



# Compendium of Instructions On Model Code of Conduct 2024



**Election Commission of India**

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



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## **MODEL CODE OF CONDUCT FOR THE GUIDANCE OF POLITICAL PARTIES AND CANDIDATES**

### **I. General Conduct**

- (1) No party or candidate shall indulge in any activity which may aggravate existing differences or create mutual hatred or cause tension between different castes and communities, religious or linguistic.
- (2) Criticism of other political parties, when made, shall be confined to their policies and programme, past record and work. Parties and Candidates shall refrain from criticism of all aspects of private life, not connected with the public activities of the leaders or workers of other parties. Criticism of other parties or their workers based on unverified allegations or distortion shall be avoided.
- (3) There shall be no appeal to caste or communal feelings for securing votes. Mosques, Churches, Temples or other places of worship shall not be used as forum for election propaganda.
- (4) All parties and candidates shall avoid scrupulously all activities which are “corrupt practices” and offences under the election law, such as bribing of voters, intimidation of voters, impersonation of voters, canvassing within 100 meters of polling stations, holding public meetings during the period of 48 hours ending with the hour fixed for the close of the poll, and the transport and conveyance of voters to and from polling station.
- (5) The right of every individual for peaceful and undisturbed home-life shall be respected, however much the political parties or candidates may resent his political opinions or activities. Organising demonstrations or picketing before the houses of individuals by way of protesting against their opinions or activities shall not be resorted to under any circumstances.
- (6) No political party or candidate shall permit its or his followers to make use of any individual’s land, building, compound wall etc., without his permission for erecting flag-staffs, suspending banners, pasting notices, writing slogans etc.
- (7) Political parties and candidates shall ensure that their supporters do not create obstructions in or break up meetings and processions organised by other parties. Workers or sympathisers of one political party shall not create disturbances at public meetings organised by another political party by putting questions orally or in writing or by distributing leaflets of their own party. Processions shall not be taken out by one party along places at which meetings are held by another party. Posters issued by one party shall not be removed by workers of another party.

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## II. Meetings.

- (1) The party or candidate shall inform the local police authorities of the venue and time of any proposed meeting well in time so as to enable the police to make necessary arrangements for controlling traffic and maintaining peace and order.
- (2) A Party or candidate shall ascertain in advance if there is any restrictive or prohibitory order in force in the place proposed for the meeting; if such orders exist, they shall be followed strictly. If any exemption is required from such orders, it shall be applied for and obtained well in time.
- (3) If permission or license is to be obtained for the use of loudspeakers or any other facility in connection with any proposed meeting, the party or candidate shall apply to the authority concerned well in advance and obtain such permission or license.
- (4) Organisers of a meeting shall invariably seek the assistance of the police on duty for dealing with persons disturbing a meeting or otherwise attempting to create disorder. Organisers themselves shall not take action against such persons.

## III. Procession

- (1) A Party or candidate organizing a procession shall decide before hand the time and place of the starting of the procession, the route to be followed and the time and place at which the procession will terminate. There shall ordinarily be no deviation from the programme.
- (2) The organisers shall give advance intimation to the local police authorities of the programme so as to enable the latter to make necessary arrangement.
- (3) The organisers shall ascertain if any restrictive orders are in force in the localities through which the procession has to pass, and shall comply with the restrictions unless exempted specially by the competent authority. Any traffic regulations or restrictions shall also be carefully adhered to.
- (4) The organisers shall take steps in advance to arrange for passage of the procession so that there is no block or hindrance to traffic. If the procession is very long, it shall be organised in segments of suitable lengths, so that at convenient intervals, especially at points where the procession has to pass road junctions, the passage of held up traffic could be allowed by stages thus avoiding heavy traffic congestion.
- (5) Processions shall be so regulated as to keep as much to the right of the road as possible and the direction and advice of the police on duty shall be strictly complied with.
- (6) If two or more political parties or candidates propose to take processions over the same route or parts thereof at about the same time, the organisers shall establish contact well in advance and decide upon the measures to be taken to see that the processions do not clash or cause hindrance to traffic. The assistance of the local police shall be availed of for arriving at a satisfactory arrangement. For this purpose the parties shall contact the police at the earliest opportunity.
- (7) The political parties or candidates shall exercise control to the maximum extent possible in the matter of processionists carrying articles which may be put to misuse

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by undesirable elements especially in moments of excitement.

- (8) The carrying of effigies purporting to represent member of other political parties or their leaders, burning such effigies in public and such other forms of demonstration shall not be countenanced by any political party or candidate.

#### **IV. Polling Day**

All Political parties and candidates shall –

- (i) co-operate with the officers on election duty to ensure peaceful and orderly polling and complete freedom to the voters to exercise their franchise without being subjected to any annoyance or obstruction.
- (ii) supply to their authorized workers suitable badges or identity cards.
- (iii) agree that the identity slip supplied by them to voters shall be on plain (white) paper and shall not contain any symbol, name of the candidate or the name of the party;
- (iv) refrain from serving or distributing liquor on polling day and during the forty eight hours preceding it.
- (v) not allow unnecessary crowd to be collected near the camps set up by the political parties and candidates near the polling booths so as to avoid confrontation and tension among workers and sympathizers of the parties and the candidate.
- (vi) ensure that the candidate's camps shall be simple. They shall not display any posters, flags, symbols or any other propaganda material. No eatable shall be served or crowd allowed at the camps and
- (vii) co-operate with the authorities in complying with the restrictions to be imposed on the plying of vehicles on the polling day and obtain permits for them which should be displayed prominently on those vehicles.

#### **V. Polling Booth**

Excepting the voters, no one without a valid pass from the Election Commission shall enter the polling booths.

#### **VI. Observers**

The Election Commission is appointing Observers. If the candidates or their agents have any specific complaint or problem regarding the conduct of elections they may bring the same to the notice of the Observer.

#### **VII. Party in Power**

The party in power whether at the Centre or in the State or States 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 –

- (i) (a) The Ministers shall not combine their official visit with electioneering work and shall not also make use of official machinery or personnel during the electioneering work.
- (b) Government transport including official air-crafts, vehicles, machinery and

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personnel shall not be used for furtherance of the interest of the party in power;

- (ii) Public places such as maidans etc., for holding election meetings, and use of helipads for air-flights in connection with elections shall not be monopolized by itself. Other parties and candidates shall be allowed the use of such places and facilities on the same terms and conditions on which they are used by the 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;
- (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.
- (v) Ministers and other authorities shall not sanction grants/payments out of discretionary funds from the time elections are announced by the Commission; and
- (vi) From the time elections are announced by Commission, Ministers and other authorities shall not –
  - (a) announce any financial grants in any form or promises thereof; or
  - (b) (except civil servants) lay foundation stones etc. of projects or schemes of any kind; or
  - (c) make any promise of construction of roads, provision of drinking water facilities etc.; or
  - (d) make any ad-hoc appointments in Government, Public Undertakings etc. which may have the effect of influencing the voters in favor of the party in power.

**Note :** The Commission shall announce the date of any election which shall be a date ordinarily not more than three weeks prior to the date on which the notification is likely to be issued in respect of such elections.

- (vii) Ministers of Central or State Government shall not enter any polling station or place of counting except in their capacity as a candidate or voter or authorized agent.

### **VIII. Guidelines on Election Manifesto**

1. The Supreme Court in its judgment dated 5th July 2013 in SLP(C) No. 21455 of 2008 (S. Subramanian Balaji Vs Govt. of Tamil Nadu and others) has directed the Election Commission to frame guidelines with regard to the contents of election manifesto in consultation with all the recognized political parties. The guiding principles which will lead to framing of such guidelines are quoted below from judgment:-

“Although, the law is obvious that the promises in the election manifesto cannot be construed as ‘corrupt practice’ under Section 123 of RP Act, the reality cannot be

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ruled out that distribution of freebies on any kind, undoubtedly, influences all people. It shakes the root of free and fair elections to a large degree”.

“The Election Commission, in order to ensure level playing field between the contesting parties and candidates in elections and also in order to see that the purity of the election process does not get vitiated, has in past been issuing instructions under the Model Code of Conduct. 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.”

“We are mindful of the fact that generally political parties release their election manifesto before the announcement of election date, in that scenario, strictly speaking, the Election Commission will not have the authority to regulate any act which is done before the announcement of the date. Nevertheless, an exception can be made in this regard as the purpose of election manifesto is directly associated with the election process”.

2. Upon receiving the above direction of the Hon’ble Supreme Court, the Election Commission held a meeting with the recognized National and State Political Parties for consultation with them in the matter and took note of their conflicting views in the matter. During consultations, while some political parties supported the issuance of such guidelines, others were of the view that it is their right and duty towards voters to make such offers and promises in manifesto in a healthy democratic polity. While the Commission agrees in principle with the point of view that framing of manifestos is the right of the political parties, it cannot overlook the undesirable impact of some of the promises and offers on the conduct of free and fair elections and maintaining level playing field for all political parties and candidates.
3. The Constitution under Article 324 mandates the Election Commission, to conduct elections inter alia to the Parliament and the State Legislatures. Having due regard to the above direction of the Supreme Court and after consultation with the Political Parties, the Commission, in the interest of free and fair elections, hereby directs that Political Parties and Candidates while releasing election manifesto for any election to the Parliament or State Legislatures, shall adhere to the following guidelines :-
  - (i) The election manifesto shall not contain anything repugnant to the ideals and principles enshrined in the Constitution and further that it shall be consistent with the letter and spirit of other provisions of Model Code of Conduct.
  - (ii) The Directive Principles of State Policy enshrined in the Constitution enjoin upon the State to frame various welfare measures for the citizens and therefore there can be no objection to the promise of such welfare in election manifesto. However, political parties should avoid making those promises which are likely to vitiate the purity of the election process or exert undue influence on the voters in exercising their franchise.
  - (iii) In the interest of transparency, level playing field and credibility of promises,

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it is expected that manifesto also reflect the rationale for the promises and broadly indicate the ways and means to meet the financial requirement for it. Trust of voters should be sought only on those promises which are possible to be fulfilled.

4. Prohibitory period of Release of Manifesto during elections(s)

- (i)** In case of single phase election, manifesto shall not be released during the prohibitory period, as prescribed under Section 126 of the Representation of the People Act, 1951.
- (ii)** In case of multi-phase elections, manifesto shall not be released during the prohibitory periods, as prescribed under Section 126 of the Representation of the People Act, 1951, of all the phases of those elections.”

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## A. ENFORCEMENT OF MODEL CODE OF CONDUCT

### INSTRUCTION Sl. No. 1

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 taking 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 decade 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.

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## **INSTRUCTION SI. No. 2**

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

**Sub: 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.

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### INSTRUCTION SI. No. 3

ECI letter No. 437/6/2009/CC&BE, dated 25.03.2009 addressed to the Chief Electoral Officers of all States and Union Territories.

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

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 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 in the conduct of elections, making the Commission practically involved 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 Commissions, 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.

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## **INSTRUCTION SI. No. 4**

ECI letter No. 437/6/CG/2014/CC&BE, dated 27.03.2014 addressed to the Secretary to the Government of India, Ministry of Defence.

**Subject: 1. Permission for routine procurement of 6400 MT edible oil amounting to Rs.65.77 crore for the troops for which tendering activity was held on 31<sup>st</sup> January, 2014.**

**2. Permission for routine procurement of the already approved quantities of scaled ration items for the troops for this year and for next year as approved the respective CFAs-reg.**

I am directed to refer to your D.Os. No. 1/ACDP/2013-PAO each dated 26<sup>th</sup> March, 2014, on the subject cited above, and to state that the Model Code of Conduct is not applicable to any matter pertaining directly to the defence forces, be it the recruitments/promotions for defence forces, all service matters pertaining to them, defence purchases of all kinds, tenders relating to the matter of the defence forces and consequently no reference need to be sent to the Commission pertaining to model code in these matters.

These instructions shall be treated as standing instructions of the Commission and will be applicable for all elections in future. This may be brought to the notice of all concerned for future guidance.

Accordingly, the two references cited are covered under these instructions and you may take action accordingly.

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## INSTRUCTION SI. No. 5

ECI letter No. 437/6/1/ECI/INST/FUNCT/MCC/2019 dated 10<sup>th</sup> March, 2019 addressed to the Cabinet Secretary, Govt. of India and the Chief Secretaries and Chief Electoral Officers of all States and UTs.

**Sub: Application of Model Code of Conduct – General Election to House of the People (Lok Sabha), 2019 and State Legislative Assemblies in the States of Andhra Pradesh, Arunachal Pradesh, Odisha and Sikkim and certain bye-elections - reg.**

I am directed to state that the Election Commission has announced the schedule for holding General Elections to Lok Sabha and to the Legislative Assemblies of the States of Andhra Pradesh, Arunachal Pradesh, Orissa and Sikkim and certain bye-elections (Press Note No. ECI/PN/23/2019, dated 10<sup>th</sup> March, 2019, available at Commission's web-site – [www.eci.gov.in](http://www.eci.gov.in)).

2. With this announcement, the provisions of the Model Code of Conduct for the guidance of the Political Parties and Candidates **have come into force with immediate effect and will be in force till the completion of the General Elections and bye-elections, mentioned above.** This may be brought to the notice of the Central and State Governments, all Ministries/Departments/offices of the Union Government and the State Government. A copy of instructions issued by you to this effect may be sent to the Commission for its information and record.
3. Your particular attention is drawn to the provisions of Model Code of Conduct for the guidance of Political Parties and Candidates and various instructions issued by the Commission, which, inter-alia, state that the party in power whether at the Centre or in the State or States 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:-
  - (i) (a) The Ministers shall not combine their official visit with electioneering work and shall not also make use of official machinery or personnel during the electioneering work;
  - (b) Government transport including official air-crafts, vehicles, machinery and personnel shall not be used for furtherance of the interest of the party in power;
  - (ii) Public places such as maidans etc. for holding election meetings, and use of helipads for air-flights in connection with elections shall not be monopolised by itself. Other parties and candidates shall be allowed the use of such places and facilities on the same terms and conditions on which they are used by the party in power;

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- (iii) Rest houses, dak bungalows or other Government accommodation 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 Governments or the Central 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. Such political functionaries shall not carry out any political activity while staying in the Government Guest Houses/Rest Houses or other Government accommodation etc.;
  - (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;
  - (v) Ministers and other authorities shall not sanction grants/payments out of discretionary funds from the time elections are announced by the Commission; and
  - (vi) From the time elections are announced by Commission, Ministers and other authorities shall not –
    - (a) announce any financial grants in any form or promises thereof; or
    - (b) (except civil servants) lay foundation stones etc. of projects or schemes of any kind; or
    - (c) make any promise of construction of roads, provision of drinking water facilities etc.; or
    - (d) make any ad-hoc appointments in Government, Public Undertakings etc. which may have the effect of influencing the voters in favour of the party in power.
4. As will be observed from Para 3{Clause IV} above, no advertisements shall be issued in electronic and print media highlighting the achievements of the Govt. at the cost of public exchequer. If any advertisement has already been released for telecast/broadcast or publication in the print media, it must be ensured that the telecast/broadcast of such ads on electronic media is stopped forthwith and that no such ad is published in any newspapers, magazines, etc., i.e. in print media, from today itself and it should be immediately withdrawn.

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5. The instruction of the Commission contained in its letter No.437/6/2009-CCBE dated 5<sup>th</sup> March, 2009 is available on the Commission's web-site "<http://eci.nic.in/> under the heading 'Election Laws and ECI - instructions' for your information and necessary action. The Commission's all other instructions are also available in this link for your guidance.
  6. The Commission further 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 Election;
    - 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;
    - v)** 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;
    - vi)** 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;
    - vii)** 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..
  7. The receipt of the letter may kindly be acknowledged.

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## INSTRUCTION SI. No. 6

Election Commission's letter No. 437/6/1/ECI/INST/FUNCT/MCC/2023, dated 29.03.2023, addressed to Cabinet Secretary, Chief Secretary and CEO of Karnataka

**Subject: Immediate action to be taken for enforcement of Model Code of Conduct after announcement of General Election to State Legislative Assembly of Karnataka, 2023-regarding.**

I am directed to state that the Election Commission has announced the schedule for holding General Election to State Legislative Assembly of Karnataka; operation of 'MODEL CODE OF CONDUCT' comes into effect with the announcement of elections by the Commission. In view of the General Elections, the Commission has given following directions for effective enforcement of provisions of MCC:-

1. **Defacement of Property-** ECI instructions contained in letters No. 437/6/ECI/INST/FUNCT/MCC/2022, dated 11<sup>th</sup> October, 2022, No. 437/6/INST/2015-CCS, dated 29<sup>th</sup> December, 2015, No. 437/6/INST/2012- CC&BE dated 18<sup>th</sup> January, 2012 and No. 3/7/2008 JS-II dated 7<sup>th</sup> October, 2008, and No. 437/6/ECI/INST/FUNCT/MCC/2022 dated 11<sup>th</sup> October, 2022 provide for prevention of defacement of property. The Commission has directed to ensure strict compliance of its instructions and to take time bound action as prescribed below-
  - (a) **Defacement of Government property-** For this purpose a Government premise would include any Government office and the campus wherein the office building is situated. All wall writing, posters/papers or defacement in any other form, cutout/hoardings, banners, flags etc, on Government property shall be removed **within 24 hours** from the announcement of elections
  - (b) **Defacement of public property and misuse of public space-** All unauthorized political advertisement, in the form of wall writing/posters/papers of defacement in any other form, cutout/hoardings, banners flags etc. at public property and in public space like railway station, Bus stands, Airports, railway Bridges, Roadways, Govt. Buses, Electric/Telephone poles , municipal/local bodies' buildings etc., shall be removed **within 48 hours** from the announcement of elections by the Commission.
  - (c) **Defacement of private property-** All unauthorized political advertisement displayed at private property and subject to local law and court's directions, if any, shall be removed **within 72 hours** from the announcement of elections by the Commission.
2. **Misuse of official vehicle-** The ECI's Consolidated instructions contained in letter No. 464/INST/2014/EPS, dated 10<sup>th</sup> April 2014, among other things, provides that **there shall be a total ban on use of official vehicle by any political party, candidate or any other person connected with election (except officials performing any election**

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**related official duty) for campaigning, electioneering or election related travel during elections (subject to certain exception mentioned therein).** The expression official vehicle means and shall include , any vehicle 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, e-rickshaws, buses, belonging to Central Government, State Government/UT Administrations, public undertakings of Central/State Government, Joint sector undertakings of Central/State Government, local bodies, municipal corporations, marketing boards, cooperative societies or any other body in which public funds , however small a portion of the total, are invested. **The CEOs/DEOs shall take necessary action for compliance of ECI instructions within 24 hrs of the announcement of the elections.**

3. **Advertisement at the cost of public exchequer-** ECI instructions contained in letters, No. 437/6/1/2014-CC&BE, dated 5<sup>th</sup> March, 2014 provides that 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. No advertisements shall be issued in electronic and print media highlighting the achievements of the Govt. at the cost of public exchequer. If any advertisement has already been released for telecast/broadcast or publication in the print media, it must be ensured that the telecast/broadcast of such ads on electronic media is stopped forthwith and that no such ad is published in any newspapers, magazines, etc., i.e. in print media, from the date of announcement and it should be immediately withdrawn. **The CEOs/DEOs has to take immediate action to remove/stop any advertisement, in the print/electronic media, showing the achievements of the Government soon after the announcement of elections.**
4. **Photograph of political functionary at official website-** ECI instruction contained in letter No.437/6/INST/2014-CC&BE dated 20<sup>th</sup> March, 2014 provides that all references of Ministers, Politicians or political parties available on central/state Government's official website, shall be removed. The CEOs have to take **immediate action** to remove/hide the photographs of any political functionary from official websites of state department.
5. **Development/construction related activities- within 72 hours** of announcement of elections, the CEO/DEO shall obtain the following list of works for reference in case of validating any complaint on violation of MCC:
  - (i) List of work which has already been started on ground.
  - (ii) List of fresh work which has not started on ground.
6. **Activities for Expenditure Monitoring and enforcement of MCC-** Flying squad, FST,

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video team, intensive checking for liquor/Cash/Contra banned drugs, flying squads of excise department to check illicit trafficking of Drug/Narcotics to be **immediately activated** after announcement.

7. **Complaint Monitoring System-** The poll going states shall have a complaint redressal mechanism based on website and call center. The toll free number of call center is 1950. Complaints can be registered by making calls to the toll free call center numbers or on the web site. Complainants will also be informed of the action taken by SMS and by the call center. Complainants can also see the details of the action taken on their complaints. This system should be **operational within 24 hours** of the announcement. All complaint should be dealt with promptly and properly. The 24x7 control Room at the district level must be activated and sufficient deployment of manpower and other logistics be ensured in particular, round the clock personnel should be deployed in the control room and their duty roster must be issued to avoid any evasion or confusion.
8. **IT Application-** All IT applications including official website and social media shall be **operational with the announcement**.
9. **Dissemination of information for Awareness of Voters and political parties.** Publicity of major election activity would be given through CEO/DEO/RO. For this purpose, all necessary information shall be disseminated through radio, TV, cinema. Government channel to display voter education material.
10. **Active cooperation from Educational Institution and Civil Societies-** Cooperation can be sought from educational institution and civil societies for giving wide publicity to the election related information to the general public and other stakeholders.
11. **Media Centre-** Effort should be made for awareness among the voters, political parties and other stakeholder through media center about election system including use of EVM/VVPAT.
12. **MCMC/DEMC-** ECI instruction contained in letter no. 491/MCMC/2014/Communication dated 24<sup>th</sup> March, 2014 provides that all registered political parties will approach the Media Certification and Monitoring Committees (MCMC) at District and State level, as the case may be, for pre-certification of their political advertisements proposed to be issued on electronic media. The Commission has directed to ensure strict compliance of its instructions contained in above said letter.
13. **Control Room-** The 24x7 control room at district level must be activated immediately and sufficient deployment of manpower and other logistics be ensured by the DEO/CEO. A control room with complaint Monitoring Centre would also be set up at ECI Secretariat during the entire election process.

Election Commission's letter No. 437/6/INST/2012-CC&BE dated 18<sup>th</sup> January, 2012 addressed to Cabinet Secretariat, the Chief Secretaries and the Chief Electoral Officers of all States and UTs.

**Subject- Prevention of defacement of Property and other campaign related items revised instructions - regarding.**

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. 24<sup>th</sup> December, 2011. The Commission has decided to reiterate its instructions issued vide its letter no. 3/7/2008/JS-II dated 7<sup>th</sup> 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."**

Election Commission's letter No.3/7/2008/JS-II dated 7<sup>th</sup> October, 2008 addressed to the Secretary to the Govt. of India, MHA, the 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 16<sup>th</sup> October, 2007, regarding prevention of defacement of property in connection with election campaign.

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

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- (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 poster, 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 candidate's 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.

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- (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 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 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).

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## DEFACEMENT OF VEHICLES

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

## OTHER CAMPAIGN RELATED ITEMS

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

## Defacement of Properties – Law

S I . 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.	Chhattisgarh	No separate law/Act framed by the State. But the Madhya Pradesh Sampatti VirupanNivaranAdhiniyam, 1994 is applicable in the state.	It extends to the entire State.
5.	Goa	<b>The Goa Prevention of Defacement of Property Act, 1988 as amended vide Act of 1992 and 2001.</b>	It extends to the entire State.
6.	Haryana	<b>The Haryana Prevention of Defacement of Property Act, 1989 as amended vide Act of 1996.</b>	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.	<b>Jharkhand</b>	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.

<b>10.</b>	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 05.05.81 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 Government may by notification appoint.
<b>11.</b>	Madhya Pradesh	The Madhya Pradesh Sampatti VirupanNivaranAdhiniyam, 1994.	It extends to the entire State.
<b>12.</b>	Maharashtra	Maharashtra Act No. VIII of 1995 – regarding prevention of Defacement of Property.	Nothing is specifically mentioned about the extent of applicability.
<b>13.</b>	Mizoram	<b>The Mizoram Prevention of Defacement of Property Act, 1995.</b>	It extends to the entire State.
<b>14.</b>	Nagaland	<b>The Nagaland Prevention of Defacement of Property Act, 1958.</b>	It extends to the notified areas constituted under the Assam Tribal Areas (Administration of Tow Committee) regulation 1950, in any other local area or areas, on such date, as the State Govt. may by notification may appoint.
<b>15.</b>	Punjab	<b>The Punjab Prevention of Defacement of Property Act, 1998.</b>	It extends to the entire State.
<b>16.</b>	Sikkim	<b>The Sikkim Prevention of Defacement of Property Act, 1988.</b>	It extends to the entire State.
<b>17.</b>	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	<b>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.</b>	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	<b>The Uttaranchal Prevention of Defacement of Public Property Act, 2003</b>	It extends to the entire State.
20.	Andaman & Nicobar	<b>The Andaman &amp; Nicobar Islands Prevention of Defacement of Property Regulation, 1987.</b>	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.	<b>Delhi</b>	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.

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8.	Uttar Pradesh	No law/Act
9.	West Bengal	<b>There earlier West Bengal Prevention of Defacement of Property Act, 1976, (West Bengal Act XXI of 1976). This Act has since been repealed.</b>
10.	Dadra & N. Haveli	No law/Act
11.	Daman and Diu	No law/Act
12.	Lakshadweep	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

Election Commission's letter No. 464/INST/2014/EPS dated: 10<sup>th</sup> April, 2014 addressed to the Chief Electoral Officers of all States/Union Territories.

