

MEETING WITH POLITICAL PARTIES

ON 3RD FEBRUARY 2009

**Compilation of important instructions of the Commission concerning
candidates/political parties.**

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ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110 001.

No. 3/ER/2003/JS-II

Dated: 4th April, 2003.

To

The Presidents/General Secretaries of
All National and State Parties.

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

Sir,

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

“xxxxxxxxxxxxxxxxxxxxxxxxx

4. The Court has to take a holistic view and adopt a balanced approach in examining the legislation providing for right to information and laying down the parameters of that right.
5. Section 33B inserted by the Representation of the People (3rd Amendment) Act, 2002 does not pass the test of constitutionality firstly for the reason that it imposes blanket ban on dissemination of information other than that spelt out in the enactment irrespective of the need of the hour and the future exigencies and expedients and secondly for the reason that the ban operates despite the fact that the disclosure of information now provided for is deficient and inadequate.
7. The right to information provided for by the Parliament under Section 33A in regard to the pending criminal cases and past involvement in such cases is reasonably adequate to safeguard the right to information vested in the voter/citizen. However, there is no good reason for excluding the pending cases in which cognizance has been taken by Court from the ambit of disclosure.

7. The provision made in Section 75A regarding declaration of assets and liabilities of the elected candidates to the Speaker or the Chairman of the House has failed to effectuate the right to information and the freedom of expression of the voters/citizens. Having accepted the need to insist on disclosure of assets and liabilities of the elected candidate together with those of spouse or dependent children, the Parliament ought to have made a provision for furnishing this information at the time of filing the nomination. Failure to do so has resulted in the violation of guarantee under Article 19(1)(a).

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

2. Therefore, in pursuance of the said order dated 13th March, 2003 of the Hon'ble Court, the Commission has made a detailed order on 27th March, 2003, under Article 324 of the Constitution, containing norms and modalities to carry out and give effect to the directions of the Hon'ble Supreme Court reproduced in para 1 above. A copy of the said order bearing No. 3/ER/2003/JS.II, dated 27th March, 2003, is forwarded herewith for information and strict compliance by all concerned.

3. A perusal of the Commission's Order will show that the Commission has prescribed, in para 16 of the Order, an affidavit (**Annexure-1** to the said Order) which will have to be filed by each candidate at the time of filing his nomination paper for any election to the Council of States, House of the People, Legislative Assembly of a State or Legislative Council of a State. The consequences of failure on the part of the candidate to furnish the said affidavit have also been spelt out clearly in para 16 (3) of the Order. The manner of dissemination of the information furnished by the candidate in the said affidavit has also been specified in paras 16 (4) and 16 (5) of the Order.

4. You are required to bring the contents of the said Order to the notice of your party and also to the notice of all candidates set up your party for strict compliance on their part.

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

Yours faithfully,

(A.K. MAJUMDAR)
SECRETARY

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

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

ORDER

1. Whereas, the superintendence, direction and control, inter alia, of all elections to Parliament and to the Legislature of every State are vested in the Election Commission by Article 324 (1) of the Constitution of India;

2. And whereas, the Hon'ble Supreme Court of India had, by its order dated 2nd May, 2002, in Civil Appeal No. 7178 of 2001 - Union of India Vs Association for Democratic Reforms and another, held as follows: -

"(1) The jurisdiction of the Election Commission is wide enough to include all powers necessary for smooth conduct of elections and the word 'elections' is used in a wide sense to include the entire process of election which consists of several stages and embraces many steps.

(2) The limitation on plenary character of power is when the Parliament or state legislature has made a valid law relating to or in connection with elections, the Commission is required to act in conformity with the said provisions. In case where law is silent, art 324 is a reservoir of power to act for the avowed purpose of having free and fair election. Constitution has taken care of leaving scope for exercise of residuary power by the Commission in its own right as a creature of the Constitution in the infinite variety of situations that may emerge from time to time in a large democracy, as every contingency could not be foreseen or anticipated by the enacted laws or the rules. By issuing necessary directions Commission can fill the vacuum till there is legislation on the subject. In Kanhiya Lal Omar's case (AIR 1986 SC 111), the court construed the expressions 'superintendence, direction and control' in art 324(1) and held that a direction may mean an order issued to a particular individual or a precept which may have to follow and it may be a specific or a general order and such phrase should be construed liberally empowering the Election Commission to issue such orders.

(3) The word 'elections' includes the entire process of election which consists of several stages and it embraces many steps, some of which have an important bearing on the process of choosing a candidate. Fair election contemplates disclosure by the candidate of his past including the assets held by him so as to give a proper choice to the candidate (sic) (elector) according to his thinking and opinion. As stated earlier, in Common Cause case [(1996) 2 SCC 752], the court dealt with a contention that elections in the country are fought with the help of money power which is gathered from black sources and once elected to power, it becomes easy to collect tons of black money, which is used for retaining power and for re-election. If on affidavit a candidate is required to disclose the assets held by him at the time of election, voter can decide whether he could be re-elected even in case where he has collected tons of money.

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(4) To maintain the purity of elections and in particular to bring transparency in the process of election, the Commission can ask the candidates about the expenditure incurred by the political parties and this transparency in the process of election would include transparency of a candidate who seeks election or re-election. In a democracy, the electoral process has a strategic role. The little man of this country would have basic elementary right to know full particulars of a candidate who is to represent him in Parliament where laws to bind his liberty and property may be enacted.

(5) The right to get information in democracy is recognized all throughout and it is natural right flowing from the concept of democracy. At this stage, we would refer to art 19(1) and (2) of the International Covenant of Civil and Political Rights which is as under:-

(1) Everyone shall have the right to hold opinions without interference.

(2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

(6) Cumulative reading of plethora of decisions of this court as referred to, it is clear that if the field meant for legislature and executive is left unoccupied detrimental to the public interest, this court would have ample jurisdiction under art 32 read with arts 141 and 142 of the Constitution to issue necessary directions to the executive to subserve public interest.

(7) Under our Constitution, **Art 19(1)**(a) provides for freedom of speech and expression. Voters' speech or expression in case of election would include casting of votes that is to say, voter speaks out or expresses by casting vote. For this purpose, information about the candidate to be selected is must. Voter's (little man-citizen's) right to know antecedents including criminal past of his candidate contesting election for MP or MLA is much more fundamental and basic for survival of democracy. The little man may think over before making his choice of electing law breakers as law makers.";

3. And whereas, the Hon'ble Supreme Court, by its aforesaid order dated 2nd May, 2002, had directed as follows: -

"The Election Commission is directed to call for information on affidavit by issuing necessary order in exercise of its power under art 324 of the Constitution of India from each candidate seeking election to Parliament or a state legislature as a necessary part of his nomination paper, furnishing therein, information on the following aspects in relation to his/her candidature:-

(1) Whether the candidate is convicted/acquitted/ discharged of any criminal offence in the past-if any, whether he is punished with imprisonment or fine?

(2) Prior to six months of filing of nomination, whether the candidate is accused in any pending case, of any offence punishable with imprisonment for two years or more, and in which charge is framed or cognizance is taken by the court of law. If so, the details thereof.

(3) The assets (immovable, movable, bank balances etc) of a candidate and of his/her spouse and that of dependants.

(4) Liabilities, if any, particularly whether there are any over dues of any public financial institution or government dues.

(5) The educational qualifications of the candidate."

4. And whereas, the Hon'ble Supreme Court, in its aforesaid order dated 2nd May, 2002, further observed that 'the Election Commission has from time to time issued instructions in order to meet with the situation where the field is unoccupied by the legislation' and had further directed that 'the norms and modalities to carry out and give effect to the aforesaid directions should be drawn up properly by the Election Commission as early as possible and in any case within two months';

5. And whereas, the Election Commission had, in pursuance of the above referred Judgement and Order dated 2nd May, 2002 of the Hon'ble Supreme Court and in exercise of the powers, conferred on it by Article 324 of the Constitution, directed by an Order dated 28th June, 2002, inter alia, in para 14 of the said Order as follows:-

"(1) Every candidate at the time of filing his nomination paper for any election to the Council of States, House of the People, Legislative Assembly of a State or the Legislative Council of a State having such a council, shall furnish full and complete information in regard to all the five matters, specified by the Hon'ble Supreme Court and quoted in para 5 above (reproduced in para 3 herein), in an affidavit, the format whereof is annexed hereto as Annexure-1 to this order.

(2) The said affidavit by each candidate shall be duly sworn before a Magistrate of the First Class or a Notary Public or a Commissioner of Oaths appointed by the High Court of the State concerned.

(3) Non-furnishing of the affidavit by any candidate shall be considered to be violation of the order of the Hon'ble Supreme Court and the nomination of the candidate concerned shall be liable to rejection by the returning officer at the time of scrutiny of nominations for such non- furnishing of the affidavit.

(4) Furnishing of any wrong or incomplete information or suppression of any material information by any candidate in or from the said affidavit may also result in the rejection of his nomination paper where such wrong or incomplete information or suppression of material information is considered by the returning officer to be a defect of substantial character, apart from inviting penal consequences under the Indian Penal Code for furnishing wrong information to a public servant or suppression of material facts before him:

Provided that only such information shall be considered to be wrong or incomplete or amounting to suppression of material information as is capable of easy verification by the returning officer by reference to documentary proof adduced before him in the summary inquiry conducted by him at the time of scrutiny of nominations under section 36 (2) of the Representation of the People Act 1951, and only the information so verified shall be taken into account by him for further consideration of the question whether the same is a defect of substantial character.

(5) The information so furnished by each candidate in the aforesaid affidavit shall be disseminated by the respective returning officers by displaying a copy of the affidavit on the notice board of his office and also by making the copies thereof available freely and liberally to all other candidates and the representatives of the print and electronic media.

