

**COMPENDIUM OF INSTRUCTIONS  
ON  
CONDUCT OF ELECTIONS**



**VOLUME – III**

**2009**

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# **VOLUME – III**

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**A1 – MODEL CODE OF  
CONDUCT AND BAN  
ON TRANSFER**

## **INSTRUCTION SI. No. 1**

Election Commission's letter No. 464/INST/2007-PLN-I Dated: 07.01.07 addressed to The Chief Secretaries and the Chief Electoral Officers of all States and Union Territories.

### **Subject: CODE OF CONDUCT – DOs & 'DONT's**

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

#### **On Welfare schemes and governmental works:**

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

Governor or the budget speech of the Minister it does not automatically mean that such schemes can be announced or inaugurated or otherwise taken up after the announcement of elections while the Model Code of conduct is in operation, since they will clearly be intended to influence the voters. Such actions if undertaken will be considered a violation of the model code of conduct.

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

rehabilitation works are being undertaken by the Government in office so as to influence the electors in favour of the party in power which at the same time will adversely affect the prospects of the other parties.

### **On Transfers and posting of officials:**

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

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

### **On Misuse of Official Machinery:**

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

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

**2. It is open for a minister of the Union or State to make private visits using his or her private vehicle(s). For such private visits, the official personal staff of the ministers shall not accompany them. However, if a Minister is traveling in some emergent situation, out of his HQ on purely official business, which cannot be avoided in public interest, then a letter certifying to this effect should be sent from the Secretary concerned of the Department to the Chief Secretary of the state where the Minister intends to visit, with a copy to the Commission. During such tour, the Chief Secretary may provide the Minister with Government vehicle and accommodation and other usual courtesies for his official trip. However, immediately preceding or during or in continuation of such an official tour, no minister can carry out or combine any election campaign or political activity. The Commission will keep watch on such arrangements in due consultation with its Chief Electoral Officer.**

3. No Minister, whether of union or state, will summon any election related officer of the constituency or the State, for any official discussions during the period of elections commencing with the announcement of the elections. Only

exception will be when a Minister, in his capacity as in charge of the department concerned, or a Chief Minister undertakes an official visit to a constituency, in connection with failure of law and order or a natural calamity or any such emergency which requires personal presence of such Ministers/Chief Ministers for the specific purpose of supervising review/salvage/relief and such like purpose.

**4. Ministers are entitled to use their official vehicles only for commuting from their official residence to their office for official work provided that such commuting is not combined with any electioneering or any political activity.**

**5. Ministers, whether of the Union or State, shall not combine in any manner their official tours with election work.**

**6. Whether on a private or official visit, no pilot car(s) or car(s) with beacon lights of any colour or car(s) affixed with sirens of any kind shall be used by any political functionary, even if the State administration has granted him a security cover requiring presence of armed guards to accompany him on such visit. This is applicable whether the vehicle is government owned or private owned.**

7. Any official who meets the Minister on his private visit to the constituency where elections are being held shall be guilty of misconduct under the relevant service rules; and if he happens to be an official mentioned in Section 129 (1) of the Representation of People Act, 1951, he shall also

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

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

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

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

### **DO'S'**

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

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

#### **DON'Ts**

- (1) Any and all advertisements at the cost of the public exchequer regarding achievements of the party/Government in power 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.
- (10) Activities which are corrupt practices or electoral offences such as bribery, undue influence, intimidation of voters, personation, canvassing within 100 meters of a polling station, holding of public meetings during the period of 48 hours ending with the hour fixed for the close of the poll and conveyance of voters to and from polling stations are prohibited.
- (11) Demonstrations or picketing before the houses of individuals by way of protesting against their opinion or activities shall not be resorted to.
- (12) Subject to the local laws, no one can make use of any individual's land, building, compound wall, vehicles etc. for erecting flag staffs, putting up banners, pasting notices or writing slogans etc. without specific permission of the owner (to be shown to and deposited with the District Election Officer).
- (13) No disturbances shall be created in public meetings or processions organised by other political parties or candidates.
- (14) Processions along places at which another party is holding meetings shall not be undertaken.
- (15) Processionists shall not carry any articles, which are capable of being misused as missiles or weapons.

- (16) Posters issued by other parties and candidates shall not be removed or defaced.
- (17) Posters, flags, symbols or any other propaganda material shall not be displayed in the place being used on the day of poll for distribution of identity slips or near polling booths.
- (18) Loudspeakers whether static or mounted on moving vehicles shall not be used either before 6 a.m. or after 10a.m. and without the prior written permission of the authorities concerned.
- (19) Loudspeakers shall also not be used at public meetings and processions without the prior written permission of the authorities concerned. Normally, such meetings/processions will not be allowed to continue beyond 10.00 p.m. in the night and will be further subject to the local laws, local perceptions of the security arrangements of the area and other relevant considerations like weather conditions, festival season, examination period, etc.
- (20) No liquor should be distributed during elections.
- (21) On the day of the poll, no person who has been assessed to be having a security threat and therefore given official security shall enter the vicinity of a polling station premise (within 100 meters) with his security personnel. Further, on the day of the poll no such person shall move around in a constituency with his security personnel. If the person provided with official security happens to be a voter also, then he or she shall restrict his / her movement - accompanied by security personnel, to voting only.**
- (22) No person who has been assessed to be having a security threat and therefore provided official security or who has private security guards for himself, shall be appointed as an election agent or polling agent or counting agent.**

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

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

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

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

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

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

2. The Commission has decided that such activities should be stopped. Accordingly, the Commission has directed that in future no golden passes, free passes, confessional passes or any other types of passes be issued or allowed to be used for travel to and from the states/constituencies/area going to the polls during general elections/bye-elections. This ban will apply from the date of announcement of the general election/bye-election till the declaration of results.

3. No one shall be exempted from the ambit of the aforesaid ban. The only exception will be in the case of tour operators and travel agents.

4. Suitable instructions in the matter may be issued to all concerned for strict adherence during all future general elections/bye-elections. A copy of the instruction issued may be endorsed to the Commission.

Please acknowledge the receipt.

### **INSTRUCTION SI. No. 3**

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

**Subject: Major tenders and auctions - Reg.**

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

2. The Commission, therefore, directs that in all cases where major such auctions etc. are to be held, they should be put off till the last date of completion of elections in the concerned areas and the State Government should make interim arrangements where unavoidably necessary.

3. Departures from this will be considered as serious violations of the code of conduct.

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

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

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

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

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

Kindly acknowledge the receipt.

## **INSTRUCTION SI. No. 5**

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

### **Subject: Celebration of Republic Day - attendance of political functionaries**

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

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

The Commission, however, has no objection to organisation of Kavi Sammelan, Mushairas or other cultural functions organised in connection with the Republic Day celebrations and being attended by the Central Ministers, Chief Ministers, Ministers in the States and other political functionaries. However, utmost

care should be taken to ensure that no political speeches are made on the occasion.

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

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

## **INSTRUCTION SI. No. 6**

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

### **Subject: Celebration of Independence Day - attendance of political functionaries**

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

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

The Commission has also no objection to the organisation of Kavi Sammelan, Mushairas or other cultural functions organised in connection with the

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

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

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

## **INSTRUCTION SI. No. 7**

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

### **Subject: Celebration of Sadbhavana Diwas - participation of political functionaries**

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

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

## **INSTRUCTION SI. No. 8**

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

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

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

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

**Item VII. Party in Power:**

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

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

The Commission has further directed that:

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

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

## **INSTRUCTION SI. No. 9**

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.

## **INSTRUCTION SI. No. 10**

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

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

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

## **INSTRUCTION SI. No. 11**

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.

## INSTRUCTION SI. No. 12

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

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

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

2. State Government institutions of several types are nowadays engaged in commercial and banking activities. The Supreme Court has observed in Kirpal Singh Vs Uttam Singh (AIR 1986 SC 300) that 'Nowadays the activities of the State are so manifold and prolific that the State has been forced, in the interests of better management and administration and in order to further the Directive Principles of State Policy, to set up various Corporations which are but mere instrumentalities of the State'. The Supreme Court has further observed in Satrucharla Chandrasekhar Vs Vyricherla Pradeep Kumar (AIR 1992 SC 1959) that the incorporation of a body corporate may suggest that it is independent of the government, but that would not be conclusive of the fact, as, sometimes, the form may be that of body incorporate independent of the government, but, in substance, it may just be an alter ego of the government. Accordingly, several State Government financial institutions are undertaking commercial and banking activities, like, granting loans, rescheduling the recovery of loans and, in many cases, writing off bad loans or defaulted loans. Whereas this normal activity of such State Government institutions may go on during non-election period these activities when the election process is underway, sometimes, get vitiated and are looked upon with suspicion by political parties, candidates and general

public. It can not be gainsaid that the party in power which wields considerable influence over the government of the day and which is also contesting the elections to get back to power, can get bad or defaulted loans to be written off, giving rise to allegations that the person or the business house whose loan is being written off makes contributions to the party coffers to help them in their election campaign. There could also be the other abuse of a flurry of loaning activities of a populist nature aimed to garner votes, which would, in the long run, affect the health of the loaning institution itself.

3. Keeping the above ground position and the realities of the situation in view, the Commission is of the considered view that all financial institutions funded, partly or wholly, by the State Governments should not take recourse to writing off loans advanced to any individual, company, firm, etc. during the period when the Model Code of Conduct is in force, without the prior concurrence of the Commission. Similarly, the financial limits that these institutions have to adhere to while granting or extending loans should not be enhanced by issuing of loans indiscriminately to beneficiaries when the Model Code of Conduct is in force.

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

The receipt of the letter may kindly be acknowledged urgently.

## **INSTRUCTION SI. No. 13**

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.

4. The electoral roll is the basic document for the conduct of any election as it is the one on which the whole electoral process is founded. When a constituency is called upon to elect a member to the Lok Sabha or to the Legislative Assembly of a State, it means, in fact, that those electors who have been enrolled in the electoral roll are called upon to elect a member of the Lok Sabha or of a Legislative Assembly. Under Article 326 of the Constitution, every

Indian citizen of the age of 18 years or above on the prescribed qualifying date is entitled to be registered as an elector in the elector roll of the Parliamentary and Assembly constituency in which he is ordinarily resident (unless he suffers from a prescribed disqualification). But the right to vote in such constituency is conferred by Section 62 of the Representation of People Act, 1951 only on those persons whose names are entered in the electoral roll of the constituency whose names are entered in the electoral roll for the time being in force in the constituency. Therefore, the electoral roll of the constituency has to be as accurate and up-to-date as is humanly possible for the conduct of free and fair elections. The electoral rolls for all the States going to polls in future have been or are being finalized with reference to 1.1.2004 as the qualifying date and by now the electors ordinarily resident in any particular area are aware of the inclusion of their names in the relevant part of the electoral roll of the Assembly constituency concerned. Thus, whenever any eviction or demolition drive is taken up by a civic agency leading to dislocation of existing electors from their ordinary place of residence, the relevant part of the electoral roll of the Assembly constituency necessarily gets affected and becomes defective in as much as a large number of such dislocated electors lose their right to vote at the polling stations to which they have been assigned. In many cases, the electors so displaced as a result of the demolition or eviction drive get relocated in another area outside the assembly constituency in which they were ordinarily resident and cannot be included in time in the electoral rolls of the area where they have been relocated. Any election held on the basis of these defective rolls would thus deprive a substantially large number of electors who have been displaced from their places of ordinary residence of their franchise. Besides, these defective electoral rolls may also give an opportunity to unscrupulous elements to resort to bogus voting in the names of voters who have been shifted out on account of demolition or eviction drives carried out in a particular polling area/constituency. These factors would not only vitiate the fair and free election but may even materially affect the result of election in the constituency concerned.

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

Kindly acknowledge receipt.

## **INSTRUCTION SI. No. 14**

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

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

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

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

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

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

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

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

The receipt of this letter may be acknowledged.

## **INSTRUCTION SI. No. 15**

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

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

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

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

**COPY**

**S. VIJAY KUMAR**

**JOINT SECRETARY**

Ministry of Rural Development,  
**Government of India,**

**Deptt. of Rural Development**

**Krishi Bhawan, New Delhi - 110001.**

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

February 24, 2004.

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

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

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

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

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

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

3. Some State Governments have queried whether the PMGSY Scheme will be affected by the Model Code of Conduct to be brought into force by the Election commission of India. In this connection, it may be pointed out that the process of election of the road works qualifying under the PMGSY criteria and

preparation of DPRs is a well regulated and time consuming process and proposals coming to the Empowered Committee are accordingly those which have been put through a systematic procedure starting many months earlier. The Empowered Committee is an official inter-Ministerial Committee. The PMGSY is a regular Centrally Sponsored Programme and the works have to be tendered and awarded in such a way that the earth work and Water bound Macadam (WBM) needs to be completed before the end of the monsoon for proper results. As an abundant precaution, the State Governments have been advised not to refer any matters relating to tendering and award of works for decision of the political executive, elected representative (if that was the practice) during the period of the Model Code of Conduct.

1. Accordingly, the Election Commission may kindly confirm that execution of annual PMGSY proposals of States cleared before coming into force of the Model Code of Conduct may be continued as per the PMGSY Guidelines (subject to such conditions that the Election Commission of India may like to lay down) so that the earth work and WBM is completed before the end of the monsoon. Needless to add, there will be no inaugurations, announcements, laying of foundation stones etc. by public figures/individuals during the period that the Model Code of Conduct is in force.

With regards,

Yours sincerely,

Sd./-

(S. Vijay Kumar)

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

## **INSTRUCTION SI. No. 16**

Election Commission's letter No. 437/6/23/2004 PLN.III, dated 11.03.2004 addressed to the Chief Secretaries of Andhra Pradesh, Karnataka, Maharashtra, Tamil Nadu & Jharkhand.

**Subject: General Elections 2004 - Implementation of drought relief work - regarding.**

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 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 on February 29<sup>th</sup> 2004. 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.

Kindly ensure compliance of the directions of the Commission and acknowledge.

## **INSTRUCTION SI. No. 17**

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.

## INSTRUCTION SI. No. 18

Election Commissioner's letter No. 437/6/16/2003/PLN-III, dated 01.04.2004 addressed to Smt. Asha Swarup, Joint Secretary (SGSY), Krishi Bhawan, New Delhi-110 001.

***Sub: Clarification regarding implementation of Rural Development Programmes.***

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

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

## INSTRUCTION SI. No. 19

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

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

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

It is clarified that in the interest of free and fair elections, these instructions apply in respect of all two wheeler, like, motorcycles and scooters (except bicycles) also, and should be made applicable for a period of 24 hours before the time fixed for closure of poll and till the completion of poll These restrictions would not. however, apply to any Govt. servant on duty or in case where such two-wheeler is being used to transport a patient or old/infirm persons In addition to the persons specified in para 8 of the aforesaid order

Receipt of the order may please be acknowledged.

## **INSTRUCTION SI. No. 20**

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

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

Kindly refer to Commission's letter of even no. Dated 5th August 2004 (Enclosed for ready reference) whereby Commission has issued exhaustive guidelines to ensure that those officers, who are connected with the conduct of elections in the State, do not serve in their home districts as well as the officers who have worked for four years or more in same district be transferred out in the interest of free and fair General Elections to Maharashtra Legislative Assembly. In this connection, I am directed to invite your attention towards Maharashtra Administrative Tribunal Mumbai, Aurangabad Bench order dated 22-06-2004. in 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 of S/Sh. Dangde, Lavande, Jare etc. and alleged that all of them are resident of Ahmednagar district. Shri Lavande was working as Deputy District Election Officer. Despite it, they were not displaced from the station. This is a reason as to why I use the word 'farce' in adopting a particular policy by the Election Commission. The policy was adopted with a view to implement it, looking to the faces and not otherwise. As a matter of fact, the Election Commission is an autonomous authority. He decided to achieve the fair results of the elections. He had admitted the policy to transfer the officers, who are posted in the hometown or who completed tenure of four years. The said policy however, was not sincerely implemented, or that, some element who were malafide played mischief and made incorrect proposal. I feel that the Election Commission, who is an autonomous authority, shall see that his subordinate officers and especially the executives do not take the disadvantage of the situation under the grab of the elections. If the Election Commissioner tolerates and ignores such instances, the mischievous and mala fide elements would abuse their powers, may be for extraneous consideration, and the officers having no approach would be the sufferers and victim. I would be justified to propose to the Election Commission to consider the aspect with some seriousness and shall take appropriate action in the matter."

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

## **INSTRUCTION SI. No. 21**

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

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

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

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

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

## **INSTRUCTION SI. No. 22**

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

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

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

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

Kindly acknowledge the receipt.

## **INSTRUCTION SI. No. 23**

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

**Subject: - Statement regarding Haj Subsidy.**

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

## **INSTRUCTION SI. No. 24**

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

**Subject: Placing of advertisement on the World Habitat Day in the National Dailies on 4<sup>th</sup> October, 2004.**

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

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

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

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

**Sub: - 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.

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

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

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

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

## **INSTRUCTION SI. No. 27**

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

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

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

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

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

2. With the announcement of the schedule of elections to the Legislative Assemblies of Bihar, Haryana and Jharkhand on 17<sup>th</sup> December, 2004, the Model Code of Conduct came into force immediately. The continuing display of such hoardings and advertisements at the cost of public exchequer, even if such hoardings, advertisements or posters were displayed prior to the date of announcement of elections, constitutes a violation of the Model Code of Conduct as it provides an undue advantage to the party in power and has the effect of influencing the voters in favour of the party in power.

3. The Commission has directed that those hoardings, advertisements, etc., put up by the Government which purport to give general information or convey general messages to the masses on family planning, social welfare schemes etc. may be allowed to be displayed. However, all those hoardings, advertisements, etc. which seek or purport to project the achievements of any living political functionaries or political party and which carry their photos or name or party symbol should be removed forthwith as no political functionary or political party can use public resources and incur or authorize expenditure from public exchequer to eulogise himself or itself or enhance his/its own or any political leader's personal image. Such hoardings, etc. undoubtedly amount to their individual/party election campaign at public cost.

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

5. All Departments/Offices of the State Government may be informed of this directive of the Commission for immediate compliance.

