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**COMPILATION OF SOME
IMPORTANT CIRCULARS OF ECI**

VOLUME - III

(MODEL CODE OF CONDUCT, DEFACEMENT OF
PROPERTY, MISUSE OF VEHICLES, TOURS OF
MINISTER, PRINTING OF PAMPHLETS ETC.,
ELECTION EXPENDITURE, PAID NEWS, LAW &
ORDER, DEPLOYMENT OF FORCE,
VIDEOGRAPHY, POLITICAL ADVERTISEMENT)

**Chief Electoral Officer
Uttar Pradesh**

VOLUME-III

1. Model Code of Conduct
2. Defacement of Property/ Use of Loudspeakers
3. Misuse of Vehicles/Tours of Ministers/Security Covers
4. Printing of Pamphlets/Posters
5. Election Expenditure Monitoring/ Paid News
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* * *

MODEL CODE OF CONDUCT

Election Commission's letter No. 576/17/84 dated 09.11.1984 to (1) The Cabinet Secretary, Government of India, Cabinet Secretariat, New Delhi. (2) The Chief Secretaries to the Government of all States and Union Territories. (3) The Secretary to the Government of India, Ministry of Home Affairs, New Delhi, and (4) all Chief Electoral Officers.

Subject: Payments out of the discretionary funds on the eve of General Elections or Bye-Elections

I am directed to State that the Supreme Court in Civil Appeal No. 1632 (NCE) of 1967 (Ghasi Ram Vs. Dal Singh and Others) had observed as follows:-

"Although we have held in this case that the action of the first respondent cannot be characterised as not innocent, we are constrained to say that the attitude of Government is far from laudable, Election is something which must be conducted fairly. To arrange to spend money on the eve of elections in different constituencies, although for general public good, if when all is said and done is evil practice, even if it may not be corrupt practice. The dividing line between an evil practice and corrupt practice is a very thin one. It should be understood that energy to do public good should be used not on the eve of elections but much earlier and that even slight evidence might change this evil practice into corrupt practice. Payments from discretionary grants on the eve of elections should be avoided."

The Commission had earlier recommended to the Central and State Governments to issue necessary instructions so that ministers and other authorities do not sanction grants/payments out of the discretionary funds on eve of elections. The "Model Code of Conduct for the guidance of Political Parties, candidates and Governments" evolved by the Commission also inter alia is designed to discourage such grants/payments.

The Central/State/Union Territory Government must have either issued suitable instructions or been following certain wholesome conventions in this regard.

It is requested that these instructions or conventions may be observed both in letter and spirit at all elections - General or Bye-elections.

2. The Commission may please be informed of the action taken in the matter.
3. The earlier communication of the Commission in its letter No. 576/17/79 at the 10th October, 1979 may be treated as superseded.
4. The receipt of this letter may be acknowledged.

2

Election Commission letter No. 437/6/89 dated the 07.11.1989 to the Chief Electoral Officers of all States and Union Territories.

Subject: Payment from the discretionary Grants of Ministers on the eve of general elections - Regarding

I am directed to forward herewith a copy of Ministry of Home Affairs, New Delhi, letter No. 26/4/89, Public dated 3rd November, 1989, on the above subject and to request you to insert the instructions in the booklet containing Consolidated Instructions of the Election Commission of India' and to treat it as a part of the standing instructions contained in that booklet.

Kindly acknowledge receipt.

**No. 26/4/89, Public
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya,
New Delhi**

To
The Chief Secretary
(All States and Union Territories)

Dated 3rd November, 1989

Subject: Payments from the Discretionary Grants of Ministers on the eve of Lok Sabha Election - Setting up of a convention

Sir,

I am directed to refer to this Ministry's Confidential letter No. 26/4/84 Public dated 24-11-1984 on the subject mentioned above and to request that the conventions referred to in this Ministry's Confidential letter No. 20/1/77-FFG, dated the 28th January, 1977 (Copy with a copy of enclosures enclosed for ready reference) may kindly be strictly observed in view of the forthcoming Lok Sabha Election.

No. 26/4/89-Public

Dated 3-11-1989

Copy forwarded for information to the Secretary, Election Commission, Nirvachan Sadan, Ashoka Road, New Delhi.

No. 20/1/77-FFG
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya
New Delhi

Dated 28th January, 1977

To,
The Chief Secretary
(All States and Union Territories)

**Subject: Payments from the Discretionary Grants of Ministers on the eve of Election
– Setting up of a convention**

Sir,

I am directed to invite a reference to this Ministry's Confidential Circular letter No. 5/3/68-Poll. III dated 29th October, 1969 (copy enclosed) addressed to Chief Secretaries to the State Governments and Union Territory Administrations regarding payments by Ministers from their Discretionary Grants on the eve of Elections. In view of the impending elections to the Lok Sabha to be held in March, 1977, I am to request that the convention mentioned therein regarding avoidance of payments out of the Discretionary Grants immediately prior to elections except in cases where it becomes absolutely necessary on compassionate grounds may kindly be strictly observed.

No. 50/3/68-Poll III
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya
New Delhi

Dated. the 29th October, 1969

To,
The Chief Secretary,
(All States & Union Territories)

**Subject: Supreme Courts observation - Payments from the Discretionary Grants at
the disposal of the Ministers on the eve of elections setting up of a convention**

I am directed to invite a reference to the Election Commission's Circular letter No. 82/HN/24/67, dated June 25, 1968 addressed to all the Ministries of the Government of India and Chief Secretaries to the State Governments regarding payments of Ministers from their discretionary grants on the eve of elections. After a careful consideration of the

Commission's suggestion, the Government of India have, decided that instead of making a provision in the rules regulating the disbursements from the Discretionary Grants, a convention should be adopted that for a period of three months immediately prior to a polling in a general election, mid-term election or bye-election in any constituency no expenditure should ordinarily be incurred from a Minister's Discretionary Grant. A copy of this Ministry's letter No.50/3/68-Poll.III, dated 28-10-1969 addressed to all the Secretaries to the Government of India is enclosed. The State Governments/Union Territories may wish to adopt a similar convention.

D.O. No. 50/3/68-Poll. III
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya
New Delhi

Dated the 28th October, 1969

Secretary

My dear

Please refer to Election Commission's Circular letter No. 82/HN/24/67, dated June 25, 1968 (Copy enclosed) addressed to all Ministries of the Government of India & Chief Secretaries to State Governments regarding payments by Ministers from their Discretionary Grants on the eve of elections. The Commission's suggestion that payments out of the discretionary grants on the eve of a countrywide general election, a mid-term general election or a bye-election should be avoided has been carefully considered, and Government agree with this suggestion. However, we consider that instead of making any specific provisions in the rules regulating disbursements from the Discretionary Grants, a convention should be evolved that for a period of three months immediately prior to the polling in a general election, mid-term election or bye-election in any constituency no expenditure should ordinarily be incurred from a Minister's discretionary grant except in a case where it becomes absolutely necessary on compassionate grounds.

2. It is requested that this convention may be strictly observed in respect of the discretionary grants at the disposals of the Ministers. I shall be grateful if you put up this matter for the information of your ministers.
3. This issues with the approval of the Prime Minister.

Your Sincerely,

Sd-

L.R SINGH

To,

All Secretaries to the Government of India

Copy

ELECTION COMMISSION OF INDIA
Talkatora Road, New Delhi -1

No. 82/HN/24/67

Dated the 5th June, 1968

Ashada 4, 1890 (Saka)

To

1. All the Ministries of the Government of India.
2. All the Chief Secretaries to the Governments of all the States/All Union Territories Administration.

Subject: Payments from discretionary funds on the eve of elections

Sir,

I am directed to enclose a copy of the relevant extracts from the judgment of the Supreme Court in Civil Appeal No. 1632 (NCE) of 1967 against the order of the High Court for the States of Punjab and Haryana in election petition No. 24 of 1967 and to state that in the interest of purity of elections, the Commission is in respectful agreement with the view expressed by the Supreme Court that the distribution of money from the discretionary grants on the eve of an election should be avoided. Although such disbursement may be for the general public good, it is an evil practice even if it may not be a corrupt practice. The Court has observed that the dividing line between an evil practice and corrupt practice is a very thin one. It would be understood that the energy to do public good should be used not on the eve of elections but much earlier and that even slight evidence might change this evil practice into corrupt practice".

2. Similar pronouncements have been made by the Courts in certain other cases also. The relevant extracts from the judgments are reproduced below:-

(a) Shri Khader Sheriff Vs. Munnuswami Gounder: (1955) (Supreme Court).

"It has been frequently pointed out that while it is meritorious to make a donation for charitable purposes, if that is made at the time, or on the eve of an election, it is open to the charge that its real object was to induce the electors to vote in favour of the particular candidate".

- (b) In the Wigan case, (2 O'M&H) Justice Bowen, J., one of the most noted judges of England in the second half of the nineteenth century had observed - "In the second place, I wish to answer the suggestion that this was merely charity. Charity at election times ought to be kept by politicians in the background. No doubt the distress was great in Wigan at this time, and there was probably many a fireless and breadless house through out the town; but the persons who ought to have relieved the distress were not politicians of Wigan; they ought to have stood aloof; they had another duty to discharge on that day and they could not properly discharge both duties at the same time. In truth, I think, it will generally be found that the feeling which distributes relief to the poor at the election time, though those who were the distributors may not be aware of it, is really not charity, but party feeling following in the steps of charity, wearing the dress of charity, and mimicking her gait."
3. While in the interest of the general good of the public it may be necessary to place discretionary grants at the disposal of the Ministers, certain restrictions should be imposed, either by providing in the rules governing the disbursement of the grants or otherwise, that payments out of the discretionary grants should not be made when a countrywide general election, or a mid-term general election or even a bye election is in prospect and in any case it should not be made after the notification calling any such election is issued. The rules may also require that the benefits are, as far as possible, uniformly distributed within the State and not utilized in a particular district or constituency alone.
4. The Commission desires that in the interest of fair and free elections certain healthy conventions should be introduced and if necessary, changes should also be made in the rules regulating the distribution of discretionary grants by Ministers so that no disbursement or promise of disbursement from the grant is made on the eve of an election. I am, therefore, to request that the observations made by the Supreme Court and the High Court of Punjab and Haryana may be brought to the notice of the authorities concerned for such action as may be considered necessary.

The receipt of this letter may kindly be acknowledged.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil appeal No. 1632 of 1967.

Ghasi Ram
Appellant

Versus

Dal Sing Others
Respondents

Judgement

XX XX XX XX

Under the first head of charges it is stated that he promised a payment of Rs. 20,000 to the Gram Panchayat, Igra; Rs. 5,000 on February 15, 1967 for a sacred tank in village Ram Rai; Rs. 1,000 on January, 9, 1967 to the Gram Panchayat, Bhamanwas; Rs. 2,500 in December, 1966 to the Gram Panchayat, Bibipur and Rs. 500 each on January, 9, 1967 for public utility work to the Gram Panchayat, Ram Rai, Dhanak Community Centre at Lalwana Kalan, the Balmiki Harijan Community Centres at Village Mehra and Rs. 500 for the repair of the Harijan well and Lalwana Khurd. It is said that before these grants were made the Minister visited these several villages and the voters told him that they were not going to vote for him as he had done nothing for their uplift and on his promising the said sums the voters were won over with the result that the answering respondent secured the bulk of the votes from these villages. The High Court carefully considered the evidence led to prove these allegations and came to the conclusion that it fall short of the requirements of S. 123 of the Act. It is contended before us that the High Court was in error in reaching this conclusion both in point of fact and in point of law. We shall first dispose of the facts before proceeding to examine what we consider to be the corrupt practice in this context.

The donation to the Gram Panchayat, Igra is attempted to be proved through the evidence of one Mehtab Singh (RW. 10)). He stated that the answering respondent, as Chairman of Block Samiti had promised Rs. 5,000 but had not paid it. When he came for canvassing, the voters were unwilling to vote for him because he had not kept his promise. He then persuaded them and promised to pay some Money if they gave him their support. The High Court pointed out that this witness was a discharged Sub-Inspector and the polling agent of the election petitioner. He was found to be telling lies when he said that the amount was received 7 days after the promise, because the record clearly showed that this money was paid only in March, 1967, more than a month after the poll. Lakhi Ram (RW. 5) admitted that there was a village school which was lying incomplete and money was needed for its completion. It will be noticed that this money was not paid directly to any voter or voters. It was handed over to the Gram Panchayat for utilization. This meant that it would have gone to the benefit of those who were to support the answering respondent and also those who were opposed to him. The High Court did not believe the evidence that there was any bargain for votes as required by the definition of corrupt practice. On a reading of the evidence we are satisfied that the village community asked him for help and the answering respondent promised to help them to complete works of public utility. The amount was paid after the Election was over.

Similarly, the sum of Rs. 5,000 said to have been paid to Gram Panchayat, Ram Rai is proved through the evidence of Devi Dayal (RW. 11) and Mangal Singh (RW. 12). This money was sanctioned on December 8, 1966 even before the Congress had given ticket to the answering respondent. The evidence here also does not show that there was any bargain for votes. The two witnesses were proved to be hostile to the answering respondent. Devi Dayal was his rival candidate in 1952 and had made several applications against the answering respondent. The application for the Congress ticket was made by the answering respondent on December 6, 1966 and the grant being made on December 8, 1966 the

evidence of Devi Dayal that the grant was after the nomination, was definitely false, Mangal Singh is the editor of a weekly journal, which published several complaints against the answering respondent. The answering respondent stated that he had collected Rs. 25,000 for the sacred tank even before he become Minister, that through his efforts a pucca road, a dispensary, a veterinary hospital, a post office and water works were established. Had also got a primary school upgraded. Ram Rai being his native village he was interested in the work of Panchayat and as there was water shortage he gave the village Panchayat this amount to help them to improve the sacred tank. The High Court did not find any evidence which would bring the matter within S. 123. It declined to believe these hostile witnesses and on a consideration of the evidence we are not satisfied that the conclusion was erroneous.

The sum of Rs. 1,000 was paid to the Gram Panchayat, Bahmanwas for a primary school. This was a month or a month and quarter before the election. This was ought to be proved through Ram Dutt (RW. 20). It is in evidence that Ram Dutt was very friendly with the election petitioner and even gave his truck for the use of the petitioner. Evidence further shows that the school building was without a roof for some time and the children used to sit under trees. We are satisfied that this amount cannot be described as a bribe.

There was no evidence to prove the payment of Rs. 2,500 to Bibipur and as none was brought to our notice this point was rightly decided against the election petitioner.

The 4 sums of Rs. 500 each were paid for improvement of Community Centres. The attempt to prove that they were a part of the bargain was discountenanced by the High Court. In respect of the amount paid to Lajwana Kalan the evidence was that of Ram Singh (RW. 13), the polling agent of the election petitioner, Shri Phula (RW. 14), whose demeanour was commented upon by the learned judge, and one of the candidates Mangeram (RW. 19) and Jailal (RW. 21), a helper of one other candidate. Their evidence was found to be unsatisfactory either because of the interest in themselves or in other candidates or because of internal discrepancies and defects. We have read the evidence and we see no reason to differ. In support of the other two payments of Rs. 500 each, the only objection raised before us was that the payments were made to the Ghanak and the Balmiki Communities with a view to obtaining their votes because, it was contended that there was no community centre at these villages. Evidence, however, shows that there are Paras at these villages where the Harijan Community meets. In fact, in the petition and the evidence these are referred to as community Centres. This action of the answering respondent was not found to amount to a corrupt practice and on a considerations of the evidence we are in agreement with the High Court.

XX XX XX XX

In our opinion the law requires that a corrupt practice involving bribery must be fully established. The evidence must show clearly that the promise of gift directly or indirectly was made to an elector to vote or refrain from voting at an election. The position of a Minister is difficult. It is obvious that he cannot cease to function when his election is due. He must of necessity attend to the grievances, otherwise he must fall. He must improve the image of his administration before the public. If everyone of his official acts done bonafide is to be construed against him and an ulterior motive is spelled out of them the administration must

necessarily come to a stand still. The state of Haryana came into existence on November 1, 1966. With an election in the near future, the political party had to do acts of a public nature. The grant of discretionary grants were part of the general scheme to better community development projects and to remove the immediate grievances of the public. The money was required to be spent in about 3 months time. The sanction of the Minister had often the concurrence and recommendation of his subordinate staff. It is for this reason that the orders about the improvement of the supply of water were not pressed. They were incapable of being construed against the first respondent. Therefore, emphasis was placed upon the distribution of money. The money was not distributed among the voter directly but was given to Panchayat and the public at large. It was to be used for good of those for and those against the candidate. No doubt they had the effect of pushing forward his claims but that was inevitable even if no money was spent but good administration changed the People's condition. We cannot, therefore, hold that there was any corrupt practice. If there was good evidence that the Minister bargained directly and indirectly for votes, the result might have been different but there was no such evidence.

Although we have held in this case that the action of the first respondent cannot be characterised as not innocent, we are constrained to say that the attitude of Government is far from laudable. Election is something, which must be conducted fairly. To arrange to spend money on the eve of elections in different constituencies, though for general public good is when all is said and done an evil practice, even if it may not be a corrupt practice. The dividing line between an evil practice and a corrupt practice is a very thin one. It should be understood that energy to do good should be used not on the eve of elections but much earlier and that slight evidence might change this evil practice into corrupt practice. Payments from discretionary grants on the eve of elections should be avoided.

xx xx xx xx

Sd/-

M. HIDAYATULLAH J.

Sd/-

K.S. HEDGE J.

New Delhi

February 7, 1968

3

Election Commission's letter No. 437/6/93/J.S. II, dated 31.12.1993, addressed to the (1) The Secretary to the Government of India Ministry of Civil Aviation and Tourism, Sardar Patel Bhawan, New Delhi (2) The Secretary, Railway Board, Rail Bhawan, New Delhi.

Subject: General elections and bye-elections - special instruction to curb the misuse of free travel passes in the interest of free and fair elections.

I am directed to state that instances have come to the notice of the Commission during the recently concluded general elections to the Legislative Assemblies of Himachal Pradesh, Madhya Pradesh, Mizoram, Rajasthan, Uttar Pradesh and National Capital Territory of Delhi where the free passes issued by the Railways and the Government Airlines have been misused to travel to and from the States/ constituencies/areas having the general elections. Issue of such passes enabled the holders to travel round the country free of cost and participate in election related activities and thus attempt to vitiate the holding of free and fair elections.

2. The Commission has decided that such activities should be stopped. Accordingly, the Commission has directed that in future no golden passes, free passes, concessional passes or any other types of passes be issued or allowed to be used for travel to and from the states/constituencies/area going to the polls during general elections/bye-elections. This ban will apply from the date of announcement of the general election/bye-election till the declaration of results.
3. No one shall be exempted from the ambit of the aforesaid ban. The only exception will be in the case of tour operators and travel agents.
4. Suitable instructions in the matter may be issued to all concerned for strict adherence during all future general elections/bye-elections. A copy of the instruction issued may be endorsed to the Commission.

Please acknowledge the receipt.

Election Commission's letter No.434/6/PLN-III, dated 22.03.1996, addressed to the Chief Secretaries of all States and Union Territories and repeated the Chief Electoral Officers of all States and Union Territories.

Subject: Major tenders and auctions - Regarding.

It has been brought to the notice of the Commission that several major tenders, auctions etc. relating to matters such as liquor vends, tendu leaves and other such cases are being processed currently. The possibility that some of these auctions might result in unfair advantage/ disadvantage to the party in power/others cannot be ignored.

2. The Commission, therefore, directs that in all cases where major such auctions etc. are to be held, they should be put off till the last date of completion of elections in the concerned areas and the State Government should make interim arrangements where unavoidably necessary.
3. Departures from this will be considered as serious violations of the code of conduct.

5

Election Commission's letter No.437/6/98-PLN-III dated 08.01.1998 addressed to Chief Secretaries, Resident Commissioners and CEOs of all the States and UTs.

Subject: Restrictions on use of Government Guest Houses, Bhawans and State Sadans for holding of political parties meeting regarding election purposes.

The Commission has taken note of utilization of various State Guest Houses, Bhawans and Sadans at Delhi for election related activities by some of the political parties. These include holding of party meeting press conference and consultations. The Commission after taking all factors into account has decided that no part of such premises are utilized for any political activities of the kind already mentioned. The Resident Commissioners and Liaison Officers of all States and Union Territories at Delhi are hereby instructed to ensure that no violation in this regard is made.

There are, however, no restrictions for use of Bhawans for genuine requirements accommodation of officers and other visitors including political functionaries purely for purposes of their official tour to Delhi. The Resident/Liaison Commissioners are also advised that allocation of rooms should be done in a fair and equitable manner and that it would be improper to provide entire floors and large blocks for exclusive use and for extended period by political functionaries and parties.

Kindly acknowledge the receipt.

ITEM NO. 6

Election Commission's letter No. 437/6/98-PLN-III dated 10.01.1998 addressed to the Cabinet Secretary, New Delhi, Chief Secretaries and CEOs of all the States and UTs.

Subject: Celebration of Republic Day - attendance of political functionaries.

References have been received from various States about the attendance of political functionaries in the celebration of Republic Day. The Commission has considered all the relevant factors in view of the ensuing General Elections to Lok Sabha and Legislative Assemblies and certain Bye-Elections. Commission has decided that there is no objection to Central Ministers/Chief Ministers/Ministers in the States to do the honours in the main Republic Day functions at various locations subject to the condition that in their speeches, they should confine themselves to extolling the achievements of the Martyrs in securing freedom of the country, glory of the Indian State and so on. Under no circumstances, they should become a platform for political campaign.

In view of the fact that Republic Day celebrations will come during the election process and that the Central Ministers, Chief Ministers and Ministers in the States belong to political parties and alliances and may even be the candidates, the Commission, purely in the interest of ensuring a level playing field, directs that no Central Minister/Chief Minister/Minister or any other political functionary in the States/Ex-MPs shall do the honours at any Republic Day functions at any location of within their home district or constituency or from where he or she is a contesting candidate or intends to contest.

The Commission, however, has no objection to organisation of Kavi Sammelan, Mushairas or other cultural functions organised in connection with the Republic Day celebrations and being attended by the Central Ministers, Chief Ministers, Ministers in the States and other political functionaries. However, utmost *care* should be taken to ensure that no political speeches are made on the occasion.

The Commission has further decided that investiture ceremonies at the National and State level and distribution of Tamra Patras to freedom fighters, etc. will be done according to the existing conventions.

The above instructions may be brought to the notice of all concerned for strict compliance.

7

Election Commission's letter No.437/6/98-PLN-III dated 23.01.1998 addressed to CEOs of all States and UTs.

Subject: Restrictions on tours/leave of the officers whose spouses are active in political arena.

It has come to the notice of the Commission that there are several instances of officers belonging to the Indian Administrative Service, Indian Police Service and other State Government Senior officials whose spouses are active in the political arena either as candidates in elections or as active members of political parties.

The Commission in the interest of free and fair poll, directs that in all such cases the concerned officers should not leave their Headquarters either on leave or on tour till the elections are complete in all respects.

If for some reason they are required to leave their Headquarters then specific written permission of the Chief Secretary has to be obtained before they leave their Headquarters during the election period who should ensure that such officers do not get involved in any way with the political activities of their spouses.

Receipt of this letter may kindly be acknowledged.

Election Commission' letter No.ECI/GE98-437/6/BR/98-PLN-III dated 27.01.1998 addressed to the CEO, Patna and copy endorsed to Cabinet Secretary, New Delhi, Chief Secretaries of all States and Union Territories and CEOs of all States (except Bihar) and Union Territories.

Subject: Iftar Party - 10000 invitees at CM's residence at State cost.

The question has been referred to the Commission from the State of Bihar seeking a clarification as to whether the Iftar Party can be hosted by the Chief Minister to be attended by about 10,000 invitees, the expense for which will be made by the State exchequer. The Commission is of the view that any entertainment at State cost on a religious occasion would not be correct and specially during the continuance of the election process. However, any individual is free by all means to host any such party in his personal capacity and meeting the expense with his or her personal account on their own. This is being brought to the notice of all States and Union Territories Governments and the Cabinet Secretary for appropriate action.

Election Commission's letter No.437/6/98-PLN-II dated 15.09.1998 addressed to Chief Secretary to the Government of 1. Madhya Pradesh, Bhopal, 2. Rajasthan, Jaipur, 3. Mizoram, Aizawl, 4. NCT of Delhi and Copy endorsed to CEOs of 1. Madhya Pradesh, Bhopal, 2. Rajasthan, Jaipur, 3. Mizoram, Aizawl, 4. NCT of Delhi.

Subject: Preparations for election for electing new State Assemblies.

The tenure of the assembly in the State is expiring in December 1998; and elections have to be held shortly. As you know, the Commission and the State Electoral Officers are actively focusing on the arrangements, and meetings are being continuously held at Delhi and at your State Headquarters, to finalise all arrangements. The Election Commission of India, and the entire State election machinery are, therefore, in active election mode.

The Election Commission of India and all political parties, desire a level playing field, in order to ensure fair and free elections. The Commission is expected very shortly, to announce the detailed schedule for elections. Therefore, the Commission expects, and strongly urges, that the State Governments, at this juncture, with a very short period left for the formal start of the election process, will refrain from faking any major financial and other initiatives, which can be widely perceived as distorting the level playing field for all parties, particularly the Opposition. The Commission is confident, that in the 4 years and nine months of its tenure, the State government has taken all beneficial developmental steps, which it wished to, undertake. Any major announcements of this nature now, with only a couple of months left at best, are bound to be misconstrued, and not expected of any political party, in India's 5 decades old mature democracy.

The Commission would also advise against the creation of any new administrative units or major 'academic institutions etc. In general the Commission expects that nothing will be done by the incumbent ruling political party, which can be seen as simply largesse for undesirable exertion of influence on voters.

The Commission further directs that as the Head of the Services in the State, you will take due care and caution, to ensure, that the entire administrative apparatus in the State, not only remains neutral, but is visibly seen to be so, by the general public and all political parties.



Election Commission's letter No.437/6/99-PLN-III, dated 28.07.1999 addressed to The Cabinet Secretary, The Chief Secretary & Chief Electoral Officers of all States and Union Territories.

Subject: Celebration of Independence Day - attendance of political functionaries.

References have been received from various States about the attendance of political functionaries in the celebration of Independence Day. The Commission has considered all the relevant factors in view of the ensuing General Elections to Lok Sabha and Legislative Assemblies of certain States. Commission has decided that there is no objection to Central Ministers/Chief Ministers/Ministers in the States to do the honours in the main Independence Day function at various locations subject to the condition that in their speeches, they should confine themselves to extolling the achievements of the Martyrs in securing freedom of the country, glorification of the Indian State and so on. Under no circumstances, these should become a platform for political campaign.

Independence Day celebrations will be celebrated during the period of election process

for General Election, 1999. The Central Ministers, Chief Ministers and Ministers in the States who belong to political parties and alliances may be candidates for Lok Sabha or Assembly Election. The Commission, purely in the interest of ensuring a level playing field, directs that no Central Minister/Minister or any other political functionary in the State/Ex-MPs shall do the honours at any Independence Day function at any location of within their home district or constituency or from where he or she is a contesting candidate or intends to contest. The Prime Minister and Chief Minister may however do so from the National Capital and State headquarters as per long standing conventions.

The Commission has also no objection to the organisation of Kavi Sammelan, Mushairas

or other cultural functions organised in connection with the Independence Day celebrations and being attended by the Central Ministers, Chief Ministers, Ministers in the States and other political functionaries. However, utmost care should be taken to ensure that no political speeches highlighting the achievements of party in power are made on the occasion.

The Commission has further decided that investiture ceremonies at the National and

State level and distribution of Tamra Patras to freedom fighters, etc. and such other functions will be done according to the existing conventions.

The above instructions may be brought to the notice of all concerned for strict compliance. Kindly acknowledge the receipt.



Election Commission's letter No.437/6/99-PLN-III, dated 16.08.1999 addressed to The Chief Electoral Officers of all States and Union Territories.

Subject: Celebration of Sadbhavana Diwas - participation of political functionaries

I am directed to state that references have been received seeking clarification regarding participation of political functionaries in the Celebration of Sadbhavana Diwas which is celebrated throughout the country. The Commission has considered all the relevant factors in view of the ensuing General Election to the Lok Sabha and Legislative Assemblies of certain States and has decided that Central Ministers/Chief Ministers/Ministers in the States can participate in the Celebration of Sadbhavana Diwas subject to the condition that the theme of their speeches should be confined only to the Promotion of harmony among the people' and utmost care should be taken to ensure that no political speeches highlighting the achievements of party in power are made on the occasion. Under no circumstances, it should become a platform for political campaign. Messages, if any, issued in the name of Ministers, should be confined to the theme of National Integration only and should carry no photograph of the concerned Minister.

The above instructions may be brought to the notice of all concerned for strict compliance. Kindly acknowledge the receipt.

Election Commission's letter no.437/6/2002-PLN-III dated 25.01.2002 addressed to the Chief Secretaries/ CEOs of all States and UTs.

Subject: Model Code of Conduct - waiving off of recoveries and bad debts by State Government financial institutions during election period - regarding.

As you are aware, in order to ensure a level playing field between contesting parties and candidates in elections and also in order to see that the purity of the election process does not get vitiated, the Commission has been issuing instructions under the Model Code of Conduct and other related statutes, rules, regulations, etc. The fountainhead of the powers under which the Commission issues these orders is Article 324 of the Constitution, which mandates the Commission to hold free and fair elections.

2. State Government institutions of several types are nowadays engaged in commercial and banking activities. The Supreme Court has observed in Kirpal Singh Vs Uttam Singh (AIR 1986 SC 300) that 'Nowadays the activities of the State are so manifold and prolific that the State has been forced, in the interests of better management and administration and in order to further the Directive Principles of State Policy, to set up various Corporations which are but mere instrumentalities of the State'. The Supreme Court has further observed in Satrucharla Chandrasekhar Vs Vyricherla Pradeep Kumar (AIR 1992 SC 1959) that the incorporation of a body corporate may suggest that it is independent of the government, but that would not be conclusive of the fact, as, sometimes, the form may be that of body incorporate independent of the government, but, in substance, it may just be an alter ego of the government. Accordingly, several State Government financial institutions are undertaking commercial and banking activities, like, granting loans, rescheduling the recovery of loans and, in many cases, writing off bad loans or defaulted loans. Whereas this normal activity of such State Government institutions may go on during non-election period these activities when the election process is underway, sometimes, get vitiated and are looked upon with suspicion by political parties, candidates and general public. It can not be gainsaid that the party in power which wields considerable influence over the government of the day and which is also contesting the elections to get back to power, can get bad or defaulted loans to be written off, giving rise to allegations that the person or the business house whose loan is being written off makes contributions to the party coffers to help them in their election campaign. There could also be the other abuse of a flurry of loaning activities of a populist nature aimed to garner votes, which would, in the long run, affect the health of the loaning institution itself.
3. Keeping the above ground position and the realities of the situation in view, the Commission is of the considered view that all financial institutions funded, partly or wholly, by the State Governments should not take recourse to writing off loans advanced to any individual, company, firm, etc. during the period when the Model Code of Conduct is in force, without the prior concurrence of the Commission. Similarly, the financial limits that these institutions have to adhere to while granting

or extending loans should not be enhanced by issuing of loans indiscriminately to beneficiaries when the Model Code of Conduct is in force.

4. The above directive of the Commission should be brought to the notice of all the above mentioned financial institutions and other concerned immediately for their information and strict compliance. A copy of the instruction issued to them in this behalf may kindly be endorsed to the Commission for its information and record.

The receipt of the letter may kindly be acknowledged urgently.



Election Commission's letter No.437/6/3/2004-PLN-II, dated 19.02.2004 addressed to the Cabinet Secretary to the Govt. of India, Secretary to Govt. of India, Ministry of Home Affairs, Secretary to Govt. of India, Ministry of Urban Development & Poverty Alleviation and the Chief Secretaries/Chief Electoral Officers of all States and Union Territories

Subject: Restrictions on eviction/demolition of unauthorized structures, etc. - regarding

As you are aware, the 13th Lok Sabha has been dissolved and the General Election to the Lok Sabha alongwith simultaneous election to some State Legislative Assemblies is to take place shortly.

2. The Commission has been made aware that different agencies of the Government, responsible for urban affairs and other developmental projects, have been undertaking eviction drives leading to demolition of unauthorized structures, jhuggi(JJ) clusters and relocation of people from one area to another. Such steps, wherever taken up, no doubt may have been the resultant actions after following the due process of law by the concerned agencies and sometimes even implemented on directions of a competent Court of Law. While the Commission fully appreciates the objectives of the Government agencies responsible for such actions in the management of their affairs, in the context of the General Election to the Lok Sabha alongwith simultaneous election of some State Legislative Assemblies, the Commission is concerned about the impact that such dislocation of people may have on the fidelity of the electoral rolls to be used in the ensuing elections.

4. The electoral roll is the basic document for the conduct of any election as it is the one on which the whole electoral process is founded. When a constituency is called upon to elect a member to the Lok Sabha or to the Legislative Assembly of a State, it means, in fact, that those electors who have been enrolled in the electoral roll are called upon to elect a member of the Lok Sabha or of a Legislative Assembly. Under Article 326 of the Constitution, every Indian citizen of the age of 18 years or above on the prescribed qualifying date is entitled to be registered as an elector in the elector roll of the Parliamentary and Assembly constituency in which he is ordinarily resident (unless he suffers from a prescribed disqualification). But the right to vote in such constituency is conferred by Section 62 of the Representation of People Act, 1951 only on those persons whose names are entered in the electoral roll of the constituency whose names are entered in the electoral roll for the time being in force in the constituency. Therefore, the electoral roll of the constituency has to be as accurate and up-to-date as is humanly possible for the conduct of free and fair elections. The electoral rolls for all the States going to polls in future have been or are being finalized with reference to 1.1.2004 as the qualifying date and by now the electors ordinarily resident in any particular area are aware of the inclusion of their names in the relevant part of the electoral roll of the Assembly constituency concerned. Thus, whenever any eviction or demolition drive is taken up by a civic agency leading to dislocation of existing electors from their ordinary place of residence, the relevant part of the electoral roll of the Assembly constituency necessarily gets affected and becomes defective in as much as a large number of such dislocated electors lose their right to vote at the polling stations to which they have been assigned. In many cases, the electors so displaced as a result of the demolition or eviction drive get relocated in another area outside the assembly constituency in which



they were ordinarily resident and cannot be included in time in the electoral rolls of the area where they have been relocated. Any election held on the basis of these defective rolls would thus deprive a substantially large number of electors who have been displaced from their places of ordinary residence of their franchise. Besides, these defective electoral rolls may also give an opportunity to unscrupulous elements to resort to bogus voting in the names of voters who have been shifted out on account of demolition or eviction drives carried out in a particular polling area/constituency. These factors would not only vitiate the fair and free election but may even materially affect the result of election in the constituency concerned.

5. The Commission has, decided in the interest of free and fair elections, and to maintain the fidelity of electoral rolls, that any demolition/eviction drives shall be temporarily suspended and shall not be carried out by any Government/civic agencies between now and the completion of the General Election. Wherever there are any problems in the implementation of the above decision of the Commission because of any orders issued by any Court of Law, the Government of the State or the Central Government, as the case may be, shall bring the matter to the notice of the Commission for appropriate directions to ensure due compliance with the Court's orders. In such cases of unavoidable dislocation, the Government shall place before the Commission all relevant facts, including a suitable rehabilitation plan, to enable the Commission to give appropriate orders in regard to the corrective steps to be taken by the electoral authorities concerned to ensure that such dislocated electors are not deprived of their voting rights.

Kindly acknowledge receipt.

Election Commission's letter no. 437/7/2004-PLN III dated 29.02.2004 addressed to The Cabinet Secretary, The Secretary Department of Programme Implementation and the Chief Secretaries/Chief Electoral Officers of all States and Union Territories

Subject: General Elections to Lok Sabha and State Legislative Assemblies of Andhra Pradesh, Karnataka, Orissa and Sikkim - Release of funds under MPs' /MLAs' Local Areas Development Scheme

I am directed to refer to the Commission's Press Note dated 29th February, 2004 where the Commission had announced the operation of the Model Code of Conduct for the Guidance of the Political Parties and Candidates.

2. The Commission has considered the release of funds under the Member of Parliament Local Areas Development Schemes and has decided that

- i. No fresh release of funds under the Member of Parliament (including nominated members of Rajya Sabha) Local Areas Development fund shall be made in any part of the country till the completion of election process. Similarly, no fresh release of funds under the MLAs'/MLCs' Local Areas Development Fund shall be made, if any, such scheme is in operation, till the completion of election process.
- ii. No Work may be started for which the work order had been issued before the issue of this letter but the work has actually not started in the field. These can be started after the completion of election process.
- iii. However, if the work has actually started, this can continue.

There should be no bar to the release of payments for completed work subject to the full satisfaction of the concerned officials.

ITEM NO. 15

Election Commission's letter No. 437/6/2004-PLN III, dated 08.03.2004 addressed to the Cabinet Secretary, Govt. of India, the Secretary, Ministry of information and Broadcasting, Govt. of India, the Chief Secretaries to the Govt. of all States and Union Territories and copies to Chief Electoral Officers of all States and Union Territories

Subject: Display of advertisements and hoardings at the cost of public exchequer.

It has come to the notice of the Commission that a number of hoardings depicting the achievements of the party in power are being displayed by the Union and the States/UT Governments at the cost of public exchequer Your attention is invited to sub-para (iv) of para VII - Party in Power- of the Model Code of Conduct for the Guidance of Political Parties and Candidates which is as under:-

The party in power whether at the Centre or in the States/UTs concerned, shall ensure that no cause is given for any complaint that it has used its official position for the purposes of its election campaign and in particular-(iv) Issue of advertisement at the cost of public exchequer in the newspapers and other media and the misuse of official mass media during the election period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the party in power shall be scrupulously avoided.'

With the announcement of the schedule of elections to Lok Sabha and the legislative Assemblies of Andhra Pradesh, Karnataka, Orissa and Sikkim on 29th February 2004 the Model Code of Conduct came into force immediately. The continuing display of such hoardings and advertisements at the cost of public exchequer, even if such Hoardings, advertisements or posters were displayed prior to the date of announcement of elections, constitutes a violation of the Model Code of Conduct as it provides an undue advantage to the party in power and has the effect of influencing the voters in favour of the party in power.

The Commission directs that all such hoardings, advertisements, etc. on display shall be removed forthwith by the concerned authorities and a compliance report furnished to the Commission

The Commission has also directed that no advertisements should be issued in the newspapers and other media including electronic media at the cost of public exchequer during the election period and the misuse of mass media during the election

period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the party in power should be scrupulously avoided.

All Ministries/Departments/Offices of the Central Government and the State Governments may be informed of this directive of the Commission for immediate compliance.

The receipt of this letter may be acknowledged.

Election Commission's letter No. 437/6/16/2004, dated 09.03.2004 addressed to the Secretary to the Govt, of India. Ministry of Rural Development Department of Rural Development, New Delhi-110001.

Subject: Model Code of Conduct.

I am directed to refer to your letter no. PS/JS (RL)/04-216 dated 24-2-2004 and to state that after taking into consideration all relevant factors, the Commission has decided that:-

- (1) The work which has already been started on ground may be continued
- (2) No fresh work shall be started till the completion of the elections and
- (3) Tenders are not to be finalized during the period of elections.

COPY

**S. VIJAY KUMAR
JOINT SECRETARY**

Ministry of Rural Development,
Government of India,
Deptt. of Rural Development
Krishi Bhawan, New Delhi -110001.

D.O. No. PS/JS(RC)/04-216

February 24, 2004.

SUBJECT: Model Code of Conduct and continuation of programme activities under PMGSY

Please refer to the Ministry's D.O. letter No. 17015/1/2004-GC dated 13th February, 2004 addressed to you. As you are aware the Pradhan Mantri Gram Sadak Yojana (PMGSY) is a Centrally Sponsored Scheme for providing rural connectivity. Copy of the PMGSY Guidelines is enclosed herewith. The main features include the following:

- The proposals for the road works are cleared by the State Level Standing Committee headed by the Chief Secretary. Detailed Project Reports (DPRs) are checked by independent State Technical Agencies such as NTs, RECs etc.
- Proposals of the State are considered by the Inter-Ministerial Empowered Committee chaired by Secretary, Ministry of Rural Development and Adviser (Transport), Planning Commission, representative of Ministry of Road Transport & Highways and Director, CRRI, etc. are members of the Committee.
- After clearance, the works are put to open tender by the State Government according to the Standard Bidding Document for PMGSY and works are to be completed within a period of 9 months.

2. The stages of execution commencing with the clearance by the Ministry to the Annual Proposals comprises:

- Issue of Notices Inviting Tenders, specifying date and time of closing of receipts of bids and opening of tenders as per Standard Bidding Document provisions
- Finalisation on the basis of lowest qualifying bid and award of work
- Issue of Work Orders after Contract agreement.
- Re-tendering in case of inadequate response

Decisions for the purpose are taken at the level of the *Programme implementation Unit (PIU)* or the Executing Agency/Department as per pattern of the State.

3. Some State Governments have queried whether the PMGSY Scheme will be affected by the Model Code of Conduct to be brought into force by the Election Commission of India. In this connection, it may be pointed out that the process of election of the road works qualifying under the PMGSY criteria and preparation of DPRs is a well regulated and time consuming process and proposals coming to the Empowered Committee are accordingly those which have been put through a systematic procedure starting many months earlier. The Empowered Committee is an official inter-Ministerial Committee. The PMGSY is a regular Centrally Sponsored Programme and the works have to be tendered and awarded in such a way that the earth work and Water bound Macadam (WBM) needs to be completed before the end of the monsoon for proper results. As an abundant precaution, the State Governments have been advised not to refer any matters relating to tendering and award of works for decision of the political executive, elected representative (if that was the practice) during the period of the Model Code of Conduct.
4. Accordingly, the Election Commission may kindly confirm that execution of annual PMGSY proposals of States cleared before coming into force of the Model Code of Conduct may be continued as per the PMGSY Guidelines (subject to such conditions that the Election Commission of India may like to lay down) so that the earth work and WBM is completed before the end of the monsoon. Needless to add, there will be no inaugurations, announcements, laying of foundation stones etc. by public figures/individuals during the period that the Model Code of Conduct is in force.

With regards,

Yours sincerely,
Sd./-
(S. Vijay Kumar)

Shri A. N. Jha
Deputy Election Commissioner
Election Commission of India
NEW DELHI

ITEM NO. 17

Election Commission's letter No. 437/6/6/2004, dated 25.03.2004 addressed to Smt. Najma Heptulla, Deputy Chairperson, Rajya Sabha, 4Akbar Road, NewDelhi-110 001.

Subject: Applicability of Model Code of Conduct - to Speaker and Dy. Speaker.

I am directed to refer to your letter dated March 18, 2004 and to state that during the General Elections to Lok Sabha the restrictions on the use of official vehicles are also made applicable in respect of the Speaker of the Lok Sabha, Deputy Speaker of the Lok Sabha and Deputy Chairperson of the Rajya Sabha. As far as provision of security is concerned, the State Governments have already been advised to provide security based on the threat perceptions in respect of any individual.

ITEM NO. 18

Election Commission's letter No. 437/6/16/2003/PLN-I 11, dated 01.04.2004 addressed to SmtAsha Swamp, Joint Secretary (SGSY), Krishi Bhawan, New Delhi-110 001.

Subject: Clarification regarding implementation of Rural Development Programmes.

I am directed to refer to the meeting you had in the Commission on 27th March, 2004 regarding implementation of various rural development programmes. In view of the Model Code of Conduct in force till the completion of elections, the Commission has directed the following: -

- (i) Sampoorna Grameen Rozgar Yojana (SGRY): - Continuing works in Progress under SGRY may be continued and funds earmarked for such works can be released. In case of any Panchayat where all on going works have been completed and there is a requirement for taking up NEW wage employment works and where funds released directly to the Panchayats from the Ministry of Rural Development are available, new works can be started from approved annual action plan for 2003-04 with the prior consent of the District Collector / District Election Officer. From other funds, no new works should be started.
- (ii) Indira Awas Yojana (IAY): - Beneficiaries who have been sanctioned housing scheme under IAY and have started work, will be assisted as per norms. No new constructions will be taken up or fresh beneficiaries sanctioned assistance till the elections are over.
- (iii) Swaranjayanti Gram Swarozgar Yojana (SGSY): - Under SGSY, only those help groups which have received part of their subsidy / grant will be provided the balance installments. No fresh individual beneficiaries or SHGs will be given financial assistance till the elections are over.

ITEM NO. 19

Election Commission's letter No. 437/6/38/2004-PLN-III, dated 06.04.2004 addressed to the Chief Secretaries to all the States and Union Territories and Chief Electoral Officers of all the States and Union Territories.

Subject: Model Code of Conduct - Use of Rest Houses, Dak Bungalows and other Government accommodation.

The Commission has received representations regarding implementation of the provisions on allotment and use of rest houses, dak bungalows and other Government accommodations in a non-uniform manner in violation of the model code of conduct in different States and Union Territories.

The Commission after considering various issues involved and taking into account all relevant factors has decided that the relevant provision of model code of conduct should be implemented in letter and spirit and the available accommodation should be allotted in a fair and equitable manner. The relevant portions are as below:

Item VII. Party in Power:

(iii) rest houses, dak bungalows or other Government accommodation shall not be monopolized by the party in power or its candidates and such accommodation shall be allowed to be used by other parties and candidates in a fair manner but no party or candidate shall use or be allowed to use such accommodation (including premises appertaining thereto) as a campaign office or for holding any public meeting for the purposes of election propaganda.

It shall be ensured that no functionary can use the Circuit House, Dak bungalow to set up campaign office as the Circuit Houses/Dak bungalows are only for temporary stay (boarding and lodging) during transit of such functionaries.

The Commission has further directed that:

- (i) Even casual meeting by Members of political parties inside the premises of the Government owned guesthouse etc. are not permitted and any violation of this shall be deemed to be a violation of the Model Code of Conduct.
- (ii) Only the vehicle carrying the person allotted accommodation in the guest house and not more than two other vehicles, if used by the person, will be permitted inside the compound of the Guest House,
- (iii) Rooms should not be made available for more than 48 hours to any single individual.

However, 48 hours before the close of poll in any particular area, there will be freeze on such allocations till completion of poll or re-poll. The Commission directs that the Chief Electoral Officers will oversee strict and impartial implementation of these guidelines.

ITEM NO. 20

Election Commission's letter No. 437/6/2004/PLN-III, dated 08.05.2004 addressed to the Chief Secretary / Chief Electoral Officers of all States/Union Territories.

Subject - General Election to Lok Sabha 2004 reasonable restrictions on movement of vehicles to ensure free and fair elections--clarification regarding.

I am directed to state that a doubt has arisen if the restrictions on plying of vehicles as contained in the Commissions Order number 437/6/96/ PLN-III dated 16th January 1996 apply to two wheelers, like, motorcycles and scooters also and during which period they apply.

It is clarified that in the interest of free and fair elections, these instructions apply in respect of all two wheeler, like, motorcycles and scooters (except bicycles) also, and should 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 two-wheeler is being used to transport a patient or old/infirm persons In addition to the persons specified in para 8 of the aforesaid order

Receipt of the order may please be acknowledged.

ITEM NO. 21

Election Commission's letter No. 437/6/1/2004-PLN III, dated 11.08.2004 addressed to the Chief Secretary to the Government of Maharashtra and the Chief Electoral Officer of Maharashtra

Subject: General Election to the Maharashtra Legislative Assembly - Posting of officers - Judgement of Maharashtra Administrative Tribunal Mumbai, Aurangabad Bench - Regarding.

Kindly refer to Commission's letter of even no. Dated 5th August 2004 (Enclosed for ready reference) whereby Commission has issued exhaustive guidelines to ensure that those officers, who are connected with the conduct of elections in the State, do not serve in their home districts as well as the officers who have worked for four years or more in same district be transferred out in the interest of free and fair General Elections to Maharashtra Legislative Assembly. In this connection, I am directed to invite your attention towards Maharashtra Administrative Tribunal Mumbai, Aurangabad Bench order dated 22-06-2004 in OANo. 222 of 2004 in the matter of Ramchandra Bapurao Pawar Vs State of Maharashtra and Ors. In the aforesaid O.A the Election Commission of India was impleaded as respondent no. 3, Though the said O.A has been dismissed, the Hon'ble Tribunal has made certain observations at para 11 of its order dated 26.6.2004 which are as under:-

"The elections of the Parliament admittedly were declared somewhere in the month of January or February 2004 and the Election Commission adopted a particular policy, as far as the postings and transfers of the Government employee at a particular station. Exhaustive guidelines were issued by him on 11.02.2004 enumerating specifically therein that, all the officers who are connected with conduct of the election and who are having the hometown, where they are posted, or the officer who completed tenure of four years at the station, shall be transferred from the station. The Election Commission and the executives of the State Govt, were under obligation to implement this scheme faithfully and sincerely. I however, feel it was nothing but for a farce to lay down particular guidelines, so as to transfer particular employee under the garb of such scheme and to retain the others in whom the vested interest was involved. The best example made out by the applicant is of Shri D.M. Borude - the Deputy Collector (E.G.S.). He was belonging to Ahmednagar district. His post of Deputy Collector of the E.G.S. was already notified as an Assistant Returning Officer. The Collector, Ahmednagar made a proposal to transfer him on 26.3.2004, He however, was retained at the station for the unknown reason. The applicant further

made out the instances of S/Sh. Dangde, Lavande, Jare etc. and alleged that all of them are resident of Ahmednagar district. Shri Lavande was working as Deputy District Election Officer. Despite it, they were not displaced from the station. This is a reason as to why I use the word 'farce' in adopting a particular policy by the Election Commission. The policy was adopted with a view to implement it, looking to the faces and not otherwise. As a matter of fact, the Election Commission is an autonomous authority. He decided to achieve the fair results of the elections. He had admitted the policy to transfer the officers, who are posted in the hometown or who completed tenure of four years. The said policy however, was not sincerely implemented, or that, some element who were malafide played mischief and made incorrect proposal. I feel that the Election Commission, who is an autonomous authority, shall see that his subordinate officers and especially the executives do not take the disadvantage of the situation under the grab of the elections. If the Election Commissioner tolerates and ignores such instances, the mischievous and mala fide elements would abuse their powers, may be for extraneous consideration, and the officers having no approach would be the sufferers and victim. I would be justified to propose to the Election Commission to consider the aspect with some seriousness and shall take appropriate action in the matter."

The Commission has taken a serious view of the way its instructions have been misused and desires the State Administration and the Chief Electoral Officer should be more vigilant to ensure that such lapses do not occur in future.

ITEM NO. 22

Election Commission's letter No. 437/6/2004-PLN III, dated 26.08.2004 addressed to the Cabinet Secretary Government of India, the Secretary to the Government of India, Department of Programme Implementation and the Chief Secretaries/Chief Electoral Officers to the Governments of Arunachal Pradesh, Assam, Andhra Pradesh, Bihar, Goa, Gujarat, Himachal Pradesh, Jammu & Kashmir, Karnataka, Maharashtra, Manipur, Madhya Pradesh, Nagaland, Punjab, Rajasthan, Uttar Pradesh, West Bengal and NCT of Delhi.

Subject - Release of funds under MPs'/MLAs' Local Area Development Scheme.

I am directed to refer to the Commission's Press Note dated 24 August, 2004 where the Commission had announced the operation of the Model Code of Conduct for the Guidance of the Political Parties and Candidates.

The Commission has considered the release of funds under the Member of Parliament Local Area Development Schemes and has decided that-

- a) No fresh release of funds under the Member of Parliament (including Rajya Sabha members) Local Area Development fund shall be made in any part of the country where the elections are in progress. Similarly no fresh release of funds under the MLAs'/MLCs' Local Area Development Fund shall be made, if any, such scheme is in operation, till the completion of election process.
- b) No Work may be started for which the work order had been issued _ before the issue of this letter but the work has actually not started in the field. These can be started after the completion of election process. However, if the work has actually started, this can continue.
- c) There should be no bar to the release of payments for completed work subject to the full satisfaction of the concerned officials.

ITEM NO. 23

Election Commission's letter No. 437/6/2004/PLN-III, dated 28.09.2004 addressed to the Cabinet Secretary, Cabinet Secretariat and the Chief Electoral Officers of - Arunachal Pradesh, Maharashtra, Andhra Pradesh, Assam; Bihar, Goa, Gujarat, Himachal Pradesh, Jammu & Kashmir, Karnataka, Madhya Pradesh, Manipur, Nagaland, Punjab, Rajasthan, Uttaranchal, Uttar Pradesh, West Bengal and N.C.T. of Delhi

Subject: - Celebration of Gandhi Jayanti - participation of political functionaries

I am directed to state that the Gandhi Jayanti falls on 2nd October, 2004 and will be celebrated throughout the country. The Commission has considered all the relevant factors in view of the ensuing General Election to the Legislative Assemblies of Arunachal Pradesh and Maharashtra and certain bye-elections and has decided that Central Ministers / Chief Ministers / Ministers in the States can participate in the Celebration of Gandhi Jayanti subject to the condition that the theme of their speeches should be confined only to the extolling deeds and achievement of Mahatma Gandhi and utmost care should be taken to ensure that no political speeches highlighting the achievements of party in power are made on the occasion. Under no circumstances, it should become a platform for political campaign. Messages if any, issued in the name of Ministers should be confined to the theme of Mahatma Gandhi only and should carry no photograph of the concerned Minister.

The above instructions may be brought to the notice of all concerned for strict compliance.

Kindly acknowledge the receipt.

ITEM NO. 24

Election Commission's letter No. 437/6/2004/PLN-III, dated 29.09.2004 addressed to Shri R. Dayakar, Joint Secretary (GD & Haj), Ministry of External Affairs, Government of India, South Block, New Delhi.

Subject: - Statement regarding Haj Subsidy.

I am directed to refer to your letter No. M/Haj/1183/24/2004, dated September 28, 2004 and to state that the Commission has desired that the Government may defer decision in respect of reintroduction of subsidy for Haj travel, etc. till the completion of the poll in Maharashtra on 13th October, 2004.

ITEM NO. 25

Election Commission's letter No. 437/6/28/2004/PLN-III, dated 29.09.2004 addressed to the Secretary to the Government of India, Ministry of Urban Development & Poverty Alleviation, Department of Urban Development & Poverty Alleviation

Subject: Placing of advertisement on the World Habitat Day in the National Dailies on 4th October, 2004.

I am directed to refer to your letter No.1706-D/Dir (UPA), dated 28th September, 2004 on the above subject and to inform you that the Eife Commission has no objection to the release of the advertisements subject to the following conditions:-

- (i) The advertisement should not contain any photograph of the concerned Minister
- (ii) Any reference to a political party or parties as alliance should be avoided;
- (iii) It should not be published in the dailies being published from the cities of Mumbai and Kolkata.

ITEM NO. 26

Election Commission's letter No. 437/6/Textile/2004-PLN-III, dated 07.10.2004 addressed to the Development Commissioner (Handicrafts) & Ex-officio Joint Secretary, Ministry of Textiles, Govt. of India

Subject: - **Application of Model Code of Conduct.**

I am directed to refer to your D. O. No. J-12012/43/2004-05/DS dated 5th October, 2004 and to state that the Commission has no objection for holding Press Preview Shows on 7th October, 2004, subject to condition that officials may hold the briefing and advertisements, if they are issued are confined to broad policy objectives and do not contain photographs of Ministers.

ITEM NO. 27

Election Commission's letter No. 437/6/2004/PS-III, dated 07.10.2004 addressed to the Cabinet Secretary, Cabinet Secretariat, Rashtrapati Bhawan, New Delhi-110 004.

Subject: Setting up of National Commission for the Welfare of Socially and Economically Backward Sections among Religious and Linguistic Minorities.

I am directed to refer to the Commission's letter of even number, dated 30th September, 2004 and the response received from the Ministry of Social Justice and Empowerment, Government of India, vide their letter No. I-II/2004-MC(D), dated 1.10.2004 on the above subject. It has been contended by the Ministry that the decision of the Central Government to constitute the National Commission for the Welfare of Socially and Economically Backward Sections among Religious and Linguistic Minorities does not amount to a violation of the Model Code of Conduct on the ground that setting up of such a Commission was in continuation of the President's Address to both Houses of the Parliament on 7th June, 2004.

2. The Model Code of Conduct has been framed to ensure a level playing field for all contestants. While the code does not prevent normal Governmental functioning, it prohibits taking of those decisions that would have an impact in influencing certain sections of the electorate thus providing unfair advantage to the party in power and thereby disturbing the level playing field between the parties.
3. Items covered in the Common Minimum Programme or the President's Address are the statements of intent of the party in power or the Government, but it is the Cabinet decision on the respective issues that translates the intent to an implementable /actionable matter. The decision of the Government, therefore, announced through the Press on 29th September, 2004 for the setting up of the National Commission for the Welfare of Socially and Economically Backward Sections among Religious and Linguistic Minorities at this juncture when elections are being held in two states of the country gives the impression of being aimed at influencing some sections of the electorate.
4. Commission finds it appropriate to mention here that on the issue of changing the policy on subsidy for Haj travel, the Commission's views were formally obtained and the consideration of the item was deferred on the advice of the Commission. This issue of setting up a National Commission had the same potential for influencing a section of the voters but the matter was not referred to the Election Commission for its views. The Commission is emphatically of the view that the decision on the constitution of the National Commission for the Welfare of Socially and Economically Backward Sections among Religious and Linguistic Minorities should also have been deferred till the date of poll, 13th October, 2004. The Commission hopes that such lapses would be avoided in future.

ITEM NO. 28

Election Commission's letter No. 437/6/Misc./2004 -PLN III, dated 08.10.2004 addressed to the Secretary to the Govt. of India, Department of Family Welfare, M/o Health & Family Welfare

Subject: - Advertisement for Pulse Polio Campaign- clarification reg.

I am directed to refer to your D.O. letter no. J-130/10/2004-IEC dated 7th October, 2004 addressed to the Deputy Election Commissioner and to state that the Commission has no objection to the release of the advertisement as per sample enclosed with the letter referred to above. However the photographs of the Political leaders may be avoided in the advertisement if it is being issued in the states going for bye-elections.

ITEM NO. 29

Election Commission's letter No. 437/6/2004-PLN III, dated 24.12.2004 addressed to the Chief Secretaries/Chief Electoral Officers of Bihar & Jharkhand.

Subject: Display of advertisements and hoardings at the cost of public exchequer.

It has come to the notice of the Commission that a number of hoardings depicting the achievements of the party in power are displayed during the run up to the elections by the State Government/Union Government at the cost of public exchequer. Your attention is invited to sub-para (iv) of para VII - 'Party in Power'- of the Model Code of Conduct for the Guidance of Political Parties and Candidates which is as under: -

"The party in power whether at the Centre or in the States/UTs concerned, shall ensure that no cause is given for any complaint that it has used its official position for the purposes of its election campaign and in particular -

(iv) Issue of advertisement at the cost of public exchequer in the newspapers and other media and the misuse of official mass media during the election period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the party in power shall be scrupulously avoided."

2. With the announcement of the schedule of elections to the Legislative Assemblies of Bihar, Haryana and Jharkhand on 17th December, 2004, the Model Code of Conduct came into force immediately. The continuing display of such hoardings and advertisements at the cost of public exchequer, even if such hoardings, advertisements or posters were displayed prior to the date of announcement of elections, constitutes a violation of the Model Code of Conduct as it provides an undue advantage to the party in power and has the effect of influencing the voters in favour of the party in power.
3. The Commission has directed that those hoardings, advertisements, etc., put up by the Government which purport to give general information or convey general messages to the masses on family planning, social welfare schemes etc. may be allowed to be displayed. However, all those hoardings, advertisements, etc. which seek or purport to project the achievements of any living political functionaries or political party and which carry their photos or name or party symbol should be removed forthwith as no political functionary or political party can use public resources and incur or authorize expenditure from public exchequer to eulogise himself or itself or enhance his/its own or any political leader's personal image. Such hoardings, etc. undoubtedly amount to their individual/party election campaign at public cost.
4. The Commission has also directed that no advertisements should hereafter be issued in the newspapers and other media, including electronic media, at the cost of public exchequer during the election period and the misuse of mass media during the election period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the party in power should be scrupulously avoided.
5. All Departments/Offices of the State Government may be informed of this directive of the Commission for immediate compliance.
6. The receipt of this letter may be acknowledged.

ITEM NO. 30

Election Commission's letter No. 437/6/2004-PLN III, dated 28.12.2004 addressed to the Cabinet Secretary Government of India, the Secretary to the Government of India, Department of Programme Implementation and the Chief Secretary/Chief Electoral Officer, Rajasthan, Jaipur

Subject: - Release of funds under MPs'/ MLAs' Local Area Development Scheme.

I am directed to refer to the Commission's Press Note dated 25th December, 2004 as per which the Commission has announced the operation of the Model Code of Conduct for the Guidance of the Political Parties and Candidates in the district(s) in which the Constituency going to bye poll is wholly or partially comprised.

2. The Commission has considered the release of funds under the Member of Parliament Local Area Development Schemes and has decided that-

- a) No fresh release of funds under the Member of Parliament (including Rajya Sabha members) Local Area Development fund shall be made in any part of the country where elections are in progress. Similarly no fresh release of funds under the MLAs'/MLCs' Local Area Development Fund shall be made, if any such scheme is in operation, till the completion of election process.
- b) No work shall start in respect of which work orders have been issued before the issue of this letter but the work has actually not started in the field. These works can start only after the completion of election process. However, if a work has actually started, that can continue.
- c) There shall be no bar to the release of payments for completed work(s) subject to the full satisfaction of the concerned officials.

ITEM NO. 31

Election Commission's letter No. 437/6/2004-PLN III, dated 30.12.2004 addressed to the Cabinet Secretary, Govt. of India, the Chief Secretaries to the Governments of All States & Union Territories and the Chief Electoral Officers of All States & Union Territories

Subject: - Model Code of Conduct-Ban on Video Conferencing- Regarding

I am directed to refer to Commission's letter no. 437/6/96/PLN-III dated 17th January, 1996 (Copy Enclosed) and to state that the Commission has considered the issue of video conferencing after the announcement of elections between the Chief Minister of the States, Ministers and other political functionaries of the Union and State Governments and the officials and decided that no video conferencing should take place between the Chief Ministers of the States, Ministers and other political functionaries of the Union and State Governments and the officials individually or collectively, after the announcement of elections and from the date from which Model Code of Conduct comes into force in a state or the constituency.

The receipt of the letter may kindly be acknowledged.

ITEM NO. 32

Election Commission's letter No. 437/6/33/2004/PLN-HI, dated 31.12.2004 addressed to the Secretary to the Government of India, Ministry of Road Transport and Highways.

Subject: General Election to State Legislative Assemblies of Bihar, Jharkhand and Haryana, 2005 - applicability of Model Code of Conduct - regarding.

I am directed to refer to your letter No. RW/NH-12014/33/2003/BR/NH-3 dated 28th December, 2004 and to state that the Commission has considered the matter carefully and has decided that the sanctions for routine maintenance and repair of damaged stretches of National Highways may continue. However, no fresh sanctions may be issued or no new work initiated even if sanctioned for improvement / development of existing stretches of National Highways as provided in Ministry's Annual Plan till the Model Code of Conduct is applicable in the states going to the polls.

ITEM NO. 33

Election Commission's letter No. PS/AK/2005, dated 10.09.2005. addressed to the Chief Electoral Officers of Bihar, West Bengal, Uttaranchal and Haryana.

Subject : Restriction on presence of the political functionaries, who have been provided security by the State, after the period of campaigning is over and on the day after they cast their votes.

All District Election Officers and Superintendents of Police shall ensure that all those political functionaries who have been provided security by the State shall not be allowed to remain present in the constituencies in which they are not electors after the period of campaigning is over and that they shall also restrict the movements of such political functionaries in the constituency in which they are bonafide electors on the day of poll before and after they cast their votes.

These instructions shall, however, will not be applicable to the candidates. Kindly bring these instructions to the notice of all District Election Officers, Superintendents of Police and Observers for strict compliance.

Copies of these instructions may also be given to all recognized political parties.

ITEM NO. 34

Election Commission's letter No.437/6/2006 PLN-III (Vol.III), dated 16.03.2006 addressed to Dr. Renuka Viswanathahan, Secretary to the Govt. of India, Ministry of Rural Development, Dept. of Rural Development, New Dehi and copy to the Chief Electoral Officers of all Sates and Union Territories for appropriate action

Subject: Implementation of National Rural Employment Guarantee Act (NREGA) - Application of Model Code of Conduct - Regarding

I am directed to refer to your D.O. letter No.28012/11/05-06-NREGA dated 7th March 2006 on the above mentioned subject and to state that the Commission has reconsidered the matter and decided now as under:-

1. The Ministry of Rural Development shall not increase the number of districts in which NREGA is being implemented after announcement of elections in any State/UT.
2. The job card holder will be provided employment, if they demand work, after announcement of elections in the ongoing works.
3. In case no employment can be provided in ongoing works, the competent Authority may start new work(s) from the shelf of projects that has been approved and inform the fact to concerned District Election Officer (DEO). No new work shall be started by the Competent Authority till such time employment can be given in ongoing works. In case no shelf of project is available or all works available on shelf have been exhausted then concerned Competent Authority shall make a reference to the Commission for approval through the concerned DEO. The Competent Authority shall also furnish a certificate to DEO to the effect that the new work has been sanctioned as no employment can be given to the job card holder in the ongoing work. Responsibility for following these instructions shall lie with the Authority sanctioning new work.
4. The Commission's instruction communicated vide its letter of even No dated 7th February,2006 shall now stand withdrawn.

ITEM NO. 35

Election Commission's D.O. letter No. 437/6/2006-PLN-III (Vol.-II), dated 20.03.2006 addressed to the Cabinet Secretary, Govt. of India, Chief Secretaries and Chief Electoral Officers of all States and Union Territories

Subject : Application of Model Code of Conduct

I am directed to forward herewith Commission's instruction No.437/6/2006-PLN III (Vol-II) dated 14th March, 2006 for information and compliance.

COPY

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/2006-PLN III)Vol.II)

Dated 14th March 2006

To

The Secretary to the Govt. of India,
Ministry of Finance
North Block
New Delhi-110001

(Kind Attn Aruna N. Gupta, IRS and OSD to MOS Finance)

Subject: General Election to the Legislative Assembly of Tamil Nadu-2006 – Application of Model Code of Conduct – Regarding.

Sir,

I am directed to refer to your D.O. letter NO.09/OSD to MOS (F)/2006, dated 9th March 2006 and clarify as under :-

1. Frequent Flyer Points can be utilized by the Ministers, both of Central and State Governments, Members of Parliament, Member of Legislative Assemblies and other political functionaries for traveling to the States/Union Territories/Parliamentary and Assembly Constituencies where elections have been announced or are taking place.

2. No accommodation will be provided to any Minister of the Central or State Government, Members of Parliament or Members of Legislative Assemblies or political functionaries in Government Guest House or Rest House or Guest House of any Public Sector Undertaking of the Central or State /Government in the States where elections have been announced or are taking place as these are required to accommodate election related officials and observers.

Yours faithfully,

(K. AJAY KUMAR)
SECRETARY

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Fax/Speed post/Special Messenger

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

464/INST/2007-PLN-I

Dated: 07.01.07

To,

Chief Secretary, of States and UTs

Chief Electoral Officer of States and UTs

SUB: - CODE OF CONDUCT – DO's & 'DONT's

The Commission has issued various instructions on observance of code of conduct from time to time. Important aspects of the code of conduct are reiterated below:

On Welfare schemes and governmental works:

1. **Announcement of new projects or programme or concessions or financial grants in any form or promises thereof or laying of foundation stones, etc., which have the effect of influencing the voters in favour of the party in power is prohibited.**
2. These restrictions apply equally to new schemes and also ongoing schemes. But it does not mean that in the case of national, regional and State utility schemes, which have already been brought up to the stage of completion, their utilization or functioning in public interest should be stopped or delayed. The coming into force of the Model Code of Conduct cannot be given as an excuse for not commissioning such schemes or allowing them to remain idle. At the same time, it should be ensured that the commissioning of such schemes is done by civil authority and without associating political functionaries and without any fanfare or ceremonies whatever, so that no impression is given or created that such commissioning has been done with a view to influencing the electorate in favour of the ruling party. If in doubt, a clarification should be obtained from Chief Electoral Officer/Election Commission of India.
3. It is further clarified that simply because a budget provision has been made for any particular scheme or the scheme has been sanctioned earlier or a reference to the scheme was made in the address of the Governor or the budget speech of the Minister it does not automatically mean that such schemes can be announced or inaugurated or otherwise taken up after the announcement of elections while the



Model Code of conduct is in operation, since they will clearly be intended to influence the voters. Such actions if undertaken will be considered a violation of the model code of conduct.

4. No fresh sanctions for governmental schemes should be made. Review by political executive (Ministers etc.) and processing of beneficiary oriented schemes, even if ongoing, should be stopped till completion of elections. No fresh release of funds on welfare schemes and works should be made or contract for works awarded in any part of the state where election is in progress without prior permission of the Commission. This includes works under the Member of Parliament (including Rajya Sabha members) Local Area Development fund or MLAs / MLCs Local Area Development Fund, if any such scheme is in operation in the state.
5. No work shall start in respect of which even if work orders have been issued before the model code came into effect, if the work has actually not started in the field. These works can start only after the completion of election process. However, if a work has actually started, that can continue.
6. There shall be no bar to the release of payments for completed work(s) subject to the full satisfaction of the concerned officials.
7. Commission does not refuse approval for schemes undertaken for tackling emergencies or unforeseen calamities like providing relief to people suffering from drought, floods, pestilences, other natural calamities or welfare measures for the aged, infirm etc. In these matters, however, prior approval of the Commission should be taken and all ostentatious functions should be strictly avoided and no impression should be given or allowed to be created that such welfare measures or relief and rehabilitation works are being undertaken by the Government in office so as to influence the electors in favour of the party in power which at the same time will adversely affect the prospects of the other parties.