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

6. And whereas, the President of India promulgated the Representation of People (Amendment) Ordinance, 2002 (No.4 of 2002) on the 24th August, 2002 further to amend the Representation of the People Act, 1951 inserting Sections 33A and 33B and 125A and amending Section 169 of the Representation of the People Act, 1951;

7. And whereas, by virtue of Section 33B of the said Ordinance, the Order of the Election Commission dated the 28th June, 2002, was rendered ineffective and the said Section 33B read as under:-

"Section 33B.- Notwithstanding anything contained in any judgement, decree or order of any court or any direction, order or any other instruction issued by the Election Commission, no candidate shall be liable to disclose or furnish any such information, in respect of his election, which is not required to be disclosed or furnished under this Act or the rules made thereunder.";

8. And whereas, the Government of India by notification dated 3rd September, 2002 amended the Conduct of the Elections Rules, 1961 to give effect to the said Ordinance;

9. And whereas, the Association for Democratic Reforms, People's Union for Civil Liberties, and Lok Satta, filed three separate writ petitions before the Hon'ble Supreme Court of India challenging the constitutional validity of the Presidential Ordinance dated 24th August, 2002;

10. And whereas, the by Notification dated the 28th December, 2002, the Representation of the People Act, 1951 was amended by the Representation of the People (Third Amendment) Act, 2002 which substituted the aforesaid Ordinance dated 24th August, 2002;

11. And whereas, the said petitioners filed applications to treat the said writ petitions as challenging the constitutional validity of the Representation of the People (Third Amendment) Act, 2002;

12. And whereas, the Hon'ble Supreme Court in its order/judgement, dated the 13th March, 2003 declared Section 33B of the Amended Act as illegal, null and void;

13. And whereas, the following directions were issued in the Judgement of Hon'ble Mr. Justice RV. Reddi, which was concurred by Mr. Justice D.M. Dharmadhikari:-

"XXXXXXXXXX

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

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

14. And whereas, the Judgement of Hon'ble Mr. Justice M.B. Shah, also held that Section 33B was illegal, null and void and further that the Election Commission would be required to revise its instructions in the light of the directions therein as under:-

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

15. And whereas, by virtue of the Judgement dated the 13th March, 2003 of the Supreme Court declaring Section 33B of the Representation of the People Act, 1951 to be illegal, null and void, the earlier instructions of the Election Commission dated 28th June, 2002 would continue to be operative subject to the aforementioned directions of the Supreme Court, and are therefore required to be revised and reissued;

16. Now, therefore, the Election Commission, in pursuance of the above referred order dated 13th March, 2003, of the Hon'ble Supreme Court and in exercise of the powers, conferred on it by Article 324 of the Constitution, of superintendence, direction and control, inter alia, of conduct of elections to Parliament and State Legislatures, hereby issues, in supersession of its earlier order dated 28th June, 2002, its revised directions as follows: -

- (1) Every candidate at the time of filing his nomination paper for any election to the Council of States, House of the People, Legislative Assembly of a State or the Legislative Council of a State having such a council, shall furnish full and complete information in regard to the matters specified by the Hon'ble Supreme Court and quoted in paras 13 and 14 above, in an affidavit, the format whereof is annexed hereto as Annexure-1 to this order.
- (2) The said affidavit by each candidate shall be duly sworn before a Magistrate of the First class or a Notary Public or a Commissioner of Oaths appointed by the High Court of the State concerned.
- (3) Non-furnishing of the affidavit by any candidate shall be considered to be violation of the order of the Hon'ble Supreme Court and the nomination of the

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

- (4) The information so furnished by each candidate in the aforesaid affidavit shall be disseminated by the respective returning officers by displaying a copy of the affidavit on the notice board of his office and also by making the copies thereof available freely and liberally to all other candidates and the representatives of the print and electronic media.
- (5) If any rival candidate furnishes information to the contrary, by means of a duly sworn affidavit, then such affidavit of the rival candidate shall also be disseminated along with the affidavit of the candidate concerned in the manner directed above.

17. For the removal of doubt, it is hereby clarified that the earlier direction contained in para 14 (4) of the earlier order dated 28th June, 2002, in so far as verification of assets and liabilities by means of summary enquiry and rejection of nomination paper on the ground of furnishing wrong information or suppressing material information is not enforceable in pursuance of the order dated 13th March, 2003 of the Apex Court. It is further clarified that apart from the affidavit in Annexure-1 hereto referred to in para 16(1) above, the candidate shall have to comply with all the other requirements as spelt out in the Representation of the People Act, 1951, as amended by the Representation of the People (Third Amendment) Act, 2002, and the Conduct of Elections Rules, 1961, as amended by the Conduct of Elections (Amendment) Rules, 2002.

18. In so far as elections to the Legislative Assembly and Legislative Council of the State of Jammu and Kashmir are concerned, the directions of the Election Commission contained in the preceding para 16 shall be deemed to have been issued under the provisions of section 138 of the Constitution of Jammu and Kashmir which are akin to Article 324 (1) of the Constitution of India and vest the superintendence, direction and control of the conduct of all elections to either House of the Legislature of that State in the Election Commission.

19. All Returning Officers shall ensure that the copies of affidavit prescribed herein by the Commission shall be delivered to the candidates along with the forms of nomination papers as part of the nomination paper.

Annexure-I
Affidavit to be furnished by candidate along with
nomination paper

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

I, _____, son/daughter/wife of _____
aged _____ years, resident of _____,
candidate

at the above election, do hereby solemnly affirm and state on oath as under:-

(Strike out whichever not applicable)

(1) The following case(s) is/are pending against me in which cognizance has
been taken by the court:-

- (i) Section of the Act and description of the offence for which
cognizance taken :
- (ii) The Court which has taken cognizance:
- (iii) Case No. :
- (iv) Date of order of the Court taking cognizance:
- (v) Details of appeal(s) / application(s) for revision, etc., if any, filed against
above order taking cognizance:

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

A. Details of movable assets

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

SN	Description	Self	Spouse	Names	Names	Names	Etc.
				(Dependent-1)	(Dependent-2)		
				(Dependent-3)	Names		

Cash

- 1 Deposits in banks, Financial Institutions and Non-Banking Financial Companies
- 2 Bonds, Debentures and Shares in companies
- 3 Motor Vehicles (details of make, etc.)
- 4 Other Financial instruments NSS, Postal Savings, LIC, Policies, etc.
- 5 Motor Vehicles (details of make, etc.)
- 6 Jewellery (give details of weight and value)
- 7 Other assets, such as values of claims / interests

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

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

B. Details of Immovable assets

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

SN	Description	Self	Spouse	Names (Dependent-1)	Names (Dependent-2)	Names (Dependent-3)	Names	Etc.
1.	Agricultural Land- Location(s) - Survey number(s)- Extent (Total measurement)- current market value							
2.	Non-Agricultural Land - Location(s)-Survey number(s)- Extent (Total measurement)- current market value							
3.	Buildings (commercial and residential)- Location(s)- Survey/ door number(s)- Extent (Total measurement)- current market value							

4. Houses / Apartments, etc- Location(s)- Survey / door number(s)- Extent (Total measurement)- current market value
5. Others (such as interest in property)

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

[Note: Please give separate details for each item]

SN	Description	Name and Address of Bank / Financial Institution(s) / Department(s)	Amount Outstanding as on	Description
A(i)	Loans from Banks			
ii	Loans from financial institutions			
iii	Government dues (other than income tax and wealth tax) (No Due Certificate to be enclosed in case holding or having held any public office)			
B I	Income Tax including surcharge [Also indicate the assessment year upto which Income Tax Return filed. Give also Permanent Account Number (PAN)]			
li	Wealth Tax [Also indicate the assessment year upto which Wealth Tax return filed.]			
lii	Sales Tax [Only in case of proprietary business]			
	Property Tax			

4) My educational qualifications are as under :-

(GIVE DETAILS OF SCHOOL AND UNIVERSITY EDUCATION)

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

DEPONENT

VERIFICATION

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

Verified at this the day of, 200

DEPONENT

ELECTION COMMISSION OF INDIA

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

No.3/ER/2005/JS-II,

Dated 17.01.2006

To

The Chief Electoral Officers of
all States and Union Territories

Subject: Affidavits to be furnished by candidates alongwith nomination papers - regarding.

Sir,

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

2. In the Commission's covering letter No.3/ER/2003/JS-II, dated 27-3-2003, forwarding the above referred order, it was mentioned that if any candidate does not file the affidavit at the time of submitting the nomination papers, the Returning Officer shall give a notice to the candidate (in the format annexed to the said letter) pointing out the requirement of filing affidavit, and advising the candidate to file the affidavit before the time fixed for scrutiny of nomination papers. The other affidavit required to be filed by candidates (in Form 26) is also, by practice and for convenience, being permitted to be filed upto the time fixed for scrutiny of nominations.

3. The Hon'ble Madras High Court, in its judgment dated 2-8-2005 in Election Petition Nos.1 & 2 of 2004 has observed that filing the said affidavits by the last date and hour fixed for filing of nomination papers would be permissible.

4. The Commission, has accordingly reviewed the instructions referred to above and decided that **the two affidavits (one in Form 26 and the other in the format prescribed by the Commission vide the abovementioned order dated 27-3-2003) should be filed latest by 3.00 p.m. on the last date of filing nominations.** This is in consonance with the observation of the Madras High Court mentioned in para 3 above and also with the letter and spirit of Section 33A of Representation of the People Act,

1951 and the directions in the judgment of the Hon'ble Supreme Court in Civil appeal No.490/2002. The failure to submit the affidavits by the aforesaid date and time will be considered a defect of substantial nature entailing rejection of the nomination paper at the time of scrutiny.

5. The format of written memorandum to remind the candidates regarding filing of affidavits referred to in para 2 above, has also been suitably amended in accordance with the above decision. The revised format of the reminder is annexed hereto as **Annexure -A**. The reminder, should be issued to the candidate wherever required, should be issued to the candidate or the proposer who filed the nomination papers n behalf of the candidate, immediately after the nomination paper is submitted.

6. The above instructions may be brought to the notice of all the Returning Officers, District Election Officers and also all Political Parties in your State -- both recognized and unrecongized.

7. The instructions in Chapter V, paragraph 20.1 of the Handbook for Returning Officers 2004, shall be deemed to have been amended to the above effect.

8. Kindly acknowledge receipt and intimate action taken in the matter.

Yours faithfully,

(K. F. WILFRED)
SECRETARY

Annexure-A

Memo No. _____

Dated _____

From: Returning Officer for _____

To,

(Name of the candidate)

Subject: Election to _____ from constituency _____ filing of the required affidavit

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

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

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

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

(Returning Officer)

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

Subject: - Affidavit to be filed by candidates alongwith nomination paper.

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

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

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

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

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

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

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

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

2. In the affidavit in Form-26, information regarding pending cases which are punishable with imprisonment for a minimum of two years in which charges have been framed, and cases of conviction accompanied by sentence of one year or more, is required to be furnished. In the second affidavit prescribed vide the above mentioned order dated 27-03-2003, in Part-I relating to criminal antecedents, details of all pending cases irrespective of framing of charges, are required to be given. This has been done in pursuance of a specific observation/direction of the Hon'ble Supreme Court in the above-referred case of PUCL.

3. There have been cases of misinterpretation/confusion in this regard in that some candidates have taken the position that it is only the cases in which charges have been

framed that are required to be mentioned in the two affidavits. In this context, **it is clarified that in the second affidavit to be filed in the format prescribed by the Commission's order dated 27-03-2003, all pending cases are required to be mentioned even if charges have not been framed in the cases as directed by the Hon'ble Supreme Court.**

4. Attention in this connection is also invited to the Commission's letter No. 3/ER/2004/JS.II, dated 02-06-2004, regarding filing of complaints before the competent Magistrate in the case of false affidavits. In cases where complaints regarding false information with regard to pending cases are filed, the complaints should clearly bring out the position that information regarding

all pending cases is required to be furnished in the affidavit prescribed vide the Commission's Order dated 27-03-2003.