**Sub: General Election to the Lok Sabha, 2014 - Consolidated Instructions on use of vehicles during elections - regarding.**

With a view to ensuring level playing field for all candidates and other stake holders and further to check the vitiating role of money and misuse of official machinery. The Commission has issued in the past a number of instructions on the above cited subject for sake of clarity and easy reference, the same have been consolidated and are being re-issued for compliance and guidance during all General/Bye elections to the Lok Sabha, State Legislative Assemblies and all Biennial/Bye elections from Graduates' and Teacher's constituencies of Legislative Councils.

**Period of applicability-**

2. These instructions shall come into effect from the date of announcement of elections till the completion of elections.

**Meaning of 'Official Vehicle'**

3. The expression 'official vehicle' 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, e-rickshaws, buses, belonging to the (i) Central Government, (ii) State Governments/UT Administrations, (iii) Public Undertakings of the Central and State Governments, (iv) Joint Sector Undertakings of Central and State Governments, (v) Local Bodies, (vi) Municipal Corporations, (vii) Municipalities, (viii) Marketing Boards (by whatever name known), (ix) Cooperative Societies, (x) Autonomous District Councils or any other body in which public funds, howsoever small a portion of the total, are invested and also include those belonging to the Ministry of Defence and the Central Public Organizations under the Ministry of Home Affairs and State Governments.

**Directions of ECI**

4. **The Commission directs that, subject to exceptions mentioned herein, 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, aircrafts, (except as regulated by the Commission's order on the subject) cars, jeeps, automobiles, boats, hovercrafts, etc., belonging to the (i) Central Government, (ii) State Government/UT Administration (iii) Public Undertakings of the Central and State Governments, (iv) Joint Sector Undertakings of the Central and State Governments, (v) Local Bodies, (vi) Marketing Boards, (vii) Co-operative Societies, (viii) Autonomous District Councils or any other body in which public funds, howsoever small 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 (except officials performing any election related official duty).

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5. The Commission further directs that the District Administration shall keep a close watch to find out if any official vehicle belonging to any authority specified in the preceding para is being used for electioneering purpose. In case it is so, the District Magistrate shall, forthwith, requisition or cause to be requisitioned such vehicles, after following due procedure. For election work, under Section 160 of the Representation of the People Act, 1951 and such requisitioned vehicles shall not be released until after the completion of the process of election.

### Clarifications

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/the Secretary to the Government of India in the concerned Department, as the case may be, will be personally responsible for any misuse of any vehicle under Ministry/Department or of any of the public sector or joint sector undertakings or Autonomous Bodies or attached offices under that Ministry/Department. The Officers under whose charge such vehicles are entrusted will also be equally responsible for any violation.
7. It is further clarified that 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 basis, for campaigning or on tours connected with elections but with the alleged and bogusly certified purpose of official work in their capacity as Ministers is totally prohibited.

### Exception

8. 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 the parliament or the State Legislative in this behalf.
9. The above restrictions shall also not apply in the case of the 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. However, it is further clarified that in the case of Speaker and 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 but not during LA election. It is also clarified again that such exceptions shall not be made in respect of any Ministers of the Union or any State Government.
10. (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.

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10. (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.

### **Restriction on convoy of vehicles**

11. The Commission further directs that cars/vehicles shall, under no circumstances, be allowed to move in convoys of more than ten vehicles, excluding the security vehicles. All bigger convoys exceeding 10 (ten) vehicles 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.
12. 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.

### **During Filing of Nomination:**

13. 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.

### **Use of vehicles for electioneering purpose**

14. There is no limit on vehicles, which a candidate may use for electioneering purposes.
15. But before the campaigning commences, he shall have to furnish the details of such vehicles and the areas in which they would be used for campaign purposes, to the District Election Officer or such other officer(s) as may be specifically authorized by the District Election Officer in this behalf, who after necessary scrutiny would issue a permit. The original copy (not the photo copy) of permit should be displayed on the wind screen of the vehicle. Needless to mention that the permit should be of such dimension, that it can easily be seen from a distance. Permit must contain the number of the vehicle, date of issue of permit, name of candidate and the area (where it shall be used for campaigning).
16. Any further deployment of any additional vehicles can take place only after notice to this effect is given by the candidate or his/her agent and permits obtained for the same, before the actual deployment of the vehicles.
17. The details so obtained should be conveyed by District Election Officer to the Election Expenditure Observers so that they can check that the expenditure in this regard is correctly included in the expenditure account of the candidate.
18. Any vehicle used for campaigning without due authorization/permit by the aforesaid officers, shall be deemed to be unauthorisedly 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.
19. 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.

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20. For availing the benefit of clause (a) of explanation (1) given under sec. 77 (1) of R.P. Act, 1951 by the leaders of the political parties, i.e., star campaigners. The permission for the mode of road transport 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 star campaigner concerned and shall need to be displayed 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 other campaign vehicles of candidates.
  21. On receipt of a request from a recognized political party, the DEO would issue permit for one vehicle to be used by the district level office bearer of a recognized party (other than the star campaigner) for their visit to multiple ACs within the district for electioneering purposes. The permit should be issued indicating the number of the vehicle. The name of political leader and the period for which issued and should be of different colour so that it can easily be identified. An attested copy shall be pasted on wind screen and original be kept with the driver for checking by police or other authorities. The expenditure in this regard shall be booked against the political party and not the candidates.
  22. The CEO may issue permits for vehicles that can move throughout the State for use of officer bearers of recognized political parties for electioneering purposes only. For the States having more than 100 Assembly Constituencies, the CEO may issue permits for a maximum of five vehicles and for remaining States/UTs, for a maximum of three vehicles to a recognized political party. The expenditure on these vehicles shall be incurred by the political party and not by the candidate.
  23. If any political party makes a request to the Chief Electoral Officer for grant of vehicle permission for distribution of 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 (National/State). However, the concerned political party (the applicant) will have to specify the names of the Districts, 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 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 incurred by the political party and not by the candidate.
  24. 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 Allahabad High Court in Writ Petition No. 3648 (MB) of 2006.

### Clarification

25. 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

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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.

### Use of vehicles on poll day

26. Section 123(5) of the Representation of the people Act, 1951 provides that the hiring or procuring or use of vehicles by a candidate/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' and it is also an electoral offence punishable under section 133, with fine which may extend to five hundred rupees.
27. With a view to placing effective curbs on this practice, the Commission issues the following directions:
  - (A) 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 in the Parliamentary Constituency;
    - (c) In addition, on vehicle for use of his election agent or workers or party worker, as the case may be, in each of the assembly segments comprised in the Parliamentary Constituency,
  - (B) 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.

### Clarification

28. 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. However, the candidate or his election agent may be accompanied in his car by other persons subject to 5 including driver.
29. The permits for the vehicles indicated above will be issued by the District Magistrate/ Returning Officer. The candidates must furnish particulars of their vehicle to be used on poll day to DEO/RO concerned and shall display the permits issued on the wind-screen of

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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.

### Meaning of vehicle

30. The aforementioned restrictions shall apply all vehicles propelled by mechanical power or otherwise, including but not restricted to taxis, private cars, trucks, tractors with or without trailers, auto-rickshaws, e-rickshaws, scooters, mini buses, station wagons etc., 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.
31. 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.

### Exception

32. 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 member 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 terminal and on fixed routes;
  - (e) Taxis, three wheeler scooters, rickshaws etc. for going to airports, railway station, interstate bus stands, hospital for journeys which cannot be avoided;
  - (f) Private vehicles used by sick or disabled persons for their own use;
  - (g) Vehicles being used by the Govt. officers on duty to reach their duty point.
33. During the period of electioneering, with a view to checking misuse of private vehicles by the candidates/their agents and party leaders and/or party supporter for carting anti-social elements so as to instill a sense of fear in the minds of the electorate and/or to smuggle illicit arms and ammunition etc. with a view to creating disturbances during elections, 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

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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.

Please inform all concerned and ensure compliance.

Election Commission letter No.491/MCMC/2014/Communication, dated 24<sup>th</sup> March,2014 addressed to Chief Electoral Officers of all States and UTs

**Sub: Certification of advertisement of political nature on electronic media- reg.**

I am directed to refer to the Commission order issued vide its letter dt 15.04.2004(copy enclosed) on the subject cited and which was issued consequent upon Hon'ble Supreme Court Order dt. 13.04.2004. In para 5 of the said Commission's order it was directed that 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/Officer designated by Election Commission not later than three daysprior to the date of proposed commencement of the telecast of such advertisement and such application shall be accompanied by two copies of the proposed advertisement in electronic formalong with a duly attested transcript thereof.

The Commission accordingly appointed Media Certification and Monitoring Committee (MCMCs) and district level and state level and all registered National and State political parties approach these MCMCs, as the case may be, for the certification of their political advertisements proposed to be issued on electronic media (which includes TV channels, Cable network, Radio including private FM channels, Cinema Halls, audio visual displays at public places and Internet) by following the Commission's said Order as specified above.

Now, for the purpose of further for facilitating political parties/candidates the Commission has relaxed para 10 (i) of the said order, decided that apart from adopting the existing procedure, the political parties/candidates, if they desire so, may also follow the alternative procedure by first submitting the transcript of the proposed advertisement for certification and once the transcript is vetted/approved by the Committee the party/candidate will submit the final product in electronic form another time for final certification.

2. In such case the time line for each stage will be as per the existing order.
3. This may brought to the notice of all the MCMCs in the districts and states. Considering that the work of MCMC is likely to increase, proportionately additional support staff may be suitably deployed with the Committee.

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## INSTRUCTION SI. No. 7

Election Commission letter No.437/6/1/ECI/INST/FUNCT/MCC/2023, dated 29.03.2023 addressed to The Cabinet Secretary, The Chief Secretaries and Chief Electoral Officers of Karnataka, Meghalaya, Odisha, Punjab and Uttar Pradesh

**Sub: Application of Model Code of Conduct – General Election to State Legislative Assembly of Karnataka, 2023 and Bye-elections in Parliamentary/ Assembly Constituencies of various States – reg.**

I am directed to state that the Commission has announced the schedule for holding General Election to State Legislative Assembly of **Karnataka** and **Bye-elections in Parliamentary/ Assembly Constituencies of various States** (Press Note No. ECI/PN/24/2023 & Press Note No. ECI/PN/25/2023 both dated 29<sup>th</sup> March, 2023 available at the Commission's web-site – <https://eci.gov.in/>).

2. With this announcement, the provisions of the Model Code of Conduct for the guidance of the Political Parties and Candidates have come into force with immediate effect and which will be in force till the completion of the General Elections and Bye-Elections in the States mentioned above. This may be brought to the notice of the Central and State Government, all Ministries/Departments/offices of the Union Government/the State Government. A copy of instructions issued by you to this effect, may be sent to the Commission for its information and record.
3. Your attention is drawn to the particular provisions of Model Code of Conduct relating to the 'party in power' which inter alia says that the party in power whether at the Centre or in the States 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:-
  - (i) (a) The Ministers shall not combine their official visit with electioneering work and also shall not make use of official machinery or personnel during the electioneering work;
  - (b) Government transport including official air-crafts, vehicles, machinery and personnel shall not be used for furtherance of the interest of the party in power;
  - (ii) Public places such as maidans etc., for holding election meetings, and use of helipads for air-flights in connection with elections shall not be monopolized by itself. Other parties and candidates shall be allowed the use of such places and facilities on the same terms and conditions on which they are used by the party in power;
  - (iii) Rest houses, dak bungalows or other Government accommodation 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 Governments or the Central 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. Such political functionaries shall not carry out any political activity while staying in the Government Guest Houses/Rest Houses or other Government accommodation etc.;

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- (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;
  - (v) Ministers and other authorities shall not sanction grants/payments out of discretionary funds from the time elections are announced by the Commission; and
  - (vi) From the time elections are announced by the Commission, Ministers and other authorities shall not –
    - (a) announce any financial grants in any form or promises thereof; or
    - (b) (except civil servants) lay foundation stones etc. of projects or schemes of any kind; or
    - (c) make any promise of construction of roads, provision of drinking water facilities etc.; or
    - (d) make any ad-hoc appointments in Government, Public Undertakings etc. which may have the effect of influencing the voters in favour of the party in power.
4. As will be observed from Para 3{Clause IV} above, no advertisements shall be issued in electronic and print media highlighting the achievements of the Govt. at the cost of public exchequer. If any advertisement has already been released for telecast/broadcast or publication in the print media, it must be ensured that the telecast/broadcast of such ads on electronic media is stopped forthwith and that no such ad is published in any newspapers, magazines, etc., i.e. in print media, from today itself and it should be immediately withdrawn.
5. The instruction of the Commission contained in its letter No.437/6/2009-CCBE dated 5<sup>th</sup> March, 2009 is available on the Commission's web-site "<https://eci.gov.in>"-under the heading 'Important instructions' for your information and necessary action. The Commission's all other instructions are also available in this link for your guidance.
6. The Commission further 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: -
- The Chief Electoral Officer and Additional/Joint/Deputy Chief Electoral Officers;
- Divisional Commissioners;
- The District Election Officers, Returning Officers, Assistant Returning Officers and other Revenue Officers connected with the Conduct of Election;
- 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;
- 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

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obtaining specific permission from the Commission in this regard;

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;

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.

7. The receipt of the letter may kindly be acknowledged.

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## INSTRUCTION SI. No. 8

Election Commission letter No.437/6/1/ECI/INST/FUNCT/MCC/2023, dated 29.03.2023 addressed to The Cabinet Secretary, The Secretary to GoI, Department of Programme Implementation, The Chief Secretaries and Chief Electoral Officers of Karnataka, Meghalaya, Odisha, Punjab and Uttar Pradesh

**Subject: General Elections to State Legislative Assembly of Karnataka 2023 and Bye-elections in Parliamentary/ Assembly Constituencies of various States- Release of funds under MPs'/MLAs' Local Area Development Scheme.**

I am directed to refer to the Election Commission's Press Note No. ECI/PN/24/2023 & Press Note No. ECI/PN/25/2023, both dated 29<sup>th</sup> March, 2023, (Press Note available at Commission's web-site – <https://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 State Legislative Assembly of Karnataka and Bye-elections in Parliamentary/ Assembly Constituencies of various States.

2. The Commission has instructed that the release of funds under the Member of Parliament Local Area Development Schemes will be subject to the following restrictions:-
  - 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.
  - d) Where schemes have been cleared and funds are provided or released and materials procured and reached the site such scheme may be executed as per programme.

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## INSTRUCTION SI. No. 9

Election Commission's letter No. 437/6/1/ECI/INST/FUNCT/MCC/2023, dated 08.08.2023 addressed to the Cabinet Secretary, Chief Secretaries and CEOs of Jharkhand, Kerala, Tripura, West Bengal, Uttar Pradesh and Uttarakhand

**Subject:- Bye-elections to 7(seven) Legislative Assemblies of Jharkhand, Tripura, Kerala, West Bengal, Uttar Pradesh and Uttarakhand - Instructions on enforcement of Model Code of Conduct- regarding.**

I am directed to state that the Commission has announced, vide Press Note No. ECI/PN/47/2023 dated 8<sup>th</sup> August, 2023, schedule for Bye-elections in Assembly Constituencies of following States:-

Name of the State	Name & No. of Constituency
Jharkhand	33-Dumri Assembly Constituency
Kerala	98-Puthuppally Assembly Constituency
Tripura	20-Boxanagar Assembly Constituency
	23-Dhanpur Assembly Constituency
West Bengal	15-Dhupguri (SC) Assembly Constituency
Uttar Pradesh	354-Ghosi Assembly Constituencies
Uttarakhand	47-Bageshwar(SC) Assembly Constituencies

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2. The provisions of the Model Code of Conduct have come into force with immediate effect in the district(s) in which the whole or any part of the Assembly Constituency going for bye-election is comprised, subject to partial modification as issued by Commission vide its letters **No. 437/6/INST/2016-CCS dated 29<sup>th</sup> June, 2017**, **No. 437/6/MISC/ECI/LET/FUNCT/MCC/2017 dated 18<sup>th</sup> January, 2018** and **No. 437/6/MISC/ECI/LET/FUNCT/MCC/2019 dated 14<sup>th</sup> October, 2019** (copies enclosed).
3. This may be brought to the notice of all concerned.

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## INSTRUCTION SI. No. 10

Election Commission's letter No. 437/6/1/ECI/INST/FUNCT/MCC/2023, dated 08.08.2023 addressed to the Cabinet Secretary, The Secretary to GoI, Department of Programme Implementation, Chief Secretaries and CEOs of Jharkhand, Kerala, Tripura, West Bengal, Uttar Pradesh and Uttarakhand

**Subject: - Bye-elections to 7(seven) Legislative Assemblies of Jharkhand, Tripura, Kerala, West Bengal, Uttar Pradesh and Uttarakhand - Release of funds under MPs'/MLAs' Local Area Development Scheme - reg.**

I am directed to refer to the Commission's Press Note, dated 8<sup>th</sup> August, 2023 (available at ECI's web-site:- "<https://eci.gov.in/>"), announcing schedule for Bye-election to 7(seven) Legislative Assemblies of Jharkhand, Tripura, Kerala, West Bengal, Uttar Pradesh and Uttarakhand and to state that with this announcement, the provisions of Model Code of Conduct for the guidance of the Political Parties and Candidates have come into force with immediate effect.

2. The matters relating to the release of funds under the Member of Parliament Local Area Development Schemes shall be dealt with in pursuance of the Commission's letter No. 437/6/INST/2016-CCS dated 29<sup>th</sup> June, 2017, regarding enforcement of Model Code of Conduct during bye-election, which inter-alia provides 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 **district(s) in which the Assembly/Parliamentary Constituency is situated where election is in progress, till the completion of election process. In case the constituency is comprised in the State Capital/Metropolitan Cities/Municipal Corporations, the aforesaid instructions shall be applicable in the area of concerned Constituency only.** 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 may 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 the 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.
  - d) Where schemes have been cleared and funds are provided or released and materials procured and reached the site such scheme may be executed as per programme.

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## INSTRUCTION SI. No. 11

Election Commission's letter No. 62/84, dated 06.11.1984 addressed to Chief Secretaries and the Chief Electoral Officers of all States/UTs, and Ministries of Home Affairs and Law & Justice.

### **Subject: General Elections/Bye-elections – Guidelines for conduct of Government Servants.**

I am directed to invite your attention to sections 129 and 134 of the Representation of the People Act, 1951, relating to the conduct of Government servants during elections and to say that the Government of India as well as the State Government have been, before conduct of a general election, issuing instructions regarding the conduct of Government servants in relations to an election, stressing that all the Government employees should maintain an attitude of strict impartiality.

2. The Government employees should not only be impartial but should also appear to be so in relation to the elections. They are required to conduct themselves in such a manner as to inspire confidence in the public in regard to their impartiality so that there might not be any occasion for the people to think that the elections would not be held in a free, fair and pure atmosphere. It should be stressed that they should avoid giving room for any suspicion that they are favoring any party or any candidate. They are not expected to take part in any election campaign or canvassing and should take scrupulous care not to lend their names, official position or authority to assist one individual as against another or one group as against another.

3. With particular reference to the tours that the Ministers might undertake on the eve of the elections, it is necessary that while Government Officers should make all the usual arrangements to enable the Ministers to carry out their responsibilities as Ministers, the Government Officers should not themselves organise any election meetings or be present in person during any such meetings except those who may have to be present to the extent necessary for maintaining law and order and making necessary security arrangements.

The question as to whether a public meeting addressed by a Minister is officially sponsored or is held for election propaganda has to be decided by the Minister himself. In the meeting, the arrangement for organising it is to be made on the Minister's behalf unofficially and the expenditure in that connection is to be borne by him or his party.

It is further made clear that a public meeting held on the eve of an election is normally to be considered to be an election meeting and the expenses thereof are not to be borne from public funds. The preservation of law and order at every meeting will, however, be the responsibility of the Government officials responsible for law and order.

4. In this connection I am also to enclose a copy of the Ministry of Home Affairs' O.M. No. 25/44/49-Ests, dated 10th October 1949, which clarifies the position regarding the participation of Government servants in political activities vis-a-vis the attendance by Government servants at political meetings, for your information. The contents of the said

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O.M. may also be brought to the notice of all Government servants for their guidance.

5. In the matter of election meetings in a public place, the Government officers should not make any distinction between one political party and another in granting permission to hold such meetings. If more parties than one apply for holding a meeting at any place on the same day and at the same hour, the party which applies first should be given preference.
6. Further your attention is specially invited to the provisions of section 134-A of the Representation of the People Act, 1951, which reads as follows :-  
“134-A Penalty for Government Servants for acting as Election Agent, Polling Agent or Counting Agent :  
If any person in the service of the Government acts as an election agent or a polling agent or a counting agent of a candidate at an election he shall be punishable with imprisonment for a term which may extend to three months with fine, or with both.”
7. In this connection, I am also to forward herewith an extract of rule 5 of the Central Civil Service (Conduct) Rule, 1964, which inter alia prohibits the Government servants from taking part in politics and elections. It is presumed that similar provisions exist in the rules governing the conduct of Government servants of your State.
8. I am, therefore, to request that necessary instructions in the above regard may kindly be issued by the State Governments emphasising upon the Government servants that any disregard of instructions would be considered by the Government as a serious act of indiscipline and that in cases of doubt a Government servant should not hesitate to consult his superior officer.
9. A copy of the instructions issued by the State Government may be forwarded for the Commission’s record.

The receipt of this letter may please be acknowledged.

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## **INSTRUCTION SI. No. 12**

Election Commission's letter No. 62/91, dated 06.04.1991 addressed to the Cabinet Secretary, Government of India

### **Subject: Guidelines for conduct of Government Servants.**

I am directed to state that certain complaints have been received that some Central Government Officers are actively participating or associating in the work of political parties.

2. According to Rule 5 of the Central Civil Services (Conduct) Rules, 1964 and similar rules applicable to All India Services Officers, no Government servant can be a member or be otherwise associated with any political party or can take part in any political movement in India.
3. Sections 129 and 134 of the Representation of the People Act, 1951 deals with the Conduct of Government servants during elections, and Sections 134A thereof prescribes penalty for Government servants for acting as election agent, polling agent or counting agent. While the Commission is taking action to bring it to the notice of all concerned the provisions under the Representation of the People Act, 1951, you are requested to pointedly bring to the notice of all central government employees the provisions of Rule 5 of the Conduct Rules. Instructions may also be issued to them that any violation may render them liable for action under the Service rules.
4. A copy of the instructions issued in this regard may please be endorsed to the Commission.

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## INSTRUCTION SI. No. 13

Election Commission's letter No. 4/93/J.S.II, dated 06.01.1993 addressed to the Chief Secretaries of all States/UTs (except Jammu and Kashmir) and the Cabinet Secretary and copy endorsed to the CEOs of all States/UTs (except Jammu and Kashmir).

### **Subject: Officers and staff employed in connection with the conduct of election police officers regarding**

I am directed to state that the Constitution of India vide clause (1) of Article 324 has vested the superintendence, direction and control of, inter alia, the conduct of all elections to Parliament and to the Legislature of every State in the Election Commission. Clause (6) of Article 324 provides that the President or the Governor of a State, shall, when so requested by the Election Commission, make available to the Election Commission such staff as may be necessary for the discharge of the functions conferred on the Election Commission by clause (1).

2. The Parliament has clarified by section 13CC of the Representation for the People Act, 1950, as inserted by the Representation of the People (Amendment) Act, 1988 with effect from 15-3-89, as under: 13CC. Chief Electoral Officers, District Election Officers, etc. deemed to be on deputation to Election Commission. The officers referred to in this Part and ANY OTHER OFFICER or staff employed in connection with the preparation, revision and correction of the electoral rolls for, and the conduct of, all elections shall be deemed to be on deputation to the Election Commission for the period during which they are so employed and such officers and staff shall, during that period, be subject to the control, superintendence and discipline of the Election Commission.
3. By Section 28A of the Representation of People Act, 1951, as inserted by the above mentioned Amendment Act with effect from 15-3-89, the Parliament has also further clarified that any police officer designated for the time being by the State Government for the conduct of any election shall also be likewise deemed to be on deputation to the Election Commission and be subject to its control, superintendence and discipline. The said section 28A is reproduced below :-

28A. Returning Officer, Presiding Officer, etc., deemed to be on deputation to Election Commission:-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 the results of such election and accordingly, such officers SHALL, during that period, be subject to the control, superintendence and discipline of the Election Commission.
4. At the time of any election in a State/Union Territory, it is essential that proper law and order is maintained in the whole of the State/Union Territory, during the entire election period from the time the elections are announced by the Commission and till the same are completed by the due constitution of the House concerned. Equally important is it to

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provide due protection and security to the election officers, polling personnel and polling materials as well as to the candidates, leaders of political parties and other important functionaries in each constituency, so as to ensure free and fair election.

5. The above arrangements are the responsibility, duty and function of the police officers and police personnel not only at the constituency level but also of the police officers at the District level and State level. All police officers and police personnel starting with the Director General of Police/Inspector General of Police/Commissioner of Police at the top level, officers immediately subordinate to them, including but not limited to DIGs, SSPs, SPs, Dy SPs, and down to Inspectors, Sub-Inspectors, Assistant Sub-Inspectors, Head Constables and Constables (including home guards, ex-servicemen, etc.) who are involved in any way in the above mentioned election-related arrangements perform duties in connection with the conduct of elections. They all are thus by law officers of the Commission being on deputation to it and are subject to its control, superintendence and discipline and are answerable to the Commission for any acts of commission on their part while performing any election related duties.
6. Likewise, the officers and personnel of Central Police Forces and any, armed police force of a State or Special Security Forces when deployed on election-related duties in any State/Union Territory are also subject to the Control, superintendence and discipline of the Commission.
7. The Commission desires that the above legal position should be immediately brought to the notice of all police officers and police personnel mentioned above for their information and compliance. It may be impressed upon them that any lapse on their part in the performance of their election relation duties will be viewed by the Commission appropriately.
8. The receipt of this letter may kindly be acknowledged. A copy of the instructions issued by the Government/Administration in this behalf should be endorsed to the Commission for its information and record before 31 -01 -1993.

