2004, has directed as follows:
 

“—Before we pass the order, it will be worthwhile to notice certain provisions of the Cable Television Networks (Regulation) Act, 1995 (for short, "the Act"), as amended from time to time, and the Rules framed there under. The object of the Act is to regulate the operation of the cable television network in the country. Section 6 of the Act provides that no person shall transmit or re-transmit through a cable service any advertisement unless such advertisement is in conformity with the prescribed advertisement code. Section 11 of the Act provides that if any authorized officer has reason to believe that the provisions of the Act have been

or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for operating the cable television network. Section 12 of the Act provides for confiscation of the equipment in the event of any violation of the provisions of the Act. Similarly, Section 13 of the Act also provides for seizure or confiscation of the equipment and punishment. Section 16 further provides for punishment for contravention of the provisions of the Act. Section 19 lays down that an authorized officer, if he thinks necessary or expedient so to do in the public interest, may, by order, prohibit any cable operator from transmitting or re-transmitting any advertisement which is not in conformity with the prescribed programme code and advertisement code and it is likely to promote enmity on grounds of religion, race, language, caste or community or any other grounds whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religion, racial, linguistic or regional groups or castes or communities or which is likely to disturb public tranquility. Section 22 of the Act empowers the Central Government to frame Rules to carry out the provisions of Act. The Central Government in exercise of the powers conferred on it by Section 22 of the Act is empowered to make Rules which are known as The Cable Television Networks Rules, 1994 [for short, “the Rules”]. Rule 7 of the Rules provides that where an advertisement is carried in the cable service it shall be so designed as to conform to the laws of the country and should not offend morality, decency and religious susceptibilities of the subscribers. Sub-rule (2), inter-alia, provides that no advertisement shall be permitted which derides any race, caste, colour, creed and nationality, is against any provision of the Constitution of India and tends to incite people to crime, cause disorder or violence or breach of law or glorifies violence or obscenity in any way. Sub-rule (3) further provides that no advertisement shall be permitted the objects whereof are wholly or mainly of religious or political nature, advertisements must not be directed towards any religious or political end. It is in this background, we now propose to pass the following order:

Every registered National and State, political party and every contesting candidate proposing to issue advertisement on television channel and/or cable network will have to apply to the Election Commission/Designated Officer (as designated by the Election Commission) not later than three days prior to the date of the proposed commencement of the telecast of such advertisement. In case of any other person or unregistered political parties, they will have to apply not later than seven days prior to the date of the telecast. Such application shall be accompanied by two copies of the proposed advertisement in electronic form along with a duly attested transcript thereof. In case of first phase of elections, the application shall be disposed of within two days of its receipt and until decision thereon is taken, our order dated 2nd April, 2004, shall apply. In case of subsequent phase of election, the application shall be disposed of within three days of its receipt and until the decision thereon is taken, our order dated 2nd April, 2004, shall apply. While disposing of such applications, it will be open to the Election Commission/Designated Officer to direct deletion/modification of any part of the advertisement.

The application for certification shall contain following details:

- (a) The cost of production of the advertisement;
- (b) The approximate cost of proposed telecast of such advertisement on a television channel or cable network with the break-up of number of insertions and rate proposed to be charged for each such insertion;
- (c) It shall also contain a statement whether the advertisement inserted is for the benefit of the prospects of the election of a candidate(s)/parties;
- (d) If the advertisement is issued by any person other than a political party or a candidate, that person shall state on oath that it is not for the benefit of the political party or a candidate and that the said advertisement has not been sponsored or commissioned or paid for by any political party or a candidate; and
- (e) A statement that all the payments shall be made by way of cheque or demand draft.

We find that Section 2(a) of the Act defines “authorized officer”, within his local limits of jurisdiction, as (a) District Magistrate; (b) Sub-divisional Magistrate; or (c) Commissioner of Police. Similarly, Section 28 A of the Representation of People Act, 1951 provides that the Returning Officer, Assistant Returning Officer, Presiding Officer, Polling Officer and any other officer appointed under this part and any police officer designated for the time being by the State Government, for the conduct of any election shall be deemed to be on deputation to the Election Commission for the period commencing on and from the date of the notification calling for such election and ending with the date of declaration of results of such election and, accordingly, such officer shall during that period, be subject to the control, superintendence and discipline of the Election Commission.

Since it is not physically possible for the Election Commission to have a pre-censorship of all the advertisements on various cable networks and television channels, it has become necessary to authorize the Election Commission to delegate its powers in this behalf to the respective District Magistrates of all the States or Union Territories, not below the rank of a Sub-divisional Magistrate or a member of the State Provincial Civil Service. This may be done by a general order issued by the Election Commission. These officers shall act under the control, superintendence and discipline of the Election Commission. The Election Commission in its turn may delegate its powers to the Chief Electoral Officer of each State or the Union Territories, as the case may be.

The Chief Electoral Officer of each State or Union Territory may appoint a committee for entertaining complaints or grievances of any political party or candidate or any other person in regard to the decision to grant or to refuse certification of an advertisement. The committee so appointed shall communicate its decision to the Election Commission.

The committee so constituted will function under the overall superintendence, direction and control of the Election Commission of India.



The decision given by the committee shall be binding and complied with by the political parties, candidates, or any other person applying for advertisements in electronic media subject to what has been state above.

The comments and observations for deletion or modification, as the case may be, made, shall be binding and complied with by the concerned political party or contesting candidate or any other person within twenty four hours from the receipt of such communication and the advertisement so modified will be re-submitted for review and certification.

We may clarify that provisions of Section 126 of the Representation of People Act, 1951, shall apply to the advertisement covered by this order.

If any political party, candidate or any other person is aggrieved by the decision taken either by the committee or by the Designated Officer/Election Commission it will be open for them to approach only this court for clarification or appropriate orders and no other court, tribunal or authority shall entertain any petition in regard to the complaint against such advertisement. This order shall come into force with effect from 16th April, 2004 and shall continue to be in force till 10th May, 2004.

This order is being issued in exercise of the powers under Article 142 of the Constitution of India and it shall bind all the political parties, candidates, persons, group of persons or Trusts who propose to insert the advertisement in the electronic media, including cable network and/or television channels as well as cable operators.

It will be open to the Election Commission to requisition such staff as may be necessary for monitoring the telecast of such advertisements. Where the Election Commission is satisfied that there is a violation of this order or any provisions of the Act, it will issue an order to the violator to forthwith stop such violations and it will also be open to direct seizure of the equipments. Every order shall be promptly complied with by the person(s) on whom such order is served.

The funds to meet the cost of monitoring the advertisements should be made available to the Election Commission by the Union of India. Adequate publicity of this order shall be given by the Union of India on the electronic media and through print media.

This order is in continuation of the order passed by this Court on 2nd April, 2004 and shall remain in operation as an interim measure till 10th May, 2004.

Subject to the aforesaid order, the judgement of the High Court of Andhra Pradesh dated 23rd March 2004 shall remain stayed. This order is passed not in derogation of but in addition to the powers of the Central Government in regard to the breach of the provisions of the Act.”

6. Now, therefore, in pursuance of the aforesaid directions of the Hon’ble Supreme Court, the Election Commission, hereby directs as follows: -

- (i) The Chief Electoral Officer Delhi is hereby directed to constitute a Committee comprising the following persons to deal with the applications by the political parties and organizations mentioned in para (ii) herein below:-
  - a) The Joint Chief Electoral Officer-Chairperson.
  - b) Returning Officer of any Parliamentary Constituency in Delhi.
  - c) One expert being an officer not below the rank of Class-1 officer to be requisitioned from the Ministry of Information & Broadcasting.
- (ii) The above Committee will entertain applications for certification of any advertisement to be inserted in a television channel or cable network by the following:-
  - a) All registered political parties having their headquarters in NCT of Delhi.
  - b) All groups or organizations or associations or persons having their headquarters in NCT of Delhi.
- (iii) The Chief Electoral Officer of every other State/Union Territory is hereby directed to constitute the following Committee to deal with applications by political parties and organizations mentioned in para (iv) below:-
  - (a) The Additional/Joint Chief Electoral Officer - Chairperson.
  - (b) Returning Officer of any Parliamentary constituency located in the capital of the State.
  - (c) One expert being an officer not below the rank of Class-1 officer to be requisitioned from the Ministry of Information & Broadcasting.
- (iv) The Committee constituted in para (iii) above will entertain applications for certification for advertisement on television channel and cable network by the following:-
  - (a) All registered political parties having their headquarters in that State / Union Territory,
  - (b) All organisations or group of persons or associations having their registered offices in that State/Union Territory.
- (v) The Returning Officer of every Parliamentary constituency in the country are hereby declared as Designated Officers for the purpose of entertaining application for certification of an advertisement proposed to be issued on cable network or television channel by an individual candidate contesting the election from the Parliamentary constituency of which such Designated Officer is the Returning Officer and candidates contesting in the Assembly



constituencies falling within that Parliamentary constituency. The said Returning Officer may co-opt any of the Assistant Returning Officers, not below the rank of a Sub-divisional Magistrate belonging to the State Provincial Civil Service to assist him in the task of certification of applications.

7. The Chief Electoral Officer of every State/Union Territory will constitute the following Committee to entertain complaints/grievances of any political party or candidate or any other person in regard to the decision to grant or refuse certification of an advertisement:-

- (i) The Chief Electoral Officer - Chairperson.
- (ii) Any Observer appointed by the Election Commission of India
- (iii) One expert to be co-opted by the Committee other than the one mentioned in paras 6(i) and 6(iii) above.

8. The applications for certification of any advertisements by every registered political parties and every contesting candidates shall be made to the Committees mentioned in paras 6 (i) and 6 (iii) above or the Designated Officer as mentioned in para 6 (iv) above, as the case may be, not later than 3 (three) days prior to the date of the commencement of the telecast of such advertisements. In the case of first phase of elections such applications shall be disposed of within 2 (two) days of its receipt and until decision thereon is taken, the order of the Supreme Court dated 2-4-2004 shall apply.

9. Where an application for certification of advertisement is by any other person or unregistered political parties, it will have to be made not later than 7 (seven) days prior to the date of telecast.

10. Every such application, in the format prescribed at **Annexure-A**, shall be accompanied by the following :

- (i) Two copies of the proposed advertisement in the electronic form along with a duly attested transcript thereof,
- (ii) The application for certification shall contain following details:-
  - (a) The cost of production of the advertisement:
  - (b) The approximate cost of proposed telecast of such advertisement on a television channel or cable network with the break-up of number of insertions and rate proposed to be charged for each such insertion:
  - (c) It shall also contain a statement whether the advertisement inserted is for the benefit of the prospects of the election of a candidates/parties:

- (d) If the advertisement is issued by any person other than a political party or a candidate, that person shall state on oath that it is not for the benefit of the political party or a candidate and that the said advertisement has not been sponsored or commissioned or paid for by any political party or a candidate:

- (e) A statement that all the payment shall be made by way of cheque or demand draft.