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

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

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

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

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

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

ELECTION COMMISSION OF INDIA

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

No.509/75/2004/J.S.-I/VOL. II

Dated : 26th Sept., 2007

To

All recognized National & States and
Registered Un-recognized Political Parties
(As per list enclosed)

Sub. Supreme Court Order dated 13th April 2004, relating to advertisement of political nature on TV Channel and cable networks.

Sir,

I am directed to invite your attention to Commission's Order No. 509/75/2004-JS-1, dated 15th April 2004, issued in pursuance of order dated 13th April 2004 passed by Hon'ble Supreme Court in SLP (C) No. 6679 of 2004 (Ministry of Information and Broadcasting Vs. M/s. Gemini T.V. Pvt. Ltd. and others) on the subject cited (**copy enclosed for ready reference**). The Hon'ble Supreme Court vide its order dated 5.7.2004, has directed subsequently that its order dated 13.04.2004 will remain in operation until further orders.

2. In this connection, I am further to state that the orders of the Election Commission, referred to above, were issued in pursuance of the Hon'ble Supreme Court Orders with reference to the provisions of the Cable Television Networks (Regulation) Act, 1995 and the rules framed thereunder.

3. The Hon'ble Supreme Court's order dated 13.04.2004 inter-alia provides in specific and unambiguous terms that -

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

4. You are aware that the provisions of Model Code of Conduct for Guidance of Political Parties and Candidates come into force from the date of announcement of the election schedule by the Commission and till the completion of election process.

5. In this connection I am further to state that the directions dated 13.04.2004 of Hon'ble Supreme Court, referred to above, have been issued **under Article 142 of the**

Constitution of India, the scope and ambit of which are applicable in the whole of territory of India at all times and not restricted only during the period commencing from the date of announcement of the election schedule by the Commission and till the completion of election process.

6. It has been brought to the notice of the Commission that instructions/directions issued by it, in pursuance of orders passed by Hon'ble Supreme Court in the matter, are not being followed by the Political Parties etc. as provided in the said directions of the Hon'ble Supreme Court relating to advertisements of political nature in the electronic media, including cable networks and/or television channels as well as cable operators. The advertisements of political nature are being telecast over T.V. channels and cable networks **without getting certification of advertisement(s) for telecast from the Competent Authority.**

7. I am, therefore, to request that the advertisement(s) which have contents of political nature, which is/are proposed to be got telecast by your party over T.V.Channels and Cable Networks, may be done so **only after getting a certification for the same from the Competent Authority** as envisaged in Commission's Order dated 15.04.2004 referred to above. **It is also brought to your notice that failure to comply with the orders of the Hon'ble Supreme Court will amount to contempt of the Court.**

8. Kindly acknowledge the receipt.

Yours faithfully,

(A. K. MAJUMDAR)
PRINCIPAL SECRETARY

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

STANDARD DISTRIBUTION

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

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

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

2. It may be noted that the Commission has directed that for pre-viewing, scrutinizing and certifying advertisements to be telecast over TV channels and cable networks by any registered political party or by any group or organization association, having headquarters in NCT of Delhi, the Chief Electoral Officer, Delhi is to constitute a Committee as directed in paragraph 6 (i) of the Order. Similarly, the Chief Electoral Officers of other States / Union Territories will constitute Committees for dealing with applications by political parties and other associations / groups with headquarters in their States Union Territories, as per paragraph 6 (iii). Vide paragraph 6 iv) of the Order, the Returning Officer of even' Parliamentary Constituency have been declared as Designated Officer for previewing, scrutinizing and certifying advertisements by individual candidates contesting election from the constituency concerned. For the candidates contesting the current general election to the Legislative Assemblies of Andhra Pradesh, Karnataka, Orissa and Sikkim and the bye-elections in some States, the Returning Officer of the Parliamentary Constituency comprising the Assembly Constituency concerned will entertain applications for certification of advertisements.

3. The Chief Electoral Officers of all States / Union Territories are also required to constitute further a Committee to attend to complaints / grievances in regard to the decision of the Committees Designated Officers on the application for - certification of advertisements.

4. Each application for certification is to be submitted before the Committee concerned or the Designated Officer concerned in a statement as per the format prescribed in Annexure-A appended to the Order. The certificate for

telecast for an advertisement is to be given by the Committee / Designated Officer in the format as given in Annexure-B appended to the Order. The applicants are required to submit two copies of the proposed advertisements in electronic form alongwith an attested transcript thereof.

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

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

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

Kindly acknowledge receipt.

No. 509.75 2004/JS-I Dated 15th April 2004.

ORDER

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

2. Whereas. Sub - rule (3) of Rule 7 of the Cable Television Network (Regulations) Rules. 1994 laying down the advertising code in terms of the abovementioned Section 6 provides that "no advertisement shall be permitted the objects whereof are wholly or mainly of a religious or political nature advertisements must not be directed towards any religious or political end" and

3. Whereas, the High Court of Andhra Pradesh, by its judgement and order dated 23-03-2004 in WPMP No.5214/2004 (Gemini TV Pvt. Ltd. Vs. Election Commission of India and others) suspended the above-mentioned provisions of Rule 7(3) of the Cable Television Network (Regulation) Rules. 1994: and

4. Whereas the Hon'ble Supreme court by its interim order dated 2-4-2004 in SLP (Civil) No.6679 2004 (Ministry of Information & Broadcasting Vs Ms Gemini TV and Others), in substitution of the order under challenge, had directed as below. –

- (i) No cable operator or TV channel shall telecast any advertisement, which does not conform to the law of the country and which offends the morality, decency and susceptibility of views or which is shocking, disgusting and revolting;
- (ii) The telecast shall be monitored by the Election Commissioner of India;
- (iii) The question as to whether the expenditure incurred by the candidate on inserting such advertisement should or should not be included, shall be considered on 5th April, 2004; and
- (iv) The modalities whether such advertisements are in conformity with law, shall be laid down by the Election Commissioner of India.

5. Whereas. The Hon'ble Supreme Court of India by its further order dated 13th April, 2004. in SLP (Civil) No.6679/2004. has directed as follows:

"—Before we pass the order, it will be worthwhile to notice certain provisions of the Cable Television Networks (Regulation) Act, 1995 (for short, "the Act"], as amended from time to time, and the Rules framed there under. The object of the Act is to regulate the operation of the cable television network in the country. Section 6 of the Act provides that no person shall transmit or re-transmit through a cable service any advertisement unless such advertisement is in conformity with the prescribed advertisement code. Section 11 of the Act provides that if any authorized officer has reason to believe that the provisions of the Act have been or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for operating the cable television network. Section 12 of the Act provides for confiscation of the equipment in the event of any violation of the provisions of the Act. Similarly, Section 13 of the Act also provides for seizure or confiscation of the equipment and punishment. Section 16 further provides for punishment for contravention of the provisions of the Act. Section 19 lays down that an authorized officer, if he thinks necessary or expedient so to do in the public interest, may, by order, prohibit any cable operator from transmitting or re-transmitting any advertisement which is not in conformity with the prescribed programme code and advertisement code and it is likely to promote enmity on grounds of religion, race, language, caste or community or any other grounds whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religion, racial, linguistic or regional groups or castes or communities or which is likely to disturb public tranquility. Section 22 of the Act empowers the Central Government to frame Rules to carry out the provisions of Act. The Central Government in exercise of the powers conferred on it by Section 22 of the Act is empowered to make Rules which are known as The Cable Television Networks Rules, 1994 [for short, "the Rules"]. Rule 7 of the Rules provides that where an advertisement is carried in the cable service it shall be so designed as to conform to the laws of the country and should not offend morality, decency and religious susceptibilities of the subscribers. Sub-rule (2), inter-alia, provides that no advertisement shall be permitted which derides any race, caste, colour, creed and nationality, is against any provision of the Constitution of India and tends to incite people to crime, cause disorder or violence or breach of law or glorifies violence or obscenity in any way. Sub-rule (3) further provides that no

advertisement shall be permitted the objects whereof are wholly or mainly of religious or political nature, advertisements must not be directed towards any religious or political end. It is in this background, we now propose to pass the following order:

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

The application for certification shall contain following details:

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

sponsored or commissioned or paid for by any political party or a candidate; and

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

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

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

The Chief Electoral Officer of each State or Union Territory may appoint a committee for entertaining complaints or grievances of any political party or candidate or any other person in regard to the decision to grant or to

refuse certification of an advertisement. The committee so appointed shall communicate its decision to the Election Commission.

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

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

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

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

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

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

It will be open to the Election Commission to requisition such staff as may be necessary for monitoring the telecast *of such advertisements*. Where the

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

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

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

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

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

(i) The Chief Electoral Officer Delhi is hereby directed to constitute a Committee comprising the following persons to deal with the applications by the political parties and organizations mentioned in para (ii) herein below.-

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

(ii) The above Committee will entertain applications for certification of any advertisement to be inserted in a television channel or cable network by the following:-

- a) All registered political parties having their headquarters in NCT of Delhi.

- b) All groups or organizations or associations or persons having their headquarters in NCT of Delhi.
- (iii) The Chief Electoral Officer of every other State/Union Territory is hereby directed to constitute the following Committee to deal with applications by political parties and organizations mentioned in para (iv) below:-
- (a) The Additional/Joint Chief Electoral Officer - Chairperson.
 - (b) Returning Officer of any Parliamentary constituency located in the capital of the State.
 - (c) One expert being an officer not below the rank of Class-1 officer to be requisitioned from the Ministry of Information & Broadcasting.
- (iv) The Committee constituted in para (iii) above will entertain applications for certification for advertisement on television channel and cable network by the following:-
- (a) All registered political parties having their headquarters in that State /Union Territory,
 - (b) All organisations or group of persons or associations having their registered offices in that State/Union Territory.
- (v) The Returning Officer of every Parliamentary constituency in the country are hereby declared as Designated Officers for the purpose of entertaining application for certification of an advertisement proposed to be issued on cable network or television channel by an individual candidate contesting the election from the Parliamentary constituency of which such Designated Officer is the Returning Officer and candidates contesting in the Assembly constituencies falling within that Parliamentary constituency. The said Returning Officer may co-opt any of the Assistant Returning Officers, not below the rank of a Sub-divisional Magistrate belonging to the State Provincial Civil Service to assist him in the task of certification of applications.
7. The Chief Electoral Officer of every State/Union Territory will constitute the following Committee to entertain complaints/grievances of any political party or candidate or any other person in regard to the decision to grant or refuse certification of an advertisement:-

- (i) The Chief Electoral Officer - Chairperson.
- (ii) Any Observer appointed by the Election Commission of India
- (i) 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 even' registered political parties and ever^f contesting candidates shall be made to the Committees mentioned in paras 6 (i) and 6 (iii) above or the Designated Officer as mentioned in para 6 (iv) above, as the case may be. not later than 3 (three) days prior to the date of the commencement of the telecast of such advertisements. In the case of first phase of elections such applications shall be disposed of within 2 (two) days of its receipt and until decision thereon is taken, the order of the Supreme Court dated 2-4-2004 shall apply.