On Transfers and posting of officials:

The Commission directs that there shall be a total ban on the transfer of all officers/officials connected with the conduct of the election. These include but are not restricted to: -

- (i) The Chief Electoral Officer and Additional/Joint/Deputy Chief Electoral Officers;
- (ii) Divisional Commissioners;

- (iii) The District Election Officers, Returning Officers, Assistant Returning Officers and other Revenue Officers connected with the Conduct of Elections;
- (iv) Officers of the Police Department connected with the management of elections like range IGs and DIGs, Senior Superintendents of Police and Superintendents of Police, Sub-divisional level Police Officers like Deputy Superintendents of Police and other Police officers who are deputed to the Commission under section 28A of the Representation of the People Act, 1951;
- (v) Other officers drafted for election works like sector and zonal officers, Transport cell, EVM cell, Poll material procurement & distribution cell, Training cell, Printing Cell etc. Senior officers, who have a role in the management of election in the State, are also covered by this direction.
- (vi) The transfer orders issued in respect of the above categories of officers prior to the date of announcement but not implemented till the time when model code came into effect should not be given effect to without obtaining specific permission from the Commission.
- (vii) This ban shall be effective till the completion of the election process.
- (viii) In those cases where transfer of an officer is considered necessary on account of administrative exigencies, the State Government may, with full justification, approach the Commission for prior clearance.
- (ix) **No appointments or promotions in Government / Public Undertakings shall be made during this period, without prior clearance of the Commission.**

On Misuse of Official Machinery:

1. **Official vehicles cannot be used for electioneering work. 'Official Vehicles' include all vehicles belonging to the -**

- o Central Government,
- o State Government,
- o Public Undertakings of the Central and State Government,
- o Joint Sector Undertakings of Central and State Government,
- o Local Bodies, Municipal Corporations, Municipalities,
- o Marketing Boards (by whatever name known),
- o Cooperative Societies,
- o Autonomous District Councils, or
- o Any other body in which public funds, howsoever small a portion of the total, are invested, and also
- o Vehicles belonging to the Ministry of Defense and the Central Police Organizations under the Ministry of Home Affairs and State Governments.

2. It is open for a minister of the Union or State to make private visits using his or her private vehicle(s). For such private visits, the official personal staff of the ministers shall not accompany them. However, if a Minister is traveling in some emergent situation, out of his HQ on purely official business, which cannot be avoided in public interest, then a letter certifying to this effect should be sent from the Secretary concerned of the Department to the Chief Secretary of the state where the Minister intends to visit, with a copy to the Commission. During such tour, the Chief Secretary may provide the Minister with Government vehicle and accommodation and other usual courtesies for his official trip. However, immediately preceding or during or in continuation of such an official tour, no minister can carry out or combine any election campaign or political activity. The Commission will keep watch on such arrangements in due consultation with its Chief Electoral Officer.
3. No Minister, whether of union or state, will summon any election related officer of the constituency or the State, for any official discussions during the period of elections commencing with the announcement of the elections. Only exception will be when a Minister, in his capacity as in charge of the department concerned, or a Chief Minister undertakes an official visit to a constituency, in connection with failure of law and order or a natural calamity or any such emergency which requires personal presence of such Ministers/Chief Ministers for the specific purpose of supervising review/salvage/relief and such like purpose.
4. Ministers are entitled to use their official vehicles only for commuting from their official residence to their office for official work provided that such commuting is not combined with any electioneering or any political activity.
5. Ministers, whether of the Union or State, shall not combine in any manner their official tours with election work.
6. Whether on a private or official visit, no pilot car(s) or car(s) with beacon lights of any colour or car(s) affixed with sirens of any kind shall be used by any political functionary, even if the State administration has granted him a security cover requiring presence of armed guards to accompany him on such visit. This is applicable whether the vehicle is government owned or private owned.
7. Any official who meets the Minister on his private visit to the constituency where elections are being held shall be guilty of misconduct under the relevant service rules; and if he happens to be an official mentioned in Section 129 (1) of the Representation of People Act, 1951, he shall also

be additionally considered to have violated the statutory provisions of that Section and liable to penal action provided thereunder.

OTHER 'DOS AND DON'TS' FOR THE GUIDANCE OF THE CANDIDATES AND POLITICAL PARTIES TO BE OBSERVED FROM THE ANNOUNCEMENT OF AN ELECTION AND UNTIL THE COMPLETION OF THE PROCESS OF ELECTION.

The Commission has drawn up a list of 'dos' and 'don'ts' to be followed by candidates and political parties after the announcement of elections and till the completion of the process of elections. The Commission has directed that this be given the widest possible publicity and its contents brought to the knowledge of all candidates and political parties including in the official language of the State.

It must be clearly brought to the notice of candidates and political parties that the list of 'Dos' and 'Donts' is only illustrative and not exhaustive and is not intended to substitute or modify other detailed directions/instructions on the above subjects, which must be strictly observed and followed.

DO'S'

- (1) Ongoing programmes, which actually started in the field before the announcement of elections may continue.
- (2) Relief and rehabilitation measures to the people in areas affected by floods, drought, pestilence, and other natural calamities, can commence and continue.
- (3) Grant of cash or medical facilities to terminally or critically ill persons can continue with appropriate approvals.
- (4) Public places like maidans must be available impartially to all parties/contesting candidates for holding election meetings. So also use of helipads must be available impartially to all parties/contesting candidates, to ensure a level playing field.
- (5) Criticism of other political parties and candidates should relate to their policies, programme, past record and work.
- (6) The right of every individual for peaceful and undisturbed home life should be fully safeguarded.
- (7) **The local police authorities should be fully informed of the venue and time of the proposed meetings well in time and all necessary permissions taken.**
- (8) If there are any restrictive or prohibitory orders in force in the place of the proposed meeting, they shall be fully respected. Exemption, if necessary, must be applied for and obtained well in time.
- (9) **Permission must be obtained for the use of loudspeakers or any other such facilities for the proposed meetings.**

- (10) The assistance of the police should be obtained in dealing with persons disturbing meetings or otherwise creating disorder.
- (11) **The time and place of the starting of any procession, the route to be followed and the time and place at which the procession will terminate should be settled in advance and advance permissions obtained from the police authorities.**
- (12) The existence of any restrictive orders in force in the localities through which the procession has to pass should be ascertained and fully complied with. So also all traffic regulations and other restrictions.
- (13) The passage of the procession must be without hindrance to traffic.
- (14) Cooperation should be extended to all election officials at all times to ensure peaceful and orderly poll.
- (15) All Workers must display badges or identity cards.
- (16) Unofficial identity slips issued to voters shall be on plain (white) paper and not contain any symbol, name of the candidate or name of the party.
- (17) Restrictions on plying of vehicles during the campaign period and on poll day shall be fully obeyed.
- (18) (Except voters, candidates and their election/polling agents), only persons with a specific valid authority letter from the Election Commission can enter any polling booth. No functionary however highly placed (e.g. Chief Minister, Minister, MP or MLA etc) is exempt from this condition.
- (19) Any complaint or problem regarding the conduct of elections shall be brought to the notice of the observer appointed by the Commission/Returning Officer/Zonal/Sector Magistrate/Election Commission of India.
- (20) Directions/orders/instructions of the Election Commission, the Returning Officer, and the District Election Officer shall be obeyed in all matters related to various aspects of election.
- (21) Do leave the constituency after the campaign period is over if you are not a voter or a candidate or candidate's election agent from that constituency.

DON'Ts

- (1) Any and all advertisements at the cost of the public exchequer regarding achievements of the party/Government in power as prohibited.
- (2) **No Minister shall enter any polling station or the place of counting, unless he or she is a candidate or as a voter only for voting.**
- (3) **Official work should not at all be mixed with campaigning/electioneering.**
- (4) No inducement, financial or otherwise, shall be offered to the voter.
- (5) Caste/communal feelings of the electors shall not be appealed to.

- (6) No activity, which may aggravate existing differences or create mutual hatred or cause tension between different castes, communities or religious or linguistic groups shall be attempted.
- (7) No aspect of the private life, not connected with the public activities, of the leaders or workers of other parties shall be permitted to be criticized.
- (8) Other parties or their workers shall not be criticized based on unverified allegations or on distortions.
- (9) Temples, mosques, churches, gurudwaras or any place of worship shall not be used as places for election propaganda, including speeches, posters, music etc., on electioneering.
- (10) Activities which are corrupt practices or electoral offences such as bribery, undue influence, intimidation of voters, personation, canvassing within 100 meters of a polling station, holding of public meetings during the period of 48 hours ending with the hour fixed for the close of the poll and conveyance of voters to and from polling stations are prohibited.
- (11) Demonstrations or picketing before the houses of individuals by way of protesting against their opinion or activities shall not be resorted to.
- (12) **Subject to the local laws, no one can make use of any individual's land, building, compound wall, vehicles etc. for erecting flag staffs, putting up banners, pasting notices or writing slogans etc. without specific permission of the owner (to be shown to and deposited with the District Election Officer).**
- (13) No disturbances shall be created in public meetings or processions organised by other political parties or candidates.
- (14) **Processions along places at which another party is holding meetings shall not be undertaken.**
- (15) Processionists shall not carry any articles, which are capable of being misused as missiles or weapons.
- (16) Posters issued by other parties and candidates shall not be removed or defaced.
- (17) Posters, flags, symbols or any other propaganda material shall not be displayed in the place being used on the day of poll for distribution of identity slips or near polling booths.
- (18) Loudspeakers whether static or mounted on moving vehicles shall not be used either before 6 a.m. or after 10a.m. and without the prior written permission of the authorities concerned.

- (19) Loudspeakers shall also not be used at public meetings and processions without the prior written permission of the authorities concerned. Normally, such meetings/processions will not be allowed to continue beyond 10.00 p.m. in the night and will be further subject to the local laws, local perceptions of the security arrangements of the area and other relevant considerations like weather conditions, festival season, examination period, etc.
- (20) No liquor should be distributed during elections.
- (21) On the day of the poll, no person who has been assessed to be having a security threat and therefore given official security shall enter the vicinity of a polling station premise (within 100 meters) with his security personnel. Further, on the day of the poll no such person shall move around in a constituency with his security personnel. If the person provided with official security happens to be a voter also, then he or she shall restrict his / her movement - accompanied by security personnel, to voting only.
- (22) No person who has been assessed to be having a security threat and therefore provided official security or who has private security guards for himself, shall be appointed as an election agent or polling agent or counting agent.

NOTE: The above list of Do's' and Don'ts' is only illustrative and not exhaustive and is not intended to substitute any other detailed orders, directions/instructions on the above subjects, which must be strictly observed and followed.

The clarification/approval of the Election Commission of India/Chief Electoral Officer of your State should be obtained in cases of doubt.

Please acknowledge the receipt of this letter.

Your's faithfully,

Sd/-
(Jai Priye Prakash)
Deputy Election Commissioner

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Election Commission of India

Nirvachan Sadan, Ashoka Road, New Delhi 110001

No. 464/INST/2007-PLN-I

Dated: 8th January, 2007

To

1. The Chief Secretaries of all States and UTs
2. The Chief Electoral Officers of all States and UTs

Sub: Restrictions on presence of political functionaries in a Constituency after the campaign period is over.

Sir,

Under Section 126 of the Representation of the People Act, 1951, in the period of 48 hours ending with the hour fixed for the close of poll, the campaign will come to an end.

2. During the course of campaign in bye-election, the political parties mobilize their supporters, including from outside the constituency of poll, in order to bolster that campaign. In view of the fact that after the closure of campaign period no campaign can take place within the constituency, presence of political functionaries / party workers / procession functionaries / campaign functionaries etc., who have been brought from outside the constituency and who are not voters of the constituency, should not continue to remain present in the constituency as their continued presence after campaign ends may undermine the atmosphere for free and fair poll.

3. Hence the Commission has directed that after the campaign period is over, the district election administration / police administration shall ensure that all such functionaries leave the constituency immediately after the campaign period is over. This shall be brought to the notice of all political parties, candidates and their agents in order to enable them to comply.



4. The Commission further directs that in order to ensure that the above instruction is carried out, the election administration / police administration may take all necessary measures which may include:

1. Checking of kalyan mandapams / community halls etc., where such people are kept housed and find out whether the outsiders have been accommodated in these premises.
2. Verification of lodges and guesthouses to keep a track of the list of occupants.
3. Set up check-posts in the constituency borders and track the vehicular movement from outside the constituency.
4. Verify the identity of the people / group of people in order to find out whether they are voters or not and establish their identity.
5. This may be brought to the notice of all concerned and ensure strict compliance. Action taken in the matter may be informed to the Commission.

Yours sincerely,

Sd/-

(A.K. Majumdar)
Secretary

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By Fax/Speed Post

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

ANUJ JAIPURIAR
UNDER SECRETARY

No. 464/GJ-LA/2007

Dated: 6th October 2007

To

The Chief Electoral Officers of All States and Union Territories

Sub.- Model Code of Conduct - **Complaint Monitoring System** – Regarding.

Sir,

In order to ensure that the complaints being received from various stakeholders about the model code of conduct violation and on various other electoral issues are properly enquired into and necessary remedial actions are taken in time, the Commission has directed the following steps to be taken:-

(i) A **Complaint Monitoring System** shall be introduced. All the complaints received shall be maintained in the form of a computerized database indicating serial number, date, nature of complaint, source of complaint, deadline if any, given for enquiry and report, action taken and remarks. Complaints may be broadly categorized so that the category-wise analysis can be easily done. A proforma is enclosed.

(ii) At the District Election Officer's level one or more teams comprising a Police and Civil Officer and Videographer shall be formed for each constituency to ensure observance of model code of conduct in time, so as to ensure the observance of the model code of conduct from the day one. In other words, these teams should be formed and become active from the date of announcement of election schedules. These teams will report each violation/complaint to the Returning Officer & District Election Officer and action taken thereon on a daily basis in the proforma referred to above. All the complaints (including news reports) will be marked to the teams for respective area. The District Election Officer will review and monitor the complaints and in turn, send a consolidated report for the district to the Chief Electoral Officer in the same proforma, daily. The Chief Electoral Officer will send the information in the proforma to the Commission daily and identify a nodal officer in his office to co-ordinate the work.

- (iii) For enquiring the complaints of serious nature, the District Election Officer shall identify few credible senior officers with earmarked vehicles for doing such enquiry on day-to-day basis and submit a report to the District Election Officer. Such officer/officers shall be carefully identified by the District Election Officer.
- (iv) The working of the complaint monitoring system at the Chief Electoral Officer's office/ District Election Officer's office/at the level of Returning Officer shall be monitored by the Chief Electoral Officer. A periodic verification shall be done to find out as to whether the complaints are being properly enquired into or being disposed off mechanically. Depending upon the nature of the complaint, the follow up measures shall be initiated without any delay. The Commission shall be kept informed from time to time about the action taken on various complaints received.
- (v) The transparency shall be maintained in dealing with the complaints at every level. Demonstrative action taken on any serious complaint shall be brought to the knowledge of the public through electronic/print media as a confidence building measure regularly.
- (vi) The Commission will be monitoring the promptness on the part of Chief Electoral Officer's office/ District Election Officers/Returning Officers in dealing with the complaints.

2. 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.

Yours faithfully,

(ANUJ JAIPURIAR)

ITEM NO. 39

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

Sub: Restrictions on presence of political functionaries in a Constituency after the campaign period is over.

Under Section 126 of the Representation of the People Act, 1951, in the period of 48 hours ending with the hour fixed for the close of poll, the campaign will come to an end.

2. During the course of campaign in bye-election, the political parties mobilize their supporters, including from outside the constituency of poll, in order to bolster that campaign. In view of the fact that after the closure of campaign period no campaign can take place within the constituency, presence of political functionaries/party workers/procession functionaries/campaign functionaries etc., who have been brought from outside the constituency and who are not voters of the constituency, should not continue to remain present in the constituency as their continued presence after campaign ends may undermine the atmosphere for free and fair poll.
3. Hence the Commission has directed that after the campaign period is over, the district election administration/police administration shall ensure that all such functionaries leave the constituency immediately after the campaign period is over. This shall be brought to the notice of all political parties, candidates and their agents in order them to comply.
4. The Commission further directs that in order to ensure that the above instruction is carried out, the election administration/police may take all necessary measures which may include:
 1. Checking of kalia mandapams/ community halls etc., where such people are kept housed and find out whether the outsiders have been accommodated in these premises.
 2. Verification of lodges and guesthouses to keep a track of the list of occupants.
 3. Set up check-posts in the constituency borders and track the vehicular movement from outside the constituency.
 4. Verify the identity of the people/group of people in order to find out whether they are voters or not and establish their identity.
 5. This may be brought to the notice of all concerned and ensure strict compliance. Action taken in the matter may be informed to the Commission.

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INSTRUCTION SI. No.100

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/2007(INST)-PLN-III

Dated : 21st November, 2007

To

1. The Cabinet Secretary,
Government of India, Rashtrapati Bhawan,
New Delhi.
2. The Chief Secretaries of all
States and Union Territories
3. The Chief Electoral Officers of all
States and Union Territories

Subject: Instructions relating to deletion of all references on politicians/Ministers on the official website during election period of General / Bye-Elections to the Lok Sabha and State Legislative Assemblies – regarding.

Sir,

I am directed to state that the Commission has considered the question of various references currently available in the State Government websites/Ministerial official websites pertaining to several Department and Govt. Organization highlighting their achievements but eulogizing the same as personal achievements of Politicians / Ministers. The Commission has decided that during the period when model code of conduct is in force in connection with general election to the Lok Sabha /State Legislative Assemblies, all references to Ministers, Politicians or Political Parties available on such State Government /Central Government 's official websites, shall be taken off/ purged of. During bye-elections, these instructions may be confined to only those Politicians/Ministers, etc. who themselves become candidates at such bye- elections.

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

Kindly acknowledge receipt.

Yours faithfully,

(K. N. BHAR)
UNDER SECRETARY

Copy to:

The Principal Secretary /Secretaries/Under Secretaries for follow up action.

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ELECTION COMMISSION OF INDIA

Nirvaahan Sadan, Ashoka Road, New Delhi-110001

No.464/INST/2008/PLN- I/

Dated : 27th February, 2008.

To

1. The Chief Secretaries to all States and Union Territories
2. The Chief Electoral Officers of all States and Union Territories

Subject:- Restrictions on presence of political functionaries in a constituency after the campaign period is over - regarding.

Sir,

I am directed to invite your attention to Para - 3 of Commission's letter No. 464INST/2007/PLN - I, dated 8th January 2007 on the subject cited and to state that the Commission has further reviewed the instructions contained therein.

2. The Para - 3 of above referred letter has, accordingly, been modified, which shall be read as follows: -

"3. Hence the Commission has directed that after the campaign period is over, the district election administration/police administration shall ensure that all such functionaries leave the constituency immediately after the campaign period is over. However, the said restriction may not be insisted upon during the General Elections to Lok Sabha/State Legislative Assembly in respect of the office bearer of Political Party who is in-charge of the State. Such office bearer of the political party shall declare his place of stay in the State Headquarters and his movement during the period in question shall remain confined normally between his party office and place of his stay. This shall be brought to the notice of all political parties, contesting candidates and their agents in order to enable them to comply."

3. This may be brought to the notice of all the District Election Officers/Returning Officers/ Assistant Returning Officers and all the election related officers immediately.

4. Action taken in the matter may be intimated to the Commission.

Yours faithfully,



(TAPAS KUMAR)
PRINCIPAL SECRETARY

ITEM NO. 42

Election Commission's letter No.: 464/INST/2008/EPS Dated: 2nd December 2008 addressed to the Chief Electoral Officer, Rajasthan, Jaipur and copy endorsed to the Chief Electoral Officers of all States / UTs (except Rajasthan).

Subject: Restrictions on presence of political functionaries in a constituency after the campaign period is over.

I am directed to refer to the instructions contained in Commission's letter No. 464/INST 2007-PLN-I dated 08th January 2007 read with letter No. 464/INST/2008/PLN-I dated 27th February 2008 (copies enclosed) regarding restrictions on presence of persons from outside the constituency / State after the campaign period is over. A clarification has been sought about the applicability of the said instructions during current general election to the Legislative Assembly of Rajasthan. It is clarified that the said instructions shall be observed mutatis mutandis in the context of current general elections to the State of Rajasthan. Here it is mentioned that the said instructions were duly implemented at the time of general election to the State Legislative Assemblies of Uttar Pradesh, Gujarat, Karnataka, Madhya Pradesh, NCT of Delhi, Chhattisgarh and Mizoram. Accordingly, it shall be ensured that the said instructions are implemented strictly.

INSTRUCTION SI. No. 88**ELECTION COMMISSION OF INDIA**

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/INST/2008-CC&BEDated:18th February, 2009

To

The Chief Electoral Officers of
all States and Union Territories.**Subject: Model Code of Conduct – Compliance in letter and spirit– regarding.**

Sir/Madam,

A copy of a letter sent to all recognized National and State political parties, regarding adherence to the provisions of the Model Code of Conduct, Election Law, IPC etc. in connection with electioneering, which is self-explanatory, is enclosed.

2. In this context, the Commission has directed that the following actions are required to be taken on the part of the Chief Electoral Officers/District Election Officers/Returning Officers/Observers:-

- (i) The campaign by the leaders specified under Section 77(1) [star campaigners] should be meticulously tracked. Any violation committed by candidate set up by recognized parties or by the star campaigners during campaign should invariably be reported to the Commission for immediate follow up action at the level of the Commission so that the action receives required visibility.
- (ii) The Chief Electoral Officers and District Election Officers shall maintain a party-wise register to track the instances of violations being committed by various candidates and campaigners of various political parties. This should be a sort of daily register indicating names of the candidate, campaigner and political party. Brief description of violation, date of violation, follow up action taken and the order passed by any election official/the Commission, if any.

(iii) The above document (violation index) should also to be put in public domain so that interested parties including the media can pick up the input and this may work as a deterrence for the candidates and political parties against indulging in any violation.

3. These instructions may be brought to the notice of the District Election Officers and Returning Officers in the State. A copy of the enclosed letter addressed to the political parties may be handed over to each of the political parties based in your State/Union Territory, including registered unrecognized parties.

Yours faithfully,

(K. AJAY KUMAR)
SECRETARY

44

By Fax/Spl. Messenger/Speed Post

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

No. 437/6/INST/2009-CC&BE

Dated:23rd February, 2009

To

1. The Cabinet Secretary,
Cabinet Secretariat,
New Delhi.
2. The Chief Secretaries of
All States and Union Territories.
3. The Chief Electoral Officers of
All States and Union Territories.

Subject: Publication of advertisements in connection with occasions like World Habitat Day, Pulse Polio/HIV awareness campaigns and celebrations of various 'Diwas' like Independence Day, Republic Day, Gandhi Jayanti, State Formation days.

Sir,

The Commission receives various references from the Ministries/Departments seeking clearance for the publication of advertisements on the occasions of World Habitat Day. Pulse Polio Immunization/HIV awareness campaigns during the run-up to General/Bye-elections to the Lok Sabha/State Legislative Assemblies when the model code of conduct is in force.

Objecting to the publication of advertisement on important social issues is never intended by the Commission. It only wants to ensure that the party in power does not misuse the Government machinery in the garb of spreading a social message which is against the spirit of providing a level playing field and so violate the spirit of free and fair election. Election Commission of India has therefore, taken a clear stand that there will be no objection to the release of such advertisements if they do not contain the photograph or political message of any Minister/political dignitary and do not highlight the achievements of the party which may influence the voters and induce them to vote in their favour.



Different important historical days like Independence Day, Republic Day, Gandhi Jayanti, Shivaji Jayanti and State Formation Days are celebrated with much fanfare which are attended to by Central/State Ministers who, at time, make it a platform for gaining political advantage by highlighting the achievements of the party in power or their political functionaries contesting the elections. The Commission has taken a serious note of this and decided that while the Ministers can participate in such celebrations the theme of their speeches should be confined only to the historical background, deeds and achievements of the historical figures and they must take utmost care not to make any political speech converting the forum into a platform for political campaign.

For similar reasons, there will be a complete ban on celebrations like “xxx years/days in power” during this period as such occasions are virtually utilized to highlight the achievement of the party in power.

Yours faithfully,

(K. AJAY KUMAR)
SECRETARY

Copy forwarded to the Director General, DAVP, Ministry of Information and Broadcasting for his information and necessary action.

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By Fax/Spl. Messenger/Speed Post

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

No. 437/6/1/2009-CC&BE

Dated: 2nd March, 2009

To

1. **The Cabinet Secretary,**
Government of India,
Rashtrapati Bhawan,
New Delhi.
2. **The Secretary to the Government of India,**
Department of Programme Implementation,
Sardar Patel Bhawan,
New Delhi.
3. **The Chief Secretaries to the Governments of :-**
all States and Union Territories.
4. **The Chief Electoral Officers of :-**
all States and Union Territories.

Subject: General Election to Lok Sabha – 2009 - Release of funds under
MPs'/MLAs' Local Area Development Scheme.

Sir,

I am directed to refer to the Commission's Press Note dated 2nd March, 2009 (Press Note available at Commission's web-site – www.eci.gov.in) as per which the Commission has announced the enforcement of the Model Code of Conduct for the guidance of the Political Parties and Candidates, consequent on the announcement of General Election to Lok Sabha and to the Legislative Assemblies of the States of Andhra Pradesh, Orissa and Sikkim including certain bye-elections.

2. The Commission has considered the release of funds under the Member of Parliament Local Area Development Schemes and has decided that-

- a) No fresh release of funds under the Member of Parliament (including Rajya Sabha members) Local Area Development fund shall be made in any part of the country where election is in progress. Similarly no fresh release of funds under

-
- iv) Officers of the Police Department connected with the management of election like range IGs and DIGs, Senior Superintendents of Police and Superintendents of Police, Sub-Divisional Police Officers like Deputy Superintendents of Police and other Police officers who are deputed to the Commission under section 28A of the Representation of the People Act, 1951;
- 5) The transfer orders issued in respect of the above categories of officers prior to the date of announcement but not implemented till date should not be given effect to without obtaining specific permission from the Commission in this regard;
- 6) This ban shall be effective till the completion of the election. The Commission further directs that the State Governments should refrain from making transfers of senior officers who have a role in the management of election in the State;
- 7) In those cases where transfer of an officer is necessary on account of administrative exigencies, the concerned State Government may with full justification approach the Commission for prior clearance.
- 8) The receipt of the letter may kindly be acknowledged.

Yours faithfully,

(K. AJAY KUMAR)
SECRETARY

46

तार . निर्वाचन
नई दिल्ली
GRAM . ELECCOM
NEW DELHI

भारत निर्वाचन आयोग सचिवालय
SECRETARIAT OF THE
ELECTION COMMISSION OF INDIA

दूरभाष: 23717391/23717328
TELE : 23717391/23717328
फैक्स : 23713412/23739944
FAX : 23713412/23739944

सं०:
NO. 437/RJ-HP/2009 / 4965

तारीख: 4th March, 2009
Dated

निर्वाचन सदन,
NIRVACHAN SADAN
अशोक रोड, नई दिल्ली-110 001.
ASHOKA ROAD, NEW DELHI-110001.

To

The Chief Electoral Officer,
Rajasthan,
Jaipur.

Subject: General Election to the Lok Sabha, 2009 – Model Code of Conduct -
regarding.

Sir.

I am directed to refer to your letter F.3(2)(1)/Elec./2009/1095. dated 3rd March, 2009 on the subject cited, and to state that the Commission has no objection to attending the convocation by Hon'ble President and Governor of Rajasthan as Chief Guest and Presiding Officer, respectively.

Further the Chief Minister and Minister of Education may also attend the Convocation subject to the condition that they will not share dias with the Hon'ble President and shall not make any speech on the occasion.

Yours faithfully,


(HARBANS SINGH)
UNDER SECRETARY

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ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

No. 437/6/2009-CC&BE

Dated: 5th March 2009

To

1. The Chief Secretaries to the Governments of
All States and Union Territories

2. The Chief Electoral Officers of
All States and Union Territories

3. All Recognized Political Parties

**Sub: General Elections – Enforcement of the Model Code of Conduct -
reg.**

Sir,

I am directed to state that the Commission has considered various aspects in the context of the Model Code of Conduct during General Elections and decided to issue the following Guidelines regarding implementation/processing of the various projects,

schemes, rural development programmes etc. by the Central/State Governments :-

1. All Model Code of Conduct related directions shall be issued only by the Commission. The Cabinet Secretariat or any other government agency should reiterate and disseminate the directions of the Commission for compliance.
2. RBI may continue to take decisions unhindered on monetary policy issues.
3. After the Model Code of Conduct comes into effect, the Ministry of Finance will need to take prior approval of the Commission on any policy announcements, fiscal measures, taxation related issues and such other financial relief. Similarly, other Ministries/Departments will need to take prior approval of the Commission before announcing any relief/benefit.

4. The following types of existing works can be continued by the government agencies without reference to the Election Commission after the Model Code of Conduct comes into force:

- a. Work-Projects that have actually started on the ground after obtaining all necessary sanctions;
- b. Beneficiary-projects where specific beneficiaries by name have been identified before coming of the Model Code of Conduct into force;
- c. Registered beneficiaries of NREGA may be covered under existing projects. New projects under NREGA that may be mandated under the provisions of the Act may be taken up only if it is for the already registered beneficiaries and the project is already listed in the approved and sanctioned shelf of projects for which funds are also already earmarked.

5. There shall be no bar to release of funds for the completed portion of any work subject to observance of laid down procedures and concurrence of finance department.

6. The following type of new works (whether beneficiary or work oriented) that fulfill all the following conditions before Model Code of Conduct comes into effect, can be taken up under intimation to the Commission. Full funding has been tied up.

- b. Administrative, technical and financial sanctions have been obtained
- c. Tender has been floated, evaluated and awarded and
- d. There is contractual obligation to start and end the work within a given time frame and failing which there is an obligation to impose penalty on the contractor.
- e. In case of any of the above conditions not being met in such cases prior approval of the Commission shall be sought and obtained.

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7. Global tenders already floated, can be evaluated and finalized where any time limits are specified for such purpose.

8. Tenders other than global tenders, that are already floated may be evaluated but not finalized without prior approval of the Commission. If they are not already floated, they shall not be floated without prior approval of the Commission.

9. Commission invariably takes a humanitarian view on the work that are necessitated due to man-made or natural calamities.

- a. Ex-gratia payments and gratuitous relief in the aftermath of a disaster can be given directly to the persons affected at the current rates/scales of assistance presently in force, under intimation to the Commission. No change in the extant and prescribed scales of payments, however, shall be made in the existing rates/scales without prior permission of the Commission.
- b. Payment directly to the hospitals from CM's/PM's Relief Fund, in lieu of direct cash payment to individual patients (beneficiaries) will be permissible without reference to the Commission.
- c. Emergent relief works and measures that are aimed to mitigate the hardships, directly and solely, of the persons affected in a disaster may be taken up under intimation to the Commission.
- d. However, new works that may be necessitated by way of preventive measures to mitigate the likely effects of natural disasters like repair of embankments, water channels etc. can be taken up only with prior permission of the Commission.
- e. Also, an area shall not be declared drought/flood affected or any such calamity affected without prior approval of the Commission. The extent of area already declared to be calamity-affected cannot be expanded without prior approval of the Commission.
- f. Similarly, any selective assistance to a group of persons from the PM's or the CM's Relief Fund will require prior approval of the Commission.

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10. The following type of activities will require prior permission of the Commission:
- a. New works and project cannot be taken up from discretionary funds of whatever nature. Discretionary fund, in this context, includes funds, which are provided for in the budget in a generic manner and for which no identified and sanctioned project exists prior to Model Code of Conduct coming into effect.
 - b. Proposals for revival of sick PSUs, governmental take over of enterprises etc. (or any policy decision on similar lines) cannot be taken up.
 - c. Fresh auctions of liquor vends etc. cannot be held even if the annual auction time falls within the Model Code of Conduct period. Where necessary, the government should make interim arrangements as provided in their respective laws.
 - d. Area of operation of any existing project/scheme/programme can not be extended or expanded.

e. No land allocation shall be made by the government to any entity, whether individual or an enterprise.

f. Signing a MOU or an agreement where the government is a party will also require prior clearance by the Commission.

11. Regular recruitment/appointment or promotion through the UPSC, State Public Service Commissions or the Staff Selection Commission or any other statutory authority can continue. Recruitments through non-statutory bodies, will require prior clearance of the Commission.

12. While starting any work (including any relief work) or developmental activity no formal function shall be held involving any political functionary. As a matter of good practice, normal functions and publicity even with the presence of official functionaries should be kept to the minimum. D:\GE\Instructions\ins120309.doc

13. Where works are to be undertaken or functions are to be held in fulfillment of international commitments, prior concurrence of the Commission shall be taken.

14. All Government of India references to the Election Commission of India shall be made preferably through the Cabinet Secretariat. In so far as reference from State Governments are concerned, the same shall be made to the Election Commission of India through the Chief Electoral Officer (CEO) of the state concerned.

This may be brought to the notice of all concern authorities.

Yours faithfully,

(K. AJAY KUMAR)
SECRETARY

ELECTION COMMISSION OF INDIA**Nirvachan Sadan, Ashoka Road, New Delhi-110001****No.437/6/INST/2009-CC&BE****Dated: 9th March, 2009**

To

1. The Chief Secretaries of all States and Union Territories.
2. The Chief Electoral Officers of all States and Union Territories.

Subject: General Election to the Lok Sabha-2009- Model Code of Conduct – reg.

Sir,

As you are aware, the General Election to the Lok Sabha, 2009 has been announced by the Commission and Model Code of Conduct has come into force w.e.f. 2nd March, 2009. The Commission has received many references from various States in respect of the introduction of the Budget for the year 2009-10.

2. The Commission would like to point out the prevalent convention that is followed in most of the States is that instead of presenting full budget, only a vote on account is taken for 3-4 months in cases where a General Election is imminent or when the process of General Election has been announced and the Model Code of Conduct is in operation. It contributes to a healthy democratic practice.

3. The Commission, in deference to the State Legislatures, and having regard to such a convention and propriety, would not like to lay down a precept or prescribe a course of action. However, it would advise, in the case of States that are going for Assembly polls, that a vote on account should be taken.

4. The above instructions may be brought to the notice of all concerned and the receipt of this letter may please be acknowledged.

Yours faithfully,

(K.N. BHAR)
UNDER SECRETARY

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 437/6/INST/2009-CC&BE

Dated: 9th March, 2009

To

Dr. S.B. Agnihotri, Joint Secretary,
Cabinet Secretariat, Rashtrapati Bhawan,
New Delhi.

Subject:- Applicability of Model Code of Conduct -Regarding.
Sir,

I am directed to refer to your D.O. No. JS(SBA)/2009/04 dated 4th March, 2009, addressed to Shri J.P. Prakash, Deputy Election Commissioner and to state the Commission has decided that any additional work under the following schemes referred to in your letter, shall be under taken with the prior approval of the Commission:-

1. Accelerated Irrigation Benefits Programme (AIBP)- M/o Water Resources.
2. National Social Assistance Programme (NSAP)- M/o Rural Development
3. Jawaharlal Nehru National Urban Renewal Mission (JNNURM)- Including the scheme of purchase of buses for urban transport system - M/o Urban Development
4. Accelerated Power & Development Reform Programme (APDRP)- M/o Power
5. Indira Awas Yojana (IAY) - M/o Rural Development
6. Swaranjayanti Gram Swarojgar Yojana (SGSY)- M/o Rural Development
7. Sampoorna Gramin Rojgar Yojana (SGRY)- M/o Rural Development
8. Pradhan Mantri Gram Sadak Yojana (PMGSY)- M/o Rural Development
9. Technology Upgradation Fund Scheme (TUFS)- M/o Textiles
10. National Rural Employment Guarantee Act (NREGA)- M/o Rural Development
11. Affordable Housing- to be implemented by M/o Housing and Urban Poverty Alleviation (HUPA)

Kindly acknowledge the receipt of the letter.

Yours faithfully,

(K.N. BHAR)
UNDER SECRETARY



No. 437/6/INST/2009-CC&BE

Dated: 9th March, 2009

.Copy to :

1. The Chief Secretaries to the Governments of All States and Union Territories
-Speed Post
2. The Chief Electoral Officers of All States and Union Territories
- By Speed Post
3. All Recognized Political Parties - By Speed Post

(K. N. BHAR)
UNDER SECRETARY

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/2009/CC&BE

Dated : 24th March, 2009

To

The Chief Electoral Officer of
All States/Union Territories.

Sub: Permission for allotment of liquor vends/ finalization of wholesale liquor sale during the period of operation of the Model Code of Conduct- regarding.

Sir/Madam,

References are being received in the Commission from several States requesting for permission to make allotment of liquor vends in the State in view of the Model Code of Conduct in operation now. In some cases, applications inviting tenders are sought to be published and in some cases permission has been sought for initiating action and for allotment through various processes including draw of lots, etc.

Each State has enacted a separate State Excise law governing the allotment of liquor vends. From the references received in the Commission, it is observed that varying models exist in different States for the sale of liquor through the venders. In some States/UTs, the State Govt. itself sells liquor through the outlets of the State run corporation/undertaking. In some other States, a wholesale liquor supplier is selected through the tendering process who, in turn, supplies liquor to the retail venders who are selected on the basis of applications by the Excise Department. There are also States where liquor contracts are awarded either at the State level or at the district level directly to the liquor vendors through the system of tenders or by draw of lots on the price fixed by the Govt.

The contracts are annually awarded for the financial year. Some of the State Excise laws contain an enabling provision for extension by the Government of the contract for some period beyond the close of the financial year, whereas in some others, no such enabling provision is made in the existing law.

In view of the above position, the Commission has directed that the following procedure may be followed in the matter of allotment of liquor vendis, during the period of operation of the Model Code of Conduct:-

- (i) Where the extant Excise Laws of a State empower the State Govt. or the authorities thereunder to make an interim arrangement beyond the current financial year, pending regular arrangement, such interim arrangement may be made with the concerned contractors/vendors on the existing terms and conditions.
- (ii) Where no such enabling provision is available in the existing Excise Laws, the State Govt. may go ahead with the normal practice followed in the previous years strictly in accordance with the existing laws for the grant of new licences/contracts for the ensuing financial year.

Yours faithfully,


(K. AJAY KUMAR)
SECRETARY

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

File no 437/ 6/2009/CC&BE/

Dated: 25th March, 2009.

To

Chief Electoral Officers of all States and
Union Territories.

Subject:- General election to Lok-Sabha, 2009-Application of model code of
conduct- clarification regarding.

Sir,

It has been noticed that there is growing trend of Chief Electoral Officers simply passing on to the Commission whatever references they received from various departments in their States for clarification on the application of model code of conduct without examining the same in the light of various standard instructions/guidelines of the Commission already available with them in the matter. For further guidance, FAQs on MCC is also available in the Commission's website.

As a result innumerable references are pouring in, creating a situation whereby the officers and staff of Election Commission of India are fully engaged in dealing with such references without practically having no time to handle other important issues of the conduct of elections, making the Commission practically involving in day to day business of the State Government's departments of even the smallest taluka (unit) of the district administration.

The Commission, after careful consideration of the above growing tendency on the part of Chief Electoral Officers of simply passing on the references to the Commission for directions without application of mind and without examining the cases with all available instructions of the Commission, has directed that " henceforth Chief Electoral Officers should not send any references to the Commission in cases where there are clear-cut instructions of the Commission to deal with such cases. The Chief Electoral Officers should send to the Commission only such references where there is doubt and the issues not covered by the existing instructions of the Commission **along with their specific views and recommendations.**

Kindly acknowledge receipt and ensure compliance.

Yours faithfully,

(K. AJAYA KUMAR)
SECRETARY

INSTRUCTION SI. No.98**ELECTION COMMISSION OF INDIA**

Nirvachan Sadan, Ashoka Road, New Delhi-110001

File no 437/ 6/2009/CC&BE/

Dated: 25th March, 2009.

To

Chief Electoral Officers of all States and
Union Territories.Subject:- General election to Lok-Sabha, 2009-Application of model code of
conduct- clarification regarding.

Sir,

It has been noticed that there is growing trend of Chief Electoral Officers simply passing on to the Commission whatever references they received from various departments in their States for clarification on the application of model code of conduct without examining the same in the light of various standard instructions/guidelines of the Commission already available with them in the matter. For further guidance, FAQs on MCC is also available in the Commission's website. As a result innumerable references are pouring in, creating a situation whereby the officers and staff of Election Commission of India are fully engaged in dealing with such references without practically having no time to handle other important issues of the conduct of elections, making the Commission practically involving in day to day business of the State Government's departments of even the smallest taluka (unit) of the district administration. The Commission, after careful consideration of the above growing tendency on the part of Chief Electoral Officers of simply passing on the references to the Commission for directions without application of mind and without examining the cases with all available instructions of the Commission, has directed that " henceforth Chief Electoral Officers should not send any references to the Commission in cases where there are clear-cut instructions of the Commission to deal with such cases. The Chief Electoral Officers should send to the Commission only such references where there is doubt and the issues not covered by the existing instructions of the Commission **along with their specific views and recommendations.**

Kindly acknowledge receipt and ensure compliance.

Yours faithfully,

(K. AJAYA KUMAR)
SECRETARY

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By Fax/Speed post

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/INST/2008-CC&BE

Dated: 28th March, 2009

To

- 1) The Cabinet Secretary
Cabinet Secretariat
Rashtrapati Bhawan, New Delhi.
- 2) The Chief Secretaries of
All States and Union Territories
- 3) The Chief Electoral Officers of
All States and Union Territories

Sir/Madam,

I am directed to state that the Commission has decided to clarify that no calendars, pictures etc. having the photographs of the Prime Minister, Chief Ministers, Ministers and other political functionaries should be displayed anywhere in any of the Government / Public Buildings. Only the pictures of Mahatma Gandhi, the incumbent President of India and the incumbent Governor of the State concerned may continue to be displayed.

You are, therefore, requested to ensure that all such calendars / pictures should be removed from the building of the Government / Public Buildings **immediately**.

Yours faithfully



(K.N. BHAR)
UNDER SECRETARY

INSTRUCTION SI. No.99**ELECTION COMMISSION OF INDIA**

Nirvachan Sadan, Ashoka Road, New Delhi-110001.

No.437/6/INST/2008-CC&BE

Dated : 1st April, 2009.

To

1. The Cabinet Secretary,
Cabinet Secretariat,
Rashtrabhati Bhawan,
New Delhi.
2. The Chief Secretary to the Governments of
all States / Union Territories.
3. The Chief Electoral Officers of
all States / Union Territories.

Subject:- Display the photographs/calendars, etc. of national leaders and prominent personalities in the government offices/ premises – clarification regarding.
Sir,

I am directed to invite a reference to the Commission letter of even number dated 28th March, 2009, on the above subject, and to state that the underlying intention of the Commission's instruction was that the photographs and images of the political functionaries, who have deep influence on the minds of electors and many of whom are still active in public life and may even be contesting the current general elections, should not be displayed in the government buildings and premises as that would have the effect of disturbing the level playing field vis-à-vis the political functionaries of other parties and candidates. In view of the inputs received, the Commission had issued the above instructions. In the meanwhile, certain doubts have been raised and clarification has been sought about the removal of the images of some national leaders, poets and prominent historical personalities of the past. In this regard, the Commission would like to state that the abovementioned underlying purpose of the instruction needs to be fully appreciated while being acted upon. It is clarified that while the photographs of Prime Minister, Chief Ministers, Ministers and other political functionaries should not be displayed, this instruction, however, is not applicable with regard to the images of national leaders, poets, and prominent historical personalities of the past, and the President of India and the Governors. It is further clarified that in case of any doubt in this regard regarding removal of any photograph or images, the issue may be referred to the Chief Electoral Officer of the State/Union Territory concerned before taking action in the matter.

Yours faithfully,
(K. AJAY KUMAR) SECRETARY

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001.

No.437/6/COMP/2008-CC&BE

Dated : 2nd April, 2009.

To

The Cabinet Secretary,
Cabinet Secretariat,
Rashtrapati Bhawan,
New Delhi.

Subject:- Press Conferences of Ministers – regarding.

Sir,

I am directed to state that the Commission is aware of the normal practice of the Union Ministers addressing press conferences after meetings of the Council of Ministers or as and when any issue of public importance relating to the ministry concerned needs to be brought in public domain. Now that the Model Code of Conduct is in force throughout India in view of the current general elections to the Lok Sabha and the Legislative Assemblies of Andhra Pradesh, Orissa and Sikkim, the Commission would like to advise that such press conferences should be avoided, as far as possible, and the practice of issuing press releases may be resorted to in such cases. Where, however, the holding of a press conference becomes unavoidable in public interest, preferably an appropriate official may address the press conference.

The receipt of this letter may kindly be acknowledged and the action taken in the matter informed to the Commission urgently.

Yours faithfully,

(K. AJAY KUMAR)
SECRETARY

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ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi – 110001.

No. 437/RJ-HP/2009

Dated: 3rd April, 2009

To

The Chief Electoral Officer,
Rajasthan,
Jaipur


Subject:- Announcement of 'Dry Day' and ban on sale of Liquor – General Election, 2009 – regarding.

Sir,

I am directed to refer to your letter no. P.8(2)(19)Elec./2008/2435 dated 28/03/2009 on the subject cited and to state that the instructions of the Commission given in its letter no. 5/6/14/2009/EPS dated 23rd March, 2009 regarding Prohibition on sale of Liquor shall apply in the entire state.

(Send
Comm. time & day)

Yours faithfully,



(HARBANS SINGH)
UNDER SECRETARY

(57)

By FAX/CAMP BAG

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/INST/2008-CC&BE

Dated: 3rd April, 2009

To

The Chief Electoral Officers of
all States and Union Territories.

Subject: Model Code of Conduct – Compliance of the Commission's Instructions – reg.

Sir/Madam,

I am directed to state that when a Minister of State was asked by the Commission to explain his position with regards to the alleged violation of provisions of Model Code of Conduct and Commission's instructions on the subject of holding a public meeting in a government school building by the Minister.

From the reply of the Minister it was observed that the concerned authorities has given the permission for holding the above meeting, including the permission to use loud speakers, etc. in violation of the Commission's instructions and Model Code of Conduct.

The aforesaid event has been taken up by the Commission seriously, which shows that the Commission's instructions are not being followed up and implemented seriously by the concerned authorities.

In view of the above, the Commission directs that all the instructions issued by the Commission from time to time and during the current General Elections should be carefully read and strictly enforced by all the concerned authorities, so that the incidents of the above nature are not repeated in future.

Kindly acknowledge receipt and a copy of the instructions issued in this behalf should be endorsed to the Commission.

Yours faithfully,

(K. N. BHAR)
UNDER SECRETARY

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INSTRUCTION SI. No. 86

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.464/MT-HP/2009

Dated : 8th April, 2009

To

The Chief Secretary to the
Government of all States/Union Territories

The Chief Electoral Officers of
all States/ Union Territories

Subject :- Police briefing for Chief Minister and Home Minister- regarding

Sir,

Instances have come to the notice of the Commission that in some States there is a practice of routine daily briefing of the Chief Minister/Home Minister by the Director General of Police or Intelligence Wing of Police. A question has arisen whether such daily briefings in routine manner by the police officials to the Chief Minister should continue once the elections are announced.

2. The Commission has considered the matter. The Commission has reiterated that various directions/instructions issued by it relating to the code of conduct for officials are intended to ensure free and fair election and in no way should the same be taken as causing any obstruction to security arrangements of the State Government.

3. The Commission advises that security briefings of Chief Minister or Home Minister when considered essential, should be undertaken by the Home Secretary or the Chief Secretary who, in turn, should be briefed by the police agencies. In case where police agency's/official's presence is considered essential, the Chief Secretary/Home Secretary may require the police agency/official to be present.

4. The Commission has further directed that the Director General of Police, looking after election related work may be advised not to take press conference

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and if press briefing is considered necessary, it should be done by issuing press release, as far as possible.

5. Directions issued in this regard by you may be endorsed to the Commission.

Yours faithfully,

(STANDHOPE YUHLUNG)
SECRETARY

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/INST/2008-CC&BE

Dated: 13th April, 2009

To

- 1) The Cabinet Secretary
Cabinet Secretariat
Rashtrapati Bhawan, New Delhi.
- 2) Secretary to the
Government of India,
Ministry of Information & Broadcasting,
New Delhi.
- 3) The Chief Secretaries of
All States and Union Territories
- 4) The Chief Electoral Officers of
All States and Union Territories

Subject: Applicability of Model Code of Conduct - Display of advertisements and hoardings at the cost of public exchequer

Sir/Madam,

It has come to the notice of the Commission that a number of hoardings depicting the achievements of the party in power are being displayed by the Union and the States/UT Governments at the cost of public exchequer. Your attention is invited to sub-para (iv) of para VII - Party in Power- of the Model Code of Conduct for the Guidance of Political Parties and Candidates which is as under:-

The party in power whether at the Centre or in the States/UTs concerned, shall ensure that no cause is given for any complaint that it has used its official position for the purposes of its election campaign and in particular-(iv) Issue of advertisement at the cost of public exchequer in the newspapers and other media and the misuse of official mass media during the election period for partisan



coverage of political news and publicity regarding achievements with a view to furthering the prospects of the party in power shall be scrupulously avoided.'

With the announcement of the schedule of General Elections to Lok Sabha and to the Legislative Assemblies of various States on 2nd March, 2009, the Model Code of Conduct came into force immediately. The continuing display of such hoardings and advertisements at the cost of public exchequer, even if such Hoardings, advertisements or posters were displayed prior to the date of announcement of elections, constitutes a violation of the Model Code of Conduct as it provides an undue advantage to the party in power and has the effect of influencing the voters in favour of the party in power.

The Commission directs that all such hoardings, advertisements, etc. on display at the cost of Public exchequer shall be removed forthwith by the authorities concerned and a compliance report furnished to the Commission.

The Commission has also directed that no advertisements should be issued in the newspapers and other media including electronic media at the cost of public exchequer during the election period and the misuse of mass media during the election period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the party in power should be scrupulously avoided.

All Ministries/Departments/Offices of the Central Government and the State Governments may be informed of this directive of the Commission for immediate compliance.

The receipt of this letter may be acknowledged.

Yours faithfully

(K.N. BHAR)
UNDER SECRETARY

Copy to : All recognized National & State Political Parties.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 437/6/INST/2009/CC&BE

Dated :26th April, 2009

To

1. The Chief Secretaries of all States and UTs
2. The Chief Electoral Officers of all States and UTs

Subject:- General Election, 2009- Model Code of conduct- briefing of CM/HM by police officers-reg.

Ref : Commission's letter No. 464/MT-HP/2009 dated 8th April, 2009

Sir,

I am directed to state that the Commission has issued instructions to the effect that security briefings of Chief Minister or the Home Ministers when considered essential, should be undertaken by the Home Secretary or the Chief Secretary, who in turn should be briefed by the police agencies. The instructions further state that in case where police agency's/official's presence is considered essential, the Chief Secretary/Home Secretary may require the police agency/official to be present in such briefings.

2. The spirit behind the Commission's instruction is to safeguard a free, fair and transparent election and provide a level playing field to all political parties as also to ensure that there is no scope for public complaints that the political executive/government of the day is misusing the governmental machinery for political purposes. It is reiterated that these instructions should, however, not be construed as any restriction to any **security related activity** of the law and order enforcing agencies. Therefore, in situations where it is so warranted, the law and order enforcing agencies should not take the plea of ECI instructions for any inaction or delay in action to be taken by them. Whatever is required under the circumstances, including informing the political executives by the DGP and taking directions from them, should be undertaken by the police agencies in the bonafide performance of their duty or exercise of their authority.

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

Yours faithfully,

(K. AJAYA KUMAR)
SECRETARY

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

No. 437/6/INST/2009-CC&BE

Dated: 13th August, 2009

To

The Chief Electoral Officer,
Andhra Pradesh,
Hyderabad.

Sub: Application of Model Code of Conduct – Clarification on unfurling of National Flag on the Independence Day Celebration– regarding.

Sir,

With reference to your letter no. 3632/Elecs.B/A1/2009-1 dated 13.8.2009, I am directed to invite your attention to the Commission's letter of even number dated 13th August, 2009 forwarding therewith the Commission's instruction dated 23rd February, 2009 regarding celebration of various National Days, which clarifies your queries made in your letter referred to above.

However, it is clarified that in the District in which the Model Code of Conduct is in force, the function may be presided over and the National Flag may be unfurled by the Collector or some other Senior Officer (not by any political functionary). The Tableaus, if brought out on the occasion, should do not display the photographs or political message of any Minister/political dignitary and do not highlight the Government schemes / achievements, in the districts where the Model Code of Conduct is in force.

The receipt of the letter may kindly be acknowledged.

Yours faithfully,

(K. AJAYA KUMAR)
SECRETARY

Copy to :-

The Chief Electoral Officers of Bihar, Gujarat, Karnataka, Madhya Pradesh, Meghalaya, Sikkim, Tamil Nadu, Uttar Pradesh, Uttarakhand, West Bengal and NCT of Delhi.

- by Fax/E-Mail/Speed Post

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ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

No.464/TN-LA/(INST) /2011

Dated: 13th March 2011

To

- The Chief Electoral Officers of
1. Assam, Dispur
 2. West Bengal, Kolkata
 3. Kerala, Thiruvananthapuram
 4. Tamil Nadu, Chennai
 5. Pudducherry, Pudducherry

Subject: General Election to Legislative Assembly, 2011-violation of MCC-Regarding.

Sir/Madam,

I am directed to state that the Commission has directed that in case your office or DEO/RO has issued a show cause notice to a political party or party functionary for violation of Model Code of Conduct, more than 24 hours time should not be given to them to respond to notice. A copy of notice along with reply submitted by them should be forwarded to the Commission for taking a decision in the matter. No other officer should decide and close such cases.

Kindly acknowledge receipt.

Yours faithfully,

(SUMIT MUKHERJEE)
UNDER SECRETARY

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ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 464/INST /2011/EPS

Dated:23rd March, 2011

To

The Chief Electoral Officers of

1. Assam, Dispur
2. West Bengal, Kolkata
3. Kerala, Thiruvananthapuram
4. Tamil Nadu, Chennai
5. Puducherry, Puducherry

Subject:- General elections to the Legislative Assembly to Assam, West Bengal, Kerala, Tamil Nadu and Puducherry - permission to fly party flags of parties having alliance or seat sharing in the elections - reg.

Sir,

I am directed to say that during the recent visit of the Commission to Bihar, the Political Parties have requested the Commission that their candidates may be allowed to put on their campaign vehicles the flags of such political parties with whom they are having electoral alliance or seat sharing. The matter has been considered by the Commission. It has been decided that if any political party(ies) having electoral alliance or seat sharing, who apply(ies) with full details thereof, for the display on their campaign vehicles of the flags of such parties with whom they are having such alliance/seat sharing, they may be given such permission. The use of flags on the vehicles will however be subject to the provisions of the Motor Vehicles Act.

This should be brought to the notice of all concerned including all the political parties concerned.

Yours faithfully,

(SUMIT MUKHERJEE)
UNDER SECRETARY

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By Spl. Messenger/By Speed Post

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/INST/2011-CC&BE

Dated: 05th April, 2011.

To

- 1) The Cabinet Secretary
Cabinet Secretariat
Rashtrapati Bhawan, New Delhi.
- 2) The Chief Secretaries of
All States and Union Territories
- 3) The Chief Electoral Officers of
All States and Union Territories

Subject :- Model Code of Conduct for the guidelines of political parties and candidates in connection with Meeting of Municipalities— regarding.

Sir,

I am directed to state that a Writ Petition No. 4766(W) of 2011 (Shri Sujit Roy Vs the State of West Bengal & Others) was filed before the Hon'ble High Court of Calcutta seeking a declaration that no meeting of the Councilors of Kulti Municipality should be held during the period when Model Code of Conduct is in force.

The Hon'ble High Court, vide its order dated 11.03.2011, dismissed this Petition with the observation that the question would be for the Commission to decide and further directed that copy of the order be communicated to the Commission. Accordingly, a copy of the order of the Hon'ble High Court has been referred to the Commission.

The matter has been considered by the Commission. The Commission has decided that there would be no objection on its part to the holding of the statutory meetings, which cannot be avoided by the Municipalities and Panchayats



and other local bodies, subject to the condition that no new policy decisions and announcements shall be made in such meetings till the elections are over and only the decisions related to routine day-to-day management issues, and on emergency issues may be taken in such meetings.

This may be brought to the notice of all concerned.

Yours faithfully,

(DILIP K. VARMA)
UNDER SECRETARY

(65)

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/2011/CC&BE

Dated: 11th October, 2011

To

1. The Cabinet Secretary, Govt. of India
Cabinet Secretariat,
Rashtrapati Bhawan, New Delhi.
2. The Chief Secretaries of all States/UTs
3. The Chief Electoral Officers of all States/UTs

Subject:- General/Bye-elections to the Lok Sabha/State Legislative Assemblies/Councils-period of enforcement of Model Code of Conduct - regarding.

Sir,

I am directed to state that the Commission has decided as under :-

- (i) In the case of general elections to the Lok Sabha/State Legislative Assemblies, the Model Code of Conduct which comes into force on the date of announcement of election schedule by the Election Commission, will hereafter cease to be in operation once the *Due Constitution Notification* constituting the new House(s) concerned is issued by the Commission, irrespective of the date(s) before which the election is to be completed as mentioned in the election notifications;
- (ii) In the case of bye-elections to the Lok Sabha/State Legislative Assemblies, the Model Code of Conduct will cease to be in operation immediately after the formal declaration of the result of the bye-election by the Returning Officer concerned.
- (iii) In the case of all elections to the Legislative Councils of States, where the Model Code of Conduct is made applicable, it shall cease to be in operation on the declaration of result of election by the Returning Officer concerned.

This may be brought to the notice of all concerned.

Yours faithfully,

(K. AJAYA KUMAR)
PRINCIPAL SECRETARY

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By Fax/Speed post

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/INST/2011-CC&BE

Dated: 28th December, 2011

To

- 1) The Cabinet Secretary
Cabinet Secretariat
Rashtrapati Bhawan, New Delhi.
- 2) The Chief Secretaries of
All States and Union Territories
- 3) The Chief Electoral Officers of
All States and Union Territories

Subject: Celebration of Republic Day - attendance of political functionaries.

Sir/Madam,

I am directed to state that on the announcement of the General Elections to the Legislative Assemblies of the States of Goa, Manipur, Punjab, Uttar Pradesh and Uttarakhand, the provisions of Model Code of Conduct have come into force w.e.f. 24th December, 2011. As you are aware, the Republic Day is falling during the period of enforcement of Model Code of Conduct. Hence, the Commission has decided to reiterate its instructions issued vide its letter no. 437/6/98-PLN-III dated 10th January, 1998, as under :-

“References have been received from various States about the attendance of political functionaries in the celebration of Republic Day. The Commission has considered all the relevant factors in view of the ensuing General Elections to Lok Sabha and Legislative Assemblies and certain Bye-Elections. Commission has decided that there is no objection to Central Ministers/Chief Ministers/Ministers in the States to do the honours in the main Republic Day functions at various locations subject to the condition that in their speeches, they should confine themselves to extolling the achievements of the Martyrs in securing freedom of the country, glory of the Indian State and so on. Under no circumstances, they should become a platform for political campaign.

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In view of the fact that Republic Day celebrations will come during the election process and that the Central Ministers, Chief Ministers and Ministers in the States belong to political parties and alliances and may even be the candidates, the Commission, purely in the interest of ensuring a level playing field, directs that no Central Minister/Chief Minister/Minister or any other political functionary in the States/Ex-MPs shall do the honours at any Republic Day functions at any location within their home district or constituency or the constituency from where he or she is a contesting candidate or intends to contest.

The Commission, however, has no objection to organisation of Kavi Sammelan, Mushairas or other cultural functions organised in connection with the Republic Day celebrations and being attended by the Central Ministers, Chief Ministers, Ministers in the States and other political functionaries. However, utmost care should be taken to ensure that no political speeches are made on the occasion.

The Commission has further decided that investiture ceremonies at the National and State level and distribution of Tamra Patras to freedom fighters, etc. will be done according to the existing conventions.

The above instructions may be brought to the notice of all concerned for strict compliance."

Yours faithfully

(K.N. BHAR)
SECRETARY

(67)

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110 001.

No.464/INST/2012-EPS

Dated : 16.02.2012

To

The Chief Electoral Officers

Of all States/UTs

Subject:- Permission of parole to convicts in model code-reg.

Sir/Madam,

A letter has been received from CEO, Punjab asking whether Deputy Commissioners, DGP, Prisoners/ Principal Secretary Home be allowed to dispose off the applications regarding parole at their own level in case of extreme compassion, without reference to the CEOs office. The Commission considered the matter and has allowed for disposal of such cases by the state government without making reference to the Chief Electoral Officer, where poll is over.

Yours faithfully



SUMIT MUKHERJEE
(SECRETARY)

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By Fax/Spl. Messenger/Speed Post

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

No. 437/6/1/2012-CC&BE (MCC & MPLAD)

Dated: 24th April, 2012.

To

1. The Cabinet Secretary,
Government of India,
Rashtrapati Bhawan,
New Delhi.
2. The Secretary to the Government of India,
Department of Programme Implementation,
Sardar Patel Bhawan,
New Delhi.
3. The Chief Secretaries to the
Government of Andhra Pradesh, Goa, Jharkhand,
Kerala, Madhya Pradesh, Maharashtra, Tamil Nadu,
Tripura, Uttar Pradesh & West Bengal.
4. The Chief Electoral Officers of,
Andhra Pradesh, Goa, Jharkhand, Kerala,
Madhya Pradesh, Maharashtra, Tamil Nadu,
Tripura, Uttar Pradesh & West Bengal.

Subject:— Release of funds under MPs'/MLAs' Local Area Development Scheme.

Sir,

I am directed to refer to the Commission's Press Notes both dated 24th April, 2012 (available on the Commission's web-site :- "<http://eci.nic.in/>"), as per which the Commission has announced the operation of the Model Code of Conduct for the guidance of the Political Parties and Candidates.

2. The Commission has considered the release of funds under the Member of Parliament Local Area Development Schemes and has decided that-



- a) No fresh release of funds under the Member of Parliament (including Rajya Sabha members) Local Area Development fund shall be made in any part of the country where election is in progress. Similarly no fresh release of funds under the MLAs'/ MLCs' Local Area Development Fund shall be made, if any such scheme is in operation, till the completion of election process.
- b) No work shall start in respect of which work orders have been issued before the issue of this letter but the work has actually not started in the field. These works can start only after the completion of election process. However, if a work has actually started, that can continue.
- c) There shall be no bar to the release of payments for completed work(s) subject to the full satisfaction of the concerned officials.

Yours faithfully,

(K. AJAY KUMAR)
PRINCIPAL SECRETARY

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/INST/2012/CC&BE

Dated: 26th April, 2012

To

1. The Cabinet Secretary, Govt. of India
Cabinet Secretariat,
Rashtrapati Bhawan, New Delhi.
2. The Chief Secretaries of
 - a) Andhra Pradesh, Hyderabad
 - b) Goa, Panaji
 - c) Jharkhand, Ranchi
 - d) Kerala, Thiruvananthapuram
 - e) Madhya Pradesh, Bhopal
 - f) Maharashtra, Mumbai
 - g) Tamilnadu, Chennai
 - h) Tripura, Agartala
 - i) Uttar Pradesh, Lucknow
 - j) West Bengal, Kolkata
3. The Chief Electoral Officers of
 - a) Andhra Pradesh, Hyderabad
 - b) Goa, Panaji
 - c) Jharkhand, Ranchi
 - d) Kerala, Thiruvananthapuram
 - e) Madhya Pradesh, Bhopal
 - f) Maharashtra, Mumbai
 - g) Tamilnadu, Chennai
 - h) Tripura, Agartala
 - i) Uttar Pradesh, Lucknow
 - j) West Bengal, Kolkata

Subject:- Bye-elections to the Lok Sabha/State Legislative Assemblies - instructions on enforcement of Model Code of Conduct- - regarding.

Sir,

I am directed to state that the Commission has announced, vide Press Note dated 24th April, 2012, bye-elections from certain Parliamentary and Assembly Constituencies in various States. The Commission in that Press Note has issued instructions for enforcement of various provisions of the Model Code of Conduct in its entirety with the stipulation that such provisions of Model Code of Conduct will be enforceable in the district (s) in which the Assembly/Parliamentary Constituency is situated.

Many State Administrations have requested the Commission to reconsider the issue of enforcement of Model Code of Conduct in the entire district during bye-election as it



affects the developmental works in entire district, whereas only a part of the district may be involved in the election process.

The Commission, after taking into consideration all relevant factors in this regard, has decided, on experimental basis, that for the bye-elections announced vide Press Note, dated 24/4/2012, following instructions, in partial modification of the earlier instructions, shall be followed with regard to Model Code of Conduct: -

- (1) All instructions of the Commission issued regulating the implementation of the schemes of MNREGA, extending relief and starting works in case of Natural Calamities, Drought, Flood, Drinking Water, Digging of Bore-wells, Fodder, Agricultural inputs & input subsidies to farmers, New Developmental Work (whether beneficiary or work oriented) including work under MPLAD, MLA and MLC LAD Scheme, Announcement and commencement of New Projects, Programme, Concessions, Financial Grants, Defacement of Property, Use of Govt. Property for campaign purpose, etc. shall now be applicable only in respect of the areas falling in the Assembly constituency (s)/Parliamentary constituency going for bye-election and NOT TO the entire district (s) in which such constituency is situated.
- (2) However, all other existing instructions of the Commission on Model Code of Conduct on matters like Tours of Ministers, Vehicles, Advertisements, use of Govt. Guest Houses, and all prevailing Commission's instructions other than those mentioned in Para (1), transfers of officers etc. shall continue to remain applicable to the entire district (s) in which the constituency having the bye-election is situated.

This may be brought to the notice of all concerned.

Yours faithfully,

(K. N. BHAR)
SECRETARY

Copy to the President/General Secretaries of all recognised political parties.

ELECTION COMMISSION OF INDIA**Nirvachan Sadan, Ashoka Road, New Delhi-110001**

No. 3/1/2012-SDR

Dated: 27th July, 2012

To,

The Chief Electoral officers of
all States/ UTs
(*except Jammu & Kashmir*)

Sub:- Misuse of religious institutions for political purposes –regarding.

Sir/Madam,

The existing provisions of the Model Code of Conduct for the guidance of political parties and candidates prohibit the use of places of worship as forum for election propaganda in any manner.

Further, Sections 3, 5 & 6 of The Religious Institutions (Prevention of Misuse) Act, 1988 (No. 41 of 1988) prohibit use of religious institutions or funds of religious institutions for the promotion or propagation of any political ideas or political activity or for benefit of any political party. Contravention of the provisions of any of these Sections is punishable by imprisonment upto 5 years and with fine.

The Commission desires that the above provisions of the existing law may be brought to the notice of all DEOs and ROs so as to ensure that any violation of these provisions during election is dealt with firmly and FIRs/ complaints are lodged under relevant provisions in the event of any offence under the said Sections of the Religious Institutions (Prevention of Misuse) Act, 1988.

07

A copy of the above mentioned Act (No. 41 of 1988) is enclosed herewith. DEOs, ROs and other election authorities should be instructed to ensure strict observance of the above provisions of law. This may also be circulated to all political parties based in your State/ UT, including State units of the political parties for their information.

Kindly acknowledge receipt.

Yours faithfully,

(Ashish Chakraborty)
Secretary

Copy to: The President/General Secretary of all recognized National and State parties (As per list attached).

रजिस्ट्री सं० डी (डीएन) 127/88

REGISTERED NO. D(DN) 127/88



सत्यमेव जयते
भारत का राजपत्र
The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड I

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 57] नई दिल्ली, शुक्रवार, सितम्बर, 2, 1988/भाद्र 11, 1910
No. 57] NEW DELHI, FRIDAY, SEPTEMBER 2, 1988/BHADRA 11, 1910

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 2nd September, 1988/Bhadra 11, 1910 (Saka)

The following Act of Parliament received the assent of the President on the 1st September, 1988, and is hereby published for general information :-

THE RELIGIOUS INSTITUTIONS (PREVENTION OF MISUSE) ACT, 1988

No. 41 OF 1988

[1st September, 1988.]

An Act to prevent the misuse of religious institutions for political and other purposes.

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:-

1. (1) This Act may be called the Religious Institutions (Prevention of Misuse) Act, 1988.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 26th day of May, 1988.

2. In this Act, unless the context otherwise requires,-

54 of 1959.

(a) "ammunition" shall have the same meaning as in clause (b) of sub-section (1) of section 2 of the Arms Act, 1959.

Short title, extent and commencement.

Definitions.

(b) "arms" shall have the same meaning as in clause (c) of sub-section (1) of section 2 of the Arms Act, 1959.

(c) "manager", in relation to a religious institution, means every person, including any religious functionary (by whatever name called), who, for the time being, either alone or in association with other persons, administers, manages or otherwise controls the affairs of that institution, its functions or properties.

(d) "political activity" includes any activity promoting or propagating the aims or objects of a political party or any cause, issue or question of a political nature by organising meetings, demonstrations, processions, collection or disbursement of funds, or by the issue of resolutions or decrees, or by any other means, and includes also such activity by or on behalf of a person seeking election as a candidate for any election to Parliament, any State Legislature or any local authority.

(e) "political party" means an association or body of persons-
(i) which is, or is deemed to be, registered, with the Election Commission of India as a political party under the Election Symbols (Reservation and Allotment) Order, 1968, as in force for the time being. or

(ii) which has set up candidates for election to any legislature, but is not registered, or deemed to be registered, as a political party, under the Election Symbols (Reservation and Allotment) Order, 1968. or

(iii) organised to carry on any political activity or to acquire or exercise political power through election or otherwise.

(f) "religious institution" means an institution for the promotion of any religion or persuasion, and includes any place or premises used as a place of public religious worship, by whatever name or designation known.

Prohibition
of use of
religious
institutions
for certain
purposes,

3. No religious institution or manager thereof shall use or allow the use of any premises belonging to, or under the control of, the institution-

(a) for the promotion or propagation of any political activity. or

(b) for the harbouring of any person accused or convicted of an offence under any law for the time being in force; or

(c) for the storing of any arms or ammunition. or

(d) for keeping any goods or articles in contravention of any law for the time being in force. or

(e) for erecting or putting up of any construction or fortification, including basements, bunkers, towers or walls without a valid licence or permission under any law for the time being in force; or

(f) for the carrying on of any unlawful or subversive act prohibited under any law for the time being in force or in contravention of any order made by any court. or

(g) for the doing of any act which promotes or attempts to promote disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities. or

(h) for the carrying on of any activity prejudicial to the sovereignty, unity and integrity of India. or

69 of 1971.

(i) for the doing of any act in contravention of the provisions of the Prevention of Insults to National Honour Act, 1971.

4. No religious institution or manager thereof shall allow the entry of any arms or ammunition or of any person carrying any arms or ammunition into the religious institution :

Provided that nothing in this section shall apply to-

(a) the wearing and carrying of a kirpan by any person professing the Sikh religion. or

(b) any arms which are used as part of any religious ceremony or ritual of the institution as established by custom or usage.