6. The receipt of this letter may be acknowledged.

## **INSTRUCTION SI. No. 28**

Election Commission's letter No. 437/6/24/2004-PLN III (Vol. 1), dated 24.12.2004 addressed to the Secretary to the Govt. of India, Ministry of Human Resource Development,

**Subject: Application of Model Code of Conduct- Participation for Minister of HRD at the Death Anniversary function of Late Raja Jait Singh on 24<sup>th</sup> December 2004, at Nimka, Faridabad, Haryana-Regarding**

I am directed to refer to your letter on above mentioned subject and to state that Hon'ble Minister can participate in function in his private capacity, if this function is private and no Government institution is associated with it. During his visit Hon'ble Minister should not meet any official and no official protocol is extended. However, necessary security may be allowed with him.

## **INSTRUCTION SI. No. 29**

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

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

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

The receipt of the letter may kindly be acknowledged.

## **INSTRUCTION SI. No. 30**

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

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

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

## **INSTRUCTION SI. No. 31**

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

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

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

1. The Ministry of Rural Development shall not increase the number of districts in which NREGA is being implemented after announcement of elections in any State/UT.

2. The job card holder will be provided employment, if they demand work, after announcement of elections in the ongoing works.

3. In case no employment can be provided in ongoing works, the competent Authority may start new work(s) from the shelf of projects that has been approved and inform the fact to concerned District Election Officer (DEO). No new work shall be started by the Competent Authority till such time employment can be given in ongoing works. In case no shelf of project is available or all works available on shelf have been exhausted then concerned Competent Authority shall make a reference to the Commission for approval through the concerned DEO. The Competent Authority shall also furnish a certificate to DEO to the effect that the new work has been sanctioned as no employment can be given to the job card holder in the ongoing work. Responsibility for following these instructions shall lie with the Authority sanctioning new work.

4. The Commission's instruction communicated vide its letterof even No dated 7<sup>th</sup> February,2006 shall now stand withdrawn.

## **INSTRUCTION SI. No. 32**

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

**Sub: Allotment of Govt. Guest House – reg.**

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

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

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

### **INSTRUCTION SI. No. 33**

Election Commission's letter No.437/6/2007(INST)-PLN-III Dated : 21st November, 2007 addressed to The Cabinet Secretary Government of India, the Chief Secretaries and the Chief Electoral Officers of all States and Union Territories.

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

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

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

Kindly acknowledge receipt.

Copy to:

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

## **INSTRUCTION SI. No. 34**

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

**Subject: - Tours of Ministers - General Elections**

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

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

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

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

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

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

(2) The Commission also directs that –

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

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

(iii) The only exception to these instructions will be when a Minister, in his capacity as in charge of the department concerned, or a Chief Minister

undertakes an official visit to a constituency, or summons any election related officers of the constituency to a place outside the constituency, in connection with failure of law and order or occurrence of a natural calamity or any such emergency which requires personal presence of such Ministers/Chief Ministers for the specific purpose of supervision review/salvage/relief and other similar purposes. (See ECI instruction No. 437/6/96/PLN III – dated 17.01.96)

(3) It is clarified that the Ministers are entitled to use their official vehicles in their headquarters from their place of residence to their office for official work provided that such commuting is not combined with any electioneering or any political activity which would include a visit to party office even if it were enroute. No pilot car(s) or car(s) with beacon lights of any colour or car(s) affixed with sirens of any kind making his presence conspicuous shall be used by any Minister during his/her electioneering visits, even if the State administration has granted him a security cover requiring presence of armed personnel to accompany him on such visit. (See ECI instruction No. 437/6/96/PLN III – dated 17.01.96)

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

- (i) All Ministers, whether Central or State, shall not combine in any manner their official tours with election work after the announcement of the bye elections. They shall return to their headquarters on completion of their official tours. All and any visits to the district(s) where bye-election is being held and where Model Code of Conduct is, therefore, in force, have to be completely private in nature and such private visits should begin and end at the Minister's headquarters.
- (ii) In case where a Minister traveling on official work transits through the district(s) where the bye-election is being held en route to any other district

on official visit, he/she shall not halt in the district(s) where Model Code of Conduct is in force and shall not attend to any political work.

- (iii) No official of any rank of the district(s) where the bye-election is being held, shall be called to attend any meeting by any Minister in any district, that is to say, even in other districts where election is not being held.
- (iv) Any official who meets the Minister on his private visit to the constituency where elections are being held shall be guilty of misconduct under the relevant service rules; and if he happens to be an official mentioned in Section 129 (1) of the Representation of People Act, 1951, he shall also be additionally considered to have violated the statutory provisions of that Section and liable to penal action provided thereunder.
- (v) No pilot car(s) or car(s) with beacon lights of any colour or car(s) affixed with sirens of any kind making his presence conspicuous shall be used by any Minister during his/her private visit to the constituency where a bye election is under way even if the State administration has granted him a security cover requiring presence of armed guards to accompany him on such visit. (See ECI instruction No. 437/6/4/2003 – PLN III dated 12.06.03)

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

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

## **INSTRUCTION SI. No. 35**

Election Commission's letter No. 464/INST/2007-PLN-I Dated: 8<sup>th</sup> January, 2007 addressed to the Chief Secretaries and the Chief Electoral Officers of all States and Union Territories.

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

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

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

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

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

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

## **INSTRUCTION SI. No. 36**

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

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

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

### **During Polls :**

- (i) Section 123(5) of the Representation of the People Act, 1951 provides that the hiring or procuring or use of vehicles by a candidate or his agent or by any other person with the consent of the candidate or his election agent for the free conveyance of the voters to and fro from the polling station shall be a 'corrupt practice' for the purposes of the Act. Such a 'corrupt practice' attracts penalty and is punishable with fine, which may extend to five hundred rupees under section 133 of the Representation of the People Act, 1951. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996)
- (ii) For an election to the House of the People, each contesting candidate, on the day of Poll, will be entitled to:
  - (a) One vehicle for his own use in respect of the entire constituency;
  - (b) One vehicle for use of his election agent for entire constituency;
  - (c) In addition, one vehicle for use of his election agent or workers or party workers, as the case may be, in each of the assembly segments comprised in C:\Documents and Settings\Administrator\Desktop\23 nov 2007\00\_9\_MCC\_-\_Entitlement\_of\_vehicles.doc 2 the Parliamentary Constituency. (See Election Commission's instruction no. 437/6/2006-PLN-III dated 20.11.06).
- (iii) For an election to the State Legislative Assembly, on the date of poll in that Constituency each contesting candidate is entitled to:
  - (a) One vehicle for his own use;
  - (b) One vehicle for the use of his election agent
  - (c) In addition, one vehicle for use of his workers or party workers.

(See Election Commission's instruction no. 437/6/96-PLN-III dated 24.03.2007)

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

- franchise, but not going anywhere within a radius of 200 meters of a polling station;
- (c) Vehicles used for essential services namely hospital vans, ambulance, milk vans, water tankers, electricity emergency duty vans, police on duty, officers on election duty;
  - (d) Public transport carriages like buses plying between fixed termini and on fixed routes;
  - (e) Taxis, three wheeler scooters, rickshaws etc. for going to airports, railway stations, inter state bus stands, hospitals for journeys which cannot be avoided;
  - (f) Private vehicles used by sick or disabled persons for their own use. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996).

#### **During Filing Of Nominations:**

The maximum number of vehicles that will be allowed to come within the periphery of 100 meters of Returning Officers/Assistant Returning Officers office shall be three. (See ECI instruction No. 464/INST/2007/PLN-I dated 09.02.2007).

#### **During Period of Electioneering**

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

immediately upon the announcement of the elections and shall continue the drive till the completion of the process of elections.

(See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996)

- (xi) Cars/vehicles being used for electioneering purposes shall, under no circumstances, be allowed to move in convoys of more than three vehicles from the date of notification till the completion of election process in any constituency. All bigger convoys shall be broken up, even if they are carrying any minister of Central or State Govt. This shall, however, be subject to any security instructions issued in respect of any such individual. In other words the convoy shall not in any case exceed three vehicles of any person plus the security vehicles allowed in view of the security gradation of that particular person. (See Election Commission's instruction no. 437/6/97-PLN-III dated 18.03.97). Such broken up convoys must have a distance of at least 200 meters between them. (See ECI instruction no. 464/UP-LA/2007 dated 05.04.2007).
- (xii) If any person moves in a convoy of vehicles exceeding the limits prescribed above, in spite of the convoy having been broken, it shall be the duty of the local administration to ensure that such vehicles are not allowed to be used by flouting the Commission's directions till the process of election is completed.
- (xiii) In case the mode of road transport is to be availed of by leaders of political parties availing the benefit of clause (a) of explanation given under Sec. 77 (1) of R. P. Act, 1951, the permit will be issued centrally by the Chief Electoral Officer, irrespective of whether the same vehicle is to be used by any leader for election campaigning throughout the State or different vehicles are to be used by such party leaders in different areas. The permit will be issued against the name of the person concerned who will display it prominently on the windscreen of the vehicle being used by him/her in any area. The permits so issued by the CEO will be of distinctly different colour from the permits to be issued by the DEOs/ROs for candidates. (See ECI instruction no. 464/UP-LA/2007 dated 05.04.2007).
- (xiv) In case of Video – Vans etc. to be used by a political party for campaign across the states, before any permission to use Video-Vans for campaign is given, it should be ensured by Chief Electoral Officer that such use of vehicle is in accordance with the Motor Vehicle Act. Attention in this context is invited to the judgments dated 23.06.2006 and 14.02.2007 of the Allahabad High Court in writ petition No. 3648 (MB) of 2006. (See ECI instruction no. 464/UP-LA/2007 dated 05.04.2007).
- (xv) From the date of notification of the election till the completion of election process in any constituency, the district administration shall keep a close watch on the vehicles used by the contesting candidates, persons

accompanying the contesting candidates and other party leaders and ensure that the Commission's instructions are not abused.

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

(xvi) The contesting candidates be asked to get the details of all the vehicles that they are using in the election campaign lodged with the District Election Officer or such other officer(s) as may be specifically authorized by the District Election Officer in this behalf before the campaigning commences. Any further deployment of any additional vehicles can take place only after notice to this effect is given by the candidate or his agent well before the actual deployment of the vehicles. While conveying the details of the vehicles that are being deployed for election campaign the details of the areas, tehsil(s) in which the vehicle would operate, should also be conveyed. (See Election Commission's instruction no. 437/6/97-PLN-III dated 18.03.97).

(xvii) The details so obtained should be conveyed by District Election Officer to the Election Expenditure Observers. The vehicles employed for election campaign as per intimation given by the candidates or their election agents to the District Administration should not be requisitioned by the administration. Any vehicle that has not been registered for campaigning with the district administration if found being used for campaigning, shall be deemed to be unauthorized campaigning for the candidate and may attract penal provisions of Chapter IX A of the Indian Penal Code and shall therefore be immediately taken out of the campaigning exercise. (See Election Commission's instruction no. 437/6/97-PLN-III dated 18.03.97).

(xviii) A cycle rickshaw is also a vehicle as defined in Section 160 of Representation of People Act, 1951, which may be used for election campaign. If it is being used, then a candidate has to account for its expenditure in his account of election expenses. To ensure this, the candidate should give details of such rickshaws being used for his election campaign and, if the rickshaw does not have any municipal registration/permit for its identification, the rickshaw driver may be given a permit in his personal name by the Returning Officer which the rickshaw driver should carry on his person while using that rickshaw for campaign purposes. However, rickshaws being used for normal purposes of carrying passengers in ordinary course etc. may be exempted, if they are displaying only one poster showing the name or party symbol of a candidate, presuming they are doing so on their own free will. (See Election Commission's instruction no. 437/6/2006-PLN-III (vol-ix) dated 12.07.2006).

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

## **INSTRUCTION SI. No. 37**

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

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

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

2. During the course of campaign in bye-election, the political parties mobilize their supporters, including from outside the constituency of poll, in order to bolster that campaign. In view of the fact that the closure of campaign period no camping period no campaign can take place within the constituency, presence of political functionaries/party workers/procession functionaries/campaign functionaries etc., who have been brought from outside the constituency and who are not voters of the constituency, should not continue to remain present In the constituency as their continued presence after campaign ends may undermine the atmosphere for free and fair poll.
3. Hence the Commission has directed that after the campaign period is over, the district election administration/police administration shall ensure that all such functionaries leave the constituency immediately after the campaign period is over. This shall be brought to the notice of all political parties, candidates and their agents in order them to comply.
4. The Commission further directs that in order to ensure that the above instruction is carried out, the election administration/police may take all necessary measures which may include:
  1. Checking of kalian 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.

## INSTRUCTION SI. No. 38

Election Commission's letter No.3/8//2000 J.S.II dated 26.12.2000 addressed to the Chief Electoral Officers of all States and Union Territories.

Subject: **Use of Loudspeakers for election campaigns- Consolidated instructions**

All political parties, candidates and their workers, supporters and sympathizers are using loudspeakers for their electioneering campaigns. These loudspeakers are not only used from fixed rostrums but are also used mounted/fitted on vehicles like trucks, tempos, cars, taxis, vans, three wheeler scooters, cycle rickshaws, etc. These vehicles move on all roads, streets and lanes and also so around villages, basties, Mohallas, colonies and localities with the loudspeakers broadcasting at very great volume. This results in serious 'noise pollution' and causes great disturbance to the peace and tranquility of the general public. The student community, in particular, gets seriously disturbed as their studies are badly hampered because the loudspeakers stall blaring from very early hours in the morning and continue to do so throughout the day and till extremely late hours in the night. The aged, the infirm and the sick whether in institutions, hospitals, etc. or at home are also put to severe discomfort.

2. The Commission is aware that the use of loudspeakers cannot be stopped altogether during the election period as the loudspeakers are one of the means of election propaganda and imparting information to public. But. at the same time, indiscriminate and unfettered use of loudspeaker at odd hours and at odd places at very high volumes which have the effect of disturbing peace and tranquility and causing annoyance to the general public, the sick, and the student community in particular cannot be permitted. Some reasonable restrictions are essential.

3. After considering all aspects of the matter, the Commission, in exercise of its powers conferred by Article 324 of the Constitution and all other powers enabling it in this behalf and in supersession of its earlier instructions, hereby DIRECTS that the use of loudspeakers at all future elections shall be strictly regulated as follows:-

(i) The use of loudspeakers, whether fitted on vehicles of any kind whatsoever, or in static position used for public meetings for electioneering purposes, during the entire election period starting from the date of announcement of election and ending with the date of declaration of results shall be permitted only (a) between 6.00 a.m. and 11.00 p.m in rural areas i.e. areas outside corporation or municipal Limits: and (b) between 6.00 a.m. and 10.00 p.m. in other areas, i.e. areas falling within corporation or municipal limits. (***This para has been***

***substituted vide Election Commission's letter No.3/8/2005/JS-II, dated 26<sup>th</sup> September, 2005 reproduced at Item No.184 as under:-***

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

(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 in clauses (ii) 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) 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.

(v) Any vehicle on which a loudspeaker is used without the said written permit shall be confiscated forthwith along with the loudspeaker and all the apparatus used along with it.

(vi) All political parties, candidates and even other person using an 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.

(vii) 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,

4. 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 surcharged 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.

5. The above directions of the Commission, which will check noise pollution and disturbance of public peace and tranquility must be scrupulously-implemented and strictly enforced by all State government authorities concerned. Any violation there of will be viewed by the Commission with grave concern and will invite severe disciplinary action against the defaulting officers.

6. A copy of this order shall be made available to local units of all recognized National and State parties in English/Hindi and in local official languages, and 10 each candidate at the time of his nomination, under acknowledgement.

7. The receipt of this letter should be acknowledged immediately.

## INSTRUCTION SI. No. 39

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 alongwith an attested transcript thereof.

5. A proper record in a register should be maintained for all applications received for certification. Each application should be serially numbered and the serial numbers should also be indicated on the two copies in electronic form and the receiving officer should affix his signature on the electronic copy. After issue of certificate, one electronic copy of the advertisement as certified for telecast, should be retained by the Committee / Designated Officer.

6. All Chief Electoral Officers may take immediate action for acquiring, by hiring or purchase, necessary equipments / infrastructure, such as television. VCR, VCD, etc. that may be required for the purpose of previewing and scrutinizing of advertisements by the Committees and Designated Officer in their State / Union Territory. Any purchase made are to be in accordance with the rates and procedures approved by the State Governments for similar items.

7. The Commission's order may be given wide publicity and this may be specifically brought to the notice of all District Election Officers / District Magistrates. Returning Officers, TV Channels, cable operators and political parties in the State / Union Territory.

8. Kindly acknowledge receipt.

**COPY**

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

No. 509/75 2004/JS-I  
2004.

Dated 15<sup>th</sup> April.

**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 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.

The application for certification shall contain following details:

(a) The cost of production of the advertisement;

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

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

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

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

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

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

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

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

If any political party, candidate or any other person is aggrieved by the decision taken either by the committee or by the Designated Officer/Election Commission it will be open for them to approach only this court for clarification or appropriate orders and no other court, tribunal or authority shall entertain any petition in regard to the complaint against such advertisement. This order shall come into force with effect from 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 judgement 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 even- other State/Union Territory is hereby directed to constitute the following Committee to deal with applications by political parties and organizations mentioned in para (iv) below:-

- a) The Additional, Joint Chief Electoral Officer - Chairperson.
- b) Returning Officer of any Parliamentary constituency located in the capital of the State.
- c) One expert being an officer not below the rank of Class-1 officer to be requisitioned from the Ministry of Information & Broadcasting.

(iv) The Committee constituted in para (iii) above will entertain applications for certification for advertisement on television channel and cable network by the following:-

- (a) All registered political parties having their headquarters in that State /Union Territory,

(b) All organisations or group of persons or associations having their registered offices in that State/Union Territory.

(v) The Returning Officer of every Parliamentary constituency in the country are hereby declared as Designated Officers for the purpose of entertaining application for certification of an advertisement proposed to be issued on cable network or television channel by an individual candidate contesting the election from the Parliamentary' constituency of which such Designated Officer is the Returning Officer and candidates contesting in the Assembly constituencies falling within that Parliamentary constituency. The said Returning Officer may co-opt any of the Assistant Returning Officers, not below the rank of a Sub-divisional Magistrate belonging to the State Provincial Civil Service to assist him in the task of certification of applications.