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## INSTRUCTION SI. No. 14

Election Commission's letter No. 3/ER/94/J.S.II, dated 16.08.1994, addressed to the CEOs and Chief Secretaries of all States and Union Territories

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

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

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

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

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

(1) Whoever-

(i) gives a gratification to any person with the object of including him or any other person to exercise any electoral right or of rewarding any person for having exercised any intimidation, wrongful confinement or use of force, intimidation, wrongful confinement or use of force, such right; or

(ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right, commits the offence of bribery:

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

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

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

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

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- (1) Whoever voluntarily interfere or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.
  - (2) Without prejudice to the generality of the provisions of Sub-Section (1), whoever:-
    - (a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or
    - (b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be render an object of Divine displeasure or of spiritual pleasure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of Sub-Section (1)”.
- 3.2 Section 171A of the Indian Penal Code defines Electoral Right to mean the right of a person to stand, or not to stand as, or to withdraw from being a candidate, or to vote or to refrain from voting at an election. The offences of ‘bribery’ and ‘undue influence’ under Sections 171B and 171C are punishable with imprisonment upto one year or with fine or with both under Sections 171E and 171F of the IPC.
- 3.3 Under Sections 123(1) and 123(2) of the Representation of the People Act, 1951, ‘bribery’ and ‘undue influence’ to interfere with the free exercise of electoral right of a person are corrupt practices which are grounds for declaring the election as void by the High Court and for disqualifying the persons found guilty.
4. While the jurisdiction to take action for a corrupt practice is vested with the High Court on an election petition, penal action can be initiated against the offenders in these cases under the relevant provisions of the Indian Penal Code by the Police authorities when the matter is reported to them by any one.
5. The Commission desired that as soon as any complaint or information of prevention, intimidation or use of force, bribery or undue influence, in the matter of nomination of candidates, or securing withdrawal of a candidate at any election is received by any Returning Officer or District Election Officer or Chief Electoral Officer, he shall report the matter forthwith to the Police Authorities for making necessary enquiries and to prosecute the offenders. The Returning Officers/District Election Officer/Chief Electoral Officer, shall at the same time, report the facts of each case to the Commission and send report on the progress on each such complaint periodically till such time the offenders are dealt with by the appropriate Courts at such time as the Commission directs the officers concerned not to send the progress reports anymore.
6. The above instructions of the Commission shall be scrupulously followed by all officers concerned. Acknowledgment of the receipt of this letter is requested.

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## INSTRUCTION SI. No. 15

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 30<sup>th</sup> 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 7<sup>th</sup> 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 29<sup>th</sup> 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, 13<sup>th</sup> October, 2004. The Commission hopes that such lapses would be avoided in future.

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## INSTRUCTION SI. No. 16

Election Commission's letter No.464/INST/2008/PLN-I, dated 27<sup>th</sup> February, 2008 addressed to the Chief Secretaries and 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.**

I am directed to invite your attention to Para – 3 of Commission's letter No. 464/INST/2007/PLN-I dated 8<sup>th</sup> 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 the 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 remaining 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.

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## INSTRUCTION SI. No. 17

Election Commission's letter No. 437/6/INST/ECI/FUNCT/MCC/2024(MCC ENFORCEMENT), dated 02.01.2024, addressed to the Chief Secretaries and the Chief Electoral Officers of all States and Union Territories.

**Subject:- Enforcement of the Model Code of Conduct – Do's and Don'ts – regarding**

**Reference:** Commission's instructions:

- (i) No. 437/6/2009-CC&BE, dated 05.03.2009
- (ii) No. 437/6/16/2004, dated 09.03.2004
- (iii) No. 464/INST/2007-PLN-I, dated 07.01.07
- (iv) No. 437/6/INST/2008-CC&BE, dated 19.03.2009
- (v) No. 437/6/INST-2008/CC&BE, dated 01.04.2009
- (vi) No. 437/6/INST/2011-CC&BE, dated 05.04.2011
- (vii) No. 437/6/2011/CC&BE, dated 11.10.2011
- (viii) No. 437/6/1/INST/2013-CC&BE, dated 13.11.2013
- (ix) No. 437/6/INST/2014/CC&BE, dated 14.03.2014
- (x) No. 437/6/INST/2014/CC&BE, dated 20.03.2014
- (xi) No. 437/6/ES023/94 MCS, dated 04.10.1994
- (xii) No. 437/6/93 J.S. II, dated 31.12.1993
- (xiii) No. 434/6/PLN-II, dated 22.03.1996
- (xiv) No. 437/6/2002-PLN-III, dated 25.01.2002
- (xv) No. 437/6/23/2004 PLN.III, dated 11.03.2004
- (xvi) No. 437/6/INST/2009-CC&BE, dated 09.03.2009
- (xvii) No. 437/6/2009/CC&BE, dated 24.03.2009
- (xviii) No. 437/6/INST-2009/CC&BE, dated 26.04.2009
- (xix) No. 437/6/INST-2012/CC&BE, dated 21.01.2012
- (xx) No. 437/6/1/2014/CC&BE, dated 29.03.2014
- (xxi) No. 437/6/2007(INST)-PLN-III, dated 21.11.2007
- (xxii) No. 437/6/2004-PLN III, dated 30.12.2004
- (xxiii) No. 437/6/INST/2014/CC&BE, dated 18.03.2014
- (xxiv) No. 437/6/38/2004-PLN-III, dated 06.04.2004
- (xxv) No. 437/6/2006-PLN-III (Vol. II) dated: 01.04.2006, and
- (xxvi) No. 437/6/98-PLN-III dated 08.01.1998

Madam/Sir,

Model Code of Conduct comes into operation right from the time and day, the Election Commission issues the schedule of elections. The Commission has issued various instructions and clarifications on observance of code of conduct from time to time vide letters listed above. Following are the consolidated instructions in supersession of all the existing instructions in reference:

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## I. **Applicability of Model Code of Conduct:**

### A. Duration of Application

- (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 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.

### B. Extent of Application

- (i) At the time of a general election to the House of the People or to a State Legislative Assembly, Model Code of Conduct applies throughout India or, the state concerned, as the case may be.
- (ii) At the time of a bye-election, MCC would be enforced in the entire district(s) covering the Constituency going for bye-election(s). However, if a constituency is comprised in State Capital/Metropolitan Cities/Municipal Corporations, then Model Code of Conduct would be applicable in the area of concerned Constituency only and for any district in which Corporation/ Metropolitan City/Municipal Corporation is located, MCC would be enforced in the particular Assembly Constituency Segment only and not in the whole of the district. For the district(s) with number of polling stations less than 10% of the total polling stations of the constituency concerned, the instructions would be applicable only in the area under jurisdiction of those polling stations. However, it must be ensured that the other instructions regarding deployment of staff, etc., are strictly observed in all districts irrespective of number of polling stations situated therein.

### C. Who are Covered under Model Code of Conduct

- (i) The provisions of Model Code of Conduct apply to all organizations/committees, corporations/commissions etc., funded wholly or partially by the Central Govt. or any State Govt. like the Commonwealth Games Organizing Committee, DDA, Electricity Regulatory Commissions, Jal Boards, Transport Corporations, any other development authority etc.
- (ii) The general provisions of Model Code of Conduct are applicable to all persons, including those who intend to be a candidate in an election, from the date of announcement of elections by the Commission. Election expenditure by the

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candidate shall be counted from the date he files his nomination papers. However, it is clarified that expenditure on material which may have been produced before filing of nomination if used after filing of nomination by the candidate shall be included in the election expenditure of the candidate.

## **II. Welfare schemes and governmental works**

1. Announcement of new projects or programmes 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.

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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.
  8. The names of MPs/MLAs etc. appearing on moving vehicles like water tanks, ambulances etc. funded under MPLAD schemes should be covered suitably during the election period as such vehicles moving from one place to another may be considered as a form of election campaign in favour of the MP/MLA etc. concerned.
  9. 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.
  10. RBI may continue to take decisions unhindered on monetary policy issues.
  11. 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.
  12. All Government of India references to the Election Commission of India shall be made preferably through the Cabinet Secretariat. In so far as references 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.
  13. 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 MGNREGA may be covered under existing projects. New projects under MGNREGA 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.
  14. 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.
  15. 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

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under intimation to the Commission-

- a. 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.
16. Global tenders already floated, can be evaluated and finalized where any time limits are specified for such purpose.
17. 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.
18. 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.
19. The medical assistance under PM's/CM's Relief Fund for various treatment/operation, like heart surgery, kidney transplantation, cancer treatment etc. which are time bound

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in nature and can't be postponed without endangering patient's health may be released, provided selection of beneficiaries/patients are done by the concerned Government Officials/Head of the concerned Private Hospitals.

20. The process required for the decision on the power tariff may be continued by the State Electricity Regulatory Commission. However, tariff award shall be made only on the completion of poll in the relevant State, i.e. after the poll date/dates in that State.
21. 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 takeover 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 cannot 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.
22. 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.
23. 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.
24. 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.

### **III. Implementation of drought relief work**

The Commission has been receiving various representations from the State Governments regarding the modalities of implementing relief work in areas which have been declared as "drought affected" in the respective States. The Commission after taking into account all relevant factors, directs the following:-

- (i) The drought relief works by way of immediate relief measures to be taken up by the State

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Governments shall only be in the areas which have been declared as “drought affected” within the parameters laid down under the guidelines for managing of Calamity Relief Fund by the Central Government. No new areas are to be added to the existing list of such “drought affected” areas after the announcement of elections. Addition of any additional area/village will only be subject to obtaining prior concurrence of the Commission after following the due procedure laid down for seeking assistance under the Calamity Relief Fund/ National Relief Fund laid down by the Government of India for operation of such funds.

- (ii) To provide immediate relief in the areas declared as drought affected, the Commission has provisionally approved the following measures: -
  - (a) Provision of drinking water by way of water tankers.
  - (b) Digging of bore-wells as well as dug-wells in scarcity areas on account of drying of the existing bore-wells/dug-wells.
  - (c) Provision of rice/wheat at prescribed rates for distribution among the destitute without support and who cannot go for work as per mechanism already prescribed in the Calamity Relief Fund Scheme.
  - (d) Provision of fodder for cattle.
  - (e) New works on wage employment (Food for work etc.) where such existing works have been completed.
- (iii) No minister of the Government or a political functionary will be associated in the management of the drought relief operations in any capacity, supervisory or otherwise, during period of operation of the model code of conduct.
- (iv) The entire relief operation would be taken up by the Division, District and Taluka/sub-District Administration without involving elected representatives and/or non-officials at any level.

#### **IV. On Transfers and posting of officials**

- (1) No officer connected directly with elections shall be allowed to continue in the present district (revenue district) of posting:-
  - (a) if she/he is posted in her/his home district.
  - (b) if she/he has completed three years in that district during last four (4) years or would be completing 3 years. The three years period shall be reckoned backwards from last day of the month of end of the term of Legislative Assembly of the State. While calculating the period of three years, promotion to a post within the district is to be counted.
- (2) Applicability

2.1 District Officers: - These instructions shall cover not only officers appointed for specific election duties like DEOs, Dy. DEOs, RO/AROs, EROs/AEROs, officers appointed as nodal officers of any specific election works but also district officers like ADMs, SDMs, Dy.

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Collector/Joint Collector, Tehsildar, Block Development Officers or any other officer of equal rank directly deployed for election works.

2.2 Officers other than District Officers: - These instructions shall also cover the officers deputed in Municipal Corporations and Development Authorities, etc.

2.3 Police Officers: - These instructions shall be applicable to the police department officers such as Range ADGs/IGs, DIGs, Commandants of State Armed Police, SSPs, SPs, Addl. SPs, Sub-Divisional Head of Police, SHOs, Inspectors, Sub-Inspector, RIs / Sergeant Majors or equivalent ranks, who are responsible for security arrangement or deployment of police forces in the district at election time. The police officials who are posted in functional departments like computerization, special branch, training, etc. are not covered under these instructions. Following shall be followed:

- (i) The Police Sub-Inspectors and above should not be posted in their home district.
- (ii) If a Police Sub-Inspector has completed or would be completing a tenure of 3 years out of four years on or before the cutoff date in a police sub-division, then he should be transferred out to a police sub-division which does not fall in the same AC. If that is not possible due to small size of district, then he/she should be transferred out of the district.

2.4 Prohibition and Excise Officers: - Further, these instructions shall also be applicable to the officers of the Prohibition and Excise Department of the State of the rank of Sub-Inspector and above.

(3) Ban on transfer/posting of election related officers-

During the period of implementation of Model Code of Conduct, 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

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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.

## **V. On Misuse of Official Machinery**

1. Official vehicles cannot be used for electioneering work. 'Official Vehicles' include all vehicles belonging to
  - o Central and State Government,
  - o Public Sector 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 Defence 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

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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 there-under.
8. 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 of Ministers, Politicians or Political Parties available on Central/State Government's official website highlighting their achievements but eulogizing the same as personal achievements of Politicians/Ministers shall be taken off/purged off. During bye-elections, these instructions may be confined to only those Politicians/Ministers, etc. who themselves become candidates at such bye-elections.

**VI. Display of the photographs, calendars etc. of national leaders and prominent personalities in the government offices/premises, etc.**

1. The photographs and images of the political functionaries, who 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.
2. 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. 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.

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## VII. Meeting of Local Bodies – Panchayats, Municipalities, etc.

1. 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.
2. 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 was referred to the Commission.
3. The Commission, after considering the matter, 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.

## VIII. Briefing of CM/HM by police officers

1. The security briefings of Chief Minister or the 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 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 government machinery for political purpose. 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.

## IX. Misuse of free travel passes

2. Instances have come to the notice of the Commission 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 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

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elections.

3. 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.
4. 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.

**X. Permission for allotment of liquor vends/finalization of wholesale liquors sale / major auctions relating to Tendu leaves, etc.**

1. Each State has enacted a separated State Excise Laws 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, 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 venders through the system of tenders or by draw of lots on the price fixed by the Govt.
2. 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.
3. In view of the above position, the Commission has directed that the following procedure may be followed in the matter of allotment of liquor vends, 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 arrangement, such interim arrangement may be made with the concerned contractor/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 licenses/contracts for the ensuing financial year.
4. In all cases where major auctions etc. are to be held relating to matters such as tendu leaves and other such cases, 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.

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## **XI. Presentation of Budgets**

1. 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.
2. 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.

## **XII. Waiving off of recoveries and bad debts by State Government financial institutions during election period.**

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 cannot 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, offers 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

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enhanced by issuing of loans indiscriminately to beneficiaries when the Model Code of Conduct is in force.

### **XIII. Ban on Video Conferencing**

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.

However, in the immediate aftermath of any calamity of significant scale/magnitude, if video-conferencing is considered essential, then Chief Minister or Minister concerned may hold one video-conferencing with the officials concerned subject to the following conditions: -

- (i) The CEO of the State shall be approached by the Department concerned and approval of the CEO should be obtained before holding the VC. For any subsequent VC, permission from the Commission shall be obtained;
- (ii) Only the Collector/District Magistrate and senior officials in charge of the relief in connection with the natural calamity of the area concerned alone shall be called to attend the video-conferencing;
- (iii) No issue other than rescue/relief and other aspects connected to the calamity shall be discussed in the VC;
- (iv) No publicity whatsoever shall be given for the VC, either before or after the VC,
- (v) The VC should not be open to media;
- (vi) An Audio/Video recording of the proceedings of the VC shall be maintained by the Department concerned and a copy of the same given to the CEO;
- (vii) No announcement or promise of any grant, assistance in cash or kind, and no statement of political nature or announcement capable of influencing the electors shall be made through the VC.
- (viii) A representative of the CEO will be present during the VC.

### **XIV. Use of Rest Houses, Dak Bungalows and other Government accommodation**

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:

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- (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.

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 Governments 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. Such 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.

#### **XV. Restrictions on use of Government Guest Houses, Bhawans and State Sadans located at Delhi 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 is 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 for 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.

#### **XVI. Other Do's 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 process of election**

The Commission has drawn up a list of 'Do's 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

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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) On-going 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.

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- (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 is 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.

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- (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 organized 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 10p.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.

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*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 case of doubt.

The above instructions of the Commission shall be brought to notice of all concerned for strict compliance. Please acknowledge the receipt of this letter.

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## INSTRUCTION SI. No. 18

Election Commission's letter No. 437/6/INST/ECI/FUNCT/MCC/2024(BYE ELECTIONS), dated 02.01.2024, addressed to the Chief Secretaries and the Chief Electoral Officers of all States and Union Territories.

### **Subject:- Model Code of Conduct – Instruction- Bye-election of Parliamentary/Assembly Constituency – Regarding.**

Reference: Commission's instructions:

- (i) No. 437/6/INST/2016-CCS dated 29.06.2017
- (ii) No. 437/6/1/ECI/INST/FUNCT/MCC/2017, dated 18.01.2018
- (iii) No. 437/6/MISC/ECI/FUNCT/MCC/2019, dated 14.10.2019
- (iv) No. 437/6/ECI/FUNCT/MCC/2021, dated 21.10.2021
- (v) No. 437/6/INST-2013/CC&BE, dated 25.06.2013
- (vi) No. 437/6/1/2014 dated 16.08.2014, and
- (vii) No. 437/6/1/2016-CCS, dated 21.04.2016

Madam/Sir,

The Commission has issued various instructions from time to time on observance of code of conduct during bye-elections. Following are the consolidated instructions in supersession of all the instructions issued vide letters listed above:

#### 1. **Enforcement of MCC**

- (i) In case the constituency is comprised in State Capital/Metropolitan Cities/Municipal Corporations, then aforesaid instructions would be applicable in the area of concerned Constituency only.
- (ii) In case of a district in which Corporation/ Metro/Municipal Corporation is located, MCC would be enforced in the particular Assembly Constituency Segment only and not in the whole of the district.
- (iii) In all other cases the MCC would be enforced in the entire district(s) covering the Constituency going for bye-election(s).
- (iv) The above instructions shall cover the district in which all or maximum number of polling stations of constituency going to bye-election are located. For the district(s) with number of polling stations less than 10% of the total polling stations of the constituency concerned, the instructions would be applicable only in the area under jurisdiction of those polling stations. However, it must be ensured that the other instructions regarding deployment of staff, etc., are strictly observed in all districts irrespective of number of polling stations situated therein.

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- (v) Further, it is advised that the political parties not to organize any political activities directly related to the bye-elections even in the areas adjoining the district/constituency where the bye-election are being held. The District Election Officers concerned will ensure that the MCC instructions and COVID guidelines relating to the norms of social distancing are followed in the districts adjoining to the poll going district/constituency.

#### Publishing of Advertisements

The release /publishing of advertisements during the period of operation of Model Code of Conduct in connection with bye-elections would 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.

***Further, it is clarified that no new schemes should be advertised in the districts where the bye-election is being conducted.***

### 2. **Tours of Ministers**

During bye elections from any constituencies, either Parliamentary or Assemblies, the following restrictions are applicable with regard to the tours of Ministers:-

- (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. 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.
- (ii) In case where a Minister travelling 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 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.

Further, it is clarified that the Ministers or persons holding equivalent rank/status cannot combine their official visit with campaign by en routing their journey for official purposes to a place where MCC is not in force and then proceeding from that place to the area where MCC is in force for election campaign. In case it is done, the entire journey expense shall be treated as election expense.

### 3. **Transfer/Posting of Officers**

1. Bye-election to the Assembly Constituency (ies):

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(1.1) The Commission, in supersession of existing instructions, has decided that no officer connected directly with the conduct of Bye-elections, should be allowed to continue in the present posting within the Assembly Constituency limits:-

- (i) If she/he is posted in her/his home Assembly Constituency limit;
- (ii) If she/he has completed three years during last four years or would be completing 3 years on or before the last day of the sixth month from the date of occurrence of the casual vacancy.

Such officers shall be shifted out of the Assembly Constituency limit.

(1.2) (i) These instructions cover Returning Officers and Assistant Returning Officers of the Assembly Constituencies going for bye-elections. These instructions will also cover other officers viz. Deputy/Assistant Collectors, Sub-Divisional Magistrates, Tehsildars and Block Development Officer located in Assembly Constituency Limits.

It is however clarified that officers appointed as Sector Officers, though directly involved in election duties will not be covered under these instructions as their duties are such that they are deployed in field duties where their knowledge of the area/terrain is crucial to their effective performance. The CEO, DEO and RO should, however, keep a close watch on them during the election period to ensure that their performance is strictly impartial.

- (ii) As far as officer in the Police Department are concerned, these instructions shall be applicable to the Sub-Divisional Head of Police, Dy.SP/ Circle Officers, Inspectors, Sub-Inspectors or equivalent ranks posted in the field within the Assembly Constituency Limit.

(1.3) The Commission further desires that a detailed review may, therefore, be undertaken and all such officers be posted out of their home constituency limits where they have completed or will complete, on the aforesaid date, tenure of three years in Assembly constituency limit out of the last four years, immediately. Further, for uniformity, the three year period shall be reckoned backwards from the last day of the sixth month as mentioned at para 2.1(ii).

## 2. Bye-election to the Parliamentary Constituency (ies):

(2.1) The Commission, in supersession of existing instructions, has decided that no officer connected directly with the conduct of Bye-elections to the Parliamentary Constituency going for bye-election, shall be allowed to continue in the present posting within the Parliamentary Constituency limits:-

- (i) If she/he is posted in her/his home district within the concerned Constituency limit;
- (ii) If she/he has completed three years during last four years or would be completing 3 years on or before the last day of the sixth month from the date of occurrence of the casual vacancy.

Such officers shall be shifted out of the Parliamentary Constituency limit.

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(2.2) (i) These instructions cover Returning Officers and Assistant Returning Officers of the Parliamentary Constituencies going for bye-elections. These instructions will cover only that District Election Officer who is designated as Returning Officer. Other District Election Officers, even if some part of their district falls in the Parliamentary Constituency going for bye-elections shall not be covered under these instructions. The instructions will however cover other officers viz. Additional Collector, Additional District Magistrate, Deputy Collectors, Assistant Collectors, Sub-Divisional Magistrates, Tehsildars and Block Development Officer located in Parliamentary Constituency Limit.

It is however clarified that officers appointed as Sector Officers, though directly involved in election duties will not be covered under these instructions as their duties are such that they are deployed in field duties where their knowledge of the area/terrain is crucial to their effective performance. The CEO, DEO and RO should, however, keep a close watch on them during the election period to ensure that their performance is strictly impartial.

(ii) As far as officer in the Police Department are concerned, these instructions shall be applicable to the Superintendent of Police located in the District whose District Election Officer is also the Returning Officer. Other Superintendent of Police, even if some part of their district falls in the Parliamentary Constituency going for bye-elections shall not be covered under these instructions. These instruction will however cover Additional SP, Sub-Divisional Head of Police, Dy.SPs/Circle Officers, Inspectors, Sub-Inspectors or equivalent ranks posted in the field within the Parliamentary Constituency Limit.

(2.3) The Commission further desires that a detailed review may, therefore, be undertaken and all such officers be posted out of their home constituency limits where they have completed or will complete, on the aforesaid date, tenure of three years in Assembly constituency limit out of the last four years, immediately. Further, for uniformity, the three year period shall be reckoned backwards from the last day of the sixth month as mentioned at para 2.1(ii).

3. The Commission also desires that the officers/officials against whom Commission has recommended disciplinary action or who have been charged for any lapse in any election or elections related work in the past, shall not be assigned any election related duty.
4. The Commission further desires that no officer/official against whom a criminal case is pending in any Court of Law be associated with the election work or election related duty.
5. The Commission has in the past received complaints that while the State Government transfers officials in the above categories in pursuance of the direction issued by the Commission, the individuals try to circumvent the objective by proceeding on leave and physically not moving out of the district from which they stand transferred. The Commission has viewed this seriously and desires that all such officials who stand transferred in pursuance of the instructions referred to above shall be asked to move physically out of the district from which they stand transferred immediately on receipt of

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the transfer orders.

6. Normally, bye-election is held to fill up a casual vacancy within a period of six months from the date of occurrence of vacancy (excepting a situation beyond control of the Commission). Hence, it would be advisable if the State Government initiates steps for implementation of these guideline immediately after occurrence of a casual vacancy in a constituency so that last moment dislocation of officers can be avoided.
7. Any officer who is due to retire within coming six months will be exempted from the purview of the above-mentioned directions of the Commission. Further officers falling in category (home/3+ criteria) shall not be engaged for performing election duties during the elections, if they are due to retire within 6 months.

While implementing this policy the DEO/RO should take care that in case of deployment of any officer from outside the constituency for any election related duty, shall also conform to the transfer policy of the Commission.

4. **Announcement of D.A.**

The Commission has decided that announcement of D.A. by the state government may be done as a routine affair but it should not be publicized as the Government's achievement.

VI. **Promises made by the Ministers/sitting MPs/MLAs on religious/communal grounds in those areas where MCC is not in force**

It has come to the notice of the Commission that during the Bye-elections, the party in power as well as the sitting MPs/MLAs tend to make promises/appeals on religious/communal grounds in those parts of the districts/areas in their State/UT where Model Code of Conduct (MCC) is not in operation so as to avoid the violation of MCC. This has, however, indeed far-reaching implications as it would certainly influence the minds of electors of the Assembly Constituency/Parliamentary Constituency where the bye election(s) is going on and, thus, vitiate the free and fair elections in that Constituency(ies).