5. No religious institution or manager thereof shall use or allow the use of any funds or other properties belonging to, or under the control of, the institution for the benefit of any political party or for the purpose of any political activity or for the commission of any act which is punishable as an offence under any law.

6. No religious institution or manager thereof shall allow any ceremony, festival, congregation, procession or assembly organised or held under its auspices to be used for any political activity.

7. Where any religious institution or manager thereof contravenes the provisions of section 3, section 4, section 5 or section 6, the manager and every person connected with such contravention shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to ten thousand rupees.

8. (1) Any manager or other employee of a religious institution shall, upon conviction for an offence under this Act, stand removed from his office or post and shall, notwithstanding anything to the contrary contained in any other law, be disqualified for appointment in any religious institution as manager or in any other capacity for a period of six years from the date of his conviction.

(2) Where any manager or other employee of a religious institution is accused of an offence under this Act and a charge-sheet for the prosecution of such person is filed in any court and the court is of the opinion, after considering the charge-sheet and after hearing the prosecution and the accused, that a prima facie case exists, it shall pass an order or direction restraining the person from exercising the powers or discharging the duties of his office or post pending trial.

(3) Where any manager or other employee has been removed under sub-section (1), or restrained under sub-section (2), the vacancy arising out of such removal or restraint may be filled in the manner provided in the law applicable to the said religious institution.

Restrictions on carrying arms and ammunition into a religious institution.

Prohibition of use of funds of religious institutions for certain activities.
Prohibition of religious fora for propagating political ideas.
Penalties.

Disqualification of persons convicted or charge-sheeted under this Act.

Certain persons bound to give information to police.

9. Every manager or other employee of a religious institution shall be bound to give information to the officer incharge of the police station within whose local jurisdiction the religious institution is situated of any contravention or any impending contravention of the provisions of this Act and any failure to do so shall be punishable under section 176 of the Indian Penal Code.

45 of 1860

Repeal and saving.

10. (1) The Religious Institution (Prevention of Misuse) Ordinance, 1988 is hereby repealed.

Ord.
3 of 1988

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

S. RAMAIAH,
Secy. to the Govt. of India.

By Speed Post

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110 001

No. 100/CS-MT/1/2012-CC&BE

Dated:24th January, 2013

To

The Chief Electoral Officer,
Maharashtra,
Mumbai.

Subject: - Bye -election to the Council of States from Maharashtra – Declaration of 'Dry Day' - regarding.

Sir,

Kindly refer to your letter No. Bye(Council of State)-2012/CR.282(1)/12/33, dated 27th December, 2012, on the subject cited above, wherein you have sought a clarification from the Commission whether under Section 135 of the Representation of the People Act, 1951, it is required to issue orders to the concerned authorities about declaration of 'Dry Day' for the aforesaid election. I am directed to clarify that under Section 29 of the Representation of the People Act, 1951 read with Rule 69 of the Conduct of Election Rules, 1961, a place of poll is fixed for conducting poll in respect of election to the Council of States and the State Legislative Councils by MLAs. As per Section 135C, "dry day" is to be declared in Polling Areas and polling area is defined in Section 25 of the Representation of the People Act, 1951, which is applicable to elections from Constituencies i.e. for elections to Lok Sabha, Legislative Assemblies and elections to Legislative Councils from Graduates', Teachers' and Local Authorities' Constituencies. These do not apply to elections to Council of States and Legislative Council by MLAs where there are no constituencies.

As such provisions of Section 135C of the Representation of the People Act, 1951 are not applicable in elections to the Council of States and Legislative Councils by MLAs, and therefore, declaration of 'Dry Day' for election to the Council of States or Legislative Councils by MLAs is not required.

Yours faithfully,


(DILIP K. VARMA)
UNDER SECRETARY

Copy to the Chief Electoral Officers of all States (except Maharashtra) and NCT of Delhi & UT of Puducherry.

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By Special Messenger/Speed Post

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

No. 437/6/INST/2013-CC&BE

Dated: 25th June, 2013

1. The Cabinet Secretary,
Government of India,
Rashtrapati Bhawan,
New Delhi.
2. The Chief Secretaries to
All States and Union Territories.
3. The Chief Electoral Officers of
All States and Union Territories.

137-437/6/13
25/6/13

Subject:- Model Code of Conduct- Publication of advertisements by Central/State Governments during bye-elections to Lok Sabha/State Legislative Assembly -regarding.

Sir/Madam,

As you are aware, the Model Code of Conduct applies in the entire country in the case of a Lok Sabha general election and in the State concerned during a general election to the Legislative Assembly of any State. In the case of bye-elections, the applicability of the Model Code of Conduct is restricted to the area of the Constituencies going to poll except certain provisions such as tours of Ministers, Advertisements, use of Govt. Guest Houses, transfer of officers, etc., which apply in the entire district in which the bye-election constituency falls (Please refer to the Commission's letter No. 437/6/INST/2012/CC&BE, dated 26-4-2012).

2. It is seen that the Governments, both at the Center and in the States, publish advertisements of various kinds, including advertisements on the accomplishments and achievements. Such advertisements are often released on special occasions such as Republic Day, Independence Day, Birthdays of prominent leaders, anniversary of Govt. etc. On occasions, there would be bye-elections in progress when such advertisements are published, and the issue of Model Code of Conduct comes into question then. It is not technically possible to block such advertisements, especially in the print media, in the specific areas covered under Model Code of Conduct during bye-elections while publishing it in the other places.

3. The Commission has considered this issue. Taking into account all aspects of the matter, the Commission has directed that the release/publishing of advertisements at the cost of public exchequer during the period of operation of Model Code of Conduct in connection with bye-elections will be regulated as follows:-

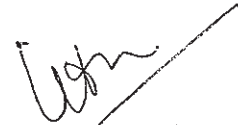
(i) Advertisement of general nature in connection with specific occasions of importance may be published. However, such publishing shall be restricted to the dates coinciding with the special occasion only, and it shall not be published on other days. The advertisement shall not bear photographs of any Minister and other political functionaries.

(ii) No advertisement having any specific/pointed reference or connotation to the areas covered by the bye-election constituencies shall be released/published on any date during the period.

4. It may be noted that these instructions apply only in relation to bye-elections. At general elections, the prohibition on advertisements at the cost of public exchequer shall continue to be strictly enforced.

5. These guidelines may be taken note of and also brought to the notice of all authorities concerned for compliance in future.

Yours faithfully,



(K. Ajaya Kumar)
Principal Secretary

**DEFACEMENT OF
PROPERTY/USE OF
LOUDSPEAKERS**

ITEM NO. 73

Election Commission's letter No.3/8/2005/JS-II, dated 26.09.2005 addressed to the Chief Secretaries/Chief Electoral Officers of all States and Union Territories

Subject: Use of Loudspeakers for election campaigns - regarding.


In pursuance of the Hon'ble Supreme Court's Orders dated 18-7-2005 in W.P. (C) No.72 of 1998 (Forum. Prevention of Environment and Sound Pollution Vs. UOI & Anr.), I am directed to state that para 3(I) of the Commission's instructions circulated in its letter No.3/8/2000/JS-II, dated 26th December, 2000, regarding use of loudspeakers for election campaign (reproduced at item No.95 of the Compendium of Instructions, 2004 edition)[now reproduced at item No.179 of the Compendium of Instructions, 2005], shall be substituted as under:-

"3(i) A public address system or loudspeaker or any sound amplifier, whether fitted on vehicles of any kind whatsoever, or in static position, used for public meetings for electioneering purposes, shall not be used at night between 10.00 p.m. and 6.00 a.m."

2. The above changes may be brought to the notice of the District Election Officers, Returning Officers and all other election related authorities for information and compliance. All national State Parties and recognized state parties may be informed about the abovementioned directions for compliance. In the case of Bihar where general election to the Legislative Assembly is now in progress, these instructions should be brought to the notice of all candidates, as well.

3. Kindly acknowledge receipt of this letter

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 सत्यमेव जयते	राजस्थान राज-पत्र विशेषांक	RAJASTHAN GAZETTE Extraordinary
	साधिकार प्रकाशित	Published by Authority
वैशाख 13, बुधवार, शके 1928-मई 3, 2006 Vaisakha 13, Wednesday, Saka 1928-May 3, 2006		

भाग 4 (क)
राजस्थान विधान मंडल के अधिनियम।

विधि (विधायी प्रारूपण) विभाग
(गुप-2)

अधिसूचना

जयपुर, मई 3, 2006

संख्या प.2 (7) विधि/2/2006-राजस्थान राज्य विधान-मण्डल का निम्नांकित अधिनियम, जिसे राष्ट्रपति महोदय की अनुमति दिनांक 25 अप्रैल, 2006 को प्राप्त हुई, एतद्वारा सर्वसाधारण की सूचनार्थ प्रकाशित किया जाता है :-

राजस्थान सम्पत्ति विरूपण निवारण अधिनियम, 2006
(2006 का अधिनियम सं. 13)

(राष्ट्रपति महोदय की अनुमति दिनांक 25 अप्रैल, 2006 को प्राप्त हुई)

सम्पत्ति के विरूपण के निवारण के लिए और उससे संसक्त या उसके आनुषंगिक विषयों के लिए उपबंध करने हेतु अधिनियम।

भारत गणराज्य के सत्तावनवें वर्ष में राजस्थान राज्य विधान-मण्डल निम्नलिखित अधिनियम बनाता है:-

1. संक्षिप्त नाम, प्रसार और प्रारम्भ- (1) इस अधिनियम का नाम राजस्थान सम्पत्ति विरूपण निवारण अधिनियम, 2006 है।

(2) इसका प्रसार राजस्थान राज्य के नगरपालिक क्षेत्रों में होगा।

(3) यह 17 जनवरी, 2006 को और से प्रवृत्त हुआ समझा जायेगा।

2. परिभाषाएं- इस अधिनियम में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो,-

(क) "विरूपण" के अन्तर्गत स्वरूप या सौन्दर्य का ह्रास करना या उसमें हस्तक्षेप करना, जिस किसी भी प्रकार से नुकसान



17(2)

राजस्थान राज-पत्र नं. 3 2006

भाग (ग)

विरूपित करना, अर्थात् न्यूनतम अनुसार किया जायेगा।
(ख) नगरपालिका क्षेत्र और नगरपालिका का कोई भी अधिनियम, जो उक्त राजस्थान नगरपालिका अधिनियम, 1959 का अधिनियम सं. 38) में समनुदिष्ट किया गया है:

(ग) "सम्पत्ति" के अन्तर्गत कोई भी भवन, झोपड़ी, मूर्ति, जल पाइप लाइन, लोक सड़क, संरचना, प्रांगणभित्ति सहित दीवार, पेड़, बाड़, खम्भा, बल्ली या कोई भी अन्य परिनिर्माण है जो राज्य सरकार द्वारा समय-समय पर अधिसूचित किया जाये:

(घ) "लोक स्थान" से (सड़क, गली या मार्ग, जो चाहे आम रास्ता हो या नही, और किसी उतराई के स्थान को सम्मिलित करते हुए) कोई भी ऐसा स्थान अभिप्रेत है, जिस पर जनता की पहुंच है या आश्रय लेने का अधिकार है या जिस पर से उसे गुजरने का अधिकार है:

(ङ) "लोक दृश्य" से ऐसी कोई भी वस्तु अभिप्रेत है जो जनता को उसके किसी भी लोक स्थान पर रहते या उससे गुजरते समय दृश्यमान हो; और

(च) "लेखन" के अन्तर्गत स्टेंसिल द्वारा किया गया अलंकरण, अक्षरांकन, सजावट इत्यादि है।

3. सम्पत्ति के विरूपण के लिए शास्ति.—(1) जो कोई भी किसी भी लोक दृष्टान्तर्गत आने वाली किसी भी सम्पत्ति को विरूपित करके या उस पर थूक कर या पेशाब करके, या पेंसिलेट, पोस्टर इत्यादि चिपका करके या ऐसी सम्पत्ति के स्वामी या अधिमोगी का नाम और पता उपदर्शित करने के प्रयोजन के सिवाय स्याही, चाक, रंग या किसी भी अन्य सामग्री या रीति से लिखकर या चिह्नित करके विरूपित करता है, यह प्रथम अपराध की दशा में ऐसी अवधि के कारावास से, जो एक मास तक की हो सकेगी या ऐसे जुर्माने से, जो एक सौ रुपये से कम का नहीं होगा किन्तु जो एक हजार रुपये तक का हो सकेगा, या दोनों से और प्रत्येक पश्चात्पर्वी अपराध की दशा में ऐसी अवधि के कारावास से, जो एक मास तक की हो सकेगी या ऐसे जुर्माने से, जो दो सौ रुपये से कम का नहीं होगा किन्तु जो दो हजार रुपये तक का हो सकेगा, या दोनों से, दण्डनीय होगा।

(2) जहां उप-धारा (1) के अधीन किया गया कोई भी अपराध किसी अन्य व्यक्ति या किसी कंपनी या अन्य निगमित निकाय या व्यक्तियों के किसी संगम (चाहे वह निगमित हो या नहीं) के फायदे के लिए है वहां ऐसा अन्य व्यक्ति और प्रत्येक अध्यक्ष, सभापति, निदेशक, भागीदार, प्रबन्धक, सचिव, एजेंट या, यथास्थिति, उसके प्रबंध नण्डल से संबन्धित कोई भी अन्य अधिकारी या व्यक्ति, जब तक कि वह यह साबित नहीं कर दे कि अपराध उसकी जानकारी या सम्मति के बिना किया गया था, ऐसे अपराध का दोषी समझा जायेगा।

4. अपराध करने के प्रयत्न के लिए दण्ड.—जो कोई भी इस अधिनियम के अधीन दण्डनीय कोई भी अपराध करने का प्रयत्न करता है या ऐसा अपराध कारित करवाता है और ऐसे प्रयत्न में अपराध के किये जाने के लिए कोई भी कार्य करता है, वह उस अपराध के लिए उपबंधित दण्ड से दण्डनीय होगा।

5. दुष्प्रेरक के लिए दण्ड.—कोई भी व्यक्ति, जो धन की पूर्ति या याचना करके परिसर उपलब्ध करवाकर, सामग्री का प्रदाय करके या जिस किसी भी रीति से इस अधिनियम के अधीन किसी भी अपराध के किये जाने को संपाप्त करता है, उसमें परामर्श देता है, सहायक होता है, दुष्प्रेरित करता है या सम्साधक होता है वह उस अपराध के लिए उपबंधित दण्ड से दण्डित किया जायेगा।

6. अपराध का संज्ञेय होना.—इस अधिनियम के अधीन दण्डनीय अपराध संज्ञेय होगा।

7. लेखन आदि को मिटाने की शक्ति.—धारा 3 के उपबंधों पर प्रतिकूल प्रभाव डालने बिना, नगरपालिका या उसके द्वारा इस निमित्त प्राधिकृत कोई भी अधिकारी ऐसे कदम उठाने के लिए सक्षम होगा जो किसी भी सम्पत्ति से कोई भी लेखन मिटाने, उसे विरूपण मुक्त करने या कोई भी चिह्न हटाने के लिए आवश्यक हों।

8. अपराध का शमन करने की शक्ति.—नगरपालिका या उसके द्वारा इस निमित्त प्राधिकृत कोई भी अधिकारी इस अधिनियम के अधीन ऐसे

निबंधनों और शर्तों पर जो विहित की जायें, किसी भी अभियोजन को प्रत्याहृत करने या किये गये किसी भी अपराध का शमन करने के लिए सक्षम होगा।

9. संरक्षण.—सरकार, किसी भी स्थानीय प्राधिकारी या व्यक्ति के विरुद्ध ऐसी किसी भी बात के लिए कोई भी वाद, अभियोजन या अन्य विधिक कार्यवाही नहीं हो सकेगी जो इस अधिनियम के अधीन सद्भावपूर्वक या लोकहित में की गयी या की जाने के लिए आशयित है।

10. अधिनियम का अन्य विधियों पर अध्यारोही होना.—इस अधिनियम के उपबंध तत्समय प्रवृत्त किसी भी अन्य विधि में अन्तर्विष्ट किसी प्रतिकूल बात के होने पर भी प्रभावी होंगे।

11. नियम बनाने की शक्ति.—(1) राज्य सरकार इस अधिनियम के उपबंधों को कार्यान्वित करने के लिए, राज-पत्र में अधिसूचना द्वारा, नियम बना सकेगी।

(2) इस अधिनियम के अधीन बनाये गये समस्त नियम, उनके इस प्रकार बनाये जाने के पश्चात्, यथाशक्य शीघ्र, राज्य विधान-मण्डल के सदन के सनक्ष, जब वह सत्र में हो, चौदह दिन से अन्यून की कालावधि के लिए, जो एक सत्र में या दो उत्तरोत्तर सत्रों में समाविष्ट हो सकेगी, रखे जायेंगे और यदि, उस सत्र की, जिसमें वे इस प्रकार रखे गये हैं या ठीक अगले सत्र की समाप्ति के पूर्व राज्य विधान-मण्डल का सदन ऐसे किन्हीं भी नियमों में कोई भी उपान्तरण करता है या यह संकल्प करता है कि ऐसे कोई नियम नहीं बनाये जाने चाहिए तो तत्पश्चात् ऐसे नियम केवल ऐसे उपान्तरित रूप में प्रभावी होंगे या, यथास्थिति, उनका कोई प्रभाव नहीं होगा, तथापि, ऐसा कोई भी उपान्तरण या बातिलकरण उनके अधीन पूर्व में की गयी किसी बात की विधिमान्यता पर कोई प्रतिकूल प्रभाव नहीं डालेगा।

12. निरसन और व्यावृत्तियाँ.—(1) राजस्थान सम्पत्ति विरूपण निवारण अध्यादेश, 2006 (2006 का अध्यादेश सं. 2) इसके द्वारा निरसित किया जाता है।

भाग 4(क)

राजस्थान राज-पत्र, मई 3, 2006,

17(5)

(2) एंस निरसन क होने पर भी, उक्त अध्यादेश क अधीन की गयी समस्त बातें, कार्रवाइयां या किये गये आदेश इस अधिनियम क अधीन किये गये समझे जायेंगे।

गुमान सिंह,
शासन सचिव

**LAW (LEGISLATIVE DRAFTING) DEPARTMENT
(GROUP-II)**

NOTIFICATION

Jaipur, May 3, 2006

No. F.2(7) Vidhi-2/2006.— In pursuance of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to authorise the publication in the Rajasthan Gazette of the following translation in the English language of the Rajasthan Sampatti Viroopan Nivaran Adhiniyam, 2006 (2006 Ka Adhiniyam Sankhyank 13):—

(Authorised English Translation)

**THE RAJASTHAN PREVENTION OF DEFACEMENT OF
PROPERTY ACT, 2006**

(Act No. 13 of 2006)

[Received the assent of the President on the 25th day of April, 2006]

*An
Act*

to provide for the prevention of defacement of property and for matters connected therewith or incidental thereto.

Be it enacted by the Rajasthan State Legislature in the Fifty-seventh Year of the Republic of India, as follows:—

1. **Short title, extent and commencement.**— (1) This Act may be called the Rajasthan Prevention of Defacement of Property Act, 2006.

(2) It shall extend to the municipal areas of the State of Rajasthan.

17(6)

राजस्थान राज-पत्र, मई 3, 2006

भाग 4(क)

(3) It shall be deemed to have come into force on and from 17th January, 2006.

2 Definitions.-In this Act, unless the context otherwise requires,

- (a) "defacement" includes impairing or interfering with the appearance or beauty, damaging, disfiguring, spoiling or injuring in any way whatsoever and the word "deface" shall be construed accordingly;
- (b) "municipal area" and "municipality" shall have the same meanings as assigned to them in the Rajasthan Municipalities Act, 1959 (Act No. 38 of 1959);
- (c) "property" includes any building, hut, monument, statue, water pipe line, public road, structure, wall including compound wall, tree, fence, post, pole or any other erection as may be notified by the State Government from time to time;
- (d) "public place" means any place (including a road, street or way whether a thoroughfare or not and a landing place) to which the public are granted access or have a right to resort or over which they have a right to pass;
- (e) "public view" means anything which is visible to public while they are in or passing along any public place; and
- (f) "writing" includes decoration, lettering, ornamentation, etc., produced by stencil.

3. Penalty for defacement of property.—(1) Whoever defaces any property in public view by defacing or spitting or urinating or pasting pamphlets, posters etc. or writing or marking with ink, chalk, paint or any other material or method except for the purpose of indicating the name and address of the owner or occupier of such property, shall be punishable, in case of first offence, with imprisonment for a term which may extend to one month or with fine which shall not be less than one hundred rupees but which may extend to one thousand rupees or with both, and in

case of each subsequent offence, with imprisonment for a term which may extend to one month or with fine which shall not be less than two hundred rupees but which may extend to two thousand rupees or with both.

(2) Where any offence committed under sub-section (1) is for the benefit of some other person or a company or other body corporate or an association of persons (whether incorporated or not) then, such other person and every President, Chairman, Director, Partner, Manager, Secretary, Agent or any other officer or person concerned with the management thereof, as the case may be, shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

4. Punishment for attempt to commit offence.—Whoever attempts to commit any offence punishable under this Act or causes such offence to be committed and in such attempt does any act towards the commission of the offence, shall be punishable with the punishment provided for the offence.

5. Punishment for abettor.—Any person who by the supply of or solicitation for money, the providing of premises, the supply of materials or in any manner whatsoever, procures, counsels, aids, abets, or is accessory to, the commission of any offence under this Act shall be punished with the punishment provided for the offence.

6. Offence to be cognizable.—An offence punishable under this Act shall be cognizable.

7. Power to erase writing etc.—Without prejudice to the provisions of section 3, it shall be competent for the municipality or any officer authorised by it in this behalf, to take such steps as may be necessary for erasing any writing, freeing any defacement or removing any mark from any property.

8. Power to compound offence.—It shall be competent for the municipality or any officer authorised by it in this behalf to withdraw any prosecution, or to compound any offence committed under this Act on such terms and conditions as may be prescribed.

9. Indemnity.—No suit, prosecution or other legal proceedings shall lie against the Government, any local authority or person for anything which is in good faith or in public interest done or intended to be done under this Act.

10. Act to override other laws.—The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

11. Power to make rules.—(1) The State Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) All rules made under this Act shall be laid, as soon as may be, after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

12. Repeal and savings.—(1) The Rajasthan Prevention of Defacement of Property Ordinance, 2006 (Ordinance No. 2 of 2006) is hereby repealed.

(2) Notwithstanding such repeal, all things done, actions taken or orders made under the said Ordinance shall be deemed to have been done, taken or made under this Act.

गुमान सिंह,

Secretary to the Government.

Government Central Press, Jaipur

ITEM - 75

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 3/7/2007/JS-II

Dated: 16th October, 2007

To

1. **The Secretary to the
Government of India
Ministry of Home Affairs
New Delhi-110001.**
2. **The Chief Secretaries of
All States and Union Territories.**
3. **The Chief Electoral Officers of
All States and Union Territories.**

**Sub: Prevention of defacement of property - Election campaign by
political parties and candidates - Instructions.**

Sir,

I am directed to invite a reference to the Commission's letter No. 3/7/2007/JS-II, dated 8th March 2007, on the subject cited. Certain clarifications have been sought in this matter. After considering the relevant aspects, the Commission has issued the following consolidated instructions in modification of the existing instructions in the matter:

PUBLIC PLACES

2. (a) No wall writing, pasting of posters/papers or defacement in any other form, or erecting/displaying of cutouts, hoardings, banners etc. shall be permitted on any public property/public premises.

(b) However, if the local laws permit or provide for writing of slogans, displaying posters, etc., or erecting cut-outs, hoardings, banners, political advertisement, etc., in any public place specifically identified for such purposes, on payment or otherwise, this may be allowed strictly in accordance with the relevant provisions of the law and subject to any Court orders. 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) Further, the space provided for this purpose should not be expanded or reduced after announcement of any election.

PRIVATE PLACES

3. (a) If the local laws do not permit wall writing, pasting of posters, hoardings/banners/cutouts for political advertisement etc. on private places, the same shall not be permitted even with the consent of the owner of the property.

(b) Subject to any restrictions under any local laws, the political parties, candidates, their agents, workers and supporters may hoist one party flag showing their election symbol on their own property, provided they do so on their own volition, voluntarily and without any pressure from any party, organization or person. Under this provision, no cut-outs or hoardings or banners of the nature of political advertisement shall be allowed on any private property.

(c) Where the local laws permit 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 written permission from the owner of the property and submit photocopies of the same to the Returning Officer or an officer designated by him for the purpose, together with a statement in the enclosed proforma showing 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 by him for the purpose. Further, nothing inflammatory or inciting disaffection amongst communities shall be permissible in such writings. The expenditure incurred on these wall writings etc shall be added to the election expenditure made by the candidate. 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.

4. 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).

5. In so far as vehicles are concerned no poster, flag or any other kind of campaign material shall be displayed on vehicles except in the case of vehicles used in election campaigning and for which permit has been granted to the candidates and the permit in original is displayed on the windshield of the vehicle.

6. Under no circumstances, any vehicle should ply with external modification and fittings including loudspeakers, in contravention of the Motor Vehicles Act and the Rules.

7. 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, for information and compliance.

8. The receipt of this letter may please be acknowledged. The Chief Electoral Officers may kindly confirm that action as required above has been taken.

Yours faithfully,

(K. F. WILFRED)
SECRETARY

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 _____

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.)
		Total	

INSTRUCTION SI. No. 61

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-1). 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 be 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-2). 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).

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 unrecognized parties based in the State, and also the contesting candidates (at the time of elections) for information and compliance.

5. Please acknowledge receipt of this letter. The Chief Electoral Officers may kindly confirm that action as required above has been taken.

Annexure-1**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 State. 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.
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.
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 the entire State.
23	Pondicherry	The Pondicherry Open Places (Prevention of Disfigurement) Act, 2000.	It extends to whole of the Union Territory of the Pondicherry.

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.)
			Total

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ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi- 110001

No.3/7/2008/J.S.-II/SDR/364

Dated: 4th November, 2008.

To

The Chief Electoral Officers
Rajasthan,
Jaipur,

Subject: Instructions on defacement of property-provisions in the State Law -
regarding.

Sir,

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 edited above.

The Commission has directed in the abovementioned Circular letter that for any defacement of property in connection with election campaign, the provisions in the Law applicable in the state would apply in the first place. In the State of Rajasthan, there is a law governing defacement of property in Municipal areas (The Rajasthan Prevention of Defacement of Property Act, 2006). This law is applicable in the municipal areas in the State, and not in other areas. Under this law, defacement of any property in public view, or pasting of posters, pamphlets, writing, marking, etc. is prohibited.

'Property' referred to in the Act includes any building, hut, wall, tree, fence, post, pole or any other creation notified by the state Government "Public view" is defined in the Act as anything that is visible from a public place. Thus, this Act would also cover any property that can be seen from a public place.

Therefore, any defacement of property in municipal areas is prohibited. In other areas, where there is no specific law on the subject, as per the Commission's instructions, temporary and easily removable material such as flags, banners can be displayed in private property, with the voluntary written permission of the owner/occupant of the property. However, there should not be any permanent/semi - permanent defacement such as wall writing, pasting of posters, etc.

This may be brought to the notice of all concerned.

Yours faithfully,

(K.F. WILFRED)
SECRETARY

INSTRUCTION SI. No. 62

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.

Sub:- 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.

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By Fax/Speed Post/Camp Bag(5 States)

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/INST/2012-CC&BE

Dated: 18th January, 2012

To

- 1) The Cabinet Secretary
Cabinet Secretariat
Rashtrapati Bhawan, New Delhi.
- 2) The Chief Secretaries of
All States and Union Territories
- 3) The Chief Electoral Officers of
All States and Union Territories

Subject: Prevention of defacement of property and other campaign related items - revised instructions - regarding.

Sir/Madam,

I am directed to state that on the announcement of the General Elections to the Legislative Assemblies of the States of Goa, Manipur, Punjab, Uttar Pradesh and Uttarakhand, the provisions of Model Code of Conduct have come into force w.e.f. 24th December, 2011. The Commission has decided to reiterate its instructions issued vide its letter no. 3/7/2008/JS-II dated 7th October, 2008 (copy enclosed) contained in Para 5 under the heading 'DEFAACEMENT OF PRIVATE PLACES', as under :-

Sub-para (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 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 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 candidates incurs or authorizes 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 candidates, 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."

Yours faithfully

(K.N. BHAR)
SECRETARY

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 3/7/2008/JS-II

Dated: 7th October, 2008

To

1. **The Secretary to the**
Government of India
Ministry of Home Affairs
New Delhi-110001.
2. **The Chief Secretaries of**
All States and Union Territories.
3. **The Chief Electoral Officers of**
All States and Union Territories.

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

Sir,

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-1). 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 be followed by political parties, candidates, individuals and organizations etc. during the election period:

DEFAACEMENT 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.

DEFAACEMENT 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-2). 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).

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.

Yours faithfully,

(K. F. WILFRED)
SECRETARY

Annexure-1

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 Defacement of Property Act, 1997.	It extends to the entire State.
3.	Bihar	The Bihar Prevention of Defacement of Property Act, 1985.	It extends to the entire State.
4.	Chattisgarh	No separate law/Act framed by the State. 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.
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.
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.	Uttara-khand	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 the entire State.
23.	Pondicherry	The Pondicherry Open Places (Prevention of Disfigurement) Act, 2000.	It extends to whole of the Union Territory of the Pondicherry.

**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.)
			Total

**MISUSE OF
VEHICLES / TOURS
OF MINISTERS /
SECURITY COVER**

Election Commission's Order No. 437/6/94/MCS-Vol V dated 20.10.1994 to (1) The Cabinet Secretary Rastrapati Bhavan, New Delhi. 2. Secretary to the Govt, of India, Ministry of Home Affairs, New Delhi. 3. Secretary to the Govt, of India, Ministry of Law, Justice & Company Affairs, New Delhi. 4. Chief Secretaries of all States and Union Territories 5. Chief Electoral Officers of all States and Union Territories.

Subject: Chartering of aircraft and helicopters.

ORDER

1. The Commission has already issued instructions imposing a total and absolute ban on the use of official vehicles for campaigning, electioneering or election related travel during elections.
2. It has been brought to the notice of the Commission that political parties are getting State/ Public Sector Undertakings aircraft/helicopters chartered through private companies etc. for electioneering in such a way that the other parties are put to a disadvantage. The commission has, therefore, directed that the procedure to be followed for chartering Government aircraft/ helicopters (including those owned by Public Sector Undertakings and Corporations) should be on an absolutely equitable basis and should be widely publicised. Some of the minimum conditions which should be included in the procedure to make it absolutely equitable are as under.-
 - 2.1 There should be no discrimination between the ruling party on the one hand and the other parties and contesting candidates on the other.
 - 2.2 The payment will be made by the political parties or the contesting candidates and proper record maintained.
 - 2.3 The rates and terms and conditions should be uniform for all.
 - 2.4 The actual allotment should be made on a first-come first-served basis. For this purpose, the date and time of receipt of the application should be noted down by the authorised receiving authority.
 - 2.5 In the rare case when both the date and time of two or more applicants is the same, the allotment will be decided by draw of lots.
 - 2.6 To obviate any contingency of rejection of an application for failure to mention certain particulars or on such other technical grounds, a format of the application should be prepared and made available to all those who want to avail of the facility.
 - 2.7 No individual, firm, party or candidate will be allowed to charter the aircraft/ helicopter for more than three days at a time. Any application which does not conform to this requirement shall be rejected.
3. The above conditions/stipulations to be incorporated in the procedure are illustrative and not exhaustive. Every endeavor should be made to make the procedure as equitable and just as possible.
4. The entire exercise should be transparent and wide publicity, if necessary, through print and electronic media should be given in advance about the entire procedure. There should be no scope whatsoever that any part of the exercise was done under a cloak of secrecy.
5. A copy of the instructions issued in this regard should be sent to the Commission immediately after issue.

ITEM NO. 8]

Election Commission's letter No. 437/6/ES0025/94/MCS dated 21.10.1994 addressed to Chief Secretaries and CEOs of all States and UTs.

Subject: Election period-tours of ministers.

The Commission vide its letter No. 437/6/93-PS-II dated 31 st December, 1993 had reiterated the total and absolute ban on the use of official vehicles for campaigning, electioneering or election related travel during elections and had directed that there will be total ban on the use of any vehicles for any purpose connected with the election by any political party, the candidate or any other person connected with election.

2. The Commission vide its letter No. 437/6/94 dated 2nd February, 1994 had invited attention to the circular letter No. 10/17/89-M&G dated 1 st November, 1989 from the Ministry of Home Affairs on the tour of ministers in connection with the election campaign and had observed that those instructions were flouted with impunity and had therefore issued further instructions without, in any way overriding, modifying or affecting the instructions of the Ministry of Home Affairs dated 1 st November, 1989 referred to above.
3. The Supreme Court in its order dated 29th April, 1994 in a writ petition (Civil) No. 312 of 1994(State of Tamil Nadu versus Chief Election Commissioner and others) seeking exemption in the case of Chief Minister of Tamil Nadu had directed as follows:
"While we are conscious of the effort being made by the Election Commission to ensure cleanliness of the electoral process and for the protection and ensurement of free and fair polls, we are afraid, the Election Commission cannot, as it seeks to do here, put out of consideration the security requirements of certain political personalities who might, in view of extremist and terrorist activities and threats to their lives, require security of a high order. To confine the security to only the Prime Minister of the country, as the Election Commission has done, and to deny, as the communication dated 31 st March, 1994 seeks to do, to all other may not reflect a proper perception and appreciation of the problem. At all events, the Election Commission will have to take note of the statutory provisions. However, we should make one aspect clear. Having regard to the responsibilities and obligation of the Election Commission to ensuring purity of the electoral process, it is open to the Election Commission, if it has material to doubt that the assessments of the security requirement made by the Director of the Tamil Nadu Special Security Group under the status are so manifestly and unduly excessive as to amount to promotion indirectly, of partisan electoral interests, to bring such matter to the notice of the State Government for appropriate corrective steps."

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4. The Cabinet Secretariat in its letter No. 10/22/094-ES dated 3/5 May, 1994 had issued instructions that under the provisions of the Special Protection Group Act, 1988 protection is provided for proximate security of the following :
 - (i) The Prime Minister and the members of his immediate family;
 - (ii) Any former Prime Minister or the members of his immediate family for a period of 5 years from the date on which the former Prime Minister ceases to hold the office of Prime Minister.
 5. in the light of the above order of the Supreme Court the Commission had substituted paragraph 3 of its letter No. 437/6/93/PS-II dated 31 st December, 1993 vide para 6 of letter of even number dated 8th May, 1994 to say that "the Commission has decided that para 3 of its above referred circular letter No. 437/6/93-P-II dated 31 st December, 1993 will stand substituted by the following :-
 - 3(A) The only exceptions from the prohibitions mentioned in para 2 above will be the Prime Minister and other political personalities who might, in view of extremist and terrorist activities and threats 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.
 - 3(B) The Commission would like to make it clear that having regard to its responsibilities and obligations to ensuring purity of the electoral process, the Commission, if it has material to doubt that the assessments of the security requirements made by the authorities under the above referred special enactments or any other special instructions of the Government are so manifestly or unduly excessive as to amount to promotion, indirectly, of partisan electoral interests, bring such matter to the notice of the Central Government and/or, as the case may be, the State Government for appropriate corrective steps.
 - 3(C) For achieving this, 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."
 6. It was further clarified by the Commission in its letter No. 437/6/94 dated 14th May, 1994 that all State Governments and the Union Territory Administration are requested to adhere strictly to the orders of the Supreme Court. Further, orders relating to security of the individuals issued under statutory powers or other powers must be fully honored.
 7. The Commission has further directed that when such individuals visit State/ Constituency for electioneering and election related work, the expenditure incurred on security arrangements like barricading/ rostrums etc. shall be borne by the concerned political parties.

ITEM NO. 82

Election Commission's Order No. 43 7/6/96/PLN - I II, 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 Defense 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 acknowledgment

ITEM NO. 83

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 for 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.

ITEM NO. 84

Election Commission's letter No. 437/6/96/PLN-III/, dated 17.01.1996 to addressed to the Chief Secretary (All States & Union Territories) Repeat The Chief Electoral Officers (All States & Union Territories)

Subject: General Elections - Tours of Ministers

I am directed to state that the Ministry of Home Affairs, Government of India vide their Circular No. 10/17/89-M & G, dated November 1,1989 have reproduced the summary of their instructions on the tour of Ministers in connection with the election campaign. These instructions inter alia lay down some specific formalities to be observed separately for official and private tours of the Ministers of Government of India during the period of electioneering particularly in the context of the fact that such tours generally overlap. A copy of the abovementioned circular of the Ministry of Home Affairs dated November 1,1989 is enclosed at Annexure I.

2.The Commission has been keenly watching the observance of the aforesaid instructions of the Ministry of Home Affairs by the Ministers both of Central Government and of the Government of State in which elections are held, as well as some other neighboring and other States whose Ministers pay visits to the States having elections during the period of electioneering. The Commission is constrained to observe that not only the spirit and letter of the aforesaid instructions of the Ministry of Home Affairs are vague, equivocal and permissive in nature, they are flouted with impunity and misused with flagrant disregard to the image of impartiality which persons in high public office must cultivate and preserve during the period of election in order to maintain the purity of the election process and insulate the free right of franchise to be exercised by the voters from the manipulative tactics of the privileged ruling party both at Centre and in the State Governments.

3.During the elections superintended by the Commission in recent years the Commission has been at pains to observe that the Ministers in their capacity as Members of the ruling party at the Centre and in some States misused the government owned machinery including guest houses, and such like official infrastructures for the ostensible purpose of official visits for monitoring Government programmes with the covert intention of participating in the election campaign of their parties. Such Ministers are understandably accompanied, on the above described "official" visits, by functionaries of their political parties. No departmental officials are reported to be accompanying the Ministers on which visits and meetings as a result of which even semblance of an official visit is not maintained.

4.The Commission also observes with serious objection that local officers of the district administration and State Government who have also to perform statutory and other functions related to the conduct of elections are perforce made to attend on such Ministers in the name of administrative and security arrangements which further casts a suspicion on the much needed independence an impartiality of the election related officers.

5. In the above circumstances, the Commission in exercise of the plenary powers vested in it by virtue of Article 324 of the Constitution and all other powers enabling it in this behalf, has decided to issue its own directions in the interest of fair and free poll.

6. These instructions of the Commission do not in any way over-ride, modify or are affected by the instructions of the Ministry of Home Affairs, Government of India No. 10/17/89-M&G dated 1 st November, 1989 referred to above. The Commission directs in supersession of its earlier instructions, as follows:-

6.1 Henceforth no Minister either of Central or State Government shall undertake an official visit of any constituency from which elections have been announced by the Commission during the period commencing with the announcement of the elections upto the end of the election process.

6.2 The Commission also directs that no Minister will summon any election related officer of the constituency or the State in which any elections have been announced, to a place or office or guest house outside the aforesaid constituency for any official discussions during the period of elections commencing with the announcement of the elections from such constituency and ending with the completion of election process.

6.3 The only exception to these instructions will be when a Minister, in his capacity as incharge of the concerned department, or a Chief Minister undertakes an official visit to a constituency, or summons any election related officers of this constituency to a place outside the constituency, in connection with failure of law and order or a natural calamity or any such emergency which requires personal presence of such Ministers/Chief Ministers for the specific purpose of supervising review/salvage/relief and such like purpose.

7. It is clarified that the Ministers are entitled to use their official vehicles in their headquarters from their place of residence to their office for official work provided that such commuting is not combined with any electioneering or any political activity.

8. Any violation of these instructions will be viewed as gross infringement not only of the Model code of Conduct but also of the authority of the Commission to promulgate such directions as it considers necessary to ensure peaceful, fair and free poll reflective of the true choice of the people, and will be visited with grave consequences as considered appropriate by the Commission on the merits of the specific circumstances.

ANNEXURE-I

Copy of circular letter No. 10/17/89-M&G, dated November 1, 1989 of the Government of India, Ministry of Home Affairs, New Delhi.

Office Memorandum

Subject: General Election to Lok Sabha Tours of Minister in Connection with election campaign

The undersigned is directed to say that whenever elections to the Lok Sabha are held, questions are invariably raised in Parliament about the tours undertaken by the Ministers in connection with the election campaign. In reply, as a general policy it has always been made clear that according to existing instructions, tours in connections with election campaign are not to be treated as official tours and that the services of Government officials cannot be utilized for party of election work. The Ministry of Home Affairs have been issuing instructions regarding tours of ministers for non official purposes, including election tours from time to time. These instructions had been summarized and a copy thereof was laid on the Table of the Lok Sabha on 31 st July, 1970. As the general election to the Lok Sabha are due to be held in November, 1989 a copy of the summary of these instructions is enclosed with the request that its contents may be brought to the notice of the Ministers.

Instructions regarding the tours of Minister for non-official purposes including election tours, are contained in several communications issued and reissued from time to time.

General Instructions:

- (1) Until a Minister demits office he is in charge of public affairs and accordingly even while on tours, whether for official or private purposes, he must continue to discharge the responsibilities as Minister Hence,
 - (a) he can take with him the minimum personal staff needed for this purpose and such staff is entitled to draw travelling and daily allowance under the rules; and
 - (b) when he visits any place, the district officers must arrange for normal courtesies and security.
- (2) A Minister may claim travelling and daily allowance only in respect of tours undertaken for official purposes i.e. tours, actually necessitated by duties which he could not perform, at headquarters. If an official tour is combined with private business of the Minister, which includes party work, and he has to undertake any additional journey for this purpose, he is not entitled to any travelling allowance for the additional journey. If a Minister while on official tour devotes any day of his halt exclusively for private business he is not entitled to day allowance for that day.

Special instructions regarding election tours:

(3) Whenever a Minister decides that meeting which is going to be addressed by him as an election meeting he should ask for arrangements to be made on his behalf non-officially and not by Government Servants. During the election tours Government meetings would be rare and normally public meetings should be considered election meetings and all expenses except those relating to maintenance of law and order, borne privately.

(4) The role of officials at election meetings should be confined to maintaining law and order and affording normal protection to Ministers.

(5) No travelling expenses or daily allowance should be charged by Ministers for journeys, which have for their main purpose election campaign. It would be presumed that for some weeks prior to the poll, the activities of Ministers on tour are much more concerned with elections than with their official duties.

(6) A journey undertaken by a Minister for filing nomination papers and subsequent tours to his constituency should be regarded as being for election purposes.

(7) If a Minister who has proceeded to his constituency for election purposes at his own expenses, has to proceed to some other place on duty, he may draw travelling allowance limited to the amount admissible from his headquarters to the other place and back to headquarters. If he had to return to headquarters from his own constituency in public interest by interrupting his election work, he may only claim the return air or railway fare. Public interest shall naturally include attendance at all Cabinet Sub-Committee meetings. Other meetings or conferences at headquarters should be avoided as far as possible.

(8) Where a Minister has been provided with a car exclusively at the expenses of the State, the car should not be used for election purposes. Even where a car is provided by the State but the Minister is given an allowance for maintenance of the vehicle, it is not desirable to use such vehicle for election purposes.

ITEM NO. 85

Election Commission letter No.437/6/96-PLN-III, dated 09.04.1996 addressed to The Cabinet Secretary, The Chief Secretary and Chief Electoral Officers of all States and Union Territories

Subject: General Elections - Security cover to Ministers/Candidates

1. Instructions have been issued from time to time on the question of use of aircraft/helicopter and motor cars and vehicles in connection with election work by political personalities, whether in office or outside. The following instructions are issued in consolidation/modification of all other instructions in this regard and should be scrupulously followed with immediate effect :-

2.1 No part of the present instructions may be treated as effecting any modification whatsoever in regard to the existing instructions regarding the travel and the provision of facilities including transport and security, for the Prime Minister even when he is travelling specifically for party and election work. The existing instructions should be scrupulously adhered to.

2.2 All the remaining political personalities including both those in office e.g. Minister of the Union Government or Chief Minister or Minister of the State Government or occupants of any other public office such as Chairman of a State Corporation, Cooperative etc. And those not in any public office will be governed by this order.

2.3 No relaxation can be made to any person with regard to the absolute ban on the use of Government owned/funded/hired means of transport for any reason other than security. These exclusions refer for example to age, state of health etc.; and to all manner of vehicles.

2.4 The use of State owned aircraft (whether fixed wing or helicopter) propelled at State cost or hired at State cost will not be permitted for any reason including security. No exceptions in this regard will be made.

2.5 In respect of persons covered by security, the use of State owned one bullet proof vehicle for the particular person (PP) will be permitted in all cases where the security agencies, including the intelligence authorities, have prescribed such use. The use of multiple cars in the name of stand-by should not be permitted unless so specifically prescribed by security authorities. The cost of propulsion of such bullet proof vehicles where such use of bullet proof vehicles is specified will be borne by the particular person whether he is in office or out, and whether he is a candidate or not.

2.6 The number of vehicles to accompany the carcade including pilots, escorts etc. will be strictly in accordance with the instructions laid down by the security authorities and shall not exceed them under any circumstances. The cost of propulsion of all such vehicles, whether owned by Government or hired vehicles, will be met by the State Government. No recovery need be made also on the cost of the manpower provided.

2.7 In all cases where a party or a candidate hires a private aircraft/helicopter for any reason whatsoever, the complete cost will be included as part of election expenditure without exception.

2.8 All persons who are included in the category of ex-Prime Ministers are also covered by these instructions and are not entitled to the special stipulations provided for the Prime Minister in office.

2.9 No relaxation can be provided on any considerations including those of security to any one regarding the use of loudspeakers whether fitted on vehicles or otherwise.

ITEM NO. 86

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.

ITEM NO. 87

Election Commission's letter No. 437/6/98/PLN-III dated 08.01.1998 addressed to The Cabinet Secretary, New Delhi, Chief Secretaries and CEOs of all the States and UTs.

Subject: Use of Aircraft by Political Parties - regarding.

The Commission has already issued detailed instructions regarding use of Government aircraft owned by the Government and Public Sector Undertakings. As per these existing instructions, during the election process there is a complete ban on use of aircraft by political functionaries including Chief Minister and Ministers. The only exemption is for the Prime Minister in office. These instructions have been reiterated again recently by the Commission on 16.12.1997.

Requests have been received from some of the Chief Ministers for relaxation of these restrictions for various reasons including those of security.

The Commission reviewed the matter in depth and obtained further inputs from appropriate quarters in this regard. After taking into consideration all relevant factors into account, the Commission has decided that the existing instructions in the matter will stand and there shall be no relaxation in the matter for any reason.

The Commission's existing restrictions do not however prohibit use of private aircraft by such political functionaries including Chief Ministers. Accordingly the Commission makes it clear that such political functionaries including Chief Ministers may, if required, hire private aircrafts and use it for their political campaign and other election related activities. The expenses of use of such aircraft can be paid for by the concerned political parties and have to be accounted for suitably in their accounts.

Kindly acknowledge the receipt.

ITEM NO. 88

Election Commission's letter No.437/6/99-PLN-III, dated 15.07.1999 addressed to The Cabinet Secretary, The Chief Secretary and Chief Electoral Officers of all States and Union Territories

Subject: Tours of Union Ministers - Regarding

The Commission has been approached on the question of providing Government vehicles to Union Ministers when they go on tours on official duty outside Delhi. The question has been raised in the context of the announcement of the elections to constitute the 13th Lok Sabha, and with such announcement the Model Code of Conduct and the instructions of the Election Commission bearing No. 437/6/96/PLN-III dated 17th January 1996 coming into effect.

The Commission sees merit in the argument that the Union Minister on official tour is discharging his constitutional obligation and, therefore, must be provided with the necessary facilities to carry out such activities. However, in the run-up period to the elections, the tendencies of the political personages, who combine official functions with political activities, cannot be ignored. In such cases, providing Government vehicles to the Union Minister cannot be allowed, as it seeks to disturb the level playing field between the contesting parties and candidates. However, if a Union Minister is travelling out of Delhi on purely official business, which cannot be avoided in public interest, then a letter certifying to this effect should be sent from the concerned Secretary of the Department to the Chief Secretary, with a copy to the Commission.

On receipt of such information from the Secretary that the Union Minister is coming on a purely official visit and, no political activity of any kind is envisaged during such tour, the Chief Secretary may provide the Union Minister with Government vehicle and accommodation and other usual courtesies for his official trip. While extending this facility, the Chief Electoral Officer of the State, who is entrusted with the task of monitoring of electoral activity in the State, including the implementation of the Model Code of Conduct, shall be alerted in advance by the Chief Secretary. The Commission will oversee such arrangements in due consultation with its Chief Electoral Officer.

It is hoped that the Union Ministers will avoid making official visits to their home States and particularly the constituencies from where they are contesting elections while it is open for them to make private visits.

ITEM NO. 89

Election Commission's letter No.437/6/98-PLN-III, dated 18.08.1999 addressed to The Secretary to the Govt. of India, Department of Civil Aviation, New Delhi. And copy to Secretary, Deptt of Revenue, Govt. of India, Director General, Civil Aviation, New Delhi and Chief secretary/CEOs of all States/UTs

Subject: Use of privately owned aircrafts other than scheduled commercial flights by Political Parties and the Government functionaries

As you are aware the 12th Lok Sabha has been dissolved and the notifications for holding elections for constituting the 13th Lok Sabha have been issued. This process is to be completed before 10th of October, 1999. High dignitaries like Chief Ministers and Ministers of the Union Government as well as senior political functionaries and party leaders might be making use of privately owned aircrafts other than scheduled commercial flights for attending various political meetings and campaigns.

2. It is important that full records of all such non-scheduled flights are maintained by the appropriate authorities as required under law and relevant rules. Details like passenger manifests, exact times of departure and arrival of aircrafts at various places need to be maintained. Commission may seek information on these details to verify complaints which are received from time to time. Accordingly, I am directed by the Commission to request you to alert the appropriate authorities of the Central and State Governments to keep meticulous records of these details.

Another aspect which has been brought to the notice of the Commission relates to the payments for use of aircrafts for such purposes. It has been reported that in some cases, such payments are made in cash by individuals/political parties.

3. A copy of this letter is also being endorsed to Secretary to the Govt. of India, Department of Revenue and Chief Secretaries of all State Governments and all Chief Electoral Officers for their information and necessary action.

ITEM NO. 90

Election Commission's letter No.437/6/98-PLN-III, dated 18.08.1999 addressed to The Cabinet Secretary, The Chief Secretary and Chief Electoral Officers of all States and Union Territories

Subject: Use of Aircraft during the Election Process

The Commission has already issued detailed instructions regarding use of Government aircraft owned by the Government and Public Sector Undertakings. As per these existing instructions, during the election process, there is a complete ban on use of aircraft by political functionaries including Chief Minister and Ministers. The only exemption is for the Prime Minister in office. These instructions have been reiterated by the Commission on 14th July, 1999.

2. Requests have been received from some of the Chief Ministers for relaxation of these restrictions for various reasons including those of security.

3. The Commission reviewed the matter in depth and obtained further inputs from appropriate quarters in this regard. After taking into consideration all relevant factors into account, the Commission has decided that the existing instructions in the matter will stand and there shall be no relaxation in the matter for any reason.

4. The Commission's existing restrictions do not, however, prohibit use of private aircraft by such political functionaries including Chief Ministers. Accordingly, the Commission makes it clear that such political functionaries including Chief Ministers may, if required, hire private aircrafts and use it for their political campaign and other election related activities. The expenses of use of such aircraft can be paid for by the concerned political parties and have to be accounted for suitably in their accounts.

5. Kindly acknowledge the receipt.

ITEM NO. 91

Election Commission's letter No. 4/2001/J.S.II dated 30.03.2001, addressed the Chief Electoral Officers of all States and Union Territories.

Subject: Prevention of misuse of official vehicles during elections - Clarification

I am directed to invite your attention to the Commission's Order No. 437/6/96/PLN-III. dated 15th January, 1996 on the above subject, reproduced at p.p. 171 -173 of the Commission's Compendium of Instructions. 1998.

2.The Commission had directed in the above Order that the restrictions on the use of official vehicles for campaigning, electioneering or election related travel are applicable in the case of the Speaker, the Deputy Speaker of Lok Sabha and the Deputy Chairman of Rajya Sabha at the time of General Elections to the Lok Sabha.

3.In Order to ensure free and fair poll and maintain the purity of election process, the Commission has directed that the restrictions on the use of official vehicles for campaigning, electioneering or election related travel as enumerated in the Commission's Order dated 15th January, 1996 will be equally applicable in the case of Speaker and Deputy Speaker of the State Legislative Assembly at the time of General Election to any State Assembly irrespective of whether the Speaker and/or the Deputy Speaker of the Legislative Assembly is a contesting candidate or not at the General Election to the State Assembly.

4.This should be brought to the notice of all concerned including the units of all recognized National and State Parties in your State.

5.This disposes of Message No. 2243/2001 -1, dated 16th March, 2001 from Chief Electoral Officer, Tamil Nadu.

6.The receipt of this letter may kindly be acknowledged immediately.

ITEM NO. 91

Election Commissions letter No.4/2001/JS-II dated 08.05.2001 addressed to the Chief Electoral Officers of all States and Union Territories. With copy forwarded to:

1. The Director General of Civil Aviation, New Delhi. 2.The Secretary to the Government of India, Ministry of Tourism & Civil Aviation, New Delhi.3.The Cabinet Secretary, Government of India, New Delhi. 4.The Chief Secretaries to the Governments of all States and Union Territories.

Subject: Supervision and monitoring of poll and counting process by leaders of political parties by using private fixed-wing aircraft and helicopters on the days of poll and counting - regarding.

A question has been raised whether the leaders of political parties may be permitted to supervise and monitor the process of polling and counting by using private fixed-wing Aircraft and helicopters for movement from constituency to constituency on the days of poll and counting.

2. I am directed to state that the Election Commission has carefully considered the question in all its aspects. The supervision and monitoring of the polling and counting process by these leaders will amount to interference in the performance of the functions of the Election Commission and usurping its powers, as the superintendence, direction and control of conduct of elections has been vested by Article 324 of the Constitution in the Election Commission and none else. Further, most of the leaders of all political parties have been categorized under various security grading and provided with security covers according to such grading. If they move from constituency to constituency on the days of polling and counting, adequate security precautions will have to be taken and security covers provided to each of them. On the days of polling and counting, the police and other security personnel are fully engaged in providing protection to voters, polling parties and polling materials in and around polling stations and counting centres, and in patrolling duties in the constituencies for maintaining proper law and order and peaceful atmosphere. Any disturbance or distraction in these arrangements to provide security to the leaders of political parties on the move from constituencies to constituencies may have serious impact on the conduct of free and fair poll and smooth and peaceful elections. It will also mean extra strain on the administrative machinery at the district and the sub-divisional levels, which are already stretched to the maximum during these days, as many of these political leaders will be entitled to some facilities, and courtesies on their visits there as per the requirements of protocol. Further, their movement, particularly on the days of poll, might also be taken as campaign during the prohibited period of 48 hours. It

may also not be out of context to mention that the use of private fixed-wing aircraft and helicopters by the leaders of political parties on the days of poll and counting would add considerably to the already mounting election expenses and would be a retrograde step in the direction of reasonable curbs on high expenditure on elections, apart from disturbing the level playing field whereby the political parties with smaller resources would be placed at disadvantageous position.

3. Having regard to all the above relevant considerations, the Commission has decided that no leader of a political party shall use private fixed-wing aircraft and helicopters for the purposes of supervising and monitoring the polling and counting process on the days of poll and counting.
4. The Commission has also decided that the Director General of Civil Aviation shall keep the above directions of the Commission in view and shall not permit the flights of private fixed-wing aircraft and helicopters for the movement of leaders of political parties for the above purpose on the days of poll and counting, except with the prior permission of the Election Commission in the case of any emergencies.
5. The above directions of the Commission should be brought to the notice of all political parties functioning in your State immediately for their information, guidance and compliance under intimation to the Commission.

ITEM NO. 93

Election Commission's letter No. 437/6/7/2004/PLN-III, dated 28.12.2004 addressed to Shri V.N. Mathur, Secretary, Railway board, Ministry of Railways Rail Bhawan, New Delhi

Subject: Tours of Union Minister of Railways

Please refer to your letter no. 2004/G/32/1 dated 25.12.2004 seeking clarifications on following points.

1. When Hon'ble Minister of Railways is required to return from Patna to his Headquarters at Delhi for attending matters relating to the Railway Budget or attend Cabinet Meetings and Meetings of the Sub-Committees of the Cabinet; can his visits to Delhi be treated as official;
2. Whether the Hon'ble Minister of Railways can make an official visit from Patna (where he is doing political campaign) to Kolkata for attending various railway programmes in West Bengal. Whether such a journey from Patna to Kolkata and the visit of the Minister to various places in West Bengal by a Helicopter for attending railways functions can be treated as official.
3. Whether Hon'ble Minister of Railways can avail of his Identity Card/Privileges of Air Journeys as a Member of Parliament and as Union Minister for undertaking train/air journeys for going to Patna for political work and return to Headquarters at Delhi.

The Commission has considered the matter and issues raised are clarified as follows.

1. The Hon'ble Minister while in Patna for political campaign cannot come officially from Patna to New Delhi for attending the meetings relating to railway budget or Cabinet meetings or the meetings of the Sub-Committee of the Cabinet.
2. The Hon'ble Minister cannot combine his political or personal visit to Patna with official visit to Kolkata or elsewhere, even if, he pays the money for the entire trip himself. The Hon'ble Minister will have to return to his Headquarters to start the official journey. Under no circumstances, political or personal visits of the Ministers of the Union or State Government to the State of Bihar or Jharkhand or Haryana can be combined with official visits to any other place in India.
3. The Hon'ble Minister can avail of normal privileges of free railway / air pass as available to Members of Parliament, but he is not entitled to take benefit of privileges as Union Minister for Railways for train/air journeys for going to Patna and returning to Headquarters at Delhi.

ITEM NO. 94

Election Commission's letter No. 464/INST/2006/PLN-I, dated 17.03.2006 addressed to the Chief Electoral Officers of Assam, Kerala, Tamil Nadu, West Bengal and Pondicherry.

Subject: General Elections to the Legislative Assemblies of Assam, Kerala, Tamil Nadu, West Bengal and Pondicherry – Permits for vehicles - regarding

The Commission has desired that vehicle permits may be issued to leaders of recognized national and state political parties and leaders of registered un-recognized political parties (whose travel expenses are exempt under Section 77 of Representation of People Act) by name as per the following format:-

General Election to the Legislative Assembly of _____, 2006	
S. No. of Permit	:
Name of Political Party	:
Name of Leader	:
<i>Note: 1. This vehicle permit is valid only for the vehicle in which leader himself is travelling for the purpose of General Election to _____ Legislative Assembly of _____, 2006.</i>	
<i>2. The leader in whose name this permit is issued shall ensure that this permit is not misused by any other functionary. Responsibility for misuse shall lie with the leader in whose name this permit is issued.</i>	

Kindly take necessary action for issuing these permits to leaders of various political parties whose names have been furnished to you within the period prescribed under Explanation 2 under Section 77(1) of the Representation of People Act.

These permits may be laminated and handed over to the President/Secretary of the concerned party under proper acknowledgment.

MOST IMMEDIATE

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 437/6/2006-PLN-III (Vol. II)

Dated: April 1, 2006

To

1. **The Cabinet Secretary**
Government of India
Rashtrapati Bhawan
New Delhi
2. **The Chief Secretaries of all States and Union Territories**
3. **The Chief Electoral Officers of all States and Union Territories**

Sir,

Kindly refer to the instructions of the Commission issued as per letter no. 437/6/2006-PLN-III (Vol. II) dated 14th March 2006 stating that no accommodation will be provided to any Minister of the Central or State Government, Members of Parliament or Members of Legislative Assemblies or political functionaries in any Government Guest House / Rest House / Guest House of any Public Sector Undertaking of the Central or State Government in the States where elections have been announced or are taking place as these are required to accommodate election related officials and observers.

The Commission has now received representations from various States Governments and political functionaries requesting that these restrictions may be relaxed keeping in view the security concerns of various political leaders.

The Commission has further considered the issue in the light of the requests received and decided that henceforth accommodation in Government Guest houses / Rest houses or Guest Houses of Public Sector Undertakings of the Centre or State Government in the States (or the districts) where elections have been announced or are taking place can be given to the political functionaries who are provided security by the State in Z scale or above or equivalent by various State Government under provisions of their laws, on equitable basis. This shall be subject to condition that such accommodation is not already allotted or occupied by election related officials or observers. Some political functionaries shall not carry out any political activity while staying in the Government Guest Houses / Rest Houses or Guest Houses of Public Sector Undertakings as mentioned above.

Yours faithfully,

(A. K. MAJUMDAR)
SECRETARY

INSTRUCTION SI. No. 73

Election Commission's letter No. 437/6/2006-PLN-III (Vol. II) Dated: 1st April 2006 addressed to The Cabinet Secretary Government of India, the Chief Secretaries and the Chief Electoral Officers of all States and Union Territories.

Sub: Allotment of Govt. Guest House – reg.

Kindly refer to the instructions of the Commission issued as per letter no. 437/6/2006-PLN-III (Vol. II) dated 14th March 2006 stating that no accommodation will be provided to any Minister of the Central or State Government, Members of Parliament or Members of Legislative Assemblies or political functionaries in any Government Guest House / Rest House / Guest House of any Public Sector Undertaking of the Central or State Government in the States where elections have been announced or are taking place as these are required to accommodate election related officials and observers.

The Commission has now received representations from various States Governments and political functionaries requesting that these restrictions may be relaxed keeping in view the security concerns of various political leaders.

The Commission has further considered the issue in the light of the requests received and decided that henceforth accommodation in Government Guest houses / Rest houses or Guest Houses of Public Sector Undertakings of the Centre or State Government in the States (or the districts) where elections have been announced or are taking place can be given to the political functionaries who are provided security by the State in Z scale or above or equivalent by various State Government under provisions of their laws, on equitable basis. This shall be subject to condition that such accommodation is not already allotted or occupied by election related officials or observers. Some political functionaries shall not carry out any political activity while staying in the Government Guest Houses / Rest Houses or Guest Houses of Public Sector Undertakings as mentioned above.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi- 110 001.

No. 464/INST/2007/PLN-I

Dated :9th February, 2007.

To

The Chief Electoral Officers
of all States/Union Territories.

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

Sir/Madam,

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 Electoral 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 Electoral Registration 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."

Yours faithfully,

**(A.K. MAJUMDAR)
SECRETARY**

STANDARD DISTRIBUTION

INSTRUCTION SI. No. 60

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.

Election Commission's letter No. 437/6/2006-PLN-III, Dated : 24th March, 2007 addressed to the Chief Electoral Officers of all States and Union Territories.

Subject:- Prevention of misuse of vehicles on the polling day – regarding.

With reference to the Commission's letter of even number dated 23rd March, 07 I am directed to state REVISED PROVISIONS of paras 3 & 6 of the Commission's instruction No. 437/6/96-PLN-III, dated 16th January, 1996 have been superseded as under :-

REVISED PROVISION :-

(Para 3) For an election or a bye-election to the House of the People/State Legislature, 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 workers or party workers, as the case may be, in each of the assembly segments comprised in the Parliamentary Constituency.

(Para 6) 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 vehicles not more than five persons including drivers will be allowed to move on the day of poll.

On the day of poll, if the candidate is absent from the constituency, no other person will be allowed to use the vehicle allotted for his use.

This may be brought to the notice of all concerned political parties, contesting candidates and authorities for strict adherence instead of the instructions mentioned in Revised Provision of Paras 3 & 6 in Commission's earlier letter dated 23-03- 2007.

INSTRUCTION Sl. No.**ELECTION COMMISSION OF INDIA**

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. : 437/6/2007/PLN.III

Dated: 24th October, 2007

To

1. The Cabinet Secretary to the
Govt. of India,
New Delhi.

2. The Chief Secretaries of
all States and Union Territories.

3. The Chief Electoral Officer of,
all States and Union Territories.

**Subject: General Election to Gujarat Legislative Assembly, 2007–
Security Covered to Ministers/Candidates – regarding.**

Sir,

I am directed to invite your attention to para 2.5 of the Commission's standing directions/instructions as contained in its letter No. 437/6/96-PLN-III, dated 09.04.1996 which *inter-alia* provide that in respect of persons covered by security, the use of State owned one bullet proof vehicle for the particular person (PP) will be permitted in all cases where the security agencies, including the intelligence authorities, have prescribed such use. The use of multiple cars in the name of stand-by should not be permitted unless so specifically prescribed by security authorities. The cost of propulsion of such bullet proof vehicles where such use of bullet proof vehicles is specified will be borne by the particular person whether he is in office or out, and whether he is a candidate or not.

2. The Commission has further examined the matter and has decided to modify its existing instructions in para 2.5 of the its letter referred to above to the extent, as follows:-

"2.5 Under the directives of the Government of India in the Ministry of Home Affairs, the persons provided with 'Z+' (Z plus) security cover are permitted the use of State owned one bullet proof vehicle for the particular person (PP). Such particular person, whether he is in office or out of it, and whether he is a candidate or not, shall be permitted the use of the said 'one' State owned bullet proof vehicle

during the election period covered by the Model Code of Conduct. The use of multiple vehicles(s) in the name of stand-by should not be permitted unless so specifically prescribed by security authorities in any particular case. The cost of propulsion of such bullet proof vehicle(s) will be borne by the Government and not by the person concerned." 3. 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.

Yours faithfully,

(A. K. MAJUMDAR)

(101)

By Special messenger/Speed post

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/2007(INST)-PLN-III

Dated : 12th November, 2007

To

1. The Chief Secretaries of all States and Union Territories
2. The Chief Electoral Officers of all States and Union Territories

Subject: Instruction on convoy of vehicles during election period of General / Bye-Elections to the Lok Sabha and State Legislative Assemblies - regarding.

Sir,

With reference to the Commission's earlier instruction dated 437/6/97-PLN-III dated 18th March, 1997, a question has been raised regarding definition of vehicles for this purpose. I am directed to furnish the following clarification in this regard :-

- " (1) Vehicles for this purpose will include all mechanized/motorized vehicles including two wheelers.
- (2) All convoys of vehicles will be broken up into a maximum of three vehicles each (excluding security vehicles) keeping a minimum distance of 200 meters from the next set of 3(three) vehicles.
- (3) During the procession, such vehicle will be allowed to carry only one poster / placard / banner / flag of the concerned party or of the candidate."

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

Kindly acknowledge receipt.

Yours faithfully,

(K. N. BHAR)
UNDER SECRETARY

Copy to: Principal Secretaries/Secretaries/ Secretaries for follow up action.

INSTRUCTION SI. No.**ELECTION COMMISSION OF INDIA**

Nirvachan Sadan, Ashoka Road, New Delhi – 110001.

No. 437/6/2006-PLN-III

Dated: 23rd November, 2007

To

(i) The Cabinet Secretary,
Government of India
Rashtrapati Bhawan
New Delhi.

(ii) The Chief Secretaries of all States and Union Territories.

(iii) The Chief Electoral Officers of all States and Union Territories

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

Sir,

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 fro 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 C:\Documents and Settings\Administrator\Desktop\23 nov 2007\00_9_MCC_-_Entitlement_of_vehicles.doc 2 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 windscreen 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 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. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996). C:\Documents and Settings\Administrator\Desktop\23 nov 2007\00_9_MCC_-_Entitlement_of_vehicles.doc 3

(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 C:\Documents and Settings\Administrator\Desktop\23 nov 2007\00_9_MCC_-_Entitlement_of_vehicles.doc 4 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 C:\Documents and Settings\Administrator\Desktop\23 nov 2007\00_9_MCC_-_Entitlement_of_vehicles.doc 5 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).

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(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.

Yours faithfully,

(A. K. MAJUMDAR)
PRINCIPAL SECRETARY

INSTRUCTION SI. No.

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

Subject: - Tours of Ministers - General Elections

- Reference :-** 1. Commission's Letter No. 437/6/96/PLN-III dated 17.01.1996
2. Commission's Letter No 437/6/99-PLN-III dated 15.07.1999
3. Commission's Letter No 437/6/4/2003-PLN-III dated 12.06.2003

I am directed to state that Ministers may be undertaking visits to the State(s) where election is being held or have been announced and the provisions of Model Code of Conduct are in force, in connection with electioneering. The Commission, in order to ensure a level playing field which is a precondition for free and fair elections, has issued instructions from time to time governing such tours of ministers and has prescribed certain guidelines to ensure that the official machinery is in no way engaged in any election related work by such touring dignitaries. These have been upheld by the Supreme Court of India in the case of Narendra Kumar Gaur vs. Election Commission of India in Writ Petition No. 339 of 1999 on 16.08.99.

2. The Commission's instructions contained in the letters mentioned at the reference above have been consolidated for the sake of convenience in the following paragraphs :-

- (1) If a Minister of the Union is traveling from his/her headquarters to a poll bound state/district on purely official business, which cannot be avoided in public interest, then a letter certifying to this effect should be sent from the Secretary of the department/ministry concerned of the Government of India, to the Chief Secretary of the state which the Minister intends to visit, with a copy to the Commission. On receipt of such information from the Secretary that the Union Minister is proposing a purely official visit and no political activity of any kind is envisaged during such tour, the Chief Secretary may provide the Union

Minister with a Government vehicle and accommodation and extend other usual courtesies for his official trip. While doing so, the Chief Electoral Officer of the State, who is entrusted with the task of monitoring of electoral activity in the State, including the implementation of the Model Code of Conduct, shall be alerted in advance by the Chief Secretary. The Commission will keep watch on such arrangements in consultation with its Chief Electoral Officer.

It is hoped that the Union Ministers will avoid making official visits to their home States, Constituency state and particularly to the constituencies from where they are contesting elections while it is open for them to make private visits (See ECI instruction No. 437/6/99 – PLN III dated 15.07.99)

(2) The Commission also directs that –

(i) No minister of State Government shall undertake an official visit to any constituency for which elections have been announced by the Commission during the period commencing with announcement of the elections upto end of the election process.

(ii) Minister will not summon any election related officer of the constituency or the State in which any elections have been announced, to a place or office or guest house inside or outside the aforesaid constituency for any official discussions during the period of elections commencing with the announcement of the elections from such constituency and ending with the completion of election process.