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

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

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

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

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

- (i) Two copies of the proposed advertisement in the electronic form along with a duly attested transcript thereof,
- (ii) The application for certification shall contain following details:-
  - a) The cost of production of the advertisement:

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

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

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

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

Annexure - A

### **APPLICATION FOR CERTIFICATION OF ADVERTISEMENT**

- I.
- (i) Name and full address of the applicant

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

II.

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

Place:  
Date:

Signature of the applicant

III.

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

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

Place:  
applicant  
Date:

Signature of

Annexure - B

### **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

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Place: Date:

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

Election Commission's letter No. PS/AK/2005, dated 10.09.2005. addressed to the Chief Electoral Officers, Bihar

**Subject : Violation of the secrecy of vote by political functionaries**

It has been brought to the notice of the Commission that certain political functionaries, in the past, have violated the secrecy of vote at elections from Parliamentary and Assembly Constituencies either by displaying their vote to media or to other individuals accompanying them. This act on their part is a clear violation of not only the principle of secrecy of vote which is sacrosanct but also an infringement of statutory provisions of Section 132 A of the Representation of the People Act, 1951 and rules 39 and 49M of the Conduct of Election Rules, which provide for such votes not being allowed to be cast.

The Commission has considered the issue and feels that secrecy of vote should be maintained at all costs. Section 128 of the Representation of the People Act, 1951 also prescribes in this behalf that:

“128. Maintenance of secrecy of voting - (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorized by or under any law) communicate to any person any information calculated to violate such secrecy.

[Provided that the provisions of this sub-section shall not apply to such officer, clerk, agent or other person who performs any such duty at an election to fill a seat or seats in the Council or States.]

(2) Any person who contravenes the provision of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.”

The Commission has desired that the aforesaid provisions of Section 128 and 132A of the Representation of the People Act, 1951 and of rules 39 and 49M of the Conduct of Election Rules should be brought to the notice of all Presiding Officers during their training and they be asked to ensure that secrecy of vote is strictly maintained by each voter at the time of exercising his/her franchise. They must ensure that no additional person accompanies any elector at the time of his/her casting vote, in any case, except in the case of blind/infirm voters where they can take a companion to help them to cast their vote under Rule 49N of Conduct of Election Rule, 1961.

The Commission, in the interest of maintaining secrecy of vote, has further decided that no photography or video recording by media or any private person shall be allowed inside the polling stations.

Any violation of these instructions will be viewed very seriously and concerned Presiding Officer will be held responsible for any lapse in this regard.

Kindly communicate these instructions to all concerned District Election Officers, Returning Officers, Observers and recognized political parties.

## INSTRUCTION SI. No. 41

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

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

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

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

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

## INSTRUCTION SI. No. 42

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

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

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

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

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

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

## **INSTRUCTION SI. No. 43**

Election Commission's letter No. 437/6/INST/2008-CC&BE Dated : 31<sup>st</sup> October, 2008 addressed to the Chief Secretaries and the Chief Electoral Officers of all States and Union Territories.

**Subject:- Use of Road Transport by party campaigners availing the benefit to clause (a) of explanation given under Section 77 (1) of the Representation of the People Act, 1951 – regarding**

I am directed to refer to Commission's instruction issued vide its letter no. 437/6/2007/Vol.-IV-PLN-III dated 16<sup>th</sup> October, 2007 and instruction issued vide letter No. 3/7/2008/JS-III dated 7<sup>th</sup> October, 2008 and to state that the Commission has already modified the guidelines on use of vehicles in convoy and use of flags and stickers on vehicles. Consequently, the former instruction stated above is modified and superseded by this instruction regarding number of vehicles to be allowed to go in a caravan on the road during the period of election campaign by leader(s) who have availed of the benefit of clause (A) of the explanation given under section 77(1) of the Representation of the People Act, 1951.

The restriction on number of vehicles in a convoy has been withdrawn, however, vehicles in the convoy have to conform to the condition as mentioned in the later instruction referred above.

In case the mode of road transport is to be availed of political parties availing the benefit of clause (a) of explanation given under Sec. 77(1) of Representation of the People Act, 1951, the permit will be issued centrally by the Chief Electoral Officer irrespective of whether the same vehicle is to be used by any leader for election campaigning throughout the State or different vehicles are to be used by such party leaders in different areas. The permit will be issued against the name of the person concerned who will display it prominently on the windscreen of the vehicle being used by him/her in any area. The permits so issued by the Chief electoral Officer will be of distinctly different colours from the permits to be issued by the District Election Officers/Returning Officers for candidates.

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

(iv) In case of Video – Vans etc. to be used by a political party for campaign across the states, before any permission to use Video-Vans for campaign is given, it should be ensured by Chief Electoral officer that such use of vehicle is in accordance with the Motor Vehicle Act. Attention in this context is invited to the judgments dated 23.06.2006 and 14.02.2007 of the Allahabad High Court in writ petition No. 3648 (MB) of 2006 a copy whereof has been enclosed herewith. Respective District Election Officers shall ensure that expenditure incurred on

such vehicles is proportionately distributed against the expenditure of the contesting candidates of the party in the areas/constituencies where the Van/Vehicles has been used.

This may be brought to the notice of all Political parties and all election related Officers immediately.

**INSTRUCTION SI. No. 44**

Election Commission's letter No. 4/3/2004/J.S.II/Vol.I, dated 11.03.2004 addressed to all Recognised National and State Political Parties.

**Subject: Pollution of environment on account of use of plastic sheets for making use of posters/banners during the election campaign.**

I am directed to invite your attention to Commission's letter No. 4/3/2003/J.S.II/Vol.I dated 1<sup>st</sup> May 2003 and letter No. 4/3/99/J.S.II dated 16.7.1999 on the use of plastics during election campaign.

2. The Commission would like to reiterate that all political parties should try to avoid the use of plastic/polythene for preparation of posters, banners etc. during election campaign. Your cadres may be advised suitably.

## **INSTRUCTION SI. No. 45**

Election Commission's letter No. 3/9/2004/J.S-II, dated 24.08.2004 addressed to the Chief Electoral Officers of all States and Union Territories.

**Subject: - Restrictions on the printing of pamphlets, posters, etc.**

I am directed to invite your attention to the Commission's Order No. 3/9/(ES0G8)/94-JS-II dated 2.9.94 on the above subject wherein Commission issued its guidelines in pursuance of the provisions of section 127A of the Representation of the People Act, 1951 regarding printing and publication of election pamphlets, posters etc. These provisions are reproduced below:-

- "127A. Restrictions on the printing of pamphlets, posters, etc. (1) No person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and addresses of the printer and the publisher thereof.
- (2) No person shall print or cause to be printed any election pamphlet or poster -
- (a) unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and
  - (b) unless, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document;
    - (i) where it is printed in the capital of the State, to the Chief Electoral Officer; and
    - (ii) in any other case, to the district magistrate of the district in which it is printed.

(3) For the purposes of this section:-

- (a) any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression "printer" shall be construed accordingly; and
- (b) "election pamphlet or poster" means any printed pamphlet, hand-bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates or any placard or poster having reference to an election, but does not include any hand bill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.

(4) Any person who contravenes any of the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both."

2. It Has been observed that surrogate advertisements appear in print media, especially newspapers, for and against particular political parties and candidates during election period. In many cases such advertisements are for the prospects of election of particular candidates. As per Section 77(1) of the Representation of the People Act, 1951, expenditure involved in such advertisements in connection with the election of any candidate has to be added to the account of election expenses of the candidate, required to be maintained under that Section. Further, Section 171H of IPC prohibits incurring of expenditure, on inter-alia, advertisement, circular or publication, for the purpose of promoting or procuring the election of a candidate, without authority from the candidate. The surrogate advertisements defeat the purposes of the aforesaid provisions of law.

3. In order to subserve the requirements of the provisions of law as mentioned above, the Commission has directed that in the case of any

advertisements/election matter for or against any political party or candidate in print media, during the election period, the name and address of the publisher should be given along with the matter/advertisement.

4. This may be brought to the notice of all concerned including District Election Officers and the print media in your State for information and compliance.

5. Kindly acknowledge receipt.

## **INSTRUCTION SI. No. 46**

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

### **Sub.- Feedback about “Dummy Candidates”-measures to be taken in this regard.**

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

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

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

All the above amount to abuse of the legal provision of electoral law and the Commission’s instructions and directions aimed at providing additional facilities to candidates to carry out their electoral campaign more effectively and affect the level playing field. A vigilant election machinery can always come to

know about the so called “dummy candidate” within the first few days of the election/campaign process.

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

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

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

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

The RO/observer should issue notice to the candidate in whose favour the dummy candidate was found to be operating asking him to include the expenditure incurred by dummy candidate into his election expenditure. All these correspondences, notices etc. should be put in public domain so that the aggrieved persons, can make use of these documents in case of election petition to prove the point of electoral offence/corrupt practice.

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

## **INSTRUCTION SI. No. 47**

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.

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

Election Commission's letter No. 3/9/2007/JS-II Dated: 3<sup>rd</sup> August, 2007 addressed to the Chief Electoral Officers of all States and Union Territories.

**Subject:- Election related advertisements in newspapers and other print media – election campaign-regarding.**

I am directed to invite attention to the provisions of Section 126 of the Representation of the People Act, 1951 reproduced below :-

“Section - 126 Prohibition of public meetings during period of forty – eight hours ending with hour fixed for conclusion of poll –

(1) no person shall –

- (a) convene, hold or attend, join or address any public meeting or procession in connection with an election; or
- (b) display to the public any election matter by means of cinematograph, television or other similar apparatus.
- (c) Propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto, in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in the polling area.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(3) In this section, the expression “election matter” means any matter intended or calculated to influence or affect the result of an election.”

2. Queries have been raised from some States whether broadcasting of election related matter over Radio could be done during the aforesaid period of 48 hours.

3. Clause (b) of sub-section(1) of Section 126 prohibits display of election matter through T.V. or similar apparatus. It is clarified that radio would be treated as 'other similar apparatus' for this purpose and hence broadcasting /propagating any election matter through Radio would be covered under clause (b) and would not be permissible during the period of 48 hours mentioned in the said section.

4. This may be brought to the notice of all concerned in your State including all political parties in the State, for removal of doubt, if any, on this aspect.

5. Acknowledge receipt of this letter.

## **INSTRUCTION SI. No. 49**

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 24th August, 2004 regarding the provisions of section 127A of the Representation of the People Act, 1951.

**2. It has been brought to the notice of the Commission that advertisements are brought out in print media, some surrogate and some under the name of some organizations.**

**3. The following points may be noted in respect of the advertisements that appear in the print media, especially newspapers, for and against particular political parties and candidates during election period :**

- (a) In the case of advertisements, the source of which is traceable, the following action may be taken:-
  - (i) if the advertisement is with the consent or knowledge of the candidate, it will be treated to have been authorized by the candidate(s) concerned and will be accounted for in the election expenses account of the candidate(s).
  - (ii) if the advertisement is not with the authority from the candidate, then action may be taken for prosecution of the publisher for violation of Section 171 H of IPC-(incurring expenditure in advertisement without written authority from the candidate(s) concerned).

(b) If the identity of the publisher is not indicated in the advertisement, then you may contact and get the information from the Newspaper concerned, and consider appropriate action, as above.

**4. The District Election Officers, Returning Officers alongwith other election authorities may be informed of the Commission's abovementioned instructions for their compliance. Action taken in this regard may please be confirmed by endorsing to the Commission, a copy of the instructions issued to the District Election Officers, Returning Officers etc.**

5. Please acknowledge receipt of this letter.

## **INSTRUCTION SI. No. 50**

Election Commission's letter No. : 437/6/2007/PLN.III Dated: 24th October, 2007 addressed to The Cabinet Secretary to the Govt. of India, the Chief Secretaries & the Chief Electoral Officers of all States and Union Territories.

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

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

2. The Commission has further examined the matter and has decided to modify its existing instructions in para 2.5 of the its letter referred to above to the extent, as follows:- “2.5 Under the directives of the Government of India in the Ministry of Home Affairs, the persons provided with ‘Z<sup>+</sup>’ (Z plus) security cover are permitted the use of State owned one bullet proof vehicle for the particular person (PP). Such particular person, whether he is in office or out of it, and whether he is a candidate or not, shall be permitted the use of the said ‘one’ State owned bullet proof vehicle during the election period covered by the Model Code of Conduct. The use of multiple vehicles(s) in the name of stand-by should not be permitted unless so specifically prescribed by security authorities in any particular case. The cost of propulsion of such bullet proof vehicle(s) will be borne by the Government and not by the person concerned.”

3. Receipt of this letter may please be acknowledged with the confirmation that the relevant instructions have been issued to all the concerned officers. A copy of instructions/directions so issued in this behalf may also be endorsed to the Commission for its information and record.

## **GINSTRUCTION SI. No. 51**

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

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

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

**A2 – PAYMENT OUT OF  
DISCRETIONARY FUNDS  
AND MP / MLA LOCAL  
AREA DEVELOPMENT  
SCHEME**

## **INSTRUCTION SI. No. 52**

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

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

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

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

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

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

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

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

## INSTRUCTION SI. No. 53

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/Grih Mantralaya,  
New Delhi

To  
The Chief Secretary  
(All States and Union Territories)

Dated 3rd November, 1989

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

Sir,

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

No. 26/4/89-Public

D

ated 3-11 -1989

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

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

Dated 28th January, 1977

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

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

Sir,

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

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

Dt. the 29th October, 1969

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

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

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

India have, decided that instead of making a provision in the rules regulating the disbursements from the Discretionary Grants, a convention should be adopted that for a period of three months immediately prior to a polling in a general election mid-term election or bye-election in any constituency no expenditure should ordinarily be incurred from a 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 information of your ministers.

3. This issues with the approval of the Prime Minister.

Your Sincerely,

Sd-  
L.R SINGH

To,  
All Secretaries to the Government of India  
**Copy**

ELECTION COMMISSION OF INDIA  
Talkatora Road, New Delhi -1

No. 82/HN/24/67  
5th June, 1968

Dated the

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 distributors may not be aware of it, is really not charity, but party feeling following in the steps of charity, wearing the dress of charity, and mimicking her gait."

3. While in the interest of the general good of the public it may be necessary to place discretionary grants at the disposal of the Ministers, certain restrictions should be imposed, either by providing in the rules governing the disbursement of the grants or otherwise, that payments out of the discretionary grants should not be made when a countrywide general election, or a mid-term general election or even a bye election is in prospect and in any case it should not be made after the notification calling any such election is issued. The rules may also require that the benefits are, as far as possible, uniformly distributed within the State and not utilized in a particular district or constituency alone.

4. The Commission desires that in the interest of fair and free elections certain healthy conventions should be introduced and if necessary, changes should also be made in the rules regulating the distribution of discretionary grants by Ministers so that no disbursement or promise of disbursement from the grant is made on the eve of an election. I am, therefore, to request that the observations made by the Supreme Court and the High Court of Punjab and Haryana may be brought to the notice of the authorities concerned for such action as may be considered necessary.

The receipt of this letter may kindly be acknowledged.

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

Civil appeal No. 1632 of 1967

Ghasi Ram  
Appellant

Versus

Dal Sing Others  
Respondents

## Judgement

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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. The amount was paid after the Election was over.

Similarly, the sum of Rs. 5,000 said to have been paid to Gram Panchayat, Ram Rai is proved through the evidence of Devi Dayal (RW. 11) and Mangal Singh (RW. 12). This money was sanctioned on December 8, 1966 even before the Congress had given ticket to the answering respondent. The evidence here also does not show that there was any bargain for votes. The two witnesses were proved to be hostile to the answering respondent. Devi Dayal was his rival candidate in 1952 and had made several applications against the answering respondent. The application for the Congress ticket was made by the answering respondent on December 6, 1966 and the grant being made on December 8, 1966 the evidence of Devi Dayal that the grant was after the nomination, was definitely false, Mangal Singh is the editor of a weekly journal, which published several complaints against the answering respondent. The answering respondent stated that he had collected Rs. 25,000 for the sacred tank even before he become Minister, that through his efforts a pucca road, a dispensary, a veterinary hospital, a post office and water works were established. Had also got a primary school upgraded. Ram Rai being his native village he was interested in the work of Panchayat and as there was water shortage he gave the village Panchayat this amount to help them to improve the sacred tank. The High Court did not find any evidence which would bring the matter within S. 123. It declined to believe these hostile witnesses and on a consideration of the evidence we are not satisfied that the conclusion was erroneous.

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

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

The 4 sums of Rs. 500 each were paid for improvement of Community Centres. The attempt to prove that they were a part of the bargain was discountenanced by the High Court. In respect of the amount paid to Lajwana Kalan the evidence was that of Ram Singh (RW. 13), the polling agent of the election petitioner, Shri Phula (RW. 14), whose demeanour was commented upon by the learned judge, and one of the candidates Mangeram (RW. 19) and Jailal (RW. 21), a helper of one other candidate. Their evidence was found to be unsatisfactory either because of the interest in themselves or in other candidates or because of internal discrepancies and defects. We have read the evidence and we see no reason to differ. In support of the other two payments

of Rs. 500 each, the only objection raised before us was that the payments were made to the Ghanak and the Balmiki Communities with a view to obtaining their votes because, it was contended that there was no community centre at these villages. Evidence, however, shows that there are Paras at these villages where the Harijan Community meets. In fact, in the petition and the evidence these are referred to as community Centres. This action of the answering respondent was not found to amount to a corrupt practice and on a considerations of the evidence we are in agreement with the High Court.

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

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Sd/-  
M. Hidayatullah.

Sd/-  
K.S. Hedge J.