In view of the above, it is directed that as soon as Bye- election(s) to any Assembly Constituency/Parliamentary Constituency is announced in a State/UT, the CEO concerned shall issue an advisory to all the recognized political parties in the State/UT to request their Ministers and sitting MPs/MLAs not to make promises or statements on religious or communal ground even in areas where MCC is not in force and during the Bye-elections period so that the purity of election process is maintained and no ill feeling is generated among the general public which is essential for conducive atmosphere for conducting free and fair elections.

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

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## B. Celebration of Important Days

### INSTRUCTION Sl. No. 19

Election Commission's letter No. 437/6/INST/ECI/FUNCT/MCC/2024(IMPORTANT DAYS), dated 02.01.2024, addressed to the Chief Secretaries and the Chief Electoral Officers of all States and Union Territories.

**Subject: -Model Code of Conduct – Instruction- Celebration of Important Days – Regarding.**

Reference: Commission's instructions:

- (i) No. 437/6/98-PLN-III, dated 10.01.1998
- (ii) No. ECI/GE98-437/6/BR/98-PLN-III, dated 27.01.1998
- (iii) No. 437/6/99-PLN-III, dated 28.07.1999
- (iv) No. 437/6/99-PLN-III, dated 16.08.1999
- (v) No. 437/6/2004/PLN-III, dated 28.09.2004, and
- (vi) No. 437/6/INST/2012-CC&BE, dated 24<sup>th</sup> January 2012

Madam/Sir,

The Commission has issued, in the past, a number of instructions in regard to celebration of important days during the period of enforcement of Model Code of Conduct. Following are the consolidated instructions in supersession of all the instructions issued vide letters listed above:

#### **I. Celebration of Independence Day/Republic Day - attendance of political functionaries**

- (i) There is no objection to Central Ministers/Chief Ministers/Ministers in the States to do the honours in the main Republic Day/Independence 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.
- (ii) 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 such 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 during Independence Day as per long standing conventions. Further, the dignitaries who will hoist the National Flag at the functions may travel directly to that place from the place of election campaign, if

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any. The travel expenditure for this purpose may be borne by the State Government concerned. They do not need to travel between these places via headquarter.

- (iii) The Commission has no objection to organisation of Kavi Sammelan, Mushairas or other cultural functions organised in connection with the 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.
- (iv) The investiture ceremonies at the National and State level and distribution of Tamra Patras to freedom fighters, etc. should be done according to the existing conventions.

## **II. Celebration of Sadbhavana Diwas/Gandhi Jayanti - participation of political functionaries**

- (i) Central Ministers/Chief Ministers/Ministers in the States can participate in the Celebration of *Sadbhavana Diwas/Gandhi Jayanti* subject to the condition that the theme of their speeches should be confined only to the Promotion of harmony among the people and 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.
- (ii) Messages, if any, issued in the name of Ministers, should be confined to the theme of National Integration and Mahatma Gandhi only and should carry no photograph of the concerned Minister.

## **III. Hosting of Iftar Party**

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.

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

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## C. Publication of advertisements

### INSTRUCTION Sl. No. 20

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 13<sup>th</sup> 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 15<sup>th</sup> April. 2004, passed by the Commission in pursuance of the Order dated 13<sup>th</sup> 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 along with 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

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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.

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**COPY**  
**ELECTION COMMISSION OF INDIA**

Nirvachan Sadan. Ashoka Road, New Delhi-110001.

No. 509/75 2004/JS-IDated 15<sup>th</sup> 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 5<sup>th</sup> 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 13<sup>th</sup> 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

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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 2<sup>nd</sup> 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 2<sup>nd</sup> 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.

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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.

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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 16<sup>th</sup> April, 2004 and shall continue to be in force till 10<sup>th</sup> 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 2<sup>n</sup> April, 2004 and shall remain in operation as an interim measure till 10<sup>th</sup> May, 2004.

Subject to the aforesaid order, the judgment of the High Court of Andhra Pradesh dated 23<sup>rd</sup> 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 every other State/Union Territory is hereby directed to constitute the following Committee to deal with applications by political parties and organizations mentioned in para (iv) below:-
- a) The Additional, Joint Chief Electoral Officer - Chairperson.
  - b) Returning Officer of any Parliamentary constituency located in the capital of the State.
  - c) One expert being an officer not below the rank of Class-1 officer to be requisitioned from the Ministry of Information & Broadcasting.
- (iv) The Committee constituted in para (iii) above will entertain applications for certification for advertisement on television channel and cable network by the following:-
- (a) All registered political parties having their headquarters in that State /Union Territory,
  - (b) All organizations 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

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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

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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:

Signature of the applicant

Date:

**III.**

(Applicable for advertisement by a person / persons, other than a political party or a

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candidate)

I, Shri / Smt.-----, S/o / D/o / W/o\_\_\_\_\_ (full address)\_\_\_\_\_

hereby state and affirm that the advertisement(s) submitted herewith is not for the benefit of any political party or any candidate and that this advertisement(s) has / have not been sponsored / commissioned or paid for by any political party or a candidate.

Place: Signature of applicant

Date:

**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: \_\_\_\_\_

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## INSTRUCTION SI. No. 21

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

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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 sub-serve 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.

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## INSTRUCTION SI. No. 22

Election Commission's letter No. 3/9/2007/JS-II Dated: 16<sup>th</sup> 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 24<sup>th</sup> 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 along with 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.

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## INSTRUCTION SI. No. 23

Election Commission's letter No. 437/6/INST/ECI/FUNCT/MCC/2024(Advertisement), dated 02.01.2024, addressed to the Chief Secretaries and the Chief Electoral Officers of all States and Union Territories.

**Subject: -Model Code of Conduct – Publication of Advertisements – Regarding.**

Reference: Commission's instructions:

- (i) No. 437/6/28/2004/PLN-III, dated 29.09.2004
- (ii) No. 437/6/2004-PLN III, dated 24.12.2004
- (iii) No. 3/9/2007/JS-II, dated: 03.08.2007
- (iv) No. 437/6/INST/2009-CC&BE, dated 23.02.2009
- (v) No. 437/6/INST/2008-CC&BE, dated 13.04.2009
- (vi) No. 437/6/CG/2013/CC&BE, dated 09.10.2013
- (vii) No. 437/6/CG/2013/CC&BE, dated 17.10.2013
- (viii) No. 437/6/CG/2013-CC&BE, dated 30.10.2013
- (ix) No. 437/6/1/2014/CC&BE, dated 01.04.2014
- (x) No. 437/6/ ECI/INST/FUNCT/MCC-2017, dated 06.01.2017
- (xi) No. 437/6/1/ECI/INST/FUNCT/MCC/2021, dated 13.03.2021
- (xii) No. 437/6/INST/2014/CC&BE, dated 11.09.2014, and
- (xiii) No. 437/6/INST/2015-CCS, dated 29.12. 2015

Madam/Sir,

The Commission has issued various instructions from time to time on Publication of Advertisements during the period of enforcement of Model Code of Conduct. Following are the consolidated instructions in supersession of all the instructions issued vide letters listed above:

### **I. Advertisements at the cost of Public Exchequer**

- (a) Sub-para (iv) of para VII - 'Party in Power'- of the Model Code of Conduct for the Guidance of Political Parties and Candidates provides that: -

“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.”

- (b) Those hoardings, advertisements, etc., put up by the Government which purport

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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 eulogize 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. Accordingly, the photos of political leaders in such advertisement should be removed/covered suitably. 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.

- (c) 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.

## **II. Use of space in Railway Stations, Bus Stands, Airport, Bridges-Railway and Roadways, Govt. Buses, Govt. and public buildings, Electric and telephone poles, Municipal/ local bodies' buildings, space and assets for political advertisement**

- (i) Display of election posters, hoardings, banners, etc., in any Government/PSU premises is not permitted even if it is a commercial space. The Commercial spaces of Govt and Public Sector Undertakings (PSUs) during election periods cannot be used for displaying political advertisements.
- (ii) In case there is no specific provision in the by-laws of PSUs, or in their agreements with the advertisement agencies to whom they let out space for advertisement for prohibiting display of political advertisement, the PSUs may be instructed to add a para in their commercial agreements with commercial agencies/companies while providing space on lease to the advertisement agency for placing commercial advertisements that "No political advertisement shall be displayed/pasted at the space provided on lease for commercial advertisement like airport, railway stations, inter state/local bus stands, Govt. transportation, post offices, Government hospitals/dispensaries etc. (except on main highways, main roads etc.) during the period of Model Code of Conduct . If there is any political advertisement in the provided space, the same shall be removed immediately on enforcement of the Model Code of Conduct."
- (iii) In the case of Halls/Auditoriums/Meeting venues owned/controlled by the Government/local authorities/PSUs/Cooperatives, if the law/guidelines governing

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their use do not preclude political meetings therein, there is no objection to it but, 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 poster etc. shall not be permitted in such premises. The ECI Observers shall closely monitor compliance, and will specifically mention it in their reports to ECI.

**III. Broadcasting of election related matter over Radio during period of forty – eight hours ending with hour fixed for conclusion of poll**

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.

**IV. 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, etc.**

- (i) 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, etc. 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.
- (ii) 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

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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.

- (iii) 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.
- (iv) The Aadhaar related publicity can be done which has the objective to give information about Aadhaar Card to the general masses. Any publicity highlighting the achievements of the scheme or Authority or Government will not be allowed to be made.
- (v) On the occasion of Birth/Death Anniversaries of political leaders, photographs and messages related to departed political leaders except those leaders who passed away in recent past, may be published in the advertisements in this regard.

**V. Display of Photos of Political Functionaries on beneficiary cards, electric bills, construction site plaques etc.**

- (i) Beneficiary cards distributed to beneficiaries, constructions site plaques etc. erected during the enforcement of Model Code of Conduct shall not contain photographs, messages of Chief Ministers, Ministers and other political functionaries. However, no interference is called for in respect of photos of political functionaries on beneficiary cards, construction site plaques etc. that are distributed/erected prior to the enforcement of model code of conduct.
- (ii) The electricity bills, water bills, boarding passes, vaccination certificates, etc. to be generated after the enforcement of Model Code of Conduct should not contain any photographs or messages/symbols of political functionaries/parties.
- (iii) Similarly, the fertilizer bags, paper cups or any other merchandise to be used in the areas where Model Code of Conduct is enforced, should not contain any photographs or messages/symbols of political functionaries/parties.

**VI. Publication of any advertisements of Central Government in the newspapers of non-poll going States having circulation in poll going States**

- (i) It has been observed that certain advertisements highlighting welfare schemes and achievements of the Central Government and State Governments are published by some non-poll going State Governments, in the editions of newspapers in the States where elections are going on. The Commission considers this to be a violation of the spirits of the Model Code of Conduct.
- (ii) The Commission has directed that all such advertisements, issued by non-poll going State Governments during the Model Code of Conduct period shall be forwarded to the Commission for clearance before they are sent for publication in newspapers having edition or having circulation in the poll bound States.
- (iii) If any violation of the above instructions come to the notice of the Election

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Commission, the Secretary/Director of Information & Public Relations of the concerned State government shall directly be held responsible for such lapse.

**VII. Equitable opportunity to have access to advertisement spaces for election related advertisement**

- (i) 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.
- (ii) 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. The above instructions of the Commission shall be brought to the notice of all concerned for strict compliance.

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## D. Use of Vehicles/Aircrafts

### INSTRUCTION SI. No. 24

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

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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.

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## **INSTRUCTION SI. No. 25**

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 Commission's 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.

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## **INSTRUCTION SI. No. 26**

Election Commission's letter No.437/6/INST/2015-CCS dated 12.10.2015 addressed to the Chief Electoral Officer, Bihar and copy endorsed to all the Recognized National and State Political Parties for their information.

**Subject: - General Election to Bihar Legislative Assembly, 2015- Permission for change of aircraft by Political Parties. - regarding.**

I am directed to state that the request for permitting political parties to use aircraft without insisting on the CALL SIGN while details of the type of aircraft, single or twin engine can always be provided by them, as sometimes permitted aircraft may not be available due to a variety of reasons has been received in the Commission. A clarification was called for in the matter from the Director General of Civil Aviation, and a copy of the clarification given by Director General of Civil Aviation is enclosed herewith for necessary action.

Ministry of Civil Aviation letter No.AV.14015/GEN/2008-AT-I dated 08.10.2015 addressed to Secretary, M/o Civil Aviation.

**Subject:- Permission for use of Helicopter/Aircraft.**

Please refer to the D.O. letter no.JS(BS)/EC/2015 dated 08.10.2015 on the above subject.

2. In this connection it is intimated that the Non Scheduled Operator Permit Holders are not required to obtain call sign for their aircraft/helicopter endorsed on their Permit from DGCA. However, they are required to file their flight plans etc. with the nearest ATC Unit of AAI/IAF/Navy mentioning the registration of the aircraft/helicopter as call sign for identification purposes. Further for Use of Privately owned/State Government Aircraft for the carriage of Chief Ministers and other high dignitaries, the Operators are required to adhere to the guidelines as contained in Air Safety Circular No.02/1981. The same may please be brought to the notice of Chief Election Commissioner.

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## INSTRUCTION SI. No. 27

Election Commission's letter No. 437/6/INST/ECI/FUNCT/MCC/2024(Vehicles), dated 02.01.2024, addressed to the Chief Secretaries and the Chief Electoral Officers of all States and Union Territories.

**Subject: -Model Code of Conduct – Instruction- Use of vehicles during elections – Regarding.**

Reference: Commission's instructions:

- (i) No. 437/6/94/MCS-Vol V, dated 20.10.1994
- (ii) No. 437/6/98-PLN-III, dated 18.08.1999
- (iii) No. 4/2001/J.S.II, dated 30.03.2001
- (iv) No. 4/2001/JS-II, dated 08.05.2001
- (v) No. 437/6/2006-PLN-III, dated 23.11.2007
- (vi) No. 437/6/2008/CC&BE, dated 19.10.2008
- (vii) No. 437/6/1/2008-CC&BE, dated 24.10.2008
- (viii) No. 437/6/INST/2008-CC&BE, dated 31.10.2008
- (ix) No. 437/6/INST/2008-CC&BE, dated 28.03.2009
- (x) No. 437/6/INST/2008-CC&BE, dated 09.04.2009
- (xi) No. 437/6/INST/2010-CC&BE, dated 05.10.2010
- (xii) No. 464/INST/2011-EPS, dated 23.03.2011
- (xiii) No. 464/INST/2011-EPS, dated 23.03.2011
- (xiv) No. 464/INST/2011-EPS, dated 23.03.2011, and
- (xv) No. 464/INST/2011-EPS, dated 23.03.2011

Madam/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 in supersession of all the instructions listed above, 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.

### **I. Ban on use of official vehicles**

- (1) Subject to exceptions mentioned herein, there shall be a total and absolute ban on the use of official vehicles for campaigning, electioneering or election related travel during elections. Such vehicles include helicopters, aircrafts, cars, jeeps, automobiles, goods carriers, e-vehicles or e-rickshaws, two wheelers, boats, hovercrafts, etc., except as regulated by the Commission's order on the subject, owned or hired or controlled by the Central and State Governments, Central Public

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Sector Organizations, Public Sector Undertakings and Joint Sector Undertakings of the Central and State Governments, Local Authorities and Local Bodies, Marketing Boards (by whatever name known), Cooperative Societies, Autonomous District Councils or any other body in which public funds, howsoever small a portion of the total, are invested. The functionaries of all the autonomous organizations viz. Chairman, Dy. Chairman, President, Vice President, Commissioners etc. may be instructed to use the official vehicle provided to them by the State Government only for commuting between office and residence and to attend any official meeting within the Head Quarters itself.

- (2) 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 and also 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.
- (3) The District Administration shall keep a close watch to find out if any such official vehicle is being used for campaigning, electioneering or election related travel purpose. In such cases, the District Magistrate shall, forthwith, requisition or cause to be requisitioned such vehicles, after following due procedure, for election work, under Section 160 of the Representation of the People Act, 1951 and such requisitioned vehicles shall not be released until the completion of the process of elections.
- (4) The ban on the use of official vehicles will equally apply to vehicles in or from any States not going to the polls but whose official 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 or the Secretary to the Government of India in the concerned Department or Ministry, as the case may be, shall ensure that there is no misuse of any such vehicles. The officers under whose charge such vehicles are entrusted will be personally responsible for any violation. 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 basis, for campaigning or on tours connected with elections, in the guise of, official work in their capacity as Ministers is totally prohibited.
- (5) The only exception from the above prohibition will be the Prime Minister and other political personalities, who might, in view of extremist and terrorist activities

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and threat to their lives, require security of a high order and whose security requirements are governed by statutory provisions made by the Parliament or the State Legislature in this behalf. These restrictions shall also not be applicable in case of the Hon'ble President and Vice President of India, Speaker and Deputy Speaker of Lok Sabha and Deputy Chairman of Rajya Sabha and other such dignitaries visiting the State from other States. It is clarified here that in the case of Speaker and 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 but not during Legislative Assembly Elections. However, such exceptions shall not be available in respect of any Ministers of the Union or any State Government.

## **II. Prevention of misuse of vehicles during period of Electioneering**

- (1) 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 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.
- (2) 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.
- (3) Cars/vehicles being used for electioneering purposes shall, under no circumstances, be allowed to move in convoys of more than ten vehicles, excluding the security vehicles. 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. Such broken up convoys must

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have a distance of at least 100 meters between them.

- (4) 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.
- (5) 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.
- (6) 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.
- (7) 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.
- (8) 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.
- (9) 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

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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.

- (10) If any political party(ies) having electoral alliance or seat sharing, who apply(ies) with full detail 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.

### **III. Use of Aircraft / Helicopter by Political Parties**

- (1) 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.
- (2) Other political functionaries including Chief Ministers may, if required, hire private aircrafts and use them for their political campaign and other election related activities.
- (3) Full records of all non-scheduled flights through privately owned aircrafts should be 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.
- (4) The Political Functionaries/Political parties using helicopters/aircraft, for election campaign and other purposes should intimate three days in advance, regarding their itinerary and the details of persons who will travel and the materials that will be carried in the helicopter/aircrafts. The District Administration/District Election officers should maintain a log book and enter the details of the helicopters/aircraft 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.
- (5) 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

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of poll and counting as it will amount to interfere in the performance of the functions of the Election Commission as most of the leaders of all political parties have been categorized under various security grading and 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. 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.

(6) 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 under Explanation (1) to section 77(1), 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.

#### **IV. Vehicle permit for district officer bearers of recognized political party**

- (1) If any political party applies for permission for vehicles to be used by their district level office bearers/leaders (other than star campaigners) for their visit to multiple Assembly Constituencies within the District for electioneering purposes, necessary permission should be given by the DEO of the District concerned.
- (2) 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.
- (3) The permit should be issued indicating the name of the political leader, the (regn.) No. of the 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

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shall be prominently displayed on wind screen of the vehicle and the original be kept by the person for checking by police or any other authorities. The surveillance teams should also be informed in the matter.

**V. Use of Road Transport by Party Campaigners availing benefit to clause (a) of explanation given under Section 77(1) of the RP Act, 1951**

- (i) In case the mode of road transport is to be availed by 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.
- (ii) If the vehicle so permitted in item (i) above is also occupied by any other person than the leader referred to in item (i), in that case, the 50% expenditure of the same shall be booked in the expenditure of concerned party contesting candidate from that constituency.

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

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## E. Campaigning

### INSTRUCTION Sl. No. 28

ECI letter No. 509/35/2014-RCC, dated 04.03.2014 addressed to the President/General Secretary/Chairperson of all recognised National and State Political Parties and copy endorsed to the Chief Electoral Officers of all States/UTs.

**Subject: In the Allahabad High Court at Lucknow Bench-W.P. (PIL-Civil) (B) No. 603 of 2014-Pratap Chandra Vs. Union of India & others.**

I am directed to forward herewith a copy of the Order dated 30/01/2014 passed by the Hon'ble High Court of Allahabad at Lucknow Bench on the issue of use of National flag in rallies of political parties. The relief claimed in the petition was for a direction to the respondents (Central Government, State Government of Uttar Pradesh, Election Commission and State Election Commission) not to allow the use of national flag in rallies of political parties. The Hon'ble High Court of Allahabad disposed of the petition with the observation that there is no prohibition of proper use of national flag by political parties in rallies and that it is the bounden duty of the authorities concerned to ensure strict compliance and observation of the provisions of the Flag Code and the provisions of Emblem and names (Prevention of Improper use) Act, 1950 and the Prevention of insults to National Honour Act 1971.

The above said Order of the Hon'ble High Court may be noted and also brought to the notice of the cadres of the party at all level to ensure that there is no violation of the provisions of the Flag Code and the Acts mentioned in the Order.

Kindly acknowledge receipt.

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### HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

Court No.2

Case:-MISC. BENCH No.-603 of 2014

Petitioner:- Pratap Chandra (P.I.L.)

Respondent:- Union of India Through Secretary Ministry of Home & Others

Counsel for Petitioner:- Vijay Kumar Pandey

Counsel for Respondent:- C.S.C., A.S.G., Aprajita Bansal, Manish Mathur

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Hon'ble Imtiyaz Murtaza, J.

Hon'ble Devendra Kumar Upadhyaya, J.

Heard Sri Vijay Kumar Pandey, learned counsel for the petitioner, Sri K.C. Kaushik, Assistant Solicitor General of India for respondent no.1, Sri Manish Mathur for respondent no.2, learned Chief Standing Counsel for respondent no.3 and 4 and Ms. Aprajita Bansal for respondent no.5.

Through the instant Public Interest Litigation, a direction has been sought to be issued to the respondents not to allow the use of the National Flag in any particular rallies of any political parties.

For proper use of the National Flag, Flag Code of India has been notified by the Government of India, wherein certain provisions have been made. According to paragraph 2.1. of the said Code, there is no restriction in display of National Flag by members of general public, private organisations, educational institutions etc., except to the extent provided in the Emblems and Names (Prevention of Improper Use) Act, 1950 and Prevention of Insults to National Honour Act, 1971 or any other law enacted for the said purpose.

The Flag Code specifically prohibits the use of National Flag for commercial purpose in violation of the Emblems and Names (Prevention of Improper Use) Act, 1950. It also clearly envisages that the Flag shall not be dipped in salute to any person or thin and further that the Flag shall not be flown at half-mast except on occasions on which the Flag is flown at half-mast on public buildings in accordance with the instructions issued by the Government. There are certain other instructions in the Flag Code.

The Flag Code and other enactments referred to hereinabove have been promulgated for their strict observance. We may also refer that any contravention of the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950, attracts penal action.

On a specific query being put to the learned counsel for the petitioner, as to whether there is any prohibition for proper use of National Flag by the political parties, he could not satisfy the Court. However, he stated that it is the bounden duty of the State authorities to ensure that the national flag is used only in proper manner and in accordance with the provisions contained in the Flag Code of India as also in the enactment, namely, the Emblems and Names (Prevention of Improper Use) Act, 1950 and the provisions of the Prevention of Insults to National Honour Act, 1971. Needless to say that in order to preserve the honour and respect attached to the National Flag, it is the bounden duty of the authorities concerned to ensure strict compliance and observance of the provisions of the Flag Code of India and the legislations, as referred to hereinabove. We hope and expect that strict compliance thereof shall be ensured by all concerned.

With the aforesaid observation, the petition is disposed of finally.

Order Date:- 30.1.2014

MFA/-

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## INSTRUCTION SI. No. 29

Election Commission's letter number 3/10/2001/JS-II dated 23.03.2001 addressed to CEOs of all States and Union Territories and copy endorsed to Chief Secretaries of all States/UTs

**Subject: Election campaigns of political parties and candidates – measures to curb highly expensive campaigns and for maintenance of law and order during elections.**

I am directed to state that the Commission has, during the recent rounds of general elections and bye-elections to the House of the People and State Legislative Assemblies, observed that political parties, candidates and their workers and supporters have often resorted to violations of those provisions of the Model Code of Conduct and relevant directions and instructions of the Commission, which aim at reducing the mounting cost of electioneering and maintenance of proper law and order during the election period. Taking advantage of the loop-holes in the existing laws, particularly the absence of any ceiling on the election expenses by political parties, the election campaigns by political parties and candidates and their supporters have become highly expensive, setting at naught the limits of election expenses fixed by law for the contesting candidates. Often, huge cutouts, multi-coloured and multi-dimensional, of leaders of political parties and candidates are erected on busy roads, inter-sections and highways, etc. Each of such cutouts costs thousands, and sometimes lakhs of rupees. Similarly, big gates and arches are built on the main highways and roads, despite the fact that the Commission had prohibited the erection of such cutouts, gates and arches, etc., by its order No. 3/10/(ES-007)/94-JS-II, dated 2nd September, 1994.

2. Likewise, many political parties and candidates are still observed violating the directions and instructions of the Commission prohibiting the defacement of public and private property, as contained in the Commission's Circular No. 3/7/94/JS-II, dated 5th January, 1994.
3. Further, it has also been generally observed that long motorcades, carrying important leaders of political parties and candidates, ply on important busy roads, creating traffic congestions and hazards and causing all round inconvenience to the general public, in violation of the directions of the Commission in its order No. 437/6/96/PLN-III, dated 15th January, 1996, that not more than three vehicles (excluding vehicles of security personnel accompanying any leader or candidate) should be allowed to go in a caravan on the roads during the electing period. Particularly, on the days of filing nominations, date of scrutiny and the date of allotment of election symbols after the period of withdrawal of candidatures is over, many of the candidates have been observed going to the offices of Returning Officers in long motorcades, and, in certain cases, even big processions with elephants and horses, etc., have been led to the offices of the Returning Officers on the above occasions.
4. The Commission has taken a serious notice of violation of its directions and instructions on the above subject and has desired that the same should be strictly and scrupulously

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observed by all political parties, candidates and their workers and supporters in their election campaigns, so that these are conducted in a peaceful and orderly manner. This will have the desired effect of providing level playing field for all parties and candidates, and maintenance of proper law and order and peaceful atmosphere conducive to the holding of free and fair elections. Without prejudice to its directions and instructions in its above mentioned orders/circulars, the Commission has, in particular, reiterated that -

- (i) there shall be no cut-outs, gates and arches erected by candidates, political parties or their supporters;
- (ii) writing of slogans, pasting of posters, campaigning material etc., on public and private walls shall be strictly enforced as per local laws that are prevalent; and
- (iii) no large processions shall accompany a candidate when he goes to the office of the Returning Officer to file his nomination or goes for attending the scrutiny proceedings or the proceedings relating to allotment of symbols.