(iii) The only exception to these instructions will be when a Minister, in his capacity as in charge of the department concerned, or a Chief Minister undertakes an official visit to a constituency, or summons any election related officers of the constituency to a place outside the constituency, in connection with failure of law and order or occurrence of a natural calamity or any such emergency which requires personal presence of such Ministers/Chief Ministers for the specific purpose of supervision review/salvage/relief and other similar purposes. (See ECI instruction No. 437/6/96/PLN III – dated 17.01.96)

(3) It is clarified that the Ministers are entitled to use their official vehicles in their headquarters from their place of residence to their office for official work provided that such commuting is not combined with any electioneering or any

political activity which would include a visit to party office even if it were enroute. No pilot car(s) or car(s) with beacon lights of any colour or car(s) affixed with sirens of any kind making his presence conspicuous shall be used by any Minister during his/her electioneering visits, even if the State administration has granted him a security cover requiring presence of armed personnel to accompany him on such visit. (See ECI instruction No. 437/6/96/PLN III – dated 17.01.96)

(4) During **bye elections** from any constituencies, either Parliamentary or Assemblies, the following restrictions will be applicable with regard to the tours of Ministers subject to exceptions mentioned above in para 2(iii) covering situations of grave emergency:-

- (i) All Ministers, whether Central or State, shall not combine in any manner their official tours with election work after the announcement of the bye elections. They shall return to their headquarters on completion of their official tours. All and any visits to the district(s) where bye-election is being held and where Model Code of Conduct is, therefore, in force, have to be completely private in nature and such private visits should begin and end at the Minister's headquarters.
- (ii) In case where a Minister traveling on official work transits through the district(s) where the bye-election is being held en route to any other district on official visit, he/she shall not halt in the district(s) where Model Code of Conduct is in force and shall not attend to any political work.
- (iii) No official of any rank of the district(s) where the bye-election is being held, shall be called to attend any meeting by any Minister in any district, that is to say, even in other districts where election is not being held.
- (iv) Any official who meets the Minister on his private visit to the constituency where elections are being held shall be guilty of misconduct under the relevant service rules; and if he happens to be an official mentioned in Section 129 (1) of the Representation of People Act, 1951, he shall also be additionally considered to have violated the statutory provisions of that Section and liable to penal action provided thereunder.
- (v) No pilot car(s) or car(s) with beacon lights of any colour or car(s) affixed with sirens of any kind making his presence conspicuous shall be used by

any Minister during his/her private visit to the constituency where a bye election is under way even if the State administration has granted him a security cover requiring presence of armed guards to accompany him on such visit. (See ECI instruction No. 437/6/4/2003 – PLN III dated 12.06.03)

(5) The Commission further directs that the Chief Electoral Officer of the State who is entrusted with the task of monitoring of electoral activities in the State including the implementation of Model Code of Conduct shall be kept informed in advance by the District Election Officer of any visit proposed to be undertaken by any Minister of the State Govt. or any Central Minister to the district where bye-election is being held and the Chief Electoral Officer shall forthwith communicate the same to the Election Commission. (See ECI instruction No. 437/6/4/2003 – PLN III dated 12.06.03)

3. Any violation of these instructions will be viewed as gross infringement not only of the Model code of Conduct but also of the authority of the Commission to promulgate such directions as it considers necessary to ensure peaceful, fair and free poll reflective of the true choice of the people, and will be visited with such action as considered appropriate by the Commission on the merits of the specific circumstances.

INSTRUCTION SI. No.

Election Commissions letter No. 437/6/2008/CC&BE Dated : 19th October, 2008 addressed to the Chief Electoral Officers of (1) Chhattisgarh, Raipur, (2) Jammu & Kashmir, Jammu, (3) Madhya Pradesh, Bhopal, (4) Mizoram, Aizwal, (5) NCT of Delhi, Delhi, (6) Rajasthan, Jaipur.

Subject: General Election to the Legislative of Assemblies, 2008 - Use of official vehicle by the functionaries of the various Boards/Commissions etc.- regarding.

It has been brought to the notice of the Commission that the vehicles provided by the State Government to non-official functionaries viz. Chairman, Dy. Chairman, President, Vice President, Commissioners etc. of the various autonomous organizations are likely to be misused during the electioneering. The provisions of the Model Code Conduct and various instructions issued from time to time prohibits the use of official vehicle for the purpose of electioneering to ensure a level playing field among the parties and candidates in the fray.

The Commission, after taking into account all relevant factors, has decided that the functionaries of all the autonomous organizations may be instructed to use the official vehicle only for commuting between office and residence and to attend any official meeting within the Head Quarters itself. The District Administration may be advised to keep strict vigil on the movement of such vehicle and any vehicle found being misused may be confiscated forthwith.

This may be brought to the notice of the all concerned for strict compliance.
Kindly acknowledge receipt.

**SECRETARIAT OF THE
ELECTION COMMISSION OF INDIA**

Nirvachan Sadan, Ashoka Road, New Delhi- 110001

No.464/RJ-LA/2008

Dated: 20th November, 2008.

To

The Chief Electoral Officers
Rajasthan, Jaipur.

Subject: General Election to RJ Legislative Assembly, 2008-visit of political
functionaries with security covers -regarding.

Sir,

I am directed to state that the Commission has considered the issue whether political functionaries of other states who are also provided with security covers should be permitted to visit Rajasthan with their security guards, pilot escorts etc for election campaigning. Your attention is invited to specific guidelines as prescribed in yellow Book as to number and type of security guards in entitlement of X, Y, Z or Z⁺ category. Further, the type of security cover to be given to a person is decided by both central and State Govt. after following due procedure.

The Commission has directed that the following instructions shall be observed in all cases - (other than Z' SPG protectees for whom special guidelines exist)

1. Escort shall be provided as pre-existing security categorization. For this purpose security grading as on 15.10.2008 will be reckoned.
2. The visiting leaders will be permitted to come with their PSOs, as per their X, Y, and Z category entitlement.
3. No private security vehicle or security guards shall be permitted to come with visiting political functionaries.

- IV. The visiting political functionaries shall give prior intimation at least three days before to CEO, MP and DEO/SP of the districts where visits for campaigning purposes are planned.
- V. If the visiting political functionaries are star campaigners for whom advance intimation has been given by the concerned political part in pursuance of Explanation of the section 77 of the R.P.Act, 1951, the expenditure in this regard will be accounted for in that party's account. If not, the entire expenditure shall be accounted for in that candidate's election expenditure account for whom the campaigning is made. If, the numbers of candidates are more than one, their expenditure shall be apportioned equally among them.
- VI. All such visits shall mandatorily be video-tracked.

Kindly acknowledge receipt. Also inform all political parties, candidates and Commission's observers already in field.

Yours faithfully,


(S.K.RUDOLA)
SECRETARY

INSTRUCTION SI. No.

Election Commission's Letter No.464/INST/2008/EPS Date: 7th January, 2009 addressed to The Chief Electoral Officers of all States and Union Territories.

Sub.- Feedback about "Dummy Candidates"-measures to be taken in this regard.

I am directed to say that the Election Commission has received feedback during recent elections that 'Dummy Candidates' are being set up by various political parties and candidates in order to hoodwink the ceiling on election expenditure and to further the interest of the party candidate.

There is no mention about "dummy candidate" in the electoral law. Any candidate who is validly nominated and chooses to remain in fray is a candidate and there can not be any distinction between "serious candidate" and "dummy candidate". But the fact remains that the practice of setting up of dummy candidates exists here and there. As per the feedbacks, the dummy candidates are normally set up for the following reasons:

1. The vehicle permission taken in the name of dummy candidate is actually used for the campaign of some other candidate in order to hoodwink the expenditure ceiling.
2. On the poll day, the vehicles permitted for the dummy candidate and his election agent and others are actually used for some other candidate.
3. The polling agents and counting agents of the dummy candidate actually function as the agents of the another candidate and thereby disturb the level playing field at the polling station on the poll day and in the counting center on the day of counting.

All the above amount to abuse of the legal provision of electoral law and the Commission's instructions and directions aimed at providing additional facilities to candidates to carry out their electoral campaign more effectively and affect the level playing field. A vigilant election machinery can always come to know about the so called "dummy candidate" within the first few days of the election/campaign process.

Whenever such information is received, the electoral administration should alert all the field functionaries, and a video recording of campaigning by such suspected dummy candidates should be done.

During a recent election, election officials while checking the campaign vehicles of a candidate found the campaign material of another candidate being carried in the vehicle. This gave a clear indication of the fact that the candidate actually was working as a dummy of other candidate. In such cases, evidence should be clearly collected by using video camera, recording of statements of witnesses, etc. After that a notice shall be issued to the candidate and simultaneously vehicles permitted for the campaign of such 'dummy candidate' and their actual use should be reviewed. In this process, the observer should also play a definite role. Once the misuse of vehicles is established, the review by RO may result in withdrawal of the campaign vehicles permitted for the campaigning of concerned candidate for he may not be requiring those vehicles as he is not serious about his own candidature. Whenever such action is taken that should be given wide publicity so that the fact that the particular candidate was canvassing for another candidate is put on public domain. The RO shall keep this also in mind while giving permission of vehicles to be used by such dummy candidates on the poll day.

The law permits each candidate to have one polling agent and two relieving agents on the poll day. Appointment of polling agents by the dummy candidates should also be tracked, extra precautions should be taken by deploying micro observer and installing video camera etc., at the polling stations concerned. Likewise, a close watch should be kept on the activities of counting agents of such dummy candidates in the counting centers.

Apart from keeping an eye on the plying of vehicles given for the campaign purpose and on the poll day, immediate action under Section 171 H of Indian Penal Code shall also be initiated against those dummy candidates by filing cases under that Section. Increasing of expenditure in any manner without the authorization of the candidate is an offence under Section 171 H.

The RO/observer should issue notice to the candidate in whose favour the dummy candidate was found to be operating asking him to include the expenditure incurred by dummy candidate into his election expenditure. All these correspondences, notices etc. should be put in public domain so that the

aggrieved persons, can make use of these documents in case of election petition to prove the point of electoral offence/corrupt practice.

This instruction should be brought to the notice of all concerned. The DEOs/ROs should also make it clear in the meetings of political parties/candidates about this misuse and inform them about the follow up action which would be taken in this regard. This matter should be given wide publicity so that the public will become aware of this and feel encouraged to provide information in case of any candidate campaigning for another candidate.

ELECTION COMMISSION OF INDIA**NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001.**

SUMIT MUKHERJEE

Tel No. 23717590

UNDER SECRETARY

Fax No. 23717590

No. 464/INST/2009/EPS

Dated: 8th February, 2009

To,

The Chief Electoral Officers of
All States/UTs.**Sub: - General Elections to the Lok Sabha, 2009- visit of political
functionaries with security covers - regarding**

Sir,

I am directed to state that the Commission has considered the issue whether political functionaries of a state who are also provided with security covers should be permitted to visit another state with their security guards, pilot escorts etc for election campaigning. Your attention is invited to specific guidelines as prescribed in Yellow Book as to the number and type of security guards in entitlement of X, Y, Z or Z⁺ category. Further, the type of security cover to be given to a person is decided by both Central and State Govt. after following due procedure.

The Commission has directed that the following instructions shall be observed in all cases --(other than Z⁺,SPG protectees for whom special guidelines exist).

- I. Escort shall be provided as per pre-existing security categorization. For this purpose security grading as on the date of announcement of elections will be reckoned.
- II. The visiting leaders will be permitted to come with their PSOs, as per their X, Y, and Z category entitlement.
- III. No private security vehicle or security guards shall be permitted to come with visiting political functionaries.
- IV. The visiting political functionaries shall give prior intimation at least three days before to CEO, of the state and DEO/SP of the districts where visits for campaigning purposes are planned.
- V. If the visiting political functionaries are 'star campaigners' sponsored by political parties in pursuance of Explanation of the section 77 of the R.P.Act, 1951, the expenditure in this regard will be accounted for in that party's account. If not, the entire expenditure shall be accounted,



for in that candidate's election expenditure account for whom the campaigning is made. If, the numbers of candidates are more than one, their expenditure shall be apportioned equally among them.

VI. All such visits shall mandatorily be video-tracked.

Kindly acknowledge receipt.

Yours faithfully

(SUMIT MUKHERJEE)

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ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/INST/2009/CC&BE

Dated : 25th March, 2009

To

The Chief Electoral Officer of
All States/Union Territories.

Sub: Use of vehicles for election campaign-Bullet-proof vehicles provided for security reasons- clarification.

Sir/Madam,

Please refer to the Commission's letter No. 437/6/2007/PLN-III, dated 24th October, 2007, on the above subject. In the said letter, it has been mentioned that in the case of persons provided with Z-plus security cover and allotted bullet-proof vehicle in view of security considerations, would be permitted to use such state owned bullet-proof vehicle during the period of operation of Model Code of Conduct. It has also been mentioned therein that the cost of propulsion of such bullet-proof vehicles will be borne by the Government.

The Commission has re-considered the above issue. On such re-consideration, the Commission has decided that while the political functionaries provided with bullet-proof vehicles on security considerations may continue to use the bullet-proof vehicle during the period of operation of Model Code of Conduct, the cost of propulsion of such vehicles should be borne by the person concerned when it is used for non-official purposes during such period. If the person is a leader of political party in terms of Explanations 1 and 2 under Section-77(1) of the Representation of the People Act, 1951, the expenditure on propulsion of the vehicle may be borne by the political party

concerned for any journey referred to in the said Section-77(1). In no case, the expenditure will be borne by the government in such cases.

These instructions may be brought to the notice of all election authorities and other authorities concerned in the State and also to the notice of all political parties based in your State including the State units of recognized political parties.

Yours faithfully,



(K. AJAY KUMAR)
SECRETARY

Copy to:-

All recognized National and State political parties.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/INST/2008-CC&BE**Dated: 28th March, 2009**

To

- 1) The Cabinet Secretary
Cabinet Secretariat
Rashtrapati Bhawan, New Delhi.
- 2) The Chief Secretaries of
All States and Union Territories
- 3) The Chief Electoral Officers of
All States and Union Territories

Subject: Prevention of misuse of vehicles during election – regarding.

Sir,

I am directed to invite your attention to the Commission's instructions issued vide its letter no. 437/6/2006-PLN-III dated 23rd November, 2007 on the subject cited and to state that in Commission's letter no. 437/6/INST/2008-CC&BE dated 31st October, 2008, the Commission had withdrawn the restriction imposed on the number of vehicles moving in a convoy in the case of political leaders availing exemption under explanation (1) of Section 77 of the R. P. Act, 1951. The Commission has decided to issue the following Guidelines in partial modifications of the above mentioned Commission's instructions dated 23rd November, 2007.

2. It is now clarified that there is no restriction to the number of vehicles moving in a convoy and will be applicable to all concerned.

3. This may be brought to the notice of all Political parties / candidates and all election related Officials immediately for compliance.

Yours faithfully,

(K. N. BHAR)
UNDER SECRETARY

By Spl. Messenger/Camp Bag**ELECTION COMMISSION OF INDIA**

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/INST/2008-CC&BEDated: 9th April, 2009

To

- 1) The Cabinet Secretary
Cabinet Secretariat
Rashtrapati Bhawan, New Delhi.
- 2) The Chief Secretaries of
All States and Union Territories
- 3) The Chief Electoral Officers of
All States and Union Territories

Subject: Applicability of Model Code of Conduct - Use of Aircraft / Helicopter by Political Parties - regarding.

Sir/Madam,

I am directed to state that the Commission has already issued detailed instructions regarding use of Government aircraft / helicopter owned by the Government and Public Sector Undertakings. As per these existing instructions, during the election process there is a complete ban on use of aircraft by political functionaries including Chief Minister and Ministers. The only exemption is for the Prime Minister in office.

Requests have been received from some of the Chief Ministers for relaxation of these restrictions for various reasons including those of security.

The Commission reviewed the matter in depth and obtained further inputs from appropriate quarters in this regard. After taking into consideration all relevant factors into account, the Commission has decided that the existing instructions in the matter will stand and there shall be no relaxation in the matter for any reason.



The Commission's existing restrictions do not however prohibit use of private aircraft by such political functionaries including Chief Ministers. Accordingly the Commission makes it clear that such political functionaries including Chief Ministers may, if required, hire private aircrafts and use them for their political campaign and other election related activities.

Kindly acknowledge the receipt.

Yours faithfully

(K.N. BHAR)
UNDER SECRETARY



ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/INST/2008-CC&BE

Dated: 21st April, 2009

To

- 2) The Cabinet Secretary
Cabinet Secretariat
Rashtrapati Bhawan, New Delhi.
- 2) The Chief Secretaries of
All States and Union Territories
- 3) The Chief Electoral Officers of
All States and Union Territories

Subject: Model Code of Conduct- Tours of Chairmen and Members of Commissions like the National Commission for Scheduled Castes, etc – regarding.

Sir,

I am directed to state that on a reference from the National Commission for Scheduled Castes, this Commission had issued instructions on the subject vide its letter No. 437/6/2007-PLN-III (Vol. V) dated 3.12.2007(copy enclosed). There has been subsequent reference from the National Economically Backward Classes Commission on the subject. The Election Commission has considered the issue raised by that Commission. Taking into account all aspects of the matter, the Commission has now decided to issue the following instructions in the matter, which will be applicable to Chairmen and Members of various Commissions like the National Commission for Scheduled Castes, National Commission for Scheduled Tribes, National Commission for Minorities, National Commission for Backward Classes , National Commission for Economically Backward Classes , etc , during the elections.

2. The Election Commission is aware of the fact that the various Commissions like, the National Commission for Scheduled Castes/Scheduled Tribes, National Economically Backward Classes Commission, National

Commission for Minorities etc. are entrusted with certain responsibilities connected with the welfare of the respective communities. In this context, the Commission would like to stress that during enforcement of the Model Code of Conduct, unless it becomes unavoidable in an emergent situation, the official visits of the Members of the said Commissions to the States going to polls may be deferred. In case of any emergency which calls for an immediate field visit and review by the Members of the Commissions mentioned above which cannot be avoided or deferred in public interest, a programme for their visit can be made under intimation to the Chief Electoral Officer of the State concerned. However, the Secretary of the said Commissions must take enough precaution that the visit is kept totally official and no political activity is undertaken by the Chairmen/Members during their visit. In such a situation, the Secretary of the Commissions should furnish a certificate to the Commission to the above effect before the visit is undertaken. A copy of the said certificate shall also be endorsed to the Chief Secretary as well as the Chief Electoral Officer of the State/UT where the visit is being undertaken.

3. It is further clarified that, during such visits, the Chairmen/Members should not meet any Ministers/Politicians and they should also not hold public hearings or meet the public. Their meetings etc should be only with the Government officials.

4. The above instructions would be applicable *mutatis mutandis* to similar Commissions established by the State Governments.

5. This may be brought to the notice of all concerned Ministries/Departments/ Commissions like National Commission for Scheduled Castes/Scheduled Tribes, National Economically Backward Classes Commission, National Commission for Backward Classes, National Commission for Minorities etc. immediately.

Yours faithfully,

(K. N. BHAR)
UNDER SECRETARY

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INSTRUCTION SI. No.108

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/INST/2010

Dated 7th June, 2010

To

The Secretary to the Govt. of India
Ministry of Home Affairs (PM Division)
Jaisalmer House, New Delhi

(Attention :Shri N.I.Chowdhry, Dy. Secretary)

Subject:-Use of Bullet proof vehicle by SPG Protectees (other than Prime Minister) during electioneering- reg

Sir,

I am directed to refer to your letters No.VI-23014/61/2010-VS dated 16th March, 2010 and 7th April, 2010 on the subject cited and to clarify, as follows, the points raised in para 3 thereof:-

- (i) It is confirmed that the SPG Protectees are also covered under the instructions contained in the Commission's letter No.437/INST/2009 CC&BE dated 25.3.2009;
- (ii) If the use of spare multiple vehicles has been prescribed in the case of the SPG Protectee by the security authorities due to security reasons, the same may be allowed at Govt. cost (except the vehicle used by the SPG Protectee);
- (iii) There may be no objection to the personal staff of the SPG Protectee accompanying the said Protectee in the B.R.car as the cost of propulsion of such bullet proof vehicle is to be paid by the Protectee or by his political Party where such SPG Protectee is a person covered by Section 77(1) of the Representation of the People Act, 1951 (i.e leader of the Political Party concerned who is called a star campaigner for the party). If any other political dignitary is allowed to accompany the SPG Protectee, if the situation so warrants then 50% of the cost of the propulsion shall be booked in the election expenditure of the Party Candidate from the particular constituency concerned as already clarified in Commission's letter No. 437/6/INST/2008-CC&BE dated 31st October, 2008. However, it is further clarified that if such companion is also a star campaigner under the said Section 77(1) no such apportionment of expenditure shall be called for.

Yours faithfully,

(K.N.BHAR)

UNDER SECRETARY

113

INSTRUCTION SI. No.110

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 437/6/INST/2010-CC&BE

Dated 5th October, 2010

To

The Chief Electoral Officers of all States and UTs

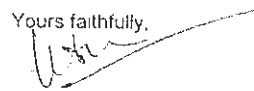
Subject:-Prevention of misuse of vehicles during elections- regarding

Sir,

I am directed to refer to the Commission's current instructions on the subject cited vide its letter No. 437/6/INST/2008-CC&BE dated 28th March, 2009, wherein it was conveyed that the Commission had decided that there will be no restriction to the number of vehicles moving in a convoy during model code period.

During the conference of Chief Electoral Officers held in Srinagar in J&K in June 2010, there have been requests that the above decision may be reviewed and some kind of a restriction should be introduced on the number of vehicles moving in a convoy during the model code period. In the light of the discussions held in the said conference, the matter was reviewed by the Commission. The Commission has now decided that during the model code period, the vehicles of political parties and candidates moving in a convoy shall not have more than ten vehicles excluding the security vehicles, if any, provided to the candidates, leaders of political parties etc. in that convoy. The District Election Officer may take advance information from the organizers about the number of vehicles and their identity which are proposed to move in the convoy so as to ensure proper monitoring. This may be brought to the notice of all concerned for strict implementation.

Yours faithfully,


(K. AJAYA KUMAR)
SECRETARY

INSTRUCTION SI. No. 93**ELECTION COMMISSION OF INDIA**

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 464/BR-LA/2010

Dated 16th October, 2010

To

The Chief Electoral Officer
Bihar, Patna

Subject:- General elections to Bihar Assembly- permission for vehicles - reg.

Sir,

I am directed to say that during the recent visit of the Commission to Bihar, the political parties informed the Commission that their leaders are not given permission to use vehicles for their visit within the District. The matter was considered by the Commission. It has been decided that if any recognized National/State political party applies for permission of vehicles to be used by their office bearers/leaders for their visit within the District, permission may be given in such cases. However, the expenditure on this account shall be booked/distributed in the election expenses of the party's candidate(s), of the Assembly Constituency in the District where they visited. This may be brought to the notice of all concerned for compliance.

Yours faithfully,

(HARBANS SINGH)
UNDER SECRETARY



By Spl. Messenger/By Speed Post

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/INST/2011-CC&BE

Dated: 24th March, 2011

To

- 1) The Cabinet Secretary
Cabinet Secretariat
Rashtrapati Bhawan, New Delhi.
- 2) The Chief Secretaries of
All States and Union Territories
- 3) The Chief Electoral Officers of
All States and Union Territories

Subject:- Model Code of Conduct- Tours of Chief Minister – regarding.

Sir,

I am directed to state that according to Commission's existing instructions on the subject cited, the personal staff of the Chief Ministers or other Ministers shall not be allowed to accompany them during their private tours during the period of Model Code of Conduct.

2. The matter has been reconsidered by the Commission. It has been decided that during the Model Code period, one member of personal staff of the Chief Ministers of States/Union Territories may be allowed to accompany them on personal/private tour. However, such personal staff shall not take part in any political activity or assist the Chief Minister in his political work.

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

Yours faithfully,

**(DILIP K. VARMA)
UNDER SECRETARY**

By Spl. Messenger/By Speed Post

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/INST/2011-CC&BE

Dated: 1st April, 2011.

To

- 1) The Cabinet Secretary
Cabinet Secretariat
Rashtrapati Bhawan, New Delhi.
- 2) The Chief Secretaries of
All States and Union Territories
- 3) The Chief Electoral Officers of
All States and Union Territories

Subject:- Model Code of Conduct- Tours of Chief Minister - regarding.

Sir,

In partial modification of the Commission's instructions contained in Para (2) of its letter of even number dated 24th March, 2011, regarding the tours of Chief Ministers, the Commission has decided that during the Model Code period, one member of personal staff of Chief Minister of the State/Union Territory, who has been allowed to accompany him on personal/private tour should be a non-gazetted officer. Further, as already instructed, such personal staff shall not take part in any political activity or assist the Chief Minister in his political work.

The Commission has also decided that these instructions will be applicable also in the case of the Prime Minister/Union Cabinet Ministers.

This may be brought to the notice of all concerned.

Yours faithfully,

(DILIP K. VARMA)
UNDER SECRETARY

(117)

By Spl. Messenger/By Speed Post

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/INST/2011-CC&BE

Dated: 27th April, 2011.

To

- 1) The Cabinet Secretary
Cabinet Secretariat
Rashtrapati Bhawan, New Delhi.
- 2) The Chief Secretaries of
All States and Union Territories
- 3) The Chief Electoral Officers of
All States and Union Territories

Subject:- Model Code of Conduct- Tours of Chief Minister and Ministers of Union Govt.- regarding.

Sir/Madam,

In partial modification of Commission's Instruction No.437/6/INST/2011-CC&BE, dated 01st April, 2011, the Commission has decided that the restriction regarding personal staff members who can accompany on personal/private tours shall not apply to the Prime Minister.

Yours faithfully,

(K.AJAYA KUMAR)
SECRETARY

PRINTING OF PAMPLETS/ POSTERS

ITEM - 160

परिशिष्ट-XVI

(अध्याय 8 का पैरा 10.2)

भारत निर्वाचन आयोग

निर्वाचन सदन,
अशोक रोड
नई दिल्ली - 110 001
तारीख - 2 सितम्बर, 1994

- 3/9/(ई.एस. 008)/94 जे.एस.-2

आदेश

विषय - पैम्फलेटों, पोस्टरों इत्यादि के मुद्रण पर नियंत्रण।

निर्वाचन पैम्फलेटों, पोस्टरों इत्यादि का मुद्रण और प्रकाशन लोक प्रतिनिधित्व अधिनियम, 1951 की धारा 127-क के उपबंधों द्वारा शासित होता है। उक्त धारा 127-क निम्न प्रकार से उपबंध करती है :

“127-क. पैम्फलेटों, पोस्टरों इत्यादि के मुद्रण पर नियंत्रण - (1) कोई भी व्यक्ति किसी ऐसे निर्वाचन पैम्फलेट या पोस्टरों को प्रकाशित या मुद्रित नहीं करेगा या मुद्रित या प्रकाशित नहीं करायेगा, जिसके मुख पर उसके मुद्रक और प्रकाशक का नाम और पता न दिया हो।

(2) कोई भी व्यक्ति किसी निर्वाचक पैम्फलेट या पोस्टर का मुद्रण तब तक नहीं करेगा या करवायेगा -

(क) जब तक कि उसके प्रकाशक के पहचान की घोषणा उसके द्वारा हस्ताक्षरित और दो व्यक्तियों द्वारा, जिनको वह व्यक्तिगत रूप से जानता हो, सत्यापित कर दो प्रतियों में उसके द्वारा मुद्रक को नहीं दे दी जाती, और

(ख) जब तक कि दस्तावेज के मुद्रण के पश्चात् युक्तिसंगत समय के भीतर घोषणा की एक प्रति दस्तावेज की एक प्रति के साथ, मुद्रक द्वारा -

(एक) जहां वह मुद्रित हुआ हो, उस राज्य की राजधानी के मुख्य निर्वाचन अधिकारी को, और

(दो) किसी अन्य मामले में, उस जिले के जिला मजिस्ट्रेट को, जहां वह मुद्रित किया गया हो, भेज न दिया जाये।

(3) इस धारा के प्रयोजनों के लिये -

(क) किसी दस्तावेज की प्रतियों की संख्या को बढ़ाने के लिये हाथ द्वारा नकल करने को छोड़कर कोई भी प्रक्रिया को मुद्रक समझा जायेगा और 'मुद्रक पद' का तदनुसार अर्थ लगाया जायेगा, और

(ख) निर्वाचन पैम्फलेट या पोस्टर का तात्पर्य किसी मुद्रित पैम्फलेट हैंड बिल या अन्य दस्तावेज से है, जो किसी अभ्यर्थी या अभ्यर्थियों के समूह के निर्वाचन को प्रोत्साहित करने या पक्षपात/प्रतिकूल करने के लिये वितरित किया जाये या किसी इशतहार या पोस्टर से है, जिसमें किसी निर्वाचन का कोई संदर्भ हो, किन्तु उसमें ऐसा कोई हैंडबिल, इशतहार या पोस्टर सम्मिलित न होगा, जिसमें कि किसी निर्वाचन सभा की तिथि, समय, स्थान और अन्य विवरण या निर्वाचन अधिकारियों या कार्यकर्ताओं को सामान्य अनुदेश घोषित किये गये हों।

(4) कोई व्यक्ति, जो उपधारा (1) या उपधारा (2) के प्रावधानों का उल्लंघन करता है कारावास से, जिसको 6 माह तक बढ़ाया जा सकता है या जुर्माने से, जिसे दो हजार रुपये तक बढ़ाया जा सकता है या दोनों सहित दण्डनीय होगा।

2. निर्वाचन पैम्फलेटों, पोस्टरों इत्यादि के मुद्रण पर ऊपर दिये गये नियंत्रण कानून के अधीन इस दृष्टि से आरोपित किये गये कि ऐसे दस्तावेजों के प्रकाशकों और मुद्रकों की पहचान स्थापित हो सके, जिससे कि यदि ऐसे दस्तावेज में कोई ऐसी विषयवस्तु जो विधि विरुद्ध (अवैध) हो, क्षतिकारक या आपत्तिजनक हो यथा धर्म, प्रजाति, जाति, समुदाय या भाषा के आधार पर अपील किसी विपक्षी इत्यादि के चरित्रहनन की सामग्री हो तो संबंधित व्यक्तियों के विरुद्ध आवश्यक दण्डात्मक या निरोधक कार्यवाही जा सके, इन नियंत्रणों से राजनीतिक दलों, अभ्यर्थियों और उनके समर्थकों द्वारा निर्वाचन पैम्फलेटों, पोस्टरों आदि के मुद्रण और प्रकाशन पर अनाधिकृत निर्वाचन व्ययों की वहन किये जाने पर रोक लगाने के प्रयोजन में सहायता मिलेगी।

3. आयोग ने यह पाया है कि निर्वाचन पैम्फलेटों, पोस्टरों आदि के मुद्रण और प्रकाशन से संबंधित कानून के ऊपर दिये प्रावधानों का अनुपालन उसके समर्थन में कम और उनको भंग/तोड़ने में अधिक हो रहा है। निर्वाचन के समय पर विशाल संख्या ऐसे दस्तावेजों को मुद्रित, प्रकाशित परिचालित और निजी एवं सरकारी भवनों की दीवारों पर चिपकाया जाता है, जिनके संबंध में उल्लिखित कानून की अपेक्षाओं का अनुसरण नहीं किया गया होता है। मुद्रणालयों द्वारा कम अवसरों पर यथा- मुख्य निर्वाचन अधिकारियों या संबंधित जिला मजिस्ट्रेटों को धारा 127-क(2) की अपेक्षानुसार प्रकाशक से प्राप्त घोषणा पत्र के साथ मुद्रित दस्तावेजों को भेजा जाता है। बहुधा निर्वाचन पैम्फलेटों, पोस्टरों आदि के मुख पर धारा 127-क(1) के अतिक्रमण/उल्लंघन में उक्त मुद्रक और या प्रकाशक के नाम और पते नहीं छपे होते हैं।

4. आयोग को यह भी शिकायत मिली है कि अपराधियों/वंचकों के विरुद्ध समयानुसार कोई कार्रवाई नहीं की जाती है, जिस परिणामस्वरूप उपघातक सामग्री बिना दण्ड के स्वतंत्रतापूर्वक प्रकाशित एवं परिचालित की जाती है। इस संबंध में रहीम खान खुर्शीद अहमद एवं अन्य (ए.आई.आर. 1975 एस.सी. 290) के मामले में उच्चतम न्यायालय द्वारा दी गई निम्नलिखित व्यवस्था ध्यान आकृष्ट किया जाता है :-

“इस प्रक्रम पर भी हम देख सकते हैं कि प्रश्नगत हैंडबिल पर मुद्रक एवं प्रकाशक का नाम नहीं है, यद्यपि निर्वाचन कानून ऐसी अपेक्षा रखता है। दुर्भाग्यवश जब ऐसी सामग्री छापी एवं परिचालित की जाती है, तो कानून का कोई अधिकरण नहीं होता, जो सम्यक् जांच-पड़ताल के बाद तत्पर कार्रवाई कर सके। परिणामस्वरूप कोई मुद्रक या अभ्यर्थी या प्रचारक निर्वाचनों के दौरान कानून की परवाह किये बिना सफलतापूर्वक अफवाह/काण्ड को बिना कोई सुराग के फैलाता है। यह जानते हुए कि निर्वाचनों के बाद जब मुकदमों के ढेर/भीड़ के बीच इस मामले को उठाया जायेगा तो लम्बे समय तक कुछ नहीं होगा। कानून को रहते प्रवृत्त किया जाना उतना ही महत्वपूर्ण है, जितना कि कानून के नियम और विधि का निर्माण किया जाना।”

5. ऊपर उल्लिखित विषय और कानून के प्रावधानों का भविष्य में कड़ाई से अनुपालन और अनुसरण किये जाने के आयोग संविधान के अनुच्छेद 324 के अधीन शक्तियों का तथा इस संबंध में उसको सक्षमता प्रदान करने वाली समस्त शक्तियों का प्रयोग करके और इस विषय पर अपने सभी पूर्ववर्ती अनुदेशों को दबाते हुए एतद्वारा निम्न प्रकार से निर्देश देता है :-

(1) जैसे ही निर्वाचन आयोग द्वारा लोकसभा, विधानसभा या परिषद निर्वाचन क्षेत्र से किसी निर्वाचन का उद्घोष किया जाये, वैसे ही जिला मजिस्ट्रेट द्वारा निर्वाचन के ऐसे आख्यापन किये जाने के तीन दिन के भीतर अपने जिले के मुद्रणालयों को -

(क) ऊपर उल्लिखित धारा 127-क की अपेक्षाओं को इंगित करते हुए और विशेष रूप से यह अनुदेश देते हुए लिखित रूप से उनके द्वारा मुद्रित किसी निर्वाचन पैम्फलेटों, पोस्टरों या ऐसी अन्य सामग्री पर मुद्रकीय हाशियों में स्पष्ट रूप से मुद्रक एवं प्रकाशकों के नाम एवं पते अंकित किये जायें;

(ख) धारा 127-क(2) के अधीन अपेक्षित रूप से प्रकाशक द्वारा प्राप्त किये गये घोषणा पत्र और मुद्रित सामग्री की प्रतियां (प्रत्येक ऐसी मुद्रित सामग्री की तीन अतिरिक्त प्रतियों के साथ) मुद्रित किये जाने के तीन दिनों के भीतर भेज दिये जाने के लिये मुद्रकों को कहते हुए लिखेगा;

(ग) स्पष्ट रूप से उन पर जोर देते हुए यह लिखेगा कि धारा 127-क के किन्हीं प्रावधानों और ऊपर दिये गये आयोग के निर्देशों का किसी प्रकार से उल्लंघन/अतिक्रमण को गंभीरतापूर्वक लिया जायेगा और उपर्युक्त मामलों में राज्य के सुसंगत नियमों के अधीन मुद्रणालयों की अनुज्ञा पत्रों को समाप्त किये जाने को भी सम्मिलित करते हुए कड़ी कार्रवाई की जायेगी।

(2) मुख्य निर्वाचन अधिकारी राज्य की राजधानियों में स्थित मुद्रणालयों के संबंध में समान रूप से कार्रवाई करेंगे।

(3) किसी निर्वाचक पैम्फलेटों, पोस्टरों आदि के मुद्रण के कार्य को लेने से पूर्व प्रत्येक मुद्रक 127-क(2) की शर्तों के अनुसार आगे दिये गये परिशिष्ट-क में आयोग द्वारा विहित प्रपत्र में प्रकाशक से घोषणा प्राप्त कर लेगा। यह घोषणा पत्र प्रकाशक द्वारा विधिवत हस्ताक्षरित होगा और ऐसे दो व्यक्तियों द्वारा सत्यापित किया जायेगा, जो प्रकाशक को व्यक्तिगत रूप से जानते हों। यथास्थिति, मुख्य निर्वाचक अधिकारी या जिला मजिस्ट्रेट को उसे अग्रसरित करते समय मुद्रक द्वारा भी उसे प्रमाणित किया जायेगा।

(4) जैसा ऊपर निर्देश दिया गया है, मुद्रक द्वारा प्रकाशक के घोषणा पत्र के साथ मुद्रित की चार (4) प्रतियां उसके मुद्रित किये जाने के तीन (3) दिनों के भीतर प्रस्तुत की जायेगी। ऐसी मुद्रित सामग्री और घोषणा पत्र के साथ आगे दिये गये परिशिष्ट-ख में आयोग द्वारा विहित प्रपत्र में मुद्रित दस्तावेजों की प्रतियों की संख्या और ऐसे कार्य के लिये कोई कीमत से संबंधित सूचना भी मुद्रक द्वारा प्रस्तुत की जायेगी। मुद्रक द्वारा मुद्रित प्रत्येक निर्वाचन पैम्फलेटों, पोस्टरों आदि के संबंध में ऐसी सूचना प्रत्येक ऐसे दस्तावेज के मुद्रण के तीन (3) दिनों के भीतर सामूहिक रूप से नहीं अपितु अलग-अलग रूप से भेजी/प्रस्तुत जायेगी।

(5) किसी मुद्रणालय से कोई पैम्फलेटों, पोस्टरों आदि जिला मजिस्ट्रेट को प्राप्त होने के तत्काल पश्चात् वह इस बात की जांच करेगा कि प्रकाशक और मुद्रकों ने कानून की और ऊपर दिये गये आयोग के निर्देशों की अपेक्षाओं का अनुपालन किया है या नहीं। वह किसी सुविचारित स्थान पर अपने कार्यालय में उसकी एक प्रति प्रदर्शित करवाएगा, जिससे कि सभी राजनीतिक दल अभ्यर्थी और दिलचस्पी रखने वाले अन्य व्यक्ति इस बात की जांच कर सकें कि ऐसे दस्तावेजों से संबंधित कानून की अपेक्षाओं का सम्यक् अनुपालन हुआ है या नहीं और इस प्रकार से वे ऐसे अन्य निर्वाचन पैम्फलेटों, पोस्टरों आदि के मामलों को, जिनके संबंध में ऊपर दिये गये कानून की अपेक्षाओं का उल्लंघन हुआ है, संबंधित प्राधिकारियों के संज्ञान में ला सकने में सक्षम होंगे।

(6) मुख्य निर्वाचन अधिकारी भी प्राप्त पैम्फलेटों, पोस्टरों आदि के संबंध में ऊपर दिये गये पैरा (5) में उल्लिखित प्रकार से अग्रतर कार्रवाई उसी प्रकार से करेंगे।

(7) मुख्य निर्वाचन अधिकारियों और जिला मजिस्ट्रेटों द्वारा 127-क के ऊपर उल्लिखित प्रावधानों के और/या ऊपर दिये गये आयोग के निर्देशों के अतिक्रमण/उल्लंघन में प्रकाशित किसी पैम्फलेटों, पोस्टर आदि का मामला यदि उनके संज्ञान में आता है या लाया जाता है, तो तत्काल जांच कराने के लिये तत्परतापूर्वक कार्रवाई की जायेगी। ऐसे सभी मामलों में अपराधियों के विरुद्ध अत्यन्त त्वरितता के साथ अभियोग चलाये जायें और ये मामले संबंधित न्यायालयों में सक्रियता के साथ निपटारे जायेंगे।

4. आयोग सभी राजनीतिक दलों, अभ्यर्थियों और अन्य संबंधित व्यक्तियों को एतद्वारा यह चेतावनी देता है कि उपर्युक्त विषय कानून एवं आयोग के निर्देशों के उल्लंघन को अत्यंत गंभीरता से लिया जायेगा और अपराधियों के विरुद्ध अत्यंत कड़ी कार्रवाई की होगी।

5. यदि कोई अधिकारी, जो ऊपर दिये गये कानून के प्रावधानों और आयोग के निर्देशों के प्रवर्तन के लिये उत्तरदायित्व संबंध में अपने कर्तव्यों के सम्यक् निर्वहन में विफल पाया जाता है, तो वह किसी ऐसी दण्डक कार्रवाई, जो उसके विना कर्तव्य भंग करने के लिये मांग की जाये, के अतिरिक्त कड़ी अनुशासनात्मक कार्रवाई के लिये जिम्मेदार होगा।

भारत निर्वाचन आयोग के नाम में एवं

ह.

(एस.के. भेंदीरत्ता)

सचिव

1. समस्त राज्यों एवं संघ राज्य क्षेत्रों की सरकारों के मुख्य सचिव।
2. समस्त राज्यों एवं संघ राज्य क्षेत्रों के मुख्य निर्वाचन अधिकारी।

परिशिष्ट-क

निर्वाचन पोस्टरों, पैम्फलेटों इत्यादि के प्रकाशन द्वारा
प्रस्तुत की जाने वाली घोषणा का प्रोफार्मा

(लोक प्रतिनिधित्व अधिनियम, 1951 की धारा 127-क देखिये)

मैं पुत्र/पुत्री/पत्नी (नाम)
..... निवासी (गाँव/कस्बा) (जिला) (राज्य)
एतद्वारा घोषणा करता हूँ कि मैं (निर्वाचन पोस्टर, पैम्फलेट इत्यादि की
संक्षिप्त विशिष्टियाँ दें) का प्रकाशक हूँ (मुद्रणालय का नाम)
..... द्वारा मुद्रित किया गया है।

स्थान :

(प्रकाशक के हस्ताक्षर)

तारीख :

पूरा पता

प्रमाणित (प्रकाशक को व्यक्तिगत रूप से जानने वाले व्यक्ति द्वारा)

हस्ताक्षर

(नाम और पता)

हस्ताक्षर

(नाम और पता)

प्रतिहस्ताक्षर

हस्ताक्षर

(मुद्रक का नाम और पता)

परिशिष्ट-ख

निर्वाचन पोस्टरों, पैम्फलेटों इत्यादि के मुद्रण के बारे में सूचना देने का प्रोफार्मा

1. मुद्रक का नाम और पता
2. प्रकाशक का नाम और पता
3. प्रकाशक के मुद्रण आदेश की तारीख
4. प्रकाशक की घोषणा की तारीख
5. निर्वाचन पोस्टरों, पैम्फलेटों इत्यादि की संक्षिप्त विशिष्टियाँ
6. उपर्युक्त मुद्रित दस्तावेज की प्रतियों की संख्या
7. मुद्रण की तारीख
8. उपर्युक्त दस्तावेज के बारे में प्रकाशक द्वारा प्रभारित मुद्रण प्रभार (पेपर की लागत सम्मिलित करके)

स्थान :

(मुद्रक के हस्ताक्षर)

तारीख :

मुद्रक की मुहर

ITEM NO. 119

Election Commission's letter No. 3/10/2004/JS-II, dated 29.04.2004 addressed to the Chief Electoral Officer of all States and Union Territories.

**Subject: - Election campaigns of political parties and candidates-
measures to curb highly expensive campaigns and for
maintenance of law and order during elections- regarding.**

I am directed to invite your attention to Commission's letter of even number dated 23.4.04 on the subject cited. It has been mentioned therein that display of hoardings, banners, etc. in public place will be subject to local laws and court orders, if any. It is hereby clarified that the permission regarding erection of hoarding/banners on private premises with prior consent of the owner of the property will also be subject to local laws and Court Orders, if any, in force in the area concerned.

Election Commission's letter No. 3/9/2004/J.S-II, dated 24.08.2004 addressed to the Chief Electoral Officers of all States and Union Territories.

Subject: - Restrictions on the printing of pamphlets, posters, etc.

I am directed to invite your attention to the Commission's Order No. 3/9/(ES0G8)/94-JS-II dated 2.9.94 on the above subject wherein Commission issued its guidelines in pursuance of the provisions of section 127A of the Representation of the People Act, 1951 regarding printing and publication of election pamphlets, posters etc. These provisions are reproduced below:-

"127A. Restrictions on the printing of pamphlets, posters, etc. (1) No person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and addresses of the printer and the publisher thereof.

(2) No person shall print or cause to be printed any election pamphlet or poster -

(a) unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and

(b) unless, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document;

(i) where it is printed in the capital of the State, to the Chief Electoral Officer; and

(ii) in any other case, to the district magistrate of the district in which it is printed.

(3) For the purposes of this section:-

- (a) any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression "printer" shall be construed accordingly; and
- (b) "election pamphlet or poster" means any printed pamphlet, hand-bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates or any placard or poster having reference to an election, but does not include any hand bill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.
- (4) Any person who contravenes any of the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both."

2. It Has been observed that surrogate advertisements appear in print media, especially newspapers, for and against particular political parties and candidates during election period. In many cases such advertisements are for the prospects of election of particular candidates. As per Section 77(1) of the Representation of the People Act, 1951, expenditure involved in such advertisements in connection with the election of any candidate has to be added to the account of election expenses of the candidate, required to be maintained under that Section. Further, Section 171H of IPC prohibits incurring of expenditure, on inter-alia, advertisement, circular or publication, for the purpose of promoting or procuring the election of a candidate, without authority from the candidate. The surrogate advertisements defeat the purposes of the aforesaid provisions of law.

3. In order to subserve the requirements of the provisions of law as mentioned above, the Commission has directed that in the case of any advertisements/election matter for or against any political party or candidate in print media, during the election period, the name and address of the publisher should be given along with the matter/advertisement.

4. This may be brought to the notice of all concerned including District Election Officers and the print media in your State for information and compliance.

5. Kindly acknowledge receipt.

Election Commission's letter No. 3/9/2007/JS-II Dated: 16th October, 2007. addressed to the Chief Secretaries & the Chief Electoral Officers of all States and Union Territories.

Subject:- Restrictions on the Printing of pamphlets, posters etc.

I am directed to invite a reference to the Commission's letter No. 3/9/2004/JS-II, dated 24th August, 2004 regarding the provisions of section 127A of the Representation of the People Act, 1951.

2. It has been brought to the notice of the Commission that advertisements are brought out in print media, some surrogate and some under the name of some organizations.

3. The following points may be noted in respect of the advertisements that appear in the print media, especially newspapers, for and against particular political parties and candidates during election period:

(a) In the case of advertisements, the source of which is traceable, the following action may be taken:-

- (i) if the advertisement is with the consent or knowledge of the candidate, it will be treated to have been authorized by the candidate(s) concerned and will be accounted for in the election expenses account of the candidate(s).
- (ii) if the advertisement is not with the authority from the candidate, then action may be taken for prosecution of the publisher for violation of Section 171 H of IPC-(incurring expenditure in advertisement without written authority from the candidate(s) concerned).

(b) If the identity of the publisher is not indicated in the advertisement, then you may contact and get the information from the Newspaper concerned, and consider appropriate action, as above.

4. The District Election Officers, Returning Officers alongwith other election authorities may be informed of the Commission's abovementioned instructions for their compliance. Action taken in this regard may please be confirmed by endorsing to the Commission, a copy of the instructions issued to the District Election Officers, Returning Officers etc.

4. Please acknowledge receipt of this letter.

CAMP BAG

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110 001.

No. S/9/2009/SDR

Dated: 9th March, 2009

To

The Chief Electoral Officers of
All States and Union Territories.

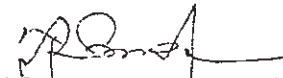
Subject:- General Elections to the House of the People and to the Legislative Assemblies of Andhra Pradesh, Orissa and Sikkim -Restrictions on the Printing of pamphlets, posters etc. - reiteration of instructions - regarding.

Sir,

The Commission has announced the schedule for the General Elections to the House of the People and to the Legislative Assemblies of Andhra Pradesh, Orissa and Sikkim on 2nd March, 2009. In this connection, your attention is invited to Commission's letter No. 3/9/2007/JS-II dated 16-10-2007 (copy enclosed) relating to restriction on the printing of pamphlets, posters etc. You are therefore requested to bring these instructions to the notice of all concerned.

2. Kindly acknowledge receipt.

Yours faithfully,


(NARENDRA N. BUTOLIA)
UNDER SECRETARY



ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110 001.

No. 3/9/2007/JS-II

Dated: 16th October, 2007.

To

1. The Chief Secretaries of all States/Union Territories.
2. The Chief Electoral Officers of all States/Union Territories.

Subject:- Restrictions on the Printing of pamphlets, posters etc.

Sir,

I am directed to invite a reference to the Commission's letter No. 3/9/2004/JS-II, dated 24th August, 2004 regarding the provisions of section 127A of the Representation of the People Act, 1951.

2. It has been brought to the notice of the Commission that advertisements are brought out in print media, some surrogate and some under the name of some organizations.

3. The following points may be noted in respect of the advertisements that appear in the print media, especially newspapers, for and against particular political parties and candidates during election period :

(a) In the case of advertisements, the source of which is traceable, the following action may be taken:-

(i) if the advertisement is with the consent or knowledge of the candidate, it will be treated to have been authorized by the candidate(s) concerned and will be accounted for in the election expenses account of the candidate(s),

(ii) if the advertisement is not with the authority from the candidate, then action may be taken for prosecution of the publisher for violation of Section 171 H of IPC-(incurring expenditure in advertisement without written authority from the candidate(s) concerned).

(b) If the identity of the publisher is not indicated in the advertisement, then you may contact and get the information from the Newspaper concerned, and consider appropriate action, as above.

4. The District Election Officers, Returning Officers alongwith other election authorities may be informed of the Commission's abovementioned instructions for their compliance. Action taken in this regard may please be confirmed by endorsing to the Commission, a copy of the instructions issued to the District Election Officers, Returning Officers etc.

5. Please acknowledge receipt of this letter.

Yours faithfully,


(K.F. WILFRED)
SECRETARY

**ELECTION
EXPENDITURE
MONITORING/
PAID NEWS**

ITEM NO. 123

Election Commission's order No. 76/95/J.S.II Dated 10.04.1995.

ORDER

Subject: Language in which the accounts of election expenses may be filed by the contesting candidates.

1. The question of language in which a contesting candidate can file the return of account of election expenses under Section 78 of the Representation of the People Act, 1951 has been examined by the Commission.
2. All statutory documents and forms under the election law are printed and made available in the local approved languages. Candidates and others are permitted to file miscellaneous petitions and representations in local languages. These documents are not rejected on grounds of their not being in English or Hindi.
3. It would be unjust to reject an election expenses return lodged by a candidate on the ground of its not being in English or Hindi in view of the fact that the candidates who are not well versed in these languages will feel deprived. If mistakes are found in returns of election expenses, the same may be ascribed to lack of knowledge of English or Hindi.
4. Apart from the mandatory provision that all statutory documents and forms shall be prepared in local approved languages, the Commission also directs the Chief Electoral Officers in its various important orders and directions to get them translated into local languages if those orders or directions are meant for wide publicity and circulation among the political parties, candidates and public in the State.
5. Thus, in fairness to the contesting candidates at elections to the House of the People and the State Legislative Assemblies from different States and Union Territories, they will be permitted to file returns of election expenses in English, Hindi or the local language(s) in which the electoral rolls are printed.
6. It shall be the responsibility of the Chief Electoral Officers, District Election Officers and Returning Officers to ensure that all the contesting candidates get the forms/registers/extracts of rules relating to lodging of returns of accounts of election expenses in the approved regional language for electoral rolls so that no candidate may complain that he is not aware of the statutory requirements relating to filing the returns of election expenses and he is able to maintain his account from day to day properly and accordingly.

ITEM NO. 124

Election Commission's letter No. 437/6/OR/95/MCS/1158, Dated 29 03 1996 addressed to the Secretary to the Government of India, Ministry of Home Affairs New Delhi and copy endorsed to CEOs of all States and Union Territories.

Subject: Expenditure on security of PM during election visits.

Please refer to letter of Shri V.K. Malhotra, Joint Secretary (CS) dated 21.2.96 regarding clarification sought by Orissa Government in connection with the expenditure to be incurred on the barricading and rostrums etc. for Prime Minister's visit in connection with elections.

2. Attention is drawn to Commission's Order No. 437/6/ES0025/94/MCS, dated 21.10.94 (copy enclosed) wherein it has been clarified that the State Governments/Union Territories should strictly adhere to the Order of the Supreme Court given by its Order dated 29.4.94 in the writ petition (Civil) No.312 of 1994. In the Commission's Order, it has further been directed that such individuals who visit State/ Constituency for electioneering and election arrangements like barricading/rostrums etc. shall be borne by the concerned political party.
3. It is, therefore, directed once again that instructions as contained in Commission's Order dated 21.10.1994 should be strictly adhered to.

Annexure

Letter No. 437/6/ES0025/94/MCS Dated 21 st October 1994 addressed to Chief Secretaries and CEOs of all States and UTs.

ORDER

The Commission vide its letter No. 437/6/93-PS-II dated 31st December, 1993 had reiterated the total and absolute ban on the use of official vehicles for campaigning, electioneering or election related travel during elections and had directed that there will be total ban on the use of any vehicle for any purpose connected with the election by any political party, the candidate or any other person connected with election.

2. The Commission vide its letter No. 437/6/94 dated 2nd February, 1994 had invited attention to the circular letter No. 10/17/89-M&G dated 1st November, 1989 from the Ministry of Home Affairs on the tour of ministers in connection with the election campaign and had observed that those instructions were flouted with impunity and had therefore issued further instructions without, in any way overriding, modifying or affecting the instructions of the Ministry of Home Affairs dated 1 st November, 1989 referred to above.
3. The Supreme Court in its order dated 29th April, 1994 in a writ petition (Civil) No.312 of 1994 (State of Tamil Nadu versus Chief Election

Commissioner and others) seeking exemption in the case of Chief Minister of Tamil Nadu had directed as follows :

"While we are conscious of the effort being made by the Election Commission to ensure cleanliness of the electoral process and for the protection and ensurement of free and fair polls, we are afraid, the Election Commission cannot, as it seeks to do here, put out of consideration the security requirements of certain political personalities who might, in view of extremist and terrorist activities and threats to their lives, require security of a high order. To confine the security to only the Prime Minister of the country, as the Election Commission has done, and to deny, as the communication dated 31st March, 1994 seeks to do, to all other may not reflect a proper perception and appreciation of the problem. At all events, the Election Commission will have to take note of the statutory provisions. However, we should make one aspect clear. Having regard to the responsibilities and obligation of the Election Commission to ensuring purity of the electoral process, it is open to the Election Commission, if it has material to doubt that the assessments of the security requirement made by the Director of the Tamil Nadu Special Security Group under the status are so manifestly and unduly excessive as to amount to promotion indirectly, of partisan electoral interests, to bring such matter to the notice of the State Government for appropriate corrective steps."

4. The Cabinet Secretariat in its letter No. 10/22/094-ES dated 3/5 May, 1994 had issued instructions that under the provisions of the Special Protection Group Act, 1988 protection is provided for proximate security of the following :-
 - (i) The Prime Minister and the members of his immediate family;
 - (ii) Any former Prime Minister or the members of his immediate family for a period of 5 years from the date on which the former Prime Minister ceases to hold the office of Prime Minister.
5. In the light of the above order of the Supreme Court, the Commission had substituted paragraph 3 of its letter No. 437/6/93/PS-II dated 31 st December, 1993 vide para 6 of letter of even number dated 8th May, 1994 to say that "the Commission has decided that para 3 of its above referred circular letter No. 437/6/93-PS-II dated 31 st December, 1993 will stand substituted by the following:-
 - 3(A) The only exceptions from the prohibitions mentioned in para 2 above will be the Prime Minister and other political personalities who might, in view of extremist and terrorist activities and threats 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.
 - 3(B) The Commission would like to make it clear that having regard to its responsibilities and obligations to ensuring purity of the

electoral process, the Commission, if it has material to doubt that the assessments of the security requirements made by the authorities under the above referred special enactments or any other special instructions of the Government are so manifestly or unduly excessive as to amount to promotion, indirectly, of partisan electoral interests, bring such matter to the notice of the Central Government and/or, as the case may be, the State Government for appropriate corrective steps.

3(C) For achieving this, 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."

6. It was further clarified by the Commission in its letter No. 437/6/94 dated 14th May, 1994 that all State Governments and the Union Territory Administration are requested to adhere strict strictly to the orders of the Supreme Court. Further, orders relating to security of the individuals issued Under statutory powers or other powers must be fully honoured.
7. The Commission has further directed that when such individuals visit State/ Constituency for electioneering and election related work, the expenditure incurred on security arrangements like barricading/ rostrums etc. shall be borne by the concerned political parties.

ITEM NO. 125

Election Commission's letter No.437/6/GUJ/98-PLN-III dated 16.01.1998 addressed to the Capinet Secretary to the Govt, of Gujarat.

Subject: Model Code of Conduct - regarding.

I am directed to refer to D.O.No.SBI/SSA/1098/409 dated 13th January, 1998 from Principal Secretary, Home Department, and to state that all Ministers both Union and the State and all other leaders of political parties will be allowed security as per the threat perceptions assessed by official agencies and other professional agencies. The expenditure on the bullet proof cars and all other cars used by these individuals will be borne by the individuals concerned. However, expenditure on the security staff will be borne by the State Government/UT Administration concerned.

ITEM NO. 126

Election Commission's letter number No. 76/2003/JS-II dated 02.01.2004 addressed The Chief Electoral Officers of MR Chhattisgarh, Rajasthan, NCT of Delhi and Mizoram

Subject: General Elections - Instructions for guidance of contesting candidates for lodging their accounts of election expenses - Inspection of accounts of election expenditure as an additional measure - regarding

- Ref. 1. Commission's letter Nos. (i) 76/98/JS-II, dated 19.01.1998 (Item No.264)
(ii) 76/2003/JS-II, dated 24.10.2003 (Item No.266)
(iii) 76/2003/JS-II, dated 29.10.2003 (Item No.267)
2. Chapter XVII of Handbook for Returning Officers (all elections where Electronic Voting Machines are used), 1998

I am directed to invite your attention to the Commission's letters referred to above on the subject cite and to say that under Section 78 of the Representation of People Act, 1951, every contesting candidate at an election shall, within 30 days from the date of the election of the returned candidate, lodge with the District Election Officer an account of his election expenses which shall be a true copy of the account kept by him or his election agent under Section 77 of the Representation of People Act, 1951. Rule 89 of the Conduct of Election Rules, 1961 prescribes the manner in which accounts of the candidate shall be lodged and the steps to be taken by the District Election Officer consequent upon the lodging of the account of election expenses by the candidate.

2. The District Election Officer in his report to the Election Commission under Rule 89 of the Conduct of Election Rules, 1961 reports to the Election Commission on: - (i) Name of each contesting candidate; (ii) Whether such candidate has lodged his account of election expenses and, if so, the date on which such account has been lodged; and (iii) Whether in his opinion such account has been lodged within the time and in the manner required by the Act and these Rules. As laid down in para 14 of Chapter XVII of the Handbook of Returning Officers (all elections where EVMs are used), 1998, the District Election Officer before accepting the account of the candidate as being in accordance with the manner prescribed shall conduct such enquiry as he deems necessary and he shall certify to the Commission with reference to the documents filed before him and as verified by him through an appropriate enquiry that the statement of account is in the manner prescribed. Where the District Election Officer is of the opinion that the account of election expenses of any candidate has not been lodged in the manner required by the Act and these Rules, he shall with every such report forward to the Election

Commission the account of election expenses of that candidate and the vouchers lodged along with it. The District Election Officer immediately after submission of the report to the Election Commission shall also publish a copy thereof affixing the same to his notice board for the information of the general public.

The attention of all the District Election Officers is invited to the instructions contained in the Commission's letters, referred to above, which, inter alia, prescribed the maintenance, by every contesting candidate, of a register showing the account of his election expenses on day-to-day basis; making available the said register with supporting documents for inspection at any time during the process of election to the District Election Officer / Returning Officer / Election Observer appointed by the Commission or any such authority nominated by the Commission in this behalf; and, mandatory submission of accounts every third day to the District Election Officer / Returning Officer / Election Observer / designated Officer. It was also clarified that failure to produce this register on demand will be considered as a major default. The Commission had vide its instructions dated 29.10.2003 also laid down the procedure for streamlining the scrutiny of accounts maintained by the candidates. One of the directions given by the Commission required the accounts of the candidates furnished to the District Election Officer / Returning Officer / Election Observer / designated Officers to be scrutinized every third day and a copy of the accounts furnished retained in a separate file for each candidate as proof of record and another copy to be displayed on the notice board of the Returning Officer.

Keeping into account the provisions of the Act and Rules made there under and the directions of the Commission issued from time to time, the Commission has now directed that in terms of Rule 89 of the Conduct of Election Rules, 1961, all District Election Officers shall report to the Commission under Rule 89(2) the following:

- (i) Name of each contesting candidate who failed to lodge the expenses as prescribed by the Commission in terms of its instructions dated 29.10.2003.
- (ii) The dates on which the accounts were furnished by such candidates during the course of the elections, and if not furnished, whether notices for non-compliance of the instructions of the Commission were issued to them and further follow-up action taken, if any.
- (iii) The discrepancies noticed by the District Election Officers / Returning Officers / designated Officers in the accounts submitted every third day by the candidate with the actual expenditure noted / assessed by the District Election Officer/ Returning Officer/ Election Observer/ designated Officer and specifically mentioning the items of expenditure which in the opinion of District Election Officer/ Returning Officer / Observer, have been suppressed.
- (iv) Comments of the District Election Officer on the overall final accounts furnished by the candidates in terms of actual expenditure incurred by each

candidate. In giving his final comments, the District Election Officer shall take into account the observations made by the Election Observers and any other candidate or by any other organizations or member of the general public on the daily accounts exhibited on the notice board of the Returning Officer as required under the directions at para 7 of the Commission's instructions dated 29.10.2003. These shall be submitted as annexures to the report that is submitted by the District Election Officer in the proforma (Annexure XXXVIII) prescribed in para 11.1 of Chapter XVII of the Handbook of Returning Officers (all elections where EVMs are used), 1998 edition. In the 'Remarks' column of the proforma, the annexure number under which the comments of the DEO pertaining to a candidate shall be mentioned.

5. The Commission has directed that the above instructions should be made clear and known to all District Election Officers and it shall be the complete responsibility of the District Election Officer to ensure that the instructions of the Commission in this matter are complied with in proper manner while submitting their reports to the Election Commission under Rule 89(2) of the Conduct of Election Rules, 1961.

ITEM NO. 127

Election Commission's letter No. 76/2004/J.S.II, dated 12.03.2004 addressed to the Chief Electoral Officers of all States and Union Territories.

Subject: - Instructions for guidance of contesting candidates for lodging their accounts of election expenses - Inspection of accounts of election expenditure as an additional measure -regarding.

I am directed to invite your attention to the Commission's circular dated 29-10-2003, on the subject cited. The Commission had directed (in paragraph 5) that the day to day accounts maintained by the contesting candidates in the prescribed register together with the supporting documents shall be made available by them for inspection to the District Election Officer/Returning Officer/Election Observer or officer specifically designated for the purpose, once in every three days during the process of election.

At the meeting with the representatives of the recognised political parties, many of the parties requested for review of these instructions as visiting the office of the Returning Officer on every third day was inconvenient to the candidate in many cases. The Commission has considered this matter and has reviewed its directions in this regard and has now directed that the scrutiny of the accounts need be done only on three occasions during the entire election period. Accordingly, the candidate shall make available the documents pertaining to their accounts of expenditure for inspection to the District Election Officer/Returning Officer/Election Observer **at least thrice during the process of election.** However, it shall be ensured that there is **a gap of about 4 (four) days in between each inspection and the first inspection may be on or after the third day from the last date for withdrawal of candidatures.**

The Commission's directions contained in its letter dated 29th October, 2003 stand modified only in respect of the inspection schedule mentioned above. All other

instructions contained therein remain applicable and in force. These, alongwith the present modified inspection schedule shall be conveyed to all the contesting candidates and the Election Observers appointed by the Commission in connection with General Election to the Lok Sabha, 2004.

ITEM NO. 128

Election Commission's letter No. 76/2004/J.S.II, dated 17.03.2004 addressed to the Chief Electoral Officers of all States/Union Territories.

Subject: - Lodging of account of election expenses - Preparation of rates chart.

I am directed to enclose herewith a copy of the Commission's letter No. 76/2003/J.S.II, dated 30th October. 2003, addressed to the Chief Electoral Officers of Madhya Pradesh, Chhattisgarh, Rajasthan, Mizoram and NCT of Delhi, on the subject cited in connection with General Election to Legislative Assemblies of these States.

It was directed in the above referred letter that the District Election Officers shall compile the rate charts of the items shown in the list enclosed with the said letter on the basis of the rates prevailing in the district concerned and the rate list shall be furnished to all observers and to the designated officers appointed by the District Election Officers.

The instructions contained in the abovementioned letter dated 30th October, 2003 shall be strictly followed at the current General Elections to the Lok Sabha and Legislative Assemblies and at all future elections.

ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI -110001

Commission's letter No. 76/2003/J.S.II
October.2003.

Dated 30th

To

The Chief Electoral Officers of
(i) Madhya Pradesh, Bhopal
(ii) Chhattisgarh, Raipur
(iii) Rajasthan, Jaipur
(iv) Mizoram, Aizawl
(v) NCT of Delhi, Delhi

Subject: - Lodging of account of election expenses - Preparation of rates chart.

I am directed to say that the Commission has recently revised the proforma for maintenance of accounts of election expenses by the candidates in the light of the recent amendment to Section 77 (1) of the Representations of the People Act. 1951. vide its letter No.76/2003 J. S. II, dated 14.10.2003.

In order to facilitate the scrutiny of expenditure which is to be maintained on a daily basis by the candidates in the prescribed proforma the Commission has directed that all District Election Officers shall compile the rate charts of the items in the enclosed list on the basis of the rates prevailing in the district concerned. These rate lists be furnished to all Observers immediately on their arrival in the respective districts and to all designated officers appointed by the District Election Officer for scrutiny of accounts by the contesting candidates. A copy of this instruction may be handed over to the Observers by the District Election Officer upon their arrival.

RATE CHART

1. Hiring charges of Loudspeaker with amplifier and microphone.
2. Construction of podium/ pandal (standard size to seat 4-5 persons)
3. Cloth Banner
4. Cloth Flags
5. Plastic Flags
6. Hand Bills (cost to be calculated and print order ascertained from printer - refer 127A of R.P.Act, 1951).
7. Posters
8. Hoardings
9. Cut outs (wooden)
10. Cut outs (Cloth/Plastic)
11. Video Cassettes
12. Audio Cassettes
13. Erection of gates
14. Erection of arches
15. Daily hiring charges of vehicles:
 - (i) Jeep/Tempo/Trucker, etc.
 - (ii) Sumo/Qualis
 - (iii) Cars
 - (iv) Three - Wheelers
 - (v) Cycle - Rickshaw
16. Hiring charges of hotel rooms/guest houses
17. Charges of drivers, salary
18. Hiring charges of furniture (chairs, sofa, etc.) and fixtures

- 19 Hiring charges of hoarding sites from municipal authorities.
- 20 Other items commonly used in a district (DEO to prepare rate list of such items).

ITEM NO. 129

Election Commission's letter No. 3/1/2004/JS-II, dated 03.04.2004 addressed to all Chief Electoral Officers of all States / Union Territories.

Subject: Names of leaders of political parties for the purposes of Section 77 (1) of the Representation of the People Act, 1951.

I am directed to say that under Explanation 2 below Section 77 (1) of the Representation of the People Act, 1951, the political parties are required to communicate names of their leaders for availing of the benefit of clause (a) of Explanation 1 under the said Section, to the Commission and to the Chief Electoral Officers of the States/Union Territories.

You are requested to supply copies of each of the lists received from political parties in this regard, to all the Observers in the States and to all District Election Officers and Returning Officers.

(BY CAMP BAG/BY FAX)

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.76/2007/JS-II

Dated: 10th April, 2004.

To

The Chief Electoral Officers of
all the States & Union Territories.

Sub:- Expenditure to be incurred on barricades and rostrums etc.

Sir/Madam,

I am directed to refer to Commission's letter No. 437/6/OR/95/MCS/1158 dated 29th March, 1996 read with Commission's order No. 437/6/ES/0025/94/MCS dated 21st October, 1994 (reproduced as item No. 133 in the Compendium of Instructions, 2004) wherein it has been laid down that expenditure incurred on security arrangements like barricading/rostrums etc. in connection with the campaigning by any political leader or candidate shall be borne by the concerned political party. The Commission has received queries to the effect whether the expenditure on construction of rostrums/barricades will be charged to the political party or to the account of the individual candidate or a group of candidates belonging to the political party who are present on the occasion of a meeting where "leaders" of the political party participate.

2. The guiding principles to distinguish between the expenditure incurred by the political party and the expenditure incurred by the candidates were enunciated by the Supreme Court in *Kanwar Lal Gupta v Amar Nath Chawla (AIR 1975 SC 308)* wherein the Apex Court has observed: " **when the political party sponsoring a candidate incurs expenditure in connection with his election as distinguished from**



expenditure on general party propaganda, and the candidate knowingly takes advantage of it and participates in the programme or activity and fails to disavow the expenditure or consents to it or acquiesces in it, it would be reasonable to infer, say in special circumstances, that he authorized the political party to incur such expenditure and he cannot escape the rigours of the ceiling by saying that he has not incurred the expense, but his political party has done so.”

3. With the amendment to Section 77 of the Representation of People Act, 1951 only the expenses on account of travel of leaders of the political parties covered under explanation 2 below Section 77 will be exempted from being included in the account of election expenses of the candidate. All other expenses-incurred/authorized by the political parties, other associations, body of persons/individuals-are required to be included in the account for the candidate.

4. The Commission has considered the matter carefully and keeping in view the provisions of law has directed as follows:-

- (i) The expenses on construction of barricades/rostrums etc. when done initially by the government agencies on account of security considerations on behalf of the party/organizers are to be booked as expenditure of a candidate in whose constituency the said meeting takes place or to a group of candidates who are present at the time when the leader of a political party address such a meeting. In cases where there are more than one candidate of the political party present at the time of the said meeting of the “leader”, the expenditure will be apportioned equally amongst all and the District Election Officer of the district where such a meeting takes

place shall obtain the final costs from the concerned government agencies within three days of the event and intimate to the candidates their respective share of expenditure. This information will also be intimated to the Returning Officer/District Election Officer of the Constituency/District to which the other candidates belong.

- (ii) Where such construction of rostrums/barricades are done on account of security considerations by the candidate(s) or the political party or the organizers from their own funds amount will be reflected in the accounts of the concerned candidate or a group of candidates present in the meeting of the "leader". These accounts will be duly verified by the Election Observer or the Designated Officer appointed for scrutiny of the accounts.