New  
Delhi

February 7, 1968

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

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

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

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

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

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

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

# **A3 – TOUR OF MINISTERS**

## **INSTRUCTION SI. No. 55**

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

### **Subject: Election period-tours of ministers**

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

2. The Commission vide its letter No. 437/6/94 dated 2nd February, 1994 had invited attention to the circular letter No. 10/17/89-M&G dated 1 st November, 1989 from the Ministry of Home Affairs on the tour of ministers in connection with the election campaign and had observed that those instructions were flouted with impunity and had therefore issued further instructions without, in any way overriding, modifying or affecting the instructions of the Ministry of Home Affairs dated 1 st November, 1989 referred to above.

3. The Supreme Court in its order dated 29th April, 1994 in a writ petition (Civil) No. 312 of 1994(State of Tamil Nadu versus Chief Election Commissioner and others) seeking exemption in the case of Chief Minister of Tamil Nadu had directed as follows :

"While we are conscious of the effort being made by the Election Commission to ensure cleanliness of the electoral process and for the protection and ensurement of free and fair polls, we are afraid, the Election Commission cannot, as it seeks to do here, put out of consideration the security requirements of certain political personalities who might, in view of extremist and terrorist activities and threats to their lives, require security of a high order. To confine the security to only the Prime Minister of the country, as the Election Commission has done, and to deny, as the communication dated 31 st March, 1994 seeks to do, to all other may not reflect a proper perception and appreciation of the problem. At all events, the Election Commission will have to take note of the statutory provisions. However, we should make one aspect clear. Having regard to the responsibilities and obligation of the Election Commission to ensuring purity of the electoral process, it is open to the Election Commission, if it has material to doubt that the assessments of the security requirement made by the Director of the Tamil Nadu Special Security Group under the status are so manifestly and unduly excessive as to amount to promotion indirectly, of partisan electoral interests, to bring such matter to the notice of the State Government for appropriate corrective steps."

4. The Cabinet Secretariat in its letter No. 10/22/094-ES dated 3/5 May, 1994 had issued instructions that under the provisions of the Special Protection Group Act, 1988 protection is provided for proximate security of the following :

- (i) The Prime Minister and the members of his immediate family;
- (ii) Any former Prime Minister or the members of his immediate family for a period of 5 years from the date on which the former Prime Minister ceases to hold the office of Prime Minister.

5. In the light of the above order of the Supreme Court the Commission had substituted paragraph 3 of its letter No. 437/6/93/PS-II dated 31<sup>st</sup> 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<sup>st</sup> December, 1993 will stand substituted by the following :-

3(A) The only exceptions from the prohibitions mentioned in para 2 above will be the Prime Minister and other political personalities who might, in view of extremist and terrorist activities and threats to their lives, require security of a high order and whose security requirements are governed by any statutory provisions made by Parliament or the State Legislature in this behalf.

3(B) The Commission would like to make it clear that having regard to its responsibilities and obligations to ensuring purity of the electoral process, the Commission, if it has material to doubt that the assessments of the security requirements made by the authorities under the above referred special enactments or any other special instructions of the Government are so manifestly or unduly excessive as to amount to promotion, indirectly, of partisan electoral interests, bring such matter to the notice of the Central Government and/or, as the case may be, the State Government for appropriate corrective steps.

3(C) For achieving this, the Commission may call for any information from the Central Government or the State Government concerned with regard to the assessment of the security requirements made in respect of any such personality. Such information shall be furnished to the Commission by the concerned Government forthwith."

6 It was further clarified by the Commission in its letter No. 437/6/94 dated 14th May, 1994 that all State Governments and the Union Territory Administration are requested to adhere strictly to the orders of the Supreme Court. Further, orders relating to security of the individuals issued under statutory powers or other powers must be fully honored.

7. The Commission has further directed that when such individuals visit State/Constituency for electioneering and election related work, the expenditure incurred on security arrangements like barricading/ rostrums etc. shall be borne by the concerned political parties.

## **INSTRUCTION SI. No. 56**

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

### **Subject: General Elections - Tours of Ministers**

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

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

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

4. The Commission also observes with serious objection that local officers of the district administration and State Government who have also to perform statutory and other functions related to the conduct of elections are perforce

made to attend on such Ministers in the name of administrative and security arrangements which further casts a suspicion on the much needed independence and impartiality of the election related officers.

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

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

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

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

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

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

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

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

### **Office Memorandum**

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

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

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

#### General Instructions:

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

his halt exclusively for private business he is not entitled to day allowance for that day.

**Special instructions regarding election tours:**

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

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

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

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

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

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

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

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.

# **A4 – USE OF AIRCRAFT / OFFICIAL VEHICLES**

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

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

### **Subject: Chartering of aircraft and helicopters**

#### ORDER

1. The Commission has already issued instructions imposing a total and absolute ban on the use of official vehicles for campaigning, electioneering or election related travel during elections.

2. It has been brought to the notice of the Commission that political parties are getting State/ Public Sector Undertakings aircraft/helicopters chartered through private companies etc. for electioneering in such a way that the other parties are put to a disadvantage. The commission has, therefore, directed that the procedure to be followed for chartering Government aircraft/ helicopters (including those owned by Public Sector Undertakings and Corporations) should be on an absolutely equitable basis and should be widely publicised. Some of the minimum conditions which should be included in the procedure to make it absolutely equitable are as under:-

2.1 There should be no discrimination between the ruling party on the one hand and the other parties and contesting candidates on the other.

2.2 The payment will be made by the political parties or the contesting candidates and proper record maintained.

2.3 The rates and terms and conditions should be uniform for all.

2.4 The actual allotment should be made on a first-come first-served basis. For this purpose, the date and time of receipt of the application should be noted down by the authorised receiving authority.

2.5 In the rare case when both the date and time of two or more applicants is the same, the allotment will be decided by draw of lots.

2.6 To obviate any contingency of rejection of an application for failure to mention certain particulars or on such other technical grounds, a format of the application should be prepared and made available to all those who want to avail of the facility.

- 2.7 No individual, firm, party or candidate will be allowed to charter the aircraft/helicopter for more than three days at a time. Any application which does not conform to this requirement shall be rejected.
3. The above conditions/stipulations to be incorporated in the procedure are illustrative and not exhaustive. Every endeavor should be made to make the procedure as equitable and just as possible.
4. The entire exercise should be transparent and wide publicity, if necessary, through print and electronic media should be given in advance about the entire procedure. There should be no scope whatsoever that any part of the exercise was done under a cloak of secrecy.
5. A copy of the instructions issued in this regard should be sent to the Commission immediately after issue.

## **INSTRUCTION SI. No. 59**

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

**Subject: General Elections - Security cover to Ministers/Candidates**

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

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

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

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

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

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

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

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

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

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

## **INSTRUCTION SI. No. 60**

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

**Subject: Use of Aircraft by Political Parties-regarding**

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

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

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

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

Kindly acknowledge the receipt.

## **INSTRUCTION SI. No. 61**

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

**Subject: Use of Aircraft during the Election Process**

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

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

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

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

5. Kindly acknowledge the receipt.

## **INSTRUCTION SI. No. 62**

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

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

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

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

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

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

## **INSTRUCTION SI. No. 63**

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

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

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

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

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

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

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

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

## INSTRUCTION SI. No. 64

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

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

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

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

2. I am directed to state that the Election Commission has carefully considered the question in all its aspects. The supervision and monitoring of the polling and counting process by these leaders will amount to interference in the performance of the functions of the Election Commission and usurping its powers, as the superintendence, direction and control of conduct of elections has been vested by Article 324 of the Constitution in the Election Commission and none else. Further, most of the leaders of all political parties have been categorized under various security grading and provided with security covers according to such grading. If they move from constituency to constituency on the days of polling and counting, adequate security precautions will have to be taken and security covers provided to each of them. On the days of polling and counting, the police and other security personnel are fully engaged in providing protection to voters, polling parties and polling materials in and around polling stations and counting centres, and in patrolling duties in the constituencies for maintaining proper law and order and peaceful atmosphere. Any disturbance or distraction in these arrangements to provide security to the leaders of political parties on the move from constituencies to constituencies may have serious impact on the conduct of free and fair poll and smooth and peaceful elections. It will also mean extra strain on the administrative machinery at the district and the sub-divisional levels, which are already stretched to the maximum during these days, as many of these political leaders will be entitled to some facilities, and courtesies on their visits there as per the requirements of protocol. Further, their movement, particularly on the days of poll, might also be taken as campaign during the prohibited period of 48 hours. It may also not be out of context to mention that the use of private fixed-wing aircraft and helicopters by the leaders of political parties on the days of poll and counting would add

considerably to the already mounting election expenses and would be a retrograde step in the direction of reasonable curbs on high expenditure on elections, apart from disturbing the level playing field whereby the political parties with smaller resources would be placed at disadvantageous position.

3. Having regard to all the above relevant considerations, the Commission has decided that no leader of a political party shall use private fixed-wing aircraft and helicopters for the purposes of supervising and monitoring the polling and counting process on the days of poll and counting.

4. The Commission has also decided that the Director General of Civil Aviation shall keep the above directions of the Commission in view and shall not permit the flights of private fixed-wing aircraft and helicopters for the movement of leaders of political parties for the above purpose on the days of poll and counting, except with the prior permission of the Election Commission in the case of any emergencies.

5. The above directions of the Commission should be brought to the notice of all political parties functioning in your State immediately for their information, guidance and compliance under intimation to the Commission.

## **INSTRUCTION SI. No. 65**

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

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

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

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

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

Kindly acknowledge receipt.

**B – MAINTENANCE OF LAW & ORDER  
AND DEPLOYMENT OF SECURITY  
FORCES / HOME GUARDS**

## INSTRUCTION SI. No. 66

Election Commission's Order, No. 464/96 (L&O), dated 17.01.1996

**Subject: Preventive Action to ensure conduct of peaceful, free and fair poll during the forthcoming general elections**

### ORDER

1. The Commission being deeply aware of the increasingly vitiative role of criminality and muscle power at elections has been taking, and directing the taking of a number of measures over and above the purview of normal law and order arrangements, for augmenting the possibilities of peaceful, free and fair poll. These measures include the deployment of Central Police Forces during the process of elections to assist the State law and Order machinery in prevention of pre-poll, poll and post-poll violence and inspire confidence in the impartiality of election machinery among the common electorate, regulation of vehicular traffic, regulation and ban on the sale of liquor in close proximity with the dates of poll and counting, seizure of illicit and licensed arms, etc., etc.

2. These extra measures taken by the Commission cannot absolve the normal law and order outfit of the State from taking such preparatory steps as are necessary for generation of an atmosphere conducive to the conduct of peaceful free and fair poll during the run up period to the elections. It is indispensable to tighten the local law and order outfit and enforce with adequate strictness the day-to day criminal administration with a view to mitigating the requirement of the aforesaid extra measures.

3. The Commission desires these States to undertake the following prophylactic measures immediately and report regularly the progress and effect of these measures in the context of possibilities of holding peaceful, free and fair elections:

3.1 A special drive should be launched to compile a list of such persons as are reported to have indulged in electoral offences like booth capturing, intimidation, impersonation in each police station of each and every constituency during the past at least two elections and a list thus compiled of each constituency made available to the concerned District Election Officer and the Returning Officer of each Assembly Constituency to be forwarded to the Commission if and when asked for.

3.2 A special drive should be launched to update the lists of history sheeters, declared absconders, fugitive criminals in each police station falling in each and every Assembly Constituency and record of such updated listed handed over to the District Election Officers and Returning Officers concerned, constituency wise, with a view to be kept ready for dispatch to the Commission if and when asked for.

- 3.3 A special drive should be launched to effect the service of all pending warrants and challans in each police station of each and every Assembly Constituency and fortnightly updated constituency-wise information of unserved warrants be made available to the concerned District Election Officer and Returning Officer to be forwarded to the Commission if and when asked for.
- 3.4 A special drive should be launched to expedite the investigation and prosecution of all electoral offences registered in previous elections in each police station of each and every Assembly Constituency and a fortnightly report made available to the concerned District Election Officer and Returning Officer to be forwarded to the Commission if and when asked for.
- 3.5 The States should conduct a 100% scrutiny of licenses of arms and ammunition shops with a view to ensuring that the records of their stocks are kept up-to-date and that their antecedents, recent involvement in irregularities, if any, and political leanings, if any, warrant a close super checking and monitoring of their business during the days of active electioneering.
- 3.6 A special drive should be launched to unearth illicit arms and ammunition in each police station of each and every Assembly Constituency and information of seizures should be made available fortnightly to the concerned District Election Officer and Returning Officer constituency wise to be forwarded to the Commission if and when asked for.
- 3.7 A special drive should be launched to unearth illicit liquor making factories and information about seizures made available to the concerned District Election Officer and Returning Officer fortnightly to be forwarded to the Commission if and when asked for.
4. A copy of this order in English and Hindi and the local official language (s) should be made available to all recognized political parties immediately and to each candidate or the agent authorized by him at the time of filing nomination (repeat filing nomination and not scrutiny of nomination) under acknowledgement.
5. The receipt of the order may please be acknowledged forthwith and its contents given widest possible publicity through the most effective local media.

## **INSTRUCTION SI. No. 67**

Election Commission Order No.464//96-L&O/PLN-I, dated 13.03.1996 addressed to The Chief Secretary and Chief Electoral Officers of all States and Union Territories

Subject: **General Election/Bye-Elections - restrictions on possession of arms during elections**

### ORDER

In exercise of the powers conferred on the Commission under Article 324 of the Constitution of India and all other powers enabling it in this behalf and in supersession of all other instructions, the Commission hereby orders that the following instructions shall be observed during all future elections:

1. Issue of licence for arms will be totally prohibited during the period commencing with the date of announcement of elections. This ban will continue to be operative till the completion of the election as notified.
2. The police should be directed to be vigilant and asked to start mopping up operations of the areas infested with known goonda and other bad elements right from the date of announcement of elections. During such mopping up operations special attention should be paid to unearth and seize unlicensed arms and ammunition. A very thorough search and seizure by the State Police of unlicensed arms and places of indigenous manufacture of arms and ammunition shall be carried out and persons involved shall be arrested. While unearthing and seizure of unlicensed weapons is a normal ongoing responsibility of the police, it shall be vigorously intensified during the election period. Inter-state and inter-State movements of trucks and commercial vehicles shall be strictly checked with a view to preventing smuggling of arms and ammunition and anti-social elements. Raids should be carried out regularly and intensively on underground arms factories.
3. Immediately after the announcement of elections, District Magistrates shall make a detailed and individual review and assessment (in accordance with the prevalent State laws) of all licence holders so that licensed arms in those cases where they consider it essential are impounded in order to ensure maintenance of law and order so essential for ensuring free and fair elections. These arms should be deposited with the district authorities. Among cases which may need to be reviewed are the following:
  1. persons released on bail,
  2. persons having a history of criminal offences, and
  3. persons previously involved in rioting at any time but especially during the election period. (The above categories are only illustrative and not exhaustive)

4. After such review, all such licence-holders who are identified, shall be directed to deposit their arms with the District Administration during the period of one week from the last date for withdrawal of candidatures.
5. The District Administration shall make fool-proof arrangements for keeping the deposited fire arms in safe custody. Proper receipt must be given to the licence holders depositing the fire arms. It shall be the bounden duty of the District Administration to ensure that all fire arms deposited with the Administration are returned to the licence holders immediately after one week after the declaration of results.
6. Prohibitory orders under section 144 of the Criminal Procedure Code, 1973 shall be issued banning the carrying of licensed arms as soon as an election is announced and should be effective till the declaration of results.
7. This ban shall, not be applicable to those communities who are entitled to display weapons by long standing law, custom and usage. This shall, however, not prevent the District Administration to impound weapons of any such persons of even such communities if they are found to be indulging in violence or posing a threat to the maintenance of law and order and peaceful conduct of elections. In these cases also the fire arms shall remain impounded till one week after the declaration of results.
8. Strict vigil shall be maintained by thorough checking of lorries, light vehicles and all other vehicles from three days before the date of poll to ensure that no undesirable elements or arms and ammunition are being transported into the constituency from outside and to apprehend them if they are doing so. Such checking of vehicles shall continue till the completion of the counting of votes and the declaration of results. As and when such culprits are apprehended, the arms and ammunition and vehicles concerned shall be confiscated.
9. A copy of this order in English/Hindi and in the local official language(s) shall be made available to the local units of all recognized National/State political parties, in each district immediately and to each candidate or the agent authorized by him at the time of his nomination (repeat nominations and not scrutiny of nominations) under acknowledgement.
10. The receipt of this order shall be acknowledged immediately.

## **INSTRUCTION SI. No. 68**

Election Commission's letter No. 464/INST/98/PLN-I, dated 14.02.1998 addressed to Chief Secretaries and CEOs of all States and Union Territories.

**Subject: Maintenance of Law and Order and prevention of electioneering within the prohibited area around polling stations - Instructions regarding use of Cellular Phones**

In continuation of the instructions contained in letter of even number dated 12-02-1998, in order to prevent electioneering at the Polling Stations on the date of poll and to maintain law and order in the counting centers at the time of counting of votes, the Commission hereby directs that no person shall be allowed to either carry or use cellular phones, cordless phones, wireless sets, etc., in the 100 meter perimeter of the Polling Stations described as the "Polling Station Neighborhood" and within the polling booth. Similarly no person shall be allowed to carry or use such instruments in the area within and around the Counting Centre or within the area cordoned off by the security forces to regulate the entry of persons to such Counting Halls and Centres. If any person is found in possession of such instrument in violation of these directions, the instrument shall be seized by the officers in charge of security and shall be returned to the person concerned only after the counting of votes is completed and results are declared.

These restrictions, however, do not apply to the officers in charge of law and order and security personnel put on duty near the polling booths and counting centres who may be using any of such instruments in the course of the discharge of their official duties. Similarly, these restrictions do not apply to the Observers appointed by the Commission and to the officers incharge of polling duty and counting duty who may have to use such instructions in the course of their official duties.

These instructions shall be brought to the notice of the candidates, their election agents and all political parties for their information and strict compliance. A press note in this regard may also be issued for the information of the general public.

## **INSTRUCTION SI. No. 69**

Election Commission's letter No. 476/3/98-JS-II date 14.02.1998 addressed to Chief Secretaries of all States and copy endorsed to CEOs of all States and UTs.

