



## FAQs related to security money deposited by Candidates

Queries regarding Handbook for Returning Officer, 2019

Q.1. If a person (Prospective candidate) deposit security money but finally does not file any nomination paper. In such a case, whether the security deposit shall be refunded or not?

Ans. Section-158 of RP Act, 51 refers to only return/forfeiture of deposit of a candidate. A 'candidate' would be a person who files nomination paper. If someone makes a deposit in the Treasury but does not file nomination at all, the Returning Officer would not be responsible to get the deposit returned to that person. It would be for the person concerned to take appropriate steps to get his money back.

Q.2. As per Para 17.4.1 (page 295 of HBRO), it is stipulated that "Note that if a candidate was a contesting candidate at a general election to the House of the People or State Legislative Assembly in more than one Parliamentary or Assembly Constituency, he cannot get a return of more than one deposit made by him or on his behalf. Other deposits made by him or on his behalf will be forfeited to Government." The question arises if the said candidate has lost the elections from both the places but has secured more than the 1/6<sup>th</sup> of the total valid votes polled, in that case, which RO shall return the Security Deposit. This point may be clarified in the same paragraph.

Ans. The candidate has to make an application for refund of the deposit. The Commission has prescribed the format for such application which may be seen at Annexures 41 to 43. In the format for such application, the candidate has to state whether he/she file nomination from any other constituency and if so, he/she has to declare that no application for refund of security has been made in respect of the other constituencies.

Q.3. A doubt has arisen that a candidate, who actually belongs to SC or ST category files his nomination papers without mentioning the fact of him/her being ST or SC, as the case may be and also deposits full security deposit as applicable to General Candidate. In such a situation what will be the Caste Status of the Candidate. To bring in more clarity, it is submitted that his father is from SC

JL  
DE's & RO's

all DEOS PK.  
all ROs PKMY  
cc to LI call  
for perkin  
CED's web.

and his (Candidate's) case status too is well known to be SC. But the candidate has either failed to mention or purposefully not stated in his nominations. What should be the status of the candidate. Such queries had come during the recently concluded GE 2019. Hence this point may be considered for clarification.

Ans. The caste status becomes relevant for two purposes – one to contest from a reserved constituency and the other for concession in security deposit. In the former case, the law requires the candidate to make a declaration about his scheduled caste status in the relevant column in the nomination paper. If a candidate does not make this declaration in respect of a reserved constituency, the nomination paper will not be a valid one and will have to be rejected even if the candidate is known to belong to reserved category. In the case of a general constituency, if the candidate (who may belong to SC category) does not want to claim concession in security deposit, the caste status is not relevant.

Q.4. Another situation is when a Candidate has been declared winner at an election. Subsequently, his/her Security Deposit has been returned by the RO as per Law. However, subsequently, if the said winning candidate is disqualified either by the Election Commission of India due to any violation under the Law or his election is set aside in an Election Petition by the appropriate Court of Law, in such a case what is the procedure for forfeiture. Since the Security Deposit has already be returned, the possibility of any forfeiture is not possible. This may kindly be clarified in the Handbook of RO for guidance of ROs.

Ans. When the election of a candidate is set aside in an election petition, there is specific provision that acts and proceedings in which the candidate participated as member of the House shall not be invalidated. In the background of such a provision, there would be no question of recovering the security deposit already returned to the candidate.