11. While taking a decision on the applications for certification of an advertisement, it will be open for the Committees constituted in para 6 (i) and 6 (iii) above or the Designated Officer as in para 6 (v) above or the review Committee as constituted in para 7 above to direct deletion/modification of any part of the advertisement. Every such order making comments and observation for deletion and modification shall be binding and be complied by the concerned political party or contesting candidate or any other person within 24 hours from the receipt of such communication. The advertisement so modified will be re-submitted for review and certification.

12. Where the Committees constituted in para 6 (i) and 6 (iii) above or the Designated Officer or the review Committee as constituted in para 7 above as the case may be, is satisfied that the advertisement meets the requirements of the law and in accordance with the directions of the Supreme Court as inserted in paras 4 and 5 above, it should issue a certificate to the effect of the advertisement concerned is fit for telecast. The format for the certificate is at **Annexure-B**.

13. The directions contained in the order dated 13th April 2004 by Supreme Court shall be strictly complied with by everyone concerned and will remain in operation till 10th May 2004 and it shall bind all the political parties, candidates, persons, group of persons or Trusts who propose to insert the advertisements in the electronic media, including the cable networks and/or television channels as well as cable operators.

**Annexure - A**

**APPLICATION FOR CERTIFICATION OF ADVERTISEMENT**

I.

- (i) Name and full address of the applicant
- (ii) Whether the advertisement is by a political party contesting candidate any other person / group of persons / association/ organization / Trust (give the name)
- (iii)
  - (a) In case of political party, the status of the party (whether recognized National/ State/unrecognized party)
  - (b) In case of a candidate, name of the Parliamentary Assembly Constituency from where contesting
- (iv) Address of Headquarters of political party group or body of persons, association organization/Trust
- (v) Channels/cable networks on which the advertisement is proposed to be telecast
- (vi)
  - (a) Is the advertisement for the benefit of prospects of election of any candidate(s)
  - (b) If so, give the name(s) of such candidate(s) with full address and name(s) of constituency(ies)
- (vii) Date of submission of the advertisement
- (viii) Language(s) used in the advertisement (advertisement is to be submitted with two copies in electronic form alongwith a duly attested transcript)
- (ix) Title of advertisement
- (x) Cost of production of the advertisement
- (xi) Approximate cost of proposed telecast with the breakup of number of insertions and rate proposed for each such insertion
- (xii) Total expenditure involved (in Rupees)

II.

I Shri/Smt. \_\_\_\_\_ S/o D/o/W/o \_\_\_\_\_  
(full address) \_\_\_\_\_ undertake  
that all payments related to the production and telecast of this advertisement will be  
made by way of cheque/demand draft.

Place: \_\_\_\_\_ Signature of the applicant  
Date: \_\_\_\_\_

III.

(Applicable for advertisement by a person/persons, other than a political party or  
a candidate)  
I Shri / Smt. \_\_\_\_\_ S/o / D/o / W/o \_\_\_\_\_ (full address)  
\_\_\_\_\_ hereby state and affirm that the advertisement(s) submitted  
herewith is not for the benefit of any political party or any candidate and that this  
advertisement(s) has/have not been sponsored/commissioned or paid for by any  
political party or a candidate.

Place : \_\_\_\_\_ Signature of applicant  
Date : \_\_\_\_\_

**Annexure - B**

**CERTIFICATION OF ADVERTISEMENT FOR TELECAST**

II

- (i) Name and address of the applicant political party/candidate/person/group of persons/association/organization/trust
- (ii) Title of advertisement
- (iii) Duration of advertisement
- (iv) Language(s) used in advertisement
- (v) Date of submission of advertisement
- (vi) Date of certification for telecast.

II.

Certified that the above advertisement is fit for telecast as per the guidelines prescribed by the Hon'ble Supreme Court of India.

Signature of chairperson/  
members of committee/  
Designated Officer

Place:

Date:

**INSTRUCTION SL. NO. 49**

Election Commissioner's Letter No. 509/75/2004-JS.I, dated 22.07.2004 addressed to the Chief Electoral Officers of all States and Union Territories

**Subject: - Commission's Order dated 15.4.2004 relating to advertisements of political nature on TV Channel and cable networks - Reg.**

I am directed to refer to the Commission's letter of even number dated 15.4.2004 and to the Order of the same date enclosed therewith, on the subject cited. The said order was issued in pursuance of the interim order passed by the Hon'ble Supreme Court on 13.4.2004 in SLP(C) NO. 6679/04. The Hon'ble Supreme Court, vide its Order dated 5.7.2004. has directed that its Order dated 13.4.2004. will remain in operation until further orders. A copy of the order dated 5.7.2004 is enclosed.

- 2. Accordingly, the Commission's Order No. 509/75/2004-JS.I dated 15.4.2004 will remain in operation until further instructions. The directions in the said Order should be strictly followed in future elections until further instructions in this regard.
- 3. Kindly acknowledge receipt.

**ITEM NO. 54**  
**Court No. 1**

**SECTION XIIA**

**A/N MATTER**

**SUPREME COURT-OF INDIA**  
**RECORD OF PROCEEDINGS**

Petition(s) for Special Leave to Appeal (Civil) No.6679/2004  
(From the judgement and order dated 23/03/2004 in WPMP 5214/04  
of The HIGH COURT OF A.P. AT HYDERABAD)

SECY., MIN. OF INFORMATIONAL BROADCASTING Petitioner

**VERSUS**

M/S GEMINI TV PVT. LTD. & ORS. Respondent

(With prayer for interim relief)

(With Appln(s). for exemption from. filing c/c of the impugned Judgment

Date : 05/07/2004 This Petition was called or. for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE G.P. MATHUR.

HOB'BLE MR. JUSTICE A.K. MATHUR.

For Petitioner(s): Mr. Rajeev Sharma, Adv.

For Respondent(s): Mr. K RamaKanta Reddy, Adv.

Mr. P. Venkat Reddy, Adv.

Mr. Anil Kumar Tandale, Adv.

Mr. S. Muralidhar, Adv.

Mr. Sonjran Sharing., Adv.

UPON hearing counsel the Court made the following

**ORDER**

The learned counsel for respondent No.1-M/s. Gemini TV Pvt. Ltd. submits that the main petition pending in the High Court of Andhra Pradesh may itself be withdrawn to this Court and heard and decided here itself in view of the constitutional issues of wide ramifications arising for decision in the writ petition. The learned counsel for the petitioner does not oppose the prayer se made, Accordingly, HP(C) No. 3959/2004 filed by respondent No. 1 herein is directed to be transferred to this Court.

The learned counsel for the petitioner prays for time for moving an appropriate application for transferring WP(C) Nos. 4539, 4880 and 49C1 of 2004 pending in the High Court of Andhra Pradesh, to this Court. Let him do so within three weeks.

The interim order dated 12.i.2004 is directed to remain in operation until further orders.

Sd./-

(D.P. WALIA) (RASHA R. BHATIA )

COURT MASTER



**INSTRUCTION SL. NO. 50**

Election Commissioner's Letter No. 509/75/2004/JS-I/Vol.II/RCC Dated: 21st November, 2008 addressed to the Chief Electoral Officers of all States and Union Territories.

**Subject:- Advertisement of political nature on Radio – regarding.**

The Ministry of Information & Broadcasting vide letter No. 1/04/2004-BC/IV dated 20th November, 08, has informed that the Code for Commercial Advertising has been amended to provide for advertisements by political parties/candidates/persons in the form of spots and jingles on Radio also. Consequent upon this, the Commission has issued orders to the effect that the committees set up in the office of the Chief Electoral Officers to scrutinize political advertisements on TV channels/Cable Networks, will also deal with applications for pre-broadcast scrutiny of advertisements by political parties/candidates/other persons in connections with General Elections to the House of the People and State Legislative Assemblies during the period the Model Code of Conduct is in force in connection with such elections. A copy of the order is enclosed.

A copy of the order may be furnished to each of the political parties having headquarters in your State/UT, including State units of all recognized political parties. This may also be given vide publicity for information of other authorities concerned and the general public.

Please acknowledge receipt of this letter.

Copy alongwith copy of the Order referred to above, to all recognized National and State political parties for information.

Election Commission's Letter No. 509/75/2004/JS-I/Vol.II/RCC Date: 21st November, 2008 addressed to the Chief Electoral Officers of all States and Union Territories

**ORDER****Subject :- The Commission's Order dated 15th April, 2004, regarding advertisement on political nature on T.V. Channels & Cable T.V. Networks – Extension to Radio.**

1. The Commission vide its order No. 509/75/2004/JS-I Dated: 15th April, 2004 in pursuance of the order dated 13-04-2004 of the Hon'ble Supreme Court in SLP (Civil) No. 6679/2004 (Ministry of I&B Vs M/s Gemini TV and Others), issued directions regarding advertisements of political nature on T.V. Channels & Cable T.V. Networks.
2. The Ministry of Information & Broadcasting has, vide their letter No. 1/04/2004-BC.IV dated 20th November, 2008, informed that clause-II (4) of the Code for Commercial Advertising on all India Radio, has been amended by adding the following proviso :-

"But advertisements in the form of spots and jingles on payment of prescribed fees, from political parties/candidates/any other person shall be accepted only

in respect of General Elections to Lok Sabha/General Election to the State Assemblies/General Election to Local bodies during the period when the Model Code of Conduct is in force. Such advertisements shall be subject to pre-broadcast scrutiny by the Election Commission of India/authorities under the Election Commission of India in respect of elections to Lok Sabha and the State Assemblies and State Election Commissions in the case of Local bodies."

3. In view of the above, the Commission has directed that its order dated 15th April, 2004, regarding advertisements of political nature on T.V. Channels & Cable T.V. Networks shall apply to advertisements on Radio also, including the Private FM Channels, during the period Model Code of Conduct is in operation in connection with general election to the House of the People or to the Legislative Assembly of any State / UT. Accordingly, for broadcasting any advertisement of political nature on Radio, application for certification for broadcast shall be submitted to the Committee set up in the office of the Chief Electoral Officer of the State concerned for pre-broadcast scrutiny and certification permitting broadcast of the advertisement. The application shall be submitted in the same format as the one prescribed vide the order dated 15-4-2004 for advertisement on TV Channel/Cable/Networks, alongwith the Tape/CD and an attested transcript of the proposed advertisement. The format for certification of advertisement shall also be the same as that prescribed in the order dated 15-4-2004. The reference to 'telecast' in these formats shall be read to include 'broadcast' for the purposes of advertisements on Radio.
4. It is clarified that all other directions and the conditions specified in the order dated 15th April, 2004, and the subsequent instructions on the subject shall apply in the cast of advertisements of political nature on Radio.

G

VIDEOGRAPHY

**INSTRUCTION SL. NO. 51**

Election Commissioner’s Letter No.464/INST/2005-PLN-I, dated 15.10.2005 addressed to the Chief Electoral Officer, Bihar.