**Subject: Entry of persons with special security cover in polling stations/counting centres**

The directions contained in letter of even number dated 03-02-1998, are modified to the following extent in respect of SPG protectees:

- (a) The CPT with arms will follow the protectee to the door of the polling booth or the counting hall, as the case may be.
- (b) Thereafter only one PSO with concealed fire arm will accompany the protectee inside and position himself in such a manner as to be able to provide the requisite cover to the PR should it become essential, without otherwise interfering with the proceedings in any manner.

## **INSTRUCTION SI. No. 70**

Election Commission's letter No.437/GE-99/-PLN-III/MCC, dated 28.07.1999 addressed to The Chief Secretary of all States and Union Territories

**Subject: Surrender of licensed arms**

The National Rifle Association of India has approached the Commission and has requested that their members may be exempted from deposits of arms.

The sportsmen being the members of National Rifle Association, at different levels, have to participate in various sporting events in which they use their rifles.

After taking into account all relevant factors, the Commission has agreed to the request and, accordingly, has ordered that they will be exempted from restriction imposed under the Commission's order No.464.96/L&O/PLN-I dated 13-03-1996 with regard to deposit of arms/ammunition.

## **INSTRUCTION SI. No. 71**

Election Commission's letter No.464/L&O/99-PLN-I, dated 18.08.1999 addressed to The Chief Electoral Officers of all States and Union Territories

### **Subject: General Elections - Restrictions on transport of arms**

I am directed to forward herewith a copy of Commission's message No. 464/KT/96(L&O), dated the 3<sup>rd</sup> April, 1996 addressed to CEO, Karnataka regarding transport of arms from one state to the other. These instructions are to be treated, as standing instructions of the Commission and mutatis mutandis will apply to the current and all future elections.

### Annexure

Commission letter No.464/KT/96(L&O) Dated 03<sup>rd</sup> April, 1996 addressed to The Chief Electoral Officer of Karnataka, Bangalore.

Refer your message no clasue/2/chupoba/96 dated 25/26 march 1996 seeking clarification regarding carrying of arms and ammunities (.) commission directs that its order no. 464/96-l&o pln-i dated 13th march 1996 shall be strictly implemented (.) it is however clarified that commission has not banned supply of arms and ammunities to other states on the basis of issue of no objection certificates from the respective district magistrates provided the supply reaches the actual consignee and it does not reach the hands of the unauthorised person (.)

2. Commission directs that trucks, lorries etc carrying arms and ammunities to other states should reach actual consignee and do not find their way into the hand of unauthorised persons (.) therefore trucks and other commercial vehicles shall be vigorously checked at interstate borders with a view to prevent smuggling of arms and ammunities as mentioned in para 2 of order of the commission no. 464/96-l&o/pln-i dated 13.3.96 (.)

3. The state authorities of karnataka shall inform the concerned authorities of the states wherein the supplies of arms and ammunities are sent so as to take advance action to provide adequate security for remitting the consignment to the actual consignee.

Please acknowledge receipt (.)

## INSTRUCTION SI. No. 72

Election Commission's letter No.576/14/99-PLN-I, dated 21.08.1999 addressed to The Chief Secretary and Chief Electoral Officers of all States and Union Territories

### **Subject: General Elections, 1999 - Prohibition on sale of liquor**

I am directed to invite your attention to section 135C of the Representation of the People Act 1951 which provides that no spirituous, fermented or intoxicating liquors or other substances of 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 that polling area.

2. In view of the statutory provisions as above, 'dry days' shall be declared and notified under the relevant state laws as is appropriate during 48hours, ending with the hour fixed for conclusion of poll with respect to each of polling days for any election in that polling area.

3. The Commission further directs that the day(s) on which the counting of votes is to be taken up, i.e. 6<sup>th</sup> and 7<sup>th</sup> October, 1999 shall be declared 'dry day(s)' under relevant State Laws in the State.

4. No hotels, restaurants, clubs and other establishments selling/serving liquor, shall be permitted to sell/serve liquor to anyone whosoever, on the aforesaid days.

5. Non-proprietary clubs, Star Hotels, restaurants, etc. and Hotels run by anyone, even if they are issued different categories of licenses for possession and supply of liquor, should also not be permitted to serve liquor on these days.

6. The storage of liquor by individuals shall be curtailed during the above period and the restrictions provide in the excise-law on the storage of liquor in unlicensed premises shall be vigorously enforced.

7. Steps shall also be taken to prohibit sale of liquor in adjoining areas of the concerned constituency (ies) so that there are no chances of clandestine movement of liquor from those areas has the restriction not been in operation.

8. The Commission directs that the State Governments shall strictly implement the above measures. They are required to issue detailed and comprehensive instructions to all concerned authorities to take appropriate, legally effective measures to implement the above prohibitions and assist the election authorities in the peaceful and smooth conduct of free and fair poll. A copy of the instructions issued in this behalf should be endorsed to the Commission.

9. This supersedes all existing instructions on the subject.

## INSTRUCTION SI. No. 73

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 secretary of all States/Uts [*Please also see Commission's letter No. 3/10/2002/JS-II, dated 23rd April, 2002 (Item No.289)*].

**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 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.

## INSTRUCTION SI. No. 74

Election Commission's letter No. PS/AK/2005, dated 10.09.2005. addressed to the Chief Electoral Officers, Bihar

**Subject : Provision of Law on forcing or intimidating a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote to a particular candidate or to vote in a manner other than that provided by law**

I am directed to invite your attention to the provisions of Section 3 (i) (vii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 1989), reproduced below.

“Offences of Atrocities

3. Punishments of offences of atrocities (1) Whoever, not being a member of Scheduled Caste or a Scheduled Tribe:-.....

(vii) forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote to a particular candidate or to vote in a manner other than that provided by law;.....

.....Shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine”.

The Commission has desired that these provisions of law may be brought to the notice of all election related & police authorities, political parties and members of public immediately. The police officials may be directed to file FIRs whenever cases of violation of the aforesaid provisions of law are observed or brought to their notice.

## **INSTRUCTION SI. No. 75**

Election Commission's letter No.576/14/2005/PLN-I, dated 16.09.2005 addressed to the Chief Secretaries/Chief Electoral Officers of Haryana, Uttaranchal and West Bengal

**Subject: Bye-elections to the Lok Sabha and State Legislative Assembly, 2005  
- Prohibition on sale of liquor etc.**

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

2. In view of the statutory provision as above, 'Dry day' shall be declared and notified under the relevant State laws as is appropriate during 48 hours, ending with the hours fixed for conclusion of poll with respect to polling day for an election in that polling area. Therefore, in view of the poll day being 28<sup>th</sup> September, 2005 in the bye-elections being held in your State the "Dry day" shall be observed in the Parliamentary Constituency/Assembly Constituency where bye-election is being held including adjoining areas of the concerned constituency from 5.00 p.n. of 26<sup>th</sup> September, 2005 to 5.00 p.m. of 28<sup>th</sup> September, 2005.

3. The Commission further directs that the day 1<sup>st</sup> October, 2005 on which counting of votes is to be taken up, shall be declared 'Dry Day' under the relevant Laws in the state.

4. No liquor shops, hotels, restaurants, clubs and other establishments selling/serving liquor, shall be permitted to sell/serve liquor to anyone whosoever, on the aforesaid days.

5. Non-proprietary clubs, Star hotels, restaurants etc. and Hotels run by anyone even if they are issued different categories of licenses for possession and supply of liquor, should also not be permitted to serve liquor on these days.

6. The storage of liquor by individuals shall be curtailed during the above period and the restrictions provided in the excise law on the storage of liquor in unlicensed premises shall be vigorously enforced.

7. The Commission directs that the State governments shall strictly implement the above measures. They are required to issue detailed and comprehensive instructions to all concerned authorities to take appropriate and legally effective measures to implement the above prohibitions and assist the election authorities in peaceful and smooth conduct of free and fair poll.

8. The receipt of this letter may kindly be acknowledged.

## INSTRUCTION SI. No. 76

Election Commission's letter No. 464/L&O/2005/PLN-I, dated 01.10.2005 addressed to the Chief Secretaries of Jharkhand, Uttar Pradesh and West Bengal and copy to /Chief Electoral Officers of these States

**Subject: General Election to Legislative Assembly of Bihar, 2005 - sealing of borders etc.**

As you are aware the poll for the General Election to the Legislative Assembly of Bihar is going to be held in four phases i.e. on 18<sup>th</sup>, 26<sup>th</sup> October, 13<sup>th</sup> and 19<sup>th</sup> November, 2005. The Govt. of Bihar has already been directed to take adequate measures to seal its borders with neighbouring States in order to prevent anti-social elements of neighbouring states from entering Bihar with a view to create disturbances in the election.

Reports have been received that there might be attempts by some anti-social elements to enter with arms in Bihar where poll is being held with a view to affect the prospects of the candidates of different political parties on caste and communal lines. The Commission has been constantly reviewing the law and order situation with law enforcement agencies in Bihar State and is of the view that preventive steps should be taken in the border-districts of your States also in the run-up to the polls scheduled on 18<sup>th</sup>, 26<sup>th</sup> October, 13<sup>th</sup> and 19<sup>th</sup> November, 2005.

It is requested that necessary directions may kindly be given to the District Collector/District Magistrate and Superintendents of Police of bordering districts of your State to exercise vigil and to take necessary preventive steps against anti-social elements who intend to create trouble in Bihar. The Commission solicits your co-operation in this regard to ensure free, fair and smooth poll in Bihar.

## **INSTRUCTION SI. No. 77**

Election Commission's letter No.464/L&O/2008/EPD Dated: 12<sup>th</sup> November, 2008 addressed to the Chief Electoral Officers of all States and Union Territories.

**Subject:- Follow up action on electoral offences - Regarding**

During the general elections to the Lok Sabha and State Legislative Assemblies, some incidents of booth capturing or other incidents of violence, impersonation etc. are committed to mar the sanctity of election. Your attention in this connection is invited to the Para IX A of IPC (Sub Section, 171 A to 171 H) and Chapter III of Part VII (Sections 125 to 136) of the Representation of the People Act, 1951 making some of these acts of the commission and omission by specific electoral offences. Among others, booth capturing has been defined in section 135A of the R.P. Act, 1951 and is a specific electoral offence and also a corrupt practice under section 123 (8) of the said Act. Proper FIRs in the case of cognizable offences and complaints before the Competent Magistrate in other cases are required to be lodged and matter investigated promptly and expeditiously as per instruction contained in the Commission's Message No. 464/89/(L&O) dated 21<sup>st</sup> November 1989 which are reproduced below:-

"Election Authorities responsible for conduct of poll should make necessary arrangement for ensuring free and fair elections including maintenance of law and Order in the constituency as also at polling stations on the date of poll. Authorities concerned must also identify sensitive constituencies and sensitive areas needing special attention and taken appropriate measures to deal with any situation affecting free and fair poll. Commission would take serious view of any incident of booth capturing or any other malpractice or irregularity taking place at any polling station which mars sanctity of election and casts adverse reflection not only on polling personnel but also on police authorities. Any such incident means some failure either in anticipation of problem or in tackling it. Booth capturing has now been defined statutorily in Section 135A of the Representation of the People Act, 1951. Further, booth capturing is now a specific electoral offence under said Section 135A and also corrupt practice under Section 123(8). In any case of booth capturing, Presiding Officer should be required to make report forthwith to returning officer either direct or through sector magistrate etc. Police authorities posted at the polling stations who are responsible for avoiding any such incident should also be required to make report forthwith to their superiors as also to Returning Officers. Proper FIRs

should be lodged and matter investigated promptly and expeditiously. Any inaction on the part of the election authorities and other investigating agencies will be viewed seriously. It may not be out of place to mention that under Section 28A of the Representation of the People Act, 1951, all officers including police authorities designated for the time being by State Government for conduct of elections shall be deemed to be on deputation to the Commission and shall be subject to control, superintendence and discipline of the Commission during election period upto the date of declaration of result. Above instructions of the Commission may kindly be brought to notice of all authorities concerned under intimation to Commission.”

2. The Commission desires to take stock of all such criminal cases lodged in the course of conduct of general elections and disciplinary cases initiated against election related officers. The Commission has directed that the last date for launching of prosecution of all cases relating to electoral offences and initiation of disciplinary proceedings against delinquent officials should be one month from the date of completion of general elections.

3. Similarly, the Commission has fixed the same period by which enquiries on complaints received by you direct or referred by the Commission during the conduct of the General Elections, should be completed.

4. In view of above, you are requested to draw a suitable plan of action to monitor the progress of all FIRs lodged in connection with the recently concluded general elections and also to ensure completion of enquiries on complaints with the deadlines fixed. It may be noted that no such case should be withdrawn by the State Govt. without the prior concurrence of the Election Commission.

5. Monthly report as in enclosed Proforma about the number of cases in which FIRs have been lodged and disposal of complaints should be furnished to the Commission.

6. Kindly acknowledge receipt.

POSITION AS ON -----

**PROGRESS REPORT ON FIRS AND COMPLAINTS LODGED  
DURING GENERAL ELECTION TO LEGISLATIVE ASSEMBLY  
OF ----- HELD IN -----**

Name of District	No. & Name of Constituency	Particulars of FIRs		Gist of Complaint	Progress made in prosecution of persons
		Date	Police Station		
1.	2.	3.	4.	5.	6.

## **INSTRUCTION SI. No. 78**

Election Commission's letter No.464/L&O/2007/PLN-I Dated: 08.01.07 addressed to The Secretary, Government of India, the Chief Secretaries of all States and Union Territories & the Chief Electoral Officers of all States and Union Territories.

**Sub: Security Plan and Force Deployment to ensure free, fair and peaceful conduct of elections to Lok Sabha and State Assemblies.**

The Commission has, in the past, issued various instructions on the deployment of forces from time to time to ensure conduct of peaceful, free and fair elections. These instructions that are applicable for both general and bye-elections to Lok Sabha and various State Legislative Assemblies have now been consolidated for the convenience of all concerned which are as follows: -

2. During elections the State Governments deploy a large number of their existing police forces and these are further augmented by induction and deployment of Central Para Military Forces (CPMFs) for ensuring free, fair and peaceful conduct of elections. The Commission has observed that there is a tendency amongst the States to keep the Central Police Forces as 'reserves' and thereby not actually deploying them on election related duties. This defeats the very purpose of augmenting the local forces with the CPMF resulting in suboptimal benefits. To ensure full and optimal utilization of the police forces including CPMFs and SAPFs, the Commission directs that the following guidelines will be followed strictly in the matter of deployment of security forces for conduct of elections: -

□.(a) State Deployment Plan will be prepared taking into account the available forces of the State Government/SAPF and CPMFs which will be made available by the Ministry of Home Affairs. State Deployment Plan will be prepared in consultation with the Chief Electoral Officer of the State and his recommendations on the quantum of forces to be deployed to different constituencies shall merit serious consideration in the drawing of the plan. State Level Force Coordinator appointed by MHA will assist the CEO in this task.

□.(b) Based on its experience during the Lok Sabha and general elections to various State Legislative Assemblies, the Commission has persuaded the

Ministry of Home Affairs to allow splitting of Sections and deployment of half Section of CPMF in the areas, which are not insurgency/militancy/naxalite affected. But these forces must not be deployed in less than one Section strength in insurgency/militancy/naxalite affected areas. The S.P of the concerned district shall certify in writing whether the area is insurgency/militancy/naxalite affected or otherwise.

(c) The CEO of the State shall be actively associated in drawing up the State deployment plan. His recommendations on what quantum of forces should be deployed to which Constituency shall merit serious consideration in drawing up the plan. The State

Deployment Plan will factor in the requirements of the different districts based on District Deployment Plans which will be prepared by every district taking into account the forces being made available by the State Government to the district, the CPMFs and other forces being made available from the state pool to the district and the available forces with the district. The District Deployment Plan shall be formulated and finalized under the Chairmanship of the District Magistrate/District Election Officer. The Observer on his arrival to the district shall be consulted by the District Magistrate and Superintendent of Police and the views of the Observer will have to be incorporated in giving final shape to the District Deployment Plan.

□.(d) Both the State Deployment Plan and District Deployment Plan would be finalized at least one week before the day of poll.

□.(e) In the District Deployment Plan, it shall be ensured that all polling stations are covered with adequate static duty reinforced by necessary mobile patrolling at the level of "zones" and "sectors". Particular attention should be paid to deploy CPMFs in constituencies and polling stations identified as sensitive / hyper sensitive.

(f) Among others the following may be considered as guiding factors in identifying

sensitive and trouble prone areas/polling booths: i) Past history of the constituency or the polling area ii) Incidents of Booth Capturing, violence, riots, large-scale impersonation etc. iii) Information regarding abnormal law & order situation in particular area iv) Specific complaints made by political parties and candidates v) Nature of contest viz. political status of candidates vi) Political rivalries vii) Number of history sheeters and absconders viii) Number of SC/ST electors

□.(g) Deployment of any force other than State's own uniformed police force or the CPMFs, (for example, Village Defense Force, Homeguards, Adhoc Auxilliary force etc.) will require prior approval of the Commission.

□.(h) The deployment plan must spell out when and where the CPMFs are reaching the State.

□.(i) Whenever area domination by CPMF is needed, CPMF will undertake area domination etc. till 2 days before the polling day (P-2). After that they shall be drafted for static duty at polling stations. In naxal and other insurgency affected area, CPMF may be deployed for active election related duty other than static

duty at polling booths such as mobile patrols with magistrates, area pickets, check gates and quick reaction teams located in specific areas etc. Such exceptions shall have to be approved by Election Observer for the district or CEO for inter-district duties. The central forces shall not be deployed or kept as "reserve" at any level. In rarest of the rare cases, when they are to be deployed as "reserve" (a) prior ECI approval shall be obtained and (b) they should be made available with suitable communication and mobility facilities for contingent deployment and movement on short notice. However, the proposal to retain some of the CPMF contingents as "reserve" should be discussed with the Observer and should be sent to the Commission through CEO of the State for specific permission of the Commission. The justification for such request shall be clearly brought out in the proposal. It is made clear that as a matter of policy, the Commission favours, the deployment of CPMF on poll day on static duty at polling stations invariably.