5. The Commission has further directed that in all cases where the constructions of barricades/rostrums are being done by government agencies the candidate/political party/organizer will deposit the estimated cost of barricades/rostrum in advance.

6. For expenditure already incurred on such items between the date of notification issued for the first and second phases of the current general elections, the concerned DEOs shall immediately take action as per para 4 above and inform all candidates concerned.

Yours faithfully,

(K.F. WILFRED)
SECRETARY

Copy to :- All Observers(through the Chief Electoral Officer)

ITEM NO. 131

Election Commission's letter No. 76/2003/JS II, dated 28.05.2004 addressed to the Chief Electoral Officer of All States and Union Territories.

Subject: Filing of accounts of election expenses by the contesting candidates - timely disposal - Regarding.

I am directed to invite your attention to the provisions of Sections 77 and 78 of the Representation of the People Act, 1951, and Rule 89 of the Conduct of Elections Rules, 1961.

2. Section 77 of the RPA, 1951, provides that every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent between the date on which he has been nominated and the date of declaration of the result thereof, both dates inclusive.
3. Section 78 of the RPA, 1951, provides that every contesting candidate at an election shall, within thirty days, from the date of election of the returned candidate, lodge with the District Election Officer, the account of his election expenses.
4. The DEO is required to submit a report to the Commission on the accounts lodged by the candidates as soon as possible after expiry of the time limit specified in Section 78 of the Act. In his report, the DEO will give necessary details in respect of all contesting candidates and give his remarks whether the account has been lodged within the time and in the manner required by law. As per the instructions in Chapter XVII of Handbook for the Returning Officers, this report of the DEO should be sent to the Commission within a period of 7 days from the last date of filing of accounts by the contesting candidates.
5. The Commission, on receipt of the report from the DEOs, issues show cause notices to the candidates who have failed to lodge their account of election expenses within the time and in the manner required by law, under Rule 89 (5) of Conduct Elections Rules, 1961. The show cause notices to the defaulting candidates are served through the DEO concerned and after serving notices, the DEO is to send acknowledgment receipts obtained from the candidates with his supplementary report under rule 89 (7) within 5 days after expiry of 20 days' period mentioned in Rule 89 (6)

of Conduct of Elections Rules, 1961. The defaulting candidates may be disqualified under Section 10A of the RPA, 1951, for three years. The period of disqualification starts from the date of order of disqualification irrespective of the period consumed in issuing the order.

6. In the past, inordinate delay has occurred in issuing orders in some cases due to delay on the part of the DEOs in serving the show cause notices and in submitting the supplementary reports thereafter. In one such case, the Karnataka High Court had observed that there cannot be an undue delay in passing an order under Section 10A of Representation of the People Act, 1951, and that it should be passed within a reasonable time.

7. The Commission has fixed a deadline of one year for disposing of all cases, pertaining to filing of accounts of election expenses by the contesting candidates at every general/bye elections, from the date of declaration of result of the election. Accordingly, the DEOs may be asked to strictly adhere to the time frame provided under the law, as explained above for sending their first reports and/or supplementary reports. Similarly, notices issued by the Commission under rule 89(5) should be promptly served on the candidates.

8. For the general/bye elections held recently, the period for filing the accounts by the contesting candidates would be over by 13.06.2004 in most of the cases. In all such cases, the first report of the DEOs should be sent to the Commission so as to reach its Secretariat latest by 30.06.2004, positively. Any lapse in this will be seriously viewed by the Commission.

Kindly acknowledge receipt.

ITEM NO. 132.

Election Commission's letter No. 76/2004/JS-II, dated 06.08.2004 addressed to the Chief Electoral Officers of all States/Union Territories.

Subject: -Accounts of Election Expenses - Clarification - regarding.

I am directed to invite your attention to the provisions regarding maintenance of account of election expenses by contesting candidates. It has been brought to the notice of the Commission that, in certain cases, prospective candidates get campaign materials prepared in advance, before the filing of nomination. Questions have been raised regarding accounting for the expenses of this nature. Some candidates have, in the past, left out the expenditure on such items from the account of their election expenses on the pretext that only the expenditure incurred from the date of filing nomination is to be accounted for.

It is clarified that the candidates, while maintaining their register of accounts of election expenditure, should also account for all expenditure including those incurred prior to the date of nomination for preparation of campaign materials etc. which are actually used during the post-nomination period/in connection with the election.

The above directions may be brought to the notice of all District Election Officers and Returning Officers for information and necessary action in future elections.

Kindly acknowledge receipt.

ITEM NO. 133

Election Commission's letter No. 576/3/2005/J.S.II, dated 29.12.2005 addressed to all Recognized National and State Political Parties

Subject: **Election Campaign by political parties and candidates - election expenditure of candidates - regarding.**

I am directed to invite your attention to the provisions of sub-section (1) of Section 77 of the Representation of the People Act, 195, relating to account of election expenses. As per Explanation 1(a) under the said sub-section, the expenditure incurred by leaders of political parties on account of travel by air or any other means of transport for propagating programme of the political party is not deemed to be expenditure incurred or authorized by the candidate or his agent, for the purpose of the said Section. It is to be noted here that the benefit provided under the said Explanation 1(a) will be available if and only if the names of the leaders (maximum of 20 in the case of unrecognized political party and 40 for recognized political party) are communicated to the Commission and to the Chief Electoral Officer of the State concerned within a period of 7 days from the date of notification for the election as required under Explanation 2 under sub-section (1).

2. The abovementioned provisions have been brought to the notice of the political parties in the past. The political parties are again advised to take note of the provisions of Section 77(1) explained above. In the event any political party fails to comply with the requirements of Explanation 2 mentioned above, the benefit provided under the Explanation 1 will not be available to the party, and the travel expenses of all leaders in the case of such parties will necessarily be required to be included in the account of election expenses of the candidates concerned.

3. Your attention is also invited to the instructions contained in the Commission's letter No.437/6/97/PLN-III, dated 18.3.1997 (copy enclosed). As per the instructions in the said letter, details of all vehicles being used by a candidate for his election campaign are required to be lodged with the District Election Officer concerned. In this context, it may be noted that two-wheeleders like motorbikes, scooters, mopeds, etc. are also covered under the instructions in the said letter, and details in respect of such vehicles are also required to be furnished to the District Election Officer.

4. Where political parties or candidates use aircraft/helicopter for election campaign, prior information should be given to the Chief Electoral Officers of the State concerned. While giving such information, the number of aircrafts/helicopters being used and the name of the Company from which the aircraft/helicopter is being hired, should clearly indicated. Further, within three days of any aircraft/helicopter being used for election campaign, full details regarding areas covered, number of sorties involved and manifest of passengers along with the hire charges paid/payable should be furnished to the Chief Electoral Officer.

5. Kindly acknowledge receipt of this letter.

COPY

Election Commission's letter NO. 437/6/97-PLN-III Dated 18th March 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.

ITEM - 134

ELECTION COMMISSION OF INDIA

Nirvachan Sadan,
Ashoka Road,
New Delhi-110001.

No. 76/2007/J.S. II

Dated 10th February, 2007.

To

The Chief Electoral Officers,
Punjab, Manipur and Uttarakhand.

Subject: Election expenditure of the candidates.

Sir,

I am directed to invite your attention to the provisions of Section 77 of the Representation of the People Act, 1951 (copy enclosed). As per clause (a) of Explanation 1 under sub-section (1) of the said section 77, any expenditure incurred on account of travel of the leaders of the political party for propagating the programme of the party is not to be deemed to be expenditure in connection with the election of the candidate of that political party subject to the condition that the names of such leaders (a maximum of 40 in the case of a recognized party and 20 in the case of an unrecognized party) have been communicated to the Commission and the CEO within 7 days from the date of notification of the election.

Clarifications have been sought with regard to the issue of expenditure incurred on account of visit of the leaders of the political parties in connection with election campaign and the effect of such expenditure on the account of expenses of the candidates.


It may be noted that under the provisions of the 'Explanation' referred to above, only the travel expenses of leaders of the political parties are exempted from being included in the account of expenses of the candidates of the parties concerned, that too in cases where the list of the leaders are communicated to the Commission and the CEO

within the prescribed time limit. As regards the expenses other than travel expenses incurred by the leaders, such as expenses on construction of rostrums, barricades etc., your attention is invited to the Commission's letter No. 76/2004/JS-II dated 10th April, 2004 (copy enclosed). It has been explained in the said letter that the expenditure incurred on items of the nature mentioned above, will be booked as expenditure of the candidate for whose benefit the meeting takes place. It is clarified that this also applies to the expenditure in connection with the visit of leaders holding the office of Prime Minister, Chief Ministers and Ministers, in accordance with the provisions of Section 77(1). In this connection, attention is also invited to the Commission's letter No.437/6/OR/95/MCS/1158, dated 29th March, 1996 (copy enclosed). If the meeting is for the prospects of more than one candidate of the political party, or if more than one candidate of the party are present at the meeting, the expenditure will be apportioned equally among all such candidates. Similarly, in the case of a political party which has not submitted, within the prescribed time, the list of leaders as required under the Explanation to Section 77(1), the expenditure including the expenditure on travel will have to be booked as the expenditure of the candidate or group of candidates, as the case may be.

The lists of leaders of the political parties which were submitted in the Commission within the prescribed time limit for the purposes of Section 77(1) have already been communicated to you.

The above position may be communicated to all the District Election Officers/Returning Officers/Observers in the State. The District Election Officers may also be instructed to inform the contesting candidates about the above clarification in order to remove any doubt in their minds so that they show all items of expenditure in the account of their election expenditure that is required to be filed with the DEO under Section 78 of the Representation of the People Act, 1951.

Yours faithfully,


(K.F. WILFRED)
SECRETARY.



ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi --110 001

No. 76/2007/JS-II

Dated: 29th March, 2007

To

The Chief Electoral Officers
of all States and Union Territories.

Subject: -Section 77 of the Representation of the People Act, 1951 - Election Expenditure of candidates - regarding.

Sir/Madam

Section 77(1) of the Representation of the People Act, 1951, provides that every candidate at an election shall keep it the correct account of all expenditure incurred or authorized by the candidate/his election agents in connection with the election of the candidate. The expenditure incurred on travel by leaders of a political party whose names have been communicated to the Commission and the Chief Electoral Officer as required under Explanation 2 to Section 77(1) is not deemed to be expenditure incurred or authorized by a candidate of that political party for the purposes of the said Section.

2. Some CEOs and Observers have sought clarifications about the effect of expenditure incurred by political parties on advertisements on the election expenditure accounts of the candidates.

3. In this context, attention is invited to the Commission's letter No. 76/2004/J.S.II, dated 10th April, 2004 (copy enclosed) on the issue of expenditure incurred by political parties in connection with election rallies, etc.

4. In the judgment of the Hon'ble Supreme Court, in *Kamwar Lal Gupta vs. Amar Nath Chawla (A.I.R. 1975 SC 308)*, referred to in the abovementioned letter dated 10.4.04, the Hon'ble Supreme Court has held that the expenditure incurred by the political party, as distinguished from expenditure on general party propaganda, which can be identified with the election of a given candidate would be liable to be added to the expenditure of that candidate as being impliedly authorized by the candidate. The Apex Court has further held in that matter that a *party candidate does not stand apart from his*

political party and if the political party does not want the candidate to incur the disqualification, it must exercise control over the expenditure which may be incurred by it directly to promote the poll prospects of the candidate.

5. The expenditure incurred by a political party on advertisements, in connection with any election could be categorized into the following:

(i) Expenditure on general party propaganda seeking support for the party and its candidates in general, but, without any reference to any particular candidate or any particular class/group of candidates:

(ii) Expenditure incurred by the party, in advertisements etc. directly seeking support and/or vote for any particular candidate or group of candidates:

(iii) Expenditure incurred by the party which can be related to the expenditure for promoting the prospects of any particular candidate or group of candidates.

6. Applying the ratio of the judgment in *Kamwar Lal Gupta's case*, it is clarified that in the case of any advertisement by political parties, whether in print or electronic or any other media, falling in category (i) above, which is not relatable to the election of any particular candidate or a given group of candidates, the expenditure may be treated as expenditure of the political party on general party propaganda. In the cases of expenditure falling in categories (ii) and (iii) above, i.e. cases where the expenditure is relatable to the election of a particular candidate or a group of candidates, the expenditure shall be treated as expenditure authorized by the candidates concerned and such expenditure shall be accounted for in the election expenses accounts of the candidates concerned. In those cases where the expenditure is incurred by the party for the benefit of a given group of candidates, the expenditure is to be apportioned equally among the candidates.

7. The contents of this letter may be brought to the notice of all District Election Officers, Returning Officers, Election Observers, and other election authorities. This may also be brought to the notice of all the political parties in the State, including the State units of the recognized political parties.

8. Please acknowledge receipt of this letter.

Yours faithfully,

(K. F. WILFRED)
SECRETARY

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.76/2007/JS-II

Dated: 4th April, 2007.

To

The All Chief Electoral Officers
of the States & Union Territories.

**Sub: Account of election expenses of candidates - Section 77(1)
of the Representation of the People Act. 1951 – regarding.**

Sir/Madam,

Section 77(1) of the Representation of the People Act., 1951 mandates every contesting candidate at an election to maintain the correct account of expenditure incurred/authorised in connection with the election. Clause (a) of Explanation 1 to Section 77(1) provides that the expenditure on travel incurred by leaders of a political party for propagating programme of that party shall not be treated as expenditure in connection with the election incurred/authorised by a candidate of that political party for the purposes of the said Section. Explanation 2 to Section 77(1) provides that the list of leaders of a political party (40 in the case of recognized parties and 20 in the case of registered unrecognized parties) is to be submitted within 7 days from the issue of notification to the Commission and to the Chief Electoral Officer of the State concerned for availing of the benefit of Clause (a) of Explanation 1.

Clarifications have been sought regarding accounting of travel expenses of a leader of a political party covered under Explanation 2 to Section 77(1) when such leader happens to be a candidate himself. It is only



logical to conclude that the visit of a contesting candidate to the constituency from where he is contesting election is for the purpose of promoting his own election prospect. When a candidate travels in his constituency for election campaigning, the expenses incurred in connection with the journey has to be treated as part of his election expenses. Therefore, it is clarified that, in such situations, the expenses incurred on account of the journey(s) performed by such leader within the constituency from where he/she is contesting election cannot be exempted from the election expenditure account of that person.

2. It has been observed that in some cases political parties, while communicating the names of leaders of that party under Explanation 2 to Section 77(1), have included the names of persons who are leaders of other political parties or who are not members of that political party. It is made clear that as per the provisions of the law referred to above, a political party can nominate only those persons who are members of that party as its leaders for the purposes of Explanations 1&2 to Section 77(1). In other words, a person who is not a member of the party cannot be nominated as 'leader' of the party for the purposes of Section 77(1).

3. It has also been seen in the past that after submitting the list of leaders with the Commission, the political parties approach the Commission for substituting the names therein. In this context, it is pointed out that as per the

proviso to Explanation 2, substituting a name from the list is permitted under the law only where any of the persons mentioned in the list dies or ceases to be a member of the political party concerned and not otherwise.

4. These instructions/clarifications may be brought to the notice of all the District Election Officers/Returning Officers and all election authorities. This may also be brought to the notice of all political parties based in the State including the State Units of recognized national and State parties.

5. Please acknowledge receipt.

Yours faithfully,

(K. F. WILFRED)
SECRETARY

Copy to all recognized political parties for information and compliance.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.76/2007/JS-II

Dated: 4th April, 2007.

To

The All Chief Electoral Officers

Sub: Party Campaigners under Section 77(1) of the Representation of the People Act. 1951 – Regarding.

Sir/Madam,

Section 77(1) of the Representation of the People Act., 1951 mandates every contesting candidate at an election to maintain the correct account of expenditure incurred/authorized in connection with the election. Clause (a) of Explanation 1 to Section 77(1) provides that the expenditure on travel incurred by leaders of a political party for propagating programme of that party shall not be treated as expenditure in connection with the election incurred/authorized by a candidate of that political party for the purposes of the said Section. Explanation 2 to Section 77(1) provides that the list of leaders of a political party (40 in the case of recognized parties and 20 in the case of registered unrecognized parties) is to be submitted within 7 days from the issue of notification to the Commission and to the Chief Electoral Officer of the State concerned for availing of the benefit of Clause (a) of Explanation 1.

2. It has been observed that in some cases political parties, while communicating the names of leaders of that party under Explanation 2 to Section 77(1), have included the names of persons who are leaders of other political parties or who are not members of that political party. It is made clear that as per the provisions of the law referred to above, a political party can nominate only those persons who are members of that party as its leaders for the purposes of Explanations 1&2 to Section 77(1). In other words, a person who is not a member of the party cannot be nominated as 'leader' of the party for the purposes of Section 77(1).

3. It has also been seen in the past that after submitting the list of leaders with the



Commission, the political parties approach the Commission for substituting the names therein. In this context, it is pointed out that as per the proviso to Explanation 2, substituting a name from the list is permitted under the law only where any of the persons mentioned in the list dies or ceases to be a member of the political party concerned and not otherwise.

4. These instructions/clarifications may be brought to the notice of all the District Election Officers/Returning Officers and all election authorities. This may also be brought to the notice of all political parties based in the State including the State Units of recognized national and State parties.

5. Please acknowledge receipt.

Yours faithfully,

(K.F. WILFRED)
SECRETARY

Copy to all recognized political parties for information and compliance.

By Fax/Speed Post

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001.

K. N. BHAR
UNDER SECRETARY

No. 437/6/2007/Vol.-IV-PLN-III

Dated: 16th October, 2007

To

1. The Chief Secretaries of all States and UTs
2. The Chief Electoral Officers of all States and UTs

Sub: - Use of Road Transport by party campaigners availing the benefit of clause (a) of explanation given under Section 77(1) of the Representation of People Act, 1951 - regarding

Sir,

I am directed to state that certain clarifications have been sought regarding number of vehicles to be allowed to go in a caravan on the road during the period of election campaign by leader(s) who have availed of the benefit of clause (a) of the explanation given under section 77(1) of the Representation of the People Act, 1951. The points are clarified as follows:-

- (i) That the vehicles shall, under no circumstances, be allowed to move in convoys of more than 3 (three) (excluding the accompanying vehicles of Security personnel) during the period of election campaign. All bigger convoys shall be broken up, even if they are carrying any Minister of Central or State Government or any other person. Such broken up convoys must have a distance of at least 200 meters between them.
- (ii) 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 colours from the permits to be issued by the DEOs/ROs for candidates.

- (iii) Only one party flag can be hoisted on the vehicle of leader of political party who has availed of the benefit of clause (a) of the explanation given under section 77(1) of the Representation of the People Act, 1951.
- (iv) If the vehicle so permitted in item (ii) above is also occupied by any other person than the leader referred to in item (ii), then, in that case, the 50% expenditure of the same shall be booked in the expenditure of concerned party contesting candidate from that constituency.
- (v) 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 a copy whereof has been enclosed herewith. Respective DEOs shall ensure that expenditure incurred on such vehicles is proportionately distributed against the expenditure of the contesting candidates of the party in the areas/constituencies where the Van/Vehicle has been used.

2. This may be brought to the notice of all Political parties and all election related Officers immediately.

Yours faithfully,

(K. N. BHAR)

ITEM - 139

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi - 110 001.

No. 76/2008/JS-II

Dated:- 11th February, 2008.

To

The Chief Electoral Officers of
all States and Union Territories.

Subject:- Election Expenditure of the candidates – regarding.

Sir,

I am directed to forward herewith the Commission's letter No. 76/2007/JS-II, dated 10th February, 2007, addressed to the Chief Electoral Officers of Punjab, Manipur and Uttarakhand regarding election expenditure of the candidates.

The instructions contained in the aforesaid letter may be communicated to all the District Election Officers/Returning Officers, and other election authorities. The District Election Officers/Returning Officers may be instructed to inform the contesting candidates (at the time of elections) about the clarification mentioned therein in order to remove any doubt in their minds so that they maintain all items of expenditure in the account of their election expenditure required to be filed with the District Election Officer under Section 78 of the Representation of the People Act, 1951.

Yours faithfully,

(K.F. WILFRED)
SECRETARY

44
19/2/08

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18/2
PA DEO's
37/2 at 8/2
mp
10/2
sh. m. Rao
AEO
for Punjab
18/2

Election Commission's letter No. 437/6/1/2008-CC & BE Dated: 24th October, 2008 addressed to The Cabinet Secretary Government of India, the Chief Secretaries and the Chief Electoral Officers of all States and Union Territories.

Subject: Election Expenditure on travel by Lead Campaigners - Use of helicopter for election campaign, etc.

I am directed to state that according to sub-section (1) of section 77 of the Representation of the People Act, 1951 it is provided that "**Every candidate** at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent between the date on which he has been nominated and the date of declaration of the result thereof, both dates inclusive". Under sub-section (2) it is provided that the account shall contain such particulars as may be prescribed, and under sub-section (3), it is laid down that the total of the said expenditure shall not exceed such amount as may be prescribed.

2. Explanation (1) to section 77(1) provides that the expenditure by leaders of a political party (usually referred to by us as star campaigners) on account of their travel by air or any other means of transport for propagating programme of a political party shall not be deemed to be expenditure in connection with the election incurred or authorized by a candidate of that political party.

3. The provisions of section 77(1) and Explanation (1) there – under have to be so harmoniously read that they do not nullify the main object underlying the provisions of section 77(1). Section 77(1) clearly stipulates that a candidate has to account for all his election expense, incurred or authorized by him or by his election agent. Explanation (1) is in the nature of an exemption from account of such expenditure which is incurred by the leaders of the political party in connection with the candidate's election, so that election campaign may be carried out in his constituency by leaders of his political party and any expenditure incurred on their travel by or any other means of transport may not form part of the candidate's overall expenditure. It therefore follows that a candidate who has been declared as leader by a Political Party for the purposes of Explanation to Section 77(1), cannot not considered to be a leader of his political party **in his own constituency** within the meaning of Explanation (1) to section 77(1), whatever may be his standing in relation to other candidates of his party in the other constituencies. In his own constituency(ies), he is a candidate first. Thus, whatever expenditure he incurs on his own travel within his constituency(ies), on his travel whether by helicopter/aircraft or by any other means of transport, the same has to be accounted for within his overall limit of maximum expenditure prescribed for his constituency.

When he goes out of his constituency to the other constituency as a star campaigner, the expenditure on his travel from his constituency to the other constituency would fall within the exempted category, and so also his travel expenditure from the other constituency to his own constituency when he comes back for his own campaign would be so exempted. But once he reaches his constituency and travels within the said constituency, his expenditure on such travel within his constituency would be liable to be accounted for by him. Any other interpretation of the above mentioned provisions would defeat the very object underlying section 77(1). This would be more evidently glaring in the case of bye-elections where a political party may include the name of its candidate as a star campaigner and that would give him a license to travel within his constituency by adopting any means of communication and without accounting for the same.

Copy to:

All recognized National & State Political parties.

Election Commission's letter No. 437/6/INST/2008-CC&BE Dated : 31st October, 2008 addressed to the Chief Secretaries and the Chief Electoral Officers of all States and Union Territories.

Subject:- Use of Road Transport by party campaigners availing the benefit to clause (a) of explanation given under Section 77 (1) of the Representation of the People Act, 1951 – regarding

I am directed to refer to Commission's instruction issued vide its letter no. 437/6/2007/Vol.-IV-PLN-III dated 16th October, 2007 and instruction issued vide letter No. 3/7/2008/JS-III dated 7th October, 2008 and to state that the Commission has already modified the guidelines on use of vehicles in convoy and use of flags and stickers on vehicles. Consequently, the former instruction stated above is modified and superseded by this instruction regarding number of vehicles to be allowed to go in a caravan on the road during the period of election campaign by leader(s) who have availed of the benefit of clause (A) of the explanation given under section 77(1) of the Representation of the People Act, 1951.

The restriction on number of vehicles in a convoy has been withdrawn, however, vehicles in the convoy have to conform to the condition as mentioned in the later instruction referred above.

In case the mode of road transport is to be availed of political parties availing the benefit of clause (a) of explanation given under Sec. 77(1) of Representation of the People 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 Chief electoral Officer will be of distinctly different colours from the permits to be issued by the District Election Officers/Returning Officers for candidates.

(iii) If the vehicle so permitted in item (ii) above is also occupied by any other person than the leader referred to in item (ii), in that case, the 50% expenditure of

the same shall be booked in the expenditure of concerned party contesting candidate from that constituency.

(iv) 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 a copy whereof has been enclosed herewith. Respective District Election Officers shall ensure that expenditure incurred on such vehicles is proportionately distributed against the expenditure of the contesting candidates of the party in the areas/constituencies where the Van/Vehicles has been used.

This may be brought to the notice of all Political parties and all election related Officers immediately.

Election Commission's letter No. 464/INST/2008/EPS Dated 5th November, 2008 Addressed to the Chief Electoral Officers of all States and Union Territories

Subject: Prohibition of misuse of Short Message Services (SMSs) - regarding.

I am directed to state that it has been brought to the notice of the Commission that certain objectionable messages on Short Message Services (SMSs) are transmitted by some persons to vested interests in the elections, violating the provisions of election law, model code of conduct and the Commission's directions/instructions issued in this behalf. By the aforesaid acts, the atmosphere for free, fair and peaceful elections process may get vitiated.

2. The Commission has considered the matter and has decided to issue the following directions:-

- (i) For objectionable SMSs, which are violating the provision of election law, model code of conduct and the Commission's directions/instructions issued in this behalf, the Police authorities should advertise special mobile numbers on which the receiver of such SMS can forward the said SMS (alongwith the number of the sender of objectionable SMS). The Police Authorities should initiate appropriate inquiry and trace back the original sender of such SMS and take appropriate action under the relevant provisions of the Indian Penal Code, Representation of the People Act, 1951, the Conduct of Election Rules, 1961, instructions/directions issued thereunder by the Commission and any other law applicable in the case.
- (ii) Bulk SMS (es) transmitted during the campaign period as an alternative electioneering, as and when noticed by Returning Officer or District Election Officer will be brought to the notice of Chief Electoral Officer, who in turn, will find out the cost involved from the Service Provided and apportion it to the candidate or candidates concerned as the case may be.
- (iii) There shall be prohibition of transmitting bulk SMSs of

political nature during the period of 48 hours ending with the hours fixed for conclusion of poll.

3. This shall be brought to the notice of all concerned immediately including Mobile Service Providers in the State and given wide publicity. A copy of this letter shall also be handed over to all Observers through the District Election Officers.

4. 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 the Commission for its information and record.

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ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.76/.2009/SDR/

Dated : 28th January, 2009

To

The President/General Secretary of
All recognized National and State political parties.

Sub: Election related advertisements of political parties- effect on account of election expenses of individual candidates.

Sir,

Reference is invited to the Commission's letter No. 76/2007/JS-II, dated 29th March, 2007 (copy enclosed), on the subject of election expenditure of candidate.

In the above referred letter dated 29th March, 2007, it was clarified that expenditure incurred by the political parties which is relatable to the election of a particular candidate or a group of candidates shall be treated as expenditure authorized by the candidates concerned and the same should be accounted for in the election expenses accounts of the candidates concerned. It is seen that, as part of propaganda/advertisement, the political parties put up advertisement hoardings with photographs of party functionaries/leaders. In such cases, it is clarified that when such advertisement material containing reference to or photograph of particular party leaders are put up in the area falling within the constituencies where such leaders are themselves candidates contesting election, the expenditure on such material appearing within the constituencies concerned will be booked to their election expenses account for the purposes of Sections 77 and 78 of the Representation of the People Act, 1951. This position may be made clear to all candidates of the party and to the cadres of the party at all levels.

Yours faithfully,

(K.F.WILFRED)
SECRETARY

Copy to the Chief Electoral Officers of all States and U.T.s with the request to furnish a copy of this letter to each of the political parties based in the State.

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ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 4/2009/SDR/

Dated: 31st March, 2009

To

The Chief Electoral Officer,
Bihar,
Patna.

Sub: Clarification regarding communication of names of leaders of political parties for the purposes of Section 77(1) of the Representation of the People Act, 1951

Sir,

With reference to your letter No. B1-3-69/2009-3248 dated 29th March, 2009, in the above matter, the issues raised by you are clarified as under:-

- (i) If a political party submits the list of leaders either to the Commission or to the CEO within the prescribed period of 7 days from the date of Notification of election, it is treated as substantial compliance with the provisions of Explanation-2 under Section-77(1), as the CEO is also an officer of the Commission.
- (ii) If the list of leaders is submitted any time after the announcement of election schedule by the Commission, the same can be accepted as valid, even if it is submitted before the date of Notification of election.
- (iii) After the list of leaders is validly submitted, any change/substitution of name in the list can be accepted provided it is made within 7 days from the date of Notification. Any change after this period can be made only on the grounds mentioned in the proviso to Explanation-2 (i.e. in the event of death of any of the persons mentioned in the list or if any person ceases to be a member of the party).



- (iv) The list of leaders has to be submitted from the central/registered office of the party and not from the State/local units of the party.

Yours faithfully,

(K.F.WILFRED)
SECRETARY

Copy together with a copy of the Chief Electoral Officer, Bihar's and other under reply, forwarded to all other CEOs of the States/UTs.

(145)

INSTRUCTION SI. No. 90

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.76/2009/SDR

Dated : 31st March, 2009

To

The Chief Electoral Officer of
All States/Union Territories.

**Sub: Expenditure incurred by leaders of the party in election
campaign- use of aircrafts/helicopters- regarding.**

Sir/Madam,

Please refer to the Commission's letter No.437/6/INST/2008-CC&BE, dated 31st October, 2008 reproduced at Section 43 in Vol.III of the Compendium of Instructions. In the said letter, it has been clarified that in the vehicle in which a leader of a political party (Star Campaigner) covered under Explanation-2 to Section-77(1) of Representation of the People Act, 1951, is travelling, the candidate or other workers of the party/candidate also travel, 50% of the expenditure on the vehicle will be booked to the election expenditure account of the candidate(s) concerned [i.e. the candidate(s) for furthering the prospect of whose election the leader is traveling]. In order to remove doubts raised by some Parties in this regard, it is clarified that 'vehicle' referred to in the abovementioned letter dated 31st October, 2008, **includes aircraft/helicopter or any other means of transport used by the leader(Star Campaigner).**

This clarification may be brought to the notice of all political parties based in your State/UT.

Yours faithfully,

(R.K.SRIVASTAVA)
SECRETARY

Copy to all National and State political parties.

146

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 76/2009/SDR

Dated: 4th April, 2009

To

The Chief Electoral Officer,
Bihar,
Patna.

Sub: Account of election expenses of candidates- regarding.

Sir,

Please refer to your letter No.M-1-0030/09, dated 03.04.09, in the above matter.

The benefit of the provisions of Explanation 1 (a) under Section 77 of the Representation of the People Act, 1951 [exemption of travel expenses of 'leaders' of the party from the account of election expenses of the candidate] would apply only to the candidates belonging to the political party of the leader concerned. In other words, when a 'leader' of a Political Party undertakes journey in connection with campaigning for a candidate who is not a candidate set up by that particular Party, the benefit of exemption of travel expenses as per Explanation 1 (a) mentioned above, would not be available to such candidate. Thus, the expenditure in such cases would have to be booked to the account of the candidate concerned.

Yours faithfully,

(K.F.WILFRED)
SECRETARY

Copy to CEOs of all other States/ UTs.

147

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 76/2009/SDR

Dated: 6th April, 2009

To

The Chief Electoral Officer,
Bihar,
Patna.

Sub: Account of election expenses of candidates- regarding.

Sir,

Please refer to your letter No.M-1-0030/09, dated 03.04.09, in the above matter.

The benefit of the provisions of Explanation 1 (a) under Section 77 of the Representation of the People Act, 1951 [exemption of travel expenses of 'leaders' of the party from the account of election expenses of the candidate] **would apply only to the candidates belonging to the political party of the leader concerned.** In other words, when a 'leader' of a Political Party undertakes journey in connection with campaigning for a candidate who is not a candidate set up by that particular Party, the benefit of exemption of travel expenses as per Explanation 1 (a) mentioned above, would not be available to such candidate. Thus, the expenditure in such cases would have to be booked to the account of the candidate concerned.

Yours faithfully,

(K.F.WILFRED)
SECRETARY

Copy to CEOs of all other States/UTs.

ELECTION COMMISSION OF INDIA**NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001.****R.K. SRIVASTAVA**
SECRETARYTel- 011- 23717590
Fax-011- 23717590

No. 464/INST/EPS/2009

Date: 12.04.2009

To

1. The Chief Secretaries of All States/UTs.
2. The Director General of Police of All States/UTs.
3. The Chief Electoral Officers of All States/UTs.

Sub.- Video Coverage of rallies/public meetings.

Sir,

It has been brought to the notice of the Commission that while doing video coverage of public rallies and meetings as per the Commission's instructions (Election Commission's letter no. 447/2007-PLN-IV dated 17.01.07), in some places, the videographers engaged for the purpose of doing video coverage of the public meetings/rallies attended by NSG/SPG/ASL protectee, are not being properly security-vetted which may compromise the security of the protectee. In this connection, the Commission has issued the following instruction which shall be strictly followed:-

"The videographers engaged for the purpose of covering the public meetings/rallies etc. attended by NSG/SPG/ASL protectees having high security threat, proper security-vetting of the videographers shall be undertaken by the district police authorities. Proper liaisoning with the officials of NSG/SPF and ASL shall be maintained in this regard and under no circumstances the videographers and the process of videography can become a hindrance to the process of giving security cover to such protectees."

This shall be brought to the notice of all concerned immediately.

Yours faithfully,

(R.K. SRIVASTAVA)

INSTRUCTION SI. No. 64**ELECTION COMMISSION OF INDIA****Nirvachan Sadan, Ashoka Road, New Delhi 110 001.****No. 491/Media/2010****Dated: 8th June, 2010****To****Chief Electoral Officers
of all States and Union Territories****Sub: Measures to check 'Paid News' during elections i.e. advertising
in the garb of news in Media**

Sir/Madam,

I am directed to invite your attention to the subject cited and to state that the recent phenomenon of 'Paid News', which is assuming alarming proportion as a serious electoral malpractice, has been causing concern to the Commission in the context of conduct of free and fair elections. Several political parties and media groups have also conveyed their similar concerns to the Commission. There has been dialogue of several stakeholders with the Commission at different platforms and there is near unanimity to take necessary steps to put a halt to such mal-practice which puts undue influence on the free will of the voters, encourages the role of money power in a covert manner and disturbs level playing field in elections. The practice of paid news has to be seen as an attempt to circumvent the provisions of Sections 77 and 123 (6) of R.P. Act 1951 which prescribe accounting and ceiling of election expenses and make exceeding such prescribed limits a corrupt practice in elections.

2. The Commission has directed that maximum vigilance may be observed by making use of the existing provisions of law so that the incidence of 'Paid News' or surrogate advertisements in Print and Electronic media in the context of elections is arrested. The cases of 'Paid News' generally manifest in the forms of news articles/reports published about a particular candidate or a party eulogising them, or similar news articles/reports denigrating the opponents, both intended at unduly influencing the voters. The same or similar type of news articles/reportings

(with cosmetic modifications) appearing in more than one newspaper periodical would amount to further corroboration as circumstantial evidence that such news publication could result from collusion of the candidate/party with the editors, publishers, financiers of the newspaper etc. Such collusion would, however, have generally no transactional evidence of payment of consideration in cash or kind.

3. Legal provisions under Sec.127A of the R.P. Act, 1951 make it mandatory for the publisher of an election advertisement, pamphlet, etc., to print the name and address of the publisher as well as printer and failure to do so attracts penalty of imprisonment up to two years and/or fine of Rs.2000/-. Section 171 H of the IPC prohibits incurring of expenditure on, interalia, advertisement without the authority of the contesting candidate. The Commission's detailed instruction No. 3/9/2007/JS-II dated 16th October, 2007 in this behalf may be seen (copy enclosed). The said instruction covers the declared or specified release as advertisement inserted in the newspaper, etc., and disclosure of amount paid for such advertisements, but in the case of 'Paid news'/surrogate news, such payment is seldom disclosed as the matter is camouflaged as news though serving the purpose of advertisement only. For the purpose of Sec.127A (1) of the R.P.Act, 1951, "election pamphlet or poster' means any printed pamphlet, hand-bills **or other document** distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates". Thus, 'Paid News' would also fall in the category of 'other document' liable to be included in 'election pamphlet & poster' and action taken accordingly. Hence, an obvious case of news reporting in the print media dedicated/giving advantage to a particular candidate or the party while ignoring/causing prejudice to other candidates and parties would require investigation.

4. The Commission directs that for the purposes of above investigation, district level committees may be constituted by the DEOs in each district as soon as election is announced to do vigorous scrutiny of all newspapers, published or having circulation in the district in order to locate political advertisement in the garb of news coverage appearing within the election period. DEOs should closely monitor advertisements released in print media in any form including surrogate advertising in the form of news, and serve notices to candidates/political parties where called for, so that the expenses incurred thereon are duly reflected in the account of the concerned candidate/party.

5. Similarly, the District Committee should also keep a watch on the election news/features, etc. on the electronic media in the district. When there is disproportionate coverage to the speech/activities of a candidate on television/radio channels, which is likely to influence the voters and yield electoral benefit to a particular candidate, and the same coverage appears in several channels, then the candidate should be served with notices by the DEOs to explain her/his stand as to why the coverage should not be treated as advertisement, and matter should be reported to the Commission.

6. The Commission has already issued Order No. 509/75/2004/J.S.-I dated 15th April, 2004 consequent upon order of the Hon'ble Supreme Court of India in SLP (C) No. 6679/2004, (Ministry of Information and Broadcasting vs. M/s Gemini TV Pvt. Ltd and Others) providing for the constitution of a committee for previewing, scrutinizing and verifying all advertisements by individual contesting candidates or political parties, before it is inserted in the electronic media. The aforesaid phenomenon of Paid News bypasses the scrutiny of the Committee despite being a political advertisement in spirit and also evades accounting in the expenses book of the candidates. CEOs may strengthen these Committees so as to also scrutinize the news reports in electronic media, which bear the character of political advertisement, though without being declared to be so. Notices to candidates/parties may be issued by the CEOs on the basis of recommendation of such Committees.

7. The Commission should be kept informed of all cases where notices as aforesaid are issued to parties/candidates.

8. The receipt of this letter may be acknowledged and the Commission informed of the action taken.

Yours faithfully,

(Tapas Kumar)
Principal Secretary

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INSTRUCTION SI. No.103

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 464/BR-LA/2010

Dated 11th October, 2010

To

The Chief Electoral Officer,
Bihar, Patna

Subject:-General elections to Bihar Legislative Assembly, 2010- use of helicopters by candidates, political leaders etc for campaign purposes- maintenance of proper record thereof - reg

Sir,

I am directed to state that during the election period candidates, star campaigners of political parties and other political functionaries may be using helicopters/aircraft, for election campaign and other purposes and may be landing in various Districts. The Commission has directed that the District Administration/District Election Officers should maintain a log book and enter the details of the helicopters which landed and took off in their Districts and the purpose for which they landed and the persons who were in the said aircraft/helicopter as also to indicate whether the aircraft/helicopter had taken permission for landing. The DEOs shall send daily report about the arrival and departure of such aircrafts/helicopters to the Chief Electoral Officer, Bihar and endorse a copy to the Commission. You are requested to bring this to the notice of all District Election Officers for compliance.

Yours faithfully,

(K. AJAYA KUMAR)
SECRETARY

ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN ASHOKA ROAD NEW DELHI -110001

File No. 576/3/2010/EEM

Dated 22nd October, 2010

To

The Chief Electoral Officer,
Bihar,
Patna

Sub.:- Monitoring of production, storage and distribution of liquor during election –
Regarding

Ref.: ECI letter No.576/14/99-PLN-I dated 21.08.1999 and dated 23.09.2009

Sir,

Distribution of liquor among the voters during election is an electorate offence and also a corrupt practice. In order to curb the menace, the Commission desires that following actions be initiated from the date of notification till the date of Poll/Repoll:-

1. The production of IMFL/Beer/Country Liquor should be closely monitored with reference to production figures in previous year;
2. The offtake of IMFL/Beer/Country Liquor from Central Stocks should also be watched and if there are major deviations then follow up trail should be established;
3. Stock Limits of Licensed Stockists should, in no case, be allowed to exceed permissible limits. All major stock points should be placed under video surveillance for round the clock check and excise pickets with police help be posted at these points.
4. Daily receipt and offtake of retail sellers should be monitored. Excise Deptt. officials should submit it every evening to the DEO who would take action on suspicious offtake;
5. Opening and Closing time of Liquor Vending Shops must be meticulously followed;
6. Intensive vigil over inter state movement of vehicles at RTO Check Posts and border check posts by Excise staff should be kept by special enforcement staff under the State Excise Department who are deputed round the clock from the date of notification till the completion of Poll/Repoll. For effective checking of the vehicles at border check posts, assistance of transport department may be obtained and joint checking of vehicles by excise and transport officers may be carried out;
7. Inter State co-ordination among Excise Commissioners with bordering States should be done for monitoring of inter state movement of IMFL, Beer and Country Liquor;



8. District Level Nodal Officers and State Level Nodal Officer of Excise Department should be identified to monitor the above aspects, conduct raids to seize illicit liquor;
9. The District Level Nodal Officer will submit Daily Report as per the proforma enclosed for IMFL, Beer and Country Liquor in separate forms to State Level Nodal Officer with copy to the DEO concerned. State Level Nodal Officer of Excise Department will, in turn, submit Daily Report on excise activity of the entire State to the CEO in the same proforma with copy to Expenditure Monitoring Cell in the Commission (Fax No. 011-23318506).
10. It is further clarified that all other reports on the subjects, by the Excise Department to CEO prior to this instruction are to be discontinued.

Yours Faithfully,

(Anuj Jaipuria)
Secretary

Daily Report of IMFL/Beer/Country Liquor by the State/District Level Nodal Officer (Separate report should be submitted for IMFL Beer & Country Liquor)				
Name of the District / Name of the State			Date of report:	
S.No.	Description	During the day (This year)	During the day (Last year)	Remarks on excess, if any
1.	Opening stock with manufacturers in Bulk litres			
2.	Production/Bottling in Bulk litres			
3.	Total Despatch of stock from the manufacturer's godown in Bulk litres			
4.	Closing stock in Bulk litres with manufacturers (1+2-3)			
5.	Despatch of stock from manufacturer's godown to whole sellers/Stockists in Bulk litres			
6.	Opening stock with Retailers in Bulk litres			
7.	Purchase by Retailers in Bulk litres			
8.	Sale by Retailers in Bulk litres			
9.	Closing Stock with Retailers in Bulk litres (7+8-9)			
10.	Sale by others in Bulk litres			
11.	Number of check posts			
12.	Volume of illicit liquor seized by check posts in Bulk litres			
13.	Number of raids conducted			
14.	Volume of illicit liquor seized in Bulk litres during raids			
15.	No. of Prohibition cases			
16.	No. of persons arrested			
17.	Amount of Fine imposed			

Signature of Nodal Officer
Name
Designation

Note:-

1. Separate Reports for IMFL, Beer or Country Liquor is to be furnished in the above format by District Level Nodal Officer of Excise Department to the State Level Nodal Officer with copy to DEO.
2. The State Level Nodal Officer of Excise Department will monitor and compile the district level reports and submit composite report of the State to the CEO in the same format, with a copy to Election Commission of India.

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INSTRUCTION SI. No.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 464/BR-LA/2010

Dated 22nd October, 2010

To

The Chief Electoral Officer
Bihar, Patna

Subject:- General elections to Bihar Legislative Assembly 2010 - request of Political Parties for vehicle permission for transporting publicity material – regarding-

Sir,

The Commission has decided that if any political party makes a request to the Chief Electoral Officer for grant of vehicle permission for distribution of their publicity material to their various party offices in the State, the Chief Electoral Officer may grant permission for such vehicles. However, the concerned political party (the applicant) will have to specify the name of the District, the route map and the dates for which the vehicle will be required for the above purpose. For such vehicles, the CEO may issue permission, but he will ensure that such vehicles will also be subjected to normal checks and they will not be used for election campaigning. The expenditure on account of such vehicle shall be apportioned equally among the candidates of the party contesting from the Assembly Constituencies for which vehicle permit has been sought..

Yours faithfully,

(HARBANS SINGH)
UNDER SECRETARY

ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110 001.

No. 76 /2011/SDR

Dated: 18th March, 2011

To

The Chief Electoral Officers of
All States and Union Territories.

Subject:- New guidelines of the Commission for expenditure monitoring-
Appointment of an additional agent for expenditure matters-
regarding.

Sir/Madam,

Under Section 40 of the Representation of the People Act, 1951, every candidate at an election is entitled to appoint a person as his/her Election Agent. The appointment of Election Agent is to be made in Form 8 appended to the Conduct of Elections Rules, 1961 in the manner mentioned in rule 12 of the said Rules. The Election Agent so appointed can perform all functions mentioned in the 1951 Act on behalf of the candidate.

2. The Commission had convened a meeting on 09.03.2011 of the recognized National Parties and the recognized State Parties of the States going to polls currently, to brief them about the new guidelines issued by the Commission for closer and better monitoring of the election expenses. Under the new guidelines there are several activities required on the part of the candidates to facilitate the new monitoring mechanism. There was a suggestion from the Parties at the meeting that for convenience and better compliance of the instructions in the new guidelines, it would be helpful if the candidates were allowed to appoint an additional agent for assisting the candidate for this purpose.



3. The Commission has approved the above suggestion. Accordingly, every candidate would be permitted to appoint an additional agent for assisting the candidate in the various expenditure related matters. The appointment is to be made in the format enclosed herewith. A person who is disqualified under the law for being chosen as, and for being, a Member of Parliament or State Legislature and who cannot be appointed as Election Agent under the said Section 40, should not be appointed as such additional agent. The general prohibition against appointing Minister/MP/MLA/MLC/ Mayor of Corporation/Chairman of Municipality/ Zilla Parishad, as any agent for a candidate, would also apply for such additional agent.

4. It has to be noted that such additional agent would be for the purpose of performing only the non-statutory duties related to the expenditure monitoring matters. The statutory duties that the Election Agent is authorized to perform on behalf of the candidate can be performed only by the Election Agent appointed under Section 40 read with rule 12 referred to in para 1 above.

5. These instructions may be brought to the notice of all District Election Officers, Returning Officers and other election officials in the States. This should also be brought to the notice of all the political parties based in the States including the State Units of recognized National Parties and State Parties of other States. This should also be brought to the notice of all the candidates filing nominations for the current elections.

Yours faithfully

(K.F. WILFRED)
SECRETARY

**FORMAT FOR APPOINTING ADDITIONAL AGENT
OF EXPENDITURE MATTERS**

(For the general/bye election, ----- (mention the year))

1. Name of the State:-
2. Name of the Constituency:-
3. Name and Address of the Candidate:-
4. Party Affiliation, if any:-
5. Name of the Additional Agent:-
6. Full Postal Address of the Additional Agent:-
7. Contact Telephone Number:-

I (mention the name of the candidate) do hereby appoint Shri/Smt./Ms....., as my additional agent for the above election. I hereby declare that he/she is not disqualified under the law for being chosen as, and for being, a member of Parliament or State Legislature and that the said person is not a Minister/MP/MLA/MLC/Corporation Mayor/ Chairman of Municipality/Zila Parishad and is not a person to whom security cover has been provided by the State.

Signature of the Candidate

Place:

Date:

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ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110 001.

No.76 /2011/SDR

Dated: 18th March, 2011

To

President/General Secretary
Of all recognized National and State Parties.

Subject:- New guidelines of the Commission for expenditure monitoring-
provision of Appointment of an Expenditure Agent by the
candidates for expenditure matters- regarding.

Sir/Madam,

Under Section 40 of the Representation of the People Act, 1951, every candidate at an election is entitled to appoint a person as his/her Election Agent. The appointment of Election Agent is to be made in Form 8 appended to the Conduct of Elections Rules, 1961 in the manner mentioned in rule 12 of the said Rules. The Election Agent so appointed can perform all functions mentioned in the 1951-Act on behalf of the candidate.

2. The Commission had convened a meeting on 09.03.2011 of the recognized National Parties and the recognized State Parties of the States going to polls currently, to brief them about the new guidelines issued by the Commission for closer and better monitoring of the election expenses. Under the new guidelines, there are several activities required on the part of the candidates to facilitate the new monitoring mechanism. There was a suggestion from the Parties at the meeting that for convenience and better compliance of the instructions in the new guidelines, it would be helpful if the candidates were allowed to appoint an additional agent (to be called, 'Expenditure Agent') for assisting the candidate for this purpose.



3. The Commission has approved the above suggestion. Accordingly, every candidate may appoint an Expenditure Agent for assisting the candidate in the various expenditure related matters. The appointment may be made in the format enclosed herewith. A person who is disqualified under the law for being chosen as, and for being, a Member of Parliament or State Legislature and who cannot be appointed as Election Agent under the said Section 40, should not be appointed as such Expenditure Agent. Further, it may be noted that the general prohibition against appointing Minister/MP/MLA/MLC/Mayor of Corporation/Chairman of Municipality/ Zilla Parishad, as any agent for a candidate would also apply for such Expenditure Agent.

4. It has to be noted that such Expenditure Agent would be for the purpose of performing only the non-statutory duties related to the expenditure monitoring matters. The statutory duties that the Election Agent is authorised or expected to perform on behalf of the candidate can be performed only by the Election Agent appointed under Section 40 read with rule 12 referred to in para 1 above.

5. These instructions may be brought to the notice of all candidates of your party.

Yours faithfully

(K.F. WILFRED)
SECRETARY

**FORMAT FOR APPOINTING ADDITIONAL AGENT
OF EXPENDITURE MATTERS**

(For the general/bye election, ----- (mention the year))

1. Name of the State:-
2. Name of the Constituency:-
3. Name and Address of the Candidate:-
4. Party Affiliation, if any:-
5. Name of the Additional Agent:-
6. Full Postal Address of the Additional Agent:-
7. Contact Telephone Number:-

I (mention the name of the candidate) do hereby appoint Shri/Smt./Ms....., as my additional agent for the above election. I hereby declare that he/she is not disqualified under the law for being chosen as, and for being, a member of Parliament or State Legislature and that the said person is not a Minister/MP/MLA/MLC/Corporation Mayor/ Chairman of Municipality/Zila Parishad and is not a person to whom security cover has been provided by the State.

Signature of the Candidate

Place:

Date:

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ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 464/INST /2011/EPS

Dated: 23rd March, 2011

To

- The Chief Electoral Officers of
1. Assam, Dispur
 2. West Bengal, Kolkata
 3. Kerala, Thiruvananthapuram
 4. Tamil Nadu, Chennai
 5. Puducherry, Puducherry

Subject:- General election to the State Legislative Assemblies of Assam, Kerala, Tamil Nadu, West Bengal and Puducherry, 2011 - use of helicopters by candidates, political leaders etc for campaign purposes- maintenance of proper record thereof – reg

Sir/Madam,

I am directed to state that during the election period candidates, star campaigners of political parties and other political functionaries may be using helicopters/aircraft, for election campaign and other purposes and may be landing in various Districts. In this connection I am directed to say for this purpose political parties may be requested to intimate three days in advance regarding their itinerary and the details of persons who will travel and the materials that will be carried in helicopter/aircrafts. The Commission has further directed that the District Administration/ District Election Officers should maintain a log book and enter the details of the helicopters which landed and took off in their Districts and the purpose for which they landed and the persons who were in the said aircraft/helicopter and also indicate whether the aircraft/helicopter had taken permission for landing. The District Election Officers shall send daily report about the arrival and departure of such helicopters/aircrafts to the Chief Electoral Officer, concerned and endorse a copy to the



Commission. You are requested to bring this to the notice of all District Election Officers for compliance.

Yours faithfully,

**(SUMIT MUKHERJEE)
UNDER SECRETARY**

156

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 464/INST /2011/EPS

Dated:23rd March, 2011

To

The Chief Electoral Officers of

1. Assam, Dispur
2. West Bengal, Kolkata
3. Kerala, Thiruvananthapuram
4. Tamil Nadu, Chennai
5. Puducherry, Puducherry

Subject: - General Elections to the Legislative Assembly to Assam, West Bengal, Kerala, Tamil Nadu and Puducherry - Request of Political Parties for vehicle permission for transporting publicity material – regarding.

Sir,

The Commission has decided that if any political party makes a request to the Chief Electoral Officer for grant of vehicle permission for distribution of their publicity material to their various party offices in the State, the Chief Electoral Officer may grant permission for such vehicles. However, the concerned political party (the applicant) will have to specify the name of the District, the route map and the dates for which the vehicle will be required for the above purpose. For such vehicles, the CEO may issue permission, but he will ensure that such vehicles will also be subjected to normal checks and they will not be used for election campaigning. The expenditure on account of such vehicle shall be apportioned equally among the candidates of the party contesting from the Assembly Constituencies for which vehicle permit has been sought.

Yours faithfully,

(SUMIT MUKHERJEE)
UNDER SECRETARY

157

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.464/INST/2011/EPS

Dated: 23rd March, 2011

To

The Chief Electoral Officers of

1. Assam, Dispur
2. West Bengal, Kolkata
3. Kerala, Thiruvananthapuram
4. Tamil Nadu, Chennai
5. Puducherry, Puducherry

Subject: General Election to Legislative Assembly, 2011- Vehicle permit for district office bearers of recognized political party- regarding.

Sir,

I am directed to state that it has been decided that if any political party applies for permission for vehicles to be used by their district level office bearers / leaders (other than the star campaigner) for their visit to multiple ACs within the district for electioneering purposes, necessary permission should be given by the DEO of the district concerned. In such cases, the permit shall be in the name of the person while also mentioning the registration No. of the vehicle. The expenditure on this vehicle shall be booked/ distributed in the election expenses of the party's candidate(s) of the district where they have visited. This permit should not be used for travel in other districts.

It is further stated that the permit should be issued indicating the name of the political leader, the No. of vehicle and also the period for which issued. The permit may be issued on a paper of a colour different from those used for issuing permits to candidates and star campaigners, so that it can be easily recognized. An attested copy of the permit shall be prominently displayed on wind screen of the vehicle and original be



kept by the person for checking by police or any other authorities. The surveillance teams should also be informed in the matter.

Yours faithfully,

(SUMIT MUKHERJEE)
UNDER SECRETARY

158

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.464/INST/2011/EPS

Dated: 28th March, 2011

To

- The Chief Electoral Officers of
1. Assam, Dispur
 2. West Bengal, Kolkata
 3. Kerala, Thiruvananthapuram
 4. Tamil Nadu, Chennai
 5. Puducherry, Puducherry

Subject: - General Elections to the Legislative Assembly to Assam, West Bengal, Kerala, Tamil Nadu and Puducherry - Request of Political Parties for vehicle permission for transporting publicity material – regarding.

Sir,

With reference to the subject cited and in partial modification of the Commission's instruction of even no. dated 23rd March, 2011, I am directed to state that the Commission has reviewed the matter and has now decided that if any political party makes a request to the Chief Electoral Officer for grant of vehicle permission for distribution of their publicity material to their various party offices in the State, the Chief Electoral Officer may grant permission for one vehicle for a recognized political party (whether national party or state party). The concerned political party (the applicant) will have to specify the name of the District, the route map and the dates for which the vehicle will be required for the above purpose. For such vehicles, the Chief Electoral Officer shall issue permission, but he will ensure that such vehicles will also be subjected to normal checks and they will not be used for election campaigning. The expenditure on account of such vehicle is to be incurred by the political party concerned and not by the candidates.

Yours faithfully,

(SUMIT MUKHERJEE)

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UNDER SECRETARY

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.464/INST/2011/EPS

Dated: 28th March, 2011

To

- The Chief Electoral Officers of
1. Assam, Dispur
 2. West Bengal, Kolkata
 3. Kerala, Thiruvananthapuram
 4. Tamil Nadu, Chennai
 5. Puducherry, Puducherry

Subject: General Election to Legislative Assembly, 2011- Vehicle permit for district office bearers of recognized political party- regarding.

Sir,

With reference to the subject cited and in partial modification of the Commission's instruction of even no. dated 23rd March, 2011, I am directed to state that the Commission has reviewed the matter and has now decided that if any political party applies for permission for vehicles to be used by their district level office bearers/ leaders (other than the star campaigner) for their visit to multiple ACs within the district for electioneering purposes, necessary permission should be given by the DEO of the district concerned. In such cases, the permit shall be in the name of the person while also mentioning the registration No. of the vehicle. The expenditure on this vehicle shall be incurred by the political party and not by the candidates. This permit should not be used for travel in other districts.

I am to further state that the Commission has directed that for a particular district only one permit may be issued for a recognized party whether national or state.

It is further stated that the permit should be issued indicating the name of the political leader, the No. of vehicle and also the period for which issued. The permit may be issued on a paper of a colour different from those used for issuing permits to candidates and star campaigners, so that it can be easily recognized. An attested copy of the permit shall be prominently displayed on wind screen of the vehicle and original be



kept by the person for checking by police or any other authorities. The surveillance teams should also be informed in the matter.

Yours faithfully,

(SUMIT MUKHERJEE)
UNDER SECRETARY

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21/5/2012

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ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 464/INST/2012-EPS.
To

Dated:- 15th May, 2012

The Chief Electoral Officers
Of all States/UTs.

Ref:- Commission's letter No. 464/INST/2008-EPS date 05.11.2008.
Subject: Prohibition of misuse of Short Messages Services (SMSs)- regarding

Sir/ Madam,

With reference to the Commission's letter No. 464/INST/2008-EPS dated 05.11.2008, on the subject ~~ad~~, I am directed to state that a query has been raised by CEO, Gujarat as to whether Bulk SMS for single constituency Bye-election without reference to candidate shall be treated as General Party propaganda and the expenditure should be booked in the candidate's elections expenditure or political party's, expenditure.

2. The Commission has considered the matter and modified the earlier instruction as follows:-

- (i) For objectionable SMSs, which are violating the provision of election law, model code of conduct and Commission's directions/ instructions issued in this behalf, the Police Authorities should advertise special mobile numbers on which the receiver of such SMS can forward the said SMS (alongwith the number of the sender of objectionable SMS). The Police Authorities should initiate appropriate inquiry and trace back the original sender of such SMS and take appropriate action under the relevant provisions of the Indian Penal Code, Representation of the People Act, 1951, the Conduct of Election Rules, 1961, instructions/ directions issued thereunder by the Commission and any other law applicable in the case.
- (ii) Bulk SMS(s) transmitted during the campaign period to further the electoral prospects of any candidate as an alternative electioneering as and when noticed by Returning officer or District Election Officer will be brought to the notice of Chief Electoral Officer, who in turn, will find out the cost involved from the Service provider and apportion it to the candidate or candidates concerned as the case may be. Where the bulk SMS is done by political party and do not carry the name of the candidate(s) irrespective of single Bye-election/ General Election, the expenditure will be treated as general party propagandas and will not be apportioned to any candidate.
- (iii) There shall be prohibition of transmitting bulk SMSs of political nature during the period of 48 hours ending with the hours fixed for conclusion of poll.

3 This shall be brought to the notice of all concerned immediately including Mobile Service Providers in the State and given wide publicity. A copy of this letter shall also be handed over to all Observers through the District Election Officers.

4 The receipt of this letter may please be acknowledged.

Yours faithfully

(SUMIT MUKHERJEE)
SECRETARY

SH. H. A. S.
P. 350

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 491/Paid News/2012/Media

Dated: 27th August, 2012

To

Chief Electoral Officer of all the States/UTs

Subject:- **Measures to check 'Paid News' during elections i.e. advertisement in garb of news in Media and related matters - revised guidelines - regarding.**

Sir/Madam,

I am directed to invite your attention to the subject cited and to state that the Commission has issued order No. 509/75/2004/JS-1 dated 15th April, 2004 consequent upon order of the Hon'ble Supreme Court of India in SLP © No. 6679/2004. (Ministry of Information and Broadcasting vs. M/s Gemini TV Pvt. Ltd and Others) requiring the constitution of a committee for previewing, scrutinizing and verifying all advertisements by individual contesting candidates or political parties, before it is inserted in the electronic media. The Commission issued further guidelines vide its letters of even no. dated 8th June 2010, 23rd September 2010, 18th March 2011 and 16th August 2011, to constitute Media Certification and Monitoring Committee (MCMC) in **each district during election period** to take up the additional task of keeping a check on the cases of Paid News.

In modification of orders on 'Paid News' dated 8th June 2010 and thereafter, I am directed to state the following:

1. District Level Media certification and Monitoring Committee (MCMC)

1.1 The District level MCMC shall be formed in each district with the following members:

- (a) DEO/RO (of Parliamentary Constituency)
- (b) ARO(not below SDM)
- (c) Central Govt. I & B Ministry official (if any in the district)
- (d) Independent Citizen/Journalist as may be recommended by PCI
- (e) DPRO/District Information Officer/equivalent - Member Secretary

1.1.1 For the purpose of the certification of advertisements as per aforesaid Supreme Court order, Returning Officer of the parliamentary constituency/District Election Officer and an ARO (not below SDM) shall be the members of the MCMC. However, for the scrutiny of the cases of 'Paid News' etc, District MCMC shall have three additional members as given at 'c', 'd' and 'e'.



1.1.2 If Central govt. I & B Ministry Official is not posted in the district, District Election Officer can appoint preferably a Central Govt. Officer or a senior State Govt. Officer posted in the district.

1.1.2 If PCI is not providing names to be included in the MCMC, DEO may himself appoint either an independent senior citizen or journalist, who is willing and as who, in the opinion of the DEO, is eligible in terms of background and record of neutrality.

1.1.3 The Member Secretary (DPRO/DIO or equivalent) should be from the Provincial State Civil Services.

1.2 The committee shall have two distinct sets of functions:

- (i) **Certification of Advertisements** for which two specific members of MCMC i.e. RO & ARO shall have to consider and decide on such advertisements for certification.
- (ii) **Examining complaints/issues of Paid News** etc by all members through a monitoring arrangement.

1.3 The MCMC shall, besides discharging the functions of Certification of Advertisement and checking of Paid News, would also assist in enforcement of media related regulations under the RP Act. Hence the Committee's functions shall include:

- 1.3.1 MCMC shall scan all media (e.g. newspapers, print media, electronic media, cable network, internet, mobile network etc) for :
- a. suspected cases of paid news (it shall also actively consider paid news cases referred to it by the Expenditure Observers. It shall intimate the Returning Officer for issue of notices to candidates for inclusion of actual expenditure on the published matter or **notional expenditure** based on DIPR rates in their election expenses account (in absence of DIPR rates, DAVP rates may be used), either based on or irrespective of whether the candidate actually has paid or not paid any amount to the channel/newspaper. A copy of the notice shall also be marked to Expenditure Observer)
 - b. monitoring of political advertisements in electronic media (for checking if the telecast/broadcast has been done only after certification by the Committee)
 - c. monitoring political advertisements in other media, in relation to candidates, either overt or covert, from Expenditure monitoring angle (this will also include publicity or advertisement or appeal by, or on behalf of candidate, or by Star Campaigner(s) or others, to impact candidate's electoral prospects)
 - d. advertisements in print media (MCMC shall check if the advertisement is with the consent or knowledge of candidate: in which case it will be accounted for in the election expenses of the candidate(s); however, if the advertisement is not with the authority from the candidate, then action may be taken for prosecution of the publisher for violation of Section 171H of IPC)

- e. checking if the name and address of the publisher and the printer is carried on any election pamphlet, poster, hand bill and other document as required under Section 127A of R.P.A 1951 (If any printed material does not bear on its face the names and addresses of the printer or the publisher, MCMC shall bring it to the notice of the RO for further necessary action; For the purpose of section 127 of RPA 1951, 'Paid News' would also fall in the category of 'other document')

1.3.2 It shall submit a daily report to Accounting team with copy to RO and Expenditure Observer in respect of each candidate in the prescribed format (as per annexure 12 of the prescribed Expenditure Guidelines) w.r.t. expenditure incurred by the candidate on election advertising or actual expenditure incurred for publishing the 'News' that is substantiated by necessary documents furnished by the candidate or notional expenditure as computed by the Committee in the assessed cases of Paid News.

1.3.3 The MCMC shall create a suitable mechanism for monitoring media and shall be equipped with adequate manpower and infrastructure for the same.

2. State level MCMC

2.1 The State level MCMC shall comprise of the following officers:

- (a) The Chief Electoral Officer, Chairman
- (b) Any Observer appointed by the Election Commission of India
- (c) One expert to be co-opted by the Committee.
- (d) Officer of Indian Information Service (IIS), (at the level of US/DS) posted in the State/UT, representing a media Department of Government of India as separate from the expert at (c) above.
- (e) Independent citizen or journalist as nominated by PCI (if any)
- (f) Addl/Jt CEO in charge of Media (Member Secretary)

2.1.1 If PCI is not providing names to be included in the Committee, CEO may himself appoint either an independent senior citizen or journalist, who is willing and who, in the opinion of the CEO, is eligible in terms of background and record of neutrality.

2.2 The State level MCMC shall perform two sets of functions:

- (i) Deciding appeal from both District and Addl/Jt CEO Committees on **Certification of advertisement** as per the aforesaid Commission order dated 15th April 2004.
- (ii) **Examining all cases of Paid News** on appeal against the decision of District MCMC or cases that they may take up suo motu, in which case it shall direct the concerned ROs to issue notices to the candidates.

2.2.1 The **appeal on certification** of advertisements need to be handled by members at (a), (b) and (c) in the manner specified in the aforesaid order dated 15th April 2004, while the members at (d), (e) & (f) are added to deal with Paid News cases.

2.2.2 It is clarified that as regards the certification, the appeal from both District and Addl/Jt CEO Committee will lie only with and will be disposed of by the State Level MCMC headed by CEO as per Commission's order dated 15th April, 2004 and no reference in this regard needs to be made to the Commission.

3. Addl/Joint CEO's Committee on Certification : The Committee chaired by Addl/Jt CEO for Certification of advertisement, constituted as per the Commission's 15th April 2004 order shall continue to function as stated in the aforesaid order and shall have no jurisdiction over cases of 'Paid News'.

4 Appeal against decision of State level MCMC on Paid News

4.1 Any appeal against the decision of the State level MCMC in matter of Paid News will be made to the Election Commission of India. The State level MCMC can also make a reference to the Commission for advice, if it deems it necessary. Wherever complaints on Paid News cases are made to the Commission directly, the Commission shall forward cases to the State level MCMC for initial consideration.

5. **Paid News Guidelines :** With regard to Paid News, following guidelines may be followed:

5.1 Six months before the due date of normal expiry of Lok Sabha or the State/UT Legislative Assembly, as the case may be, a list of television channels/radio channels/newspapers, broadcast/ circulated in the State/UT and their standard rate cards shall be obtained by the CEOs and provided to all District level MCMCs for fixing the rates of advertisements.

5.2 In case of bye-election to Parliamentary or Assembly constituency, the standard rate card shall be obtained by the District Election Officer concerned immediately on announcement of the bye-election.

5.3 In case of any doubt relating to the application of the standard rate card arising, the matter shall be referred to the DIPR or DAVP, Ministry of I&B, Gov. of India for advice.

5.4 The CEO and DEOs will brief Political Parties and Media Houses about the above guidelines before the commencement of the election campaign. Media shall be asked to exercise self-regulation in this regard. Wide publicity may be given to this order to make the general public also aware about these guidelines. The thrust of the briefing will be on the need for self-regulation.

5.5 The cases of suspected Paid News or advertisement or appeal shall have to be considered within strict timelines as follows:

5.5.1 On reference from District MCMC, RO shall give notice to the candidates within 96 hrs of publication/broadcast/telecast/receipt of complaint to explain/disclose the

expenditure incurred for publishing the 'news' or similar matter, or state why expenditure should not be computed as per standard rate and added to the candidate's expenditure. The same timeline will apply when State level MCMC takes up cases suo motu or on the basis of complaints.

5.5.2 District /State level MCMC shall decide on the reply expeditiously and convey to the Candidate/Party its final decision. In case no reply is received by District MCMC from the candidate within 48 hrs of serving of notice, the decision of MCMC will be final.

5.5.3 If decision of District level MCMC is not acceptable to the candidate, he/she may appeal to State level MCMC within 48 hrs of receipt of decision, with information to the District MCMC.

5.5.4 The State level MCMC shall dispose of the case within 96 hrs of receipt of appeal and convey the decision to the Candidate with a copy to District level MCMC.

5.5.5 The Candidate may appeal against the decision of State level MCMC to ECI within 48 hrs of receiving of order from this Committee. The decision of ECI shall be final.

5.6 The entire process shall ordinarily be completed within Election period.

6. It has been observed that in certain cases, notices on paid news has been issued in large numbers while further action on the same remain pending. MCMCs may ensure that due deliberation takes place on each case and only cases that appear to be suspected cases of 'Paid News' are referred to the RO for issue of notice to the candidate. While seeing that frivolous cases are not taken up, MCMC should ensure that there is no laxity on checking actual 'Paid News'.

7. Where the suspected cases of Paid News are decided as a "Paid News" either at District level/CEO level/Commission level, as the case may be, the actual/notional expenditure shall be treated as part of election expenses of the Candidate concerned, with due intimation to him/her or his/her agent.

7. Where the District/State level Committee or ECI decides that it is a Paid News case, such cases shall be conveyed to Press Council of India for further action in relation to the media concerned.

Yours faithfully,

(Rahul Sharma)
Under Secretary

Copy to: Expenditure Division, Legal Division, ECI

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Fax / E-mail / Speed Post

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.76/Instructions/2013/EEPS/Vol. IV

Dated: 14th March, 2013

To

Chief Electoral Officers of all States and UTs

Sub: Procedure for reporting of true and correct account of election expenses by the candidates – matter reg.

Sir/Madam,

I am directed to forward herewith the Order of the Commission dated 14.03.2013 on reporting of true and correct account of election expenses by the candidates and mechanism for disputed items of excess expenditure.