**Subject: General Election to the Legislative Assembly of Bihar – Photography/ videography of electors and poll proceedings inside the polling stations – Regarding.**

I am directed to say that the Commission in compliance with the directions/suggestions of the Hon’ble Supreme Court contained in its judgement dated January 11, 2005 in Civil Appeal No.9228 of 2003 - (Janak Singh Vs. Das Rai and Others) has decided the following:

The Commission has already issued instruction for videography of critical events during the election process and videography at hyper sensitive polling stations on the day of poll to the extent possible. Till now videography/photography of proceedings inside the polling stations has not been permitted. In deference to the suggestion of the Hon’ble Supreme Court, the Commission directs that photography may now be carried inside the polling stations to photograph electors and cove poll proceedings without compromising the secrecy of voting. For such photography arrangements will be made by the respective District Election Officer (DEO) in consultation with the Chief Electoral Officer. The Commission understands that the State Govt. of Bihar has procured digital cameras for the purpose of EPIC. The Commission approves deployment of these cameras inside the polling booths.

**The photography by these digital cameras will first cover those polling stations where no CPMF party is deployed and if cameras are still available then they will be deployed (based on assessment of sensitivity done by District Election Officer in consultation with Observers) at those polling stations, where CPMF parties have been deployed. In all polling stations, where digital photography is being done, face of all electors coming to cast vote shall be captured in such sequence as they are entered and appear in Form 17-A, i.e. Register of Electors. The photographs of voters shall be taken immediately after an entry has been made in Form 17-A.**

The District Election Officers will issue digital cameras to the trained officers selected for the purpose under proper receipt for covering the specified polling station. These officers will capture the photographs of electors as indicated above during the period of poll and at the end of poll shall issue a certificate that

**“I have captured photographs of all electors who voted at polling station number \_\_\_\_\_ on date \_\_\_\_ and total number of photographs in the camera are \_\_\_\_.”**

After completion of poll the officer who did the photography shall deposit the camera alongwith the above certificate at a separate counter to be erected for the purpose at collection center. These officers will be given proper duty pass to enable them do photography inside the polling station.

On receipt of such cameras District Election Officer shall make arrangements for downloading the photographs and their comparison. The results of photo matching will be used by the Returning Officers and Observers while making the recommendations for repoll.

The downloaded data in respect of all polling stations will be kept by the DEOs in CDs for later use. The cameras will be cleared after downloading the photographs and their comparison for use in subsequent phases or elections as per the instructions issued by the Chief Electoral Officer in this respect.

The training of personnel who will be engaged in digital potography inside the polling stations shall be arranged by the Chief Electoral Officer.

The Chief Electoral Officer/District Election Officers will make sure that enough batteries are available for operation of cameras in remote areas.

Please bring these instructions to the notice of all 2nd Polling Officers, all Presiding Officers, all AROs/ROs/DEOs/Observers/Candidates and political parties.

## INSTRUCTION SL. NO. 52

Election Commissioner's Letter No. 447/2007-PLN-IV Dated: 17.01.07 addressed to the Chief Secretaries and the Chief Electoral Officers,

**Subject: Use of Videography and digital cameras during elections – Consolidated Instructions thereon.**

I am directed to state that in supersession of its earlier instructions on the subject cited above, the Commission hereby issues the following consolidated instructions.

2. In order to enable the Commission to have a true, faithful and concurrent record of the violations of the election law and the standing instructions of the Commission and to assess the impact of its corrective measures, the Returning Officer of each constituency shall make arrangements to record through Videography of critical events during the process of electioneering, including but not restricted to the period of public campaign, the day of poll, the transport and receipt of polled ballot boxes and other materials, counting of votes and the declaration of results in an independent intelligent and purposeful manner.
3. For this purpose, the Returning Officers may make use of video cameras and crew available with the Governmental or semi-Governmental agencies within their jurisdiction or hire local private professional videographers.
4. The Returning Officer shall, while programming the itinerary of the Video teams, take into account the number of electors, the size of the constituency, the number of sensitive polling stations, previous history of booth capturing and other malpractices, the general law and order situation, the likelihood of commission of corrupt practices and electoral offences and other related factors.
5. On the basis of his assessment, the Returning Officer should decide the number of video teams needed. The Commission has not prescribed any maximum or minimum number of video teams for an assembly/parliamentary constituency and has left it to the discretion of the Returning Officers on a correct appreciation of the factors mentioned in paragraph 4 above.
6. The Commission has issued the following instructions in the matter of selection of videographers and their deployment:-
  - 6.1 The private videographers to be hired shall be screened thoroughly as to their professional competence, track record, financial viability and other related factors.
  - 6.2 The videographers should not belong to any political party and should not be known sympathizers or supporters or close relatives of any of the contesting candidates or any of the leaders of any political party or should not have been hired by any political party or contesting candidate.



- 6.3 The Returning Officer is required to provide tea, snacks food etc. to the videographers and they shall not be left to fend for themselves while on duty. It shall be ensured that the videographers DO NOT accept the hospitality of any contesting candidate or political party or their workers.
- 6.4 Video teams should be under the personal supervision and guidance of a senior election related officer.
- 6.5 As and when required the video teams may be asked to accompany the General/Election Expenditure Observers so that all critical events observed by them may also be videotaped.
- 6.6 The videographers shall be impressed that the principle behind the scheme is to record and videotape critical events only which are likely to vitiate the poll and not to just videotape all events in a routine manner in order to fill the cassette.

7. Following items should be considered for special watch and videography -

- Meeting addressed/attended by Ministers, top National/State level leaders of recognized parties.
- Riots or riotous situations or commotions brick batting, free-for-all etc.
- Violent incidents, damaging of property, looting, arson, brandishing of arms etc.
- Booth capturing.
- Intimidation of voters.
- Inducement / bribing of voters by distribution of items like saree, dhoti, blankets etc.
- Canvassing within 100 metres of polling stations.
- Vulgar display of expenditure like huge cutouts etc.
- Movement and activities of candidates with doubtful / criminal records
- Hypersensitive & sensitive polling stations
- Important events such as nomination, scrutiny and withdrawal of candidatures
- Preparation of EVMs by ROs
- Closure of strong room after deposit of EVMs therein

- Opening of strong rooms before taking out the EVMs for counting
- Counting process

**Note: These are illustrative and not exhaustive. All video and digital photography should be done with date and time recording so that the real time and date can be verified**

8. The video films thus prepared shall be viewed by the Returning Officer immediately to identify whether any of the organizers / speakers or other participants of the public meeting has committed any violations or infractions of statutory provisions and directions of the Commission or Model Code of Conduct relating to the conduct of elections.
9. In cases where the Returning Officer is himself competent, immediate corrective action including disciplinary action against all those found guilty shall be taken and the Commission informed of the same.
10. In cases of serious infringements, which the Returning Officer in his judgment decides to report to the Commission, a copy of the videotape concerned will be forwarded to the Commission by quickest means possible. The tapes will be carefully indexed and accompanied by a brief explanatory note of the infringement towards which the attention of the Commission is proposed to be invited. The explanatory note shall invariably mention the broad details of the violations, the persons responsible for the same and the action recommended.
11. The videographic clippings are required be to shown to one of the Observers available in the Constituency on a-daily basis to enable him apprise the Commission of the situation prevailing in a particular constituency so that remedial measures, if any needed, can be taken promptly.
12. While seeking the clearance of the Commission for taking up of the counting of the votes and declaration of the results, the Returning Officer must include a categorical statement to the effect that all infringements observed in the videographed events have been appropriately and completely disposed of VIDEO/DIGITAL PHOTOGRAPHY OF PROCEEDINGS INSIDE THE POLLING STATION.
13. In deference to the suggestions of Supreme Court, contained in its judgment dated 11th January 2005 in Civil Appeal No.9228 of 2003 - (Janak Bingham Vs. Das Rai and Others) the Commission directs that photography may now be carried inside the polling stations to photograph electors and cover poll proceedings without compromising the secrecy of voting. For such photography, arrangements will be made by the respective District Election Officer (DEO) in consultation with the Chief Electoral Officer.
- 13.1 In particular cases where the Commission has specifically directed video/ digital photography of voters in identified area/assembly segments/polling

stations, care should be taken to ensure that faces of all electors coming to cast their vote but not having EPIC or other ECI approved photo identity card, is captured in same sequence as they are entered in form 17-A i.e. Register of Voters. The photograph of electors shall be taken immediately after an entry has been made in form 17-A.

13.2 Critical events in and around the polling station should also be captured on video/digital camera in such polling stations. For example,

- Mock poll and sealing of EVM before commencement of polls
- Positioning of voting compartment
- Presence of polling agents
- Voters waiting outside at the close of scheduled hour of poll and the last voter in queue
- Visits of sector officers, observers and other electoral functionaries etc.

13.3 The District Election Officers will issue digital cameras to the trained officers selected for the purpose under proper receipt for covering the specified polling station. These officers will capture the photographs of electors as indicted above during the period of poll and at the end of poll shall issue a certificate that “I have captured photographs of all electors who voted at polling station number \_\_\_\_\_ on date \_\_\_\_\_ and total number of photographs in the camera are \_\_\_\_\_”.

13.4 After completion of poll the officer who did the photography shall deposit the camera along with the above certificate at a separate counter to be erected for the purpose at collection center. These officers will be given proper duty passes to enable them to do photography inside the polling station. On receipt of such cameras District Election Officer shall make arrangements for downloading the photographs and their comparison. The Returning Officers and Observers will use the results of photo matching while making the recommendations for repoll.

The downloaded data in respect of all polling stations will be kept by the DEOs in CDs for later use. The cameras will be cleared after downloading the photographs and their comparison for use in subsequent phases or elections as per the instructions issued by the Chief Electoral Officer in this respect.

13.5 The training of personnel who will be engaged in digital photography inside the polling stations shall be arranged by the Chief Electoral Officer. The Chief Electoral Officer/District Election Officers will make sure that enough batteries are available for operation of cameras in remote areas. All 2nd Polling Officers, all Presiding Officers, all AROs/ ROs/ DEOs/ Observers/ Candidates and political parties should be apprised of these arrangements.

## INSPECTION AND SUPPLY OF COPIES (Prints) OF VIDEO TAPES

14. Requests have been received from contesting candidates, office bearers of political parties and others interested for inspection and supply of copies (prints) of the video tapes produced in compliance with the above mentioned orders of the Commission.

15. The Commission considers it necessary to lay down some uniform guidelines and a standard procedure in this regard.

16. After careful consideration of all relevant factors, the Commission lays down the following procedure:

16.1 Each and every video cassette produced in compliance with the orders of the Commission shall form a part of the record of the concerned election and stored as such with due precautions for its safety until it is weeded out with the prior written approval of the Commission and in the manner prescribed, as in the case of other records of the election.

16.2 All such video-cassettes will be in the custody of the District Election Officer concerned as in the case of all other election related records.

16.3 Each videotape shall be indexed with a uniform code number in the following standard formulation: State/District/AC/Date of recording/Gist of event videographed

16.4 The locking seal of cassettes will be kept intact and not broken, so that copying of the contents of cassette on another cassette does become impossible, but shall be covered by a tape before consigning the cassette for storage with a view to preventing accidental erasing of contents, editing, manipulation, etc.