.(j) In pursuance to the directions given by the Hon'ble Supreme Court in its order no.9228 of 2003 (Janak Singh Vs. Ram Das Rai and others) dated 11.01.2005, the Commission has desired that one CPMF Jawan from the CPMF party posted at the polling station will be stationed at the entrance of the polling station so that he can keep a watch on the proceedings that are going on inside the polling station, particularly, to ensure that no unauthorized person enters inside the polling station and / or no irregularity is committed either by the polling staff or outsiders in the poll process. In the buildings which have more than one polling station and

.where only half a section of the CPMF personnel is deployed, the CPMF Jawan selected for duty at the entrance of the polling station may be asked to oscillate from one polling station to other and look at what is going inside these polling stations and report to the officer in charge of the CPMF party or observer, if something unusual is observed by him. It is also clarified that CPMF Jawan posted at the entrance of the Polling Station shall not verify the identity of electors coming into the polling stations to cast their votes as such verification is the duty of the polling personnel.

.(k) The specific things on which a CPMF Jawan posted at the entrance of the polling stations are expected to keep an watch are as under -

.(i) No unauthorized person is present inside the polling station at any time during the poll.

.(ii) The polling party or the polling agents do not attempt to cast or cast any vote or votes when no voter is present inside the polling booth.

.(iii) No polling officer accompanies any voter to the voting compartment.

.(iv) No polling agent or polling officer threatens any voter or makes any gesture to threaten them.

.(v) No arms are carried inside the polling station.

.(vi) No silent rigging takes place.

.(l) If the CPMF Jawan posted at the entrance of the polling station discovers violation of the election process as above or observes something unusual going on inside the polling station, he shall not interfere in the poll process but report the same to the officer incharge of the CPMF party at polling station or observer.

The officer incharge of CPMF party will in turn send this information to the Returning Officer and also Observer on the same day in writing for further necessary action. The Returning Officers/Observer will report cases from where adverse reports are received from the CPMF parties for further instructions of the Commission.

□.(m) The other instructions relating to deployment of CPMF, which are needed to be considered by the election authorities, are: -

□.(i) CPMF shall be used during the pre-poll period for the purpose of area domination, conducting flag marches, confidence building among the electors and checking of border areas etc.

□.(ii) The District Magistrates, Superintendents of Police shall finalize the sensitivity of polling stations giving the reasons in accordance with the instructions of the Commission. This list shall be kept ready and finalized on arrival of the observers after consulting them.

□.(iii) The forces shall be deployed at the polling stations in the following order of sensitivity (from higher to lower) - CPMF followed by State Armed Police (SAP) followed by District Armed Police (DAP).

□.(iv) At places requiring two sections of force, one section of CPMF and one section of SAP / DAP can be used to maximize the coverage by CPMF.

□.(l) It will be the responsibility of the District Magistrate concerned and Superintendent of Police concerned to ensure that the polling parties and static armed force parties reach polling booths in time as scheduled.

□.(m) The arrangements for security of contesting candidates, according to the perception of threat to their lives should also be made and the contesting candidates provided with the security after an assessment of the threat. It is vital to note and follow that security should not be provided in a routine manner. All relevant factors must be considered and taken into account.

□.(n) The Observers appointed by the Commission should also be provided with adequate security.

□.(o) The Commission has directed that for guarding the strong rooms after the completion of poll armed Police personnel shall be used. To the extent possible, CPMF should be used for the purpose. Wherever, CPMF is not available, SAP shall be used.

□.(p) The State Government must also ensure that adequate and fool-proof security arrangements are made, both inside and around the counting centers as well to prevent incident that are likely to vitiate the counting process. For this purpose, it should be ensured that adequate security forces preferably CPMF should be present at all the counting centers.

□.(q) The deployment of forces within the district and at the polling booths as per the district deployment plan shall be the responsibility of the concerned District Superintendent of Police and officers below him.

□.(r) The state government shall provide adequate facilities and make necessary arrangements as needed, for transport and accommodation of the CPMF deployed.

□.(s) Ministry of Home Affairs shall get all international Borders sealed at least one week in advance to prevent any movement of anti-social elements crossing

the borders to disrupt electioneering process. Similarly, in view of the phasing of elections, all State Governments shall seal inter-state borders/inter-district borders well in advance to prevent infiltration of antisocial and disruptive elements from neighbouring states /districts where polls are being held.

3. Kindly acknowledge the receipt.

## INSTRUCTION SI. No. 79

Election Commission's letter No. 464/L&O/2007/PLN-I Dated 08.01.07 addressed to the Chief Secretaries of all States and Union Territories & the Chief Electoral Officers of all States and Union Territories.

**Subject: Preventive Law & Order Action to ensure conduct of peaceful, free and fair poll during the General Elections/Bye-elections - Regarding.**

The Commission has, in the past, issued various instructions from time to time to ensure conduct of peaceful, free and fair poll and maintenance of the law and order situation during General Elections/Bye-elections. For convenience of all concerned, these instructions have now been consolidated which are as under: -

2. The Commission being deeply aware of the increasingly vitiative role of criminality and muscle power at elections has been taking, and directing the taking of a number of measures over and above the purview of normal law and order arrangements, for augmenting the possibilities of peaceful, free and fair poll. These measures include the deployment of Central Police Forces during the process of elections to assist the State law and Order machinery in prevention of pre-poll, poll and post-poll violence and inspire confidence in the impartiality of election machinery among the common electorate, regulation of vehicular traffic, regulation and ban on the sale of liquor in close proximity with the dates of poll and counting, seizure of illicit and licensed arms, etc., etc.

3. These extra measures taken by the Commission cannot absolve the normal law and order outfit of the State from taking such preparatory steps as are necessary for generation of an atmosphere conducive to the conduct of peaceful free and fair poll during the run up period to the elections. It is indispensable to tighten the local law and order outfit and enforce with adequate strictness the day-to day criminal administration with a view to mitigating the requirement of the aforesaid extra measures.

4. The Commission desires the States/UTs to undertake the following prophylactic measures immediately and report regularly the progress and effect of these measures in the context of possibilities of holding peaceful, free and fair elections:

4.1 A special drive should be launched to compile a list of such persons as are reported to have indulged in electoral offences like booth capturing, intimidation, impersonation in each police station of each and every constituency during the past at least two elections and a list thus compiled of each constituency made available to the concerned District Election Officer and the Returning Officer of each Assembly Constituency to be forwarded the Commission if and when asked for.

4.2 A special drive should be launched to update the lists of history sheeters, declared absconders, fugitive criminals in each police station falling in each and every Assembly Constituency and record of such updated listed handed over to the District Election Officers and Returning Officers concerned, constituency wise, with a view to be kept ready for dispatch to the Commission if and when asked for.

4.3 A special drive should be launched to effect the service of all pending warrants and challans in each police station of each and every Assembly Constituency and fortnightly updated constituency-wise information of unserved warrants be made available to the concerned District Election Officer and Returning Officer to be forwarded to the Commission if and when asked for.

4.4 A special drive should be launched to expedite the investigation and prosecution of all electoral offences registered in previous elections in each police station of each and every Assembly Constituency and a fortnightly report made available to the concerned District Election Officer and Returning Officer to be forwarded to the Commission if and when asked for.

4.5 A special drive should be launched to unearth illicit liquor making factories and information about seizures made available to the concerned District Election Officer and Returning Officer fortnightly to be forwarded to the Commission if and when asked for. All restrictions provided in excise law on the storage of liquor in unlicensed premises shall be vigorously enforced. Section 135C of Representation of People's Act, 1951 provides that no spirituous, fermented or intoxicating liquors or other substances of like nature shall be sold, given or distributed at a hotel, eating house, tavern, shop or any other place, private or public, within a polling area during the period of 48 hours ending with the hour fixed for conclusion of poll for any election in the polling area. Therefore 'Dry Day' shall be declared and notified under relevant state laws for the stipulated period for the poll areas. The day on which counting of votes is to be taken up, shall also be declared 'Dry Day'.

4.6 Prohibitory orders under section 144 of the Criminal Procedure Code, 1973 shall be issued banning the carrying of licensed arms as soon as an election is announced and should be effective till the declaration of results.

4.7 The States should conduct a 100% scrutiny of licenses of arms and ammunition shops with a view to ensuring that the records of their stocks are kept up-to-date and that their antecedents, recent involvement in irregularities, if any, and political leanings, if any, warrant a close super checking and monitoring of their business during the days of active electioneering.

4.8 Issue of license for arms will be totally prohibited during the period commencing with the date of announcement of elections. This ban will continue to be operative till the completion of the election as notified.

4.9 A special drive should be launched to unearth and seize unlicensed arms and ammunition. A very thorough search and seizure by the State Police of unlicensed arms and places of indigenous manufacture of arms and ammunition shall be carried out and persons involved shall be arrested. While unearthing and seizure of unlicensed weapons is a normal ongoing responsibility of the police, it shall be vigorously intensified during the election period. Inter-state and inter-State movements of trucks and commercial vehicles shall be strictly checked with a view to preventing smuggling of arms and ammunition and anti-social elements. Raids should be carried out regularly and intensively on underground arms factories.

4.10 Immediately after the announcement of elections, District Magistrates shall make a detailed and individual review and assessment (in accordance with the prevalent State laws) of all licence holders so that licensed arms in those cases where they consider it essential are impounded in order to ensure maintenance of law and order so essential for ensuring free and fair elections. These arms should be deposited with the district authorities. Among cases which may need to be reviewed are the following:

- (a) Arms licenses of persons released on bail,
- (b) Arms licenses of persons having a history of criminal offences, and
- (c) Arms licenses of persons previously involved in rioting at any time but especially during the election period. (The above categories are only illustrative and not exhaustive)

4.11 After such review, all such licence-holders who are identified, shall be directed to deposit their arms with the District Administration during the period of one week from the last date for withdrawal of candidatures.

4.12 The District Administration shall make foolproof arrangements for keeping the deposited firearms in safe custody. Proper receipt must be given to the licence holders depositing the firearms. It shall be the bounden duty of the District Administration to ensure that all firearms deposited with the Administration are returned to the licence holders immediately after one week after the declaration of results.

4.13 The sportsmen who are the members of National Rifle Association, at different levels, have to participate in various sporting events in which they use their rifles. The Commission has, therefore ordered that they will be exempted from these restrictions. This ban shall, also not be applicable to those communities who are entitled to display weapons by long standing law, custom and usage. This shall, however, not prevent the District Administration to impound weapons of any person, even from such communities, if they are found to be indulging in violence or posing a threat to the maintenance of law and order and peaceful conduct of elections. In such cases too, the seized firearms shall remain impounded till one week after the declaration of results.

4.14 Strict vigil shall be maintained by thorough checking of lorries, light vehicles and all other vehicles from three days before the date of poll to ensure that no undesirable elements or arms and ammunition are being transported into the constituency from outside and to apprehend them if they are doing so. Such checking of vehicles shall continue till the completion of the counting of votes and the declaration of results. As and when such culprits are apprehended, the arms and ammunition and vehicles concerned shall be confiscated.

4.15 Chief Secretary shall arrange for compilation of daily law & order report for each district in format prescribed in the proforma (LOR – Form I, **annexed**) and for its transmission to the CEO. District authorities should not send this report directly to the ECI. The Chief Secretary shall also arrange for compilation of a consolidated report for entire state in another format (LOR – Form II, **annexed**) by the Home Department. This reports should be sent to the CEO, who in turn would fax the report with his/her comments to ECI.

5. It is clarified that Commission has not banned supply of arms and ammunitions to other states. However, such transfers should only be on the basis of valid papers, including 'no objection certificates' from the respective district magistrates. It must be ensured that the supply reaches the actual consignee and it does not reach the hands of any unauthorised person. All care should be taken to ensure that trucks, lorries etc carrying arms and ammunitions to other states should reach actual consignee and do not find their way into the hand of unauthorised persons. Therefore trucks and other commercial vehicles shall be vigorously checked at interstate borders with a view to prevent smuggling of arms and ammunitions. The state authorities supplying the consignment shall inform the concerned authorities of the states wherein the supplies of arms and ammunitions are sent so as to take advance action to provide adequate security for remitting the consignment to the actual consignee.

**Form LOR - FORM I**

**Election Commission of India Daily  
Law & Order Report for Districts for Electoral Events  
Election ID: STATE ELECTIONS, 2004**

Report for a day should cover a period of 24 hours from 6.00 AM of that day to 6.00 AM of next day)

To	1) District Election Officer 2) District Magistrate
Copy to	1) Home Secretary      2) Director General of Police 3) Chief Electoral Officer

Start Date for these Reports (1) :Date			Month			Year			
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Report for.....day (2) :Date			Month			Year			
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Name of State:
Name of Police District :
Police Range (of IG/DIG):

**Part I : Summary**

Sl. No.	Item	Reporting Day	Cumulative from Start Date upto and including Reporting day
1.	No. of Unlicensed Arms/Explosive seized a)Arms/Weapons b)Cartridges/Explosives(Quantity/Numbers)		
2.	No. of illicit arms manufacturing centres raided and seizures made		
3.	Licensed Arms deposited/impounded/cancelled		
4.	No. of persons bound down U/S 107/116 CrPC etc.		
5.	Execution of non-bailable warrants		
	a) Executed		
	b) Pending		
6.	No. of incidents of violence related to poll campaign, political rivalry etc.		
	a) No. of incidents		
	b) Total killed		
	c) Total injured		
	d) Damage to property (in Rs. Lakhs)		
<b>Signature of SP/SSP:</b>		<b>Name of SP/SSP:</b>	

**Daily Law & Order Report for Districts for Electoral Events  
Election ID : STATE ELECTIONS, 2004**

(Report for a day should cover a period of 24 hours from 6.00 AM of that day to 6.00 AM of next day)

Report for..... day (2) Date		Month		Year				
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Name of State:
Name of Police District:

**Part II : Details of Incidents of Violence**

(Use a separate sheet for each incident of violence covered in item 6 of part I)

**A. General Information**

1.	Incident No.:	Time :
2.	Place/Location:	
3.	Brief Narrative Summary of incident of violence :	
4.	Political/Communal Affiliation of the Groups/People involved in the incident, if any :	
5.	Police Action taken, if any :	
6.	Break-up of persons killed and injured in the incident:	Killed                  Injured
	a) Political workers/Activists	
	b) Poll Officials	
	c) Policemen/Security Staff on Duty	
	d) Onlookers	
	e) Others	
	Total	
7.	Details of Damage to Property, if any :	

**Signature  
of SP/SSP:**

**Name of  
SP/SSP:**

**Daily Law & Order Report for Districts for Electoral Events**

**Election ID: STATE ELECTIONS, 2004**

(Report for a day should cover a period of 24 hours from 6.00 AM of that day to 6.00 AM of next day)

Report for..... day (2)	Date			Month			Year			
Name of State:										
Name of Police District:										

**Part IIB : Names & Particulars of Persons killed/injured**

( Use a separate sheet for each incident of violence covered in item 6 of Part I)

Incident No.:

S.No.	Name & Particulars of Person	Age (3)	Sex	Category (4)	Killed/Injured
	.....				
Signature of SP/SSP:		Name of SP/SSP :			

(3) Approximate age.

(4) Political worker or activist/Poll official/Policeman or security staff on duty/Onlooker/Others.

**Election Commission of India  
Daily Law & Order Report for State for Electoral Events  
Election ID : STATE ELECTIONS, 2004**

(Report for a day should cover a period of 24 hours from 6.00 AM of that day to 6.00 AM of next day)

To  
The Secretary  
Election Commission of India

Start Date for these Reports (1): Date			Month			Year			
Report for..... day (2) : Date			Month			Year			

Name of State:

Sl. No.	Item	Reporting Day	Cumulative from Start Date upto and including Reporting day
1.	No. of Unlicensed Arms/Explosive seized a)Arms/Weapons b)Cartridges/Explosives(Quantity/Numbers		
2.	No. of illicit arms manufacturing centres raided and seizures made		
3.	Licensed Arms deposited/impounded/cancelled		
4.	No. of persons bound down U/S 107/116 CrPC etc.		
5.	Execution of non-bailable warrants a) Executed b) Pending		
6.	a) No. of incidents of violence related to poll campaign, political rivalry etc. b) Total killed c) Total injured d) Damage to property (in Rs. Lakhs)		
<b>Signature Of CEO:</b>		<b>Name of CEO:</b>	

**IMPORTANT: In case a violent incident has occurred for this day, please enclose, for each incident, a copy of the report for the concerned Police District in Form LOR-FORM I.**

## INSTRUCTION SI. No. 80

Election Commission's letter No. 464/INST/2007-PLN-I Dated: 8<sup>th</sup> January, 2007 addressed to the Chief Secretaries of all States and Union Territories & the Chief Electoral Officers of all States and Union Territories.

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

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

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

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

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

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

## INSTRUCTION SI. No. 81

Election Commission's letter No.437/6/2006/PLN- III Dated : 06<sup>th</sup> November, 2006 addressed to the Chief Secretaries of all States and Union Territories & the Chief Electoral Officers of all States and Union Territories.

**Subject:- General Elections/Bye-elections to the Lok Sabha/Legislative Assemblies of the States/UTs – Posting of Officers – Regarding.**

The Commission has, in the past, issued various instructions on transfer/posting of officers for conduct of free and fair elections. These instructions have now been consolidated for the convenience of all concerned, which are as under :-

(i) The Commission has followed the consistent policy to ensure that officers, who are connected with the conduct of elections in the States, do not serve in their home districts or places where they have served for long and decided that no officer connected with elections, directly or indirectly, should be allowed to continue in the present 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 years.

(ii) These instructions will not only cover officers appointed for specific election duties like District Election Officers, Returning Officers and Assistant Returning Officers but also other district level officers like Additional District Magistrates, Deputy Collectors, Sub-Divisional Magistrates, Tehsildars, Block Development Officers. As far as officers in the Police Department are concerned, these instructions shall be applicable to range IGs, DIGs, SSPs, SPs and Sub-Divisional Heads of Police, Inspectors, Sub-Inspectors, Sergeant Majors or equivalent who are responsible for deployment of force in the district at election time.