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

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

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

- (d) If the advertisement is issued by any person other than a political party or a candidate, that person shall state on oath that it is not for the benefit of the political party or a candidate and that the said advertisement has not been sponsored or commissioned or paid for by any political party or a candidate:
- (e) A statement that all the payment shall be made by way of cheque or demand draft.

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

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

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

APPLICATION FOR CERTIFICATION OF ADVERTISEMENT

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

II.

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

Place:

Signature of the applicant

Date:

III.

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

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

Place :

Signature of applicant

Date :

CERTIFICATION OF ADVERTISEMENT FOR TELECAST

I

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

II.

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

Signature of chairperson
members of committee
Designated Officer

Place:

Date:

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

Sub:- Advertisement on political nature on Radio – regarding.

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

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

Please acknowledge receipt of this letter.

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

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

ORDER

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

1. The Commission vide its order No. 509/75/2004/JS-I Dated: 15th April, 2004 in pursuance of the order dated 13-04-2004 of the Hon'ble Supreme Court in SLP (Civil) No. 6679/2004 (Ministry of J&B Vs M/s Gemini TV and Others), issued directions regarding advertisements of political nature on T.V. Channels & Cable T.V. Networks.

2. The Ministry of Information & Broadcasting has, vide their letter No. 1/04/2004-BC.IV dated 20th November, 2008, informed that clause-II (4) of the Code for Commercial Advertising on all India Radio, has been amended by adding the following proviso :-

“But advertisements in the form of spots and jingles on payment of prescribed fees, from political parties/candidates/any other person shall be accepted only in respect of General Elections to Lok Sabha/General Election to the State Assemblies/General Election to Local bodies during the period when the Model Code of Conduct is in force. Such advertisements shall be subject to pre-broadcast scrutiny by the Election Commission of India/authorities under the Election Commission of India in respect of elections to Lok Sabha and the State Assemblies and State Election Commissions in the case of Local bodies.”

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

2. It is clarified that all other directions and the conditions specified in the order dated 15th April, 2004, and the subsequent instructions on the subject shall apply in the cast of advertisements of political nature on Radio.

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

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

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

2. The CDs of such critical events videographed will serve as relevant pieces of evidence, if any of the rival candidates or political parties wish to raise the question of any irregularity in the course of an election campaign before an appropriate authority. The Commission desires that at the time of elections adequate publicity may be given through all media of mass communication that the CDs of all critical events recorded by the election authorities would be available to anyone who intends to obtain a copy of the same. The CEOs may fix a reasonable cost for the supply of these CDs having regard to the cost incurred in the preparation of copies of these CDs.

3. The DEOs/ROs/other election authorities concerned may also be informed of the above decision of the Commission for necessary action at their end. All such CDs should be very carefully preserved by them with appropriate labeling for easy

retrieval when needed by the Commission or other election authorities, or for sale to the interested persons.

4. The Commission has also directed that the accounts of election expenses submitted by the contesting candidates during the election, as required under section 78 of the Representation of the People Act, 1951, should be carefully examined by the Observers and the DEOs and wherever they observe, on such examination, that a CD containing the videography of any public meeting or procession etc., in relation to which the candidate has shown any expenditure in his aforesaid accounts statement, is available with the DEO/RO, the fact about the availability of such CD should also be prominently brought out in the notice which the DEO displays for general information giving the intimation about the abovementioned accounts having been filed before him.

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

Kindly acknowledge receipt.

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

SUMIT MUKHERJEE
UNDER SECRETARY

Tel No. 23717590
Fax No.23717590

No.464/INST/2008/EPS

Date: 7th January, 2009

To

The Chief Electoral Officers
Of all States/UTs.

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

Sir/Madam,

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.

Yours faithfully,

(SUMIT MUKHERJEE)

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

Sub: Conditions for treating a candidate as one set up by political party- Requirements to be followed- regarding.

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

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

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

original, should be submitted to each of the 50 ROs alongwith Forms B for each constituency, duly signed in original, by the authorised office bearer.

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

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

Copy to the Chief electoral Officers of all States/U.T.s for information, with the instruction to send a copy of this letter to all political parties based in the State(all registered un-recognized parties as well as to the State units of all recognized parties).

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

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

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

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

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

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

Copy to the Chief electoral Officers of all States/U.T.s. The Commission has directed that at every General Election, there should be a nodal officer appointed in the office of the Chief Electoral Officer to track the cases where the Commission has granted concession under para 10 or 10A, and to ensure that the instructions are communicated to the Returning Officers concerned before the stage of allotment of symbols. The nodal officer should get in touch with the Under Secretary Incharge of the Political Parties Section in the Secretariat of the Commission for this purpose by the date fixed for scrutiny of nomination papers. It shall be the responsibility of the nodal officer to ensure that all Orders under para 10/10A are communicated to the ROs concerned.

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

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

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

2. A tendency has been observed on the part of some candidates to appoint a sitting Minister/M.P/M.L.A/MLC as their Election/Polling/Counting Agents. These persons generally have security cover provided to them by the State/Security Agencies. On several occasions in the past, requests had been received by the Returning Officers from the above category of persons that they are willing to relinquish the security cover provided to them in order to enable them to act as Election/Polling/Counting agents. The aspect that a recipient of such security cannot be allowed to deliberately jeopardize his own security which has been provided to him by the State/Security agencies on the basis of threat perception to him should be kept in view by all the Returning Officers/Presiding Officers at the time of approving of the appointments of Election/Polling/Counting Agents.

3. During recent elections it has been observed that many such protectees are surrendering their security in order to act as such agent for a contesting candidate which is a matter of great concern as any untoward incident involving them may have serious repercussions in the conduct of free, fair and peaceful election.

4. It has also been observed that if an MP, MLA/MLC or a sitting Minister acts as an

agent of a candidate that would not be desirable from the point of view maintaining the level playing field during an election apart from their security being compromised.

5. The Commission, keeping in view all the relevant factors in this regard, has decided that henceforth no sitting Minister either of Union Government or of a State Government, sitting Member of Parliament, sitting Member of Legislative Assembly/Legislative Council or any other person having security cover provided by the State (both Union and State Govts.) will be allowed to act as Election Agent, Polling Agent or Counting Agent of any candidate during an election. Also any person having security cover will not be allowed to surrender his security cover to act as such agent of a candidate during an election.

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

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

Sub.- Appointment of Polling Agents – Comprehensive instructions/directions – Regarding.

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

2. Further, the Commission's standing directions as contained in Chapter-IV of Handbook for Presiding Officers *inter-alia* provides that the set up of polling stations should be so arranged that polling agents are seated in such a way that they can see the face of an elector as and when he enters the polling station so that they can challenge the identity of the elector, if needed. They should also be able to watch entire operation inside the polling station including his/her movement to the voting compartment and his/her exit from the polling station after recording his/her vote. But they should not, in any event, be seated in a place where they have the chance of seeing voter actually recording his/her vote by pressing particular button;

3. The Commission has further reviewed its earlier instructions/directions in the aforesaid matter and decided to modify these directions/instructions to the extent as given below to be followed scrupulously:-

- (i) the polling agents who are appointed by contesting candidates **shall be ordinarily resident and electors of the concerned polling areas only,**
- (ii) such polling agents must have electors' photo identity cards.
- (iii) if any person who is a registered elector in the polling area and proposed to be appointed as polling agent by the contesting candidate but does not have Elector's Photo Identity Card, in that case, the Returning Officer shall make

necessary arrangement for issue of Elector's Photo Identity Card to such elector on written request from the concerned contesting candidate or his election agent.

- (iv) all polling agents shall display their Elector's Photo Identity Card prominently on their persons on the day of poll for easy and quick identification.
- (v) the set up of polling stations should be made in such a way that the **polling agents are seated inside the polling stations** so that they may see the face of an elector as and when he enters the polling station so that they can challenge the identity of the elector, if needed. **They should also be able to watch entire operation inside the polling station including his/her movement to the voting compartment and his/her exit from the polling station after recording his/her vote.** But they should not, in any event, be seated in a place where they have the chance of seeing voter actually recording his/her vote which would compromise secrecy of voting.
- (vi) in case polling station has very small & insufficient space or where the respective constituency is having abnormally large number of contesting candidates warranting the presence of a large number of polling agents, in such cases where polling agents can not be accommodated, Observer(s) shall be consulted for appropriate advice and consent of the Observer(s) shall be obtained.
- (vii) for identifying such polling stations having very small & insufficient space or where the respective constituency is having abnormally large number of contesting candidates warranting the presence of a large number of polling agents, the District Election Officer shall make survey well in advance, so that appropriate decisions may be arrived at well in time. A list of such polling stations shall be prepared and provided to concerned Observer(s).

4. All other instructions/directions as contained in its letter dated 7th April 2006 referred to above shall also be followed scrupulously.

5. These instructions/directions may be brought to the notice of all the District Election Officers/Returning Officers for bringing the contents of this instruction to the notice of Presiding Officers/Polling Officers during their training and other election related officers immediately for strict compliance.

6. Copy of these instructions shall also be forwarded to all the political parties in the State and brought to the notice of the electors as well through a suitable press release.

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

K.J. RAO
SECRETARY

Tel. No. 3714197 (O)
6878192 (R)
3717153 (Fax)

No. 76/EE/2001/J.S.III

Dated : 27th December, 2001

To

The President/General Secretary of
all recognised political parties.

Subject:- Account of election expenses incurred by the party in connection with the general elections to the House of the People and State Legislative Assemblies.

Sir,

I am directed to say that in terms of the Supreme Court Judgement dated 4th April, 1996, in Common Cause Vs Union of India & Others (AIR 1996 SC 3081), the Commission calls for the statements of expenditure incurred by recognised political parties at general elections to the House of the People and State Legislative Assemblies, for its scrutiny.

2. It has come to the notice of the Commission that in some cases, expenses incurred by the State /District level units of political parties are not reflected in the statements filed by them before the Commission. In the absence of the same, the Commission cannot conduct any worthwhile scrutiny of these statements. It is, therefore, reiterated that the statement filed by a party should fully reflect the expenses incurred by all units of the party including expenses incurred by Committee, by whatever name called from the top to the district / Constituency level of the party. It may also be noted that the format has to be duly filled up in all respects.