16.5 In pursuance of rule 93(2) read with section 76 of the Indian Evidence Act, 1872 the Commission has issued the following directions

16.5.1 Inspection - (a) Every application for inspection of a videocassette shall be made in writing and should contain the full particulars concerning the cassette of which inspection is required, (b) an inspection of the cassette shall be allowed to any person applying for the same on payment of Rs. 25/- per hour of inspection or part thereof unless inspection is required to be made urgently in which case the fee shall be Rs. 50/- (c) Inspection on an ordinary application shall be allowed on the date following the date on which the application is made or on a subsequent day and inspection on an urgent application shall be made on the same day.

16.5.2 Certified copy - (a) Certified print of the video cassette shall be given to any person applying for the same on payment of Rs. 25/- as

application fee and the actual cost of copying as may be locally applicable. The application should establish the right of the applicant for inspection or for supply of certified copies- (prints) and for that purpose should clearly disclose that the applicant has a direct and tangible interest in the videocassette and the nature of such interest. (b) No fee shall be charged when inspection or certified copy (print) of a cassette is required for official purposes. To avoid removal of any footage of the cassette or damage or milation of the cassette, effective supervision by officials shall be ensured and simultaneous inspection by a large number of persons shall not be allowed.

- 16.6 The video cassettes will be made available for inspection in the office of the District Election Officer or Chief Electoral Officer as the case may be;
- 16.7 No guarantee for authenticity and veracity of the contents of the cassettes will be undertaken under any circumstances and these will be made available on 'as is' basis.
17. The contents of the letter may be brought to the notice of all political parties and contesting candidates at every election to the House of the People and to the State Legislative Assembly.
18. Kindly acknowledge receipt.

### INSTRUCTION SL. NO. 53

Election Commissioner's Letter No.4/2008/SDR Dated : 29th January, 2009 addressed to the Chief Electoral Officers of all States / Union Territories.

**Subject:- Videographing of critical events relating to the conduct of elections – Supply of CDs – regarding.**

I am directed to say that the Commission has issued standing directions that all critical events relating to the conduct of elections by the election authorities as well as the election campaign conducted by candidates and their political parties should be videographed. Instructions have also been issued that the Observers of the Commission shall also get videographed the events which they consider as having important bearing on the conduct of elections. In particular, the Commission has instructed that the Observes and other officers concerned with the conduct of elections should keep a watch on code of conduct including election expense of the candidates and political parties and have the public meetings, speeches and processions of important leaders videographed so as to serve as evidence in any examination by the Commission.

2. The CDs of such critical events videographed will serve as relevant pieces of evidence, if any of the rival candidates or political parties wish to raise the question of any irregularity in the course of an election campaign before an appropriate authority. The Commission desires that at the time of elections adequate publicity may be given through all media of mass communication that the CDs of all critical events recorded by the election authorities would be available to anyone who intends to obtain a copy of the same. The CEOs may fix a reasonable cost for the supply of these CDs having regard to the cost incurred in the preparation of copies of these CDs.
3. The DEOs/ROs/other election authorities concerned may also be informed of the above decision of the Commission for necessary action at their end. All such CDs should be very carefully preserved by them with appropriate labeling for easy retrieval when needed by the Commission or other election authorities, or for sale to the interested persons.
4. The Commission has also directed that the accounts of election expenses submitted by the contesting candidates during the election, as required under section 78 of the Representation of the People Act, 1951, should be carefully examined by the Observers and the DEOs and wherever they observe, on such examination, that a CD containing the videography of any public meeting or procession etc., in relation to which the candidate has shown any expenditure in his aforesaid accounts statement, is available with the DEO/RO, the fact about the availability of such CD should also be prominently brought out in the notice which the DEO displays for general information giving the intimation about the abovementioned accounts having been filed before him.

5. Copy of this letter may be furnished to all political parties based in your State/  
Union Territory.
- Kindly acknowledge receipt.

H

OBSERVERS/  
MICRO-OBSERVERS



**INSTRUCTION SL. NO. 54**

Election Commission's letter No. 464/OBS/2007/PLN-I/Vol.II Dated: 2nd January, 2007 addressed to The Chief Electoral Officers of 1. Manipur, Imphal; 2. Punjab, Chandigarh & 3. Uttaranchal, Dehradun.

**Subject: General elections to the Legislative Assemblies of Manipur, Punjab and Uttaranchal – Appointment of Nodal Officers – Regarding.**

The General Elections to Legislative Assemblies of Manipur, Punjab and Uttaranchal have been announced and will be held in January-February, 2007. Also General Elections to the State Legislative Assemblies of Goa, Gujarat and Uttar Pradesh are due in the year 2007. Around 1450 officers from Indian Administrative Service, Indian Revenue Service and Indian Custom and Central Excise would be deployed as observers to watch the said elections.

2. In the past, the Commission has observed that in spite of the schedule of visits to constituencies worked out well in advance many of the observers do not arrive in their assigned constituencies on the stipulated date and time. In most of the cases, the excuse shown by them is lack of proper co-ordination with the concerned district authority and the state authority. In case of exigencies when there is an urgent need to send any instruction to the Observer concerned they could not be contacted due to non availability of details such as address, telephone number and fax number of their camp station etc. while they remain in the constituency and such lapses stand in the way of smooth conduct of elections.
3. The Commission desires that an officer of the rank of Joint Chief Electoral Officer in your department may be appointed as a nodal officer with immediate effect to ensure smooth flow of communications between the Commission and the observers deployed in the state so as to ensure the presence of the Observers in their assigned constituencies as per the schedule laid down by the Commission and smooth flow of information amongs Observers, district level authorities, State level authorities and the Commission.
4. It is requested that details of the nodal officer, so appointed may be furnished to the commission at the earliest.
5. The list of IAS officers of your States/UTs and the date of their Briefing, the details of the observer, deployed in the state, going for poll would be sent to the concerned Nodal Officer shortly.
6. Any communication pertaining to the Observers may be made to the Commission through the e-mail ID: **observers2007@eci.gov.in** which has been especially created for the purpose.

**INSTRUCTION SL. NO. 55**

Election Commission's letter No. 464/OBS/2007/PLN-I Dated: 3rd January, 2007 addressed to 1. The Resident Commissioner/Liaison Officers in Delhi of all States and Union Territories & 2. The Chief Electoral Officers of all States and Union Territories.

**Subject : General Elections to legislative Assemblies, 2007 – Facilities for Observers – regarding.**

As you are aware that the General Election to Legislative Assemblies of Manipur, Punjab and Uttaranchal have already been announced vide the Commission's Press Note No.ECI/PN/31/2006 dated 29th December 2006 and the elections are going to be held in January-February, 2007 and General Election to the Legislative Assemblies of Uttar Pradesh, Gujarat and Goa are due in this year. Around 1450 Officers from Indian Administrative Service, Indian Revenue Service and Indian Custom and Central Excise Service would be deployed as Observers to watch the said elections. These officers will be visiting New Delhi for briefing and other consultations very frequently and at short notice by the Commission.

2. Many officers appointed as Observers will be coming to Delhi from different States and Union Territories for the first time. In order to ensure that these officers are not put to inconvenience during their stay in Delhi, suitable directions may be issued to provide the officers with suitable accommodation during their stay in Delhi in State Guest houses and Bhawans. Arrangements may also be made to provide transport to them right from their arrival at Air Port/Railway Station in Delhi till their Departure.
3. As was done during previous general elections, Facilitation Centres may be opened in the offices of Resident Commissioners/Liaison Officers in the State Guest Houses and Bhawans in Delhi to facilitate and help the Observer in their duties.

**INSTRUCTION SL. NO. 56**

Election Commission's letter No. 464/OBS/2007/PLN-I Dated: 09th Jan, 2007 addressed to 1. The Chief Secretaries of all states & Union Territories 2. The Chief Electoral Officers of all States and Union Territories.

**Subject: - Provision of facilities for Observers.**

As you are well aware the Election Commission of India, under article 324 of the Constitution read with section 20(b) of the Representation of the People Act, 1951, depute Observers for various elections that are conducted by the Commission. The Observers are the eyes and ears of the Commission and their functions go along way in assisting the Commission to conduct free and fair elections. It therefore, naturally follows that they have to be treated by the administration and all concerned in election related activities with due regard and with proper courtesies. The Commission has, in the past, issued various instructions from time to time in connection with the appointment of General and Expenditure Observers to watch the process of making of nominations and other election related work for conducting of peaceful, free and fair poll. For convenience of all concerned, these instructions have now been consolidated which are as under: -

**(A) NOMINATIONS**

2. In order to ensure free and fair polls as well as to manage the conduct of elections in a smooth, efficient and effective manner, the Commission appoints and deploys sizeable number of observers to assist the commission in discharging of its constitutional responsibilities for the superintendence, direction and control of the process of elections. Since the entire activities have to be completed in a very tight schedule within the time frame indicated by the president of India/The Governor of States/Lt. Governor of UTs, as the case may be, the observers are required to immediately move to their constituencies after the briefing sessions. The Commission after taking the experience in the past and all other relevant factors have decided that no observer will be allowed to go on foreign or other official tours (except observer-duty related tours) beginning from the date of the briefing sessions allotted to them till they complete their duties as observers of the Commission. Accordingly, all concerned may be directed not to sponsor any such case. The commission will not entertain any such requests in this regard. In the rarest of rare contingency where this is absolutely unavoidable, the Cabinet secretary may personally review the case and with full justification forward the same to the commission for its consideration and appropriate orders. The commission secretariat being fully occupied with actual conduct of elections and observers having statutory responsibilities in discharging their functions, it is strongly advised that this direction should be taken with due seriousness and all concerned informed accordingly. It may be noted that once a constituency has been allotted to an observer any change in the middle of the election process would be totally undesirable and would create serious problems for suitable supervision of the poll process through observers. The review of the Cabinet

Secretary will apply in case of all observers whether they are being sponsored by the establishment officers or by the Department of Revenue or the State Governments. The E.O. in D.O.P.T. may co-ordinate this with the commission secretariat on behalf of the cabinet secretary.

### **(B) ACCOMODATION AND TRANSPORT ARRANGEMENTS**

- 3 The observers are to be called for briefing and debriefing meetings and for other consultations very frequently and at short notices by the commission. Some of the IAS and IRS officers appointed as observers come to Delhi from different states and union territories and some times find it difficult to find accommodation and/or transport. In order that those officers are not put to any inconvenience during their stay in Delhi, the Chief Secretaries /Chief Administrators of the states and union territories may issue immediate suitable directions to the officers/departments allotting accommodation & transport as well as the resident commissioners, liaisons officers and managers in charge of the various state guest houses and bhawans in Delhi to provide the officers doing election duty with suitable accommodation during their stay in Delhi and transport be placed at their disposal right from their arrival at air port / railway station in Delhi till their departure.
4. State quota for air travel / rail travel required may also be released in favour of such officer without fail. The Chief Electoral Officers are requested to pursue the matter for immediate action. Resident Commissioners & liaison officers in Delhi may kindly see that no officer appointed as observer of the Commission is put to any inconvenience on this account.