2. The above instructions may kindly be brought to the notice of all concerned for necessary action and compliance.

Yours faithfully,
Sd/-

Avinash Kumar
Under Secretary

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ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

File No. 76/Instructions/ EEPS/2013/Vol-I Dated: 14th March, 2013

Order

Whereas, the Superintendence, direction and control of all elections to Parliament and the Legislature of every State is vested in the Election Commission under Article 324 of the Constitution; and

Whereas, reports are received that the candidates are spending excessive amount in election campaign, which disturbs the level playing field and are not showing correct expenses in the day today accounts of their election expenses;

Now, therefore, the Election Commission of India hereby issues the following order for maintaining the purity of election process:

(i) If the Returning Officer or any officer authorised, is in receipt of information during election process that any candidate has incurred or authorised certain expenditure and has not shown either a part or whole of it in his day to day accounts of election expenditure, maintained by him under section 77(1) of the Representation of People Act, 1951 or has not produced the said accounts for inspection on the scheduled date before the authorised officer or Expenditure Observer, then the Returning Officer shall issue a notice alongwith the evidence thereof to the candidate preferably within 24 hours of the date of receipt of information or inspection of accounts mentioning the details of expenses, which are not shown truly or correctly in day-to-day account or informing him that he failed to produce his account as the case may be. However, in case of suspected Paid News items, where notice is issued or is being issued by the Returning Officer as per the recommendation of the Media certifying and Monitoring Committee (MCMC), such items shall not be covered in this notice.

(ii) Such candidate may reply to the notice within 48 hours, explaining the reasons for omission or default which is brought to his notice. In cases where the candidate accepts the facts of suppressed expense mentioned in the notice, the same shall be added to his election expenses.

(iii) Where candidate fails to produce his day to day account for inspection and in spite of the notice, the failure continues, then FIR is to be filed under section 171 (I) of Indian Penal Code, after 48 hours of service of such notice and the permission for use of vehicles etc. by the candidate for election campaign shall be withdrawn.

(iv) Where no reply is submitted by the candidate or his election agent within 48 hours of receipt of the notice, then the suppressed amount mentioned in the notice shall be treated as final and the same shall be added to the election expenses of such candidate.

(v) If the candidate or his election agent disputes the suppressed expenditure, mentioned in the notice, he shall submit the reply mentioning the reasons for disagreement and the same shall be forwarded to the District Expenditure Monitoring Committee (DEMC) consisting of the following:

1. Expenditure Observer in charge of the Constituency
2. DEO
3. Dy. DEO/Officer in charge of Expenditure Monitoring of the District.

(vi) The DEMC shall decide the case after examining the evidence mentioned in the notice and reply of the candidate thereto, preferably within 72 hours from the date of receipt of the reply from the candidate, whether such suppressed expenditure shall be added or not to the election expenses account of the candidate.

(vii) After the order by DEMC, the DEO may consider to include such expenses in the election expenditure account of such candidates while sending the scrutiny report under Rule 89 of the C.E. Rules, 1961 on election expenditure of the candidate to the Commission after the election.

(viii) If any item of expenditure authorized/ incurred by the candidate or his agent after the last date of inspection of his account is not shown correctly in his election expenses statement submitted within 30 days of declaration of result, as compared with the expenses recorded in the Shadow Observation Register, a notice shall be issued and served on the candidate or his agent by DEO preferably within 24 hours of submission of the account by the DEO. The candidate shall submit his reply to the DEO within 48 hours of the receipt of such notice explaining his position.

If the candidate does not submit any reply on the suppressed amount of election expense or submits reply disagreeing with such suppressed amount, the DEO, in consultation

with the Expenditure Observer, shall decide the case after considering such reply and intimate his decision on the said amount of election expenditure to the candidate/agent and also mention the same in his scrutiny report submitted to the Commission. The notice, the reply by the candidate to the notice and decision of the DEO shall be displayed on the notice Board.

(ix) If the candidate does not file his statements of election expenses without any valid reasons within the stipulated period of 30 days from the day of declaration of result, then the DEO shall send the report to the Commission mentioning such default with his recommendation.

The above procedure shall be followed with effect from 1st April, 2013.

By order,

Sd/-

(S.K.Rudola)

Secretary

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Speed post/fax/e-mail

ELECTION COMMISSION OF INDIA

NirvachanSadan, Ashoka Road, New Delhi-110001

No.76/Instructions/2013/EEPS/Vol. IV

Dated: 21st March, 2013

To

Chief Electoral Officers of all States and UTs

Sub: Standard Operating Procedure to be adopted by the officer/officials involved in implementation and execution of the Election Expenditure Monitoring – Reg.

Sir/Madam,

I am directed to forward herewith Order of the Commission of even number dated 21.03.2013 on Standard Operating Procedure for the Flying Squad, Static Surveillance Team and check posts, constituted for keeping vigil over excessive campaign expenses, distribution of items of bribe in cash or kind, movement of illegal arms, ammunition, liquor, or antisocial elements etc., in the constituency during election process. The above order may kindly be brought to the notice of all political parties, candidates and all concerned for necessary action and compliance.

Yours faithfully,

Sd/-

S.K.Rudola
Secretary



ELECTION COMMISSION OF INDIA

NirvachanSadan, Ashoka Road, New Delhi-110001

No.76/Instructions/2013/EEPS/Vol. I

Dated: 21st March, 2013

Order

Whereas, the Superintendence, direction and control of all elections to Parliament and the Legislature of every State is vested in the Election Commission under Article 324 of the Constitution; and

Whereas, all forms of intimidation, threat, influence and bribing of electors must be prevented in the interest of free and fair election and; reports are received that money power and muscle power are being used during election process for inducement of electors by way of distribution of cash, gift items, liquor or free food; or for intimidation of electors by threat or intimidation; and

Whereas, distribution of cash or any item of bribe or use of muscle power for influencing electors are crime under section 171 of IPC and also are Corrupt Practices under Section 123 of R.P. Act, 1951;

Now, therefore, for the purpose of maintaining purity of elections, the Election Commission of India hereby issues the following Standard Operating Procedure for Flying Squads, Static Surveillance Teams and Check Posts, constituted for keeping vigil over excessive campaign expenses, distribution of items of bribe in cash or in kind, movement of illegal arms, ammunition, liquor, or antisocial elements etc. in the constituency during election process:

Flying Squad (FS)

1. There shall be three or more Flying Squad (FS) in each constituency. The FS shall start functioning from the date of announcement of election and shall continue till completion of poll.
2. The Flying Squad shall (a) attend to all model code of conduct violations and related complaints; (b) attend to all complaints of threat, intimidation, movement of antisocial elements, liquor, arms and ammunition and large sum of cash for the purpose of bribing of electors etc.; (c) attend to all complaints regarding election

expenditure incurred or authorised by the candidates / political party ; (d) videograph with the help of Video Surveillance Team (VST), all major rallies, public meetings or other major expenses made by political parties after the announcement of election by the Commission.

3. In Expenditure Sensitive Constituencies (ESC), there shall be more FSs, depending on the requirement. The FS shall not be given any other work during the period. The names and mobile numbers of the Magistrate as head of the FS and other officials in FS are provided to the Complaint Monitoring Control Room and Call Centre, RO, DEO, General Observer, Police Observer, Expenditure Observer and Assistant Expenditure Observer. In ESCs, CPF or State Armed Police may be mixed in the FS, depending on the situation and the DEO shall take necessary steps in this regard. The DEO shall constitute the FS with officers of proven integrity.
4. Whenever a complaint regarding distribution of cash or liquor or any other item of bribe or regarding movement of antisocial elements or arms and ammunition, is received, the FS shall reach the spot immediately. The FS shall seize the items of bribe or other illicit items, and gather evidences and record statement of the witnesses and the persons from whom the items are seized.
5. The FS shall send a Daily Activity report in respect of items of seizure of bribe or cash to the S.P. in a format as per Annexure - A, with a copy to R.O., D.E.O and the Expenditure Observers and shall send Daily Activity report in respect of model code of conduct violations to RO, DEO and General Observer in the format as given in Annexure-B. The Nodal Officer at the Police Headquarters shall compile all such reports from the district and send a consolidated report in the same format (i.e.,: Annexure – A & B) on the next day by fax/ e-mail to the Commission with a copy to the CEO of the state.
6. The entire proceeding shall be video recorded. The R.O. or any other officer authorized by him shall file complaints/F.I.R. against (i) the persons, receiving and giving bribe; and (ii) any other person from whom contraband items are seized or (iii) any other antisocial elements found engaged in illegal activity. The copy of the complaint/FIR shall be displayed on the notice board of the R.O. for public display and be sent to the DEO, General Observer, Expenditure Observer and Police Observer.

The Expenditure Observer shall mention it in the Shadow Observation Register, if it has links with any candidate's election expenditure.

7. In case, a complaint is received about distribution of cash, gift items, liquor or free food; or about threat/ intimidation of electors; or of movement of arms/ammunitions/ antisocial elements and it is not possible for the FS to reach the spot immediately, then the information shall be passed on to the Static Surveillance Team, nearest to the spot or to the police station of that area, who shall rush a team to the spot for taking necessary action on the complaint. All seizures made by the police authorities either on receipt of complaints forwarded by FS or received independently shall also be reported to the FS which shall incorporate such reports in its Daily Activity Reports in relevant rows/columns and this is done to avoid duplication of seizure or action taken reports.
8. Each FS shall announce through a Public address system, fitted onto its vehicle, the following in local language in the area under its jurisdiction: "As per section 171 B of Indian Penal Code, any person giving or accepting any gratification in cash or kind during election process, with a view to inducing the person to exercise his electoral right is punishable with imprisonment up to one year or with fine or with both. Further, as per section 171 C of Indian Penal Code, any person who threatens any candidate or elector, or any other person, with injury of any kind, is punishable with imprisonment up to one year or with fine or both. Flying Squads have been formed to register cases against both the giver and the taker of bribe and for taking action against those who are engaged in threat and intimidation of electors. All the Citizens are hereby requested to refrain from taking any bribe and in case, anybody offers any bribe or is having knowledge about the bribe or cases of threat/intimidation of electors, then he should inform on the toll free number.....,of the 24x7 Complaint Monitoring Cell of the district, set up for receiving the complaints".
9. The DEO shall make pamphlets quoting the above in English or Hindi or local language and distribute through the flying squad in prominent places. Press release should also be done by the DEO on the election expenditure monitoring measures.
10. After the announcement of elections, DEO shall make an appeal as mentioned in para above in print and electronic media for the benefit of general public about the monitoring mechanism, which is being put in place during election process.

Static Surveillance Team (SST)

11. There shall be three or more Static Surveillance Teams in an Assembly Constituency with one magistrate and three or four police personnel in each team who shall be manning the check post. Some of the SSTs shall be composed of CPF personnel, depending on the sensitivity of the area.
12. This team shall put check posts on major arterial roads, borders of the district and state and shall keep watch on movement of illicit liquor, items of bribe, or large amount of cash, arms and ammunition and also movement of antisocial elements in their area. The entire process of checking shall be video-graphed.
13. The SST shall send Daily Activity report to the S.P. with copy to R.O., D.E.O and Expenditure Observer, General Observer, and Police observer in a format as per Annexure – C, on the same day. The Nodal Officer at the Police Headquarters shall compile all such reports from the district and send a consolidated report in the same format (i.e.,: Annexure – C) on the next day by fax/ e-mail to the Commission with a copy to the CEO of the state.
14. The entire operation by SSTs shall be done in the presence of an Executive Magistrate and shall be video-graphed. No such checking shall take place without the presence of Executive Magistrate. The video record with an identification mark of date, place and team number shall be deposited with the R.O, on the next day who shall preserve the same for verification by the Commission at later point of time. It may also be widely advertised by the DEO that any member of the public can obtain a copy of the DVD/video record by depositing Rs. 300/-.
15. Whenever Check Posts are put at the borders of the district/State or at any other place by any agency, for any purpose, then the nearest SST shall be present there in such team, to avoid duplication of checking in the area and reporting has to be done by the SST.
16. Checking by SST on the major roads or arterial roads shall commence from the date as decided by the Commission. The SSTs shall be controlled by the DEO and S.P. in consultation with General Observer and Expenditure Observers and the mechanism shall be strengthened in last 72 Hrs. before the poll, particularly in vulnerable areas or in Expenditure sensitive pockets.

17. During checking, if any cash exceeding Rs. 50,000/- is found in a vehicle carrying a candidate, his agent, or party worker or carrying posters or election materials or any drugs, liquor, arms or gift items which are valued at more than Rs. 10,000/-, likely to be used for inducement of electors or any other illicit articles are found in a vehicle, shall be subject to seizure. The whole event of checking and seizure is to be videographed by a video team, which will submit the copy of the video CD to the Returning Officer.
18. FS and the SST shall be polite, decent and courteous, while checking the baggage or vehicle. The purse held by the ladies shall not be checked, unless there is a lady officer. The FS shall also supervise the functioning and proper conduct of SST's during checking in their areas.
19. Advance action should be taken on training of FSs and SSTs so that they are in a trained position at least three months before the due date of completion of election process and can be deployed immediately as per direction of ECI. The DEO and the SP of the district shall ensure that the teams are constituted and properly trained. The Nodal Officer at the Police Headquarters shall ensure that proper training and sensitisation of the police force in this regard is done.
20. In case of seizure by the FS or SST or the police authorities, the Appellate Authority, whom the person can appeal for redressal of grievance shall be the Dy. DEO of the district (in charge of the Expenditure Monitoring Cell). The name and address of the Appellate Authority shall be mentioned in the seizure list, which is given to the person from whom seizure is effected.
21. After seizure, the seized amount shall be deposited in Treasury or in such manner as directed by the Court. The DEO shall issue necessary instructions to the treasury units to receive the seized cash beyond office hours and on holidays also.
22. Wherever the FS or SST or police authorities receive information about any other suspicious items in their area, including movement of huge amount of cash, they shall keep the respective Law enforcement agencies informed about such items.

By Order,
Sd/-
(S.K.Rudola)
Secretary

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BY Speed Post

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 76/Instructions/ 2013/EEPS Vol.IV

Dated: 12 June, 2013

To

The Chief Electoral Officers of all States and UTs.

Subject: - Procedure for preparation of Scrutiny Report and Summary Report in respect of accounts of elections expenses of the Candidates

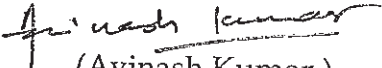
Sir/Madam,

I am directed to refer to the Commission's 'letter of even no. dated 14th March, 2013 (also available on Commission's website under the heading Election Laws and ECI Instructions- Important Instruction's- Letter dated 14th March, 2013- Procedure for reporting of true and correct account of election expenses by the candidates – matter reg) and to forward herewith the procedure to be adopted by DEOs in preparation of scrutiny report under section 89 of the Conduct of Elections Rules, 1961 on the election expenses accounts lodged by the candidates.

The procedure referred to above may kindly be brought to the notice of all concerned for necessary action and compliance.

(Enclosed-Procedure for DEO's Scrutiny and Summary Report)

Yours faithfully,


(Avinash Kumar)
Under Secretary

Election Expenditure Monitoring Division (2013)

I- Procedure done for DEO's scrutiny and summary report

1. The candidate should file accounts of election expenditure within the statutory time limit of 30 days from date of declaration of result. As soon as the accounts are received, the same should be scanned and put in the website of CEO within 3 days of receipt by the DEOs.
2. After receipt of the candidates' accounts, if there is any discrepancy/s in any item of expenditure vis-à-vis the Shadow Observation Register (SOR) / Folder Of Evidence (FE) and if notice on such discrepancy/s is not already issued during the election process and District Expenditure Monitoring Committee (DEMC) has not considered such item of expenditure, then notice shall be issued by DEO with assistance of Asstt. Expenditure Observer/Expenditure Observer to the candidate preferably within 2 days of receipt of accounts for giving an opportunity by mentioning the discrepancy on such items of election expenditure. The candidate shall be asked to file his reply within 3 days from date of service of notice on him or his agent.
3. The DEO shall finalize the scrutiny and summary reports within 7 days from the date of receipt of accounts of election expenditure from candidate(s) and submit the same to the CEO. If no reply is received within 3 days from the candidate(s) as referred above, the case shall be decided on merits. If reply is received, the same shall be examined by the DEO in consultation with Expenditure Observer, and decision by the DEO shall be intimated to the candidate(s). The same shall be incorporated in the DEO's scrutiny report.
4. The DEO shall get the above data entered onto the EEMS software by the DEOs within 3 days of the finalisation of the DEO's scrutiny report.
5. The Expenditure Observer(s) shall remain in the constituency/ district headquarters for 7 days during his 3rd visit to the constituency (ie: from 31st day to the 38th day after declaration of results) and the DEO shall finalise his scrutiny and summary reports within this period and forward them to the CEO.
6. The CEO office shall forward the said DEO scrutiny and summary report(s) to the Election Commission within two weeks of receipt.

LAW & ORDER

ITEM NO. 165

Election Commission's letter No. PS/AK/2005, dated 10.09.2005. addressed to the Chief Electoral Officers, Bihar

Subject : Provision of Law on forcing or intimidating a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote to a particular candidate or to vote in a manner other than that provided by law

I am directed to invite your attention to the provisions of Section 3 (i) (vii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 1989), reproduced below.

"Offences of Atrocities

3. *Punishments of offences of atrocities (1) Whoever, not being a member of Scheduled Caste or a Scheduled Tribe:-.....*

.....(vii) forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote to a particular candidate or to vote in a manner other than that provided by law;.....

.....Shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine".

The Commission has desired that these provisions of law may be brought to the notice of all election related & police authorities, political parties and members of public immediately. The police officials may be directed to file FIRs whenever cases of violation of the aforesaid provisions of law are observed or brought to their notice.

ITEM NO. 166

Election Commission's letter No.576/14/2005/PLN-I, dated 16.09.2005 addressed to the Chief Secretaries/Chief Electoral Officers of Haryana, Uttaranchal and West Bengal

Subject: **Bye-elections to the Lok Sabha and State Legislative Assembly, 2005 - 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 with respect to polling day for an election in that polling area. Therefore, in view of the poll day being 28th September, 2005 in the bye-elections being held in your State the "Dry day" shall be observed in the Parliamentary Constituency/Assembly Constituency where bye-election is being held including adjoining areas of the concerned constituency from 5.00 p.m. of 26th September, 2005 to 5.00 p.m. of 28th September, 2005.

3. The Commission further directs that the day 1st October, 2005 on which counting of votes is to be taken up, shall be declared 'Dry Day' under the relevant Laws in the state.

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.

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Fax/Speed post/Special Messenger

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 464/L&O/2007/PLN-I

Dated 08.01.07

To

The Chief Secretaries of all States & Union Territories

The Chief Electoral Officers of all States & Union Territories.

Subject: Preventive Law & Order Action to ensure conduct of peaceful, free and fair poll during the General Elections/Bye-elections - Regarding.

Sir,

The Commission has, in the past, issued various instructions from time to time to ensure conduct of peaceful, free and fair poll and maintenance of the law and order situation during General Elections/Bye-elections. For convenience of all concerned, these instructions have now been consolidated which are as under: -

2. The Commission being deeply aware of the increasingly vitative role of criminality and muscle power at elections has been taking, and directing the taking of a number of measures over and above the purview of normal law and order arrangements, for augmenting the possibilities of peaceful, free and fair poll. These measures include the deployment of Central Police Forces during the process of elections to assist the State law and Order machinery in prevention of pre-poll, poll and post-poll violence and inspire confidence in the impartiality of election machinery among the common electorate, regulation of vehicular traffic, regulation and ban on the sale of liquor in close proximity with the dates of poll and counting, seizure of illicit and licensed arms, etc., etc.

3. These extra measures taken by the Commission cannot absolve the normal law and order outfit of the State from taking such preparatory steps as are necessary for generation of an atmosphere conducive to the conduct of peaceful free and fair poll during the run up period to the elections. It is indispensable to tighten the local law and order outfit and enforce with adequate strictness the day-to day criminal administration with a view to mitigating the requirement of the aforesaid extra measures.

4. The Commission desires the States/UTs to undertake the following prophylactic measures immediately and report regularly the progress and effect of these measures in the context of possibilities of holding peaceful, free and fair elections:

4.1 A special drive should be launched to compile a list of such persons as are reported to have indulged in electoral offences like booth capturing, intimidation, impersonation in each police station of each and every constituency during the past at least two elections



and a list thus compiled of each constituency made available to the concerned District Election Officer and the Returning Officer of each Assembly Constituency to be forwarded to the Commission if and when asked for.

4.2 A special drive should be launched to update the lists of history sheeters, declared absconders, fugitive criminals in each police station falling in each and every Assembly Constituency and record of such updated listed handed over to the District Election Officers and Returning Officers concerned, constituency wise, with a view to be kept ready for dispatch to the Commission if and when asked for.

4.3 A special drive should be launched to effect the service of all pending warrants and challans in each police station of each and every Assembly Constituency and fortnightly updated constituency-wise information of unserved warrants be made available to the concerned District Election Officer and Returning Officer to be forwarded to the Commission if and when asked for.

4.4 A special drive should be launched to expedite the investigation and prosecution of all electoral offences registered in previous elections in each police station of each and every Assembly Constituency and a fortnightly report made available to the concerned District Election Officer and Returning Officer to be forwarded to the Commission if and when asked for.

4.5 A special drive should be launched to unearth illicit liquor making factories and information about seizures made available to the concerned District Election Officer and Returning Officer fortnightly to be forwarded to the Commission if and when asked for. All restrictions provided in excise law on the storage of liquor in unlicensed premises shall be vigorously enforced. Section 135C of Representation of People's Act, 1951 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, private or public, within a polling area during the period of 48 hours ending with the hour fixed for conclusion of poll for any election in the polling area. Therefore 'Dry Day' shall be declared and notified under relevant state laws for the stipulated period for the poll areas. The day on which counting of votes is to be taken up, shall also be declared 'Dry Day'.

4.6 Prohibitory orders under section 144 of the Criminal Procedure Code, 1973 shall be issued banning the carrying of licensed arms as soon as an election is announced and should be effective till the declaration of results.

4.7 The States should conduct a 100% scrutiny of licenses of arms and ammunition shops with a view to ensuring that the records of their stocks are kept up-to-date and that their antecedents, recent involvement in irregularities, if any, and political leanings, if any, warrant a close super checking and monitoring of their business during the days of active electioneering.

4.8 Issue of license for arms will be totally prohibited during the period commencing with the date of announcement of elections. This ban will continue to be operative till the completion of the election as notified.

4.9 A special drive should be launched to unearth and seize unlicensed arms and ammunition. A very thorough search and seizure by the State Police of unlicensed arms and places of indigenous manufacture of arms and ammunition shall be carried out and persons involved shall be arrested. While unearthing and seizure of unlicensed weapons is a normal ongoing responsibility of the police, it shall be vigorously intensified during the election period. Inter-state and inter-State movements of trucks and commercial vehicles shall be strictly checked with a view to preventing smuggling of arms and ammunition and anti-social elements. Raids should be carried out regularly and intensively on underground arms factories.

4.10 Immediately after the announcement of elections, District Magistrates shall make a detailed and individual review and assessment (in accordance with the prevalent State laws) of all licence holders so that licensed arms in those cases where they consider it essential are impounded in order to ensure maintenance of law and order so essential for ensuring free and fair elections. These arms should be deposited with the district authorities. Among cases which may need to be reviewed are the following:

- (a) Arms licenses of persons released on bail,
- (b) Arms licenses of persons having a history of criminal offences, and
- (c) Arms licenses of persons previously involved in rioting at any time but especially during the election period. (The above categories are only illustrative and not exhaustive)

4.11 After such review, all such licence-holders who are identified, shall be directed to deposit their arms with the District Administration during the period of one week from the last date for withdrawal of candidatures.

4.12 The District Administration shall make foolproof arrangements for keeping the deposited firearms in safe custody. Proper receipt must be given to the licence holders depositing the firearms. It shall be the bounden duty of the District Administration to ensure that all firearms deposited with the Administration are returned to the licence holders immediately after one week after the declaration of results.

4.13 The sportsmen who are the members of National Rifle Association, at different levels, have to participate in various sporting events in which they use their rifles. The Commission has, therefore ordered that they will be exempted from these restrictions. This ban shall, also not be applicable to those communities who are entitled to display weapons by long standing law, custom and usage. This shall, however, not prevent the District Administration to impound weapons of any person, even from such communities, if they are found to be indulging in violence or posing a threat to the maintenance of law and order and peaceful conduct of elections. In such cases too, the seized firearms shall remain impounded till one week after the declaration of results.

4.14 Strict vigil shall be maintained by thorough checking of lorries, light vehicles and all other vehicles from three days before the date of poll to ensure that no undesirable elements or arms and ammunition are being transported into the constituency from outside and to apprehend them if they are doing so. Such checking of vehicles shall continue till the completion of the counting of votes and the declaration of results. As and when such culprits are apprehended, the arms and ammunition and vehicles concerned shall be confiscated.

4.15 Chief Secretary shall arrange for compilation of daily law & order report for each district in format prescribed in the proforma (LOR – Form I, **annexed**) and for its transmission to the CEO. District authorities should not send this report directly to the ECI. The Chief Secretary shall also arrange for compilation of a consolidated report for entire state in another format (LOR – Form II, **annexed**) by the Home Department. This reports should be sent to the CEO, who in turn would fax the report with his/her comments to ECI.

5. It is clarified that Commission has not banned supply of arms and ammunitions to other states. However, such transfers should only be on the basis of valid papers, including 'no objection certificates' from the respective district magistrates. It must be ensured that the supply reaches the actual consignee and it does not reach the hands of any unauthorised person. All care should be taken to ensure that trucks, lorries etc carrying arms and ammunitions to other states should reach actual consignee and do not find their way into the hand of unauthorised persons. Therefore trucks and other commercial vehicles shall be vigorously checked at interstate borders with a view to prevent smuggling of arms and ammunitions. The state authorities supplying the consignment shall inform the concerned authorities of the states wherein the supplies of arms and ammunitions are sent so as to take advance action to provide adequate security for remitting the consignment to the actual consignee.

Yours faithfully

Sd/-
(A. K. MAJUMDAR)
SECRETARY

Form LOR - FORM I

**Election Commission of India Daily
Law & Order Report for Districts for Electoral Events
Election ID: STATE ELECTIONS, 2004**

Report for a day should cover a period of 24 hours from 6.00 AM of that day to 6.00 AM of next day)

To
1) District Election Officer 2) District Magistrate
Copy to
1) Home Secretary 2) Director General of Police 3) Chief Electoral Officer

Start Date for these Reports (1) :Date			Month			Year			
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Report for.....day (2) :Date			Month			Year			
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Name of State:
Name of Police District :
Police Range (of IG/DIG):

Part I : Summary

Sl. No.	Item	Reporting Day	Cumulative from Start Date upto and including Reporting day
1.	No. of Unlicensed Arms/Explosive seized		
	a)Arms/Weapons		
	b)Cartridges/Explosives(Quantity/Numbers)		
2.	No. of illicit arms manufacturing centres raided and seizures made		
3.	Licensed Arms deposited/impounded/cancelled		
4.	No. of persons bound down U/S 107/116 CrPC etc.		
5.	Execution of non-bailable warrants		
	a) Executed		
	b) Pending		
6.	No. of incidents of violence related to poll campaign, political rivalry etc.		
	a) No. of incidents		
	b) Total killed		
	c) Total injured		
	d) Damage to property (in Rs. Lakhs)		
Signature of SP/SSP:		Name of SP/SSP:	

Daily Law & Order Report for Districts for Electoral Events

Election ID : STATE ELECTIONS, 2004

(Report for a day should cover a period of 24 hours from 6.00 AM of that day to 6.00 AM of next day)

Report for..... day (2) Date			Month			Year				
Name of State:										
Name of Police District:										
Part II : Details of Incidents of Violence										
(Use a separate sheet for each incident of violence covered in item 6 of part I)										
A. General Information										
1.	Incident No.:				Time :					
2.	Place/Location:									
3.	Brief Narrative Summary of incident of violence :									
4.	Political/Communal Affiliation of the Groups/People involved in the incident, if any :									
5.	Police Action taken, if any :									
6.	Break-up of persons killed and injured in the incident:					Killed	Injured			
	a) Political workers/Activists									
	b) Poll Officials									
	c) Policemen/Security Staff on Duty									
	d) Onlookers									
	e) Others									
Total										
7.	Details of Damage to Property, if any :									

**Signature
of SP/SSP:**

**Name of
SP/SSP:**

Form LOR - FORM II

**Election Commission of India
Daily Law & Order Report for State for Electoral Events
Election ID : STATE ELECTIONS, 2004**

(Report for a day should cover a period of 24 hours from 6.00 AM of that day to 6.00 AM of next day)

To
The Secretary
Election Commission of India

Start Date for these Reports (1): Date		Month		Year				
Report for..... day (2) : Date		Month		Year				

Name of State:

Sl. No.	Item	Reporting Day	Cumulative from Start Date upto and including Reporting day
1.	No. of Unlicensed Arms/Explosive seized		
	a)Arms/Weapons		
	b)Cartridges/Explosives(Quantity/Numbers		
2.	No. of illicit arms manufacturing centres raided and seizures made		
3.	Licensed Arms deposited/impounded/cancelled		
4.	No. of persons bound down U/S 107/116 CrPC etc.		
5.	Execution of non-bailable warrants		
	a) Executed		
	b) Pending		
6.	a) No. of incidents of violence related to poll campaign, political rivalry etc.		
	b) Total killed		
	c) Total injured		
	d) Damage to property (in Rs. Lakhs)		
Signature Of CEO:		Name of CEO:	

IMPORTANT: In case a violent incident has occurred for this day, please enclose, for each incident, a copy of the report for the concerned Police District in Form LOR-FORM I.

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ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.464/L&O/2007/PLN-I

Dated: 08.01.07

To

1. **The Secretary to the**
Government of India
Ministry of Home Affairs
New Delhi-110001
2. **The Chief Secretaries of all States and Union Territories**
3. **The Chief Electoral Officers of all States and Union Territories**

Sub: Security Plan and Force Deployment to ensure free, fair and peaceful conduct of elections to Lok Sabha and State Assemblies.

The Commission has, in the past; issued various instructions on the deployment of forces from time to time to ensure conduct of peaceful, free and fair elections. These instructions that are applicable for both general and bye-elections to Lok Sabha and various State Legislative Assemblies have now been consolidated for the convenience of all concerned which are as follows: -

2. During elections the State Governments deploy a large number of their existing police forces and these are further augmented by induction and deployment of Central Para Military Forces (CPMFs) for ensuring free, fair and peaceful conduct of elections. The Commission has observed that there is a tendency amongst the States to keep the Central Police Forces as 'reserves' and thereby not actually deploying them on election related duties. This defeats the very purpose of augmenting the local forces with the CPMF resulting in sub-optimal benefits. To ensure full and optimal utilization of the police forces including CPMFs and SAPFs, the Commission directs that the following guidelines will be followed strictly in the matter of deployment of security forces for conduct of elections: -

(a) State Deployment Plan will be prepared taking into account the available forces of the State Government/SAPF and CPMFs which will be made available by the Ministry of Home Affairs. State Deployment Plan will be prepared in consultation with the Chief Electoral Officer of the State and his recommendations on the quantum of forces to be deployed to different constituencies shall merit serious consideration in the drawing of the plan. State Level Force Coordinator appointed by MHA will assist the CEO in this task.

(b) Based on its experience during the Lok Sabha and general elections to various State Legislative Assemblies, the Commission has persuaded the Ministry of Home Affairs to allow splitting of Sections and deployment of half Section of CPMF in the areas, which are not insurgency/militancy/naxalite affected. But these forces must not be deployed in less than one Section strength in insurgency/militancy/naxalite affected areas. The S.P of the concerned district shall certify in writing whether the area is insurgency/militancy/naxalite affected or otherwise.

(c) The CEO of the State shall be actively associated in drawing up the State deployment plan. His recommendations on what quantum of forces should be deployed to which Constituency shall merit serious consideration in drawing up the plan. The State

Deployment Plan will factor in the requirements of the different districts based on District Deployment Plans which will be prepared by every district taking into account the forces being made available by the State Government to the district, the CPMFs and other forces being made available from the state pool to the district and the available forces with the district. The District Deployment Plan shall be formulated and finalized under the Chairmanship of the District Magistrate/District Election Officer. The Observer on his arrival to the district shall be consulted by the District Magistrate and Superintendent of Police and the views of the Observer will have to be incorporated in giving final shape to the District Deployment Plan.

(d) Both the State Deployment Plan and District Deployment Plan would be finalized at least one week before the day of poll.

(e) In the District Deployment Plan, it shall be ensured that all polling stations are covered with adequate static duty reinforced by necessary mobile patrolling at the level of "zones" and "sectors". Particular attention should be paid to deploy CPMFs in constituencies and polling stations identified as sensitive / hyper sensitive.

(f) Among others the following may be considered as guiding factors in identifying sensitive and trouble prone areas/polling booths:

- i) Past history of the constituency or the polling area
- ii) Incidents of Booth Capturing, violence, riots, large-scale impersonation etc.
- iii) Information regarding abnormal law & order situation in particular area
- iv) Specific complaints made by political parties and candidates
- v) Nature of contest viz. political status of candidates
- vi) Political rivalries
- vii) Number of history sheeters and absconders
- viii) Number of SC/ST electors

(g) Deployment of any force other than State's own uniformed police force or the CPMFs, (for example, Village Defense Force, Homeguards, Adhoc Auxilliary force etc.) will require prior approval of the Commission.

(h) The deployment plan must spell out when and where the CPMFs are reaching the State.

(i) Whenever area domination by CPMF is needed, CPMF will undertake area domination etc. till 2 days before the polling day (P-2). After that they shall be drafted for static duty at polling stations. In naxal and other insurgency affected area, CPMF may be deployed for active election related duty other than static duty at polling booths such as mobile patrols with magistrates, area pickets, check gates and quick reaction teams located in specific areas etc. Such exceptions shall have to be approved by Election Observer for the district or CEO for inter-district duties. The central forces shall not be deployed or kept as "reserves" at any level. In rarest of the rare cases, When they are to be deployed as "reserves", they should be made available with suitable communication and mobility facilities for contingent deployment and movement on short notice. However, the proposal to retain some of the CPMF contingents as "deserve" should be discussed with the Observer and should be sent to the Commission through CEO of the State for specific permission of the Commission. The justification for such request shall be clearly brought out in the proposal. It is made clear that as a matter of policy, the Commission favours, the deployment of CPMF on poll day on static duty at polling stations invariably.

(j) In pursuance to the directions given by the Hon'ble Supreme Court in its order no.9228 of 2003 (Janak Singh Vs. Ram Das Rai and others) dated 11.01.2005, the Commission has desired that one CPMF Jawan from the CPMF party posted at the polling station will be stationed at the entrance of the polling station so that he can keep a watch on the proceedings that are going on inside the polling station, particularly, to ensure that no unauthorized person enters inside the polling station and / or no irregularity is committed either by the polling staff or outsiders in the poll process. In the buildings which have more than one polling station and

where only half a section of the CPMF personnel is deployed, the CPMF Jawan selected for duty at the entrance of the polling station may be asked to oscillate from one polling station to other and look at what is going inside these polling stations and report to the officer in charge of the CPMF party or observer, if something unusual is observed by him. It is also clarified that CPMF Jawan posted at the entrance of the Polling Station shall not verify the identity of electors coming into the polling stations to cast their votes as such verification is the duty of the polling personnel.

(k) The specific things on which a CPMF Jawan posted at the entrance of the polling stations are expected to keep an watch are as under -

- (i) No unauthorized person is present inside the polling station at any time during the poll.
- (ii) The polling party or the polling agents do not attempt to cast or cast any vote or votes when no voter is present inside the polling booth.
- (iii) No polling officer accompanies any voter to the voting compartment.
- (iv) No polling agent or polling officer threatens any voter or makes any gesture to threaten them.
- (v) No arms are carried inside the polling station.
- (vi) No silent rigging takes place.

(l) If the CPMF Jawan posted at the entrance of the polling station discovers violation of the election process as above or observes something unusual going on inside the polling station, he shall not interfere in the poll process but report the same to the officer incharge of the CPMF party at polling station or observer. The officer incharge of CPMF party will in turn send this information to the Returning Officer and also Observer on the same day in writing for further necessary action. The Returning Officers/Observer will report cases from where adverse reports are received from the CPMF parties for further instructions of the Commission.

(m) The other instructions relating to deployment of CPMF, which are needed to be considered by the election authorities, are: -

(i) CPMF shall be used during the pre-poll period for the purpose of area domination, conducting flag marches, confidence building among the electors and checking of border areas etc.

(ii) The District Magistrates, Superintendents of Police shall finalize the sensitivity of polling stations giving the reasons in accordance with the instructions of the Commission. This list shall be kept ready and finalized on arrival of the observers after consulting them.

(iii) The forces shall be deployed at the polling stations in the following order of sensitivity (from higher to lower) - CPMF followed by State Armed Police (SAP) followed by District Armed Police (DAP).

(iv) At places requiring two sections of force, one section of CPMF and one section of SAP / DAP can be used to maximize the coverage by CPMF.

(l) It will be the responsibility of the District Magistrate concerned and Superintendent of Police concerned to ensure that the polling parties and static armed force parties reach polling booths in time as scheduled.

(m) The arrangements for security of contesting candidates, according to the perception of threat to their lives should also be made and the contesting candidates provided with the security after an assessment of the threat. It is vital to note and follow that security should not be provided in a routine manner. All relevant factors must be considered and taken into account.

(n) The Observers appointed by the Commission should also be provided with adequate security.

(o) The Commission has directed that for guarding the strong rooms after the completion of poll armed Police personnel shall be used. To the extent possible, CPMF should be used for the purpose. Wherever, CPMF is not available, SAP shall be used.

(p) The State Government must also ensure that adequate and fool-proof security arrangements are made, both inside and around the counting centers as well to prevent incident that are likely to vitiate the counting process. For this purpose, it should be ensured that adequate security forces preferably CPMF should be present at all the counting centers.

(q) The deployment of forces within the district and at the polling booths as per the district deployment plan shall be the responsibility of the concerned District Superintendent of Police and officers below him.

(r) The state government shall provide adequate facilities and make necessary arrangements as needed, for transport and accommodation of the CPMF deployed.

(s) Ministry of Home Affairs shall get all international Borders sealed at least one week in advance to prevent any movement of anti-social elements crossing the borders to disrupt electioneering process. Similarly, in view of the phasing of elections, all State Governments shall seal inter-state borders/inter-district borders well in advance to prevent infiltration of antisocial and disruptive elements from neighbouring states /districts where polls are being held.

3. Kindly acknowledge the receipt.

Yours faithfully,

Sd/-
(A.K. MAJUMDAR)
SECRETARY

(169)

MOST URGENT
BY FAX/CAMP BAG

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001.

No.464/INST/2007-PLN-I

Dated: 12th October, 2007

To

1. The Chief Secretaries of
All States/UTs.
2. The Chief Electoral Officers of
All States/UTs.

Sub: Measures to ensure free and fair elections- Prevention of intimidation to the voters of vulnerable sections of electorate- Mapping of Vulnerability-regarding.

Sir,

I am directed to state that the Commission has been issuing instructions regarding various measures to be taken to ensure free and fair elections. An atmosphere in which each and every elector is able to access the polling station without being obstructed or being unduly influenced by anybody is an important prerequisite to a free and fair election.

Undue influence at elections is an electoral offence under section 171C of the IPC. Any voluntary interference or attempt at interfering with the free exercise of any electoral right constitutes the crime of undue influence at an election. Section 123 (2) of the R.P Act 1951 defines, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent with the free exercise of any electoral right, as a corrupt practice.

Taking due cognizance of the role being played by the muscle power in the elections and taking into account of certain prevailing socio economic realities of the electoral politics, the Commission has decided to issue the following instructions to curb the menace of threat and intimidation at elections by identifying the locations within a polling station area vulnerable for such threat and intimidation.

1. An exercise to identify the villages/ hamlets/habitats and segments of electorate vulnerable to any threat, intimidation or interference with the free exercise of electoral right shall be taken up polling station wise. The sector officers for their respective polling stations shall do this exercise by visiting the catchment area of the polling stations. The local *Thana* officer (SHO) and



local civil authorities such as BDO / Tehsildar shall also be consulted and their inputs taken into account before finalizing the list. They should identify the source of such threat/ intimidation and identify the names of persons who are likely to spearhead such offence of undue influence. While doing this exercise they shall take into account the past incidents, and current apprehensions.

2. They shall identify some point of contact within the habitat/ community vulnerable for such undue influence so that information related to such developments can be tracked constantly.
3. The Returning Officer of the Assembly Constituency should compile all such information and finalize the vulnerability mapping for the entire constituency, polling station wise in a format (enclosed).
4. The DEO and SP shall initiate all preventive measures to ensure that such intimidation/ obstruction do not really happen on the poll day. They shall initiate confidence-building measures to bolster the voters' confidence about the arrangements for free and fair poll. They shall undertake tours to such locations and meet the communities and explain the arrangements made for the free and fair poll.
5. The DEO/ RO shall interact with the candidates and representatives of political parties to gather regular feedback. The District Intelligence shall give regular feedback on the subject to the DEO through SP.
6. Upon the arrival of the Observers the DEO/ RO shall hand over the details of the polling station wise vulnerability mapping for the relevant Assembly Constituency. The Observer will also visit such locations and interact with the voters and constantly monitor the developments.
7. The DEO and Superintendent of Police of the District should hold a joint review on the subject and finalize a focused action plan to deal with the potential threats and intimidation points identified. The action plan may include, inter-alia, binding the identified trouble mongers under appropriate sections of the law, preventive detention if required, forcing their appearance in local police stations at reasonable intervals to ensure their good behavior, placement of police pickets, regular confidence building visits etc. It has to be ensured that all such measures are undertaken in absolutely non-partisan manner without fear or favour towards any particular party.
8. The Zonal/ and sector arrangements to monitor the events on the poll day shall take such pre-identified vulnerable locations into account for effective

tracking. If the normal sector route map does not cover the vulnerable locations special arrangements shall be made for this purpose. The Sector officers shall make regular visits to those villages and hamlets in advance and collect information and keep the senior officers informed.

9. Where there is a cluster of such vulnerable pockets, the DEO shall arrange for dedicated police teams/squads and locate them at convenient locations in the vicinity, to be pressed into service for action on the day of poll without any loss of time. It should invariably form part of the district security plan.
10. On the day of poll, the sector officers shall give special attention to verify whether voters from the vulnerable habitats/ communities are turning up for voting or not. In case, they find (it can be gauged from the marked copy of the electoral roll where voters who have voted are ticked) that some section of voters is conspicuously absent, then they should inform the Returning Officer about this immediately. The Returning Officer and DEO shall dispatch the dedicated squad specifically meant for this purpose, to ascertain, by a visit to the area/hamlet, that there is no hindrance – overt or covert – in movement of that section of voters. They should closely monitor the developments and initiate effective interventions. After the closing hours on the poll day, the sector officers shall submit a special report, polling station wise, in writing to the Returning Officers indicating as to whether voters from the vulnerable habitats were able to vote or not.
11. At the time of Dispatch of the polling parties at the Dispatch Centers the RO should brief the Presiding Officer concerned about the vulnerable locations within the Polling Station area. In the electoral roll the Section within the Part should also be marked for proper monitoring. The Presiding officers shall submit a report indicating abnormally low percentage of voter turnout if any within any section/sections, particularly, with reference to the vulnerable locations.
12. During the poll the Observers and other senior officers while visiting the polling station shall pay a special attention to this problem and find out whether any undue influence, intimidation/ obstruction is being caused.
13. The police patrolling parties should keep track of the vulnerable locations and keep the control room informed. Wherever necessary police pickets shall be established to ensure free access to all voters to cast their votes without fear.
14. The Commanders/Assistant Commanders of the CPMF shall be given a list of such vulnerable locations. Wherever CPMF arrives in advance for area domination, special attention shall be given for such locations. On the day of

poll the Commanders/Assistant Commanders shall make it a point to visit such vulnerable pockets as a confidence building measure. In case they come across any obstruction they shall take note of that and immediately inform any of the electoral officials such as RO/DEO/SP/Observer/Sector Officer and keep a note of the time of their intimation.

15. If any complaint is received or information gathered from any sources about obstruction/threat to any voter/voters the same shall be enquired into by the local administration without any delay.
16. The Returning Officer shall take the inputs on mass scale intimidation/threat/obstruction if any into consideration while submitting their report after the poll.
17. The Observers shall give their full attention to this issue and verify at every stage (before poll/on poll day) and submit reports to the Commission from time to time. A special mention shall be made about this in their final report. Apart from this they should make an intelligent reading of the Form 17A and the marked copy of the electoral roll used in the polling stations at the time of Form 17A scrutiny, ordered if any, by the Commission after the poll.
18. The Commission directs that accountability of various police and civil officials for vulnerability mapping and follow up at every stage shall be clearly defined with reference to each polling station/constituency. Severe disciplinary action will be initiated in case of dereliction of duty on the part of any police/civil officials in this matter.

This shall be brought to the notice of all concerned.

Yours faithfully,

(K.N. BHAR)
UNDER SECRETARY

Format for Collection of Information on Vulnerable Hamlets

District: _____

Constituency: _____

Polling Station no. and Name	Names of hamlets covered by the P.S.	Name of Hamlets identified as vulnerable	Name of persons identified as probable source of trouble	Remarks (Type of Threat, e.g. caste domination, communal tension, criminal gangs etc)
1	2	3	4	5

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MOST URGENT
BY FAX/CAMP BAG

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001.

No.464/INST/2007-PLN-I

Dated: 12th October, 2007

To

1. The Chief Secretaries of
All States/UTs.
2. The Chief Electoral Officers of
All States/UTs.

Subject:- Identification of critical polling stations and measures to be taken to ensure free and fair elections.

Sir,

I am directed to say that in order to ensure free and fair elections the Commission has decided to deploy CPMF in all polling stations. However, in order to identify the critical polling stations, which may require some more additional measures, it is necessary to spell out certain objective criteria to be followed by the DEO/RO as under :-

1. An analysis of the polling station wise number of voters with EPIC and without EPIC (non EPIC voters) shall be made. The polling stations shall be sorted in descending order in terms of number of non-EPIC voters in order to prioritize.
2. The Commission had recently directed a survey of missing voters under two categories i.e. missing voters with family links and missing voters without family links. Out of these two categories the existence of missing voters without family links offers a scope for misuse and malpractice. The number of voters coming under the second category shall be analyzed polling station wise and the Polling Station with large number of such voters shall be marked. For this purpose the total number of such missing voters without family linkage shall be divided by the total number of polling stations to workout the assembly constituency average. Analyzing the deviation above the average shall identify the polling stations with large number of such voters.
3. During the election the DEOs/ROs may be asked to do a vulnerability mapping of hamlets/villages/electoral segments vulnerable for threat and intimidation. Polling stations identified as having vulnerable pockets shall be listed.
4. The polling station wise election results available in Form 20 with reference to the past general election shall be analyzed. All such Polling Station where percentage of poll recorded is more than 75% and where more than 75% of votes have been recorded in favour of one candidate shall be identified as critical polling station.



5. The polling stations that went for repoll during the previous election due to reported electoral malpractices; the polling stations that witnessed any sort of electoral violence shall also be identified.
6. The DEOs and ROs shall factor all the above inputs while finally identifying the critical polling stations for additional measures. The ECI Observers shall be consulted while finalizing the list of critical polling stations as per the above instructions.
7. The response protocol to be followed with reference to the vulnerable villages/hamlets/electoral segments has been detailed vide Commission's letter 464/INST/2007-PLN-I Dated 12th October, 2007. These instructions shall be implemented without fail.
8. With reference to polling stations identified as **critical polling stations** on account of other indicators listed above one or all of the following measures shall be put in place.
 - a. The presence of CPMF to safe guard the polling station is a MUST.
 - b. Digital camera or video camera shall be positioned in the polling station. The procedure for deploying such cameras has been given vide letter No.447/2007/PLN-IV, dated 17.01.2007.
 - c. The Presiding Officer shall be specially briefed to ensure that the EPIC/approved identification document, if any are properly verified and reflected in the remarks column of Form 17 A.
 - d. The list of such polling stations shall be given to the Commanding/Assistant Commanding Officers of CPMF so that they can also keep an eye on such polling stations.
9. This shall be brought to the notice of all concerned. A copy of the circular be handed over to all Observers through DEOs.

Yours faithfully,

(K.N. BHAR)
UNDER SECRETARY

INSTRUCTION SI. No.

Election Commission's Letter No.464/INST/2008-EPS Dated: 24th October, 2008 addressed to 1. The Chief Secretaries of All States and Union Territories.. 2. The Chief Electoral Officers of All States and Union Territories.

Subject:- Identification of critical polling stations and measures to be taken to ensure free and fair elections

In supersession of Commission's instructions contained in its letter No. 464/INST/2007-PLN-I dated the 12th October, 2007, I am directed to say that in order to ensure free and fair elections the Commission has decided to deploy CPF in all polling stations. However, in order to identify the critical polling stations, which may require some more additional measures, it is necessary to spell out certain objective criteria to be followed by the DEO/RO as under: -

1. An analysis of the polling station wise number of voters with EPIC and without EPIC (non EPIC voters) shall be made. The polling stations shall be sorted in descending order in terms of number of non-EPIC voters in order to prioritise.

2. The Commission had recently directed a survey of missing voters under two categories i.e. missing voters with family links and missing voters without family links. Out of these two categories the existence of missing voters without family links offers a scope for misuse and malpractice. The number of voters coming under the second category shall be analyzed polling station wise and the Polling Station with large number of such voters shall be marked. For this purpose the total number of such missing voters without family linkage shall be divided by the total number of polling stations to workout the assembly constituency average. Analyzing the deviation above the average shall identify the polling stations with large number of such voters.

3. During the election the DEOs/ROs may be asked to do a vulnerability mapping of hamlets/villages/electoral segments vulnerable for threat and intimidation. Polling stations identified as having vulnerable pockets shall be listed.
4. The polling station wise election results available in Form 20 with reference to the past general election shall be analyzed. All such Polling Station where percentage of poll recorded is more than 75% and where more than 75% of votes have been recorded in favors of one candidate shall be identified as critical polling station.
5. The polling stations that went for redpoll during the previous election due to reported electoral malpractices; the polling stations that witnessed any sort of electoral violence shall also be identified.
6. The DEOs and ROs shall factor all the above inputs while finally identifying the critical polling stations for additional measures. The ECI Observers shall be consulted while finalizing the list of critical polling stations as per the above instructions.
7. The response protocol to be followed with reference to the vulnerable villages/hamlets/electoral segments has been detailed vide Commission's letter 464/INST/2007-PLN-I Dated 12th October, 2007.
These instructions shall be implemented without fail.
8. With reference to polling stations identified as **critical polling stations** on account of other indicators listed above one or all of the following measures shall be put in place.
 - a. The presence of CPF to safe guard the polling station.
 - b. Digital camera or video camera shall be positioned in the polling station. The procedure for deploying such cameras has been given vide letter No.447/2007/PLN-IV, dated 17.01.2007.

- c. The Presiding Officer shall be specially briefed to ensure that the EPIC/approved identification document, if any are properly verified and reflected in the remarks column of Form 17 A.
 - d. The list of such polling stations shall be given to the Commanding/Assistant Commanding Officers of CPF so that they can also keep an eye on such polling stations.
 - e. Deployment of a micro-observer inside the polling station.
9. This shall be brought to the notice of all concerned. A copy of the circular be handed over to all Observers through DEOs.

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BY CAMP BAG

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001.

No.576/14/2008/EPS

352

Dated : 5th November, 2008.

To

The Chief Secretaries to the Government of: -

1. Chhattisgarh, Raipur
2. Madhya Pradesh, Bhopal
3. Mizoram, Aizawl
4. Rajasthan, Jaipur
5. NCT of Delhi, Delhi

The Chief Electoral Officers of: -

1. Chhattisgarh, Raipur
2. Madhya Pradesh, Bhopal
3. Mizoram, Aizawl
4. Rajasthan, Jaipur
5. NCT of Delhi, Delhi

Subject: - General Elections to the Legislative Assemblies of Chhattisgarh, Madhya Pradesh, Mizoram, Rajasthan and NCT of Delhi, 2008 – Prohibition on sale of liquor etc.

Sir,

I am directed to invite your attention to Section 135 C of the Representation of the People Act, 1951 which provides that no spirituous, fermented or intoxicating liquors or other substances of a 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. This will include the dates of repoll, if any.

3. The Commission further directs that the day i.e. 8th December, 2008 on which counting of votes is to be taken up, for Chhattisgarh, Madhya Pradesh, Mizoram, Rajasthan and NCT of Delhi shall be declared 'Dry Day' under the relevant laws in the aforesaid States

4. No liquor shops, hotels, restaurants, clubs and other establishments selling/serving liquor, shall be permitted to sell/serve liquor to anyone whatsoever, 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.

Yours faithfully,

(SHANGARA RAM)
PRINCIPAL SECRETARY

Copy to concerned

464/INST/2009-EPS

Dated: 22.03.09

To,

The Chief Electoral Officers of
All States and Union Territories.

1541
22/3

Sub.-Follow up action on the Vulnerability Mapping(VM) exercise and
identification of critical polling stations and critical clusters.

Sir,

JCFD
MIL

This is with reference to the Election Commission of India's instructions conveyed vide letter no. 464/INST/2008-EPS dated 24.10.08. regarding vulnerability mapping as well as identification of critical polling stations and critical clusters. As a follow up measure on the above issue, the Commission has issued the following additional instructions:-

1. In all the constituencies in the country, the vulnerability mapping(VM) exercise shall be done without exception. The VM exercise will take place in three stages i.e. (i) Identification of the villages, hamlets, voter segments vulnerable for threat and intimidation (ii) Identification of the persons causing the vulnerability i.e the troublemakers who are likely to pose threat to voters by intimidating them (iii) Initiating preventive measures against such persons and submission of Action Taken Report (ATR).
2. The first stage of exercise shall be completed with respect to each Parliamentary constituency before the issue of the gazette notification for the election in the respective constituency. In case no such vulnerable hamlet or village is identified in a district or in a Parliamentary Constituency, the DEO concerned should obtain a certificate from the field functionaries from the

Thana/block level and sub division level and finally submit a certificate to the CEO that no such vulnerable village or hamlet or voter segment is available/identified within his district. Such certificate should be sent **within 3 days of issue of the gazette notification.** In case of such vulnerable villages/hamlets/voter segments being identified by the grass root level officers as per the above instructions of the Election Commission, the second stage exercise of identifying the persons responsible for making the villages vulnerable shall be done polling station-wise indicating the name of village, hamlet, names of the such persons including their address and so on. This exercise of identifying the troublemaker shall be completed **within 5 days of issue of gazette notification.** After that the SP and DM shall initiate all possible preventive measures which may include the use of preventive sections of Cr. P.C and other relevant Acts. Confidence building visits should be made by the senior officers to the vulnerable villages. They should hold meetings with the vulnerable communities and issue warning to the troublemakers that they will be tracked individually. These actions shall be taken in a focused manner.

3. For tracking the individual trouble mongers and for ensuring that the troublemakers are kept under watch, a specific officer should be designated at *Thana* (Police Station) level for ensuring the proper law and order, and peaceful poli. The name of the police officer responsible for each vulnerable location should also be mentioned along with his designation and contact number in the vulnerability mapping document. Names of contact persons from within the communities, shall also be identified and their contact numbers, mobile numbers, if any, should be noted down. After this exercise is over, the ATR will

be submitted by the D.O and SP jointly and the ATR shall be submitted **at least 5 days before the poll day** i.e if the poll day is 16.04.09 the ATR should be submitted to the CEO before 11.04.09. The Commission has made it very clear that in case of the ATR not being submitted by any DEO within the stipulated time, it may be brought to the notice of the Deputy Election Commissioner concerned by the C.O for immediate follow up action.

4. It is further directed that on arrival of the observer, the status report on the vulnerability mapping exercise shall be submitted to them by the DEO. They should be apprised of the number of hamlets/villages identified as vulnerable, no. of persons identified as vulnerable, double makers and the preventive and confidence building measures taken or proposed to be taken at that point of time. A copy of the ATR should also be shared with the Observers. The Zonal Sections of the ECI will take a specific and focused report from each observer about the status of the vulnerability mapping at least three days before the poll day.

This may be brought to the notice of all concerned. The Commission will take a serious view in case of any deviation.

Yours faithfully,

(R. E. LAKRISHNAN)
Deputy Election Commissioner

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001.

No. 464/INST/2009-EPS

Dated: 24th March, 2009.

To,

The Chief Secretaries Officer of States and Union Territories
The Chief Electoral Officers of States and Union Territories

Subject: Preventive Law & Order Action to ensure conduct of peaceful, free and fair poll during the General Elections/Bye-elections Regarding.

The Commission has, in the past, issued various instructions from time to time to ensure conduct of peaceful, free and fair poll and maintenance of the law and order situation during General Elections/Bye-elections. For convenience of all concerned, these instructions have now been consolidated which are as under: -

1. The Commission being deeply aware of the increasingly vitiative role of criminality and muscle power at elections has been taking and directing the taking of a number of measures over and above the purview of normal law and order arrangements, for augmenting the possibilities of peaceful, free and fair poll. These measures include the deployment of Central Police Forces during the process of elections to assist the State law and Order machinery in prevention of pre-poll, poll and post-poll violence and inspire confidence in the impartiality of election machinery among the common electorate, regulation of vehicular traffic, regulation and ban on the sale of liquor in close proximity with the dates of poll and counting, seizure of illicit and licensed arms, etc.
2. These extra measures taken by the Commission cannot absolve the normal law and order outfit of the State from taking such preparatory steps as are necessary for generation of an atmosphere conducive to the conduct of peaceful free and fair poll during the run up period to the elections. It is indispensable to tighten the local law and order outfit and enforce with adequate strictness the day-to-day criminal administration with a view to mitigating the requirement of the aforesaid extra measures.
3. The Commission desires the States/UTs to undertake the following prophylactic measures immediately and report regularly the progress and effect of these measures in the context of possibilities of holding peaceful, free and fair elections:
 - 3.1 A special drive should be launched to compile a list of such persons as are reported to have indulged in electoral offences like booth capturing, intimidation, impersonation in each police station of each and every constituency during the past at least two elections and a list thus compiled of each constituency made

available to the concerned District Election Officer and the Returning Officer of each Parliamentary Assembly Constituency to be forwarded the Commission if and when asked for.

3.2 A special drive should be launched to update the lists of history sheeters, declared absconders, fugitive criminals in each police station falling in each and every Parliamentary Assembly Constituency and record of such updated listed handed over to the District Election Officers and Returning Officers concerned, constituency wise, with a view to be kept ready for dispatch to the Commission if and when asked for.

3.3 A special drive should be launched to effect the service of all pending warrants and challans in each police station of each and every Parliamentary Assembly Constituency and fortnightly updated constituency-wise information of unserved warrants be made available to the concerned District Election Officer and Returning Officer to be forwarded to the Commission if and when asked for.

3.4 A special drive should be launched to expedite the investigation and prosecution of all electoral offences registered in previous elections in each police station of each and every Parliamentary Assembly Constituency and a fortnightly report made available to the concerned District Election Officer and Returning Officer to be forwarded to the Commission if and when asked for.

3.5 A special drive should be launched to unearth illicit liquor making factories and information about seizures made available to the concerned District Election Officer and Returning Officer fortnightly to be forwarded to the Commission if and when asked for. All restrictions provided in excise law on the storage of liquor in unlicensed premises shall be vigorously enforced. Section 135C of Representation of the People Act, 1951 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, private or public, within a polling area during the period of 48 hours ending with the hour fixed for conclusion of poll for any election in the polling area. Therefore 'Dry Day' shall be declared and notified under relevant state laws for the stipulated period for the poll areas. The day on which counting of votes is to be taken up, shall also be declared 'Dry Day'.

3.6 Prohibitory orders under section 144 of the Criminal Procedure Code, 1973 shall be issued banning the carrying of licensed arms as soon as an election is announced and should be effective till the declaration of results.

3.7 The States should conduct a 100% scrutiny of licenses of arms and ammunition shops with a view to ensuring that the records of their stocks are kept up-to-date and that their antecedents, recent involvement in irregularities, if any, and political leanings, if any, warrant a close super checking and monitoring of their business during the days of active electioneering.

3.8 Issue of license for arms will be totally prohibited during the period

commencing with the date of announcement of elections. This ban will continue to be operative till the completion of the election as notified.

3.9 A special drive should be launched to unearth and seize unlicensed arms and ammunition. A very thorough search and seizure by the State Police of unlicensed arms and places of indigenous manufacture of arms and ammunition shall be carried out and persons involved shall be arrested. While unearthing and seizure of unlicensed weapons is a normal ongoing responsibility of the police, it shall be vigorously intensified during the election period. Inter-state and inter-State movements of trucks and commercial vehicles shall be strictly checked with a view to preventing smuggling of arms and ammunition and anti-social elements. Raids should be carried out regularly and intensively on underground arms factories.

3.10 Immediately after the announcement of elections, District Magistrates shall make a detailed and individual review and assessment (in accordance with the prevalent State laws) of all licence holders so that licensed arms in those cases where they consider it essential are impounded in order to ensure maintenance of law and order so essential for ensuring free and fair elections. These arms should be deposited with the district authorities. Among cases which may need to be reviewed are the following:

- (a) Arms licenses of persons released on bail,
- (b) Arms licenses of persons having a history of criminal offences, and
- (c) Arms licenses of persons previously involved in rioting at any time but especially during the election period. (The above categories are only illustrative and not exhaustive)

3.11 After such review, all such licence-holders who are identified, shall be directed to deposit their arms with the District Administration during the period of one week from the last date for withdrawal of candidatures.

3.12 The District Administration shall ensure foolproof arrangements for keeping the deposited firearms in safe custody. Proper receipt must be given to the licence holders depositing the firearms. It shall be the bounden duty of the District Administration to ensure that all firearms deposited with the Administration are returned to the licence holders immediately after one week after the declaration of results.

3.13 The sportsmen who are the members of National Rifle Association, at different levels, have to participate in various sporting events in which they use their rifles. The Commission has, therefore ordered that they will be exempted from these restrictions. This ban shall, also not be applicable to those communities who are entitled to display weapons by long standing law, custom and usage. This shall, however, not prevent the District Administration to impound weapons of any person, even from such communities, if they are found to be indulging in violence or posing a threat to the maintenance of law and order and peaceful conduct of elections. In such cases too, the seized firearms shall remain impounded till one week after the declaration of results.

3.14 Strict vigil shall be maintained by thorough checking of lorries, light vehicles and all other vehicles from three days before the date of poll to ensure that no undesirable elements or arms and ammunition are being transported into the constituency from outside and to apprehend them if they are doing so. Such checking of vehicles shall continue till the completion of the counting of votes and the declaration of results. As and when such culprits are apprehended, the arms and ammunition and vehicles concerned shall be confiscated.

3.15 An atmosphere in which each and every elector is able to access the polling station without being obstructed or being unduly influenced by anybody is an important prerequisite to a free and fair election. Undue influence at elections is an electoral offence under section 171C of the IPC. Any voluntary interference or attempt at interfering with the free exercise of any electoral right constitutes the crime of undue influence at an election. Section 123 (2) of the Representation of the People Act 1951 defines, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent with the free exercise of any electoral right, as a corrupt practice.

3.16 The DEO and SP shall initiate all preventive measures to ensure that such intimidation/ obstruction do not really happen on the poll day. They shall initiate confidence-building measures to bolster the voters' confidence about the arrangements for free and fair poll. They shall undertake tours to such locations and meet the communities and explain the arrangements made for the free and fair poll.

3.17 The police patrolling parties should keep track of the vulnerable locations and keep the control room informed. Wherever necessary police pickets shall be established to ensure free access to all voters to cast their votes without fear.

3.18 The Commanders/Assistant Commanders of the CPF shall be given a list of such vulnerable locations. Wherever CPF arrives in advance for area domination, special attention shall be given for such locations. On the day of poll the Commanders/Assistant Commanders shall make it a point to visit such vulnerable pockets as a confidence building measure. In case they come across any obstruction they shall take note of that and immediately inform any of the electoral officials such as RO/DEO/SP/Observer/Sector Officer and keep a note of the time of their intimation.

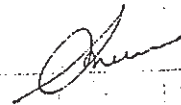
3.19 If any complaint is received or information gathered from any sources about obstruction/threat to any voter/voters the same shall be enquired into by the local administration without any delay.

3.20 A special drive should be launched to compile a list of such persons as are reported to have indulged in the offences under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 during the election period.

4. The Chief Secretary shall arrange for compilation of daily law & order report for each district in format prescribed in the proforma (LOR – Form I, annexed) and for its transmission to the CEO. District authorities should not send this report directly to the ECI. The Chief Secretary shall also arrange for compilation of a consolidated report for entire state in another format (LOR – Form II, annexed) by the Home Department. This reports should be sent to the CEO, who in turn would fax the report with his/her comments to ECI.

5. It is clarified that Commission has not banned supply of arms and ammunitions to other states. However, such transfers should only be on the basis of valid papers, including 'no objection certificates' from the respective District Magistrates. It must be ensured that the supply reaches the actual consignee and it does not reach the hands of any unauthorised person. All care should be taken to ensure that trucks, lorries etc carrying arms and ammunitions to other states should reach actual consignee and do not find their way into the hand of unauthorised persons. Therefore trucks and other commercial vehicles shall be vigorously checked at interstate borders with a view to prevent smuggling of arms and ammunitions. The state authorities supplying the consignment shall inform the concerned authorities of the states wherein the supplies of arms and ammunitions are sent so as to take advance action to provide adequate security for remitting the consignment to the actual consignee.

Yours faithfully



(SUMIT MUKHERJEE)
UNDER SECRETARY

Election Commission of India Daily
Law & Order Report for Districts for Electoral Events

Election ID: GENERAL ELECTIONS, 2009

Report for a day should cover a period of 24 hours from 6.00 AM of that day to 6.00 AM of next day)

To			
	1) District Election Officer 2) District Magistrate		
Copy to			
	1) Home Secretary 2) Director General of Police 3) Chief Electoral Officer		

Start Date for these Reports (1) :Date			Month			Year			
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Report for.....day (2) :Date			Month			Year			
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Name of State:

Name of Police District :

Police Range (of IG/DIG):

Part I : Summary

Sl. No.	Item.	Reporting Day	Cumulative from Start Date upto and including Reporting day
1.	No. of Unlicensed Arms/Explosive seized		
	a) Arms/Weapons		
	b) Cartridges/Explosives(Quantity/Numbers)		
2.	No. of illicit arms manufacturing centres raided and seizures made		
3.	Licensed Arms deposited/impounded/cancelled		
4.	No. of persons bound down U/S 107/116 CrPC etc.		
5.	Execution of non-bailable warrants		
	a) Executed		
	b) Pending		
6.	No. of incidents of violence related to poll campaign, political rivalry etc.		
	a) No. of incidents		
	b) Total killed		
	c) Total injured		
	d) Damage to property (in Rs. Lakhs)		
7.	Number of Incidents occurred under Atrocities Act, 1989 during election		
8.	Information regarding Vulnerable Hamlets		
	(a) Name of hamlets identified as vulnerable		
	(b) Name of persons identified as		

probable source of trouble

c) Remarks (Type of Threat, e.g. caste domination, communal tension, criminal gangs etc)

Signature
of SP/SSP:

Name of
SP/SSP:

Daily Law & Order Report for Districts for Electoral Events

Election ID : GENERAL ELECTIONS, 2009

(Report for a day should cover a period of 24 hours from 6.00 AM of that day to 6.00 AM of next day)

Report for..... day (2) Date		Month		Year			
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Name of State:

Name of Police District:

Part II : Details of Incidents of Violence

(Use a separate sheet for each incident of violence covered in item 6 of part I)

A. General Information

1.	Incident No.:	Time :
----	---------------	--------

2.	Place/Location:
----	-----------------

3.	Brief Narrative Summary of incident of violence :
----	---

4.	Political/Communal Affiliation of the Groups/People involved in the incident, if any :
----	--

5.	Police Action taken, if any :
----	-------------------------------

6.	Break-up of persons killed and injured in the incident:	Killed	Injured
	a) Political workers/Activists		
	b) Poll Officials		
	c) Policemen/Security Staff on Duty		
	d) Onlookers		
	e) Others		
	Total		

7.	Details of Damage to Property, if any :
----	---

Signature of SP/SSP:

Name of SP/SSP:

Daily Law & Order Report for State for Electoral Events

Election ID : GENERAL ELECTIONS, 2009

(Report for a day should cover a period of 24 hours from 6.00 AM of that day to 6.00 AM of next day)

To
The Secretary
Election Commission of India

Start Date for these Reports (1): Date			Month			Year			
Report for..... day (2) : Date			Month			Year			

Name of State:

Sl. No.	Item	Reporting Day	Cumulative from Start Date upto and including Reporting day.
1.	No. of Unlicensed Arms/Explosive seized		
	a) Arms/Weapons		
	b) Cartridges/Explosives(Quantity/Numbers)		
2.	No. of illicit arms manufacturing centres raided and seizures made		
3.	Licensed Arms deposited/impounded/cancelled		
4.	No. of persons bound down U/S 107/116 CrPC etc.		
5.	Execution of non-bailable warrants		
	a) Executed		
	b) Pending		
6.	a) No. of incidents of violence related to poll campaign, political rivalry etc.		
	b) Total killed		
	c) Total injured		
	d) Damage to property (in Rs. Lakhs)		
Signature Of CEO:		Name of CEO:	

IMPORTANT: In case a violent incident has occurred for this day, please enclose, for each incident, a copy of the report for the concerned Police District in Form-LOR-FORM I.



भारत निर्वाचन आयोग
Election Commission of India

175

निर्वाचन सदन
NIRVACHAN SADAN
अशोक रोड, नई दिल्ली - 110 001
ASHOKA ROAD, NEW DELHI - 110 001

No. 464/INST/2009-EPS

Dated: 31st March, 2009.

To,

- (1) The Chief Secretaries of
All States and Union Territories.
- (2) The Chief Electoral Officers of
All States and Union Territories.

Sub: - Follow up action on the Vulnerability Mapping (VM) exercise and identification of critical polling stations and critical clusters.

Ref: (1) Commission's letter No. 464/NST/ 2007-PLN-1 dated 12th October 2007 (copy enclosed). (2) Commission letter No. No. 464/INST/ EPS dated 24th October 2008 (copy enclosed).

Sir,

I am directed to refer to the Commission's letter of even number dated 22.03.2009 in the above cited matter and to say that the Commission vide this letter had advised the CEOs to undertake following exercise for proper implementation of Vulnerability Mapping (VM) during general election to Lok Sabha 2009 to curb the menace of threat and intimidation at election:

1. Identification of villages, hamlets, voter segments vulnerable for threat and intimidation.
2. Identification of the persons causing the vulnerability i.e. the troublemakers who are likely to pose threat to voters by intimidating them.
3. Initiating preventive measures against such person and submission of Action Taken Report (ATR).

For this purpose the CEOs were advised to submit three-stage report to the Commission.