3. Further, expenditure incurred by the party on individual candidates is required to be shown in Part-D of the Format. This information should be furnished in respect of each candidate individually, on whom the party or any of its units at any level, incurs any expenditure, to facilitate cross-checking / scrutiny vis-à-vis the returns of expenses maintained and filed by individual candidates under sections 77 and 78 of the Representation of the People Act, 1951. Similarly, information regarding lump-sum

amount, if any, given to individual candidates is required to be given in Part-E of the Format. This information should also be given separately for each candidate.

4. In order that the statements filed by the political parties give all the required details and are self-contained in all the above aspects, the Commission has slightly amplified the format in which the above statements are to be filed by them at future elections. A copy of the revised format is forwarded herewith for your information and necessary action.

5. Further, the statements of expenditure at all future elections should be submitted in the format enclosed herewith within 45 days* after the date fixed for completion of the election concerned.

6. The Commission has also decided that, henceforth, the statement of accounts of political parties in connection with general elections will be placed in public domain in the manner it thinks fit.

7. It hardly needs to be stressed that this is a lawful direction of the Commission under Article 324 of the Constitution and in terms of the judgement dated 4th April, 1996, of the Supreme Court of India, in Common Cause Vs. Union of India & Others (AIR 1996 SC 3081).

8. The receipt of this letter together with its enclosure may kindly be acknowledged.

Yours faithfully,

(K.J. RAO)
SECRETARY

- period extended up to 90 days for Lok Sabha election and 75 days for Legislative Assembly elections. Pl. see letter dated 13.1.2009.

ANNEXURE

STATEMENT OF ELECTION EXPENDITURE

General Election(s) to the _____

Name of political party : _____

A. Details of Election Expenditure incurred/authorized at National/Central headquarters

Part-I

Rs.

- | | | |
|---|---|-------|
| 1 | Opening balance of party funds in whatever manner held as on the date of announcement (at national / Central level). | _____ |
| 2 | Total receipts (at national / Central level) from all sources from date of announcement to _____ (date of completion of elections). | _____ |
| | (a) Donations, etc., received in cash | _____ |
| | (b) Amount received by Cheque/DD, etc. | _____ |
| | Total : | _____ |
| 3 | Total expenditure (at national / Central level) from date of announcement to _____ (date of completion of elections). | _____ |
| 4 | (a) Expenses incurred in cash | _____ |
| | (b) Expenses incurred through Cheque/DD, etc. | _____ |
| | (c) Expenses authorized, but remaining unpaid | _____ |
| | Total : | _____ |
| 5 | Closing balance (at national / Central level) as on _____ (date of completion of elections) | _____ |

Part II

Expenditure incurred/authorised (at National/Central Level) on General Party Propaganda

A. Publicity

	Rs.
(1) Printed materials, like manifesto, pamphlets, posters, handbills, etc.	_____
(2) Electronic media (including hiring time slots sports, etc., in private channels)	_____
(3) Making and distribution of video films.	_____
(4) Making and distributions of audio cassettes.	_____
(5) Advertisements in newspapers, magazines, souvenirs etc.	_____
(6) Cut-outs, hoardlings, banners, flags, arches, gates, etc.	_____
(7) Through any other means.	_____
Total :	_____

B. Expenses on travel of leaders of the party covered by 'Explanations 1 & 2' under section 77 (1) of the Representation of the People Act, 1951 for propagating programme of the party

I. Travel Expenses

(1) On cars, other four wheelers, three wheelers and two wheelers	_____
(2) Trains	_____
(3) Aircraft/helicopters/ships, etc.	_____
(4) Animal transport	_____
Total :	_____

II. Other Expenses:-

(1) Expenses on boarding and lodging _____

(2) Other Misc. expenses _____

Total : _____

C. Travel Expenses of Leaders and workers other than those covered under item 'B' above

(1) On cars, other four wheelers, three wheelers _____

(2) Trains _____

(3) Aircraft/helicopters/ships, etc. _____

(4) Animal transport _____

(5) Expenses on accommodation, etc. _____

Total:

D. Other Expenses:-

(1) Maintenance and running of party/campaign office _____

(2) Public meetings _____

(3) Processions _____

(4) Other Misc. expenses (please specify) _____

Total: _____

Grand Total: _____

B. Details of Election Expenditure incurred or authorised at State Level

Name of State : _____

Part-I

	Rs.
1 Opening balance of party funds in whatever manner held as on the date of announcement (at State level).	_____
2 Total receipts (at State level) from all sources from date of announcement to _____ (date of completion of elections).	_____
(a) Donations, etc., received in cash	_____
(b) Amount received by Cheque/DD, etc.	_____
Total :	_____
3 Total expenditure (at State level) from date of announcement to _____ (date of completion of elections).	_____
4 (a) Expenses incurred in cash	_____
(b) Expenses incurred through Cheque/DD, etc.	_____
(c) Expenses authorized but remaining unpaid	_____
Total :	_____
5 Closing balance (at State level) as on _____ (date of completion of elections)	

Part II

Expenditure incurred/authorized (at State Level) on General Party Propaganda

A. Publicity

	Rs.
(1) Printed materials, like manifesto, pamphlets, posters, handbills, etc.	_____
(2) Electronic media (including hiring time slots sports, etc., in private channels)	_____
(3) Making and distribution of video films.	_____
(4) Making and distributions of audio cassettes.	_____
(5) Advertisements in newspapers, magazines, souvenirs etc.	_____
(6) Cut-outs, hoardings, banners, flags, arches, gates, etc.	_____
(7) Through any other means.	_____
Total :	_____

B. Expenses on travel of leaders of the party covered by 'Explanations 1 & 2' under section 77 (1) of the representation of the People Act, 1951 for propagating programme of the party

I. Travel Expenses

(1) On cars, other four wheelers, three wheelers and two wheelers	_____
(2) Trains	_____
(3) Aircraft/helicopters/ships, etc.	_____
(4) Animal transport	_____
Total :	_____

II. Other Expenses:-

- (1) Expenses on boarding and lodging _____
- (2) Other Misc. expenses _____
- Total : _____

C. Travel Expenses of Leaders and workers other than those covered under Item 'B' above

- (1) On cars, other four wheelers, three wheelers

- (2) Trains _____
- (3) Aircraft/helicopters/ships, etc. _____
- (4) Animal transport _____
- (5) Expenses on accommodation, etc. _____
- Total: _____

D. Other Expenses:-

- (1) Maintenance and running of party/campaign office _____
- (2) Public meetings

- (3) Processions _____
- (4) Other Misc. expenses (please specify)

- Total: _____
- Grand Total: _____

C. Details of Election Expenditure incurred District Level including expenses by any Committee, by whatever name called.

Name of the District : _____

Part-I

- 1 Opening balance of party funds in whatever manner held as on the date of announcement (at District level). _____
- 2 Total receipts (at District level) from all sources from date of announcement to _____ (date of completion of elections). _____
 - (a) Donations, etc., received in cash _____
 - (b) Amount received by Cheque/DD, etc. _____Total : _____
- 3 Total expenditure (at District level) from date of announcement to _____ (date of completion of elections). _____
- 4
 - (a) Expenses incurred in cash _____
 - (b) Expenses incurred through Cheque/DD, etc. _____
 - (c) Expenses authorized, but remaining unpaid _____Total : _____
- 5 Closing balance (at District level) as on _____ (date of completion of elections) _____

Part II

Expenditure incurred/authorised(at District Level) on General Party Propaganda

A. Publicity

	Rs.
(1) Printed materials, like manifesto, pamphlets, posters, handbills, etc.	_____
(2) Electronic media (including hiring time slots sports, etc., in private channels)	_____
(3) Making and distribution of video films.	_____
(4) Making and distributions of audio cassettes.	_____
(5) Advertisements in newspapers, magazines, souvenirs etc.	_____
(6) Cut-outs, hoardlings, banners, flags, arches, gates, etc.	_____
(7) Through any other means.	_____
Total :	_____

B. Expenses on travel of leaders of the party covered by 'Explanations 1 & 2' under section 77 (1) of the representation of the People Act, 1951 for propagating programme of the party

I. Travel Expenses

(1) On cars, other four wheelers, three wheelers and two wheelers	_____
(2) Trains	_____
(3) Aircraft/helicopters/ships, etc.	_____
(4) Animal transport	_____
Total :	_____

II. Other Expenses:-

(1) Expenses on boarding and lodging _____

(2) Other Misc. expenses _____

Total : _____

C. Travel Expenses of Leaders and workers other than those covered under Item 'B' above

(1) On cars, other four wheelers, three wheelers

(2) Trains _____

(3) Aircraft/helicopters/ships, etc. _____

(4) Animal transport _____

(5) Expenses on accommodation, etc.

Total:

D. Other Expenses:-

(1) Maintenance and running of party/campaign office _____

(2) Public meetings _____

(3) Processions _____

(4) Other Misc. expenses (please specify)

Total: _____

Grand Total: _____

D. Expenditure on Individual Candidates

Name of the State and constituency

Name of the candidate

A. Publicity

	Rs.
(1) Printed materials, like manifesto, pamphlets, posters, handbills, etc.	_____
(2) Electronic media (including hiring time slots sports, etc., in private channels)	_____
(3) Making and distribution of video films.	_____
(4) Making and distributions of audio cassettes.	_____
(5) Advertisements in newspapers, magazines, souvenirs etc.	_____
(6) Cut-outs, hoardings, banners, flags, arches, gates, etc.	_____
(7) Through any other means.	_____
Total :	_____

B. Travel Expenses of leaders (covered by 'Explanations 1 & 2' of section 77 (1) of the Representation of the People Act, 1951

(i)

(1) On cars, other four wheelers, three wheelers and two wheelers	_____
(2) Trains	_____
(3) Aircraft/helicopters/ships, etc.	_____
(4) Animal transport	_____
Total(1+2+3+4) :	_____

(ii)

Expenses on their accommodation, etc.

Total: _____

C. Travel Expenses of Leaders and workers

(i)

(1) On cars, other four wheelers, three wheelers and two wheelers _____

(2) Trains _____

(3) Aircraft/helicopters/ships, etc. _____

(4) Animal transport _____

(ii)

Expenses on their accommodation etc. _____

Total: _____

D. Other Expenses:-

(1) Maintenance and running of party/campaign office _____

(2) Public meetings _____

(3) Processions _____

(4) Other Misc. expenses (please specify) _____

Total : _____

Grand Total : _____

ABSTRACT

- (a) Total Expenditure incurred at National / Central headquarters _____
- (b) Total Expenditure incurred at State(s) Level _____
- (c) Total Expenditure incurred at District(s) Level _____
- (d) Total Expenditure incurred on individual candidates _____
- Grand Total** _____

E. Mechanism by which expenditure was incurred by the party

1. Please furnish names and addresses of party functionaries who were authorised to incur expenditure for the party at -
- (a) National level
 - (b) State level
 - (c) District level
 - (d) Constituency level
2. Does the party give a lump sum amount to its candidates for the elections?
If yes, then please furnish the names of all such candidates, constituency-wise, and the lump sum amount given to each of them.
3. Does the party print its posters in a centralised way and thereafter distribute it in various constituencies?
If yes, please furnish the names and address of the presses where such posters were printed, number of posters printed, their costs, number of posters distributed in each constituency.
4. Does the party hire aircrafts/helicopters for its campaign?
If yes, please intimate the companies/agencies from whom these have been hired and the amount paid.
Please also state the flight details undertaken and the constituencies visited through these aircrafts/helicopters and the costs for each flight.