### **(C) FACILITIES AND CONTINGENCY EXPENDITURE – ARRANGEMENTS BY THE RETURNING OFFICERS**

5. It has been noticed that different practices are adopted in different States and different ROs in the matter of facilities extended to the Observers and there is lack of uniformity in this regard. The Commission has considered the issues relating to facilities and formulated detailed uniform guidelines in this regard to ensure efficient functioning of the Observers in the constituencies allocated to them.
6. Accordingly the Commission issues the following instructions in the matter:
  - 6.1 Arrangements for boarding, lodging, transport and security of the Observers shall be arranged by the District Election Officers / Returning Officers concerned. These arrangements will also cover the escort officers PSO driver, security personnel etc. Arrangements for the full team will be made by the DEO/RO so that no time is lost on this account by the Observers in making best and optimum use of the time available during the election process. These expenses will be met out of contingencies for election by the RO.
  - 6.2 The Commission has made every effort to provide everything needed by the Observers in terms of stationeries and other requirements for discharging

their duties. The R.O. will supplement with any additional support required in this regard. However, there may be rare cases of the Observers being required to meet some emergent contingent expenditure including making telephone calls, sending fax messages or using postage or for any other similar items. In such cases, the Observer would immediately give a voucher to the R.O. who will reimburse the amount then and there on the basis of the certificate given by the Observer. This has to be charged to the contingency expenditure account of the concerned ROs' account.

- 6.3 The DEO / RO shall make arrangements for accommodation, security, transport, wireless communication and telecommunication facilities, guide / escort and secretarial assistance to the Observers for effective functioning.
- 6.4 The DEO/RO shall provide the Observers telephone and fax facilities at the circuit House or Guest House where they will be housed. As far as practicable, all Observers allotted to a constituency will be accommodated at the same place so that they can share telephone and fax facilities. The Zonal Secretaries in the Commission shall be intimated these numbers.
- 6.5 Specific facilities will also be provided for the observers in the Counting centers. RO should provide a separate table for the Observer(s) at each counting center with a STD Telephone and one fax to be jointly used with RO. If possible the fax should have a separate line with STD facilities. The telephone numbers are to be obtained in advance for the Observers' use and these are to be communicated to the Zonal Secretaries in the Commission.
- 6.6 Observers shall be provided with an Escort Officers who must have a clear knowledge of the area of constituency. ROs shall ensure that the Escort Officer should also be able to act as an interpreter for interaction of the Observers with the local people and officials.
- 6.7 The ROs shall provide each Observer with a folder containing the following:
  - (a) A Map of the Parliamentary Constituency (showing also the boundaries of the Assembly Segments;
  - (b) List of Polling Stations as made available to the Political Parties and contesting candidates in terms of the provisions of Hand Book for the ROs;
  - (c) Table of contents of Electoral Roll of each Assembly segment;
  - (d) Telephone Numbers at a glance for the District(s), constituency;
  - (e) A Booklet containing the plan for managing the elections in the district(s) and such other documents as are essential;

- (f) Detailed plan for counting of votes of the constituency.

#### (D) OTHER FACILITIES

7. The question regarding the facilities that an Observer is entitled, when he visits a constituency, has not so far been spelled out in all its details. Nor does the Commission intend to do so, in view of the large areas over which such deployment takes place and the considerable variations in local conditions and local style and nature of administration that is prevalent in the country. However, in view of certain issues in this area that has crept up from time to time, the Commission desires that certain minimum facilities that are to be extended to the Observers are listed below:-
  - 7.1 The Observers should be given reliable and dependable transport from the nearest Railway Station/Airport. When the constituency to which an Observer has been deputed, is proximate to his residence, then a car may be provided to enable him to reach the constituency.
  - 7.2 The Observers should be provided with sturdy cars, as this would allow them to go into interior areas easily.
  - 7.3 The Observers are not to be provided with a Guard of Honour.
  - 7.4 The Observers should be provided with a minimum security of a PSO/ gunman. However, if in the assessment of the CEO in consultation with the appropriate authorities of the State Government there is need for a higher level of security, suitably, enhanced security may be provided.
  - 7.5 Security in excess of the minimum specified is to be provided by the district administration as directed by the CEO.
  - 7.6 No escort car/pilot or advance pilot is to be given to the Observer except in terms of special requirement assessed in terms of 7.5 above.
  - 7.7 Food arrangements should be made by the district administration for Observer, PSO/ gunman, driver and the local official in a manner that would allow the Observer full freedom of movement, as he so desires.
  - 7.8 If the Observer desires mineral or bottled water that should be provided.
  - 7.9 By and large the Observers should be housed in Government or Semigovernment Guest Houses located in the constituency for which they are functioning as Observers. If suitable Government Guest Houses are not available, alternative accommodation may be provided of an appropriate quality in consultation with the CEO as per assessment of the district administration ratified by the CEO.
  - 7.10 No fax machine need be provided exclusively to the Observer. He must be allowed to use the fax machine available in any office under the control of

district administration on a priority basis. His requirement for confidentiality while transmitting faxes should be respected by the concerned office from where he sends fax messages.

- 7.11 Where more than one Observer is being housed in the same premises, only one telephone line need be available with STD facility.
- 7.12 There should be one fax machine in working condition at all counting centers, which would be used both by the RO and the Observer.

#### (E) REIMBURSEMENT OF TA/DA

8. In the appointment order of the observers, it is clearly stated that "TA/DA will be drawn from their Ministry/Department/Office. The expenditure will be debitable to the Budget grant of their Ministry or Department/Office." It is once again reiterated that the TA/DA bills in respect of observers are to be settled by their respective Ministry/Department/Office/Organisation where they are working at the time of their appointment as observers.



**INSTRUCTION SL. NO. 57**

Election Commission's letter No.464/INST/2007/PLN-I Dated : 12th October, 2007 addressed to 1. The Chief Secretaries of all states & Union Territories 2. The Chief Electoral Officers of all States and Union Territories.

**Subject: Engagement of Videographers for the Observers.**

I am directed to say that the Commission has already issued instructions for videography of all important events relating to the elections. However, it has been observed that in many cases proper videography of many events are not done and the Commission finds it difficult to take any decision on complaints relating to violation of Model Code of Conduct, etc. in the absence of proper documentation of the events.

It has, therefore, been decided that every observer shall be provided with a video camera and videographer from the day he reaches the constituency so as to enable him to get captured all the events found important by him.

Necessary instructions to this effect may please be issued to all the District Election Officers immediately.

**INSTRUCTION SL. NO. 58**

Election Commissions letter No. 464/INST/2008-EPS Dated: 24th October, 2008 addressed to The Chief Electoral Officers of all States and Union Territories.

**Subject: Appointment of Micro-Observers – Guidelines & Check List - Regarding.**

I am directed to state that the Commission has decided to deploy the Micro Observers in some constituencies in the State. For this purpose, it has framed Guidelines and Check-List for the Micro Observers. A copy of each of the guidelines and checklist is forwarded herewith as in **Annexure-I & Annexure-II**.

2. It will be ensured that copies of the same are provided to officials who are appointed as Micro Observers and also to all Observers of the Commission through the District Election Officers.
3. The receipt of this letter may please be acknowledged with the confirmation that the relevant instructions have been issued to all the concerned officers. A copy of instructions/directions so issued in this behalf may also be endorsed to the Commission for its information and record.

**ANNEXURE - I****Guidelines for Micro-Observers**

1. Observers have a very crucial role to play in the conduct of an independent, free and fair election. To strengthen the system of observation, the Commission has consciously decided to deploy micro-observers where necessary. These micro-observers would directly work under control and supervision of the general observer.
2. For deployment as micro-observer, the DEO will obtain the list of Gazetted Officers/officials of Government of India from different offices in the district. Such Gazetted officers/officials will be eligible to be deployed as micro observer. In case Gazetted officers are not sufficient in number, Group 'C' employees and above can also be utilized for this purpose.
3. The DEO will prepare a list of polling stations under the supervision of General observer where these micro-observers would be deployed. Such polling stations would be short listed on the basis of various factors which contribute to the vulnerability of the voters. Such factors, for example, domination of one social group over other, inaccessibility of the area, EPIC non availability, previous history of violence, etc. would have been taken into consideration while doing the vulnerability mapping in the district as per the extant instructions of the Commission on this issue. The list of such polling stations where micro-observers are to be deployed will be finally approved by the General observer and kept confidential in a sealed envelop till the last moment of deployment.
4. In multi-polling station buildings each location will have one microobserver instead of one micro-observer per polling station. The micro-observer can oscillate between and visit the polling stations within the same campus at frequent intervals.
5. There shall be a nodal officer identified by the DEO for micro-observers to handle logistics and deployment related tasks of micro-observers in each district. General Observers will be in close touch with them for their requirements of micro-observers relating to their constituencies.
6. Each micro-observer shall be given a photo-pass and identity card by the DEO to ensure his access to the polling stations.
7. Observers will arrange and train their micro-observers. The officer selected for the job of micro-observer may not be aware of different aspects of election process. Therefore, a basic training of election processes on the day of the poll shall have to be given to them. This should enable them to understand and observe the activities relating to election on the day of the poll. An illustrative training material for the micro-observer in Micro Soft Power Point is attached with this letter. Since the micro-observer shall be reporting to the observer alone, it will be the responsibility of the observers to ensure that they are trained properly on the

relevant and crucial issues. The DEOs will organize the training of these micro-observers.

8. The required number of officers for deployment as micro-observer would be picked up randomly from the list of all eligible officers. Further the assigning of polling stations also will be done in random manner a day prior to the day of departure in presence of the general observer and duly approved by him. However, the exact polling station would be given to them on the day of departure.
9. The DEO should ensure that the micro-observers are separately dropped to their destinations. Micro-observer should be provided with an Identity card, entry pass to his/her polling stations, and such other requirements as may be necessary for discharge of duties as per the direction of the Commission.
10. On the day of poll the micro-observer should reach the polling station at least one hour before the commencement of the poll, i.e. at 7 O'clock in the morning. If for certain reason it is not possible to reach in the morning, he should reach in the evening of the previous day.
11. Having reached the polling station he should assess the preparedness for the poll. During the poll day he should regularly note down the important points on the pre printed Performa (a Performa for this is appended). It is made absolutely clear that in no case the micro observer will act as presiding officer or the polling officer. His task is to observe that election process is being carried out in a free and fair manner and there is no vitiation of any kind.
12. In the process of observation on the day of the poll, the micro-observer should specially observe: -
  - a. Mock Poll Procedures,
  - b. Presence of Polling Agents and observance of ECI instructions with regard to them,
  - c. The observance of entry pass system and access to Polling Station,
  - d. Proper identification of electors in accordance with ECI guidelines,
  - e. Identification and recording procedures for the Absentee, Shifted and Duplicate voter's list (ASD list),
  - f. Application of indelible ink,
  - g. Noting down particulars of electors in register 17-A,
  - h. Secrecy of voting,
  - i. Conduct of polling agents, their complaints, if any, etc.