Returning Officers and all others concerned should be instructed immediately to ensure that the above mentioned directions and instructions of the Commission are strictly observed and complied with by all political parties, candidates, etc. For this purpose, they should invoke all local police and municipal Acts and other relevant laws. It should also be impressed upon them that any lack of effort on their part which may result in violation of the Commission's directions and instructions would be seriously viewed by the Commission and dealt with by it severely.

The Commission further desires that the above directions and instructions of the Commission should be brought to the notice by you to all political parties and candidates for strict observance on their part. For this purpose, you may hold meetings with all recognised parties at your level, whenever any general election is called in the State. Similar meetings should also be taken by the District Election Officers/Returning Officers with political parties and candidates at the District/Constituency level, as considered appropriate. This would avoid the embarrassing situation of pulling down or removing any cut-outs, wall paintings, etc., put up by the parties and candidates or impounding the vehicles, etc., used by them, in violation of the Commission's directions and instructions and facing any penal action under the relevant laws.

Receipt of this letter may be acknowledged and Commission informed of the action taken in the matter.

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## INSTRUCTION SI. No. 30

ECI Letter No. 437/6/MISC/ECI/FUNCT/MCC/2019, dated 27<sup>th</sup> August, 2019, addressed to the Chief Electoral Officer of NCT of Delhi

**Subject: General Elections to the House of the People (Lok Sabha) 2019 – Display of photos of Shri Narendra Modi and Shri Arvind Kejriwal on display boards of Delhi Metro - regarding.**

I am directed to refer to the Commission's letter No.437/Terr/DL-HP/NS-II/2019 dated 13.06.2019 on the subject cited above, whereby it was requested to advise the Delhi metro to insert appropriate clause in the main part of their contract with the advertisement agencies, in terms of para 12.03.4 of the MCC Manual 2019 and in accordance with the Commission's instructions dated 29.12.2015 which provides as under:-

*“No political advertisement shall be displayed/pasted at the space provided on lease for commercial advertisement during the period of Model Code of Conduct. If there is any political advertisement in the provided space, the same shall be removed immediately on enforcement of the Model Code of conduct.”*

2. The Delhi Metro Rail Corporation Ltd. (DMRC) vide their letter No. DMRC/OP/PB/MISC/2019/141 dated 12.07.2019, addressed to the CEO Delhi and a copy endorsed to the Commission, has informed that the advertisement contracts of DMRC already have a standard clause related to political advertisement contracts of DMRC already have a standard clause related to political advertisement during the period of enforcement of Model Code of conduct as under:-

*“Advertisement pertaining to achievement by different Governments, their Departments, Ministries, Government Undertakings, Other Authorities or Political Parties shall be permitted. However, no advertisement of ny political party, person violating “Model code of Conduct” shall be allowed during the period whereby “Model code of conduct” has been enforced by Election Commission. Further, no advertisement which violated “Model Code of Conduct” shall be permitted during the period whereby “Model Code of Conduct” have been enforced by Election Commission.”*

3. In view of the above, the DMRC has requested to reconsider/review the decision regarding the incorporation of clause as advised vide the Commission's aforesaid letter dated 13.06.2019.
4. The matter has been reconsidered in the Commission and it has been observed that the existing clause in the advertisement contracts of the DMRC, as mentioned in paragraph 2 above, is not in line with the Commission's instruction dated 29.12.2015, referred to above, and therefore DMRC May be advised to modify the existing clause in the advertisement contracts so as to incorporate the exact instruction dated 29.12.2015.

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## INSTRUCTION SI. No. 31

ECI Letter No. 437/6/INST/2020/MCC, dated 04.02.2020, addressed to the President/Chairperson/General Secretary of all Recognized National and State Political Parties.

**Subject: - Advisory for Candidates and Political parties during period of forty eight hours ending with hour fixed for conclusion of poll- regarding.**

In order to strengthen law and order on the day of poll and to ensure an atmosphere where the electors do not feel intimidated or where the level playing field is not disturbed, the Election Commission has issued various detailed instructions to the contesting candidates and Political Parties restricting electioneering during the period of forty eight hours ending with hour fixed for conclusion of poll. **Certain important instructions in this regard are reiterated below for strict compliance of Candidates, Political Parties and election/police authorities -**

- (i) All parties and candidates shall continue to avoid scrupulously all activities which are “corrupt practices” and offences under the election law, such as bribing of voters, intimidation of voters, impersonation of voters, canvassing within 100 meters of polling stations, holding public meetings during the period of 48 hours ending with the hour fixed for the close of the poll, and the transport and conveyance of voters to and from polling station. ***(MCC guidelines Part-I(4), General Conduct)***.
- (ii) During the course of campaign in 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. ***(Commission’s instruction No. 464/INST/2007-PLN-I dated: 8<sup>th</sup> January, 2007 and No. 464/INST/2008EPS dated: 2<sup>nd</sup> December 2008)***.
- (iii) (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. ***(Section - 126 of the Representation of the People Act, 1951)***.
- (iv) Clause (b) of sub-section(1) of Section 126 prohibits display of election matter through T.V.

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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. **(Commission's instruction No. 3/9/2007/JS-II Dated: 3rd August, 2007).**

- (v) No Political Party or Candidate or any other Organization or Person shall publish any Advertisement in the print media on poll day and one day prior to poll day in all the phases, unless the contents of political advertisements are got Pre-certified by them from the MCMC Committee at the State/District level, as the case may be. **(Commission's instruction No. 491/MCMC/2019/Communication, dated 6<sup>th</sup> April, 2019).**
- (vi) No loudspeakers fitted on vehicles of any kind or in any other manner whatsoever shall be permitted to be used during the period of 48 hours ending with the hour fixed for the conclusion of the poll in any polling area. **(Commission's instruction No.3/8/2000/J.S.II, dated 26.12.2000)**
- (vii) 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. 'Dry day' shall be declared and notified under the relevant State/Union Territory laws as is appropriate during 48 hours, ending with the hours fixed for conclusion of poll as indicated in the Commission's notification with respect to polling day for an election in that polling area' where elections to Parliamentary Constituencies, State Legislative Assemblies or bye-elections to Legislative Assemblies are being held. This will include the dates of re-poll, if any. **(Commission's instruction No.576/14120141EPS, dated 18.03.2014)**
- (viii) Prohibitory period of Release of Manifesto during elections(s)
- i. In case of single phase election, manifesto shall not be released during the prohibitory period, as prescribed under Section 126 of the Representation of the People Act, 1951.
  - ii. In case of multi-phase elections, manifesto shall not be released during the prohibitory periods, as prescribed under Section 126 of the Representation of the People Act, 1951, of all the phases of those elections. "

**(MCC guidelines Part-VIII(4), Guidelines on Election Manifestos).**

It is once again requested that the above instructions should be brought to the notice of candidates and all political functionaries of your political party for compliance during the current and all future elections.

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## INSTRUCTION SI. No. 32

ECI Letter No. 437/6/INST/ECI/LET/FUNCT/MCC/2022, dated 22<sup>nd</sup> January, 2022 addressed to the CEOs of all States and Union Territories

**Sub: Model Code of conduct- Instructions for publicity through Video/Digital Van in view of COVID restrictions- reg.**

In continuation to the Commission's letter No. 437/6/Campaign/ECI/INST/FUNCT/MCC-2016 dated 4<sup>th</sup> January, 2017 in view of the COVID restrictions, Commission has modified the instructions as detailed below;

- (i) The permission to use Video-Vans for publicity purpose can be granted by Chief Electoral Officer for entire State and by DEO at the District/ AC level. Concerned Transport Nodal Officer must submit certificate to the Chief Electoral Officer/DEO concerned that the video van is in conformity with the Motor Vehicle Act.
- (ii) The contents of material for election publicity on the video-van shall be pre-certified from MCMCs. The video van of the political party should be used to propagate its programme and policies to seek votes. Votes or support for any particular candidate should not be solicited. However, if it is used for seeking votes/support for a candidate/candidate then expenditure of video van shall be accounted for by such candidate/candidates appropriately. Expenditure observers to closely monitor this.
- (iii) Any party/candidate seeking permission to use video vans from Chief Electoral Officer/ DEO concerned should first obtain necessary permission/no objection certificate from the Competent Authority under the Motor Vehicle Act. This certification is required to ensure the conformity with the Motor Vehicle Act/relevant provisions of law and Court orders, if any on this subject for playing of video-vans on the road.
- (iv) Though there is no restriction on the number of video vans which can be used publicity, the expenditure for is shall be duly included in the Election Expenditure Account of the party, to be submitted to ECI after election.
- (v) Route of video vans to be used for publicity should be informed to local administration/ District Election Officer in advance. In case of violation, the permissions for video van may be withdrawn, after due notice, by CEO/ DEO concerned.
- (vi) The Video Van can be operated between 8AM and 8PM only,
- (vii) These Video Vans shall not be used for rallies and road shows,
- (viii) The District Election Officer shall identify designated open spaces as viewing points for the stoppage of the Video Vans. DEO should allocate route, space and time for video vans permitted to operate in the jurisdiction.
- (ix) It shall not be displayed at market/crowded places.
- (x) It shall be the responsibility of the political party/candidates who have taken permission of the Video Van to ensure that the decibels of the sound generatec does not exceed the limit prescribed under the relevant laws.

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- (xi) It shall be the responsibility of the political party/candidate to ensure that all and instructions as per Model Code of Conduct and relevant laws and rules relating to Motor Vehicles etc. are strictly adhered to.
  - (xii) It shall be the responsibility of the political party/candidate to ensure that COVID appropriate behaviours as in force in the State issued by State Disaster Management Authority and Election Commission of India shall be strictly adhered
  - (xiii) Not more than 500 viewers or 50% of the capacity of the designated open space (viewing point) or the prescribed limit set by SDMA, whichever is least, are allowed to gather around the Video Vans.
  - (xiv) It shall be the responsibility of the political party/candidate that all present at the viewing points shall follow appropriate COVID 19 behaviour and SOP including wearing of mask and maintaining of social distancing, failing which the permission may be withdrawn.
  - (xv) It shall be the responsibility of the political party/candidate that the stoppage for viewing shall not be at any unauthorized location and in no case, it shall cause hindrance to smooth flow of traffic or thoroughfare.
  - (xvi) It shall be the responsibility of the political party/candidate to ensure that at any viewing point, the maximum stoppage shall not be for more than 30 minutes.
2. A format of application for seeking permission by political party/candidate for Video-Van from CEO/DEO concerned is enclosed herewith.

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## FORMAT FOR SEEKING PERMISSION OF VIDEO/DIGITAL VAN

Name of Election:..... Year..... Type of Election: General/Bye Name of PC/AC:..... Name of State:.....

1. Name of Applicant:..... Mobile No.:..... EPIC No.: .....
2. Are you a contesting candidate: Yes/No
3. Name of Political Party:..... Designation in the Party:.....
4. Details of Vehicle:
  - (i) Type:..... (ii) Registration No. ....
  - (iii) Make..... (iv) Year.....
5. Details of changes done in the vehicle .....  
..... (Attach photo of Video Van to be used)
6. Permission details of concerned transport authority (under the Motor Vehicle Act): .....  
..... (Enclose the copy)
7. Area of operation:
  - (a) (i) Entire State
  - (ii) District (Enclose list)
  - (iii) ACs:
  - (b) Route Plan:

### **Terms and Conditions:**

In continuation to the Commission's letter No. 437/6/Campaign/ECI/INST/FUNCT/MCC-2016 dated 4<sup>th</sup> January, 2017, in view of the COVID restrictions, Commission has modified the instructions as detailed below:

- (i) The permission to use Video-Vans for publicity purpose can be granted by Chief Electoral Officer for entire State and by DEO at the District/ AC level. Concerned Transport Nodal Officer must submit certificate to the Chief Electoral Officer/DEO concerned that the video van is in conformity with the Motor Vehicle Act.
- (ii) The contents of material for election publicity on the video-van shall be pre-certified from MCMCs. The video van of the political party should be used to propagate its programme

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and policies to seek votes. Votes or support for any particular candidate should not be solicited. However, if it is used for seeking votes/support for a candidate/candidate then expenditure of video van shall be accounted for by such candidate/candidates appropriately. Expenditure observers to closely monitor this.

- (iii) Any party/candidate seeking permission to use video vans from Chief Electoral Officer/ DEO concerned should first obtain necessary permission/no objection certificate from the Competent Authority under the Motor Vehicle Act. This certification is required to ensure the conformity with the Motor Vehicle Act/relevant provisions of law and Court orders, if any on this subject for playing of video-vans on the road.
- (iv) Though there is no restriction on the number of video vans which can be used publicly, the expenditure for is shall be duly included in the Election Expenditure Account of the party, to be submitted to ECI after election.
- (v) Route of video vans to be used for publicity should be informed to local administration/ District Election Officer in advance. In case of violation, the permissions for video van may be withdrawn, after due notice, by CEO/ DEO concerned.
- (vi) The Video Van can be operated between 8AM and 8PM only,
- (vii) These Video Vans shall not be used for rallies and road shows,
- (viii) The District Election Officer shall identify designated open spaces as viewing points for the stoppage of the Video Vans. DEO should allocate route, space and time for video vans permitted to operate in the jurisdiction.
- (ix) It shall not be displayed at market/crowded places.
- (x) It shall be the responsibility of the political party/candidates who have taken permission of the Video Van to ensure that the decibels of the sound generated does not exceed the limit prescribed under the relevant laws.
- (xi) It shall be the responsibility of the political party/candidate to ensure that all and instructions as per Model Code of Conduct and relevant laws and rules relating to Motor Vehicles etc. are strictly adhered to.
- (xii) It shall be the responsibility of the political party/candidate to ensure that COVID appropriate behaviours as in force in the State issued by State Disaster Management Authority and Election Commission of India shall be strictly adhered
- (xiii) Not more than 500 viewers or 50% of the capacity of the designated open space (viewing point) or the prescribed limit set by SDMA, whichever is least, are allowed to gather around the Video Vans.
- (xiv) It shall be the responsibility of the political party/candidate that all present at the viewing points shall follow appropriate COVID 19 behaviour and SOP including wearing of mask and maintaining of social distancing, failing which the permission may be withdrawn.
- (xv) It shall be the responsibility of the political party/candidate that the stoppage for viewing shall not be at any unauthorized location and in no case, it shall cause hindrance to smooth flow of traffic or thoroughfare.
- (xvi) It shall be the responsibility of the political party/candidate to ensure that at any viewing point, the maximum stoppage shall not be for more than 30 minutes.

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**UNDERTAKING**

I/We hereby certify that I/We have read the terms and conditions mentioned above and undertake to adhere to them in letter and spirit and in the event of any violation the permission given to me/us for the Video Van(s) can be withdrawn.

Name 1.....

2.....

3.....

Name of Party (if any).....

Date.....

Place.....

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## INSTRUCTION SI. No. 33

ECI Letter No. 437/6/ECI/INST/FUNCT/MCC/2022, dated 11<sup>th</sup> October, 2022 addressed to the Cabinet Secretary, the Chief Secretaries and CEOs of all States and Union Territories

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

I am directed to invite reference to the Commission's letters No.3/7/2008/JS-II, dated 07.10.2008 and No.437/6/INST/2012-CC&BE, dated 18.01.2012 on the subject cited and to state that the Commission has decided to reiterate its instructions regarding preventions of defacement of property as under:-

### Defacement of Public Places

2. (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 poster, 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

3. (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 poster, and similar

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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). 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 candidate's 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, bunting 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 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 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.

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## DEFACEMENT OF HALLS/AUDITORIUMS AND OTHER PUBLIC PROPERTIES

4. 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, maybe 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.
5. 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

6. (a) In private vehicles, subject to the provisions of the Motor Vehicles Act, Rules there under 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.

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## OTHER CAMPAIGN RELATED ITEMS

7. 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.
8. 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.
9. Please acknowledge receipt of this letter. The Chief Electoral Officers may kindly confirm that action as required above has been taken.

**Annexure**

**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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## INSTRUCTION SI. No. 34

ECI Letter No. 437/6/INST/ECI/FUNCT/MCC/2023, dated 02.05.2023, addressed to the President/ Chairperson/General Secretary of all Recognized National and State Political Parties.

**Sub: Instructions on plummeting level of public discourse during campaigning, maintain expected level of dignity and in particular by star campaigners, recognized National and State Political Parties.**

The Commission, in collaboration and consultation with all stakeholders, in particular, the political parties and the candidates, has invested effort in encouraging all stakeholders to maintain a level of political discourse during campaigning which is befitting the widespread admiration and standing of Indian democracy worldwide.

2. In the run upto the General Election to the Legislative Assembly of Karnataka, plummeting level of campaign discourse has been brought to the attention of the Commission. Instances of inappropriate vocabulary and language used during the on-going campaign by persons, in particular, by those invested with the statutory status of star campaigner have occasioned various complaints, cross complaints and have also attracted negative media attention.
3. As per the MCC provisions, use of provocative and inflammatory statements, use of intemperate and abusive language transgressing the limits of decency and attacks on the personal character and conduct of political rivals vitiate the level playing field. Attention of the political parties is drawn to the following provision of the MCC and other statutory provisions which hold the field and fix the framework of the expected campaign discourse.
  - 3.1) MCC provision: as contained in Chapter 3& 4 of Manual on Model Code of Conduct, (March, 2019) which provides the following :-
    - (a) *Para 3.8.2 (ii) of Chapter 3 states, "Nobody should indulge in any activities or make any statements that would amount to **attack on personal life of any person** or statements that may be malicious or offending decency and morality."*
    - (b) *Para 4.3.1 of Chapter 4 states "Political parties and candidates **shall refrain from criticism of all aspects of private life**, not connected with the public activities of the leaders and workers of the other parties. It also provides that no party or candidate shall indulge in any activity which may aggravate existing differences or create mutual hatred or cause tension."*
    - (c) *Para 4.3.2 of Chapter 4 states, "**maintain high standard of election campaign.**"*
    - (d) *Para 4.3.2(ii) of Chapter 4 states, "Election Commission while expressing deep anguish on the progressively plummeting levels of political discourse, put the political parties on notice that repeated violation of Model Code may invite action against them."*
    - (e) *Para 4.4.2 (B) (iii) of Chapter 4 provides that "No party or candidate shall include in any activity which **may aggravate existing differences or create mutual hatred** or cause tension between different castes and communities, religious or linguistic."*

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(f) *Para 4.4.2 (B) (v) of Chapter 4 “Other parties or their workers shall not be criticised based on unverified allegations or on distortions.”*

3.2) Further, attention is also drawn to the following provisions of IPC-

(a) **Section 171G of the IPC-** *“False Statement in connection with an election.”*

(b) **Section 499 the IPC** states that *“Defamation. -Whoever, by words either spoken or intended to be read, or by signs or by visible representations makes or publishes any imputation concerning any person intending to harm or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said except in the cases hereinafter expected to defame that person.”*

(c) **Section 500 IPC** states that *“Punishment for Defamation- Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.”*

(d) **Section 504 of the IPC-***“Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.”*

4. The spirit of the MCC is not just avoidance of a direct violation. It definitely also prohibits attempts to vitiate the electoral space through suggestive or indirect statements or innuendoes. During campaigning in ongoing elections in Karnataka, some star campaigners/leaders of National political parties have not kept the high standard expected and have made such utterances vitiating the election environment.
5. The Commission has taken serious note of such plummeting level of campaign discourse. National Parties and Star Campaigners enjoy extra enablement within the R.P. Act. It is imperative that all parties and stakeholders remain within the confines of the Model Code of Conduct and the legal framework in their utterances while campaigning so as to maintain the dignity of the political discourse and not to vitiate the campaign and the election atmosphere. They are thus expected to contribute in maintaining and raising the level of discourse to “issue” based debate, provide pan India perspective and depth to the local discourse and to reassure all sections of electors to participate fully and fearlessly in a free and fair election.
6. Accordingly, the Commission reiterates the MCC instruction and strongly advises and cautions all National and State Parties, the RUPPs and, independent candidates to exercise caution and restraint in their utterances. All CEOs are directed to bring this to the notice of the all National and State Parties for strict compliance. They may also ensure widest publicity of this advisory and compliance thereof failing which appropriate action must be initiated as per the extant regulatory/legal framework.

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## INSTRUCTION SI. No. 35

Election Commission's letter No. 437/6/INST/ECI/FUNCT/MCC/2024(Campaign), dated 02.01.2024, addressed to the Chief Secretaries and the Chief Electoral Officers of all States and Union Territories.

**Subject: -Model Code of Conduct – Instruction- Election Campaign – Regarding.**

Reference: Commission's instructions:

- (i) No. 3/8//2000 J.S.II, dated 26.12.2000
- (ii) No. 464/INST/2007-PLN-I, dated 12.10.2007
- (iii) No. 464/INST/2009-EPS, dated 18.03.2009
- (iv) No. 437/6/2009-CC&BE, dated 15.09.2009
- (v) No. 437/6/INST/2013/CC&BE, dated 28.11.2013
- (vi) No. 437/6/INST/2013/CC&BE, dated 04.12.2013
- (vii) No. 437/6/INST/2014-CC&BE, dated 26.04.2014
- (viii) No. 437/INST/2015-CCS, dated 17.09.2015
- (ix) No. 437/6/INST/2015-CCS, dated 09.10.2015
- (x) No. 437/6/Campaign/ECI/INST/FUNCT/MCC-2016, dated 04.01.2017
- (xi) No. 437/6/2017(Policy), dated. 10.01.2017
- (xii) No. 437/6/2017 (policy), dated 25.02.2017
- (xiii) No. 437/6/INST/2016-CCS, dated: 24.05.2017
- (xiv) No. 437/6/INST/2016-CCS, dated: 24.05.2017
- (xv) No. 437/6/INST/2016-CCS, dated: 24.05.2017
- (xvi) No. 437/6/2007(INST)-PLN-III, dated 12.11.2007
- (xvii) No. 464/GJ-LA/2007, dated 26.11.2007
- (xviii) No. 464/INST/2014-EPS, dated 9.04.2014
- (xix) No. 437/6/INST/2019/MCC, dated 09.03.2019
- (xx) No. 437/6/INST/2019/MCC, dated 19.03.2019
- (xxi) No. 437/6/INST/2019/MCC, dated 05.04.2019
- (xxii) No. 437/6/INST/2019/MCC, dated 29.04.2019
- (xxiii) No. 437/6/INST/2020/MCC, dated 29.01.2020
- (xxiv) No. 437/6/INST/2008-CC&BE, dated 18.02.2009, and
- (xxv) No. 437/6/INST/ECI/LET/FUNCT/MCC/2022, dated 22.01.2022

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Madam/Sir,

With a view to maintain the election campaign in line with statutory provisions and to avoid clashes and conflicts between stakeholders i.e. political parties or their supporters and also to ensure peace and order during the campaign period, the Commission has issued, in the past, a number of instructions. Following are the consolidated instructions in supersession of all the instructions issued vide letters listed above:

## **1. Use of Bike**

The Commission, having considered inputs that there is a need to regulate the use of bikes for electioneering purposes, issues the following instructions-

- (i) Bike is a two-wheeler and its use shall be restricted only for campaign purpose  
Number of bikes may be restricted as per convoy rules of vehicle, which inter-alia provides that cars/vehicles shall, under no circumstances, be allowed to move in convoy of more than ten vehicles excluding the security vehicles. All bigger convoys exceeding ten vehicles 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. 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.
- (ii) Use of Bikes, other than those permitted to campaign purpose, would be regulated under the prohibitory order, viz. Sec 144 CrPC.
- (iii) Only one flag (of maximum dimension of 1 ft by ½ ft) shall be permitted on one bike.
- (iv) Length of pole/stick for carrying flag shall not be more than 3 feet.

## **2. Road Shows**

There is a total and absolute ban on the use of official vehicle for campaigning, electioneering or election related travel during elections. It also provides that car/vehicles shall not be allowed to move in convoys of more than ten vehicles (excluding security vehicles) and all bigger convoys shall be broken even if they are carrying any Minister of Centre/State Government or any other person, subject to any security instructions issued in respect of any such individual. The Commission, after considering the fact that there is a need to regulate road shows to avoid any inconvenience to the general public/commuters during road shows, issues the following instructions-

- a. Prior permission for road shows shall be taken from the Competent Authority.
- b. In order to avoid inconvenience to general public, as far as possible, road shows, subject to court orders and local laws, should be permitted only on holidays and during no-peak hours on routes other than that having big hospitals, trauma centers, blood banks and heavily crowded markets.

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- c. Number of vehicles and persons joining for road show shall be intimated in advance.
  - d. The road show shall not cover more than half the road width to ensure safety of the general public.
  - e. The convoy of vehicles being used in road show shall be broken after every 10 vehicles and a gap of 100 meters would be maintained.
  - f. Safety of public and persons in the road show shall be ensured. Bursting of fire crackers and carrying of fire arms shall not be permitted at all.
  - g. The maximum size of banner to be carried with hand would be 6x4 feet.
  - h. Loudspeakers can be used as per existing ECI's instruction and subject to Local Laws and Court orders on this subject.
  - i. Display of animals in road shows is totally banned. Children, particularly school children in uniform, should not take part in road shows.
  - j. Only one flag of the size 1 ft X ½ ft with permission of the RO concerned would be allowed on campaign vehicles in a road show.