(Signature of authorized person)

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001.

76/EE/2007/JS-III

Dated, 13th January. 2009

To

The Presidents/General Secretaries of
All recognised National and State Parties

Sub:- Furnishing of return of election expenses by recognised political parties for the General Election to the House of People and the Legislative Assemblies of States/UTs.

Sir/Madam,

I am directed to invite your attention to the Commission's letters of even no. dated 27.12.2001 and 22.3.2004, on the subject cited, containing directions to furnish the statement of election expenses incurred by the party in connection with all general elections to the Legislative Assemblies/House of the People within 60 days after the date fixed for completion of elections.

2. There have been request from some political parties for extending the time limit for filing the statement on the ground that compiling information from different areas/levels takes time.

3. The Commission has examined the issue and has decided to extend the time limit for furnishing of statement of election expenses incurred by the political parties and has directed that the statement of election expenses at general election to the **House of the People** should be submitted to the Commission within **90 days** after the date fixed for completion of the election and the statement in respect of general elections to the **Legislative Assemblies of States/UTs** should be filed with the Commission within **75** days after the date fixed for completion of elections.

4. The other conditions mentioned in the letters referred to above, remain unchanged. You are advised to ensure that the above mentioned time limit is strictly adhered to by your party, in all future general elections.

5. Kindly acknowledge the receipt.

Yours faithfully

(K. F. WILFRED)
SECRETARY

Election Commission's letter No.76/2003/JS.II dated 24.10.2003 addressed to the Chief Electoral Officers of all States/UTs.

Subject: Revised Format for Maintaining Account of Election by Candidates under Sections 77 and 78 of the Representation of the People Act, 1951

I am directed to say that the Commission has revised the format in which the candidates contesting elections to the House of the People and Legislative Assemblies are required to maintain the account of their election expenses under section 77 of the Representation of the People Act, 1951. A copy of the revised format is enclosed.

Some minor changes have been made in the format of the Register in which the candidates are to keep the day-to-day account of their election expenses (Appendix - 1 of the format). The format in which the abstract statement of the expenses giving detailed information about the expenses have undergone comprehensive changes (Appendix - 2). The format of the affidavit to be submitted by the candidates (Appendix - 3) and the format of the letter to be handed over to the candidates by the Returning Officers inviting their attention to the requirements of law regarding filing of account of election expenses (Appendix - 4) have also been modified.

If in the States where elections have been announced by the Commission, the registers for maintaining the day to day account of expenses have already been printed in the earlier format, the same may be used for the current elections. However, for the abstract statement and the affidavit to be submitted by the candidates at the time of lodging the account of election expenses the revised format alone should be handed over to the candidates.

It may be noted that as per new Explanations 1 and 2 inserted under Section 77(1) [vide the 'Election And other Related Laws (Amendment) Act, 2003', already sent to you] only the expenses on account of travel of 'leaders' of the political covered under Explanation - 2 will be exempted from being included in the account of election expenses of a candidate. All other expenses - incurred/authorized by the political parties, other associations, body of persons, individuals - are required to be included in the account of the candidate. This change in the law should be specifically brought to the notice of the District Election Officers, Returning Officers, etc.

The formats for maintaining account of election expenses, affidavit of candidates and the letter to be addressed to the candidates by Returning Officers as given in Annexure-XVI of Handbook for Returning Officers (EVM) and the corresponding part in the Handbook for Candidates may be treated as amended/substituted by the formats enclosed herewith.

Appendix-1

Register for Maintenance of day to day Accounts of Election Expenditure by Contesting Candidates

Name of the Candidate :
 Name of the Political Party, if any :
 Constituency from which contested :
 Date of declaration of result :
 Name and Address of the Election Agent :
 Total expenditure incurred / authorised :
 (from the date of nomination to
 date of declaration of result of
 election, both date inclusive)

Date of Expenditure	Nature of Expenditure	Name of Person/Political Party/Association/Body who incurred/authorised		Amount of Expenditure		Date of Payment	Name and Address of Payee	S.No. of Voucher case of an amount paid	S.No. of in case of an amount outstanding	Name & Address of person to whom the amount outstanding is payable	Remarks
		Expenditure Candidate/ his Election Agent	Political Party/ Associations/ Body/Any other individual	Paid	Out-standing						
1	2	3	4	5	6	7	8	9	10	11	

Certified that this is a true account kept by me/my election agent
under section 77 of the Representation of the People Act, 1951
(Certificate to be furnished after the date of declaration of the result)

1. This Register must be maintained on daily basis and shall be subject to inspection at any time by the observers appointed by the Election Commission, the District Election Officer, Returning Officer or by any other officer authorized in this behalf.
2. This Register must be lodged in original with the District Election Officer as the return of election expenditure under section 78 of the Representation of the People Act, 1951. It must be accompanied by an Abstract Statement of election expenses and an affidavit, in the prescribed formats. No return of expenditure will be accepted as complete without the Abstract Statement of election expenses and the affidavit.
3. Vouchers may not be attached only in respect of those items which are listed in Rule 86 (2) of the Conduct of Elections Rules, 1961 like postage, travel by rail. For any voucher not attached vide this rule, an explanation to the effect that it was not practicable to obtain the required vouchers must be given in the prescribed Register.
4. The candidate shall countersign the account if it is lodged by his election agent and should be certified by the candidate himself to be correct copy of the account kept.
5. Apart from the expenses incurred or authorized by the candidate/election agent directly, all expenditure incurred or authorized by the political party, other associations, bodies of persons, individuals, in connection with the election of the candidate are also required to be included in the account. The only exception is the expenses incurred on travel of 'leaders' of the political party on account of their travel for propagating the programme of the party [See Explanations 1 and 2 of Section 77(1)].
6. If the expenditure on any item shown above in column 2 is incurred / authorized by any political party / association / body of persons / any individual (other than the candidate or his election agent), its / his name and complete address must be shown in column 4.

APPENDIX - 2

Abstract Statement of Election

Expenses Part-I

Name of Candidate :
Number and name of Constituency :
Name of State / Union Territory :
Nature of Election : By-Election/General Election
Date of declaration of result :
Name and Address of the Election Agent :

Part-II

- I. Were you a candidate set up by a Political Party ? : Yes/No
II. If yes, name of the party. :
III. Is the Party a recognised Political Party ? : Yes/No
IV. If recognised political party, whether National / State Party : Nation/State
Party
V. Has your party incurred/authorised expenses in your election ? : Yes/No
VI. Has any other association/ body of persons / individual
incurred/authorised expenses in your election ? : Yes/No
VII. If yes, give its/his/their name(s) and complete address : (1)
(2)
(3)

Part III

Abstract Statement of Expenditure on Election by the Candidate/his
Election Agent

Item of Expenditure	Expenditure Incurred/authorised			Total Expenses incurred/ Authorised (Total of Columns 2,3 & 4)
	Candidate/ his Election Agent	Political Party which set him up	Any other Association/ Body of Persons/ Individual	
1	2	3	4	5
	Rs.	Rs.	Rs.	Rs.

- i. Public meetings, processions, etc.
- ii. Campaign materials, like,
handbills, posters, video and audio cassettes, loudspeakers etc.
- iii. Campaign through electronic / print media (including cable network)
- iv. Vehicles used and POL expenditure on such vehicles.
- v. Erection of gates, arches, cutouts, banners, etc.
- vi. Visits of 'leaders' to the constituency {ther than the expenditure on the travel of leaders' as defined in Explanation 2 under Section 77 (1) for propagating programme of the party}
- vii. Visit of other party functionaries
- viii. Other misc. Expenses

Grand Total

Lump-sum grant received, if any, from -

- (i) Political party

- (ii) Any other association / body (with its name and address)
- (iii) Any individual (with name and address)

Part IV

Details of Expenditure on Vehicles Used

Details of all expenditure on all vehicles used in connection with the election including the vehicles supplied to candidate by his Political Party or any other association/organization/body or by any other individual are required to be shown (the only exception is the expense incurred in connection with travel of 'leaders' of political party for propagating programme of political party covered by Explanations 1 and 2 under Section 77(1)).

Regn. of	Type of	No. of Days	Expenditure incurred on POL,		
			Amount spent by the Candidate/ Election Agent	Amount spent by the Political Party	Amount spent by any other association/ body of persons/ individual
1	2	3	4	5	6

Grand total (Col. 4 + 5 + 6) Rs. _____

Part V

Details of Expenditure on
Public Meetings

Public meetings held by the candidate/his election agent/his political party/any other association/ organization/body any other individual (other than the candidate/his election agent)

Date of Meeting	Venue of Meeting	Name of Authority from whom permission obtained	Cost of erecting Pandal and Hiring of Furniture and Fixtures	Cost of Hiring Loud- opGclKGrS and Micro- phones	Other Misc- ellaneous Expenses	Total	Out of the amount shown in Col. 7, the Component of Expenditure incurred by		
							Candidate/ Election Agent	The Political Party	Any other Association/ Body/ Individual
1	2	3	4	5	6	7	8	9	10

Grand total (Col. 8 + 9+10) Rs. _____

Part-VI

DETAILS OF EXPENDITURE ON TRAVEL OF LEADER(S) OF THE PARTY
NOMINATED IN TERMS OF 'EXPLANATION (2)' UNDER SECTION 77(1) OF THE
REPRESENTATION OF THE PEOPLE ACT, 1951

S.No.	Name of Leader	Date of Arrival in Constituency	ARRIVAL DETAILS		DETAILS OF STAY			DEPARTURE DETAILS			Whether Expenditure on item (5), (7) and (10) incurred by Candidate, Political Party or others specify	Expenditure if any on Item (5), (7) and (10) by Candidate
			Mode of Travel	Expenditure on Fare paid (if known)	Duration of Halt in Constituency	Expenditure on Local Journeys	Date of Departure from Constituency	Mode of Travel	Expenditure on Fare Paid (if known)			
1	2	3	4	5	6	7	8	9	10	11	12	
1												
2												
3												
E												
t												
c												

Total Expenditure:

PLACE:

SIGNATURE OF CONTESTING

CANDIDATE

DATE:

NAME OF CONTESTING CANDIDATE

APPENDIX - 3

Form of Affidavit

Before the District Election Officer (District, State/Union Territory)

Affidavit of Shri (S/o)

I son/wife/daughter of , aged years, r/o do hereby solemnly and sincerely state and declare as under :-

(1) That I was a contesting candidate at the general election/bye election to the House of the People/
Legislative Assembly of from Parliamentary/Assembly constituency,
the result of which was declared on

(2) That I/my election agent kept a separate and correct account of all expenditure incurred /
authorised by me / my election agent in connection with the above election between
..... (the date on which I was nominated) and the date of declaration of the
result thereof, both days inclusive.