**ANNEXURE - II**

**Checklist for Micro-Observers**

- 13. During the poll, if the micro-observer feels that the poll is being vitiated for any reason, he will immediately bring it to the notice of General observer through whatever means of communication is available, for example, phone or wireless or any other means.
- 14. After the poll process is over, the micro-observer will report to the Observer in the format as enclosed as Annexure II at the collection center and hand over his envelop containing the report for the day personally to the Observer and brief him/her on any thing of importance that had happened during the day.
- 15. Observers will go through the report and if any further clarification is required then he should arrange for the micro-observer to be called for ascertaining those further details. These reports along with the scrutiny of the Register 17-A will be taken into consideration for taking a decision on repoll or disciplinary action against any delinquent polling staff.

- 1. Whether mock poll has been conducted in presence of micro Observer? - Y/N.
- 2. Whether data of mock poll from the ballot unit was cleared and the EVM count was set to zero after the mock poll and before the beginning of real poll? - Y/N.
- 3. How may polling agents and of which political party, were present during the mock poll?
- 4. Whether more than one polling agent from the same political party were present inside the polling station at any time?
- 5. Whether polling agents were allowed to note the serial numbers of balloting unit and control unit and green paper seal?
- 6. Whether the entry pass system was enforced properly? Whether any unauthorized person was inside the polling station at any point of time?
- 7. Whether marking of indelible ink on left forefinger was done properly?
- 8. Whether the identification document particulars were being filled up meticulously in Register of Voters (Form 17-A)?
- 9. Whether the list of votes issued with Postal Ballot was available with the Presiding Officer & Polling Agents? Did any person already issued Postal Ballot appeared to vote again in person?
- 10. Whether events are recorded from time to time as and when they occur in the Presiding Officer Diary?
- 11. Whether the Presiding Officer or Polling Officer was going towards voting compartment or giving any undue instructions to the voters?
- 12. Whether the scrutiny of voters in the Absentee, Shifted and Duplicate list was done meticulously by the Presiding Officers in accordance with ECI Guidelines?
- 13. Whether copies of accounts of votes recorded in Form-17C have been given to the polling agents?
- 14. Whether voting compartment was properly placed to ensure secrecy of voting?
- 15. Whether sealing of voting machine was done according to instructions?
- 16. Whether any complaint by polling agent, election agent or any political party was received? If yes it's substance.

17. Any other incident or issue that you would like to highlight.

Signature of Micro-Observer :

Name (in full) :

Designation :

Phone No. :

Date & Time :

**Introduction**

- Poll is conducted in designated polling stations specifically prepared for this purpose;
- Poll is conducted by a team of officials identified randomly and trained. It comprises a Presiding Officer and 3 polling officers;
- Representatives of the candidates (called Polling Agents) also sit inside the polling station and watch the poll proceedings;
- Electronic Voting Machine (EVM) used for recording of votes has two units – control unit which is with 3rd Polling Officer and through which he allows a voter to vote and second, ballot unit which is in secluded corner with a voting compartment and in which a voter votes;
- A Voter enters the polling station, identifies himself to the 1st Polling Officer and gets the indelible ink on his left fore finger, then goes to 2nd Polling Officer and signs the Register of Voters (Form 17-A) and finally goes to the 3rd Polling Officer who keeps his Voter Slip, marks the electoral roll and enables the control unit. Thereafter the Voter goes to ‘voting compartment’ where the ballot unit is kept and presses his chosen button to record his vote.

**Arrangements  
Outside The Polling Stations**

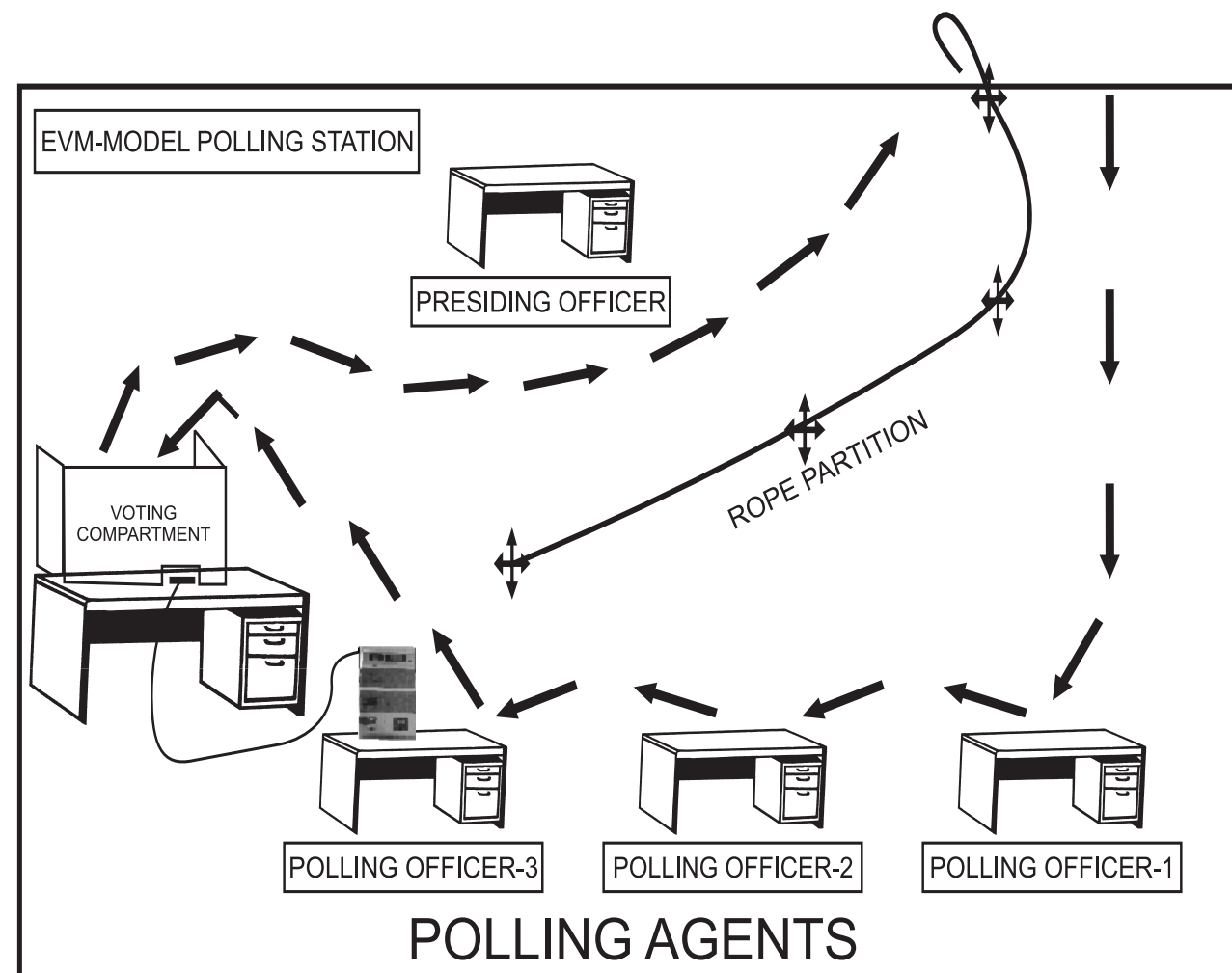
- Outside each polling station there shall be displayed prominently–
- Notice specifying the polling area, the electors of which are entitled to vote at the polling station and, when the polling area has more than one polling station, the particulars of the electors so entitled; and
- Copy of the list of the contesting candidates.
- A card Board display of Ballot unit explaining a voter how to vote on an EVM
- Enough space for the voters to wait outside the polling station;
- Separate waiting space for men and women as far as practicable;

**Law & Order Around Polling Station**

- No vehicles to be allowed inside the 100 meter perimeter of a PS
- No canvassing of any kind allowed in this perimeter. Offence under S 130 of RoP Act 1951.



- Candidate's booths to have 1 table and 2 chairs beyond the PS perimeter
- Voter slips to be plain white slips without any party markings
- No posters or banners



### Arrangements Inside a PS

- Separate entrance and exit for voters;
- Easy flow of voters from the time they enter the polling station to the time they leave it;
- The polling agents to be seated in such a way that they can see the face of an elector as and when he enters the polling station and able to see the entire operation; BUT
- Polling agent not to be in position to see voters actually casting their votes;
- Video covered PS shall have Videography arrangements

#### Arrangement inside a PS - Placement of Voting Compartment

- The Voting Compartment has to be so placed that neither the Presiding Officer nor the agents or the polling officers should be able to see the actual voting;
- For this reason, the voting compartment cannot be near to the Presiding Officer or even near any window where one can see from outside;
- For this reason only, care has to be taken that the compartment/partition of the balloting unit is not transparent or semi-transparent;

#### Who all can come (or be) inside the Polling Station?

- Voters in manageable numbers
- Candidate in that AC
- Candidate's Election Agent in that AC
- Polling Agents of Candidates in that PS – maximum of one for each candidate
- Authorized Media Personnel
- Election Officials
- Micro-Observer's seating arrangements inside the PS when deployed
- A child in arms accompanying an elector
- A person accompanying a blind or an infirm voter who cannot move without help
- In case of a elector/candidate having been provided Z+ security, one security personnel in civil clothes with concealed small arm can accompany the secured person inside the polling station

- Every one must have a valid pass properly displayed

**Seating of Polling Agents**

- Polling agents shall sit in following order
- Agents of candidates of recognized parties
- Of recognized state parties
- Recognized parties of other states
- Registered unrecognized parties
- Independents
- If less space then take turns or sit out

**Polling Agents**

- Polling agents are appointed by the candidates.
- They must be voters in that very polling station
- Must have a valid photo-identity card.
- Person provided with security can't be an Agent
- The presiding officer shall, after due verification, give them entry passes for the Polling Station.
- For every polling agent, there may be a maximum of two relief agents. But only one person can be inside the polling station at one point of time. Entry pass system ensures this.
- Polling agents can not be relieved after 3 P.M.
- Polling Agents can challenge bogus voters

**Media Persons**

- Media persons are issued Passes by the ECI on the recommendation of DEO
- Such media persons can enter the Polling Stations of the AC/District indicated in their Passes
- They cannot take the photo or video of the balloting process in any manner that will reveal the secrecy of ballot;
- Other media persons (not having valid ECI passes can not enter the polling stations.