(iii) The Commission has desired that a detailed review may, therefore, 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 three years out of last four years. While moving officers, who have completed three years in a district out of last four years, care should be taken so that they are not posted to their home districts. While calculating the period of three years, promotion to a post

within the district is to be counted. While carrying out this review it must be borne in mind that these instructions do not apply to officers posted at the State headquarters.

(iv) 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 election related work or who were transferred under the orders of the Commission previously may not be assigned any election related duty(ies).

(v) 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.

(vi) The Commission in the past has received complaints that while the State Government transfers officials in above categories in pursuance to the directions issued by the Commission, the individuals try to circumvent the objective by entering 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 to the instructions referred to above shall be asked to move physically out of the districts from which they stand transferred immediately on receipt of transfer orders.

(vii) The Commission's policy may be implemented prior to the formal announcement of the elections in order to ensure that the State Governments take necessary steps to transfer the officers/officials falling in the categories specified above early. If steps are taken immediately then large-scale dislocation of officers after the announcement of election shall not be necessary.

(viii) Further, while implementing the above directions, the Commission desires that the Chief Electoral Officer of the State shall be consulted while posting the new persons in place of present incumbents who stand transferred as per this policy of the Commission. The copies of the transfer orders issued under these directions shall be given to the Chief Electoral Officers concerned without fail.

(ix) The transfer orders in respect of officers/officials who are engaged in the electoral rolls revision work shall be implemented only after final publication of electoral rolls. (See Commission's instructions No.437/6/2006-PLN-III(Vol.IV) dated 19th December, 2005 & 437/6/2006-PLN-III Vol.I dated 17th April, 2006).

- (x) The police officials covered under the above instructions are those who are at present posted in the field or in police lines. The police officials who are posted in functional departments like computerization, special branch, training, etc. are not covered under these instructions. (See Commission's instructions No.PS/AK/2005 dated 14th January, 2006)
- (xi) The Police Officers of the level of Sub-Inspectors should not be posted in their home Assembly Constituencies.
- (xii) The Police Officers of the level of Sub-Inspectors should be transferred out of their police Sub-divisions if they have completed tenure of three years during last four years in that sub-division.
- (xiii) The Police Officers of the level of Sub-Inspectors shall be transferred out of the district only if they cannot be continued there on the basis of criteria (xiii) and (xiv). (See Commission's letter No.437/6/2006-PLN-III(Vol.IV) dated 4th February, 2006)
- (xiv) 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 such officers may not be engaged for performing elections duties during the elections. (See Commission's instruction No.437/6/2006-PLN-III (Vol.IV), dated 20th February, 2006)
- (xv) It is further clarified that all the officials of the States/UTs who are on extension of service or re-employed in different capacities will not be associated with any election related work except those with the Office of CEOs. (See Commission's instructions No.437/6/2006-PLN-III (Vol.IV) dated 6th March, 2006)
- (xvi) For Union Territory of Pondicherry which has different territorial region like Mahe, Yanam, Karaikal and Pondicherry each territorial region may be considered as a separate unit for transfer in place of district, which means that an officer concerned under these instructions(a) should not be allowed to continue in his home region and (b) be transferred out of his present region, if he has completed a tenure of 3 years during last four years in that region. (See Election Commission's instruction No.437/6/2006-PLN-III Vol.IV dated 20th January, 2006)
- (xvii) So far as Kolkata Police is concerned the transfers may be effected considering territorial divisions as unit in place of districts.

(xviii) For the personnel posted in Darjeeling District of West Bengal, the transfers are to be made by considering the sub-divisions as units in place of districts. (See Commission's instructions No.437/6/2006-PLN-III, dated 29.12.2005)

2. The above instructions may be brought to the notice of all concerned for compliance and receipt of this letter kindly be acknowledged.

## INSTRUCTION SI. No. 82

Election Commission's letter No. 464/INST/2008-EPS Date: 24<sup>th</sup> October, 2008 addressed to the Chief Secretaries of all States and Union Territories & the Chief Electoral Officers of all States and Union Territories.

**Sub.-            Role of Central Police Forces (CPF) and State Police in conduct of polls and Amenities for CPF - Regarding.**

In supersession of Commission's instructions contained in its letter No. 464/UP-LA/2007 dated the 25<sup>th</sup> October, 2007 on the subject cited above, I am directed to state that during elections the Commission deploys significant number of Central Police Forces into the election going State(s) on the basis of its assessment of the ground realities. The Local State Police (including all its variants) and Central Police Forces at the time of elections stand deputed to the Election Commission of India and they come under its superintendence, direction and control for all purposes. The Commission conducts election with the help of all these organs.

2.            Wherever the CPF arrives in advance for area domination, it shall take out flag marches, point patrolling and other confidence building activities. The flag marches should be focused. In order to make them effective, the CPF contingent should be provided with the list of anti-social elements area-wise, about whom the CPF contingent during flag marches, can undertake a verification (of their whereabouts, presence and activities). Such flag marches by CPF should be more on foot; and there should be some interaction with local population with a view to enhance the public confidence with regard to election arrangements for law and order.

3.            For the poll day, the CPF shall be assigned duties of guarding the polling stations, poll materials, poll personnel and the poll process. For the purpose, the CPF may be deployed in any of the following manners:

- a. Static guarding of chosen polling stations solely and exclusively by CPF;
- b. Static guarding of polling stations as part of a mixed (composite) team with local state forces;
- c. Patrolling duty on assigned routes (election sectors) covering a fixed cluster of polling stations;
- d. Patrolling duty as 'flying squads' in a defined area with surprise element;
- e. Escorting duty of polled EVM with polling personnel back to the receipt centre/strong room after polls are over;
- f. Any other duty which is necessitated to ensure the purity and fidelity of the election process.

4. For the duty of static guarding of polling stations, the CPF shall take positions in the assigned polling stations on the poll-eve (day prior to the poll). The CPF shall be primarily responsible for protecting the polling stations and regulating the entry inside the polling stations. In such cases one Jawan of the CPF shall position himself at the door of the polling station (either in static or oscillating mode) in order to observe the proceedings that are going on inside the polling station, as per the directions of Hon'ble Supreme Court. 'Static guard duty in an oscillating mode' is a situation when a building has multiple polling stations and CPF deployed is not sufficient to cover every polling station (door). In such a situation, the CPF Jawan on duty at the entrance of the polling station may be asked to oscillate from one polling station door to the other and keep an eye on what is going on inside these polling stations and report to the officer in-charge of the CPF or the Observer, if anything unusual is observed by him.

5. In all cases where CPF has been assigned static guard duties but could not reach the assigned polling stations due to any reason, the poll shall not commence.

6. In all such solely and exclusively CPF assigned polling stations, in any case, Local State Police shall not replace the CPF at polling stations and no senior officer of the local state police, with or without contingent shall position himself at such polling station and exercise any supervision and control over the CPF at the polling stations.

7. In some cases CPF and the local state police can be mixed to form composite teams in the ratio of 1:1 to maximize the static coverage of polling stations by CPF. In such cases, the CPF Jawan will take position at the door of the polling station and CPF will continue to report to its Coy. Commandant without any interference from the state police contingent.

8. Wherever CPF is on static guard duty (whether exclusively or compositely with local police), it is advised that two unarmed local state police persons/Home Guards (and in any case, a minimum of one) be posted at each polling station premise so that in case of any requirement, reinforcements of local police can be called.

9. When CPF is assigned duties of mobile patrolling on assigned routes (election sectors) having a cluster of polling stations, the CPF contingent shall ensure the supervision and guarding of polling stations falling on that sector (route). They will be moving from one polling station to another polling station, ensure the fidelity of the election process in the polling stations and assist (or join) the sector officers to accomplish it in a more effective manner. In such mobile mode, the CPF mobile shall be provided a list of critical polling stations (and the uncovered polling stations) falling on that route. The CPF mobile, while patrolling, should maintain constant and close supervision on such polling stations. For the purpose, it should also be in constant touch with election sector officer on that route as well as the micro-observers or even the Presiding Officers of the Polling Stations.

10. For such mobile patrolling duty, the CPF shall be provided sector route maps (sketch) of each sector/route which is under their charge. The sketch

should indicate the polling station's locations, their sensitivity gradation, the sector officer's name and contact number, RO's and Observer's name and contact numbers etc.

11. When CPF is assigned duty in a 'flying squad' mode, the CPF contingent will only be indicated an area. The squad will be fully and constantly mobile and undertake random surprise checks on polling stations falling within the area and report to the district control room on their findings. They shall not be attached to any polling station or sector in particular. The flying squad shall be accompanied by a 'zonal magistrate'.

12. A minimum guaranteed arrangement of two unarmed Local State Police personnel / Home Guards shall be made for each of the polling stations. However, when a polling station is covered with static CPF unit, only one local police would do, if there is shortage of force.

13. After the poll is completed, the polled EVMs and the polling personnel shall be escorted by CPF contingent to the receipt centre.

14. CPF may also be assigned the duty of guarding the strong room where the polled EVMs shall be stored and kept till the day of counting.

15. The local state armed police can also get deployed exclusively at polling stations, when enough CPF is not available. This shall however be done under the specific instructions of the Election Commission through its Observers. In such cases the local police shall not stand at the entrance door of the polling stations and instead would be positioned away from the line of sight of the polling personnel inside the polling station. He shall stand at such distance from the door that there is no scope of any apprehension about his interference in the poll proceedings going on inside the polling station.

16. The constituency-wise force deployment plan for election duty (including that of the CPF, the state police as well as the sector plan through sector officers - SO) shall be vetted and finalized by the Observer of the constituency concerned. For the purpose, the Observer shall be handed over a draft of the election plan including the force deployment plan immediately on arrival in the state. The Observer shall take review meetings with the DEO/SP/RO and SO on the draft proposals and based on his assessment of the ground realities make necessary changes before finally approving the plan. The plan as approved by the Observer shall be implemented by the DEO and SP on the ground, without any deviation. Any subsequent changes that may be necessitated for any reason should be brought to the notice of the Observer and his/her approval obtained before effecting such change.

17. The Local State Police shall remain responsible for maintenance of the general law and order in the catchment area of the polling stations, as well as the inside and outside of the polling premises (as different from polling stations). The Commission has instructed that hamlets/habitations within a polling station area that are vulnerable to threat, intimidation and undue influence shall be identified and all necessary confidence building and preventive measures shall be taken in advance. The Local State Police shall attach utmost importance to this task and shall also ensure that there is no

hindrance to voters of such pockets in exercising their franchise on the day of poll.

18. The Commission further desires that arrangements for fooding for the CPF personnel may also be made at par with the State Police /polling personnel on the day of poll. Other amenities, as required are enclosed for consideration by the State Govt.

19. The Commission's instructions/directions as above shall be complied without any deviation. I am, therefore, to request that the aforesaid instructions/directions may be brought to the notice of all concerned including the observers immediately.

**BASIC AMENITIES FOR CPF DURING ELECTIONS**

(I.)	<b>ACCOMMODATION</b> Following minimum accommodation with all the basic amenities are required per coy of CPFs during elections:-	
	•	Three Barracks of 16/32 size
	•	One Room for Officer
	•	One Room for Kitchen
	•	One Room for Store
	•	Six Bathrooms
	•	Six Toilets
(II.)	For a battalion (6 Coys), however, the indicated logistics should be provided for 3 officers in addition to defined specifics for each Coy.	
(III.)	<b>OTHER LOGISTICS</b>	
	(a)	Vehicles
	(i.)	Number of vehicles – Following minimum vehicles are required per Coy. of CPF during elections
		Buses :02 Nos.
		Truck :01 No.
		Medium Vehicle :01 No.
		Light Vehicle :01 No.
		(In case of deployment in less than one section strength, 3 Light Vehicles @ one per platoon would be additionally required for effective supervision)
	(ii.)	<b>Technical fitness of vehicles</b> States may be advised to ensure that vehicles are technically road worthy and in good condition.
	(iii.)	<b>Security verification of drivers</b> States may be advised to undertake/ensure security vetting of the drivers in civil vehicles.
	(iv.)	<b>POL for dedicated Force vehicles</b> States may be advised to provide POL to the Force Vehicles, if carried by any force for duties in the State.
(IV.)	<b>SIM CARDS</b> One Sim Card each may be provided to all the Company Commanders as well as supervisory officers (Mobile telephone sets would be carried by officers).	
(V.)	<b>ACCIDENT INSURANCE/COMPENSATION</b> State should insure CPF personnel also against any accident during the period of election duty or any other compensation as applicable to State employees be extended to CPF personnel.	
(VI.)	<b>PACKED LUNCH ON POLLING DAY/COUNTING DAY.</b> The practice of provisioning of meal packets as applicable to State Police personnel on election duty should be extended to personnel of CPF being deployed on the polling day.	

## INSTRUCTION SI. No. 83

Election Commission's letter No. 464/INST/2007-PLN-I Date: 12.10.2007 addressed to the Chief Secretaries of all States and Union Territories & the Chief Electoral Officers of all States and Union Territories.

Sub: Measures to ensure free and fair elections- Prevention of intimidation to the voters of vulnerable sections of electorate- Mapping of Vulnerability-regarding.

I am directed to state that the Commission has been issuing instructions regarding various measures to be taken to ensure free and fair elections. An atmosphere in which each and every elector is able to access the polling station without being obstructed or being unduly influenced by anybody is an important prerequisite to a free and fair election.

Undue influence at elections is an electoral offence under section 171C of the IPC. Any voluntary interference or attempt at interfering with the free exercise of any electoral right constitutes the crime of undue influence at an election. Section 123 (2) of the R.P Act 1951 defines, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent with the free exercise of any electoral right, as a corrupt practice.

Taking due cognizance of the role being played by the muscle power in the elections and taking into account of certain prevailing socio economic realities of the electoral politics, the Commission has decided to issue the following instructions to curb the menace of threat and intimidation at elections by identifying the locations within a polling station area vulnerable for such threat and intimidation.

1. An exercise to identify the villages/ hamlets/habitats and segments of electorate vulnerable to any threat, intimidation or interference with the free exercise of electoral right shall be taken up polling station wise. The sector officers for their respective polling stations shall do this exercise by visiting the catchment area of the polling stations. The local *Thana* officer (SHO) and

local civil authorities such as BDO / Tehsildar shall also be consulted and their inputs taken into account before finalizing the list. They should identify the source of such threat/ intimidation and identify the names of persons who are likely to spearhead such offence of undue influence. While doing this exercise they shall take into account the past incidents, and current apprehensions.

2. They shall identify some point of contact within the habitat/ community vulnerable for such undue influence so that information related to such developments can be tracked constantly.
3. The Returning Officer of the Assembly Constituency should compile all such information and finalize the vulnerability mapping for the entire constituency, polling station wise in a format (enclosed).
4. The DEO and SP shall initiate all preventive measures to ensure that such intimidation/ obstruction do not really happen on the poll day. They shall initiate confidence-building measures to bolster the voters' confidence about the arrangements for free and fair poll. They shall undertake tours to such locations and meet the communities and explain the arrangements made for the free and fair poll.
5. The DEO/ RO shall interact with the candidates and representatives of political parties to gather regular feedback. The District Intelligence shall give regular feedback on the subject to the DEO through SP.
6. Upon the arrival of the Observers the DEO/ RO shall hand over the details of the polling station wise vulnerability mapping for the relevant Assembly Constituency. The Observer will also visit such locations and interact with the voters and constantly monitor the developments.
7. The DEO and Superintendent of Police of the District should hold a joint review on the subject and finalize a focused action plan to deal with the potential threats and intimidation points identified. The action plan may include, inter-alia, binding the identified trouble mongers under appropriate sections of the law, preventive detention if required, forcing their appearance in local police stations at reasonable intervals to ensure their good behavior, placement of police pickets, regular confidence building visits etc. It has to be ensured that all such measures are undertaken in absolutely non-partisan manner without fear or favour towards any particular party.
8. The Zonal/ and sector arrangements to monitor the events on the poll day shall take such pre-identified vulnerable locations into account for effective

- tracking. If the normal sector route map does not cover the vulnerable locations special arrangements shall be made for this purpose. The Sector officers shall make regular visits to those villages and hamlets in advance and collect information and keep the senior officers informed.
9. Where there is a cluster of such vulnerable pockets, the DEO shall arrange for dedicated police teams/squads and locate them at convenient locations in the vicinity, to be pressed into service for action on the day of poll without any loss of time. It should invariably form part of the district security plan.
  10. On the day of poll, the sector officers shall give special attention to verify whether voters from the vulnerable habitats/ communities are turning up for voting or not. In case, they find (it can be gauged from the marked copy of the electoral roll where voters who have voted are ticked) that some section of voters is conspicuously absent, then they should inform the Returning Officer about this immediately. The Returning Officer and DEO shall dispatch the dedicated squad specifically meant for this purpose, to ascertain, by a visit to the area/hamlet, that there is no hindrance – overt or covert – in movement of that section of voters. They should closely monitor the developments and initiate effective interventions. After the closing hours on the poll day, the sector officers shall submit a special report, polling station wise, in writing to the Returning Officers indicating as to whether voters from the vulnerable habitats were able to vote or not.
  11. At the time of Dispatch of the polling parties at the Dispatch Centers the RO should brief the Presiding Officer concerned about the vulnerable locations within the Polling Station area. In the electoral roll the Section within the Part should also be marked for proper monitoring. The Presiding officers shall submit a report indicating abnormally low percentage of voter turnout if any within any section/sections, particularly, with reference to the vulnerable locations.
  12. During the poll the Observers and other senior officers while visiting the polling station shall pay a special attention to this problem and find out whether any undue influence, intimidation/ obstruction is being caused.
  13. The police patrolling parties should keep track of the vulnerable locations and keep the control room informed. Wherever necessary police pickets shall be established to ensure free access to all voters to cast their votes without fear.
  14. The Commanders/Assistant Commanders of the CPMF shall be given a list of such vulnerable locations. Wherever CPMF arrives in advance for area domination, special attention shall be given for such locations. On the day of

poll the Commanders/Assistant Commanders shall make it a point to visit such vulnerable pockets as a confidence building measure. In case they come across any obstruction they shall take note of that and immediately inform any of the electoral officials such as RO/DEO/SP/Observer/Sector Officer and keep a note of the time of their intimation.