In the first stage the exercise were required to be completed with respect to each Parliamentary constituency before the issue of the gazette notification for the election in the respective constituency. The information be sent to the Commission in Proforma- I (copy enclosed). In case no such vulnerable hamlet or village has been identified in a district or in a Parliamentary Constituency, the DEO should submit a report to the CEO on the basis of inputs from the field functionaries that no such vulnerable village or hamlet or voter segment is available / identified within his district. Such report should be sent within 3 days of issue of the gazette notification.

In the second stage if such vulnerable village/ hamlets have been identified the names of such persons responsible for making the villages vulnerable was required to be identified polling stations wise indicating the names and address of such persons. The information be sent to the Commission in Proforma- II A and to the Observers in Proforma II B (copies enclosed). This exercise should have been/shall be completed within 5 days of issue of gazette notification.

The Commission directed to appoint a specific officer designated at Thana level for tracking the individual trouble mongers. The name of the police officer responsible for each vulnerable location was required to be mentioned along with his designation and contact number. The DEOs are advised to submit the information to the Observers in Proforma- III (copy enclosed). Thereafter an ATR is required to be submitted by the DEO and SP jointly to the CEO of concerned state and the ATR shall be submitted at least 5 days before the poll day. The Commission has desired that the DEO should submit a copy of the ATR to Observers also.

The Chief Electoral Officers shall forward all the reports relating to the vulnerable mapping for the first, second and third stage to the Secretaries in charge of Zonal Divisions, who will in turn consolidate the report for follow up action of the Commission.

The Commission will review the overall situation on 11th April, 2009 for the first phase of Election.

Yours faithfully


(R. BALAKRISHNAN)

Deputy Election Commissioner

Copy to all the Secretaries/under Secretaries of Zonal Division Concerned with the request to obtain 1st, 2nd & 3rd stage ATR report from the CEOs concerned and consolidate all the report for follow up action .

To be submitted by the CEO to ECI

Proforma

First Stage Report on Vulnerability Mapping
Format for Collection of Information on Areas with Vulnerable Hamlets.
Assembly Constituency: No _____ falling in - __Parliamentary

District: ...
Constituency_

Polling Station no. and Name	Names of Police Station	No. of Villages/Hamlets/Voters segments identified as vulnerable	Remarks (Type of Threat, e.g. caste domination, communal tension, criminal gangs etc)
1	2	3	4

To be submitted by the CEO to ECI

Proforma -II A

Second Stage Report on Vulnerability Mapping
Format for Collection of Information on Areas with Vulnerable Hamlets

District: ... Assembly Segment / Assembly Constituency: _____ falling
in - _____ Parliamentary Constituency_

Polling Station no. and Name	Names of Police Station	No. of Villages/Hamlets/Voters segments identified as vulnerable	No. of persons identified as probable source of trouble polling stations wise
1	2	3	4

To be submitted by the DEO to the Observers

Proforma

Second Stage Report on Vulnerability Mapping
Format for Collection of Information on Areas with Vulnerable Hamlets

District: ... Assembly Segment / Assembly Constituency: _____ falling
in - _____ Parliamentary Constituency_

Polling Station no. and Name	Names of Police Station	Name of Hamlets identified as vulnerable	Name & address of persons identified as probable source of trouble polling stations wise	Remarks (Type of Threat, e.g. caste domination, communal tension, criminal gangs etc)
1	2	3	4	5

To be submitted by the DEO to the Observers.

Proforma -II

Third Stage Report on Vulnerability Mapping
Format for Collection of Information on Areas with Vulnerable Hamlets

District: _____

Constituency: _____

Polling Station no. and Name	Names of Police Station	Name of Hamlets identified as vulnerable	Name & address of persons identified as probable source of trouble polling stations wise	Name, address & mobile/ telephone No. of the Police Officer responsible for each vulnerable location	Name, address & mobile/ telephone No. of the contact person within the vulnerable communities	Remarks (Type of Threat, e.g. caste domination, communal tension, criminal gangs etc)
1	2	3	4	5	6	7

Lok Sabha General Elections, 2009

Time Frame for submitting the information on Vulnerability Mapping (VM) and identification of vulnerable polling stations and clusters

Activity	Time Frame for identifying vulnerable groups/clusters	Last date for submitting certificate	Identification of persons causing vulnerability	Police officers to be designated	Submission of A to CEOs
For First phase PCs	Presumed to have been done Before 23-03-2009	Presumed to have been submitted before 26-03-2009	Presumed to have been submitted 28-03-2009	Presumed to have been appointed Before 23-03-2009	Before 11-04-2009
For second phase PCs	Presumed to have been done Before 28-03-2009	Presumed to have been submitted before 31-03-2009	Before 02-04-2009	Presumed to have been appointed Before 23-03-2009	Before 18-04-2009
For third phase PCs	Before 02-04-2009	Before 05-04-2009	Before 07-04-2009	Presumed to have been appointed Before 23-03-2009	Before 25-04-2009
For fourth phase PCs	Before 11-04-2009	Before 14-04-2009	Before 16-04-2009	Presumed to have been appointed Before 23-03-2009	Before 02-05-2009
For fifth phase PCs	Before 17.04.2009	Before 20.04.2009	Before 22.04.2009	Presumed to have been appointed Before 23-03-2009	Before 08.05.2009

INSTRUCTION SI. No.112**ELECTION COMMISSION OF INDIA**

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001.

No. 464/INST/2009/EPS

Dated: 1st September, 2009

To,

1. The Chief Secretaries of All States and Union Territories.
2. The Chief Electoral Officers of All States and Union Territories.

Subject: Preventive Law & Order Action to ensure conduct of peaceful, free and fair poll during the General Elections/Bye-elections – Deposit of Arms – Regarding.

Sir/Madam,

I am directed to invite your attention to the Commission's letters No. 464/INST/2009/EPS dated 24.03.2009 and 01.04.2009 on the above subject, wherein it has been stated that immediately after the announcement of elections, District Magistrates shall make a detailed and individual review and assessment (in accordance with the prevalent State laws) of all licensed arms holders so that licensed arms, in those cases where they consider it essential are impounded in order to ensure maintenance of law and order so essential for ensuring free and fair elections.

2. The above instructions of the Commission came to be reviewed by the Hon'ble High Court of Bombay in CWP No. 835 of 2009 (Sh. Govind Vs. Vikram Kumar, Distt Magistrate & others) wherein it was alleged that the Commission's instructions had not been strictly followed. Upon such review, the Hon'ble High Court in its judgement/order dated 10.07.2009 has laid down certain guidelines to be strictly observed by all authorities concerned in respect of deposit of licence arms. A copy of the aforesaid judgement/order is enclosed herewith.



3. Accordingly, in view of the aforesaid judgement/order dated 10.07.2009, the Commission has reviewed its earlier instructions contained in its letters dated 24.03.2009 and 01.04.2009 and in supersession thereof issued the following instructions:-

(1.) The Commission being deeply aware of the increasingly vitiative role of criminality and muscle power at elections has been taking and directing to take a number of measures over and above the purview of normal law and order arrangements, for augmenting the measures taken for peaceful, free and fair poll. These measures include the deployment of Central Police Forces during the process of elections to assist the State law and Order machinery in prevention of pre-poll, poll and post-poll violence and inspire confidence in the impartiality of election machinery among the common electorate, regulation of vehicular traffic, regulation and ban on the sale of liquor in close proximity with the dates of poll and counting, seizure of illicit arms including review of licensed arms and carrying of weapons on person on the poll day etc.

(2.) These extra measures taken by the Commission cannot absolve the normal law and order outfit of the State from taking such preparatory steps as are necessary for generation of an atmosphere conducive to the conduct of peaceful, free and fair poll during the run up period to the elections. It is indispensable to tighten the local law and order outfit and enforce with adequate strictness the day-to-day criminal administration with a view to mitigating the requirement of the aforesaid extra measures.

(3.) The Commission desires the States/UTs to undertake the following prophylactic measures immediately and report regularly the progress and effect of these measures in the context of holding peaceful, free and fair elections:-

Electoral and Criminal offences

3.1 A special drive should be launched to compile a list of such persons as are reported to have indulged in electoral offences like booth capturing, intimidation, impersonation in each police station of each and every constituency during the past at least two elections and a list thus compiled of each constituency made available to the District Election Officer and the Returning Officer concerned of each Parliamentary/Assembly Constituency to be forwarded to the Commission if and when asked for.

3.2 A special drive should be launched to update the lists of history sheeters, declared absconders, fugitive criminals in each police station falling in each and every Parliamentary/Assembly Constituency and record of such updated list be handed over to the District Election Officers and Returning Officers concerned, constituency wise, to be kept ready for dispatch to the Commission if and when asked for.

3.3 A special drive should be launched to effect the service of all pending warrants and challans in each police station of each and every Parliamentary/Assembly Constituency and fortnightly updated constituency-wise information of unserved warrants be made available to the concerned District Election Officer and Returning Officer to be forwarded to the Commission, if and when asked for.

3.4 A special drive should be launched to expedite the investigation and prosecution of all electoral offences registered in previous elections in each police station of each and every Parliamentary Assembly Constituency and a fortnightly report be made available to the District Election Officer and Returning Officer concerned to be forwarded to the Commission, if and when asked for.

Ban on Sale of Liquor

3.5 A special drive should be launched to unearth illicit liquor making factories and information about seizures be made available to the concerned District Election Officer and Returning Officer concerned, fortnightly to be forwarded to the Commission if and when asked for. All restrictions provided in excise law on the storage of liquor in unlicensed premises shall be vigorously enforced. Section 135C of Representation of

the People Act, 1951 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, private or public, within a polling area during the period of 48 hours ending with the hour fixed for conclusion of poll for any election in the polling area. Therefore, 'Dry Day' shall be declared and notified under relevant state laws for the stipulated period for the poll areas. The day on which counting of votes is to be taken up, shall also be declared 'Dry Day'.

Ban on carrying of Licensed Arms

3.6 Prohibitory orders under section 144 of the Criminal Procedure Code, 1973 shall be issued banning the carrying of licensed arms as soon as an election is announced and should be effective till the declaration of results.

3.7 The States should conduct a 100% scrutiny of licenses of arms and ammunition shops with a view to ensuring that the records of their stocks are kept up-to-date and that their antecedents, recent involvement in irregularities, if any, and political leanings, if any, warrant a close super checking and monitoring of their business during the days of active electioneering.

Ban on issue of License of Arms

3.8 Issue of license for arms should be prohibited during the period commencing with the date of announcement of elections. This ban will continue to be operative till the completion of the election as notified.

Seizure of unlicensed arms and ammunitions

3.9 A special drive should be launched to unearth and seize unlicensed arms and ammunition. A very thorough search and seizure by the State Police of unlicensed arms and places of indigenous manufacture of arms and ammunition shall be carried out and persons involved shall be arrested. While unearthing and seizure of unlicensed weapons is a normal ongoing responsibility of the police, it shall be vigorously intensified during the election period. Inter-state and Intra-State movements of trucks and commercial vehicles shall be strictly checked with a view to preventing smuggling of arms and ammunition and anti-social elements. Raids should be carried out regularly and intensively on underground arms factories.

Deposit of Licensed Arms

3.10 Immediately after the announcement of elections, District Magistrates shall make a detailed and individual review and assessment (in accordance with the prevalent State laws) of all licence holders so that licensed arms in those cases where they consider it essential are impounded in order to ensure maintenance of law and order so essential for ensuring free and fair elections. These arms should be deposited with the district authorities. Among cases which may need to be reviewed are the following:

- (a) Arms licenses of persons released on bail,
- (b) Arms licenses of persons having a history of criminal offences, and
- (c) Arms licenses of persons previously involved in rioting at any time but especially during the election period. The above categories are only illustrative and not exhaustive.

3.11 As per the above-referred guidelines laid down by the Bombay High Court, for such review and assessment of all licence holders;

- (a) There shall be a Screening Committee in every District and in every Commissionerate area. In the District, the Screening Committee shall consist of the District Magistrate and the Superintendent of Police. In the Commissionerate area, it shall consist of the Commissioner of Police (Admn.) and Joint/Additional Commissioner of Police (Admn.)
- (b) The Screening Committee shall commence the work of screening from the day of announcement of election by the Election Commission and it shall complete the exercise of screening in respect of licences placed before it as far as possible before the date of issue of notification of elections.
- (c) Cases of all licence holders as mentioned in para 3.10 above shall be placed before the Screening Committee.
- (d) On receipt of report from the Screening Committee, the licensing authority shall issue notice before the last date fixed for withdrawal of candidature to the individual licence holder for depositing his arms and inform the licence holder that failure to deposit the arms as directed would result in prosecution under

Section 188 of the I.P.C. as stated in clause 3.11 (g).

- (e) The licence holder thereafter shall deposit his arms forthwith and in any case within a period of seven days from the date of receipt of the notice. The Licensing Authority shall give proper receipt to the licence holder.
- (f) The decision taken by the Screening Committee shall be final.
- (g) Any licence holder who fails to deposit arms within the period specified above shall be liable for prosecution under Section 188 of the Indian Penal Code.

3.12 The District Administration shall ensure foolproof arrangements for keeping the deposited firearms in safe custody. Proper receipt must be given to the licence holders depositing the firearms. It shall be the bounden duty of the District Administration to ensure that all firearms deposited with the Administration are returned to the licence holders immediately after one week after the declaration of results.

3.13 The sportsmen who are the members of National Rifle Association, at different levels and have to participate in various sporting events in which they use their rifles, will be exempted from these restrictions. This ban shall, also not be applicable to those communities who are entitled to display weapons by long standing law, custom and usage. This shall, however, not prevent the District Administration to impound weapons of any person, even from such communities, if they are found to be indulging in violence or posing a threat to the maintenance of law and order and peaceful conduct of elections. In such cases too, the seized firearms shall remain impounded till one week after the declaration of results.

Transportation of Arms and Ammunitions

3.14 Strict vigil shall be maintained by thorough checking of lorries, light vehicles and all other vehicles from three days before the date of poll to ensure that no undesirable elements or arms and ammunition are being transported into the constituency from outside and to apprehend them if they are doing so. Such checking of vehicles shall continue till the completion of the counting of votes and the declaration of results. As and when such culprits are apprehended, the arms and ammunition and vehicles concerned shall be confiscated.

3.15 An atmosphere in which each and every elector is able to access the polling station without being obstructed or being unduly influenced by anybody is an important prerequisite to a free and fair election. Undue influence at elections is an electoral offence under section 171C of the IPC. Any voluntary interference or attempt at interfering with the free exercise of any electoral right constitutes the crime of undue influence at an election. Section 123 (2) of the Representation of the People Act 1951 defines, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent with the free exercise of any electoral right, as a corrupt practice.

Confidence – building measures.

3.16 The DEO and SP shall initiate all preventive measures to ensure that such intimidation/ obstruction do not really happen on the poll day. They shall initiate confidence-building measures to bolster the voters' confidence about the arrangements for free and fair poll. They shall undertake tours to such locations and meet the communities and explain the arrangements made for the free and fair poll.

3.17 The police patrolling parties should keep track of the vulnerable locations and keep the control room informed. Wherever necessary police pickets shall be established to ensure free access to all voters to cast their votes without fear.

3.18 The Commanders/Assistant Commanders of the CPF shall be given a list of such vulnerable locations. Wherever CPF arrives in advance for area domination, special attention shall be given for such locations. On the day of poll the Commanders/Assistant Commanders shall make it a point to visit such vulnerable pockets as a confidence building measure. In case they come across any obstruction they shall take note of that and immediately inform any of the electoral officials such as RO/DEO/SP/Observer/Sector Officer and keep a note of the time of their intimation.

3.19 If any complaint is received or information gathered from any sources about obstruction/threat to any voter/voters the same shall be enquired into by the local administration without any delay.

3.20 A special drive should be launched to compile a list of such persons as are reported to have indulged in the offences under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 during the election period.

Display of Arms

3.21 Display of arms in procession in support of a candidate during campaign period, tantamount to threat and intimidation to voters at election. The Commission directs that no individual or group of persons can be allowed to display arms during a procession or any meeting in support of a candidate, under any circumstances. The meeting/procession for campaigning of a party should be Video-graphed.

4. The Chief Secretary shall arrange for compilation of daily law & order report for each district in format prescribed in the Proforma (LOR – Form I, **annexed**) and for it's transmission to the CEO. District authorities should not send this report directly to the ECI. The Chief Secretary shall also arrange for compilation of a consolidated report for entire state in another format (LOR – Form II, **annexed**) by the Home Department. This reports should be sent to the CEO, who in turn would fax the report with his/her comments to ECI.

5. It is clarified that Commission has not banned supply of arms and ammunicions from one State to other. However, such transfers should only be on the basis of valid papers, including 'no objection certificates' from the respective District Magistrates. It must be ensured that the supply reaches the actual consignee and it does not reach the hands of any unauthorised person. All care should be taken to ensure that trucks, lorries etc carrying arms and ammunicions to other states should reach actual consignee and do not find their way into the hand of unauthorised persons. Therefore trucks and other commercial vehicles shall be vigorously checked at interstate borders with a view to preventing smuggling of arms and ammunicions. The state authorities supplying the consignment shall inform the concerned authorities of the states wherein the supplies of arms and ammunicions are sent so as to take advance action to provide adequate security for remitting the consignment to the actual consignee.

Yours faithfully,

**(SUMIT MUKHERJEE)
UNDER SECRETARY**

**Daily Law & Order Report for Districts for
Electoral Events**

Election ID : STATE ELECTIONS, 2004

(Report for a day should cover a period of 24 hours from 6.00 AM of that day to 6.00 AM of next day)

Report for..... day (2) Date		Month		Year				
Name of State:								
Name of Police District:								
Part II : Details of Incidents of Violence (Use a separate sheet for each incident of violence covered in item 6 of part I)								
A. General Information								
1.	Incident No.:					Time :		
2.	Place/Location:							
3.	Brief Narrative Summary of incident of violence :							
4.	Political/Communal Affiliation of the Groups/People involved in the incident, if any :							
5.	Police Action taken, if any :							
6.	Break-up of persons killed and injured in the incident:	Killed						Injured
	a) Political workers/Activists							
	b) Poll Officials							
	c) Policemen/Security Staff on Duty							
	d) Onlookers							
	e) Others							
	Total							

7. Details of Damage to Property, if any :

Signature
of SP/SSP:

Name of
SP/SSP:

**Election Commission of India
Daily Law & Order Report for State for
Electoral Events Election ID : STATE
ELECTIONS, 2004**

(Report for a day should cover a period of 24 hours from 6.00 AM of that day to 6.00 AM of next day)

To
The Secretary
Election Commission of India

Start Date for these Reports (1): Date			Month			Year			
Report for..... day (2) : Date			Month			Year			

Name of State:

Sl. No.	Item	Reporting Day	Cumulative from Start Date upto and including Reporting day
1.	No. of Unlicensed Arms/Explosive seized		
	a)Arms/Weapons		
	b)Cartridges/Explosives(Quantity/Numbers		
2.	No. of illicit arms manufacturing centres raided and seizures made		
3.	Licensed Arms deposited/impounded/Cancelled		
4.	No. of persons bound down U/S 107/116 CrPC etc.		
5.	Execution of non-bailable warrants		
	a) Executed		
	b) Pending		
6.	a) No. of incidents of violence related to poll campaign, political rivalry etc.		
	b) Total killed		
	c) Total injured		
	d) Damage to property (in Rs. Lakhs)		
Signature Of CEO:		Name of CEO:	

IMPORTANT: In case a violent incident has occurred for this day, please enclose, for each incident, a copy of the report for the concerned Police District in Form LOR-FORM I.

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INSTRUCTION SI. No. 177

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 464/BR-LA/2010

Dated: 16th October, 2010

To

The Chief Electoral Officer
Bihar, Patna

Subject:- General elections to Bihar Assembly- security cover for vulnerable areas - re.

Sir,

I am directed to state that the Commission has considered the issue of providing full protection and opportunity to electors of vulnerable areas and locations. Commission has directed that on the day(s) of poll, the Sector Magistrates and the PCCP should visit at least twice such villages/hamlets/dwelling areas which are identified as vulnerable areas and where there are reports of possible intimidation of the voters. The Sector Magistrates and PCCPs during their visit to these areas will ensure that wherever required, adequate security cover is provided to such vulnerable voters. This should be brought to the notice of all DEOs, Returning Officers, Sector Magistrates and PCCPs for compliance.

Yours faithfully,

(HARBANS SINGH)
UNDER SECRETARY

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI – 110 001.

No. 464/Instructions/ EPS/ 2011

Date 5th March, 2011.

To,

The Chief Electoral Officers,
West Bengal, Assam, Kerala.

Sub :- SECURITY AND LAW & ORDER-SENSITIVITY

Ref :- Letter no. 464/Instructions/ EPS/ 2011 dated 3rd March, 2011 of ECI on the subject of Vulnerability Mapping.

In continuation of the above referred letter no. 464/Instructions/ EPS/ 2011 dated 5th March, 2011 of ECI on the subject of Vulnerability Mapping, the following instructions on the subject of SECURITY AND LAW & ORDER-SENSITIVITY are being issued for timely compliance in the context of the ongoing Assembly Elections, 2011.

The exercise of 'Security and Law & Order-Sensitivity Analysis' is to be carried in every district of the state under the leadership of the District Election Officer. The DEO should take all needed support for this analysis from the police and other officers, including the Returning Officers and Sector Officers/ Sector Magistrates.

The DEO is required to complete the entries of **Format on 'Security and Law & Order-Sensitivity'** provided as the Annexure of this letter latest by **19th March, 2011**.

It may be noted that 'Lists of Names and Other Details' are required to be appended with the Format on 'Security and L&O-Sensitivity' with reference to the information mentioned in the rows containing * (asterisk)-mark in the Table 1 of this format.

Some inputs for filling up this format would be required to be taken from the information collected and filled in the formats on Vulnerability Mapping as outlined in the above referred



circular. The exercise for filling up this format must be started in all districts immediately, and all information except for that which would be obtained through the exercise of Vulnerability Mapping must be duly and carefully compiled in advance on or before **15th March, 2011** by reference to records where ever necessary. In any case, every DEO is required to complete all entries in the Format on 'Security and L&O-Sensitivity' for his district latest by 19th March, 2011 and make it available along with all appendices, lists etc. to the CEO latest by the same date i.e. 19th March, 2011.

The CEO must compile all the district formats on 'Security and L&O-Sensitivity' of the state into a book and make this compilation available to the Commission latest by **20th March, 2011**.

Subsequently, information in this format must be made available to ECI after compiling from all districts, on re-freshed basis on **31st March, 2011, 10th April, 2011, 20th April, 2011, 30th April, 2011 and 10th May, 2011** for such ACs which are remaining to go for polls on these dates. However, the lists to be appended with the Formats on 'Security and L&O-Sensitivity' on these subsequent dates should only carry additions, deletions, modifications over the original lists appended with the Formats on 'Security and L&O-Sensitivity' originally on 19th March, 2011, besides the details of the latest actions taken and progresses made on various points.

Sufficient copies of these instructions and formats must be made available immediately to all DEOs and other concerned officials for timely compliance and completion of the assigned tasks.

Yours sincerely,

Ashish Srivastava,

Director

Annexure

Format on 'SECURITY and L&O-SENSITIVITY'

Name of the District –

Date –

Table 1

Item No.	No. and Name of AC	AC No.- AC Name – (PI write AC totals)	AC No.- AC Name – (PI write AC totals)	Distt Name – (PI write Distt. totals)
1	Total no. of PS in the AC				
2	No. of PS affected by Left Wing Extremism				
3	<i>*No. of PS affected by Highly pronounced rivalry between political parties</i>				
4	<i>*No. of PS which are Highly politically sensitive</i>				
5	No. of PS affected by Pronounced presence of criminals				
6	No. of PS affected by Communal tension				
7	No. of PS affected by Caste based tension				
8	No. of PS affected by any other reason causing vulnerability [Mention detail]				
9	No. of PS with >80% polling in PS area during last AC or PC election				
10	No. of PS with >75% votes bagged by 1 candidate in PS area during last AC or PC election				
11	<i>*No. of PS with history of Re-Poll or Poll-Violence during last AC or PC election</i>				
12	No. of PS with <60% EPIC coverage				
13	<i>* Number of PS identified as Vulnerable</i>				
14	<i>* Number of Persons who have been identified as potential intimidators</i>				
15	<i>* Number of Localities/ Pockets/ Voter Segments identified as Vulnerable</i>				

Note 1 – For the Rows in the above Table with * (asterisk), i.e. Row Nos. 3, 4 11, 13, 14 and 15, Lists of Names and relevant details are required to be necessarily appended.

Note 2 - The Table can be extended by increasing columns according to the number of ACs.

Table 2

Cases of Election or Poll Related violence in the District

	No. of Cases	Total Killed	Total Injured	Damage to Property (Rs)
Last Assembly Election				
Last Parliament Election				

Table 3

L & O Comparison for the District –

S.No	Item	Number during last general elections	Expected number wrt the present elections	Cumulative progress till date in the run up to the current elections
1	Number of persons related to preventive actions [bound down under CrPC, extenmment etc].			
2	Licensed arms deposited/ impounded/ surrendered			
3	Unlicensed arms/ weapons/ cartridges/ explosives seized			
4	Illegal arms manufacturing units raided/ seizures made			
5	Illicit liquor seizure – (No. of Cases/ Rs)			
6	No. of Illicit liquor making units raided			
7	Total number of pending Non Bailable Warrants in the District			
8	Number of pending NBWs in the District which are > 6 month old			

Signatures of the SP - ...

Name of the SP - ...

Signatures of the DEO - ...

Name of the DEO - ...

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI – 110 001.

No. 464/Instructions/ EPS/ 2011

Date 5th March, 2011.

To,

The Chief Electoral Officers,
West Bengal, Assam, Kerala.

Sub :- Vulnerability Mapping

Ref :- Letters nos. 464/INST/2008-EPS dated 24-10-2008 and 22-03-2009 of ECI.

In continuation of the instructions of the Commission conveyed vide letters nos. 464/INST/2008-EPS dated 24-10-2008 and 22-03-2009, as well as other instructions on the above mentioned and related subjects conveyed from time to time from ECI, the following instructions relating to Vulnerability Mapping are being issued for timely compliance in the context of the ongoing Assembly Elections, 2011.

'Vulnerability' – in the context of elections - may be defined as the susceptibility of any voter or section of voters, whether or not living in a geographically identifiable area, to being wrongfully prevented from or influenced upon in relation to the exercise of his right to vote in a free and fair manner, through intimidation or use of undue influence or force of any kind on him.

The exercise of **Vulnerability Mapping (VM)** in the context of the Assembly Elections is to be undertaken with the point of view of clearly identifying in advance, such voters or sections of voters who are likely to be 'vulnerable', the persons or other factors causing such vulnerability, and taking adequate corrective action well in advance on the basis of such identification.

The first step in the exercise of Vulnerability Mapping has to be undertaken with immediate effect by the Sector Officer or the Sector Magistrate (who have to be appointed as per ECI instructions and posted to commence their assigned task). The Sector Officer must



necessarily visit every Locality/ Pocket in the area of every Polling Station in his Sector, hold widespread discussions with people there, collect intelligence, and list the vulnerable households and families, as well as the persons and factors causing such vulnerability there. He should, further carefully fill the **Format 'VM-SO' [Annexure I]** for each such Locality/ Pocket, preferably while he is touring the locality itself. All help, including vehicular support if needed, should be extended to the Sector Officer for this purpose. The Sector Officer must retain a copy of the filled Formats VM-SO with himself and submit all filled in Formats VM-SO to the Returning Officer within **14th March, 2011**.

Each Returning Officer must collect all Formats VM-SO for his AC by 14th March, 2011, and prepare and make available to DEO, the **Format 'VM-RO' [Annexure II]** by **16th March, 2011** after retaining a copy of the same.

The DEO, on the same lines must collect the Formats VM-RO by 16th March, 2011, and prepare and make available to the CEO, the **Format 'VM-DEO' [Annexure III]** latest by **18th March, 2011**.

The CEO must compile all the district formats VM-DEO of the state into a book and make this compilation available to the Commission latest by **20th March, 2011**.

Sufficient copies of these instructions and formats must be made available immediately to all concerned officials for timely compliance and completion of the assigned tasks.

Yours sincerely,

Ashish Srivastava,

Director

Annexure I

Format VM-SO

(The Sector Officer/ Sector Magistrate has to fill a different Format VM-SO for each Polling Station in his Sector, and as many Formats VM-SO as is the number of Polling Stations in his Sector.

Each Format VM-SO must contain the details for all Vulnerable Localities/ Pockets/ Voter Segments in one Polling Station area of the Sector.

It must be ensured and certified that no locality/ pocket/ voter segment which is vulnerable has escaped or been missed from inclusion in this format for any polling station area).

Number and Name of the AC –

Number and Name of the Polling Station -

I. **Name of the Locality –**

Date of Information-

A. List of Vulnerable Houses/ Families

S.No.	House No./ Family Name/ other identifying details of the Household/ Family which has Vulnerable Voters in the Locality	Number of Voters identified as Vulnerable in the house/ family identified in col-2	Contact No. of the Household, if any	Action Taken/ Proposed	Remarks
1	2	3	4	5	6
Total					

B. List of Persons to be Tracked/ Prevented from Intimidating/ Wrongly Influencing Voters

S.No.	Name of the Person	Contact No./ Address of the person	Action Taken/ Proposed	Remarks
1	2	3	4	5
Total				

[CONTINUED]

II. **Name of the Locality** – .. Date of Information-..

A. List of ..

B. List of ..

III. **Name of the Locality** – .. Date of Information-..

A. List of ..

B. List of ..

IV. ...

CERTIFICATION BY THE SECTOR OFFICER/ SECTOR MAGISTRATE

IT IS HEREBY CERTIFIED THAT NO LOCALITY/ POCKET/ VOTER SEGMENT WHICH IS 'VULNERABLE' FROM THE POINT OF VIEW OF THE ASSEMBLY ELECTIONS, 2011 IN THE AREA OF THE POLLING STATION NO. -----, POLLING STATION NAME ----- WHICH IS INCLUDED IN MY SECTOR, HAS ESCAPED OR BEEN MISSED FROM INCLUSION IN THIS FORMAT.

Signatures of Sector Officer/ Sector Magistrate

Name and Mobile No. of the Sector Officer/ Sector Magistrate

Format VM-RO

Name of the District –

Number and Name of the AC -

Date -

A. AC Summary on Vulnerability

S.No.	No. & Name of Polling Station	No. of Families/ Households identified as Vulnerable in the PS area by the SO	Total number of Voters identified as Vulnerable (in the families/ households identified as vulnerable) in the PS area in col 3	No. of Persons Causing Vulnerability in the PS area	Action Taken
1	2	3	4	5	6
Total					

B. List of Persons causing Vulnerability in the AC

S.No.	Name of the Person Causing Vulnerability	PS nos. in which he is causing vulnerability	Action Taken	Remarks, if any
1	2	3	4	5
Total				

Signatures of the Returning Officer

Name of the Returning Officer

Format VM-DEO

Name of the District –

Date –

Table A**Identification of Vulnerability and Action thereon -**

S.No.	AC No. & Name	Total number of Polling Stations	Number of Polling Stations in whose area Vulnerable Persons/ Families/ Households have been identified	Number of Vulnerable Voters identified in these Polling Station areas	Action being taken to prevent these Vulnerable Voters from being intimidated or wrongfully influenced before and during the poll
1	2	3	4	5	6
Total					

Table B**Report on Persons causing Vulnerability -**

S.No.	AC No. and Name	Number of Identified Persons	Details of Action Taken against persons mentioned in col.3 [Numbers]				No. of Persons out of those mentioned in col.3 against whom no action has been taken	Reasons for no action as mentioned in col.8
			Bound over	Extermment	In custody	Any other action (with description)		
1	2	3	4	5	6	7	8	9
Total								

Signatures of the DEO - ...

Name of the DEO - ...

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 464/INST /2011/EPS

Dated: 23rd March, 2011

To

- The Chief Electoral Officers of
1. Assam, Dispur
 2. West Bengal, Kolkata
 3. Kerala, Thiruvananthapuram
 4. Tamil Nadu, Chennai
 5. Puducherry, Puducherry

Subject:- General elections to the Legislative Assembly to Assam, West Bengal, Kerala, Tamil Nadu and Puducherry - security cover for vulnerable areas - regarding.

Sir,

I am directed to state that the Commission has considered the issue of providing full protection and opportunity to electors of vulnerable areas and locations. The Commission has directed that on the day(s) of poll, the Sector Magistrates and the mobile state forces should visit at least twice such villages/hamlets/dwelling areas which are identified as vulnerable areas and where there are reports of possible intimidation of the voters. The Sector Magistrates and mobile state forces during their visit to these areas will ensure that wherever required, adequate security cover is provided to such vulnerable voters.

This should be brought to the notice of all District Election Officers, Returning Officers, Sector Magistrates and Police Mobile team for compliance.

Yours faithfully,

(SUMIT MUKHERJEE)
UNDER SECRETARY

**DEPLOYMENT OF
HOME GUARDS
AND OTHER
FORCES**

ITEM NO. 181

Election Commission's letter number No. 464/L&O/1/2004/PLN-I dated 26.02.2004 addressed to the Chief Secretaries/CEOs all States and Union Territories

Subject: General elections to Lok Sabha, 2004 & certain State Legislative Assemblies -Deployment of Home Guards, Forest Guards, Ex-army Personnel

I am directed to say that the Commission has approved the deployment of Home Guards for the conduct of forthcoming General elections to the Lok Sabha and simultaneous elections to Legislative Assemblies in some States subject to the following conditions:

- (i) It will be ensured that only those Home Guards who have been recruited and appointed as per the prescribed rules and regulations before 30.09.2003 are deployed for duty in connection with the elections.
- (ii) It must also be ensured that the recruitment has been done under established rules and proper procedure and by duly constituted committees manned by Police or Government officers of appropriate levels.
- (iii) It must further be ensured that no political persons have been involved in the process of selection/recruitment.
- (iv) It must be ensured that the Home Guards deployed for duty during the elections must be non-partisan and should not have any political leanings.
- (v) The Home Guards must be put under the command for senior Police Officers at the time of deployment.
- (vi) Home Guards should not be deployed in their native Taluka/Sub-division/Circle/Blocks from where they have been recruited.

2.The Commission has also allowed the utilization of the services of ex-servicemen, retired policemen including retired members of the Central Para Military personnel subject to the condition that the services of only those persons who have retired during the last five years shall be utilised. Further, it is stipulated that the persons to be so deployed should be able-bodied and shall not be deployed in their native Tehsils/Blocks/Sub-divisions/Circle/Talukas.

3.Receipt of this letter may kindly be acknowledged.

ITEM NO. 182

Election Commission's letter No. PS/AK/2005, dated 05.09.2005. addressed to the Director General of Police, Bihar and copy to Chief Electoral Officer of Bihar.

Subject: Deployment of Home Guards and Other Forces.

The Commission has decided that no Police officer against whom an FIR has been registered on criminal grounds or against whom criminal case has been charged in the Court shall be deployed on election duty during the forthcoming General Elections to the Bihar Legislative Assembly.

Kindly ensure compliance to above instructions.

ITEM NO. 183

Election Commission's D.O. letter No.464/INST/2006/PLN-I, dated 17.03.2006 addressed to the Chief Electoral Officers of Assam, Kerala, Tamil Nadu, West Bengal and Pondicherry

Subject : General Elections to the Legislative Assemblies of Assam, Kerala, Tamil Nadu, West Bengal and Pondicherry – Deployment of CPMF at the entrance of polling station to keep a watch on the proceedings that are going on inside the polling stations

Kind attention is invited to the instructions issued vide letter No. 464/INST/2005/PLN-I dated 22.01.2005 regarding deployment of CPMF personnel at the entrance of polling station to keep a watch on the proceedings that are going on inside the polling station.

The Commission issues following further detailed instructions on the subject to obviate any discretion and ensure uniformity.

The CPMF personnel, as per the existing practice, are deployed as static force outside the polling stations. In pursuance to the directions given by the Hon'ble Supreme Court in its order no.9228 of 2003 (Janak Singh Vs. Ram Das Rai and others) dated 11.01.2005, the Commission has desired that one CPMF Jawan from the CPMF party posted at the polling station will be stationed at the entrance of the polling station so that he can keep a watch on the proceedings that are going on inside the polling station, particularly, to ensure that no unauthorized person enters inside the polling station and / or no irregularity is committed either by the polling staff or outsiders in the poll process.

The CPMF Jawan posted at the entrance of the polling stations shall keep a watch specifically on the following: -

- (i) No unauthorized person is present inside the polling station at any time during the poll.*
- (ii) The polling party or the polling agents do not attempt to cast or cast any vote or votes when no voter is present inside the polling booth.*
- (iii) No polling officer accompanies any voter to the voting compartment.*
- (iv) No polling agent or polling officer threatens any voter or makes any gesture to threaten them.*
- (v) No arms are carried inside the polling station.*
- (vi) No silent rigging takes place.*

If the CPMF Jawan posted at the entrance of the polling station discovers violation of the election process as above or observes something unusual going on inside the polling station, he shall not interfere in the poll process but report the same to the officer incharge of the CPMF party at polling station or observer. The officer incharge of CPMF party will in turn send this information to the Returning Officer and also Observer on the same day in writing for further necessary action.

In the buildings which have more than one polling station and where only half a section of the CPMF personnel is deployed, the CPMF Jawan selected for duty at the entrance of the polling station may be asked to oscillate from one polling station to other and look at what is going inside these polling stations and report to the officer in charge of the CPMF part or observer, if something unusual is observed by him.

The Returning Officers/Observer will report cases from where adverse reports are received from the CPMF parties for further instructions of the Commission.

It is clarified that CPMF Jawans shall be posted at the entrance of only those polling stations where CPMF is deployed.

It is further clarified that CPMF Jawan posted at the entrance of the Polling Station shall not verify the identity of electors coming into the polling stations to cast their votes as such verification is the duty of the polling personnel.

All CPMF personnel may be suitably briefed about these instructions.

Kindly forward these instructions to all the DEOs, R.Os, Observers, S.Ps and coordinating officers of CPMF for strict compliance.

With kind regards,

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By Fax/Camp Bag

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001.

A.K. MAJUMDAR
PRINCIPAL SECRETARY

No. 464/UP-LA/2007

Date: 25.10.2007

To

1. The Chief Secretaries of
All States and Union Territories
2. The Electoral Officer of
All States and Union Territories

Subject: Role of CPMF and State Police in conduct of polls – Regarding.

Sir,

I am directed to state that during elections the Commission deploys significant number of Central Paramilitary Forces into the election going State(s) on the basis of its assessment of the ground realities. The Local State Police (including all its variants) and Central Paramilitary Forces at the time of elections stand deputed to the Election Commission of India and they come under its superintendence and control for all purposes. The Commission conducts election with the help of all these organs.

2. Wherever the CPMF arrives in advance for area domination, it shall take out flag marches, point patrolling and other confidence building activities. On the poll-eve (day prior to the poll) the CPMF shall take position in and control of the respective polling stations. On the day of the poll, the CPMFs shall be primarily responsible for protecting the polling stations and regulating the entry inside the polling stations. One jawan of the CPMF party shall be deployed at the door of the polling station (either in static or oscillating mode) in order to observe the proceedings that are going on inside the polling station, as per the directions of Hon'ble Supreme Court. Besides, the Coy. Commanders of CPMFs will also move in their respective polling station areas as an area domination force and confidence building measure in the catchment area of polling stations. In case CPMF has not reached the assigned polling station due to any reason, the poll shall not commence.

3. The Local State Police shall remain responsible for maintenance of the general law and order in the catchment area of the polling stations, as well as the inside and outside of the polling premises (as different from polling stations). Whenever, the Local State Police gets deployed inside the polling premises, they shall station themselves at a reasonable distance from the polling station and the queue of electors. It is advised that one or two unarmed Local State Police persons/Home Guards be posted at each polling



premises so that in case required, reinforcement could be called for. In any case, Local State Police shall not replace the CPMF at the polling stations and no senior officer of the local state police, with or without contingent shall position himself at the polling station and exercise any supervision and control over the CPMF at the polling station. The Local State Police, however, in exceptional circumstances can get deployed at polling stations, only if enough CPMF is not available, and that too under specific instructions of the Commission through its observer.

4. Responsibility of maintenance of law and order shall rest solely with the local State Police. The Commission has instructed that hamlets/habitations within a polling station area that are vulnerable to threat, intimidation and undue influence shall be identified and all necessary confidence building and preventive measures shall be taken in advance. The Local State Police shall attach utmost importance to this task and shall also ensure that there is no hinderance to voters of such pockets in exercising their franchise on the day of poll.

5. After the poll is completed, the polled EVMs and the Presiding Officers shall be escorted by a contingent of CPMF to the Reception Center. Details in this regard shall be worked out by the DEO and SP in consultation with Observer in advance.

6. The CPMF shall also be responsible for guarding the Strong Room where the polled EVMs are stored and kept till the day of counting.

7. The Commission's instructions/directions as above shall be complied without any deviation. I am, therefore, to request that the aforesaid instructions/directions may be brought to the notice of all concerned including the observers immediately.

Yours faithfully,

(A.K. MAJUMDAR)

Election Commission's letter No. 464/INST/2008-EPS Date: 24th October, 2008 addressed to the Chief Secretaries of all States and Union Territories & the Chief Electoral Officers of all States and Union Territories.

Sub.- Role of Central Police Forces (CPF) and State Police in conduct of polls and Amenities for CPF - Regarding.

In supersession of Commission's instructions contained in its letter No. 464/UP-LA/2007 dated the 25th October, 2007 on the subject cited above, I am directed to state that during elections the Commission deploys significant number of Central Police Forces into the election going State(s) on the basis of its assessment of the ground realities. The Local State Police (including all its variants) and Central Police Forces at the time of elections stand deputed to the Election Commission of India and they come under its superintendence, direction and control for all purposes. The Commission conducts election with the help of all these organs.

2. Wherever the CPF arrives in advance for area domination, it shall take out flag marches, point patrolling and other confidence building activities. The flag marches should be focused. In order to make them effective, the CPF contingent should be provided with the list of anti-social elements area-wise, about whom the CPF contingent during flag marches, can undertake a verification (of their whereabouts, presence and activities). Such flag marches by CPF should be more on foot; and there should be some interaction with local population with a view to enhance the public confidence with regard to election arrangements for law and order.

3. For the poll day, the CPF shall be assigned duties of guarding the polling stations, poll materials, poll personnel and the poll process. For the purpose, the CPF may be deployed in any of the following manners:

- a. Static guarding of chosen polling stations solely and exclusively by CPF;
- b. Static guarding of polling stations as part of a mixed (composite) team with local state forces;
- c. Patrolling duty on assigned routes (election sectors) covering a fixed cluster of polling stations;
- d. Patrolling duty as 'flying squads' in a defined area with surprise element;
- e. Escorting duty of polled EVM with polling personnel back to the receipt centre/strong room after polls are over;
- f. Any other duty which is necessitated to ensure the purity and fidelity of the election process.

4. For the duty of static guarding of polling stations, the CPF shall take positions in the assigned polling stations on the poll-eve (day prior to the poll). The CPF shall be primarily responsible for protecting the polling stations and regulating the entry inside the polling stations. In such cases one Jawan of the CPF shall position himself at the door of the polling station (either in static or oscillating mode) in order to observe the proceedings that are going on inside the polling station, as per the directions of Hon'ble Supreme Court. 'Static guard duty in an oscillating mode' is a situation when a building has multiple polling stations and CPF deployed is not sufficient to cover every polling station (door). In such a situation, the CPF Jawan on duty at the entrance of the polling station may be asked to oscillate from one polling station door to the other and keep an eye on what is going on inside these polling stations and report to the officer in-charge of the CPF or the Observer, if anything unusual is observed by him.
5. In all cases where CPF has been assigned static guard duties but could not reach the assigned polling stations due to any reason, the poll shall not commence.
6. In all such solely and exclusively CPF assigned polling stations, in any case, Local State Police shall not replace the CPF at polling stations and no senior officer of the local state police, with or without contingent shall position himself at such polling station and exercise any supervision and control over the CPF at the polling stations.
7. In some cases CPF and the local state police can be mixed to form composite teams in the ratio of 1:1 to maximize the static coverage of polling stations by CPF. In such cases, the CPF Jawan will take position at the door of the polling station and CPF will continue to report to its Coy. Commandant without any interference from the state police contingent.
8. Wherever CPF is on static guard duty (whether exclusively or compositely with local police), it is advised that two unarmed local state police persons/Home Guards (and in any case, a minimum of one) be posted at each polling station premise so that in case of any requirement, reinforcements of local police can be called.
9. When CPF is assigned duties of mobile patrolling on assigned routes (election sectors) having a cluster of polling stations, the CPF contingent shall ensure the supervision and guarding of polling stations falling on that sector (route). They will be moving from one polling station to another polling station, ensure the fidelity of the election process in the polling stations and assist (or join) the sector officers to accomplish it in a more effective manner. In such mobile mode, the CPF mobile shall be provided a list of critical polling

stations (and the uncovered polling stations) falling on that route. The CPF mobile, while patrolling, should maintain constant and close supervision on such polling stations. For the purpose, it should also be in constant touch with election sector officer on that route as well as the micro-observers or even the Presiding Officers of the Polling Stations.

10. For such mobile patrolling duty, the CPF shall be provided sector route maps (sketch) of each sector/route which is under their charge. The sketch should indicate the polling station's locations, their sensitivity gradation, the sector officer's name and contact number, RO's and Observer's name and contact numbers etc.

11. When CPF is assigned duty in a 'flying squad' mode, the CPF contingent will only be indicated an area. The squad will be fully and constantly mobile and undertake random surprise checks on polling stations falling within the area and report to the district control room on their findings. They shall not be attached to any polling station or sector in particular. The flying squad shall be accompanied by a 'zonal magistrate'.

12. A minimum guaranteed arrangement of two unarmed Local State Police personnel / Home Guards shall be made for each of the polling stations. However, when a polling station is covered with static CPF unit, only one local police would do, if there is shortage of force.

13. After the poll is completed, the polled EVMs and the polling personnel shall be escorted by CPF contingent to the receipt centre.

14. CPF may also be assigned the duty of guarding the strong room where the polled EVMs shall be stored and kept till the day of counting.

15. The local state armed police can also get deployed exclusively at polling stations, when enough CPF is not available. This shall however be done under the specific instructions of the Election Commission through its Observers. In such cases the local police shall not stand at the entrance door of the polling stations and instead would be positioned away from the line of sight of the polling personnel inside the polling station. He shall stand at such distance from the door that there is no scope of any apprehension about his interference in the poll proceedings going on inside the polling station.

16. The constituency-wise force deployment plan for election duty (including that of the CPF, the state police as well as the sector

plan through sector officers - SO) shall be vetted and finalized by the Observer of the constituency concerned. For the purpose, the Observer shall be handed over a draft of the election plan including the force deployment plan immediately on arrival in the state. The Observer shall take review meetings with the DEO/SP/RO and SO on the draft proposals and based on his assessment of the ground realities make necessary changes before finally approving the plan. The plan as approved by the Observer shall be implemented by the DEO and SP on the ground, without any deviation. Any subsequent changes that may be necessitated for any reason should be brought to the notice of the Observer and his/her approval obtained before effecting such change.

17. The Local State Police shall remain responsible for maintenance of the general law and order in the catchment area of the polling stations, as well as the inside and outside of the polling premises (as different from polling stations). The Commission has instructed that hamlets/habitations within a polling station area that are vulnerable to threat, intimidation and undue influence shall be identified and all necessary confidence building and preventive measures shall be taken in advance. The Local State Police shall attach utmost importance to this task and shall also ensure that there is no hindrance to voters of such pockets in exercising their franchise on the day of poll.
- (5) The Commission further desires that arrangements for fooding for the CPF personnel may also be made at par with the State Police /polling personnel on the day of poll. Other amenities, as required are enclosed for consideration by the State Govt.
- (6) The Commission's instructions/directions as above shall be complied without any deviation. I am, therefore, to request that the aforesaid instructions/directions may be brought to the notice of all concerned including the observers immediately.

BASIC AMENITIES FOR CPF DURING ELECTIONS

(I.)	ACCOMMODATION Following minimum accommodation with all the basic amenities are required per coy of CPFs during elections:-		
		Three Barracks of 16/32 size	
		One Room for Officer	
		One Room for Kitchen	
		One Room for Store	
		Six Bathrooms	
		Six Toilets	
(II.)	For a battalion (6 Coys), however, the indicated logistics should be provided for 3 officers in addition to defined specifics for each Coy.		
(III.)	OTHER LOGISTICS		
	(a)	Vehicles	
	(i.)	Number of vehicles – Following minimum vehicles are required per Coy. of CPF during elections	
		Buses	:02 Nos.
		Truck	:01 No.
		Medium Vehicle	:01 No.
		Light Vehicle	:01 No.
		(In case of deployment in less than one section strength, 3 Light Vehicles @ one per platoon would be additionally required for effective supervision)	
	(ii.)	Technical fitness of vehicles States may be advised to ensure that vehicles are technically road worthy and in good condition.	
	(iii.)	Security verification of drivers States may be advised to undertake/ensure security Vetting of the drivers in civil vehicles.	
	(iv.)	POL for dedicated Force vehicles States may be advised to provide POL to the Force Vehicles, if carried by any force for duties in the State.	
(IV.)	SIM CARDS One Sim Card each may be provided to all the Company Commanders as well as supervisory officers (Mobile telephone sets would be carried by officers).		
(V.)	ACCIDENT INSURANCE/COMPENSATION State should insure CPF personnel also against any accident during the period of election duty or any other compensation as applicable to State employees be extended to CPF personnel.		
(VI.)	PACKED LUNCH ON POLLING DAY/COUNTING DAY. The practice of provisioning of meal packets as applicable to State Police personnel on election duty should be extended to personnel of CPF being deployed on the polling day.		



भारत निर्वाचन आयोग
Election Commission of India

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By Fax/Speed Post

निर्वाचन सदन

NIRVACHAN SADAN

अशोक रोड, नई दिल्ली - 110 001

ASHOKA ROAD, NEW DELHI - 110 0

No. 464/L&O/2009/EPS

Dated: March 30, 2009

To

1. The Chief Secretaries of All States/ UTs
2. The Chief Electoral Officers of All States/ UTs

Subject: - General Election to the House of the People, 2009 – Facilities to be provided to CPF Personnel –regarding.

Sir,

I am directed to state that during elections, the Commission deploys significant number of Central Police Forces into the election going State(s) on the basis of its assessment of the ground realities. The Local State Police (including all its variants) and Central Police Forces at the time of elections stand deputed to the Election Commission of India and they come under its superintendence and control for all purposes. The Commission conducts election with the help of all these organs.

2. It may be stated that during elections the Commission deploys significant number of Central Police Forces into the election going State(s) on the basis of its assessment of the ground realities. The Local State Police (including all its variants) and Central Police Forces at the time of elections stand deputed to the Election Commission of India and they come under its superintendence, direction and control for all purposes. The Commission conducts election with the help of all these organs.

3. Wherever the CPF arrives in advance for area domination, it shall take out flag marches, point patrolling and other confidence building activities. The flag

SH-CPM

marches should be focused. In order to make them effective, the CPF contingent should be provided with the list of anti-social elements area-wise, about whom the CPF contingent during flag marches, can undertake a verification (of their whereabouts, presence and activities). Such flag marches by CPF should be more on foot; and there should be some interaction with local population with a view to enhance the public confidence with regard to election arrangements for law and order.

4. For the poll day, the CPF shall be assigned duties of guarding the polling stations, poll materials, poll personnel and the poll process. For the purpose, the CPF may be deployed in any of the following manners:

- a. Static guarding of chosen polling stations solely and exclusively by CPF;
- b. Static guarding of polling stations as part of a mixed (composite) team with local state forces;
- c. Patrolling duty on assigned routes (election sectors) covering a fixed cluster of polling stations;
- d. Patrolling duty as 'flying squads' in a defined area with surprise element;
- e. Escorting duty of polled EVM with polling personnel back to the receipt centre/strong room after polls are over;
- f. Any other duty which is necessitated to ensure the purity and fidelity of the election process.

5. For the duty of static guarding of polling stations, the CPF shall take positions in the assigned polling stations on the poll-eve (day prior to the poll). The CPF shall be primarily responsible for protecting the polling stations and regulating the entry inside the polling stations. In such cases one Jawan of the CPF shall position himself at the door of the polling station (either in static or oscillating mode) in order to observe the proceedings that are going on inside the polling station, as per the directions of Hon'ble Supreme Court. 'Static guard duty in an oscillating mode' is a situation when a building has multiple polling stations and CPF deployed is not sufficient to cover every polling station (door). In such a situation, the CPF Jawan on duty at the entrance of the polling station may be asked to oscillate from one polling station door to the other and keep an eye on what is going on inside these polling stations and report to the officer in-charge of the CPF or the Observer, if anything unusual is observed by him.

6. In all cases where CPF has been assigned static guard duties but could not reach the assigned polling stations due to any reason, the poll shall not commence.
7. In all such solely and exclusively CPF assigned polling stations, in any case, Local State Police shall not replace the CPF at polling stations and no senior officer of the local state police, with or without contingent shall position himself at such polling station and exercise any supervision and control over the CPF at the polling stations.
8. In some cases CPF and the local state police can be mixed to form composite teams in the ratio of 1:1 to maximize the static coverage of polling stations by CPF. In such cases, the CPF Jawan will take position at the door of the polling station and CPF will continue to report to its Coy. Commandant without any interference from the state police contingent.
9. Wherever CPF is on static guard duty (whether exclusively or compositely with local police), it is advised that two unarmed local state police persons/Home Guards (and in any case, a minimum of one) be posted at each polling station premise so that in case of any requirement, reinforcements of local police can be called.
10. When CPF is assigned duties of mobile patrolling on assigned routes (election sectors) having a cluster of polling stations, the CPF contingent shall ensure the supervision and guarding of polling stations falling on that sector (route). They will be moving from one polling station to another polling station, ensure the fidelity of the election process in the polling stations and assist (or join) the sector officers to accomplish it in a more effective manner. In such mobile mode, the CPF mobile shall be provided a list of critical polling stations (and the uncovered polling stations) falling on that route. The CPF mobile, while patrolling, should maintain constant and close supervision on such polling stations. For the purpose, it should also be in constant touch with election sector officer on that route as well as the micro-observers or even the Presiding Officers of the Polling Stations.

11. For such mobile patrolling duty, the CPF shall be provided sector route maps (sketch) of each sector/route which is under their charge. The sketch should indicate the polling station's locations, their sensitivity gradation, the sector officer's name and contact number, RO's and Observer's name and contact numbers etc.
12. When CPF is assigned duty in a 'flying squad' mode, the CPF contingent will only be indicated an area. The squad will be fully and constantly mobile and undertake random surprise checks on polling stations falling within the area and report to the district control room on their findings. They shall not be attached to any polling station or sector in particular. The flying squad shall be accompanied by a 'zonal magistrate'.
13. A minimum guaranteed arrangement of two unarmed Local State Police personnel / Home Guards shall be made for each of the polling stations. However, when a polling station is covered with static CPF unit, only one local police would do, if there is shortage of force.
14. After the poll is completed, the polled EVMs and the polling personnel shall be escorted by CPF contingent to the receipt centre.
15. CPF may also be assigned the duty of guarding the strong room where the polled EVMs shall be stored and kept till the day of counting.
16. The local state armed police can also get deployed exclusively at polling stations, when enough CPF is not available. This shall however be done under the specific instructions of the Election Commission through its Observers. In such cases the local police shall not stand at the entrance door of the polling stations and instead would be positioned away from the line of sight of the polling personnel inside the polling station. He shall stand at such distance from the door that there is no scope of any apprehension about his interference in the poll proceedings going on inside the polling station.
17. The constituency-wise force deployment plan for election duty (including that of the CPF, the state police as well as the sector plan through sector officers

- SO) shall be vetted and finalized by the Observer of the constituency concerned. For the purpose, the Observer shall be handed over a draft of the election plan including the force deployment plan immediately on arrival in the state. The Observer shall take review meetings with the DEO/SP/RO and SO on the draft proposals and based on his assessment of the ground realities make necessary changes before finally approving the plan. The plan as approved by the Observer shall be implemented by the DEO and SP on the ground, without any deviation. Any subsequent changes that may be necessitated for any reason should be brought to the notice of the Observer and his/her approval obtained before effecting such change.

18. The Local State Police shall remain responsible for maintenance of the general law and order in the catchment area of the polling stations, as well as the inside and outside of the polling premises (as different from polling stations). The Commission has instructed that hamlets/habitations within a polling station area that are vulnerable to threat, intimidation and undue influence shall be identified and all necessary confidence building and preventive measures shall be taken in advance. The Local State Police shall attach utmost importance to this task and shall also ensure that there is no hindrance to voters of such pockets in exercising their franchise on the day of poll.

19. The Commission further desires that arrangements for fooding for the CPF personnel may also be made at par with the State Police /polling personnel on the day of poll. Other amenities, as required are enclosed for consideration by the State Govt.

20. The Commission's instructions/directions as above shall be complied without any deviation. I am, therefore, to request that the aforesaid instructions/directions may be brought to the notice of all concerned including the observers immediately.

21. The deployment of CPF is an essential criterion from security point of view during election process. The Commission feels that adequate basic facilities/amenities should be provided to the CPF Personnel so as to discharge

their duties effectively as and when required. Therefore, the Commission directs that the Chief Secretaries/ Chief Electoral Officers of all States/UTs should look into the matter and provide basic facilities/amenities like

- Accommodation,
- Vehicles,
- POL for dedicated Force Vehicles,
- SIM Cards,
- Packed lunch or payment for refreshment charge,
- Insurance/ Compensation to Families of CPF Personnel

as mentioned in the letter No. III -11040/1/2009-G, dated 20.03.2009 (copy enclosed), of Ministry of Home Affairs, as far as possible.

21.1 In the event of requirement of mobilization of CPFs to the adjoining states for subsequent phases of polling or repolling, the CS/ CEO of the states from where the Force is being mobilized shall provide appropriate and adequate road transport for the move of the Force (along with their weapons and other materials) to their destination(s), upto a limit of 500 Kms. If the distance is more than 500 Kms, rail transport be arranged. This will facilitate not only timely movement of the troupes but also save lot of inconvenience to the CPF personnel.

21.2 CPF personnel should be Properly briefed by the concerned officer in charge. If the deployment is in a Police Station, the SHO shall brief. If it is in a district, the DM and SP will do so with respect to the challenges in the area, the appropriate responses, the do's and dont's etc.

22. Some sort of briefing may be given to the Observers and Returning Officers about the role and duties, structure & functioning of Security Forces before deployment of the Forces for elections. Polling parties may be strictly advised to travel along with the security Forces.

23. Apart from this, the CEO shall do a review of such facilities provided to the CPF Personnel as per the list attached and ensure their well being so that they become an integral part of the election management programme.

24. The State Government may be instructed to prepare the deployment plan well in advance in consultation with the Nodal Officers of concerned Forces to enable smooth intra-state/inter-state movement / deployment of the troops. The Commission desires that an officer of the rank of Inspector General of Police in state Govt. in each & every state may be appointed as Nodal Officer with immediate effect to look into the matter of CPF facilities like accommodation, logistic, welfare measures, compensation/insurance, packed lunch or payment for refreshment charges etc.,

25. It is requested that details of Nodal Officer, so appointed, like name, address, telephone & mobile number may be furnished to the Commission at the earliest.

26. These Nodal Officers will remain in touch with Sh. P.M. Nair, Inspector General (Operation), CRPF. He will collect inputs from all the states on day to day basis.

27. Sh. Sumit Mukherjee, Under Secretary Election Commission has been appointed as Nodal Officer of the Commission to look into the matter. The Nodal Officers of all States/UTs and Sh. P.M. Nair, Inspector General (Operation), CRPF will remain in touch with him on day to day basis.

Your faithfully,


(SHANGARA RAM)
PRINCIPAL SECRETARY
Tel. 01123052005

Copy to the Secretary to the Govt. of India, Ministry of Home affairs with reference to his Letter No. III-11040/1/2009-G dated 20.03.2009

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तार : निर्वायोग
नई दिल्ली
GRAM: ELECCOM
NEW DELHI

भारत निर्वाचन आयोग सचिवालय
SECRETARIAT OF THE
ELECTION COMMISSION OF INDIA

फैक्स : 23716617
FAX: 23716617
Phone- 2377338
23717391/280

संख्या
NO: 464/TN-LA/2011(Instt)
तारीख
Dated: 10th March, 2011

निर्वाचन सदन
NIRVACHAN SADAN
अशोक रोड, नई दिल्ली-110001
ASHOKA ROAD, NEW DELHI-110001

To,

The Chief Electoral Officer,
Tamil Nadu,
Chennai,

Subject: - Drafting of retired Police personnel and ex-servicemen for election duty – Reg.

Sir,

I am directed to refer to point 5 of your letter dated 18th Feb, 2011, on the subject cited, and to state that the Commission has considered your request to use retired Police personnel and ex-servicemen at polling station to meet any short fall in police force, subject to the following conditions-

- A) They shall be declared as Special Police Officers by the District Collectors/ Commissioners of Police under section 17 of the Police Act, 1861 and Madras City Police Act, 1988.
- B) Able bodied ex-servicemen / retired police personnel upto the age of 60 years only may be appointed as SPOs for aforesaid purpose.
- C) They should not have been compulsorily retired from the service and should not have any pending court cases against them.
- D) They should not be posted in the polling station in which they are registered as a voter.

I am further to state that they shall be put on static duty at the polling station for the following functions only -

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- (i) They will regulate the crowd and the queue outside the polling stations.
- (ii) They will regulate the entry and exit to the polling stations
- (iii) They would not be having any arms while they are deployed at the polling stations.
- (iv) While they will be in uniform, they would not be having any Medals or insignia etc., displayed on it.

I am also to say that while preparing the list of such ex-service men and retired police officers to be used for aforesaid purposes, utmost care should be taken to ensure that none of them have any sharp political affiliations and should be impartial.

Kindly acknowledge the receipt of this letter.

Yours faithfully,

(R.K.Srivastava)
Secretary

VIDEOGRAPHY OF CRITICAL EVENTS

ITEM NO. 188

Election Commissioner's Letter No. 447/2004/PLN IV, dated 02.04.2004 addressed to the Chief Electoral Officers of All States and Union Territories

Subject: - General Elections to Lok Sabha Legislative Assemblies of the States of Andhra Pradesh, Karnataka, Orissa and Sikkim - Videography of critical events during election process-regarding.

I am directed to invite your attention to the Commission's standing instructions contained in its letter No.447/96/PLN IV. dated 15.2.1996 and letter No.447/98/PLN IV. dated 4.2.1998 (copy enclosed) regarding videography of all important events of electioneering process like public campaigns, political meetings visit of the political leaders/ministers etc. and to request that the instructions laid down in the above two letters may please be followed scrupulously during the forthcoming elections throughout the country.

In order to check the undue influence, threat etc. on the electors and breach of law and order, the videographers should keep a special watch on the candidates with dubious/criminal records as the same will have deterrent effect on them. Similarly they will be needed to pay particular attention on the sensitive/hypersensitive polling stations on the poll day. as the chances of violent incidents at these polling stations are generally very high.

The videographic clippings are required to be shown to one of the Observers available in the Constituency on a- daily basis to enable him to apprise the Commission of the situation prevailing in a particular constituency so that remedial measures, if any needed, can be taken promptly.

COPY

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 447/96/PLN-IV/515 to 546
15.02.1996

Dated

To

The Chief Electoral Officers of
All States and Union Territories.

Subject: - Elections-Videography to record critical events-Consolidated instructions-thereon.

I am directed to state that in super session of the instructions contained in its orders, No. 447/ES009/94, dated 2nd September, 1994; No. 447/94/(MMS), dated 26.12.94 and No. 447/ESOO/9/95, dated 22.4.95 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 contemporaneous 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 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 direction 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. In the nature of guidelines, the Commission has issued the following Dos and Donts as guidelines for Videography.

DO's

- 1.Meeting addressed/attended by Ministers, top national/state level leaders of recognized parties.
- 2.Riots or riotous situations or commotions brickbatting, free for all etc.

3. Violent incidents, damaging of property, looting, arson, brandishing of arms etc.
4. Booth capturing.
5. Intimidation of voters
6. Open bribing of voters by distribution of Sarees Dhoties, Blankets etc.
7. Canvassing within 100 metres of polling stations.
8. Vulgar display of expenditure like huge cutouts etc.

DONTS

1. Orderly queues outside polling stations.
2. Door to door canvassing.
3. Vehicles moving with mike sets fixed for canvassing.
4. Scenes from public meetings addressed by local leaders.

Note: These are illustrative and not exhaustive.

- 6.7) The Officer accompanying the team shall ensure that secrecy of the mission is maintained and video tapes do not pass into unauthorized hands and no portion is damaged or mutilated.
7. 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.
8. 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.
9. In cases of serious infringements which the Returning Officers in his judgment decides to report to the Commission, the concerned video tape 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.

10. While seeking the clearance of the Commission for taking up 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.

INSPECTION AND SUPPLY OF COPIES (PRINTS) OF VIDEO TAPES

11. 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.

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

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

13.1) 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.

13.2) 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.

13.3) Each and every video tape shall be indexed with a uniform code number in the following standard formulation:
State/District/AC/Date of recording/Gist of event videographed.

13.4) The locking seal of cassettes will be kept in tact 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.

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

13.5.1) Inspection-(a) Every application for inspection of a video cassette 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.

13.5.2.) 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 video cassette 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 mutilation of the cassette, effective supervision by officials shall be ensured and simultaneous inspection by a large number of persons shall not be allowed.

13.6) 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;

13.7) 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 they are basis.

14. 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.

16. Kindly acknowledge receipt.

Yours faithfully,

Sd./-
(K.P.G. KUTTY)
SECRETARY

CONFIDENTIAL

ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

NO. 447/98/PLN-IV
1998

DATED 04-02-

To

The Chief Electoral Officers
of all States and Union Territories.

Sub: Lok Sabha Elections-Monitoring in hotly contested constituencies-Reg.

As you are no doubt aware, certain special features are emerging in the current Lok Sabha Elections regarding the nature of candidates as well as type of campaign that may take place in certain constituencies in the country.

In certain constituencies due to participation of important leaders of various political parties, the campaign may get heated and there may be attempts to grossly violate the provisions of the Model Code of Conduct. Similarly, in some other constituencies," some of the candidates have a criminal background, though they do not attract the provisions of Section 8 of the Representation of the People Act, 1951, due to want of conviction, and the contest may be marred with some amount of violence. In still some other constituencies, some of the active campaigners for a particular candidate may be having a significant criminal record and may at the same time be holding political office. You would be having the necessary information in this regard.

One of the mechanisms by which the Commission tones down the phenomena of breach of model code of conduct and curbs attempts at criminal intimidation in electioneering is through videography. Videography teams are available at the district level and are under the control of the Returning Officers. You should see that these teams are used effectively in a focused manner as there is cost involved in this exercise. However, apart from the videography teams available at the district level, the Commission has decided that the Chief Electoral Officers of major States shall have such additional video teams at their disposal, as may be considered appropriate by them. and deploy them with adequate security to cover, on an exclusive basis, the election campaign and activities of candidates and other prominent persons having a criminal track record. If necessary, the video teams mentioned above may be constituted

by the Chief Electoral Officers from outside the State. They can also be rotated within the State to provide the maximum impact and effectiveness.

Yours faithfully,
Sd./-
(C.R. BRAHMAM)
SECRETARY

ITEM NO. 189

Election Commission's D.O. letter No.464/INST/2006/PLN-I, dated 17.03.2006 addressed to the Chief Electoral Officers of Assam, Kerala, Tamil Nadu, West Bengal and Pondicherry

Subject: **General Elections to the Legislative Assemblies of Assam, Kerala, Tamil Nadu, West Bengal and Pondicherry - No photography or video recording by any person inside the polling stations, except by the persons authorized by the Commission in the interest of maintaining secrecy of vote.**

It has been brought to the notice of the Commission that certain political functionaries, in the past, have violated the secrecy of vote at elections from Parliamentary and Assembly Constituencies either by displaying their vote to media or to other individuals accompanying them. This act on their part is a clear violation of not only the principle of secrecy of vote which is sacrosanct but also an infringement of statutory provisions of Section 132 A of the Representation of the People Act, 1951 and rules 39 and 49M of the Conduct of Election Rules, which provide for such votes not being allowed to be cast.

The Commission has considered the issue and feels that secrecy of vote should be maintained at all costs. Section 128 of the Representation of the People Act, 1951 also prescribes in this behalf that:

"128. Maintenance of secrecy of voting - (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorized by or under any law) communicate to any person any information calculated to violate such secrecy.

[Provided that the provisions of this sub-section shall not apply to such officer, clerk, agent or other person who performs any such duty at an election to fill a seat or seats in the Council or States.]

(2) Any person who contravenes the provision of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both."

The Commission has desired that the aforesaid provisions of Section 128 and 132A of the Representation of the People Act, 1951 and of rules 39 and 49M of the Conduct of

Election Rules should be brought to the notice of all Presiding Officers during their training for the forthcoming General Elections to the Legislative Assemblies of Assam, Kerala, Tamil Nadu, West Bengal and Pondicherry and they be asked to ensure that secrecy of vote is strictly maintained by each voter at the time of exercising his/her franchise. They must ensure that no additional person accompanies any elector at the time of his/her casting vote, in any case, except in the case of blind/infirm voters where they can take a companion to help them to cast their vote under Rule 49N of Conduct of Election Rule, 1961.

The Commission, in the interest of maintaining secrecy of vote, has further decided that no photography or video recording by any person shall be allowed inside the polling stations, except by the persons authorized by the Commission.

Any violation of these instructions will be viewed very seriously and concerned Presiding Officer will be held responsible for any lapse in this regard.

With kind regards,

By Speed Post

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

No.447/2007-PLN-IV

Dated: 12th October, 2007

To

1. The Chief Secretaries of
All the States and Union Territories
2. The Chief Electoral Officers of
All the States and Union Territories.

Subject: Use of Videography and digital cameras during elections- Consolidated Instructions thereon;

Sir,

I am directed to refer to Commission's letter of even number dated 17th January 2007 (copy enclosed) on the above-mentioned subject, addressed to all Chief Secretaries and all Chief Electoral Officers and to state that the Commission has decided that Videography of all critical events during election(s) should be scrutinized by the Observers deputed by the Commission. It has come to the notice that the cassette/ CD containing the record of critical events are being provided to Observers for scrutiny sufficiently late.

You are, therefore, requested to instruct all the officers concerned that unedited/undoctored video cassette/clips/CDs etc. of all critical events during election(s) will be handed over to the Observers deputed by the Commission on the same evening or latest in the morning of next day and a certificate in this regard may be furnished alongwith the cassette/CD in the proforma enclosed herewith.