- However they can cover the outside of the polling station, voter's queue etc.
- They cannot take the interview of audio-video bites of voters or any other personalities for direct relay – that amounts to canvassing on the poll day

**Security of Polling Station**

- No armed personnel can enter a polling station. Only exception is a Z+ security covered person who is either a voter or candidate in that polling station. In that case, a security personnel in civil clothes and concealed small weapon can accompany such person inside the polling station; (Any security covered person cannot be election or polling agent)
- Where CPF is deployed, a Jawan will stand outside at the door and can watch proceedings from there itself. He can not enter the polling station
- Where non-CPF is deployed, the uniformed personnel will position himself away from the line of sight of the insides of the polling station and shall not stand at the door of the polling station;

**Electronic Voting Machine**

- Voting machine consists of two units – (1) control Unit and (2) Balloting Unit interconnected by cable.
- One balloting unit caters up to sixteen candidates and displays names of
- contesting candidates and the symbols.
- There is a blue button on balloting unit by pressing which the voter can record his vote.



Balloting Unit



Control Unit

### Activities inside Polling Station

- Presiding Officer shall arrange for setting up of polling station, seating arrangements and EVM
- He shall give entry pass to the polling agents after due verification
- He shall demonstrate the voting machine before the commencement of poll, to the polling agents.
- He shall also demonstrate the marked copy of the electoral roll and the Register of Voters (17-A) to candidates or their polling agents present and take their signature.
- He will **conduct mock poll** by recording a few votes at random for each of the contesting candidates and tallying the result.
- After the mock poll, the votes recorded at such mock poll shall be cleared from the control unit of the voting machine. A certificate shall be given to the Sector Officer (SO) in prescribed format.
- The control unit of the voting machine has then to be sealed by fixing the green paper seal (s) and special tag.
- Thereafter, electors shall be allowed to vote strictly in the order in which they have been entered in the register of voters.

### Verification of Voters

- Electors required to identify themselves – through EPIC or alternate document approved by ECI
- Minor discrepancies in voter's EPIC can be overlooked
- Voters without establishing their identity should not be allowed to vote

### Duties of Polling Officers

- The **identity of elector** should be verified by the 1st Polling Officer in following manner:
- The Voter will give a slip (or announce) with his serial no. in **marked copy of roll**. The 1st Polling Officer will locate that serial no. in the roll and ask the voter to announce his name. The name announced should be same as the one in the roll. This is first check on a bogus voter. Thereafter, the officer should ask for his identity document.
- After an elector has been identified, the entry relating to the elector in the marked copy of the electoral roll should be underlined. A tick mark will also be put on the left side of entry in the case of a female elector

- The voter should move to 2nd Polling Officer who will note the voter particulars in the **Register of Voters** (Form 17-A). The serial number (not the name) of the elector as given in the marked copy of the electoral roll should be noted.
- The type of Identity document and the Sl. No. of the ID-Document should be noted in the **“REMARKS”** column of the 17-A.
- Then the 2nd Polling Officer should apply **the indelible ink** on the left forefinger. If elector does not have left fore finger, ink should be applied to any other finger of left hand.

### Duties of Polling Officers

- If an elector refuses to put his signature or thumb impression on the Register of Voters, he shall not be permitted to vote and an entry 'Refused to vote' will be made in the 'Remarks' column of the Register of Voters.
- If elector refuses to vote, the Presiding Officer shall record this in **Presiding Officer's Diary**.
- Presiding Officer shall tally the vote counts every hour and keep an **account of hourly poll**

### Duties of Polling Officers

- **First Polling Officer** : will be in charge of the marked copy of Electoral Roll and also responsible for identification of electors.
- **Second Polling Officer**: will be in charge of indelible ink and register of voters in form-17A.
  - Put a mark with the indelible ink above the root of the nail.
  - Take signature or thumb impression of each elector on register of 17A.
  - Issue a voter slip to each elector after he has entered his particulars in the register.
- **Third Polling Officer**: will be in charge of the Control Unit of the voting machine. To keep watch on control unit and voting process. He will be seated on the same table where the Presiding Officer sits.

### Challenged Vote

- Polling Agents can challenge voter's identity by depositing Rs. 2/-
- Presiding Officer holds summary inquiry
- If challenge not established, voter proceeds to vote

- If challenge established, person is not allowed to vote and handed over to police

### **Tendered Vote**

- Situation when a voter finds that his/her vote is already cast by someone else
- Such voter can tender his vote if he/she can establish the credentials, by tender ballot paper – but not through EVM
- Tendered ballot shall be kept in separate cover

### **Voting by Blind & Infirm**

- Permitted a companion of 18+
- Same person cannot be companion to more than one person
- Companion will be required to declare that he will keep secret the vote recorded by him/her
- None of the polling staff or agent shall act as companion

### **Presiding Officer's Power to Adjourn Poll**

- S 57(1) of RoP Act 1951, PrO can adjourn poll due to:
- Natural calamity like flood, storm, snowfall
- Damage to poll materials including EVM
- Disturbance of peace making it impossible to continue with poll
- Non arrival of polling team due to serious difficulty
- Stoppage of EVM etc
- Any other unforeseen and sufficient cause

### **Supervisory Visits**

- Observers will visit

- Sector Officers will visit frequently

- Candidates may visit

- Candidate's Election Agents may visit

- All of them must record their visit and observations in the visit sheet

### **Closure Time**

- Presiding Officer to check if electors are in queue
- If they are, give numbered slips. Give slip no. 1 to the last person in queue. This will ensure that no further person joins the queue thereafter
- When all electors have voted, press the close button on ballot unit
- Ballot unit will show the total votes polled – it should be noted in part - 1 of 17 C
- Then switch off the power/battery button
- Tally 17-A, 17C and EVM count
- Seal the machine thoroughly
- Presiding Officer must complete his diary
- Presiding Officer must complete the additional report format
- Micro-Observer to complete his report in the prescribed format



**INSTRUCTION SL. NO. 59**

Election Commission's letter No. 464/INST/2008/EPS Dated : 21st January, 2009 addressed to the Chief Secretaries of all states & Union Territories.

**Subject: Appointment of Micro-Observers – additional instructions – Regarding.**

I am directed to say that the Commission has been appointing micro observer in selected constituencies and selected polling stations depending on the availability staff of Government of India and Central Public sector undertaking available for the appointment as a micro observer. In this connection, the Commission has issued the following instructions:-

1. The District Election Officer will take an advance inventory of availability of staff of Government of India and Central Public Sector Undertaking to be appointed as micro observer and incorporate their names, along with all the required details as in case of State Govt. staff, in the randomization database.
2. In case Government of India staff not being available in adequate number, the Divisional Commissioner (if the D.C system exists in a particular State) will coordinate and ensure that inter-district sharing of micro observer takes place and the Divisional Commissioner will monitor this process. If the Divisional Commissioner system is not available, the Chief Electoral Officer will coordinate and ensure that the micro observers from the neighbouring districts or from the neighbouring urban centre are diverted to particular district not having Government of India staff to be appointed as a micro observer.
3. The Commission has further instructed that the conditionalities being applied for the State Govt. staff being appointed as polling personnel (that he should not be posted as a polling staff in the constituency where he is a voter / where he is working / in his native constituency) will be equally applied to the micro observers also. That means, a micro observer while working as a micro observer within the district or outside the district, within the Parliamentary Constituency (preferably) or outside his Parliamentary Constituency cannot be appointed as a micro observer in an Assembly Constituency / assembly segment where he is a voter, working or in his native Assembly Constituency / assembly segment. This aspect may be taken care of during randomization process.

**INSTRUCTION SI. No. 60**

Election Commission's letter No. 23/BLA/2008/ERS Dated 19th November, 2008 addressed to The President/Secretary, All the National and State Recognised political parties and copy endorsed to the Chief Electoral Officers of all states/UTs.

**Subject: - Revision of electoral rolls w.r.t. 1/1/2009 as the qualifying date – regarding.**

The Election Commission has announced the schedule for special summary revision of electoral rolls w.r.t. 1/1/2009 as the qualifying date in all States/UTs except Chhattisgarh, Madhya Pradesh, Mizoram, Rajasthan, NCT of Delhi and Jammu & Kashmir. The roll, revised w.r.t. 1/1/2009, will be used for conduct of general elections due next year to Lok Sabha and certain State Legislative Assemblies. The draft publication of electoral rolls is scheduled on 10th November, 2008 and final publication on 10th January, 2009.

2. In all the States and Union Territories, except Assam, Nagaland and Jammu & Kashmir, the photo of the elector is also printed in the electoral roll (Photo electoral Roll). The Commission is determined to prepare the electoral rolls as accurately as possible. To achieve the objective, it desires active cooperation of political parties and public right from the beginning of the process of revision.
3. You are aware that two copies of the draft electoral roll, one printed copy and another in CD, are supplied to recognised political parties under the provisions of rule 11 of the R.E. Rules, 1960 immediately after publication of the draft roll. As per the existing practice these copies are supplied to the representatives of recognised political parties by the CEO/DEO/ERO. The political parties are expected to get the list verified through their party workers and bring to the notice of the EROs the discrepancies, if any, therein to enhance the fidelity of the roll.
4. It has, however, been the experience that not many parties come forward to point out the discrepancies in the draft roll, till after final publication of electoral roll in an election year. It goes without saying that if the discrepancies are brought to the notice of the ERO immediately after draft publication, he can take appropriate action to set these right before final publication of the electoral roll.
5. It is observed that the electoral rolls provided to the office bearers of the political parties, for one or other reason, are not reaching the grass root level workers. The factors affecting the fidelity of the electoral roll such as the presence of the names of the dead voters in the electoral roll, the presence of shifted voters in the electoral roll can indeed be attended to if only the inputs are available from the grass root level.
6. As you are already aware, in order to enhance the fidelity of the electoral roll through a grass root level feedback mechanism, the Election Commission of India introduced recently a system of appointing Booth Level Officers (BLO). The BLOs are election officials responsible for accuracy of electoral rolls at polling station level.
7. In order to enhance the participation by the recognised political parties in roll revision, the Commission has desired that you may appoint one Booth Level

Agent (BLA) for roll revision on the pattern of appointment of Polling Agents during polling (and Counting Agents during counting) to complement the BLO. In this regard, each recognised political party is expected to take the following actions:-

- 7.1 Every recognised political party through its President or Secretary or any other office bearer of the party shall authorize one district representative to appoint Booth Level Agents (BLAs). The specimen of the authorization Form is annexed herewith as Form ID : BLA 1. The Form must be signed, in ink only.
- 7.2 The authorized district representative of political party will further appoint Booth Level Agents (BLAs) for each Polling Station in Form ID : BLA 2. The BLA will collect one printed copy of relevant Part(s) of the draft electoral roll from the Designated Officer/Booth Level Officer. The specimen of the authorization Form is annexed herewith as Form ID : BLA 2. The Form must be signed, in ink only.
- 7.3 Normally, one BLA may be appointed for each part of electoral roll. The BLA must be a registered elector in the relevant part of the draft electoral roll for which he/she is appointed as it is expected that the BLA will scrutinize the entries in the draft roll of the area where he resides to identify entries of dead persons and shifted persons.
- 7.4 No person in the service of the Government or a local authority or a PSU can act as Booth Level Agent.
- 7.5 One BLA may be appointed for more than one part of electoral roll provided the polling stations for the corresponding parts of electoral roll are set up within the same polling station location. In case, due to unavoidable reasons, one BLA is authorized to receive printed draft electoral roll in respect of more than one part of electoral roll, then separate authorization in Form ID: BLA 2 should be given for each such part of electoral rolls.
- 7.6 The BLA will handover the appointment letter in prescribed Form to Designated Officer/Booth Level Officer at the polling station location after draft publication of electoral roll.
- 7.7 On the strength of the appointment letter, the Designated Officer/Booth Level Officer will handover a printed copy of the relevant part(s) of the electoral roll to the BLA under proper acknowledgement only after production of the appointment letter by the BLA.
- 7.8 The printed copies of each part of electoral roll to be supplied to the BLAs are the copies of electoral roll required to be supplied free of cost to every recognised political party under rule 11 of R.E. Rules, 1960. The second copy of the complete roll in CD will be supplied to the political party by the CEO/DEO/ERO, as the case may be, from their headquarters.