15. If any complaint is received or information gathered from any sources about obstruction/threat to any voter/voters the same shall be enquired into by the local administration without any delay.
16. The Returning Officer shall take the inputs on mass scale intimidation/threat/obstruction if any into consideration while submitting their report after the poll.
17. The Observers shall give their full attention to this issue and verify at every stage (before poll/on poll day) and submit reports to the Commission from time to time. A special mention shall be made about this in their final report. Apart from this they should make an intelligent reading of the Form 17A and the marked copy of the electoral roll used in the polling stations at the time of Form 17A scrutiny, ordered if any, by the Commission after the poll.
18. The Commission directs that accountability of various police and civil officials for vulnerability mapping and follow up at every stage shall be clearly defined with reference to each polling station/constituency. Severe disciplinary action will be initiated in case of dereliction of duty on the part of any police/civil officials in this matter.

**This shall be brought to the notice of all concerned.**

Format for Collection of Information on Vulnerable Hamlets

District: \_\_\_\_\_

Constituency: \_\_\_\_\_

Polling Station no. and Name	Names of hamlets covered by the P.S.	Name of Hamlets identified as vulnerable	Name of persons identified as probable source of trouble	Remarks (Type of Threat, e.g. caste domination, communal tension, criminal gangs etc)
1	2	3	4	5

## **INSTRUCTION SI. No. 84**

Election Commission's letter No. 464/UP-LA/2007 Date: 25.10.2007 addressed to the Chief Secretaries of all States and Union Territories & the Chief Electoral Officers of all States and Union Territories.

### **Subject: Role of CPMF and State Police in conduct of polls – Regarding.**

I am directed to state that during elections the Commission deploys significant number of Central Paramilitary Forces into the election going State(s) on the basis of its assessment of the ground realities. The Local State Police (including all its variants) and Central Paramilitary Forces at the time of elections stand deputed to the Election Commission of India and they come under its superintendence and control for all purposes. The Commission conducts election with the help of all these organs.

2. Wherever the CPMF arrives in advance for area domination, it shall take out flag marches, point patrolling and other confidence building activities. On the poll-eve (day prior to the poll) the CPMF shall take position in and control of the respective polling stations. On the day of the poll, the CPMFs shall be primarily responsible for protecting the polling stations and regulating the entry inside the polling stations. One jawan of the CPMF party shall be deployed at the door of the polling station (either in static or oscillating mode) in order to observe the proceedings that are going on inside the polling station, as per the directions of Hon'ble Supreme Court. Besides, the Coy. Commanders of CPMFs will also move in their respective polling station areas as an area domination force and confidence building measure in the catchment area of polling stations. In case CPMF has not reached the assigned polling station due to any reason, the poll shall not commence.

3. The Local State Police shall remain responsible for maintenance of the general law and order in the catchment area of the polling stations, as well as the inside and outside of the polling premises (as different from polling stations). Whenever, the Local State Police gets deployed inside the polling premises, they shall station themselves at a reasonable distance from the polling station and the queue of electors. It is advised that one or two unarmed Local State Police persons/Home Guards be posted at each polling premises so that in case required, reinforcement could be called for. In any case, Local State Police shall not replace the CPMF at the polling stations and no senior officer of the local state police, with or without contingent shall position himself at the polling station and exercise any supervision and control over the CPMF at the polling station. The Local State Police, however, in exceptional circumstances can get deployed at polling stations, only if enough CPMF is not available, and that too under specific instructions of the Commission through its observer.

4. Responsibility of maintenance of law and order shall rest solely with the local State Police. The Commission has instructed that hamlets/habitations within a polling station area that are vulnerable to threat, intimidation and undue influence shall be identified and all necessary confidence building and preventive measures shall be taken in advance. The Local State Police shall attach utmost importance to this task and shall also ensure that there is no hinderance to voters of such pockets in

exercising their franchise on the day of poll.

5. After the poll is completed, the polled EVMs and the Presiding Officers shall be escorted by a contingent of CPMF to the Reception Center. Details in this regard shall be worked out by the DEO and SP in consultation with Observer in advance.

6. The CPMF shall also be responsible for guarding the Strong Room where the polled EVMs are stored and kept till the day of counting.

7. The Commission's instructions/directions as above shall be complied without any deviation. I am, therefore, to request that the aforesaid instructions/directions may be brought to the notice of all concerned including the observers immediately.

## **INSTRUCTION SI. No. 85**

Election Commission's letter No. 576/14/2007/PLN-I Date : 24<sup>th</sup> January, 2007  
addressed to the Chief Secretaries Govt. of U.P.

### **Sub: Restriction of use on cell phone**

Some incidents of inmates lodged in various jails interfering with election matters have come to the notice of the Election Commission. It has also been brought to the notice of the Commission that the inmates are after having access to cell phones, through which they direct action outside. Besides, the politically connected inmates lodged in various prisons, are also allowed to meet large number of visitors everyday which enable them to hold virtual election meeting and discuss election related issues inside the jails.

In this connection, the Election Commission directs that the District magistrates who are also the DEOs shall regularly inspect the jails and ensure that the provisions of Jail Manual are followed scrupulously. The DMs shall keep the jail under close watch and shall submit a weekly report confirming the inmates are not given access to cell phones etc. and that provisions of jail manual are followed scrupulously by the jail authorities in all respects, particularly the visits of outsiders to meet the jail inmates.

It shall be brought to the notice of all concerned that any deviation from this instruction will be seriously viewed and the officers responsible for such lapses will be severely punished.

A copy of the instruction issued in this behalf to the concerned authorities may be endorsed to the Commission by 15.03.07.

**Copy to: Chief Electoral Officer, Uttar Pradesh.**

## **INSTRUCTION SI. No. 86**

Election Commission's letter No. 464/UP/LA-2007 Date : 15<sup>th</sup> January, 2007 addressed to the Chief Secretaries Govt. of U.P.

**Sub:- General Election to Uttar Pradesh Legislative Assembly, 2007-Reg.**

I am directed to say that as part of measures to be initiated to ensure peaceful, free & fair elections in Uttar Pradesh, the Commission desires to monitor the transfer of inmates in various jails from one jail to another till the process of election is over in the State. The Commission desires that unless there is a specific order of the Competent Court, the transfer of inmates may not be done as an administrative measure in a routine manner. In case of any such transfer needed for any justifiable reason, prior information to the Chief Electoral Officer, Uttar Pradesh may be given who in turn will seek the approval of the Commission. This may be brought to the notice of all concerned. Action taken in this regard may be indicated to the Commission

Besides, the Commission further desires that the details of transfer of inmates from various jails, if any, done after 21.02.07 may be furnished to the CEO for the Commission's information.

Copy forwarded to Chief Electoral Officer, Uttar Pradesh, Lucknow for information and necessary action.

## **INSTRUCTION SI. No. 87**

Election Commission's letter No. 464/UP-LA/2007 Date :02.04 2007 addressed to the Chief Secretaries Govt. of U.P.

**Sub:- General Election to Uttar Pradesh Legislative Assembly, 2007-regarding.**

It has been brought of the notice of the Commission that when efforts are going on to maximize EPIC coverage on one side the incidences of EPIC being snatched away from vulnerable voters and also the incidences of people being induced to deposit their EPCI on payment of money in order to prevent them from exercising their franchise are happening on the other. The Commission has taken a serious note of it and has directed that a strict vigil shall be kept about such development and DEOs/SPs/ROs shall closely monitor the situation and in case of any such incidences actually happens, be recovered and those EPICs be restored to actual voter.

It shall be brought to the notice of all concerned that those who are indulging in such malpractices will be criminally prosecuted under Section 171 B and 171C of IPC.

## **INSTRUCTION SI. No. 88**

Election Commission's letter No. 464/GJ-LA/2007 Date : 26<sup>th</sup> November, 2007 addressed to the Chief Electoral Officer Gujarat Gandhinagar.

### **Sub:- General election to the Gujarat Legislative Assembly 2007- Prohibition of misuse of Short Message Services (SMSs) – Regarding.**

I am directed to state that it has been brought to notice of the Commission that certain objectionable messages on Short Message Services (SMSs) are being transmitted by some persons to 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.

2. The Commission has considered the matter and has issued the following direction :-

(i) 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 thereunder by the Commission and any other law applicable in the case.

a. Bulk SMS (es) transmitted during the campaign period as an alternative 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 Provided and apportion it to the candidate or candidates concerned as the case may be.

b. 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.

3. This shall be brought to the notice of all concerned immediately including Mobile Service Providers in the State and given wide publicity. A copy of this letter shall also be handed over to all Observers through the District Election Officers.

4. The receipt of this letter may please be acknowledged with the confirmation that the relevant instructions have been issued to all the concerned officers. A copy of instructions/directions so issued in this behalf may also be endorsed to the Commission for its information and record.

## **INSTRUCTION SI. No. 89**

Election Commission's letter No. 437/GJ-LA/2007 Date : 27<sup>th</sup> November,2007 addressed to the Chief Electoral Officer Gujarat, Gandhinagar.

**Sub:- General election to the Gujarat Legislative Assembly, 2007-  
Prohibition of misuse of Short Message Services (SMSs) –  
Regarding.**

I am directed to state that the Commission has decided that each District Election Officer should maintain Assembly Constituency-wise and for all the Assembly Constituencies under his charge, information/data regarding the landing at various places by Political leaders and candidates by helicopters or other type of aircrafts in the proforma given in the Annexure to this letter.

2. Every Returning Officer should maintain information in respect of the Assembly Constituencies under his charge in the same format. It has also been decided that the said information may be supplied to the Observers on day-to-day basis.

3. The above instructions/directions shall be brought to the notice of all District Election Officers/Returning Officers/Asstt. Returning Officers/Observers and all other election related officers immediately for their information and strict compliance.



## INSTRUCTION SI. No. 90

4Election Commission's letter No. 576/14/2007/PLN-I Date : 28<sup>th</sup> November,2007 addressed to the Chief Electoral Officer Gujarat, Gandhinagar, Himachal Pradesh, Shimla The Chief Electoral Officers of Gujarat, Gandhinagar, Himachal Pradesh, Shimla.

**Sub:- General election to State Legislative Assembly, 2006- Prohibition on sale of liquor etc.**

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

2. In view of the statutory provision as above, 'Dry day' shall be declared and notified under the relevant State laws as is appropriate during 48 hours, ending with the hours fixed for conclusion of poll as indicated in the notification with respect of polling day for an election in that polling area.

3. The Commission further directs that the day i.e. 23<sup>rd</sup> December, 2007 on which counting of votes is to be taken up, for Gujarat shall be declared 'Dry Day' under the relevant laws in the State of Gujarat and the day i.e. 28<sup>th</sup> December, 2007 on which counting of votes is to be taken up for Himachal Pradesh shall be declared 'Dry Day' under the relevant laws in the State of Himachal Pradesh.

4. No liquor shops, hotels, restaurants, clubs and other establishments selling/serving liquor, shall be permitted to sell/serve liquor to anyone whatsoever, on the aforesaid days.

5. Non-proprietary clubs, star hotels, restaurants etc. and hotels run by anyone every if they are issued different categories of licenses for possession and supply of liquor should also not be permitted to serve liquor on this days.

6. The storage of liquor by individuals shall be curtailed during the above period and the restrictions provided in the excise law on the storage of liquor in unlicensed premises shall be vigorously enforced.

7. The Commission directs that the State Governments shall strictly implement the above measures. They are required to issue detailed and comprehensive instructions to all concerned authorities to take appropriate and legally effective measures to implement the above prohibitions and assist the election authorities in peaceful and smooth conduct of free and fair poll.

8. The receipt of this letter may kindly be acknowledge.

**Copy to concerned.**

## **INSTRUCTION SI. No. 91**

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

### **Sub:- Prevention of misuse of vehicles on the polling day – regarding.**

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

#### **REVISED PROVISION :-**

(Para 3) For an election or a bye-election to the House of the People State Legislature, each contesting candidate, on the day of poll, will be entitled to :

- (a) One vehicle for his own use in respect of the entire constituency.
- (b) One vehicle for use of his election agent for entire constituency.
- (c) In addition, one vehicle for use of his workers or party workers, as the case may be, in each of the assembly segments comprised in the Parliamentary Constituency.

(Para 6) It is clarified that, henceforth, the candidate or his agent or party workers or workers will be allowed to use only four/three/two wheeler vehicles i.e. cars (of all types), taxis, auto rickshaws, rickshaws, and two wheelers. In these vehicles not more than five persons including drivers will be allowed to move on the day of poll.

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

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

## **INSTRUCTION SI. No. 92**

Election Commission's D.O. No. 464/INST/2006/PLN-I, dated 09.03.2006 addressed to the Chief Electoral Officers of Assam, Kerala, Tamil Nadu, West Bengal and Pondicherry

**Subject : Offences of Atrocities**

I am directed to invite your attention to the provisions of Section 3 (i) (vii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 1989), reproduced below.

“Offences of Atrocities

3. Punishments of offences of atrocities (1) Whoever, not being a member of Scheduled Caste or a Scheduled Tribe:-.....

.....(vii) forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote to a particular candidate or to vote in a manner other than that provided by law;.....

.....Shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine”.

The Commission has desired that these provisions of law may be brought to the notice of all election related & police authorities, political parties and members of public immediately. The police officials may be directed to file FIRs whenever cases of violation of the aforesaid provisions of law are observed or brought to their notice.

With regards,

## **INSTRUCTION SI. No. 93**

Election Commission's letter No. PS/AK/2005, dated 05.09.2005. addressed to the Director General of Police, Bihar and copy to Chief Electoral Officers of Bihar

**Subject :   Deployment of Home Guards and Other Forces**

The Commission has decided that no Police officer against whom an FIR has been registered on criminal grounds or against whom criminal case has been charged in the Court shall be deployed on election duty during the forthcoming General Elections to the Bihar Legislative Assembly.

Kindly ensure compliance to above instructions.

## INSTRUCTION SI. No. 94

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

Subject: **General Elections to the Legislative Assemblies of Assam, Kerala, Tamil Nadu, West Bengal and Pondicherry – Deployment of CPMF**

Following instructions for deployment of CPMF during the forthcoming elections to the Legislative Assemblies of Assam, Kerala, Tamil Nadu, West Bengal and Pondicherry may kindly be communicated to all DMs / SPs / ROs immediately.

A copy of these instructions may be brought to the notice of all Observers.

1. CPMF shall be used during the pre-poll period for the purpose of area domination, conducting flag marches, confidence building among the electors and checking of border areas etc.
2. The District Magistrates, Superintendents of Police shall finalise the sensitivity of polling stations giving the reasons in accordance with the instructions of the Commission. This list shall be kept ready and finalized on arrival of the observers after consulting them.
3. CPMF parties shall become static a day prior to the poll at the polling stations assigned and merge with the polling parties either on the same day or next day morning i.e., day of poll.
4. In rare cases small contingent of CPMF can be used for other purposes to be specified by the concerned DM/SP with prior permission of the concerned Deputy Election Commissioner.
5. The forces shall be deployed at the polling stations in the following order of sensitivity (from higher to lower) - CPMF followed by State Armed Police (SAP) followed by District Armed Police (DAP).
6. Under no circumstance, CPMF (including State Armed Police of other States) shall be kept as reserve or strike force.
7. At places requiring two sections of force, one section of CPMF and one section of SAP / DAP can be used to maximize the cover by CPMF.

## INSTRUCTION SI. No. 95

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

**Subject : General Elections to the Legislative Assemblies of Assam, Kerala, Tamil Nadu, West Bengal and Pondicherry – Deployment of CPMF at the entrance of polling station to keep a watch on the proceedings that are going on inside the polling stations**

Kind attention is invited to the instructions issued vide letter No. 464/INST/2005/PLN-I dated 22.01.2005 regarding deployment of CPMF personnel at the entrance of polling station to keep a watch on the proceedings that are going on inside the polling station.

The Commission issues following further detailed instructions on the subject to obviate any discretion and ensure uniformity.

The CPMF personnel, as per the existing practice, are deployed as static force outside the polling stations. In pursuance to the directions given by the Hon'ble Supreme Court in its order no.9228 of 2003 (Janak Singh Vs. Ram Das Rai and others) dated 11.01.2005, the Commission has desired that one CPMF Jawan from the CPMF party posted at the polling station will be stationed at the entrance of the polling station so that he can keep a watch on the proceedings that are going on inside the polling station, particularly, to ensure that no unauthorized person enters inside the polling station and / or no irregularity is committed either by the polling staff or outsiders in the poll process.

The CPMF Jawan posted at the entrance of the polling stations shall keep a watch specifically on the following: -

- (i) No unauthorized person is present inside the polling station at any time during the poll.
- (ii) The polling party or the polling agents do not attempt to cast or cast any vote or votes when no voter is present inside the polling booth.
- (iii) No polling officer accompanies any voter to the voting compartment.
- (iv) No polling agent or polling officer threatens any voter or makes any gesture to threaten them.
- (v) No arms are carried inside the polling station.
- (vi) No silent rigging takes place.

If the CPMF Jawan posted at the entrance of the polling station discovers violation of the election process as above or observes something unusual going on inside the polling station, he shall not interfere in the poll process but report the same to the officer incharge of the CPMF party at polling station or observer. The officer incharge of CPMF party will in turn send this information to the Returning Officer and also Observer on the same day in writing for further necessary action.

In the buildings which have more than one polling station and where only half a section of the CPMF personnel is deployed, the CPMF Jawan selected for duty at the entrance of the polling station may be asked to oscillate from one polling station to other and look at what is going inside these polling stations and report to the officer in charge of the CPMF part or observer, if something unusual is observed by him.

*The Returning Officers/Observer will report cases from where adverse reports are received from the CPMF parties for further instructions of the Commission.*

It is clarified that CPMF Jawans shall be posted at the entrance of only those polling stations where CPMF is deployed.

It is further clarified that CPMF Jawan posted at the entrance of the Polling Station shall not verify the identity of electors coming into the polling stations to cast their votes as such verification is the duty of the polling personnel.

All CPMF personnel may be suitably briefed about these instructions.

Kindly forward these instructions to all the DEOs, R.Os, Observers, S.Ps and coordinating officers of CPMF for strict compliance.

With kind regards,