### **3. Use of Loudspeakers in processions and election meetings**

- (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. subject to the local law/court orders/any order of state pollution control board. Local perceptions of the security arrangements of the area and other relevant considerations like weather conditions, festival season, examination period, etc. should also be considered.
- (ii) All loudspeakers whether used for general propaganda or for public meetings or procession, and whether used on moving vehicles or otherwise, shall be used during the restricted hours only mentioned above and never beyond.
- (iii) All loudspeaker being used beyond the hours as prescribed above, shall be confiscated along with all the apparatus connected with the use of these loudspeakers.
- (iv) The Commission has further directed that it should be ensured by the concerned authorities of state pollution control boards that decibels of the sound generated by loudspeakers/amplifiers doesn't exceed the permissible limit as fixed under relevant law/guidelines. DEO shall monitor this by putting in place suitable mechanism.
- (v) All political parties, candidates and any other persons using any loudspeakers on moving vehicles including but not restricted to trucks, tempos, cars, taxis, vans, three-wheeler scooters, cycle rickshaws, etc. shall intimate the registration identification number of those vehicles to the authorities granting permission to use the loudspeakers and such registration identification numbers of the vehicles shall be indicated on the permits granted by the authorities concerned.
- (vi) Any vehicle on which a loudspeaker is used without the said written permit shall be

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confiscated forthwith along with the loudspeaker and all the apparatus used along with it.

- (vii) All political parties, candidates and even other person using a loudspeaker either on a moving vehicle or at a fixed place shall intimate -
- (1) the Returning Officer of the Constituency, and
  - (2) local Police authorities, in writing, the full details of the permits obtained by them before using any of those loudspeakers. In the case of mobile loudspeakers, the registration identification numbers of the vehicles shall also be registered by them with the Returning Officer and the local Police authorities.
- (viii) It shall be the responsibility of the State Government authorities granting permits for use of loudspeakers and the local Police authorities to strictly enforce that no loudspeaker is used by anyone in violation of any of the above directions.
- (ix) No loudspeakers fitted on vehicles of any kind or in any other manner whatsoever shall be permitted to be used during the period of 48 hours ending with the hour fixed for the conclusion of the poll in any polling area. Even after the close of poll, proper law and order is required to be maintained till completion of election after the declaration of result. Use of loudspeakers is generally regarded as source of public nuisance and can often give rise to tension in a politically charged atmosphere. The District Administrations should, therefore, consider any application for permission to use loudspeakers after the aforesaid prohibitory period of 48 hours, on merit of each application and keeping in view the need to maintain proper law and order till the completion of election.

#### **4. Use of flags**

- (i) 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. Also, if such display of banners, flags etc. aims to solicit vote for any particular candidate, then, under section 171 H of IPC, general or special authority in writing of candidate is necessary. The Commission has now clarified that there should be only three number of flags of a party/candidate to be used at party workers'/supporter' residence and at party offices. In case, some person wants to display flags of more than one party or candidate, then it shall be restricted to only one flag of each party/candidate. Display of flags would be subject to Local law and court orders, if any.
- (ii) As far as the use of banners, flags etc. on vehicles, it shall be regulated as below-
- a. NO spot/focus/flashing/search lights and hooters shall be put on any

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campaign vehicle.

- b. Chief Electoral Officer shall ensure that all the provisions of local law, Court's directions and Motor Vehicle Act are uniformly applied throughout the State.
- c. No person shall put any flag or banner or sticker of big size on any vehicle except with prior permission of the competent authority subject to the relevant provisions of law and Court direction/orders if any on the subject.
- d. The maximum number and size of flags/banners by a party or candidate will be as follows-
  - i. Two wheelers – one flag of maximum size 1ft X 1/2 ft. No banner will be allowed. 1 or 2 small stickers of appropriate size may be permitted on each vehicle.
  - ii. Three wheelers, four wheelers, e-Rickshaws- No banner will be allowed. Only one flag of maximum size 1ft X 1/2 ft. 1 or 2 small stickers of appropriate size may be permitted on each vehicle.
  - iii. It is clarified that if a political party is having a pre- poll alliance/seat sharing arrangement with another party then campaign vehicle of a candidate/political party may display one flag each of such parties.
- e. Simultaneous plying of number of vehicles on road including e-Rickshaws to be limited to 10 and if it exceeds the limit of 10 vehicles then the convoy shall be broken after every 10 vehicles.
- f. While using flags, or stickers on any vehicle, due care shall be taken that visibility of any of the driver (of the concerned vehicle or any other vehicle on road), passengers from front or rear view is not hampered in anyway.
  - (iii) Further, it is the bounden duty of the authorities concerned to ensure proper use of National Flag in the rallies and to ensure strict compliance and observation of the provisions of the Flag Code and the provisions of Emblem and names (Prevention of Improper Use) Act, 1950 and the Prevention of Insults to National Honour Act, 1971.

## 5. Temporary Campaign Office

The candidates of various parties including independent candidates set up and operate temporary offices for the purpose of local campaign. The Commission, after taking into consideration all relevant factors, has prescribed the following guidelines to be followed in this regard:-

- (i) No such office will be opened by way of any encroachment either of public or private property.
- (ii) No such offices will be opened in any religious places or campus of such religious places.
- (iii) No such offices will be opened contiguous to any educational institution/ hospital.

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- (iv) No Such offices will be opened within 200 meters of an existing polling station.
  - (v) Such offices can display only one party flag and banner with party symbols/ photographs.
  - (vi) The size of the banner used in such offices should not exceed '**4 feet X 8 feet**' subject to the further condition that if the local laws prescribe a lower size for banner / hoarding etc.; then the lower size prescribed by local law shall prevail.
  - (vii) The expenditure observer should closely monitor to ensure that expenditure, on it is properly booked in the account of candidate.

## **6. Associating defence personnel/forces with electoral campaign**

The Armed Forces of a nation are the guardian of its frontiers, security and the political system. They are apolitical and neutral stakeholders in a modern democracy. It is therefore necessary that the political parties and leaders exercise great caution while making any reference to the Armed forces in their political campaigns. The Commission is of the view that:

- (i) Photographs of Chief of Army Staff or any other defence personnel and photographs of functions of Defence forces should not be associated with or used in any manner in advertisement/propaganda/campaigning or in any other manner in connection with elections by Political Parties and candidates.
- (ii) The political parties/candidates are further advised that their campaigners/candidates should desist, as part of their election campaigning, from indulging in any political propaganda involving activities of the Defence forces.

## **7. Prohibition of misuse of Short Message Services (SMSs)**

- (i) Sometimes, certain objectionable messages on Short Message Services (SMSs) are being transmitted by some persons with vested interests in the ensuing election, 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. In this regard, the Commission has issued the following directions:
  - (a) For objectionable SMSs, which are violating the provisions of election law, model code of conduct and the commission's direction/instruction issued in this behalf, the Police Authorities should advertise special mobile number on which the receiver of such SMS can forward the said SMS (along with the number of the sender of the 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/direction issued there under by the Commission and any other law applicable in the case.
  - (b) Bulk SMS (es) transmitted during the campaign period as an alternative

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electioneering, as and when noticed by RO or DEO will be brought to the notice of CEO, 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.

- (c) There shall be prohibition of transmitting bulk SMSs of political nature for a period of 48 hours ending with the hour fixed for conclusion of poll.
- (ii) 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.

## **8. Wearing of political party's Name/ Symbol/ Badges/ Signs/ slogan inside the Polling Station**

The Section 130 of Representation of the People Act, 1951 inter-alia provides that no person shall canvass for votes or exhibit any notice or signs relating to the election within the polling station on the day of poll. In view of the above, it is further clarified that wearables like caps, shawl etc. with political party's name, symbol or slogan are not allowed inside the polling stations on the poll day. However, plain cap without any symbol or slogan is not prohibited. This may be adhered to in the counting centers on the counting day also.

## **9. Election related campaign activities undertaken by persons other than political parties and candidates**

The Commission, has laid down the following guidelines to be observed in the matter of election related campaigns by organizations and persons other than political parties/ candidates, during the period when Model Code of Conduct is in operation in connection with an election:

- (i) They should not invoke, in any manner, religion or religious grounds in any manner, or any activities likely to create disharmony among different classes or groups of people, in their campaign. Such activities/ statements are prohibited being offences under various provisions of the law, like, section 125 of the Representation of the People Act, 1951 sections 153A, 153B, 171C, 295A, 505(2) of the Indian Penal Code and Religious Institutions (Prevention of Misuse) Act, 1988.
- (ii) They should not indulge in any activities or make any statements that would amount to attack on personal life of any person or statements that may be malicious or offending decency and morality.

[When persons and organizations seek permission to hold public programmes, they should be asked to give a declaration/undertaking to abide by the above guidelines.]

- (iii) The public programmes of such persons and organizations should be closely monitored through videography. If anyone indulges in violation of the above guidelines' the state and district authorities concerned with the maintenance of proper law and order should take appropriate remedial and penal actions expeditiously in all such cases. Further, the District Administration shall ensure that

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such persons who violated the undertaking are not granted any permission to hold any further programmes during the period of that election.

- (iv) If the programmes involve incurring expense and amounts to directly promoting the electoral prospects of any particular candidate or candidates, prior special authority from the candidate concerned for incurring the expense shall be obtained in writing, as required under Section 171H of the IPC, and such authorization should be submitted to the District Election officer within 48 hours. Any violation should result in action for prosecuting the person concerned.

## **10. 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. During the course of campaign, 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 on 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.

- (i) 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.
- (ii) 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
- (iii) In case some political functionary seeks exemption on medical grounds:

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1. The DEO concerned, in consultation with CEO, would constitute a Medical Board for health check-up of the political functionary seeking exemption. The Medical Board shall, after medical examination of the patient and his/her medical history, will give report whether the condition of the patient (political leader) is such that he can't move or be shifted under medical attendance out of the constituency in an ambulance or vehicle.
  2. The exemption would only be considered by the ECI after consideration of report of the Medical Board received through CEO concerned.
  3. Such political functionary to whom exemption has been granted may be allowed to stay in the constituency subject to the condition that this is in no manner be used for any political/election related activities in any way. To ensure this, a video surveillance team shall be deployed at all the entrances of place of stay headed by a magistrate with suitable police personnel to be deployed, till completion of poll. Expenditure incurred for such stay should be duly accounted for in Election Expenditure accounts of the contesting candidates for that constituency.

## **11. Use of School Grounds for campaign purpose during election Process**

The school and college grounds may be used for political meetings provided: -

- i) schools and colleges academic calendar are not disturbed under any circumstances.
- ii) the School/College Management has no objection for this purpose and prior permission for such campaigning is obtained from the school/college Management as well as Sub Divisional Officer.
- iii) such permission is granted on first-come-first served basis and no political party is allowed to monopolize the use of those grounds.
- iv) any violation in the allotment of school/college grounds for political meetings will be viewed seriously by the Commission. The accountability in this regard lies with the Sub Divisional Officer, and
- v) the Political Parties and candidates and campaigners shall take care to ensure that the above norms are not violated.
- vi) the ground should be returned to the authority concerned, without any damage or with the requisite compensation for the damage caused, if any. The political party/parties restoring back the campaign ground to the concerned school/college authority should be responsible for the payment of such compensation, if any.

The above instructions would apply to all States/UTs except Punjab and Haryana where there is express prohibition of the Punjab & Haryana High Court in the matter.

## **12. Maintenance of High Standards during Election Campaign**

- (i) The Commission duly recognizes the fundamental right of freedom of speech and expression under Article 19(1)(a) of the Constitution guaranteed to citizens of

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India, but it also needs to be pointed out that such right to freedom of speech and expression is not absolute and is to be exercised in such a manner that it does not transcend, inter alia, the boundaries of decency and morality or disturb public order or amount to defamation or give incitement to an offence as ordained in clause (2) of that Article 19. The Model Code of Conduct aims and seeks to achieve that very objective by its various provisions.

(ii) Hon'ble Supreme Court, in the matter of Gadakh Yashwantrao Kankarrao Vs ES Balasaheb Vikhe Patil (AIR 1994 SC 678) observed that:

“the duty of the top echelons of leadership at the state and national levels of all political parties is to set the trend for giving the needed information to the electorate by adopting desirable standards so that it percolates to the lower levels and provides a congenial atmosphere for a free and fair poll. A contrary trend of speeches by the top leaders tends to degenerate the election campaign as it descends to the lower levels and at time promotes even violence leading to criminalization of politics. The growth of this unhealthy trend is a cause for serious concern for the proper functioning of the democracy and it is the duty of the top leaders of all political parties to reverse this trend to enable movement of the functioning of democracy in the proper direction.”

(iii) The Hon'ble Apex Court has also expressed its deep concern in the matter of mixing religion and caste with election campaign, vide its Order dated 02.01.2017 in Civil Appeal No. 37 of 1992 (Abhiram Singh Vs C.D. Commachen) and with civil appeal no. 8339 of 1995.

In view of above, the Commission's has directed that:

- I. No appeal shall be made on basis of caste/communal feelings of the electors.
- II. No activity, which may aggravate existing differences or create mutual hatred or cause tension between different castes/communities/religious/linguistic groups, shall be attempted.
- III. No aspect of the private life, not connected with the public activities, of the leaders or workers of other parties is to be criticized.
- IV. Criticism of other parties or their workers on basis of unverified allegations or on distortions shall be avoided.
- V. No temples/mosques/churches/gurudwaras or any place of worship is to be used for election propaganda, including speeches, posters, music etc., or electioneering.
- VI. The candidates/campaigners/political leaders are to desist from displaying photograph of defence personnel or photograph of functions involving defence personnel in advertisement, or otherwise as part of their election propaganda/campaigning. They are also advised to desist from indulging in any political propaganda involving activities of defence forces.

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- VII. The political leaders need to ensure that nothing in their statements may be construed as mixing of religion and caste, etc., with their election campaigns.
  - VIII. The political parties and candidates should refrain from any deeds/action/utterances/otherwise that may be construed as being repugnant to honour and dignity of women.
  - IX. Sometimes, such statements are being made from a place which is not in the state where MCC is in force due to elections. In this electronic age, when a statement is made by a political functionary, it doesn't remain confined to the audience or place where it is made but instantly travels through TV, social media or print media even to those places/states where election is going on. It undoubtedly has the pernicious effect of influencing the minds of voters of the poll bound state. The far-reaching implications of the statements made thus, disturb the level playing field and often adversely affect the peace, tranquility and harmony of the poll bound areas. The leaders should desist from making such statements which are against not only the words but also the spirit of law and the MCC, even at places where elections are not being held since it will have an undesirable impact on the mind of electors of the poll bound states/areas. The spirit of the Model Code of Conduct is not just avoidance of direct violation. It definitely also prohibits attempts to vitiate the electoral space through suggestive or indirect statements or innuendoes.

### **13. Campaign by Star Campaigners**

In context of violation of Model Code of Conduct by star campaigners, the following actions are required to be taken on the part of the Chief Electoral Officers/District Election Officers/Returning Officers/Observers: -

- (i) For clarity and uniformity, the Commission has decided that in future, in cases involving violation of Model Code of Conduct or any provision of law by any candidate duly set up by the party, or by the leaders of political parties whose names have been communicated by the party to the Election Commission/Chief Electoral Officer in terms of Explanations 1 & 2 under sub-section (1) of Section 77 of Representation of the People Act, 1951, if notice is issued to any such leader, or any candidate of the political party, a notice will also be issued to the political party concerned. It may be noted that leaders are nominated by the political parties under the aforesaid Explanation Clauses 'for propagating programme of the political party'. Therefore, it would only be reasonable and logical to hold the political party concerned responsible for any act of omission or commission by such leaders. In this context, attention of political parties is also invited to the provisions of paragraph 16A of the Election Symbols (Reservation and Allotment) Order, 1968.
- (ii) The campaign by the leaders specified under Section 77(1) [star campaigners] should be meticulously tracked. Any violation by Star Campaigner observed by the District Election Officers and Returning Officers in their respective district/

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constituency, shall immediately be brought to the notice of the Chief Electoral Officer for taking appropriate guidance/approval. The Chief Electoral Officer shall report the action taken to the Commission for immediate follow up action so that the action receives required visibility.

- (iii) 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.
- (iv) 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.

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

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## F. Tour of Ministers

### INSTRUCTION Sl. No. 36

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 ensuring 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."*

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

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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 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 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.

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## INSTRUCTION SI. No. 37

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.

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**Govt. of India**  
**Ministry of Home Affairs**  
**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.*

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- (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.*
  - (7) *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.*

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## INSTRUCTION SI. No. 38

Election Commission's letter No. 437/6/INST/ECI/FUNCT/MCC/2024(Tour of Ministers), dated 02.01.2024, addressed to the Chief Secretaries and the Chief Electoral Officers of all States and Union Territories.

**Subject: - Model Code of Conduct – Instruction- Tour of Ministers during Election period – Regarding.**

Reference: Commission's instructions:

- (i) No. 437/6/96/PLN-III/, dated 17.01.1996
- (ii) No.437/6/2007-PLN-III, dated 23.11.2007
- (iii) No.437/6/INST/2010-CC&BE, dated 07.06.2010
- (iv) No.437/6/INST/2011-CC&BE, dated 24.03.2011
- (v) No.437/6/INST/2011-CC&BE, dated 01.04.2011
- (vi) No.437/6/INST/2010-CC&BE/Vol.II, dated 05.04.2011
- (vii) No.437/INST/2009/CC&BE, dated 25.03.2009
- (viii) No.437/6/INST/2011-CC&BE, dated 27.04.2011
- (ix) No.437/6/CG/2014-CC&BE, dated 07.10.2014
- (x) No. 437/6/MISC/2015-CC, dated 19.06.2015
- (xi) No. 437/6/GUJ/98-PLN-III, dated 16.01.1998
- (xii) No. 437/6/INST/2008-CC&BE, dated 21.04.2009
- (xiii) No. 437/6/CG/LA-Multi/ECI/LET/FUNCT/MCC/2018, dated 22.11.2018
- (xiv) No. 437/6/ECI/INST/FUNCT/MCC/2021, dated 14.03.2021
- (xv) No. 437/6/INST/2009-CC&BE dated 25.10.2009
- (xvi) No.437/INST/2009/CC&BE, dated 25.03.2009, and
- (xvii) No. 437/6/2007/PLN.III, dated: 24.10.2007

Madam/Sir,

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. The Commission's instructions in this regard in suppression of all the instructions issued vide letters listed above have been consolidated below for the sake of convenience: -

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## I. Tours of Ministers

- (1) No minister of Central or 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 up to end of the election process.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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.

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- (6) During **bye elections** from any constituencies, either Parliamentary or Assemblies, the following restrictions will be applicable with regard to the tours of Ministers:-
- (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)
- (7) 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 communicate the same to the Election Commission.
- (8) During the Model Code period, one member of personal staff (**non-gazetted officer**) 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. These instructions will be applicable also in the case of the Union Cabinet Ministers except Prime Minister.

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- (9) During such visit, all Ministers both Union and 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/political party concerned. However, expenditure on the security staff will be borne by the State Government/UT Administration concerned

## **II. Tours of Prime Minister for Election Campaign**

- (1) The restriction regarding personal staff members who can accompany on personal/private tours shall not apply to the Prime Minister.
- (2) The Prime Minister has been exempted from the operation of the model code of conduct provision pertaining to the combining of official visit with electioneering visit.
- (3) In regard to the construction of helipad during election tours of the Prime Minister, the State Administrations can be requested to undertake construction of helipads. However, the expenses incurred on the construction of such helipads will be borne by the political party concerned in accordance with the Commission's instructions related to charging of expenditure for star campaigners.
- (4) In view of the concerns raised by the security agencies, official staff of Doordarshan may be deployed for operation and transportation of teleprompter equipments to assist the Prime Minister in delivery of election speeches. However, it should be ensured that the said services by Doordarshan shall be made available on the terms and conditions stipulated by the Ministry of Information & broadcasting for providing such services.

## **III. Tours of Chairmen and Members of Commissions like the National Commission for Scheduled Castes, National Commission for Minorities, National Commission for Backward Classes, National Commission for Economically Backward Classes, etc.**

- (1) 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.
- (2) 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) A programme for their visit can be made under intimation to the Chief Electoral Officer of the State concerned.

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- (b) 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.
  - (c) 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.
  - (d) 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.
- (3) The above instructions would be applicable *mutatis mutandis* to similar Commissions established by the State Governments.

#### **IV. Adherence to prescribed security protocols during the MCC period**

- (1) At some occasions, the Star Campaigners do not adhere to the security protocols laid down by the security agencies and exposing themselves to security risk during the campaign. Attention has also been drawn that the safety provisions as prescribed in the Motor Vehicle Act, 1988 (as amended) (e.g. applying seat belt etc.) are also not being followed in some cases thereby violating the existing statutory provisions punishable under law.
- (2) Commission has, time and again, emphasized on the safety and security of all candidates during campaign specifically the use of bullet proof car by the persons provided with Z+ security cover as prescribed by the Ministry of Home Affairs, Government of India. Star campaigners, who have been provided with security cover by the security agencies, must adhere to the security protocols laid down to avoid any security breach which may expose them to risk. Also, all Candidates including Star Campaigners must follow the safety instructions during the use of any vehicle including helicopter etc. as prescribed under the relevant laws to avoid any mishap or accident, which may endanger the life and property of individual(s) and/or public at large.

#### **V. Use of vehicles for election campaign—Bullet-proof vehicles provided for security reasons — instructions**

- (1) 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. The cost of propulsion of such bullet-proof vehicles will 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 the 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

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

- (2) There would be no objection, if any other person, including any political functionary or candidate, travels along with a Z+ category political functionary, who has been provided with bullet proof vehicle and for which payment is being made by him or his party.
- (3) If the political functionary provided with bullet proof car is a 'Star Campaigner' in terms of Explanation (2) to Section 77(1) of the Representation of the People Act, 1951, the expenditure on the use of bullet proof car would not be deemed to be expenditure incurred or authorized by any candidate.
- (4) If such political functionary is, however, not a Star campaigner, the expenditure on use of bullet proof car would be included in the account(s) of the candidate(s) in relation to whose election campaign such car is used.
- (5) The SPG Protectees **(other than Prime Minister)** are also covered under these instructions, further subjected to the following conditions:-
  - (a) 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).
  - (b) There may be no objection to the personal staff of the SPG Protectee accompanying the said Protectee in the B.P. car as the cost of propulsion of such bullet proof vehicle is to be paid by the Protectee or 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 propulsion shall be booked in the election expenditure of the Party candidate from the particular Constituency concerned. 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.

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

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## G. Payment out of discretionary funds and MP / MLA Local Area Development Scheme

### INSTRUCTION SI. No. 39

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 characterized 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.

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## **INSTRUCTION SI. No. 40**

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

**Sub: 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/GrihMantralaya,

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.

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

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No. 20/1/77-FFG

Government of India/Bharat Sarkar Ministry  
of Home Affairs/GrihMantralaya, 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/GrihMantralaya,

New Delhi,

Dt. the 29th October, 1969

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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 Ministries 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 Mantralya,

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, midterm 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

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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

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**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 breedless 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

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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.

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**IN THE SUPREME COURT OF INDIA**  
**CIVIL APPELATE JURISDICTION**

**Civil appeal No. 1632 of 1967**

Ghasi Ram -----Appellant

Versus

Dal Singh & Others

Respondents

Judgement

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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 Lajwana Kalan, the Balmiki Harijan Community Centres at Village Mehra and Rs. 500 for the repair of the Harijan well and Laljwana 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.

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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 became 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 consideration of the

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evidence we are in agreement with the High Court.

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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 fail. 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 characterized 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.

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Sd/-

M. HIDAYATULLAH J.

Sd/-

K.S. HEDGE J.

New Delhi

February 07, 1968

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## **INSTRUCTION SI. No. 41**

Election Commission's letter no. 437/6/1/2014-CC&BE dated 23.04.2014 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 2014 and simultaneous elections to State Legislative Assemblies in the State of Andhra Pradesh, Karnataka, Orissa and Sikkim and certain bye-elections- Release of funds under MPs' /MLAs' Local Areas Development Scheme**

I am directed to refer to the Commission's letter of even number dated 5<sup>th</sup> March, 2014 on the subject cited, wherein Commission prescribed guidelines on the subject during the Model Code period.

The matter was again considered by the Commission and it has been decided that where schemes have been cleared and funds are provided or released and materials procured and reached the site such scheme may be executed as per programme.

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## INSTRUCTION SI. No. 42

Election Commission's letter no. 437/6/1/ECI/INST/FUNCT/MCC/2019 dated 10<sup>th</sup> March, 2019 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 House of the People (Lok Sabha), 2019 and State Legislative Assemblies of Andhra Pradesh, Arunachal Pradesh, Odisha and Sikkim and certain bye-elections - Release of funds under MPs'/MLAs' Local Area Development Scheme - regarding.**

I am directed to refer to the Commission's Press Note No. ECI/PN/23/2019, dated 10<sup>th</sup> March, 2019 (Press Note available at Commission's web-site – [www.eci.gov.in](http://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, Arunachal Pradesh, Odisha and Sikkim and certain bye-elections.

2. The Commission has instructed that the release of funds under the Member of Parliament Local Area Development Schemes will be subject to the following restrictions:-
  - 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.
  - d) Where schemes have been cleared and funds are provided or released and materials procured and reached the site such scheme may be executed as per programme.