- 7.9 In case no BLA is appointed by a political party for any part of electoral roll, then the copy of the draft electoral roll for that part of electoral roll will not be handed over to any other person by the DO/BLO. In respect of those parts of electoral roll for which no Booth Level Agents (BLAs) could be appointed in Form ID: BLA 2 by the political party, the printed copy of electoral roll for those parts may be collected from the office of the ERO by the authorised representative of the party. The party representative will hand over a list of those parts of electoral roll for which they have appointed BLA and another list where no BLA could be appointed.
- 7.10 The BLAs will not receive claims and objections from public. They will only guide the public to file appropriate applications for inclusion, deletion, correction and transposition of entries in the electoral roll. No repeat no bulk applications shall be collected and presented by the BLAs.
- 7.11 The authorized BLAs of all recognised political parties will be required to be present on the special campaign days fixed generally on holidays for receipt of claims and objections under the aegis of Designated Officers/BLOs. On these dates, the BLO will go through the draft electoral roll with the BLAs of recognized political parties of State concerned and identify the corrections etc.
- 7.12 The BLAs can list out the dead and shifted voters through house to house survey or any other means and present the list to the Designated Officers / BLOs in the format prescribed with this letter. They should give an undertaking that the information furnished by them is on the basis of verification conducted by them and they are liable for action under section 31 of the Representation of the People Act, 1950 for making false declaration, if any.
- 7.13 The BLAs will motivate the electors within the jurisdiction of the part of the electoral roll to come forward to inspect the draft roll during the period when it is displayed and file applications for correction, deletion and transposition of entries. Similarly, they may guide newly eligible electors of 18 years of age and above and those persons who might have shifted in from other places to file applications for inclusion of their names.
- 7.14 The appointment of a BLA shall not be revoked during the revision process except in very unavoidable circumstances like death cases. In case a new BLA is appointed by the authorized representative then the copy of the draft roll already supplied to the previous BLA shall be used for reference purpose. The Designated Officer/BLO will not supply another copy of the relevant part of draft electoral roll if a copy has already been supplied earlier.
- 7.15 In case any political party so wishes they may also issue photographed Identity Cards to their BLAs with signature of the authorised representative empowered by the party to appoint BLAs.

8. Your full cooperation will certainly make the participatory BLA system a success and will definitely help the public at large to inspect the draft roll and carry out corrections and deletions. You may take advance appropriate steps to inform your party members of these instructions and their implementation.

Kindly acknowledge receipt.

No.23/BLA/2008/ERS/

Dated 19th November, 2008.

Copy to the Chief Electoral Officers of all States and Union Territories. They are requested to bring the instructions to the notice of the DEOs/EROs/AEROs concerned. It must be ensured that the total programme of revision starting from draft publication, period for filing claims and objections, special campaign dates upto final publication is intimated to the representatives of political parties at State/District level in writing and also wide publicity is given through print and electronic media.

A photocopy of the Form ID :BLA 1 must be supplied to the Designated Officer/BLO alongwith the copy of the draft roll so that they can compare the name signature and other details of the authorised signatory on the Form ID : BLA 2 when they are presented to them by the BLAs.

FORM ID : BLA 1

Communication with regard to Authorised Persons to intimate names of representatives authorised by recognised NATIONAL OR STATE Political party for appointment of Booth Level Agents

To

1. The Chief Electoral Officer,  
.....(State/Union Territory).
2. The District Election Officer,  
.....  
.....(State/Union Territory)
3. The Electoral Registration Officer,  
of ..... Assembly Constituency.

Subject:- Revision of electoral rolls – Authorisation of persons to appoint Booth Level Agents (BLAs)

Sir,

In pursuance of instructions issued by the Election Commission of India vide its letter No.23/BLA/2008/ERS dated 19th November, 2008, I hereby communicate that the following person (s) has/have been authorised by the party, which is a National Party/State Party in the State of ..... to intimate the names of the party representatives who shall be appointed as Booth Level Agents to receive printed copies of the draft/final electoral roll on behalf of the party from the Designated Officer/Booth Level Officers appointed by the Election Commission of India during the revision of rolls with reference to 1st January, 200.....as the qualifying date..

Name of the person authorised to appoint BLAs	Name of office held in the party	District(s)/Constituency/ Constituencies in respect of which he/she has been authorised.
1	2	3
(1)		

(2)
(3)

2. The specimen signatures of the above mentioned person (s) so authorised are given below:-  
  
(1) Specimen signatures of Shri .....  
(i) ..... (ii) .....  
(iii) .....
- (2) Specimen signatures of Shri .....  
(i) ..... (ii) .....  
(iii) .....
- (3) Specimen signatures of Shri .....  
(i) ..... (ii) .....  
(iii) .....

Yours faithfully,

Place .....  
Date .....

President/Secretary  
Name of the Party

(Seal of the Party)



**NB.**

1. This must be delivered to the Electoral Registration Officer, District Election Officer and the Chief Electoral Officer concerned by 3 p.m. within 7 days of announcement of the scheduled date for draft publication
2. Form must be signed in ink by the office bearer (s) mentioned above. No facsimile signature or signature by means of rubber stamp, etc., of any office bearer shall be accepted.
3. The seal of the party must be put.
4. No form transmitted by fax or e-mail shall be accepted.

**FORM ID : BLA 2**

Intimation as to the name of Booth Level Agent appointed by the Persons Authorised by recognised NATIONAL OR STATE Political party for appointment of Booth Level Agents

To  
The Designated Officer/Booth Level Officer  
Electoral Roll Part No.....  
.....Constituency.

**Subject:- Revision of electoral rolls – Appointment of Booth Level Agents (BLAs)**

Sir,  
  
In pursuance of instructions issued by the Election Commission of India vide its letter No.23/BLA/2008/ERS dated 19th November, 2008, I have been authorised by the party to appoint Booth Level Agents of the party. In pursuance thereof, I hereby appoint Shri/Smt/ Kum.....as the Booth Level Agent of the party for electoral roll part No.....of .....Assembly Constituency. He/she will collect printed copies of the draft/final electoral roll for the said part on behalf of the party from the Designated Officer/Booth Level Officers appointed by the Electoral Registration Officer during the revision of rolls with reference to 1st January, 200.....as the qualifying date.

His/her name is included in this part of the electoral roll at serial no..... He/she is well conversant with the area covered by the part of the electoral roll and is in a position to verify the entries in the electoral roll.

Specimen signatures of Shri/Smt./Kum. ....  
(i) ..... (ii) .....  
(iii) .....

Yours faithfully,

Place: (Name and Signature of the  
Date : Authorised person of the Party)

(Seal of the Party)

**N.B.**

- 1. This must be delivered to the Designated Officer/Booth Level Officer appointed by the Electoral Registration Officer for the part of the electoral roll on draft publication of electoral roll at the designated location any time commencing from the date of draft publication of the roll till the last date for filing claims and objections.
- 2. Form must be signed in ink by the authorised person mentioned above. No facsimile signature or signature by means of rubber stamp, etc. shall be accepted.
- 3. This Form must be presented in person before the Designated Officer/Booth Level Officer

**FORMAT FOR FURNISHING LIST OF DEAD VOTERS**

**No. & Name of Assembly Constituency:**  
**Electoral Roll Part No.**

Sl.No. of entry in the electoral roll	Name of the elector	EPIC No., if issued	Source of information	Remarks

I hereby declare that the information furnished by me is on the basis of proper verification of the part of the electoral roll given to me and I am aware of the penal provisions of Section 31 of the Representation of the People Act, 1950 for making false declaration.

**Date:**

**(Full signature of BLA)**  
Name in full:  
Name of the Party:

FORMAT FOR FURNISHING LIST OF SHIFTED ELECTORS

No. & Name of assembly constituency:  
Electoral Roll Part No.

Sl.No. of entry in the electoral roll	Name of the elector	EPIC No., if issued	Place of shifting (with address if known)	Source of information

I hereby declare that the information furnished by me is on the basis of proper verification of the part of the electoral roll given to me and I am aware of the penal provisions of Section 31 of the Representation of the People Act, 1950 for making false declaration.

Date:

(Full signature of BLA)  
Name in full:  
Name of the Party:

FORM OF ACKNOWLEDGMENT

I hereby acknowledge receipt of printed copy of draft / final electoral roll of part No..... of .....Assembly Constituency. There are .....number of pages of the printed roll and .....number of entries. I have verified the copy of the roll with the copy displayed by the Designated Officer/Booth Level Officer at the polling station and am satisfied that entries in both the copies of electoral roll are identical.

Date :

(Full signature of BLA)  
Name in full  
Name of the Party:

**INSTRUCTION SL. NO. 61**

Election Commissioner's Letter No. 23/BLA/2008/ERS Dated 28th November, 2008 addressed to The President/Secretary, All the National and State Recognised political parties and copy endorsed to the Chief Electoral Officers of all states/UTs.

Reference: Letter No.23/BLA/2008/ERS, dated the 19th November, 2008.

**Subject:- Revision of Electoral Rolls w.r.t. 1/1/2009 as the qualifying date – Booth Level Agent – Clarifications – Regarding.**

Madam / Sir,

Please refer to the Commission's letter of even number dated 19th November, 2008 on the subject cited. It is clarified that

- 1) In case of recognized National / State Parties, President or Secretary or any other office bearer of the Party's State Unit is authorised to nominate district / constituency representatives in tandem with the procedure delineated in the para 7.1 of the letter referred above, who in turn are authorised to appoint Booth Level Agents. These authorisations shall be submitted to the CEO and relevant DEOs and EROs.
- 2) While authorizing a representative to issue Form BLA2, the State Unit can authorise more than one person in a district, specifically stating the constituencies for which they are being authorised to issue Form BLA 2. In an extreme situation, separate representatives may be authorised to appoint BLAs for every constituency.
- 3) In the FORM ID: BLA 1 (annexed to the letter referred above), the instruction for delivery of authorisation form 'within 7 days of announcement of the scheduled date for draft publication' is a standard one. The Commission has decided to relax the same for the ongoing revision programme of 2009.

Copy to the Chief Electoral Officers of all the States and Union Territories.