Kindly ensure delivery of these instructions to all District Collector /DEOs/ROs/ AROs during election(s) and acknowledge receipt.

Yours faithfully,

(K.N.BHAR)
UNDER SECRETARY



CERTIFICATE OF VIDEOGRAPHED CASSETTE/CD OF CRITICAL
EVENTS DURING ELECTION (S)

Name of District:

Name of Parliamentary/Assembly Constituency:

This is to certify that video cassette/CD submitted/handed over by me to
Shri.....(Observers) is/ are unedited/
undoctored version of events video graphed on (date) covering the
issues.....at.....(places)

(Name of Videographer with signature)

(Counter Signature of Officer-in-charge with name)

INSTRUCTION SI. No. 67

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.

1. 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.

2. 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 to be 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 Other) 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 in tact 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.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001.

No.4/2008/SDR / 1688

Dated 15th December, 2008

To

The Chief Electoral Officers of
Chhattisgarh, Madhya Pradesh, NCT of Delhi, Mizoram and
Rajasthan.

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

Sir,

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 and the elections campaigns conducted by candidates and their political parties should be videographed. Instructions have also been issued that the Observers while touring the constituencies shall also get videographed the events which they consider as having important bearing on the election campaigns of candidates and their political parties. In particular, the Commission has instructed that the Observers and other officers concerned with the conduct of elections should keep a watch on the election expenses of the candidates and political parties and have the public meetings and processions of important leaders touring the constituency videographed so as to serve as evidence showing the extent of expenditure incurred by the organizers of those public meetings and processions.

2. It is needless to say that the CDs of such critical events videographed will serve as highly relevant pieces of evidence, if any of the rival

candidates or political parties wish to raise the question of excessive expenditure of any candidate or any irregularity committed by him in the course of his election campaign in an election petition on the above grounds after the election is over. The Commission desires that adequate publicity may be given through all media of mass communication that the CDs of all critical events recorded by the election authorities are available to everyone whosoever 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. It may also be impressed upon them that all such CDs should be very carefully preserved by them for any reference by the Commission or other election authorities as well as for sale to the interested persons.

4. The Commission has also directed that the accounts of election expenses submitted by the contesting candidates after the election, as required under section 78 of the Representation of the People Act, 1951, should be carefully examined by 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. Kindly acknowledge receipt.

Yours faithfully,



(K.F. WILFRED)
SECRETARY

INSTRUCTION SI. No. 69

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 Observers 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.

ELECTION URGENT
BY FAX/CAMP BAG

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi- 110001

No 464/INST/2009

Dated 2nd April, 2009

To .

The Chief Electoral Officers of
All States and Union Territories

**Subject: General Election to Lok Sabha, 2009 – Evidence of
polling in inaccessible polling stations – regarding.**

Sir / Madam

Elections in India in terms of its scale, magnitude and complexities are the largest and most vigorous democratic exercise in the world. The Commission is confident that all the stake-holders, i.e., political parties, candidates, the voting public and the entire election machinery, will fully appreciate the need for restraint and discipline to ensure free, fair and peaceful elections. The time-tested credibility of electoral system is our nation's pride. The Commission is fully committed and will strive hard to uphold and add strength to the deeply rooted democratic traditions of our nation.

The Commission recognizes and acknowledges the role of media and civil society organizations in aiding the election machinery in the successful conduct of elections. The Commission looks forwards to their total support and feedback that could help mid-course interventions.

In a country with a wide geographical variety from snow-clad mountains to thick jungle and interconnected plains, it is quite natural that

access to some polling stations proves very difficult for polling parties and Sector Officers. Instances have come to the knowledge of the Commission where polling parties could not go to certain polling stations at all and but instead of a truthful report conducted a fake poll sitting some where else. On receiving complaints from press and other sources, inquiry was conducted and complaints were found to be correct. In all such instances, the Commission had ordered repoll, apart from takings action against the polling parties.

The Commission vide its letter No. 464/INST/2005-PLN-I dated 15.10.2005, directed that the photography by the digital cameras will first cover those polling stations where no CPF 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 CPF parties have been deployed. In all polling stations, where digital photography is being done, 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 provided for the purpose at collection center. These officers will be given proper duty pass to enable them to do photography inside the polling stations.

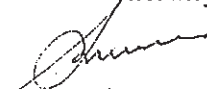
In order to have a true, faithful and concurrent record of the violations of election law and to ensure free and fair poll, the Commission, has decided that evidence of actual polling be collected in all such polling stations which are highly inaccessible for Sector officers. For this purpose, the Commission directs that every Chief Electoral Officer shall prepare a list of such polling stations, which are inaccessible and cannot be visited by sector officers even once during the entire polling period. The DEOs will issue digital cameras to the trained officers / Polling parties of these polling stations under proper receipt and they will be directed to take a photograph of the polling station including the polling party and electors every half an hour and shall issue a certificate that-

"I have captured photographs of polling station including polling party and electors who voted after every half an hour at polling station number _____ on date _____ and total number of photographs in the Cameras are _____".

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

On the day of scrutiny of Form-17A, these photographs will be reviewed by the Returning officer and the Observers before deciding whether any repoll is required or not in such polling stations.

Yours faithfully,



(SUMIT MUKHERJEE)
UNDER SECRETARY

INSTRUCTION SI. No.**ELECTION COMMISSION OF INDIA**

Nirvachan Sadan, Ashoka Road, New Delhi- 110 001.

No.464/ INST/2009/EPSDated: 3rd May, 2009.

To

The Chief Electoral Officers of
All States and Union Territories.Subject:- Use of Videography and digital cameras during elections –
period of retention thereof; - regarding.

Sir/Madam,

I am directed to refer to the Commission's earlier letter No. 51/8/99-Vol.III dated 02.06.1999, containing the guidelines regarding the period of retention of EVMs before using them in subsequent elections under rule 94 (aa) of the Conduct of Election Rules 1961. The guidelines are reproduced below for convenience:-

(i) Every voting machine (EVM) used in an election and kept in the custody of the District Election Officer shall normally continue to be kept in such custody for a period of six months from the date of declaration of the result of the election.

(ii) In the case of elections, where no election petitions have been filed or no other court cases are pending, after the expiry of the said period of six months, the machines may be used for any future election.

(iii) In the case of election where election petition has been filed, the voting machines used at all polling stations in the constituency concerned shall continue to be kept in the safe custody of the District Election officer, till such time the election petition is finally disposed of by the courts.

(iv) If any other court case is pending like booth capturing, etc. in which any EVM is involved, the EVM concerned or the EVM(s) used at such polling station(s) concerned may also be kept till the final disposal of the said case.

(v) After the final disposal of the election petitions or, as the case may be other court cases referred to clauses (iii) and (iv) above, the voting machines can be used for subsequent elections.

(vi) Notwithstanding anything contained in clauses (i) and (ii) above if the machines used at an election in respect of which no election petition has been filed, are needed for use at any subsequent election before the expiry of the period of six months referred to therein, the Election Commission may by special direction permit these machines to be so used.

2. The Commission has also issued consolidated instructions regarding use of videography and digital cameras to cover various

aspects/stages of election process. Letter Nos. 464/INST/2005-PLN-I dated 15.10.2005, 447/2007-PLN-IV dated 17.01.2007, 4/2008/SDR dated 29.01.2009 and 464/INST/2009 dated 2nd April 2009(copies enclosed) may be referred to.

3. The Commission has considered the matter regarding the period of retention of video cassettes, video tapes, print outs of films of Videography /digital cameras etc and has decided that **films of video digital print out, video cassettes, video tapes, taken as per the above mentioned instructions of the Commission, must be kept with the District Election Officers in safe custody. The retention period of these video cassettes, video tapes, films of video digital print outs of films of videography/digital cameras etc; will be the same as in case of period of retention of EVMs mentioned in the aforesaid sub paras (i) to (vi) of Para (1).**

4. These directions shall be brought to the notice of all concerned for immediate compliance.

Yours faithfully,

**SUMIT MUKHERJEE
(UNDER SECRETARY)**

**MEDIA, POLITICAL
ADVERTISEMENTS
AND
CERTIFICATION
thereof**

ITEM NO. 196

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.

ITEM NO. 197

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) Aspersion 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 SI. No.

Election Commission's letter No.509/75/2004/JS-I, dated 15.04.2004 addressed to the Chief Electoral Officers of all the 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 (v) of the Order, the Returning Officer of every 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.

8. Kindly acknowledge receipt.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan. Ashoka Road, New Delhi-110001.

No. 509/75 2004/JS-I

Dated 15th April. 2004.

ORDER

1. 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 M/s 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 Commissioner 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 retransmit 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) or 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 2ⁿ 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 an > 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 even- 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 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:
 - 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.

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:
Date:

Signature of the applicant

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:
Date:

Signature of applicant

CERTIFICATION OF ADVERTISEMENT FOR TELECAST

I.

- (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:

ITEM NO. 199

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
XIIA**

Court No. 1

SECTION

A/N

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

Petition(s) for Special Leave to Appeal (Civil) No.6679/2004
(From the judgment 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 on. for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE G.P. MATHUR.
HON'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 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 12.7.2004 is directed to remain in operation until further orders.

Sd/-
(D.P. WALIA)
COURT MASTER

Sd/-
(RASHA R. BHATIA)
COURT MASTER

INSTRUCTION SI. No.

Election Commission's letter No. 3/9/2007/JS-II Dated: 3rd August, 2007 addressed to the Chief Electoral Officers of all States and Union Territories.

Subject:- Election related advertisements in newspapers and other print media – election campaign-regarding.

I am directed to invite attention to the provisions of Section 126 of the Representation of the People Act, 1951 reproduced below :-

“Section - 126 Prohibition of public meetings during period of forty – eight hours ending with hour fixed for conclusion of poll –

(1) no person shall –

- (a) convene, hold or attend, join or address any public meeting or procession in connection with an election; or
 - (b) display to the public any election matter by means of cinematograph, television or other similar apparatus.
 - (c) Propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto, in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in the polling area.
- (2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.
- (3) In this section, the expression “election matter” means any matter intended or calculated to influence or affect the result of an election.”

2. Queries have been raised from some States whether broadcasting of election related matter over Radio could be done during the aforesaid period of 48 hours.

3. Clause (b) of sub-section(1) of Section 126 prohibits display of election matter through T.V. or similar apparatus. It is clarified that radio would be treated as ‘other similar apparatus’ for this purpose and hence broadcasting /propagating



any election matter through Radio would be covered under clause (b) and would not be permissible during the period of 48 hours mentioned in the said section.

4. This may be brought to the notice of all concerned in your State including all political parties in the State, for removal of doubt, if any, on this aspect.
5. Acknowledge receipt of this letter.

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ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi – 110 001.

No. 509/75/2004/J.S.-I/VOL. II Dated : 26th Sept., 2007

To

(1) The Chief Secretaries of
all States and Union Territories.

(2) Chief Electoral Officers of
all States and Union Territories

Sub. Supreme Court Order dated 13th April 2004, relating to advertisement of political nature on TV Channel and cable networks.

Sir,

I am directed to invite your attention to Commission's letter No. 509/75/2004-JS-I, dated 15th April 2004, forwarding therewith its Order of even No. dated 15th April 2004, its subsequent letter and Order of even Nos. dated 22nd July 2004 and dated 20th September 2004 respectively, on the subject cited **(copies enclosed for ready reference)**. The Hon'ble Supreme Court vide its order dated 5.7.2004, has directed subsequently that its order dated 13.04.2004 will remain in operation until further orders.

2. In this connection, I am further to state that the orders of the Election Commission, referred to above, were issued in pursuance of the Hon'ble Supreme Court directions dated 13.04.2004 with reference to the provisions of the Cable Television Networks (Regulation) Act, 1995 and the rules framed thereunder.

3. The Hon'ble Supreme Court's directions dated 13.04.2004 inter-alia provides in specific and unambiguous terms that -

"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 of Trusts who propose to insert the advertisement in the electronic media, including cable networks and/or television channels as well as cable operators."



4. You are aware that the provisions of Model Code of Conduct for Guidance of Political Parties and Candidates come into force from the date of announcement of the election schedule by the Commission and till the completion of election process.
5. In this connection I am further to state that the directions dated 13.04.2004 of Hon'ble Supreme Court, referred to above, have been issued **under Article 142 of the Constitution of India, the scope and ambit of which are applicable in the whole of territory of India at all times** and **not restricted only** during the period commencing from the date of announcement of the election schedule by the Commission and till the completion of election process.
6. It has been brought to the notice of the Commission that instructions/directions issued by it, in pursuance of orders passed by Hon'ble Supreme Court in the matter, are not being followed by the Political Parties etc. as provided in the said directions of the Hon'ble Supreme Court relating to advertisements of political nature in the electronic media, including cable networks and/or television channels as well as cable operators. The advertisements of political nature are being telecast over T.V. channels and cable networks **without getting certification of advertisement(s) for telecast from the Competent Authority.**
7. I am, therefore, to request that the Commission's Orders issued in this behalf, as referred to above may be given wide publicity and this may specifically be brought to the notice of all District Election Officers/ Returning Officers & all other concerned authorities, T.V. Channels and cable operators and political parties in the State/Union Territory for strict compliance. **It may also be brought to their notice that failure to comply with the orders of the Hon'ble Supreme Court will amount to contempt of the Court.** The Chief Electoral Officer may also issue a suitable Press Note in this behalf.
8. A copy of instructions issued by you in this behalf may also be endorsed for its information and record.

9. Kindly acknowledge the receipt.

Yours faithfully,

(A. K. MAJUMDAR)
PRINCIPAL SECRETARY

STANDARD DISTRIBUTION

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi- 110 001.

No.: 509/75/2004-JS.I (Vol.II)

dated the 2nd November, 2007

To,

The Chief Electoral Officers
Of all States and Union Territories.

Subject: Supreme Court's order dated 13th April, 2004 relating to advertisements of political nature on Radio, TV Channel and cable networks - clarification - regarding.

Sir,

I am directed to invite your attention to the Commission's Order No. 509/75/2004/JS.I dated 15.4.2004 on the subject cited. As per the Order of the Hon'ble Supreme Court and the instruction's of the Commission in pursuance thereof, advertisements of political nature to be displayed on TV/Cable networks are required to be got certified by the Committee set up for this purpose. The Chief Electoral Officer, Gujarat (vide letter NoELC-1007-769-(Cell)-CHH, dated 24.10.2007) has made a reference stating that certain political parties have submitted applications with CDs containing various programme telecasted earlier on various TV channel/Cable network for certification and whether the Committee is required to consider such applications for certification.

In this connection, it is clarified that keeping in view the object sought to be achieved by the Hon'ble Supreme Court's order 13.4.2004, the word 'advertisement' will have to be given a broader meaning to cover 'programme' which any political party/organization intends to use as campaign material on Cable Network or similar apparatus. Accordingly, the Committees will have to pre-view all such material given by the party for certification.

The two CDs sent by Chief Electoral Officer, Gujarat with the above referred letter are referred herewith for necessary action on the part of the Committee.

Yours faithfully,

(S. R. KAR)
UNDER SECRETARY

203

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.509/75/2004-JS-I (Vol.II)

Dated: 8th November, 2007

To

The Chief Electoral Officers
of all the States and Union Territories.

Sub: Supreme Court's order dated 13th April, 2004 relating to advertisements of political nature on TV Channel and cable networks – clarification – regarding.

Sir,

I am directed to invite a reference to the Hon'ble Supreme Court's order dated 13.04.2004, regarding political advertisements on TV/Cable Networks. Clarifications have been sought regarding political advertisements over Radio.

In this context, it is clarified that the Code for Commercial Advertising on the All India Radio prohibits advertisement of political nature. The Ministry of Information and Broadcasting, Government of India, have confirmed that the Code for Advertising on the AIR is also applicable for advertisements on FM Channels. Therefore, it may be seen that advertisements of political nature are **prohibited on all Radio Channels.**

The above clarification may be brought to the notice of all election authorities and others concerned in the State. The Code for Advertising referred to above can be had from the website of AIR www.allindiaradio.org.

Please acknowledge receipt of this letter.

Yours faithfully,

(S. R. KAR)
UNDER SECRETARY

ITEM - 204

By Special Messenger

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.509/75/2004/J.S.-I

Dated: 22nd September, 2008

To

The Secretary to the
Govt. of India,
Ministry of Information & Broadcasting,
Shastri Bhawan,
New Delhi.

कार्यालय मुख्य निर्वाचन अधिकारी
एवं पदेन प्रमुख शासन सचिव,
निर्वाचन विभाग, राजस्थान
आयची क्रमांक 3417
दिनांक 1-10-08

Subject: Advertisement of political nature on TV Channel and Cable Network seeking permission for programmes/skits which contain political message etc.- reg.

Madam,

As you are well aware the recognized political parties are allotted free air time on Doordarshan and All India Radio for their election campaigns during the period of general elections to the Lok Sabha and State Legislative Assemblies. In this connection, attention is invited to the Commission's Order No. ECI/GE98/437/MCS/98, dated 16th January, 1998 (copy enclosed for reference), containing the scheme for such allotment of free air time. The time allocated to the political parties is used by them to telecast/broadcast speeches by their representatives. The transcript of the telecast/broadcast is to be submitted in advance for approval by the authorities specified by the Parsar Bharti for this purpose.

In this context, some political parties approached the Commission for permitting telecast of some innovative programmes / skits conveying political message to the electorate during the time slot allotted to the political parties instead of speech alone. The Commission has considered the proposal and the Commission has no objection to the telecast of such programmes/skits in the allotted time slot,

Ch New TV *her now* *u* *Y!* *mer*
ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi- 110 001. *on 31*

No.: 509/75/2004-JS.I(Vol.II)/RCC | *1720* dated the 17th October, 2008 *Q*

To,
The Chief Electoral Officers
Chhattisgarh,
Madhya Pradesh,
Mizoram,
Rajasthan and
NCT of Delhi.

3/1/08 *aw* *4* *1* *Q*
with *EU*
Chair
Cell

M/10
Subject: Commission's Order dated 15.4.2004 relating to advertisements of political nature on TV Channel and cable networks - Reg.

Sir,
I am directed to invite reference to the Commission's letter of even number dated 26.9.2007 (copy enclosed with encl.) on the subject cited and to say that directions contained in the Commission's order dated 15.4.2004 shall be followed strictly for the current general elections to the Legislative Assembly in your State.

It may be noted that for advertisements of political nature in TV Channel & Cable Network, in connection with the current general elections, the Committee headed by the Addl./Jt. CEO of the State concerned shall be the competent committee to receive and dispose of applications for clearance of advertisements to be telecast in that State, by all political parties. Accordingly, all political parties shall submit applications to the said Committee in the State concerned.

This may be brought to the notice of all District Election Officers/Returning Officers in the State and also all political parties in the State both recognized and registered-unregistered, for information and compliance.

Yours faithfully,

Ae60
Pl. Dson *name for*
WCF
(K.F. WILFRED)
SECRETARY

INSTRUCTION SI. No.

Election Commissioner'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

Sub:- Advertisement on 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 Commissioner'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 J&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.

2. 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.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 509/75/2004/J.S-I/Vol.II/RCC/

Dated: 21st November, 2008.**ORDER**

Sub: The Commission's order dated 15th April, 2004, regarding advertisements of 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 13-4-2004 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, 08, 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 TV Channel/Cable 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 case of advertisements of political nature on Radio.

By order,

(K. F. WILFRED)
SECRETARY

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001.

SUMIT MUKHERJEE
UNDER SECRETARY

Tel No. 23717590
Fax No. 23717590

No. 464/INST/2008/EPS

Dated: 19th January, 2009

To

The Chief Electoral Officers of
All States/UTs.

Subject: General Elections to the Lok Sabha, 2009 – No photography or video recording by any person inside the polling stations, except by the persons authorized by the Commission in the interest of maintaining secrecy of vote.

Sir/Madam,

It has been brought to the notice of the Commission that certain political functionaries, in the past, have violated the secrecy of vote at elections from Parliamentary and Assembly Constituencies either by displaying their vote to media or to other individuals accompanying them. This act on their part is a clear violation of not only the principle of secrecy of vote which is sacrosanct but also an infringement of statutory provisions of Section 132 A of the Representation of the People Act, 1951 and rules 39 and 49M of the Conduct of Election Rules, which provide for such votes not being allowed to be cast.

The Commission has considered the issue and feels that secrecy of vote should be maintained at all costs. Section 128 of the Representation of the People Act, 1951 also prescribes in this behalf that:

“128. Maintenance of secrecy of voting - (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorized by or under any law) communicate to any person any information calculated to violate such secrecy.

[Provided that the provisions of this sub-section shall not apply to such officer, clerk, agent or other person who performs any such duty at an

election to fill a seat or seats in the Council or States.]

(2) Any person who contravenes the provision of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both."

The Commission, in the interest of maintaining secrecy of vote, has further decided that no photography or video recording by any person shall be allowed inside the polling stations, except by the persons authorized by the Commission.

Any violation of these instructions will be viewed very seriously and concerned Presiding Officer will be held responsible for any lapse in this regard.

With kind regards,

Yours faithfully

**(SUMIT MUKHERJEE)
UNDER SECRETARY**

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001.

No. 509/75/2004-JS-I/RCC/Vol.II

Dated: 18th March,
2009

To,

The Chief Electoral Officer of
All States/Union Territories.Subject: Advertisement of political nature on TV channels and cable
networks and on Radio - clarification.

Sir/Madam,

Please refer to the Commission's order No. 509/75/2004/JS-I, dated 15th April, 2004, regarding scrutinizing of applications for certification for telecast on TV channels and cable networks. By its subsequent order dated 21st November, 2008, the directions in the said order have been made applicable for advertisement on Radio during the period of general election.

2. As per the above-referred order dated 15th April, 2004, the committee set up in the office of the Chief Electoral Officer, Delhi, is to deal with applications of all political parties having headquarters in Delhi. All the 7 National parties and a few State parties have office in Delhi. It is possible that the State units of these parties may also sponsor applications for focusing on individual States. In such cases, it is clarified that, the applications from State units of the National parties may be submitted to the committee in the States concerned. However, the applications from the central office of the National and State parties with headquarters in Delhi will continue to be scrutinized by the committee in Delhi. In the case of State parties, applications from the units of the parties in States other than where they have their headquarters shall also be dealt with by the committee in the States concerned where the State units are submitting applications.

3. It is also clarified that applications from individual candidates for advertisements, both on TV and Radio, shall be made to the committee headed by the Returning Officer of the constituency concerned.

4. The Commission has also directed that when the certificate for telecast/broadcast is issued by the committee, an authenticated copy of the transcript as approved by the committee should also be handed over to the applicant, and at the same time, the committee should retain a copy of the approved transcript and an electronic copy of the material certified for telecast/broadcast.

5. These instructions may be brought to the notice of all concerned, and also to the political parties based in your State, including the State units of recognized political parties.

Yours faithfully,

R.K. Srivastava
(R.K. SRIVASTAVA)
SECRETARY

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.3/ER/2009/SDR

Dated : 19th March, 2009

To

The Chief Electoral Officer of
All States/Union Territories.

Sub: Advertisement of political nature on TV channels, cable network and Radio.

Sir/Madam,

In continuation of the letter of even number, dated 18th March, 2009, the Commission gives the following further clarifications in the matter of applications for certification of political advertisements on TV channels/cable networks/Radio:

- (i) If the Central Office of any of the National Parties or the State Parties with headquarters in Delhi seeks certification of same advertisement in multiple languages (Hindi/English and in regional languages), the advertisement material in each of the languages alongwith certified transcripts should be submitted to the committee in the office of the CEO, Delhi. In addition, in such cases, the applicant should also submit a duly sworn affidavit stating, as is done in the Courts, that the regional language version of the advertisement is a true translation of the advertisement in Hindi/English and the applicant will be responsible for any mistake therein.
- (ii) If the Central Office of any of the National Parties or the State Parties with headquarters in Delhi wishes to seek certification of advertisement in any regional language (without there being any Hindi/English version of the advertisement), the application seeking certification will have to be submitted



to the committee in the office of the CEO of the State concerned (i.e. the State to which the regional language pertains).

- (iii) Any advertisement certified for telecast/broadcast by the committee in the office of the CEO, Delhi, on application from the Central Office of the National Parties and the State Parties with headquarters in Delhi, will be valid for telecast/broadcast throughout India in all States and UTs. No separate certification would be required in such cases from the committees in other States. However, the parties should submit a copy of the certificate obtained from the committee in Delhi to the Chief Electoral Officer of the State in which such advertisements are proposed to be telecast/broadcast. The copy should be submitted with a declaration that the same is a true copy of the certificate issued from the committee in Delhi and this should be submitted to the CEO in the State concerned before the advertisement is telecast/broadcast.

2. The above clarifications may be brought to the notice of all authorities in the State. A copy of this should be given to the screening committee functioning for this purpose in the office of the CEO.

Yours faithfully,

(K.F. WILFRED)
SECRETARY

Copy to:-

All recognized National parties and Samajwadi Party, J&K National Panthers Party, Janata Dal (Secular) and Janata Dal (United), Lok Jan Shakti Party and All India Forward Bloc.

INSTRUCTION SI. No.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.3/ER/2009/SDR

Dated : 20th March, 2009

To

The Chief Electoral Officer of
All States/Union Territories.

Sub: Advertisement of political nature on TV channels, cable network and Radio.

Sir/Madam,

In continuation of the letter of even number, dated 18th March, 2009, the Commission gives the following further clarifications in the matter of applications for certification of political advertisements on TV channels/cable networks/Radio:

(i) If the Central Office of any of the National Parties or the State Parties with headquarters in Delhi seeks certification of same advertisement in multiple languages (Hindi/English and in regional languages), the advertisement material in each of the languages alongwith certified transcripts should be submitted to the committee in the office of the CEO, Delhi. In addition, in such cases, the applicant should also submit a duly sworn affidavit stating, as is done in the Courts, that the regional language version of the advertisement is a true translation of the advertisement in Hindi/English and the applicant will be responsible for any mistake therein.

(ii) If the Central Office of any of the National Parties or the State Parties with headquarters in Delhi wishes to seek certification of advertisement in any regional language (without there being any Hindi/English version of the advertisement), the application seeking certification will have to be submitted to the committee in the office of the CEO of the State concerned (i.e. the State to which the regional language pertains).

(iii) Any advertisement certified for telecast/broadcast by the committee in the office of the CEO, Delhi, on application from the Central Office of the National Parties and the State Parties with headquarters in Delhi, will be valid for telecast/broadcast throughout India in all States and UTs. No separate certification would be required in such cases from the committees in other States. However, the parties should submit a copy of the certificate obtained from the committee in Delhi to the Chief Electoral Officer of the State



in which such advertisements are proposed to be telecast/broadcast. The copy should be submitted with a declaration that the same is a true copy of the certificate issued from the committee in Delhi and this should be submitted to the CEO in the State concerned before the advertisement is telecast/broadcast.

2. The above clarifications may be brought to the notice of all authorities in the State. A copy of this should be given to the screening committee functioning for this purpose in the office of the CEO.

Yours faithfully,

(K.F. WILFRED)
SECRETARY

Copy to:-

All recognized National parties and Samajwadi Party, J&K National Panthers Party, Janata Dal (Secular) and Janata Dal (United). Lok Jan Shakti Party and All India Forward Bloc.

MISCELLANEOUS

Other Instructions

ITEM NO.

Election Commission's letter No.464/INST/2005/PLN-I, dated 22.01.2005 addressed to the Chief Electoral Officer, Bihar, Haryana and Jharkhand (Please also refer to item No.340)

Subject: Judgment dated January 11, 2005 of the Hon'ble Supreme Court in Civil appeal No.9228 of 2003 - (Janak Singh Vs. Ram Das Rai and others) - reg.

I am directed to say that the Hon'ble Supreme Court in its Judgment cited above has given certain suggestions/directions in the matter of conduct of free and fair election. A copy of the relevant portion of the Judgment is enclosed.

The Commission has considered the matter and has directed that the following measures shall be taken at the current general election in your State:-

1. **CPMF personnel to keep a watch on the proceedings in the polling stations**

In the polling stations where CPMF personnel have been deployed, one of the CPMF personnel shall be stationed at the entrance of the polling station in such a manner that he can have an unrestricted view of the polling procedure in the polling station.

2. **Videography at the polling station**

The Commission has already issued instructions for videography of critical events of the election process and also at hypersensitive and sensitive polling stations to the extent possible. However, videography of proceedings inside the polling stations was not permitted as per the earlier instructions. In deference to the suggestion of the Hon'ble Supreme Court, the Commission directs that videography of the poll proceedings may be carried out inside the polling stations also. However, considering the practical difficulties in covering all polling stations, the Commission has decided that such videography may be done in only those polling stations where the observer considers it necessary. However, proper care shall be taken to ensure that while doing the videography, the same does not violate the secrecy of vote. No photography/videography shall, however, be allowed by the media persons or by any other unauthorized persons inside the polling station, to maintain general order and secrecy of vote. The videography of all other critical events of electoral process shall continue to be done.

3. **Utilization of Election Funds**



The Chief Electoral Officers should keep a strict and close watch over the election expenditure by their office and by the District Election Officers/Returning Officers and other authorities concerned, to ensure that election funds are not utilized for purposes other than for the conduct of elections.

4. **Conduct of Observers**

The Commission has already instructed the Observers at the time of briefing, not to accept lavish hospitality offered by the State Administration. The Hon'ble Supreme Court has now also directed that the Observers should not accept undue hospitality of the State. This may be brought to the notice of all authorities concerned and all Observers in the State for strict compliance.

Kindly acknowledge receipt and intimate action being taken.

ITEM NO. 213

Election Commission's letter No.464/INST/2005/PLN-I, dated 18.02.2005 addressed to the Chief Electoral Officer, Bihar and Jharkhand

Subject: Judgment dated January 11, 2005 of the Hon'ble Supreme Court in Civil appeal No.9228 of 2003 - (Janak Singh Vs. Ram Das Rai and others) - reg.

I am directed to refer to the Commission's earlier correspondence of even number dated the 28th January and 15th February 2005 in the matter of deployment of CPMF jawans at the entrance of the polling station.

A clarification has been sought from the Commission that in the buildings which have more than one polling station and where half a section of the CPMF personnel is deployed, how the entrance of the polling station should be guarded.

It is clarified that in such a situation, the CPMF Jawan selected for duty at the entrance of the polling station may be asked to oscillate from one polling station to other and look at what is going inside these polling stations and report to the officer in charge of the CPMF part or observer, if something unusual is observed by him.

This instruction may please be brought to the notice of the DEOs, ROs, Observers, SPs and coordinating officers of CPMF for compliance.

ITEM NO. 214

Election Commission's letter No. PS/AK/2005, dated 10.09.2005. addressed to the Chief Electoral Officers of Bihar, West Bengal, Uttaranchal and Haryana

Subject : Judgment dated January 11, 2005 of the Hon'ble Supreme Court in Civil Appeal No. 9228 of 2003 – (Janak Singh Vs. Ram Das Rai and others) – reg.

I am directed to say that the Hon'ble Supreme Court in its Judgment cited above has given certain suggestions/ directions in the matter of conduct of free and fair election. A copy of the relevant portion of the Judgment is enclosed.

The Commission has considered the matter and has directed that the following measures shall be taken at the current general election in your State: -

1. CPMF personnel to keep a watch on the proceedings in the polling stations

In the polling stations where CPMF personnel have been deployed, one of the CPMF personnel shall be stationed at the entrance of the polling station in such a manner that he can have an unrestricted view of the polling procedure in the polling station.

2. Videography at the polling station.

The Commission has already issued instructions for videography of critical events of the election process and also at hypersensitive and sensitive polling stations to the extent possible. However, videography of proceedings inside the polling stations was not permitted as per the earlier instructions. In deference to the suggestion of the Hon'ble Supreme Court, the Commission directs that videography of the poll proceedings may be carried out inside the polling stations, the Commission has decided that such videography may be done in only those polling stations where the observer considers it necessary. However, proper care shall be taken to ensure that while doing the videography, the same does not violate the secrecy of vote. No photography / videography shall, however, be allowed by the media persons or by any other unauthorized persons inside the polling station, to maintain general order and secrecy of vote. The videography of all other critical events of electoral process shall continue to be done.

3. Utilization of Election Funds

The Chief Electoral Officer should keep a strict and close watch over the election expenditure by their office and by the District Election Officers / Returning Officers and other authorities concerned, to ensure that election funds are not utilized for purposes other than for the conduct of elections.

4. Conduct of Observers

The Commission has already instructed the Observers at the time of briefing, not to accept lavish hospitality offered by the State Administration. The Hon'ble Supreme Court has now also directed that the Observers should not accept undue hospitality of the State. This may be brought to the notice of all authorities concerned and all Observers in the State for strict compliance.

Kindly acknowledge receipt and intimate action being taken.

20

ITEM NO. 215

Election Commission's letter No.464/Misc/2005/PLN-I, dated 22.12.2005 addressed to the Chief Electoral Officers of all States/Union Territories.

Subject:- Disposal of Grievances/Complaints received on electoral issues.

In order to redress the grievances/complaints that are received from public and various other Stake holders, on various electoral issues, the Commission has felt a need to set up grievance redressal mechanism.

2. Most of the complaints received can be clubbed in following categories: -

- (1) Complaints from general public regarding missing names in the voter's list, non-availability of EPIC, shifting of name to an inconvenient booth, refusal to carry out inclusion in periods other than during summary revision or intensive revision, etc.
- (2) Complaints from political parties and candidates regarding non-supply of electoral rolls, not taking them into confidence while shifting the booths, non-action on their complaints regarding Model code of Conduct, etc.
- (3) Complaints from government staff regarding using their services for election work but not making necessary travel and accommodation arrangements, non-payment or delay in payment of TA/DA etc., vindictiveness towards some staff while favouring some other staff, etc.
- (4) Complaints from suppliers of election material, transporters etc. regarding delays in payments.

3. Since these grievances are to be redressed at the ERO's, DEO's and CEO's level the Commission has decided that a Grievance Redressal Mechanism may be set up as follows: -

- (i) Grievance cells-cum-control rooms may be opened in the office of each ERO to attend to any complaint regarding electoral rolls, EPIC, shifting of names from inconvenient booths etc.
- (ii) Grievance cells-cum-Control rooms may be opened in the offices of LCOs where Deputy DEO who is usually a State

Civil Officer can be made in charge. He may attend to all complaints on all issues as have been categorized above.

- (iii) Grievance cells-cum-control rooms may be opened in the offices of CEOs, where Additional CEO or Deputy CEO who is usually a State Civil Officer can be made in charge. He may also attend to all complaints on all issues as have been categorized above.

4. All Grievances Cell-cum-control rooms opened in the offices of EROs, DEOs and CEOs may maintain a proper register detailing the complaints received and action taken. Registers maintained in the offices of EROs, DEOs may be checked by the CEOs from time to time. The registers maintained in the offices of CEOs shall be checked by the CEO and officers of the Commission. A time frame of 15 days may be fixed for attending to complaints and giving a reply to the complainant.

5. All concerned officers may be informed of above decisions immediately for compliance within 15 days.

6. Kindly acknowledge the receipt.

ITEM NO. 216

Election Commission's letter No. 464/INST/2006/PLN-I, dated 17.03.2006 addressed to the chief Electoral Officers of Assam, Kerala, Tamil Nadu, West Bengal, Pondicherry

Sub: Judgment dated January 11, 2005 of the Hon'ble Supreme Court in Civil Appeal No. 9228 of 2003 – (Janak Singh Vs. Ram Das Rai and others) – reg.

I am directed to say that the Hon'ble Supreme Court in its Judgment cited above has given certain suggestions/ directions in the matter of conduct of free and fair election. A copy of the relevant portion of the Judgment is enclosed.

The Commission has considered the matter and has directed that the following measures shall be taken at the current general election in your State: -

1. CPMF personnel to keep a watch on the proceedings in the polling stations

In the polling stations where CPMF personnel have been deployed, one of the CPMF personnel shall be stationed at the entrance of the polling station in such a manner that he can have an unrestricted view of the polling procedure in the polling station.

2. Videography at the polling station.

The Commission has already issued instructions for videography of critical events of the election process and also at hypersensitive and sensitive polling stations to the extent possible. However, videography of proceedings inside the polling stations was not permitted as per the earlier instructions. In deference to the suggestion of the Hon'ble Supreme Court, the Commission directs that videography of the poll proceedings may be carried out inside the polling stations also. However, considering the practical difficulties in covering all polling stations, the Commission has decided that such videography may be done in only those polling stations where the observer considers it necessary. However, proper care shall be taken to ensure that while doing the videography, the same does not violate the secrecy of vote. No photography / videography shall, however, be allowed by the media persons or by any other unauthorized persons inside the polling station, to maintain general order and secrecy of vote. The videography of all other critical events of electoral process shall continue to be done.

3. Utilization of Election Funds

The Chief Electoral Officer should keep a strict and close watch over the election expenditure by their office and by the District Election Officers / Returning Officers and other authorities concerned, to ensure that election funds are not utilized for purposes other than for the conduct of elections.

4. Conduct of Observers

The Commission has already instructed the Observers at the time of briefing, not to accept lavish hospitality offered by the State Administration. The Hon'ble Supreme Court has now also directed that the Observers should not accept undue hospitality of the State. This may be brought to the notice of all authorities concerned and all Observers in the State for strict compliance.

Kindly acknowledge receipt and intimate action being taken.

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001.

SUMIT MUKHERJEE

Tel No. 23717590

UNDER SECRETARY

Fax No. 23717590

No. 464/INST/2008/EPS

Dated: 21st January, 2009

To

The Chief Electoral Officers of
All States/UTs.

Subject: January 11, 2005 of the Hon'ble Supreme Court in Civil Appeal No.9228 of 2003 - (Janak Singh Vs. Ram Das Rai and others) - reg.

Sir/Madam,

I am directed to say that the Hon'ble Supreme Court in its Judgement cited above has given certain suggestions/directions in the matter of conduct of free and fair election.

The Commission has considered the matter and has directed that the following measures shall be taken at the current general election in your State:-

1.CPF personnel to keep a watch on the proceedings in the polling Stations

In the polling stations where CPF personnel have been deployed, one of the CPF personnel shall be stationed at the entrance of the polling station in such a manner that he can have an unrestricted view of the polling procedure in the polling station.

2. Videography at the polling station

The Commission has already issued instructions for videography of critical events of the election process and also at hypersensitive and sensitive polling stations to the extent possible. However, videography of proceedings inside the polling stations was not permitted as per the earlier instructions. In deference to the suggestion of the Hon'ble Supreme Court, the Commission directs that



videography of the poll proceedings may be carried out inside the polling stations also. However, considering the practical difficulties in covering all polling stations, the Commission has decided that such videography may be done in only those polling stations where the observer considers it necessary. However, proper care shall be taken to ensure that while doing the videography, the same does not violate the secrecy of vote. No photography/videography shall, however, be allowed by the media persons or by any other unauthorized persons inside the polling station, to maintain general order and secrecy of vote. The videography of all other critical events of electoral process shall continue to be done.

3. **Utilization of Election Funds**

The Chief Electoral Officers should keep a strict and close watch over the election expenditure by their office and by the District Election Officers/Returning Officers and other authorities concerned, to ensure that election funds are not utilized for purposes other than for the conduct of elections.

4. **Conduct of Observers**

The Commission has already instructed the Observers at the time of briefing, not to accept lavish hospitality offered by the State Administration. The Hon'ble Supreme Court has now also directed that the Observers should not accept undue hospitality of the State. This may be brought to the notice of all authorities concerned and all Observers in the State for strict compliance.

Kindly acknowledge receipt and intimate action being taken.

Yours faithfully

(SUMIT MUKHERJEE)

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 464/INST/2009/EPS

Dated: 26 March, 2009

To
The Chief Secretaries to the
of all States and Union Territories.

The Chief Electoral Officers of
all States and Union Territories.

Subject :- General elections, 2009 – Standing instructions.

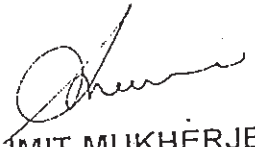
Sir,

I am directed to invite your attention to the Commission's letter No.- 464/Inst./2004/PLN-I, dated 10.03.2004 regarding Standing Instructions of the Commission.

2. I am directed to reiterate that all instructions included in the Compendium of Instructions Vol.I, II, III & IV, and subsequent instructions issued by the Commission on these matters should be followed scrupulously during the ensuing General Elections, 2009. These instructions which are of standing nature shall apply mutatis mutandis to the current elections unless specifically modified or superseded.

3. The receipt of the letter may kindly be acknowledged.

Yours faithfully,


(SUMIT MUKHERJEE)
UNDER SECRETARY

218-D
mf

By Spl. Messenger/Camp Bag

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/INST/2008-CC&BE

Dated: 30th March, 2009

To

The Chief Electoral Officers of
All States and Union Territories

Subject: Applicability of Model Code of Conduct - Requisition of godowns of Food Corporation of India - regarding.

Sir,

I am directed to state that a reference has been received from the Ministry of Consumer Affairs, Food & Public Distribution with regard to the exemption of the Food Corporation of India godowns for the storage of election materials and for training of election officials in view of the procurement season. The matter has been considered by the Commission. The Commission has decided that the godown of the Food Corporation of India and State Food Corporations should not be requisitioned for the election related purpose like storage of election materials and training of election officials.

Accordingly, you are requested to instruct / direct the District Magistrates to avoid requisitioning the Food Corporation of India Godowns and Godowns of State Food Corporations for election related purposes.

Yours faithfully,

(K. N. BHAR)
UNDER SECRETARY

Copy to :

The Secretary to the Govt. of India, Ministry of Consumer Affairs, Food & Public Distributions, Department of Food and Public Distribution, Krishi Bhawan, New Delhi w.r.t. their D.O. no. 16(1)/2009-Py.I dated 24th March, 2009 - By Spl. Messenger

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 464/INST/2009/EPS

Dated: 1st May, 2009.

To

1. The Chief Secretaries of all states/UTs
2. The Chief Electoral Officers of all States/UTs

Subject :- Engagement of child labour in the election process- Regarding.

Sir/Madam

I am directed to state that it has come to the notice of the Commission that children were employed for carrying electronic voting machines at Bhagalpur, Bihar during the ongoing general election, 2009. (A copy of photograph published in a newspaper is enclosed)

As you are aware that Child Labour Act, bans the employment of children below 14 years of age in specified occupations such as transport of goods etc. which are considered unsafe and harmful to child workers and regulates the conditions of work of children in employment. It also lays down penalties for employment of children in violation of the provisions of this Act, other Acts which forbid the employment of children. The Act extends to the whole of India. The child labour Act of 1986 applies to all establishments and workshops wherein any industrial process is carried on (excluding one covered under Section 67 of the Factories Act, 1948).

The Commission has taken strong exception to use of children in work connected with elections. It is highly objectionable. In order to ensure that no such insensitivity is shown by the election related officials anywhere in the country, the

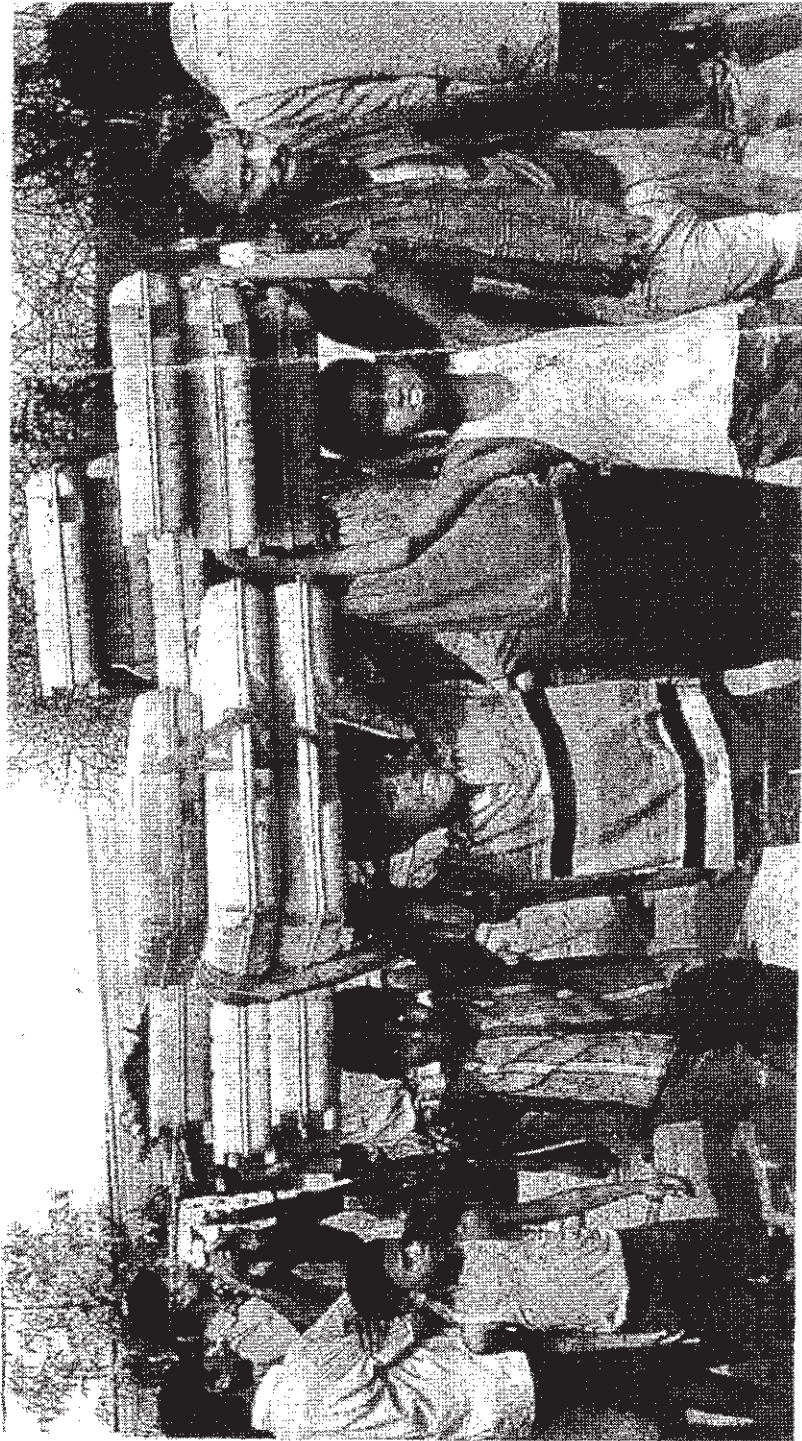


Commission has directed that such violation of child rights for any work connected with the election process is in no way acceptable to the Commission. The District Election Officers/Retuning Officers shall be informed that they will be personally held responsible for any such violation and will face severe disciplinary action apart from facing the consequences of law, if any such instance comes to the notice of the Commission.

Yours faithfully

(SUMIT MUKHERJEE)
UNDER SECRETARY

Heavy duty on tender heads



NO KIDDING: Children carrying electronic voting machines on the eve of the third phase of Lok Sabha elections in Bhagalpur constituency of Bihar on Wednesday. — PHOTO: RANJEET KUMAR

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A. Issue
21/1/11

MOST IMMEDIATE
BY SPEED POST /FAX

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.464/TN-LA/2011

852-853 853

Dated: 21st January, 2011

To

The Chief Electoral Officers of Tamil Nadu & Puducherry.

Subject: Parameters for Tamil Nadu and Puducherry General Elections, 2011.

Sir,

The Commission has approved the following macro parameters for conduct of elections 2011 in Tamil Nadu and Puducherry

1. A 'zone' under the charge of a Zonal Officer and jurisdiction of Police zonal mobile shall be co-terminus. The basis of formation of zones shall be location and geographical situation of a group of polling stations belonging to one AC. It may cut across more than one police station. A zone, on an average, will be a grouping of 10 polling stations but depending on vulnerability or remoteness etc can be lesser.
2. Zonal Officers shall be the trainers for the polling personnel. Minimum 3 trainings of polling personnel shall be held.
3. First training must be carried out separately for Presiding Officers, Polling Officer 1, Polling Officer 2 and Polling Officer 3. For the purpose, the database of polling personnel should be so maintained that randomization of polling



personnel can be carried out category-wise including the reserves for each category.

4. The first training should be held after 1st randomization of polling personnel. This should be imparted by zonal officers of the ACs where the polling personnel reside.
5. Second training should be held after 2nd randomization. At this stage, the group (team) of polling personnel would have been formed. The AC where they are to be deployed will also be known. Hence this training should be imparted by zonal officers of 'receiving' constituency in the premises of receiving constituency. Also, entire polling team of a polling station (in accordance with the groupings resulting from 2nd randomization) should be trained together.
6. For second training some time will be needed to communicate (to each polling personnel) the group-formations as a result of 2nd randomization as well as the venue in receiving constituency where their 2nd training will take place. Second training will also require the candidates to be finalized and the printing and preparation of postal ballots (to facilitate postal balloting by polling personnel). Therefore 2nd training should be held within a week of withdrawal.
7. To facilitate timely second training (and postal ballots), the 2nd randomization may be allowed 9-12 days before the polls with the approval of Observers.
8. Third training shall be imparted after the 3rd randomization, imparted by that zonal officer under whose charge the polling teams fall. This would be possible because at this stage (after 3rd randomization) the polling station (and therefore the 'zone') would become known. Each zonal officer will, on an average, have

10 polling stations on his/her route for which he/she will be wholly responsible. In this third training, the zonal officer will train exactly the same polling personnel whom he will be monitoring/supervising on the poll day.

9. For this purpose, the 3rd randomization may take place 2 days before poll (P-2) so that the third training can take place on penultimate (P-1) day. After the third training on the penultimate day, the polling teams will report to polling stations by the evening (in exceptional cases by the dawn of the poll day).
10. Polling materials will be delivered by the zonal officers to the respective polling teams on the poll eve at the polling stations directly. Assigned Police Force for the polling stations shall also report at the polling stations by the poll eve.
11. Zonal officers should give last minute refresher training to the polling teams in the polling premises while delivering the poll materials on poll eve.
12. District executive force (local police personnel) too shall be randomized in a manner similar to the polling personnel. Therefore the database of police personnel to be used for election works in each district should be computerized like the polling personnel before 10th February 2011.
13. Retired police officials and ex-army officers shall not be deployed for elections.
14. Officers indicted by election Commission or facing criminal charges shall not be deployed for election works. Officers who were merely transferred by the

ECI without any indictment or specific order to not to deploy them for election work in future are not to be included in this category.

15. All officers who have completed (or would complete) 3 years within a district by 31st March 2011 or officers who are native of the district where they are posted, shall be transferred out. For district based cadres, the suffling should be between the sub-district units.
16. Posting profile of last 5 years of all officers who have recently been transferred to key election positions (since 1st December 2010) shall be prepared by each DEO. DEO will send the report on such transfers and their posting profiles every month to the DEC in-charge of the state in the ECI.
17. Each polling booth shall normally have a minimum of one police constable and a home-guard in uniform. If there is shortage of officers then, NCC should be drafted. If there is still a shortage then only one uniformed personnel, whether police constable or a home-guard, can be deployed.
18. Each zonal route comprising on an average 10 polling station shall be covered by a zonal police mobile with a zonal officer. In other words, as many zonal routes so many zonal police mobile and zonal officers shall be deployed.
19. Zonal officers and the Presiding Officers shall be accountable for any violation of ECI instructions in the conduct of polls inside the polling stations.
20. A communication contact person shall be placed outside each polling location on poll day to communicate with election managers on poll proceedings on a need basis. Alternatively, Presiding Officers may be provided with only outgoing SIMs (still better if SMS only for SMS based poll monitoring system)

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21. For expenditure monitoring, Expenditure Monitoring Teams for each AC shall be set up from the personnel available locally within the district and trained. Expenditure micro-observers of the rank of ITO or its equivalent in revenue departments or accounts branch of PSUs, deployed for each AC, shall head this team. The team will maintain Shadow Observation Register with folder of evidence regarding expenditure made by each candidate.. They will assist the expenditure observer in inspection of accounts submitted by candidates and assist DEOs in preparation of DEO's report on expenditure for each candidate.
22. Media Monitoring team for each district (not AC) should also be set up and their orientation completed. Media Monitoring Team will check and report MCC violations and also monitor and report expenditure by candidates on print as well as electronic media of the district. MCC violations shall be reported to MCC team and Expenditure issues will be reported to Expenditure Monitoring teams of the ACs.
23. Similarly, separate Video Surveillance Teams and Video Viewing Teams should be identified for each AC.
24. For each district, a control room and complaint center will be made operational from the date of announcement of elections to receive complaints of all kinds related to elections and to entrust the competent agency for immediate and swift redressal. This team shall be properly oriented to work round the clock.
25. A toll free number with multiple lines and hunting facility shall be set up to work 24X7 at district control room. Complaints received shall be recorded and

passed to the officers concerned for investigation and report within 24 hours with copy to Observers and DEO.

26. For every police station, one expenditure surveillance team and a flying squad to immediately respond to the complaints shall be formed.
27. A separate bank account for election expenditure in any bank including cooperative bank or post offices shall be opened in candidate's name or in joint name with election agent.
28. Liquor production, stocking and movement shall be monitored at the state and district level.
29. Colour coding of forms and envelopes shall be done to ensure enclosure of right forms/reports into the right envelopes.
30. BU or CU replacement shall be in pairs i.e. even if only BU needs to be replaced, the CU too shall be replaced alongwith. In such replacement cases, Mock Poll should be of shorter duration and mock-votes per candidate could be reduced. It must be demonstrated to all that the CU is clear and no votes or data is lying there before the poll is taken on the newly replaced EVM.
31. MCC reference cases shall be sent for views of the Commission through the CEO for resolution. The state government departments will not refer them directly to the CEO. The reference cases must be routed by the departments through the Chief Secretary of the state.
32. Once elections are announced, the CEO shall daily, send three reports to each election commissioner separately

- a. Law & Order Report in LOR I & II
- b. Press cuttings from local newspapers (both English & Vernacular)
- c. MCC violation complaints and action taken report

Additional Parameters for Puducherry Elections 2011

1. Unlike TN, in Puducherry the polling teams will carry the materials with them, the zonal officers and force will drop them to polling stations on poll-eve.
2. Yanam, Mahe, Karaikal and Pudducherry shall be treated as district equivalents for ECI instructions
3. Yanam and Mahe shall have no randomization except the 3rd and final one.

Yours faithfully


(TAPAS KUMAR)
PRINCIPAL SECRETARY

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001

491/SVEEP/2011 (NVD)

Dated: 1st November, 2011

To,

The Chief Electoral Officer of all the States & UTs

Sub:- National Voters' Day (25th January) – 2012.

Sir/Madam,

In continuation of Commission's letter No. 491/IEC/2010(NRV) dated 26th August, 2010 (*copy enclosed*) addressed to all CEOs, I am directed to state that in the process of achieving the Commission's objective for maximization of enrolment of voters, especially of the newly eligible ones, by using the occasion of National Voters' Day to make universal adult suffrage a complete reality and thereby enhance the quality of Indian democracy, the Commission after taking note of the recommendations of the Committee of CEOs set up this regard, has decided that following SVEEP activities should be undertaken relating to National Voters' Day, 2012:

A. BASIC ACTIVITIES:

1. The Booth Level Officers (BLOs) in each polling station area shall felicitate the newly registered voters on 25th January every year in a brief ceremony/ public function to be arranged by DEO/ ERO. As prescribed by the Commission, a badge with its logo with the slogan "**Proud to be a voter - Ready to vote**" shall also be provided by the BLOs to the new electors during the felicitation ceremony **along with their EPIC**. The DEOs would arrange for the venue and logistics required for the brief ceremony/ public function, in each polling station area.
2. The AEROs and EROs of the constituency shall participate in the ceremony/ public function of those Part(s) under their jurisdiction where largest number of newly registered electors would be felicitated.
3. The DEO shall organize appropriate events at the District headquarters, in association with Panchayat organizations, academic institutions, civil society groups, organizations of youth volunteers like NSS, NCC, Scouts & Guides,



NYKS, media etc. to popularize electoral participation and advance voters' education. In this event, EPIC shall be distributed among new voters of the local polling station areas.

4. The CEO of the State/UT concerned would organize events in the State capital in association with Media, Civil Society, Opinion Groups, Youth Volunteer Groups, State Administration, State Election Commission etc. in order to popularize electoral participation and disseminate information about electoral processes. In this event also, EPIC shall be distributed among new voters of the local polling station area.
5. Deployment of dedicated staff at Block, Sub-division and District levels may be done to effectively undertake NVD related activities.
6. BLOs may be trained about their role for NVD activities by the EROs/AEROs, well in advance.
7. ECI will organize a suitable event in the country's capital to highlight the values of electoral democracy and the issues relating to popular participation in elections, besides also doing symbolic handover of EPICs.

B. CONCURRENT ACTIVITIES

Enhancement of Youth Participation

- "Young Voter's Festival" through competitions in all Higher Secondary schools and Higher Educational Institutions, *i.e.* Colleges and Universities to be organized by DEO/ERO to serve as a build-up to NVD-2012. Attractive prizes may be given to the winner of the competitions at District and State levels. Some more details have been spelt out in the YUVA (Youth United for Voter Awareness) strategy document, already provided to the CEOs.
- Online interaction to be made with netizens in the form of quizzes, did-you-know, photography competition, general knowledge downloads for competitive exams related to elections, etc.

- The District and State level winning entries to be showcased on CEOs websites.

C. Enhancement of Women's Participation – One of the priorities of NVD - 2012 shall be to reduce the gender gap in registration, wherever it exists, in particular among young women of 18+ years.

- NVD- 2012 should focus on Women Registration.
- For maximization of women registration, women-specific SVEEP campaign may be developed by CEOs.
- Awareness of women is to be created through cultural programmes.
- Sensitization of the BLOs towards women may be taken up during training.
- Grass-roots women groups are to be engaged for capacity building.
- Engagement of women icons may be done for promotional messages.

D. ENVIRONMENT BUILDING

(a) Engagement of various forms of media-print, audio-visual, outdoor advertisement, Song & Drama, troupes etc. may be done for environment building.

(b) Dissemination of NVD Theme:

- 3-minute documentary film showcasing **theme of National Voters' Day** is to be made in vernacular language for dissemination in cinema halls.
- Propagation of NVD theme may be done through schemes and programs run by various Central Government Ministries and their field units.

(c) Dissemination of NVD Pledge

- Pledge of NVD should be explained to School/ College students and should be disseminated by using all communication methods.

E. PARTNERSHIPS WITH ORGANIZATIONS LIKE ALL INDIA RADIO (AIR), DOORDARSHAN (DD), PRIVATE MEDIA, NYKS, NSS, NCC, BHARAT SCOUTS AND GUIDES & EDUCATIONAL INSTITUTIONS.

- NVD may be celebrated in all Schools and Colleges through issue of necessary circulars.
- Doordarshan (DD), All India Radio (AIR) to be engaged for wide publicity of NVD.
- Railways to be made partner for National Voters' Day publicity.
- Civil Society and PSUs to be made partner.
- Youth clubs to be promoted.
- Appeals/ messages to be made by local youth icons.
- Bulk SMSs/ E-mails to be made for extensive and omnipresent messaging.
- Engagement with non-media units like Song and Drama Division, DFP at the national level and similar regional units at the State/UT level.
- All print media should be encouraged to propagate the concept and celebrations of National Voters' Day on voluntary and free-of-cost basis.
- Media should be motivated to put their heart into this effort without functioning as a client agency of the ECI.

F. BRAND BUILDING & PROMOTION

- The promos of national icons have already been prepared by ECI and circulated to all. Promotions involving regional icons which have already been prepared by the CEOs and finalized for summary revision may be extensively used for NVD also, besides preparing special promos for NVD, as done during NVD 2011.
- Commission is engaged in developing certain brand-building guidelines engaging social-marketing techniques in relation to NVD-2012, and these will be given out to CEOs as and when available.

- A Tableau representing National Voters' Day may be presented in the State level Republic Day Parade on 26.01.2012.

Based on the above guidelines, you are requested to submit a comprehensive SVEEP plan and implementation strategy for National Voters' Day Celebrations, 2012 in your State/UT, to the Commission latest by **10th November, 2011** positively. Commission attaches highest priority to NVD-2012 and shall review compliance every fortnight.

Yours faithfully,

Sd/-
(Yashvir Singh)
Director

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi – 110 001

491/IEC/2010(NRV)

Dated: 26th August, 2010

To

The Chief Electoral Officers of all States & UTs

Sub:- Declaration of 25th January as the National Voters' Day – regarding.

Sir/ Madam,

As a measure to enhance participation of citizens in the democratic electoral process, the Commission has decided to celebrate 25th January, its Foundation Day, as the National Voters Day every year, starting from 25th January 2011, the concluding day of the Diamond Jubilee Celebrations of ECI. The Commission's objective is to increase enrolment of voters, by using this occasion so as to make universal adult franchise a complete reality and thereby enhance the quality of Indian democracy. The day will also be utilized to spread awareness among voters regarding effective participation in the electoral process.

In this regard, the Commission has directed that newly registered voters in each polling booth in the latest revision should be felicitated on 25th January every year in a brief ceremony. This is expected to inculcate in the new voters a commitment to democratic electoral process and should lead to greater participation. This will also serve as a reminder to all other eligible electors in the polling booth area towards their responsibility to participate in the electoral process.

The following will be the scheme of activities on the National Voters Day which shall be ensured by the DEOs, under the overall supervision of the CEO:

1. The Booth Level Officers (BLOs) in each polling station area shall felicitate the newly registered voters on 25th January every year in a brief ceremony/ public function to be arranged by DEO/ ERO. The ECI will prescribe the design and colour scheme of a badge with its logo with the slogan "**Proud to be a voter - Ready to vote**" which shall also be provided by the BLOs to the new electors during the felicitation ceremony **along**

with their EPIC. The DEOs would arrange for the venue and logistics required for the brief ceremony/ public function, in each polling station area.

2. The AEROs and EROs of the constituency shall participate in the ceremony/ public function of those Part(s) under their jurisdiction where largest number of newly registered electors would be felicitated.

3. The DEO shall organize appropriate events at the District headquarters, in association with Panchayat organisations, academic institutions, civil society groups, media etc. to popularise electoral participation and advance voters' education. In this event, EPIC shall be distributed among new voters of the local polling station areas.

4. The CEO of the State/UT concerned would organize events in the State capital in association with Media, Civil Society, Opinion Groups, State Administration, State Election Commission etc. in order to popularise electoral participation and disseminate information about electoral processes. In this event also, EPIC shall be distributed among new voters of the local polling station area.

5. ECI will organise a suitable event in the country's capital to highlight the values of electoral democracy and the issues relating to popular participation in elections.

Expenditure relating to the distribution of badges and holding of function at various levels will be borne by the respective State/UT Governments/ Administration.

Report of compliance along with details of events held and photographs/ videos may be sent to the Commission by the 15th of February every year.

Thanking you,

Yours faithfully,
Sd/-
(Tapas Kumar)
Principal Secretary

ELECTION COMMISSION OF INDIA**Nirvachan Sadan, Ashoka Road, New Delhi-110001**

F.NO. 4/2012-SDR

Dated:- 17th September, 2012

To,

The Chief Electoral Officers of
all States/ Union TerritoriesSub: Clarification on initiating action against a person violating election laws-
regarding.

Sir/ Madam,

There are provisions in the RP Act 1950, RP Act 1951 and Indian Penal Code etc. dealing with offences in regard to making false declaration in connection with inclusion or exclusion of any entry in or from an electoral roll for electoral offences in connection with elections and for breach of official duty by officers/ persons involved in connection with preparation of electoral rolls and for conduct of elections. Any violation of these provisions is punishable under the relevant legal provisions. For this the election authorities (EROs, ROs, and DEOs etc.) have to initiate action against the persons found guilty of such offences by filing complaints before the competent Court in the case of non-cognizable offence, and by getting FIR registered in the case of a cognizable offence.

It has come to the notice of the Commission that due to inordinate delay in initiating action by the election authorities for violation of election laws, the competent Courts sometimes refuse to entertain the criminal proceedings when filed after the period of limitation prescribed under section 468 read with section 469 of the CrPC. (extract enclosed)

In some cases, referring such cases to other authorities for advice has led to delay in initiating action. In order to avoid such procedural delays, the Commission hereby directs all election authorities that whenever they consider the necessity, or



are directed by the Commission, to initiate any criminal proceedings in any matter, the election authority concerned should directly move the competent court, in the case of non-cognizable offences and the concerned police authorities in case of cognizable offences without approaching/ moving through the Directorate of Prosecution or any other such authority.

The above direction of the Commission shall be brought to the notice of all election authorities for their information and necessary action, whenever required.

Kindly acknowledge receipt.

Yours faithfully,

(Ashish Chakraborty)
Secretary

Extracts from Code of Criminal Procedure, 1973

CHAPTER XXXVI : LIMITATION FOR TAKING COGNIZANCE OF CERTAIN OFFENCES

467. Definitions:-For the purposes of this chapter unless the context otherwise requires, "period of limitation" means the period specified in Section 468 for taking cognizance of an offence.

468. Bar to taking cognizance after lapse of the period of limitation:-(1)Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be :-

- (a) six months, if the offence is punishable with fine only;
- (b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;
- (c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.

469. Commencement of the period of limitation:- (1)The period of limitation, in relation to an offender, shall commence -

- (a) on the date of the offence; or
- (b) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which offence comes to the knowledge of such person or to any police officer, whichever is earlier; or
- (c) where it is not known by whom the offence committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier

(2) In computing the said period, the day from which such period is to be computed shall be excluded.

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ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 464/INST/2013-EPS

Dated:- 3rd April, 2013

To

The Chief Electoral Officers of
All States and UTs.

Subject: Judgment dated 11.1.2005 of the Hon'ble Supreme Court in Civil Appeal No. 9228 of 2003 (Janak Singh Vs. Ram Das Rai and ors.) - Proper Utilization of Election Funds by the State Governments – Regarding.

Sir/Madam,

I am directed to invite your attention to the Commission's earlier letter No. 464/INST/2008/EPS, dated 21st January, 2009 (copy enclosed) on the subject cited and to state that it is understood that in some of the States, vehicles have been purchased from election fund and allocated to District Election Offices for use in connection with the preparation/revision of electoral rolls and conduct of elections so that those Offices may perform their functions efficiently in connection with the above matters. It is, however, understood that in some of those States, the vehicles so purchased for use by the District Election Offices have been allocated, only on paper, to the District Election Offices and these vehicles are in fact being used by some other departments/officers in the districts for their own purposes. It is further understood that even the expenses on maintenance/repairs of these vehicles are also being met from out of the election funds provided for the districts.

2. Such misuse of vehicles by the other departments/officers is not only irregular but also affecting adversely the smooth functioning of the District Election Authorities and hampering their proper supervision over BLOs/Supervisors, etc. Further, it is not only a violation of the Hon'ble Supreme Court's above observation but also highly objectionable from the audit point of view.

3. You are, therefore, requested to adhere to the abovementioned instructions in your State and direct the all District Election Offices that vehicles, etc., should be used by the elections offices and not by other departments/offices.

Yours faithfully,


(SUMIT MUKHERJEE)
SECRETARY

INSTRUCTION SI. No. 25

Election Commission's letter No. 464/INST/2008/EPD Dated: 21st January, 2009 addressed to the Chief Electoral Officers of all States and Union Territories

Subject: January 11, 2005 of the Hon'ble Supreme Court in Civil Appeal No.9228 of 2003 - (Janak Singh Vs. Ram Das Rai and others) - reg.

I am directed to say that the Hon'ble Supreme Court in its Judgement cited above has given certain suggestions/directions in the matter of conduct of free and fair election.

The Commission has considered the matter and has directed that the following measures shall be taken at the current general election in your State:-

1. CPF personnel to keep a watch on the proceedings in the polling stations

In the polling stations where CPF personnel have been deployed, one of the CPF personnel shall be stationed at the entrance of the polling station in such a manner that he can have an unrestricted view of the polling procedure in the polling station.

2. Videography at the polling station

The Commission has already issued instructions for videography of critical events of the election process and also at hypersensitive and sensitive polling stations to the extent possible. However, videography of proceedings inside the polling stations was not permitted as per the earlier instructions. In deference to the suggestion of the Hon'ble Supreme Court, the Commission directs that videography of the poll proceedings may be carried out inside the polling stations also. However, considering the practical difficulties in covering all polling stations, the Commission has decided that such videography may be done in only those polling stations where the observer considers it necessary. However, proper care shall be taken to ensure that while doing the videography, the same does not violate the secrecy of vote. No photography/videography shall, however, be allowed by the media persons or by any other unauthorized persons inside the polling station, to maintain general order and secrecy of vote. The videography of all other critical events of electoral process shall continue to be done.

3. **Utilization of Election Funds**

The Chief Electoral Officers should keep a strict and close watch over the election expenditure by their office and by the District Election Officers/Returning Officers and other authorities concerned, to ensure that election funds are not utilized for purposes other than for the conduct of elections.

4. **Conduct of Observers**

The Commission has already instructed the Observers at the time of briefing, not to accept lavish hospitality offered by the State Administration. The Hon'ble Supreme Court has now also directed that the Observers should not accept undue hospitality of the State. This may be brought to the notice of all authorities concerned and all Observers in the State for strict compliance.

Kindly acknowledge receipt and intimate action being taken.

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ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 464/INST/2013-EPS

Dated: 2nd May, 2013

To

All Recognized Political Parties.

Subject: Engagement of Child Labour in the election related activities – regarding.

Sir/Madam,

I am directed to invite your attention to the Child Labour (Prohibition and Regulation) Act, 1986 which, inter-alia, bans the employment of children below 14 years of age in specified occupations such as transport of goods, etc., which are considered unsafe and harmful to child workers and regulates the conditions of work of children in employment. It also lays down penalties for employment of children in violation of the provisions of this Act, other Acts which forbid the employment of children. The Act extends to the whole of India. The above-mentioned Act applies to all establishments and workshops wherein any industrial process is carried on (excluding one covered under Section 67 of the Factories Act, 1948).

2. The Commission has taken strong exception to use of children in various election related activities. It is highly objectionable. In order to ensure that no such insensitivity is shown by any political parties anywhere in the country, the Commission has directed that such violation of children's right for any work connected with the election process, like, campaigning, carrying of campaigning material, etc., will, in no way, be accepted by the Commission. It is the responsibility of the leaders of the political parties to ensure that there is no violation of these instructions. Necessary action, apart from facing the consequences of law, if any, will be taken by the Commission against erring political parties.

Yours faithfully,


(SUMIT MUKHERJEE)
SECRETARY

Copy to: The CEOs and the Chief Secretaries of all States/UTs.