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## J. Posting of Officers and Ban on Transfer of Officers

### INSTRUCTION Sl. No. 43

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- Judgment 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 OA No. 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 or 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*

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*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

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## **INSTRUCTION SI. No. 44**

ECI letter No. 437/6/INST/2009-CC & BE, dated 18<sup>th</sup> February, 2009, addressed to the Chief Secretaries and Chief Electoral Officers of all States and Union territories

**Subject: The Commission's instruction on Posting of Officers dated 04-02-09 - clarifications regarding.**

I am directed to invite your attention to the instruction of even number dated 4<sup>th</sup> February, 2009 and to state that some clarification has been sought during the conference of Chief Electoral Officers and the Commission' meeting with the Chief Secretaries.

The Commission has considered the issue in detail and has decided to issue further guideline in this regard as below: -

There may be cases where it may be difficult to affect the transfer of Police Officer who are in-charge of Thana in compliance of the policy laid down in the abovementioned instruction of the Commission in big Metro cities/smaller states having less number of districts. In such cases the territorial consideration for such police officer may be sub-division as an exception. In rest of the other cases the territorial jurisdiction may be district with prior approval of Commission.

A question has been raised whether this instruction is applicable for the Sub-Inspector of Police. It is clarified that, where the Sub-Inspector of Police is in-charge of Thana, he is covered by this instruction and hence is required to be transferred as per guideline laid down above.

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## INSTRUCTION SI. No. 45

ECI letter No.437/6/1/INST/ECI/FUNCT/MCC/2023, dated 21.12.2023, addressed to the Chief Secretaries and Chief Electoral Officers of all States and Union territories

**Subject: General Elections to House of the People (Lok Sabha), 2024 and State Legislative Assemblies of Andhra Pradesh, Arunachal Pradesh, Odisha and Sikkim - Transfer/Posting of officers - regarding.**

I am directed to state that the term of existing House of the people (Lok Sabha) and State Legislative Assemblies of Andhra Pradesh, Arunachal Pradesh, Odisha and Sikkim are upto 16<sup>th</sup> June, 2024, 11<sup>th</sup> June, 2024, 2<sup>nd</sup> June, 2024, 24<sup>th</sup> June, 2024 and 2<sup>nd</sup> June, 2024 respectively.

2. The Commission has been following a consistent policy that officers directly connected with conduct of elections in an election going State/UT are not posted in their home districts or places where they have served for considerably long period.
3. Hence, the Commission has decided that **no officer connected directly with elections shall be allowed to continue in the present district (revenue district) of posting:-**
  - (c) **if she/he is posted in her/his home district.**
  - (d) **if she/he has completed three years in that district during last four (4) years or would be completing 3 years on or before 30<sup>th</sup> June, 2024.**

**While calculating the period of three years, promotion to a post within the district is to be counted.**

4. If any small state/UT with a few numbers of districts, face any difficulty in compliance of the above instruction, then it may refer the specific case with reasons to the Commission through CEO for exemption and the Commission would issue directions, if considered necessary.
5. **Applicability**
  - 5.1 **District Officers:** - These instructions shall cover not only officers appointed for specific election duties like DEOs, Dy. DEOs, RO/AROs, EROs/AEROs, officers appointed as nodal officers of any specific election works but also district officers like ADMs, SDMs, Dy. Collector/Joint Collector, Tehsildar, Block Development Officers or any other officer of equal rank directly deployed for election works.
  - 5.2 **Officers other than District Officers:** - These instructions shall also cover the officers deputed in Municipal Corporations and Development Authorities, etc.
  - 5.3 **Police Officers:** - These instructions shall be applicable to the police department officers such as Range ADGs/IGs, DIGs, Commandants of State Armed Police, SSPs, SPs, Addl. SPs, Sub-Divisional Head of Police, SHOs, Inspectors, Sub-Inspector, RIs / Sergeant Majors or equivalent ranks, who are responsible for security arrangement or deployment of police forces in the district at election time. The police officials who are posted in functional departments like computerization, special branch, training, etc. are not covered under these instructions. Following shall be followed:

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- (iii) The Police Sub-Inspectors and above should not be posted in their home district.
  - (iv) If a Police Sub-Inspector has completed or would be completing a tenure of 3 years out of four years on or before the cutoff date in a police sub-division, then he should be transferred out to a police sub-division which does not fall in the same AC. If that is not possible due to small size of district, then he/she should be transferred out of the district.

5.4 Prohibition and Excise Officers: - Further, these instructions shall also be applicable to the officers of the Prohibition and Excise Department of the State of the rank of Sub-Inspector and above.

6. **Categories of Officers not covered under transfer policy**

During an election, a large number of employees are drafted for different types of election duty and the Commission has no intention of massive dislocation of state machinery by large scale transfers. Hence, the aforesaid transfer policy is normally not applicable to the categories of officers mentioned below:

- (i) Officers posted in the State headquarters of the department concerned.
- (ii) Officers/Officials who are not directly connected with elections like doctors, engineers, teachers/principals etc. However, if there are specific complaints of political bias or prejudice against any such govt. officer, which on enquiry, are found to be substantiated, then CEO/ECI may order not only the transfer of such official but also appropriate departmental action against the said officer.
- (iii) The officers appointed as Sector Officer/Zonal Magistrate involved in election duties are not covered under these instructions. However, the observers, CEO/DEOs and ROs should keep a close watch on their conduct to ensure that they are fair and non-partisan in the performance of their duties.
- (iv) It is further directed that the officers/officials against whom the Commission had recommended disciplinary action in past and which is pending or which has resulted in a penalty or the officers who have been charged for any lapse in any election or election related work in the past, shall not be assigned any election related duty. However, an officer who was transferred during any past election under the Commission's order without any recommendation of disciplinary actions will not be, just on this ground, considered for transfer, unless specifically so directed by the Commission. A copy of the Commission's instruction number 464/INST/2008-EPS dated 23<sup>rd</sup> December 2008 regarding tracking of names of tainted officers is enclosed. CEOs must ensure its compliance.
- (v) The Commission further desires that no officer/official, against whom a criminal case related to official functioning is pending in any court of law, be associated with/ deployed on election related duty.
- (vi) Any officer, who is due to retire within the coming six months will be exempted from

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the purview of the Commission's directions mentioned in para-3. The six months period shall be reckoned backwards from 30th June, 2024. Further, officer falling in the category (home district/3 years+ criteria and due to retire within 6 months) if holding an election related post mentioned in para 5, shall be relieved of that charge and not be associated with any election related duty. It is however, reiterated that such retiring officer need not be transferred out of the district.

- (vii) All the officials of the State (except those posted in the office of the Chief Electoral Officer), who are on extension of service or re-employed in different capacities, will not be associated with any election related work.
- 7. The transfer orders in respect of officers/officials, who are engaged in the electoral rolls revision work, if any, during an election year shall be implemented only after final publication of the electoral rolls, in consultation with the Chief Electoral Officer concerned. In case of any need for transfer due to any extra ordinary reasons, prior approval of the Commission shall be taken.
- 8. The Chief Electoral Officer of the State/UT shall invariably be consulted while posting the persons in place of present incumbents who stand transferred as per the above policy of the Commission. A copy of each of the transfer orders issued under these directions shall be given to the Chief Electoral Officer without fail.
- 9. All election related Officers will be required to give a declaration in the format given below to the DEO concerned, who shall inform to CEO accordingly.

**DECLARATION**

**(To be submitted within 2 days after the last date of nomination papers)**

I.....(Name).....presently posted .....from.....(Date)

Do hereby make a solemn declaration, in connection with the current General/Bye election to Lok Sabha/.....(Legislative Assembly that.....

- (a) I am not a close relative of any of the contesting candidates in the current election/ leading political functionary of the state/district at the aforesaid election.
- (b) No criminal case is pending against me in any court of law.

Note- If answer of (a) or (b) above is 'YES', then give full details in a separate sheet.

Dated.....

(Name)

Designation

NOTE- Any false declaration made by any officer shall invite appropriate disciplinary actions.

- 10. The Commission's aforesaid instructions shall be brought to the notice of the concerned departments/offices or State Govt. for their strict compliance. The DEO or concerned

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district officers shall ensure that officers/officials who are transferred should immediately handover their charge without waiting for their substitute.

11. The Commission has further directed that transfer/posting of all officers covered under the above instructions shall be done and compliance reports by Chief Secretary and DGP with details of action obtained from the concerned departments/offices of State Government shall be furnished to the Commission by **31<sup>st</sup> January, 2024**.
12. Kindly acknowledge receipt of this letter.

## INSTRUCTION SI. No. 46

Election Commission's letter No.437/6/1/INST/ECI/FUNCT/MCC/2023, dated 02.06.2023, addressed to the Chief Secretaries/CEOs of Chhattisgarh, Madhya Pradesh, Mizoram, Rajasthan and Telangana

**Subject: General Electionsto Legislative Assemblies of Chhattisgarh, Madhya Pradesh, Mizoram, Rajasthan and Telangana -Transfer/Posting of officers- regarding.**

The terms of the existing Legislative Assemblies of Chhattisgarh, Madhya Pradesh, Mizoram, Rajasthan and Telangana are due to expire as under :-

S.No.	Name of State/UT	Term upto
1	Mizoram	17.12.2023
2.	Chhattisgarh	03.01.2024
3.	Madhya Pradesh	06.01.2024
4.	Rajasthan	14.01.2024
5.	Telangana	16.01.2024

2. The Commission has been following a consistent policy that officers directly connected with conduct of elections in an election going State/UT are not posted in their home districts or places where they have served for considerably long period.
3. Hence, the Commission has decided that **no officer connected directly with elections shall be allowed to continue in the present district (revenue district) of posting:-**
  - (e) **if she/he is posted in her/his home district.**
  - (f) **if she/he has completed three years in that district during last four (4) years or would be completing 3 years on or before**
    - i. **31<sup>st</sup> December, 2023 in case of Mizoram; and**
    - ii. **31<sup>st</sup> January, 2024 in case of Chhattisgarh, Madhya Pradesh, Rajasthan and Telangana.**

**While calculating the period of three years, promotion to a post within the district is to be counted.**
4. If any small state/UT with a few number of districts, face any difficulty in compliance of the above instruction, then it may refer the specific case with reasons to the Commission through CEO for exemption and the Commission would issue directions, if considered necessary.

### 5. **Applicability**

#### 5.1 **District Officers:-**

These instructions shall cover not only officers appointed for specific election duties like DEOs, Dy. DEOs, RO/AROs, EROs/AEROs, officers appointed as nodal officers of any

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specific election works but also district officers like ADMs, SDMs, Dy. Collector/Joint Collector, Tehsildar, Block Development Officers or any other officer of equal rank directly deployed for election works.

#### 5.2 Police Officers:-

These instructions shall also be applicable to the police department officers such as Range IGs, DIGs, Commandants of State Armed Police, SSPs, SPs, Addl. SPs, Sub-Divisional Head of Police, SHOs, Inspectors, Sub-Inspector, RIs / Sergeant Majors or equivalent ranks, who are responsible for security arrangement or deployment of police forces in the district at election time. The police officials who are posted in functional departments like computerization, special branch, training, etc. are not covered under these instructions.

- (v) The Police Sub-Inspectors and above should not be posted in their home district.
- (vi) If a Police Sub-Inspector has completed or would be completing a tenure of 3 years out of four years on or before the cutoff date in a police sub-division, then he should be transferred out to a police sub-division which does not fall in the same AC. If that is not possible due to small size of district, then he/she should be transferred out of the district.

#### 6. **Categories of Officers not covered under transfer policy**

During an election, a large number of employees are drafted for different types of election duty and the Commission has no intention of massive dislocation of state machinery by large scale transfers. Hence, the aforesaid transfer policy is normally not applicable to the categories of officers mentioned below:

- (iii) Officers posted in the State headquarters of the department concerned.
- (iv) Officers/Officials who are not directly connected with elections like doctors, engineers, teachers/principals etc. However, if there are specific complaints of political bias or prejudice against any such govt. officer, which on enquiry, are found to be substantiated, then CEO/ECI may order not only the transfer of such official but also appropriate departmental action against the said officer.
- (viii) The officers appointed as Sector Officer/Zonal Magistrate involved in election duties are not covered under these instructions. However, the observers, CEO/DEOs and ROs should keep a close watch on their conduct to ensure that they are fair and non-partisan in the performance of their duties.
- (ix) It is further directed that the officers/officials against whom the Commission had recommended disciplinary action in past and which is pending or which has resulted in a penalty or the officers who have been charged for any lapse in any election or election related work in the past, shall not be assigned any election related duty. However, an officer who was transferred during any past election under the Commission's order without any recommendation of disciplinary actions will not be, just on this ground, considered for transfer, unless specifically so directed by the Commission. A copy of the Commission's instruction number 464/INST/2008-

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EPS dated 23<sup>rd</sup> December 2008 regarding tracking of names of tainted officers is enclosed. CEOs must ensure its compliance.

- (x) The Commission further desires that no officer/official, against whom a criminal case is pending in any court of law, be associated with/deployed on election related duty.
  - (xi) Any officer, who is due to retire within the coming six months will be exempted from the purview of the Commission's directions mentioned in para-3. Further, officer falling in the category (home district/3 years+ criteria and due to retire within 6 months) if holding an election related post mentioned in para 5.1 and 5.2, shall be relieved of that charge and not be associated with any election related duty. It is however, reiterated that such retiring officer need not be transferred out of the district.
  - (xii) All the officials of the State (except those posted in the office of the Chief Electoral Officer), who are on extension of service or re-employed in different capacities, will not be associated with any election related work.
8. The transfer orders in respect of officers/officials, who are engaged in the electoral rolls revision work, if any, during an election year shall be implemented only after final publication of the electoral rolls, in consultation with the Chief Electoral Officer concerned. In case of any need for transfer due to any extra ordinary reasons, prior approval of the Commission shall be taken.
8. The Chief Electoral Officer of the State/UT shall invariably be consulted while posting the persons in place of present incumbents who stand transferred as per the above policy of the Commission. A copy of each of the transfer orders issued under these directions shall be given to the Chief Electoral Officer without fail.
10. All election related Officers will be required to give a declaration in the format given below to the DEO concerned, who shall inform to CEO accordingly.

**DECLARATION**

**(To be submitted within 2 days after the last date of nomination papers)**

I.....(Name).....presently posted .....from.....(Date)

Do hereby make a solemn declaration, in connection with the current General/Bye election to Lok Sabha/.....(Legislative Assembly that.....

- (a) I am not a close relative of any of the contesting candidates in the current election/ leading political functionary of the state/district at the aforesaid election.
- (b) No criminal case is pending against me in any court of law.

Note- If answer of (a) or (b) above is 'YES', then give full details in a separate sheet.

Dated.....

(Name)

Designation

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NOTE- Any false declaration made by any officer shall invite appropriate disciplinary actions.

10. The Commission's aforesaid instructions shall be brought to the notice of the concerned departments/offices or State Govt. for their strict compliance. The DEO or concerned district officers shall ensure that officers/officials who are transferred should immediately handover their charge without waiting for their substitute.
11. The Commission has further directed that transfer/posting of all officers covered under the above instructions shall be done and compliance reports by Chief Secretary and DGP with details of action obtained from the concerned departments/offices of State Government shall be furnished to the Commission by **31<sup>st</sup> July, 2023**.
12. Kindly acknowledge receipt of this letter.

Election Commission's letter No. 464/INST/2008/EPS, Date: 23<sup>rd</sup> December, 2008. Addressed to the Chief Electoral Officers of all States and Union Territories.

**Subject:- Tracking the names of officers transferred by the order of the Election Commission of India charged with dereliction of duty etc.**

Ref: No. 437/6/2006-PLN.III dated 6<sup>th</sup> November, 2006 & ECI message No. 100/1994- PLN.I dated 28.3.1994 addressed to the CEOs of all States & UTs.

The Election Commission of India vide the instruction referred to above had directed that a detailed review shall be undertaken before every election in all districts and all such officers should be posted out of their home districts or district where they have completed a tenure of 3 years out of 4 years, and had further directed that officers/officials against whom Commission has recommended disciplinary action or who have been charged for any lapse in election or election related work or who were transferred under the orders of the Commission in the matter may not be assigned to any election related duty.

However, it was observed during recent elections that in spite of efforts made by the CEOs and the DEOs to comply the above instruction of the Commission, there were still some instances of the officers who come under the above criteria and liable to be transferred out of the district to a non-election related assignment but managed to say back and the Commission came to know about this only at a later stage through complaints being raised by various political parties and members of public. These incidents, though few in numbers, send a wrong signal at the field level and non-maintenance of proper information about the officers liable to be transferred on the above criteria has been recognized as a reason for some stray incidents of non-compliance. In order to remove the possibility of the occurrence of such incidents in future, the Commission has issued the following directions to make the existing instruction more effective:-

- I. The CEO of the State shall maintain a register in which the information about IAS/IPS officers, DEOs, ROs and EROs transferred by the order of the Election Commission and against whom Commission has recommended disciplinary action or who have been charged for any lapse in election or election related work shall be maintained.
- II. Similarly, the DEO will maintain a register containing information about other junior officers and other staff.
- III. Within 7 days of the announcement of elections by the Election Commission of India the CEO of the State will send a compliance letter to the Zonal Secretary in the Commission confirming that all the officers coming under the above criteria have been transferred. Similarly he shall obtain a similar compliance certificate from all the DEOs confirming that all the offices/staff coming under the above criteria have been transferred to non-election related assignment and out of the district.

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- IV. With reference to transfer of officers coming under '3 years out of 4 years criteria' and the home district criteria, DEOs shall ensure compliance in respect of ROs, EROs, AROs, and AEROs and other election related officials and send a letter to CEO within the time, if any, stipulated for this purpose by the Election Commission of India or CEO and if not, within 7 days of issue of press note announcing the elections. Similarly, information related to DEOs, SSP and SPs and other senior police officials connected with the election work shall be maintained by the CEO and compliance by the State Govt. shall be ensured at his level. Compliance regarding the transfer of these officers shall be collected from the DEOs and the CEO of the State shall send a consolidated letter of compliance to the Zonal Secretary within 7 days of the announcement of election.
  - V. To facilitate the submission of this compliance letter within 7 days of the announcement of election, the CEO and DEO shall collect the information and ensure maintenance of register as stated above well in advance so that no time is lost.
  - VI. There are many departments in the State Government that are involved in transferring officials and thereby accountable for the compliance of the above instructions of the Commission. The Commission's instruction regarding transfer of the officials during election shall be brought to the notice of the Secretaries of the departments concerned with a copy to the Chief Secretary. The Secretary may be requested by the CEO to ensure that all the departments concerned comply with the Commission's instruction well in time.
  - VII. With regard to bye-elections while the officers coming under the category, dealt within Para marked as (I) shall be transferred out of the district within three days of announcement of bye-election and certainly before the first days of receipt of nomination whichever is earlier.
  - VIII. The above instruction be followed without any deviation.

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## INSTRUCTION SI. No. 47

Election Commission's letter No. 434/1/96, dated 22.03.1996, addressed to the Chief Secretaries of all States and Union Territories and copy endorsed to the CEOs of all States/UTs

**Subject: Ban on transfer of officers connected with the General Elections/Bye-elections.**

The Commission has announced a detailed programme for holding of General Elections to the Lok Sabha and the six State Legislature Assemblies of Kerala, Tamil Nadu, Haryana, West Bengal, Assam and Pondicherry and Bye-elections to the Legislative Assemblies of Certain States.

2. With the announcement of elections, the Model Code of Conduct and the orders regarding ban on transfers of officers connected with General elections/Bye-elections has come into force with immediate effect. Attention in this regard is invited to Commission's Order No. 437/1/96-PLN-III dated 20-3-96 addressed to all Chief Secretaries and Chief Electoral Officers on the subject.
3. The Commission, therefore, directs that there shall be total ban on the transfer of all officers/officials connected with the conduct of the elections. These include but are not restricted to:
  1. The Additional/Joint/Deputy and Assistant Chief Electoral Officers.
  2. Divisional Commissioners and all other Revenue Officers up to the lowest level.
  3. The District Election Officers/Returning Officers and Assistant Returning Officers.
4. Officers of the Police department from the rank of DG/DIG downward to Superintendents of Police, Deputy Superintendents of Police and other senior level police officers like S.H.O., or up to Police Station in-charge.
5. Block Development Officers and officers of local bodies who are entrusted with the election work.
4. This ban shall be effective till the completion of the elections. The Commission further directs that the State Government should refrain from making transfer of even those officers/officials who may be in any position to influence the voters through the position of the office they hold.
5. The Commission will, however, consider such cases of transfer of officers/officials connected with elections which are deemed absolutely necessary due to certain circumstances. The State Governments should make specific references to the Commission on all such proposals along with full justification for the same. Each such case will be considered on merit. Regarding transfers of officers who are not directly connected with elections, the Chief Electoral Officers may give approval for all such cases after thorough scrutiny and in absolutely essential cases.
6. The Commission is duty-bound to ensure that the elections are conducted in a free and fair manner. It is therefore essential that no officer/official is transferred under any kind of influence. The Commission will therefore not hesitate to take the strictest possible action for any violation of its orders.

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## **INSTRUCTION SI. No. 48**

Election Commission's letter No. 437/6/INST/ECI/FUNCT/MCC/2019, dated 22.02.2019, addressed to the Chief Secretaries and CEOs of all States and Union Territories

**Subject: - General Elections to House of the People (Lok Sabha), 2019 and State Legislative Assemblies of Andhra Pradesh, Arunachal Pradesh, Odisha and Sikkim - Transfer/Posting of officers - Clarification- regarding.**

**Ref. (i) The Commission's letter No. 437/6/INST/ECI/FUNCT/MCC/2019 dated 16.01.2019**

**(ii) The Commission's letter No. 437/6/INST/ECI/FUNCT/MCC/2019 dated 07.02.2019**

I am directed to refer to the Commission's letter of even No. dated 16.01.2019 on the subject cited and to state that a reference has been received in the Commission from Chief Electoral Officer, Uttar Pradesh seeking clarification as to whether those IAS/PCS officers who are otherwise covered by para 3 & 4 of aforesaid letter but do not fall under the ambit of District Administration viz. officers deputed in Municipal Corporations and Development Authorities etc., are required to be transferred in light of the Commission's transfer policy.

2. It is hereby clarified that as the officers posted in Municipal Corporations and Development Authorities etc. are normally deployed for MCC enforcement during elections, all such officers who are covered under the conditions stipulated in para 3 and 4 of letter dated 16.01.2019, read with para 2 of the letter dated 07.02.2019 referred to above shall also be transferred immediately and compliance to this effect furnished to the Commission.

[This disposes the references No. 545/CEO-1 dated 13.02.2019 received from Chief Electoral Officer of Uttar Pradesh]

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## I. Miscellaneous

### INSTRUCTION Sl. No. 49

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.

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## INSTRUCTION SI. No. 50

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 13<sup>th</sup> 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.
3. 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

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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.

2. 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.

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## INSTRUCTION SI. No. 51

ECI letter No. 437/LA/2017/(Policy), dated 25.02.2017 addressed to the Chief Secretaries and Chief Electoral Officers of all States/UTs

**Subject: General Election to Lok Sabha/Legislative Assemblies – Application of Model Code of Conduct – regarding.**

I am directed to state that the Commission has been granting certain relaxations on applicability of MCC after polling is over. In this regard refer to earlier letters as below :-

ECI letter numbers 437/6/INST/2009/CC&BE dated 26<sup>th</sup> April 2009 addressed to the Chief Secretaries/Chief Electoral Officers of all States and UTs, letter No.437/6/INST/2012-CC&BE dated 3<sup>rd</sup> February, 2012 addressed to the Chief Secretaries/Chief Electoral Officers of Punjab, Manipur, Uttarakhand and letter No.437/6/INST/2013-CC&BE dated 28<sup>th</sup> November, 2013 addressed to the Chief Secretaries/Chief Electoral Officers of Chhattisgarh, Mizoram and Madhya Pradesh.

The Commission has revisited the issue and **has decided that in supersession of all previous instructions** of partial relaxation of MCC after polling **that all the provisions of MCC shall continue to be applicable without any relaxation, till the completion of election process.**

ECI letter No. 437/6/1INST/2009/CC&BE, dated 26.04.2009 addressed to the Chief Secretaries and Chief Electoral Officers of all States/UTs

**Subject: General Election, 2009 – Model Code of Conduct– regarding.**

I am directed to state that in all States where polling has been completed, the Commission has decided to allow the following activities, except in such districts where any repollis pending :-

1. Tours of ministers to districts and accompaniment of officers on such tours;
2. Review and implementation of ongoing programmes in the field;
3. Review with field officers, except for the officers who are on election duty;
4. Calling a review meeting of officers at headquarters, except for the officer who are on election duty;
5. Calling for bids, evaluation of bids, finalization of bids and award of contracts(except in States where the general elections are being held for the State Assembly)

This may be brought to the notice of all concerned.

ECI letter No. 437/6/INST/2012/CC&BE, dated 02.02.2012 addressed to the Chief Secretaries and Chief Electoral Officers of Punjab, Manipur, Uttarakhand.

**Subject: Applicability of Model Code of Conduct- regarding.**

I am directed to state that in the States of Manipur, Punjab and Uttarakhand where polling has been completed, the Commission has decided to allow the following activities, except in such districts where repoll, if any is pending :-

1. Tours of ministers to districts and accompaniment of officers on such tours;
2. Review and implementation of ongoing programmes in the field;
3. Review with field officers, except for the officers who are on election duty;
4. Calling a review meeting of officers at headquarters, except for the officer who are on election duty;
5. Calling for bids, evaluation of bids, finalization of bids and award or contracts.

This may be brought to the notice of all concerned.

ECI letter No. 437/6/INST/2013-CC&BE, dated 28.11.2013 addressed to the Chief Secretaries and Chief Electoral Officers of Chhattisgarh, Mizoram and Madhya Pradesh.