(3) That the said account was maintained in the Register furnished by the Returning Officer for the purpose and the said Register itself is annexed hereto with the supporting vouchers/bills mentioned in the said account.

(4) That the account of my election expenditure as annexed hereto includes all items of election expenditure incurred or authorised by me or by my election agent, the political party which sponsored me, other associations / body of persons and other individuals supporting me, in connection with the election, and nothing has been concealed or withheld/suppressed therefrom (other than the expense on travel of leaders' covered by Explanations 1 and 2 under section 77 (1) of the Representation of the People Act, 1951).

(5) That the Abstract Statement of Election Expenses annexed as Annexure II to the said account also includes all expenditure incurred or authorised by me, my election agent, the political party which sponsored me, other associations / body of persons and other individuals supporting me, in connection with the election.

(6) That the statements in the foregoing paragraphs (1) to (5) are true to the best of my knowledge and belief, that nothing is false and nothing material has been concealed.

Deponent

Solemnly affirmed/sworn byat this day of 200..... Before me.

(Signature and seal of the Attesting authority, i.e. Magistrate of the first Class or Oath Commission or Notary Public)

APPENDIX - 4

[Please see instructions in Para 31 of
Chapter V of Handbook for Returning
Officers (EVM)]

No.....

To

.....(name and address of candidate)

Subject: Maintenance of account of election Expenses and lodging of true copy thereof

Sir/Madam,

Your attention is invited to Section 77 of the Representation of the People Act, 1951 which stipulates that every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election between the date on which he has been nominated and the date of declaration of the result thereof, both dates inclusive.

2. Your attention is also invited to Section 78 of the said Act which further stipulates that every contesting candidate at an election shall, within thirty days from the date of election of the returned candidate, lodge with the District Election Officer, an account of the election expenses which shall be a true copy of the account kept by him or by his election agent under Section 77.

3. Even if a contesting candidate does not seriously contest the election, for any reason whatsoever, and incurs only a nominal expenditure on his security deposit, etc., he is required by law to lodge his account of election expenses.

4. A contesting candidate who fails to comply with the requirements of law regarding the lodging of account of election expenses is liable to be disqualified by the Election Commission under section 10A or the Representation of the People Act, 1951 for a period of three years.

5. The account of election expenses to be kept by a candidate or his election agent under section 77 of the Representation of the People Act, 1951 shall contain the particulars of expenditure, incurred/ authorised from day to day, as prescribed under rule 86 of the Conduct of Elections Rules, 1961.

6. A Register is being furnished to you herewith. You are required to maintain your day to day account of election expenses in this very Register and in no other document. All supporting vouchers, bills, etc., should also be kept along with the Register arranged in proper chronological order at all times. An abstract statement of expenditure is also to be prepared by you after the declaration of result of election in Parts - I to VI of the format enclosed herewith.

7. All documents such as vouchers, receipts, acknowledgements, etc. in support of the expenditure incurred or authorised shall be obtained on day-to-day basis and

shall be maintained in the correct chronological order alongwith the Register showing the day-to-day account.

8. You should make this Register and the supporting documents available for inspection if demanded at any time during the process of election by the District Election Officer, Returning Officer, Election Observer appointed by the Election Commission or any other such authority nominated by the Commission in this behalf. Failure to produce this register when demanded will be considered as a major default on your part in maintaining your day to day account and you may render yourself liable to penal action under Section 171-1 of the Indian Penal Code.

9. This very Register in which you are to maintain your day to day account of election expenses should itself be filed by you as your account of election expenses after the election as required under section 78 of the Representation of the People Act 1951 mentioned-above. You should keep a copy of the account as maintained in that Register for your record and reference. Alongwith the Register, you must file the abovementioned abstract statement containing details of expenditure, and the same must be supported by an affidavit in the format enclosed. The affidavit should be sworn before a Magistrate of the First Class or an Oath Commissioner or a Notary Public.

10. It may be noted that Section 77(1) has been amended vide Election and Other Related Laws (Amendment) Act, 2003. As per the amended provisions of "Explanation (1)" of this Section, all expenditure incurred or authorised in connection with the election of the candidate by the political party which has set him up, any other association/body of persons or any other individual shall also be required to be included in the account of election expenses of the candidate under the said Section 77. The only exception is the expenses incurred on the travel of 'leaders' of the political party for propagating the programme of the political party, who are covered under 'Explanations 1 and 2 of Section 77(1).

11. If you contest election from more than one constituency, you are required to maintain and lodge a separate account of your election expenditure in respect of each such constituency.

12. Kindly acknowledge receipt of the letter alongwith its enclosures immediately in the enclosed acknowledgment form.

Yours faithfully,

RETURNING

OFFICER FOR

..... Parliamentary/Assembly
Constituency

** Strike off whichever is inapplicable*

Enclosures :

1. Register bearing serial no. containing pages for maintenance of election expenses, along with (i) the format for maintaining the abstract statement of accounts and (ii) the format of affidavit.
2. Extracts of Section 77, 78 and 10A of the Representation of the People Act, 1951, and rule 86 of the Conduct of Elections Rules, 1961.
3. Form of Acknowledgment receipt.

ACKNOWLEDGEMENT FORM

To
The Returning Officer for

Sir,

I acknowledge receipt of your letter Nodatedalongwith its enclosures containing, among other documents, a Register bearing serial No for maintaining of my accounts of election expenses.

2. I have noted the requirements of law for maintenance of account of election expenses and lodging of true copy of that account with the District Election Officer/Returning Officer.

Yours faithfully,

Signature of the Candidate with date.

**Strike Off, whichever is inapplicable.*

ACKNOWLEDGEMENT

The account of the election expenses in respect of (Constituency) result of which was declared on..... (Date) has been filed by him on his behalf on (Date) has been received by me today the.....(Date) of..... (Month)..... (Year).

District Election
Officer
District.....

Election Commission's letter No.76/2003/JS.II dated 29.10.2003 addressed to the Chief Electoral Officers of all States/UTs.

Subject: General Elections/Bye-Elections - Instructions for guidance of contesting candidates for lodging their accounts of election expenses - Inspection of accounts of election expenditure as an additional measure - regarding

I am directed to invite your attention to Commission's letter No.76/98/J.S.II dated 19.1.1998 on the above subject and to say that as per standing instructions of the Commission, the contesting candidates are required to maintain their election expenditure account in the prescribed register on day-to-day basis. They are also required to make available the said register, with supporting documents, for inspection, at anytime during the process of election, to the District Election Officers/Returning Officers/ Election Observers appointed by the Commission or any other such authority nominated by the Commission in this behalf. It has also been clarified that the failure to produce this register, on demand, will be considered as a major default. The register with the said supporting documents shall be made available by the contesting candidates only once in three days.

The Commission has now prescribed a revised format for maintaining account of election by candidates under Sections 77 and 78 of the Representation of the People Act 1951 vide its letter No. 76/ 2003/JS.II dated 24 October 2003, which has now been made available to you. Under Section 77(1) [vide the 'Election And other Related Laws (Amendment) Act, 2003', already sent to you] only the expenses on account of travel of 'leaders' of the political parties covered under Explanation 2 will be exempted from being included in the account of election expenses of a candidate. All other expenses - incurred/ authorised by the political parties, other associations, body of person, individuals - are required to be included in the account of the candidate.

In order to streamline the scrutiny of accounts maintained by the candidates, the Commission has given the following directions:

1. A register in the standard format as already prescribed vide Commission letter No.76/2003/JS.II dated 24.10.2003 shall be issued to each candidate by the Returning Officer immediately after his nomination, for keeping the day-to-day account of his expenditure.
2. The register shall be duly page-numbered and authenticated by the District Election Officer at the time of issue.
3. All day-to-day accounts shall be faithfully recorded in this register and in no other document by the candidate or his election agent.
4. All documents such as vouchers, receipts, bills, acknowledgements, etc. in support of the expenditure incurred or authorised shall be obtained from day-to-day as the expenditure is incurred and authorised and maintained in the correct chronological order along with the aforesaid register as prescribed under rule 86 of the Conduct of Election Rules 1961.

5. The day-to-day account maintained in the aforesaid register together with the supporting documents shall be made available for inspection once in three days during the process of election to the District Election Officer/Returning Officer/Election Observer appointed by the Commission or any other such authority nominated by the Commission in this behalf.

6. The District Election Officer and the Election Observer shall prepare a schedule of inspection whereby a three-day cycle of furnishing of accounts will be set for every candidate in such a manner that on each day, accounts of one or more contesting candidates are made available for scrutiny to the concerned officers. In other words, the turn of a candidate to furnish his accounts for scrutiny will fall after every third day throughout the period between the filing of his nomination and declaration of results.

7. The accounts of the candidates will be scrutinised by the District Election Officer/Returning Officer and/or Election Observer or by the nominated officers and they will keep two photocopies of the relevant pages of the register. One copy of the relevant pages of the register will be displayed on the notice board of the Returning Officer and the other copy will be retained in a separate file for each constituency as proof of record with the Returning Officer and furnished to the District Election Officer on conclusion of the poll process.

8. Any person desiring a copy of these day to day accounts will be provided the same by the Returning Officer subject to payment of usual copying charges.

9. While lodging the accounts of the election expenses under Section 78 of the Representation of the People Act 1951, the candidate shall file the prescribed register along with the abstract statements of election expenses and the prescribed affidavit prescribed vide Commission order No.76/2003/JS.II dated 24.10.2003.

The Commission has reiterated that the above instructions should be made clear and known to all contesting candidates and the Election Observers who will be appointed by the Commission and it shall be the complete responsibility of the District Election Officers to ensure that the instructions of the Commission in this matter are complied with in proper manner.

Kindly acknowledge receipt.

Election Commission letter No. 76/2007/JS-II Dated: 29th March, 2007 addressed to the Chief Electoral Officers of all States and Union Territories

Subject:- Section 77 of the Representation of the People Act, 1951-Election Expenditure of candidates- regarding.

Section 77(1) of the Representation of the People Act, 1951, provides that every candidate at an election shall keep it the correct account of all expenditure incurred or authorized by the candidate/his election agents in connection with the election of the candidate. The expenditure incurred on travel by leaders of a political party whose names have been communicated to the Commission and the Chief Electoral Officer as required under Explanation –2 to Section 77(1) is not deemed to be expenditure incurred or authorized by a candidate of that political party for the purposes of the said Section.

2. Some CEOs and Observers have sought clarifications about the effect of expenditure incurred by political parties on advertisements on the election expenditure accounts of the candidates.