**Subject: Applicability of Model Code of Conduct- regarding.**

I am directed to state that in the States of Chhattisgarh, Mizoram and Madhya Pradesh where polling has been completed, the Commission has decided to allow the following activities, except in such districts where repoll, if any, is pending :-

1. Tours of ministers to districts and accompaniment of officers on such tours;
2. Review and implementation of ongoing programmes in the field;
3. Review with field officers, except for the officers who are on election duty;
4. Calling a review meeting of officers at headquarters, except for the officer who are on election duty;

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## INSTRUCTION SI. No. 52

Election Commission letter No.437/6/1/ECI/INST/FUNCT/MCC/2023, dated 29.03.2023 addressed to The Chief Secretary of Karnataka

**Subject:- General Election to State Legislative Assembly of Karnataka, 2023 - MCC- Screening Committee - regarding.**

I am directed to state that the Commission has issued detailed guidelines and instructions on regulation and enforcement of various aspects of the Model Code of Conduct (MCC) during election time. A number of proposals relating to MCC are being received in the Commission from CEO's and sometimes from the concerned departments directly. The Commission has decided that a Screening Committee headed by Chief Secretary of the State shall be constituted with following composition –

- (i) Chief Secretary Chairman
  - (ii) Secretary/Pr. Secretary of the department(s) Member to which the proposal relates.
  - (iii) Secretary/Pr. Secretary of the General Administration/Member Coordination department of the State.
2. The Committee shall examine each proposal, before sending it to ECI, through the CEO concerned, in the light of the Commission's existing instructions/clarifications available in the form of compendium/instructions available in 'ECI portal'. The proposals cleared by the Screening Committee shall be submitted to the CEO along with full details and a note on urgency, i.e. why the proposal can't wait till completion of poll/election. The CEO shall forward only such proposal(s) that are cleared by the aforesaid Screening Committee, to the Commission along with his/her comments immediately. Hence, all departments of the State may be advised not to forward any reference directly to the Commission. Further, no department of the Govt. shall send original file to the CEO's office but only a self-contained reference be sent through the Screening Committee.
  3. Accordingly, the Commission has directed that the aforesaid Committee shall be constituted and operationalized immediately in the state mentioned above. A copy of the order constituting the Screening Committee shall be sent to the Commission latest by 3 pm of **10<sup>th</sup> April, 2023**. The CEO shall provide a copy of MCC guidelines to the Screening Committee.
  4. Further, it may be noted that the Commission takes reasonable time to dispose of a reference, therefore last minute references should be avoided.

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## **INSTRUCTION SI. No. 53**

ECI letter No. 437/6/1/INST/ECI/LET/FUNCT/MCC/2023, dated 15.05.2023 addressed to the Cabinet Secretary, Chief Secretaries and Chief Electoral Officers of Karnataka, Meghalaya, Odisha, Punjab and Uttar Pradesh

**Subject:- General Elections to State Legislative Assembly of Karnataka, 2023 and Bye-elections in Parliamentary/ Assembly Constituencies of various States - Lifting of Model Code of Conduct reg.**

I am directed to state that the provisions of Model Code of Conduct are enforced from the date of announcement of election schedule by the Election Commission and it remains in operation till completion of election process.

2. Now, that the results in respect of General Elections to State Legislative Assembly of Karnataka 2023 and bye elections for Parliamentary/Assembly Constituencies in the States of Meghalaya, Odisha, Punjab & Uttar Pradesh have been declared by the respective Returning Officers, the Model Code of Conduct has ceased to be in operation with immediate effect.
3. This may be brought to notice of all concerned.

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## **INSTRUCTION SI. No. 54**

ECI letter No. 437/6/1/ ECI/INST/FUNCT/MCC/2019, dated 12.03.2019 addressed to the CEOs of all States and UTs

**Subject: Model Code of Conduct – regarding.**

I am directed to refer to the Commission's letter of even No. dated 10.03.2019 whereby it has been instructed to advise all the offices/departments of states concerned to not to send any reference directly to the Commission. Such proposals shall be sent to the Commission through CEO after careful examination by the Screening Committee constituted for the purpose, under the chairmanship of the Chief Secretary of the state concerned.

2. It is observed that proposals are being sent to the Commission directly by some of the offices/departments of the states. The directions of the Commission regarding the process of sending references of Model Code of Conduct shall be reiterated to all offices/departments and they be asked to ensure that no proposal is sent to the Commission directly.
3. All the references should invariably be examined by the Screening Committees constituted for the purpose and the proposal cleared by the committee shall only be sent to the Commission by the CEO along with his/her specific comments.
4. The above instructions of the Commission be scrupulously followed.

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## INSTRUCTION SI. No. 55

ECI letter No. 437/6/1/ ECI/INST/FUNCT/MCC/2019, dated 28.03.2019 addressed to the CEOs of all States and UTs

**Subject: General Election to the Lok Sabha, 2019 - Applicability of Model Code of Conduct - References for Commission's Clarification/permission/guidance etc. - regarding.**

I am directed to invite your attention to the Commission's letter No.437/6/2009/CC&BE dated 25.03.2009 (Copy enclosed) and para 4.2.6 of chapter 4 of Manual on Model Code of Conduct, March, 2019 (Document 21, Edition-I) regarding application of Model Code of Conduct which inter alia states that:

“Chief Electoral Officers concerned shall forward only such proposal which have been cleared by Screening Committee, with his specific comments to the Election Commission. The concerned department shall not send the original file to office of the Chief Electoral Officer but only a self-contained reference be sent through Screening Committee. Chief Electoral Officers shall not send any reference to the Election Commission in cases where clear cut instructions exist to deal with.”

It is observed that despite the above clear instructions, Commission is still receiving a lot of proposals of Model Code of Conduct from different departments of State Government through the respective CEOs for clarification/permission/guidance of the Commission on the matters in which clear instructions are available in the Manual on Model Code of Conduct, March, 2019 (Document 21, Edition-I). It is obvious that these cases are sent without examining in the CEO's office in the light of Commission's existing instructions.

The Commission has directed that the Chief Electoral Officer shall send only such references to the Commission where the instructions are not clear or the issues are not covered under the existing instructions of the Commission. While sending the references received from departments of State Govt. the CEO shall see that the references have been duly considered by the Screening Committee and his specific views and recommendation is enclosed with each of such references.

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## L. LETTERS TO CABINET SECRETARY

### INSTRUCTION Sl. No. 56

ECI letter No. 437/6/ECI/INST/FUNCT/MCC/2017- MCC&BE, dated 10.01.2017

**Subject :- General Elections to State Legislative Assemblies of Goa, Manipur, Punjab, Uttar Pradesh & Uttarakhand – Model Code of Conduct - Regarding.**

I am directed to state that the Commission has been receiving various references seeking clearance of the Commission on the applicability of Model Code of Conduct from various Ministries/Departments/PSUs etc. in a very short notice. Your attention is invited to Commission's letter No.437/6/INST/2014-CC&BE dated 23<sup>rd</sup> April, 2014 and to reiterate that "at least 48 hours should be given to the Commission to process the references on MCC matters".

Therefore, you are requested to bring above said Election Commission of India into the notice of all concerned for strict compliance and instruct all the Ministries/Department that the Model Code of Conduct references should be send well in time for clearance of the Commission.

ECI letter No. 437/6/INST/2014- CC&BE, dated 23.04.2014, addressed to Cab. Secretary

**Subject: General Elections – Enforcement of Model Code of Conduct - Regarding.**

I am directed to refer to the Commission's instructions of even number, dated 20<sup>th</sup> March, 2014. Whereby the Commission has directed that:-

- (i) All the references of Government of India which are proposed to be placed before the Cabinet or any Committee of the Cabinet should be routed through the Cabinet Secretariat i.e. no such references should be made directly to the Election Commission by the Ministries.
- (ii) Departments, Sub-ordinate Offices, Public Sector Undertakings, Autonomous Bodies of the Ministry/Department will make references to the Election Commission through the concerned Ministry.

In spite of this many references are still being received in the Commission without following the above guidelines. The Commission has now again directed that

- (i) the above guidelines should be strictly followed while sending the references to the Commission.
- (ii) a Nodal Officer may be designated in the Cabinet Secretariat with whom the Commission may contact for any clarification on such references.
- (iii) at least 48 hours should be given to the Commission to process the references on MCC matters.

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

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## **INSTRUCTION SI. No. 57**

ECI letter No. 437/6/CG/COMP/ECI/LET/FUNCT/MCC/2017, dated 12.01.2017

### **Subject :- Complaint against violation of Model Code of Conduct.**

I am directed to state that the Commission has received a complaint that in Goa hoardings with photographs of Hon'ble Prime Minister were displayed at petrol-pumps. The Commission had issued necessary directions vide letter No.437/6/INST/FUNCT/MCC-2017 dated 8.01.2017. The Commission has further received a press clipping dated 8.1.2017 of Dainik Jagran, Dehradun that in Uttarakhand distribution is taking place of certificates with photo of PM by Oil Companies to LPG Gas Consumers who have surrendered gas subsidy. This is not permissible under MCC/ECI instructions referred to above.

You are requested to ensure that the above said instructions are brought to the notice of all concerned for strict compliance in letter and spirit.

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## **INSTRUCTION SI. No. 58**

ECI letter No. 437/6/CG/ECI/LET/FUNCT/MCC/2016(COMP), dated 23.01.2017

**Subject : Model Code of Conduct – Presentation of National Budget for Financial Year 2017-18**

I am directed to refer to your letters bearing No. 1/41/2017-Cab dated 10<sup>th</sup> January, 2017 and 19<sup>th</sup> January, 2017, and letter No. F.4(5)/2016-Leg.I dated 23<sup>rd</sup> January, 2017, of Ministry of Parliamentary Affairs, on the subject cited, and to state that the Commission has considered the matter carefully in the perspective of current General Election to the Legislative Assemblies of Five States- UP, Goa, Punjab, Manipur and Uttarakhand.

The Commission hereby directs that in the interest of free fair elections and in order to maintain level playing field during elections, no state specific schemes shall be announced in the National Budget which may have the effect of influencing the electors of the five poll going states in favour of the ruling party(ies). It may be ensured that in the Budget Speech, the Government's achievements in respect of said five states will also not be highlighted in any manner.

In this context, a copy of the advisory issued by the Election Commission in its letter No.437/6/INST/2009-CC&BE dated 9<sup>th</sup> March, 2009, addressed to the Chief Secretaries and Chief Electoral Officers of all States and Union Territories at the time of the General Election to the Lok Sabha, 2009, is also enclosed. The Commission expects that the advice given by the Commission in that letter will also be duly kept in view by the government at the time of the presentation of the Budget for the next financial year 2017-18.

Kindly acknowledge receipt.

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## Instruction Sl. No. 59

ECI letter NO. 437/6/ECI/INST/FUNCT/MCC/2017-MCC&BE dated: 27<sup>th</sup> January, 2017

**Subject:- General Election to State Legislative Assemblies of Goa, Manipur, Punjab, Utter Pradesh & Uttarakhand – Model Code of Conduct- regarding**

I am directed to state , with the announcement of schedule for elections of above referred five poll bound states on 4<sup>th</sup> January,2017 the provisions of the Model Code of Conduct have come in force and this was intimated to you vide ECI letter dated 4<sup>th</sup> January, 2017. The provision of MCC and various instructions issued by the Commission inter alia, provides that the party in power whether at the central of in the state concerned, shall ensure that no cause be given for only complaint that it uses its position to further its proposals in any election.

Further , in ECI's letter NO. 4376/INST/2014-CC&BE dated 23-04-2014 (copy enclosed), addressed to you it was directed that all references of cabinet/committee of cabinet should be routed through your good office and the matter of Ministries/Departments are to be referred by the Ministry concerned. The Commission has noted that in certain cases, the Ministries/ Departments took decisions, which have effect of disturbing level playing fields of poll bound states, without referring the matter to Commission, particularly by NITI Aayog, Ministry of Defence and Ministry of Finance.

The Commission has expressed its concerns in this matter and has directed that the undersigned to request you to issue necessary instructions to all Ministries/Departments of GOI to strictly adhere to the Commission's guidelines issued vide ECI letter 23<sup>rd</sup> April 2014 and also to ensure that ECI concurrence is taken well in time wherever it is needed.

A copy of instructions issued to all Ministries/Department in Government of India may kindly be endorsed to Election Commission of India for information and record.

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## **Instruction Sl. No. 60**

ECI letter NO. 437/6/ECI/INST/FUNC/CCS/MCC/2017 dated: 2<sup>nd</sup> February, 2017

**Subject:- General Election-Enforcement of Model Code of Conduct- regarding.**

I am directed to refer to the Commission's standing instructions dated 20<sup>th</sup> March 2014, 23<sup>rd</sup> April 2014 and 27<sup>th</sup> January 2017, in the subject cited, whereby it has been reiterated that all the references of Government of India, which are proposed to be placed before the cabinet or any committee of the cabinet, should be routed through the Cabinet Secretariat instead of sending the same directly by the Ministries concerned to the Commission.

Despite the Commission's aforesaid clear standing instructions, issued long back and reiterated recently, which have to be followed scrupulously by all concerned, a tendency is being observed to flout the Commission's aforesaid instructions. Matter relating to Cabinet are sent directly to the Commission and that too in last moment leaving no time to ECI to appropriately consider the issue. It leads to creating undue pressure on the Commission to give priority of such reference over its other urgent time-bound business.

The Commission, expressing its unhappiness in the matter, has directed the undersigned to request you again to impress upon all Ministries/Department of Government of India to strictly adhere to the Commission's above mentioned existing guidelines. While making a reference to the Commission, it should specifically be ensured that at least 48n hours is available to the Commission for processing of such reference, so as to convey its decision in time, otherwise, it would be very difficult for the Commission to entertain such references.

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## Instruction Sl. No. 61

ECI letter No. 437/6/CG/COMP/ECI/LET/FUNT/MCC/2017 dated: 11<sup>th</sup> February, 2017

**Subject:- Complaint against photographs of Hon'ble Prime Minister and Hon'ble Minister of HUPA on website pmaymis.gov.in- regarding.**

I am directed to state that the Commission had announced the schedule for conduction General Elections to the Legislative Assemblies of Goa, Manipur, Punjab, Uttar Pradesh & Uttarakhand on 4<sup>th</sup> January, 2017. The provisions of the Model Code of Conduct for the guidance of political parties and candidate have come into force from the date of announcement.

The provision of MCC and various instructions instruction issued by the Commission , inter alia, provides that the party in power whether at the centre or in the state(s) concerned, shall ensure that no cause be given for any complaint that it has used its position to further its prospect in any. Further, the ECI instruction dated 4<sup>th</sup> January,2017 (copy enclosed) specifically provide for removal of all references of Ministers, politician or political parties available on Central/State Government's official website.

The Commission received a complaint through e-mail that 'Pradhan Mantri Awas Yojana' which is being implemented in U.P. and registration is being done on the website [pmaymis.gov.in](http://pmaymis.gov.in) and thus alleged that it is promoting BJP party by showing images of Hon'ble Prime Minister and Hon'ble Minister of Housing and Urban Poverty Alleviation (HUPA).

The Commission having considered the issue has held that depiction of photographs of Hon'ble Prime Minister and Ministers, as aforesaid, is in violation of Model Code of Conduct and hence such photographs shall have to be immediately removed from the official website [pmaymis.gov.in](http://pmaymis.gov.in). You are therefore, requested to ensure it.

I am further directed to state that the Commission desires to know the reason as to why this was not done before, when MCC is in force w.e.f. 04.01.2017. Further, you are also requested to ensure what websites of other Ministers/Departments do not contain such photographs.

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## Instruction Sl. No. 62

ECI letter No. 437/6/1/ECI/LET/FUNCT/MCC/2019 dated 20<sup>th</sup> March, 2019

### **Subject: Model Code of Conduct - References from the Ministries and Department of Govt. of India on Financial matters - Clarification - regarding.**

As you are aware various Ministries and Departments of Government of India are making references to the Commission seeking clarification from model code angle or seeking clarification from the model code angle on various matters pertaining to the individual Ministries including those relating to financial matters. The Commission is aware that the financial year is ending and there would be a lot of work for which financial approval is to be accorded and for which budget provision has been already provided. Taking into account this aspect, the Commission has decided that:-

- (i) If the references already sent by the Ministries and Departments are pertaining to such matters which are ongoing works/schemes for which budget provision is already provided for and waiting for Commission's no objection for the release of funds or the Ministry/Department is contemplating to send such a reference to the Commission, it has no objection if the amounts earmarked for such works are parked in the suspense account of the Ministry/Department or parked in a Govt. Bank/Treasury as the case may be without waiting for Commission's formal no objection subject to the condition that the implementation of the same is taken up after the election is over.
- (ii) In case the budget allocation in such matters is to be distributed to State Govts., the Ministry/Department may transfer the funds to the State Govts. without waiting for Commission's formal no objection subject to the condition that the amount shall be utilized for actual implementation after the elections. It is clarified that this procedure will apply only to those references made to the Commission for which the Commission's no objection is awaited or are being referred for clearance.

You are requested to inform/direct the Ministries and Departments accordingly.

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## Instruction Sl. No. 63

ECI letter No. 437/6/CG/ECI/LET/FUNCT/MCC/2019 dated 10<sup>th</sup> April, 2019

**Subject: Form and Procedure of communication with Election Commission of India – regarding.**

Central Secretariat Manual of Office Procedure provides that communications to constitutional Authorities like Election Commission are to be made normally in the letter form addressed to Deputy Election Commissioner/Principal Secretary/Secretary or any other officer of appropriate level and not to the Hon'ble Chief Election Commissioner or Election Commissioner.

2. In pursuance to above provision, Officer Memorandum dated 11<sup>th</sup> October, 2004 was issued by the Department of Administrative Reforms and Public Grievances, addressed to all Ministries/departments stating that all correspondence with the Election Commission of India should be addressed to the Deputy Election Commissioner/principal Secretary/Secretary of the division in the election Commission and certainly not to the Chief Election Commissioner or Election Commissioner except in the rarest of the rare case where the Secretary/head of Department feels that something has to be brought to the personal notice of the Chief Election Commissioner or the Election Commissioner.
3. In this connection, I am to enclose a copy of letter No.403/1/7/2010-TS dated 25<sup>th</sup> august, 2010 from Joint Secretary, Cabinet Secretariat issuing instructions to all Secretaries of Govt. of India.
4. However, the Commission is still receiving references from some ministries/departments of Government of India in the form of O.M. or D.O. letters addressed to Hon'ble Chief Election Commissioner or Election Commissioner. During the current general election, the commission has returned around 70 such references without processing the same.
5. The Commission has reviewed the matter and directed me to bring the following existing instructions to your kind notice –
  - I. All the communications with the Election Commission should be addressed only to Deputy Election Commissioner/Principal Secretary/Secretary in the Commission and not to the Chief Election Commissioner or Election Commissioner except in those cases, where the Secretary/Head of Department feels that something has to be brought to the personal notice of the Chief Election Commissioner or Election Commissioner.
  - II. Each ministry/department should designate one or more than one nodal officers, who will be an officer not below the rank of Joint Secretary and who will be responsible to send Model Code references to the Commission. The details of such nodal officer will be sent to the Election Commission for information and record.
  - III. All Model Code of Conduct references shall be sent to Commission only through formal letters addressed to Deputy Election Commissioner/principal Secretary/Secretary in the Commission and signed by the nodal Joint Secretary or an officer of equivalent rank of the ministry.

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- IV. Departments/Subordinate offices/PSUs/Boards under the ministries/departments should make reference to the Commission through the concerned ministry.
  - V. The Statutory/constitutional Bodies like Finance Commission, SC/ST commission, UPSC and other such independent authorities/bodies can make reference to the Commission independently, under the signature of Secretary/Additional Secretary/Officer of equivalent rank of the said Commission.
  - VI. Election Commission will require atleast 72 hours to process the references received from ministries. Only in case of references of top-most urgency, the processing time will be 48 hours. Therefore, the ministries/departments should send references well in time, alongwith all requisite details/information, etc., for clearance.
  - VII. All communications, received not in a proper form or not signed by the nodal Joint Secretary or an officer of equivalent rank shall be returned to the ministry/department concerned without processing the same in the Commission.
6. The Commission has directed me to request that these instructions may be reiterated and brought to the notice of all ministries/departments/offices of Govt. of India for strict compliance.
  7. I am further to inform that for streamlining the processing of MCC references and to facilitate the ministries/departments to know the status and to download copy of the decision, the Commission has proposed to start an online portal whereon, the Nodal Officer of the ministry/department can upload the reference alongwith the supporting documents. The Nodal Officer will be able to see the status of the reference and the Commission's decision on the same.

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## M. Election Manifestos

### INSTRUCTION Sl. No. 64

ECI letter No. 437/6/Manifesto/2013 dated 19.02.2014 addressed to the President/General Secretary/Chairperson of All Recognised National and State political parties.

**Sub: Judgment dated 5.7.2013 of the Hon'ble Supreme Court in SLP ( C) No. 21455 of 2008 and TC No. 112 of 2011 -S.Subramaniam Balaji Vs. Govt. of TN& Others-framing of guidelines for election manifestos- FINAL GUIDELINES - reg.**

I am directed to refer to this office letter of even number dated 31st January 2014 forwarding therewith a set of draft guidelines on election manifestos for inclusion in the model code of conduct wherein it has requested that all recognized National and State political Parties may offer their comments on the said draft guidelines by 07th February 2014. Having considered the suggestions/comments received from the political Parties and having regard to the directions of the Hon'ble Supreme Court mentioned above, the Commission has finalized the guidelines on Election Manifestos which have now been included as Part VIII of the Model Code of Conduct for the Guidance of the Political parties and Candidates. These guidelines will, henceforth, be applicable and implemented as a part of the Model Code of Conduct for all future elections. A copy of the full text of the **Model Code of Conduct for the Guidance of Political Parties and Candidates** including Part VIII on Election Manifestos is enclosed for your information. You are requested to bring this to the notice of all concerned for their information and compliance.

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## INSTRUCTION SI. No. 65

ECI letter No. 437/6/ECI/INST/FUNCT/MCC/2019 dated 16.03.2019 addressed to the President/Chairperson/General Secretary of all Recognized National and State Political Parties.

**Subject: Inclusion of period of release of manifesto in the Model Code of Conduct (MCC) - regarding.**

I am directed to refer to the Commission's letters of even number dated 22.01.2019 and 09.02.2019, whereby a proposal to fix a timeline, by way of an outer time limit for the release of manifesto by the Political Parties in an election was forwarded to all recognized National and State Political Parties with a request to offer their comments on the same. Having considered the suggestions/comments received from the political parties, the Commission has fixed a timeline for the release of manifesto by the political parties which has now been included as para-no. 4 under Part-VIII (Guidelines on Election Manifestos) in the Model Code of Conduct, as under:-

- “4. Prohibitory period of Release of Manifesto during elections(s)
  - i. In case of single phase election, manifesto shall not be released during the prohibitory period, as prescribed under Section 126 of the Representation of the People Act, 1951.
  - ii. In case of multi-phase elections, manifesto shall not be released during the prohibitory periods, as prescribed under Section 126 of the Representation of the People Act, 1951, of all the phases of those elections. “
2. This provision will, henceforth, be applicable and implemented as a part of the Model Code of Conduct for all future elections.
3. A copy of the full text of the “Model Code of Conduct for the Guidance of Political Parties and Candidates” including para 4 in Part- VIII is enclosed for your information.
4. You are requested to bring this to the notice of all concerned for their information and compliance.

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## INSTRUCTION SI. No. 66

Election Commission's letter No. 437/6/INST/ECI/FUNCT/MCC/2024(Election Manifestos), dated 02.01.2024, addressed to the Chief Secretaries and the Chief Electoral Officers of all States and Union Territories.

**Subject: -Model Code of Conduct – Instruction- Election Manifestos – Regarding.**

Reference: Commission's instructions:

- (i) No. 437/6/Manifesto/2015/CC dated 24.04.2015
- (ii) No. 437/6/Manifesto/2015/CC dated 24.04.2015
- (iii) No. 437/6/INST/2016/CCS dated 23.08.2016, and
- (iv) No. 437/6/INST/2016/CCS dated 27.12.2016

Madam/Sir,

As you are aware that on the direction of the Hon'ble Supreme Court, the Commission, after consultation with the political parties, framed guidelines for election manifestos and incorporated the same in the "Model Code of Conduct for the Guidance of the Political Parties and Candidates". A number of instructions in the matter have been issued by the Commission since then. Following are the consolidated instructions in supersession of all the instructions issued vide letters listed above:

- (i) Chief Electoral Officer should obtain three copies of the Election Manifestos from the Political Parties along with its Hindi/English version (if the original version is in regional language) within three days of its release.

Further, the Commission is of the view that the Political Parties and candidates while releasing their election manifesto for any election to the Parliament or State Legislatures, should adhere to the guidelines, particularly, Para 8(iii) of Model Code of Conduct. In this regard, all the political parties should submit a declaration along with its manifesto that the program/policies and promises made therein are in consonance with Para-VIII of MCC which inter-alia provides that:-

“(iii) in the interest of transparency, level playing field and credibility of promise, it is expected that manifesto also reflect the rationale for the promises and broadly indicate the ways and means to meet the financial requirement for it. Trust of voters should be sought only on those promise which are possible to be fulfilled.”

- (ii) Prohibitory period of Release of Manifesto during elections(s)
  - a. In case of single-phase election, manifesto shall not be released during the prohibitory period, as prescribed under Section 126 of the Representation of the People Act, 1951.
  - b. In case of multi-phase elections, manifesto shall not be released during the prohibitory periods, as prescribed under Section 126 of the Representation of the People Act, 1951, of all the phases of those elections.

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





# **Election Commission of India**

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