3. In this context, attention is invited to the Commission's letter No. 76/2004/J.S.II, dated 10th April, 2004 (copy enclosed) on the issue of expenditure incurred by political parties in connection with election rallies, etc.

4. In the judgment of the Hon'ble Supreme Court, in Kanwar Lal Gupta vs. Amar Nath Chawla (A.I.R. 1975 SC 308), referred to in the abovementioned letter dated 10.4.04, the Hon'ble Supreme Court has held that the expenditure incurred by the political party, as distinguished from expenditure on general party propaganda, which can be identified with the election of a given candidate would be liable to be added to the expenditure of that candidate as being impliedly authorized by the candidate. The Apex Court has further held in that matter that a party candidate does not stand apart from his political party and if the political party does not want the candidate to incur the disqualification, it must exercise control over the expenditure which may be incurred by it directly to promote the poll prospects of the candidate.

5. The expenditure incurred by a political party on advertisements, in connection with any election could be categorized into the following:

(i) Expenditure on general party propaganda seeking support for the party and its candidates in general, but, without any reference to any particular candidate or any particular class/group of candidates:

(ii) Expenditure incurred by the party, in advertisements etc. directly seeking support and/or vote for any particular candidate or group of candidates;

(iii) Expenditure incurred by the party which can be related to the expenditure for promoting the prospects of any particular candidate or group of candidates.

6. Applying the ratio of the judgment in Kanwar Lal Gupta's case, it is clarified that in the case of any advertisement by political parties, whether in print or electronic or any other media, falling in category (i) above, which is not relatable to the election of any particular candidate or a given group of candidates, the expenditure may be treated as expenditure of the political party on general party propaganda. In the cases of expenditure falling in categories (ii) and (iii) above, i.e. cases where the expenditure is relatable to the election of a particular candidate or a group of candidates, the expenditure shall be treated as expenditure authorized by the candidates concerned and such expenditure shall be accounted for in the election expenses accounts of the candidates concerned. In those cases where the expenditure is incurred by the party for the benefit of a given group of candidates, the expenditure is to be apportioned equally among the candidates.

7. The contents of this letter may be brought to the notice of all District Election Officers, Returning Officers, Election Observers, and other election authorities. This may also be brought to the notice of all the political parties in the State, including the State units of the recognized political parties.

Please acknowledge receipt of this letter.

Election Commission letter No.76/2007/JS-II Dated: 4th April, 2007. addressed to the Chief Electoral Officers of all States and Union Territories

Sub: Account of election expenses of candidates - Section 77(1) of the Representation of the People Act. 1951 – regarding.

Section 77(1) of the Representation of the People Act., 1951 mandates every contesting candidate at an election to maintain the correct account of expenditure incurred/authorised in connection with the election. Clause (a) of Explanation 1 to Section 77(1) provides that the expenditure on travel incurred by leaders of a political party for propagating programme of that party shall not be treated as expenditure in connection with the election incurred/authorised by a candidate of that political party for the purposes of the said Section. Explanation 2 to Section 77(1) provides that the list of leaders of a political party (40 in the case of recognized parties and 20 in the case of registered unrecognized parties) is to be submitted within 7 days from the issue of notification to the Commission and to the Chief Electoral Officer of the State concerned for availing of the benefit of Clause (a) of Explanation 1.

Clarifications have been sought regarding accounting of travel expenses of a leader of a political party covered under Explanation 2 to Section 77(1) when such leader happens to be a candidate himself. It is only logical to conclude that the visit of a contesting candidate to the constituency from where he is contesting election is for the purpose of promoting his own election prospect. When a candidate travels in his constituency for election campaigning, the expenses incurred in connection with the journey has to be treated as part of his election expenses. Therefore, it is clarified that, in such situations, the expenses incurred on account of the journey(s) performed by such leader within the constituency from where he/she is contesting election cannot be exempted from the election expenditure account of that person.

2. It has been observed that in some cases political parties, while communicating the names of leaders of that party under Explanation 2 to Section 77(1), have included the names of persons who are leaders of other political parties or who are not members of that political party. It is made clear that as per the provisions of the law referred to above, a political party can nominate only those persons who are members of that party as its leaders for the purposes of Explanations 1&2 to Section 77(1). In other words, a

person who is not a member of the party cannot be nominated as 'leader' of the party for the purposes of Section 77(1).

3. It has also been seen in the past that after submitting the list of leaders with the Commission, the political parties approach the Commission for substituting the names therein. In this context, it is pointed out that as per the proviso to Explanation 2, substituting a name from the list is permitted under the law only where any of the persons mentioned in the list dies or ceases to be a member of the political party concerned and not otherwise.
4. These instructions/clarifications may be brought to the notice of all the District Election Officers/Returning Officers and all election authorities. This may also be brought to the notice of all political parties based in the State including the State Units of recognized national and State parties.
5. Please acknowledge receipt.

Copy to all recognized political parties for information and compliance.

ELECTION COMMISSION OF INDIA

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

No. 76/2008/JS-II

Dated:- 11th February, 2008.

To

The Chief Electoral Officers of
all States and Union Territories.

Subject:- Election Expenditure of the candidates – regarding.

Sir,

I am directed to forward herewith the Commission's letter No. 76/2007/JS-II, dated 10th February, 2007, addressed to the Chief Electoral Officers of Punjab, Manipur and Uttarakhand regarding election expenditure of the candidates.

The instructions contained in the aforesaid letter may be communicated to all the District Election Officers/Returning Officers, and other election authorities. The District Election Officers/Returning Officers may be instructed to inform the contesting candidates (at the time of elections) about the clarification mentioned therein in order to remove any doubt in their minds so that they maintain all items of expenditure in the account of their election expenditure required to be filed with the District Election Officer under Section 78 of the Representation of the People Act, 1951.

Yours faithfully,

(K.F. WILFRED)
SECRETARY

ELECTION COMMISSION OF INDIA

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

No. 76/2007JS-II

Dated:- 10th February, 2007.

To

The Chief Electoral Officers of
Punjab, Manipur and Uttarakhand.

Subject:- Election Expenditure of the candidates

Sir,

I am directed to invite your attention to the provisions of Section 77 of the Representation of the People Act, 1951 (copy enclosed). As per clause (a) of Explanation 1 under sub-section (1) of the said section 77, any expenditure incurred on account of travel of the leaders of the political party for propagating the programme of the party is not to be deemed to be expenditure in connection with the election of the candidate of that political party subject to the condition that the names of such leaders (a maximum of 40 in the case of a recognized party and 20 in the case of an unrecognized party) have been communicated to the Commission and the CEO within 7 days from the date of notification of the election.

Clarifications have been sought with regard to the issue of expenditure incurred on account of visit of the leaders of the political parties in connection with election campaign and the effect of such expenditure on the account of expenses of the candidates.

It may be noted that under the provisions of the 'Explanation' referred to above, only the travel expenses of leaders of the political parties are exempted from being included in the account of expenses of the candidates of the parties

concerned, that too in cases where the list of the leaders are communicated to the Commission and the CEO within the prescribed time limit. As regards the expenses other than travel expenses incurred by the leaders, such as expenses on construction of rostrums, barricades etc., your attention is invited to the Commission's letter No. 76/2004/JS-II dated 10th April, 2004 (copy enclosed). It has been explained in the said letter that the expenditure incurred on items of the nature mentioned above, will be booked as expenditure of the candidate for whose benefit the meeting taken place. It is clarified that this also applies to the expenditure in connection with the visit of leaders holding the office of Prime Minister, Chief Ministers and Ministers, in accordance with the provisions of Section 77(1). In this connection, attention is also invited to the Commission's letter No. 437/6/OR/95/MCS/1158, dated 29th March, 1996(copy enclosed). If the meeting is for the prospects of more than one candidate of the political party, or if more than one candidate of the party are present at the meeting, the expenditure will be apportioned equally among all such candidates. Similarly, in the case of a political party which has not submitted, within the prescribed time, the list of leaders as required under the Explanation to Section 77(1), the expenditure including the expenditure on travel will have to be booked as the expenditure of the candidate or group of candidates, as the case may be.

The lists of leaders of the political parties which were submitted in the Commission within the prescribed time for the purposes of Section 77(1) have already been communicated to you.

The above position may be communicated to all the District Election Officers/Returning Officers/Observers in the State. The District Election Officers may also be instructed to inform the contesting candidates about the above clarification in order to remove any doubt in their minds so that they show all items of expenditure in the account of their election expenditure that is required to be filed with the DEO under Section 78 of the Representation of People Act, 1951.

Yours faithfully,

(K.F. WILFRED)
SECRETARY

Election Commission's letter No. 76/2004/J.S.II, dated 10.04.2004 addressed to the Chief Electoral Officers of-All the States and Union Territories.

Subject: - Expenditure to be incurred on barricades and rostrums etc.

I am directed to refer to Commission's letter No. 437/6/OR/95/MCS/1158 dated 29th March, 1996 read with Commission's orders No. 437/6/ES/0025/94/MCS dated 21st October, 1994 (reproduced as item No. 133 in the Compendium of Instructions, 2004) wherein it has been laid down that expenditure incurred on security arrangements like barricading / rostrums etc. in connection with the campaigning by any political leader or candidate shall be borne by the concerned political party. The Commission has received queries to the effect -whether the expenditure on construction of rostrums / barricades will be charged to the political party or to the account of the individual candidate or a group of candidates belonging to the political party who are present on the occasion of a meeting where "leaders" of the political party participate.

2. The guiding principles to distinguish between the expenditure incurred by the political party and the expenditure incurred by the candidates were enunciated by the Supreme Court in *Kanwar Lai Gupta v Amar Nath Chawla* (AIR 1975 SC 308) wherein the Apex Court had observed: "when the political party sponsoring a candidate incurs expenditure in connection with his election as distinguished from expenditure on general party propaganda, and the candidate knowingly takes advantage of it and participates in the programme or activity and fails to disavow the expenditure or consents to it or acquiesces in it, it would be reasonable to infer, say in special circumstances, that he authorised the political party to incur such expenditure and he cannot escape the rigours of the ceiling by saying that he has not incurred the expense, but his political party has done so."

2. With the amendment to Section 77 of the Representation of People Act, 1951 only the expenses on account of travel of leaders of the political parties, covered under explanation 2 below Section 77, will be exempted from being included in the account of election expenses of the candidate. All other expenses - incurred / authorized by the political parties, other associations, body of persons / individuals - are required to be included in the account for the candidate.

4. The Commission has considered the matter carefully and keeping in view the provisions of law has directed as follows:-

- i. The expenses on construction of barricades / rostrums etc. when done initially by the government agencies on account of security considerations on behalf of the party/organizers are to be booked as expenditure of a candidate in whose constituency the said meeting takes place or to a group of candidates who are present at the time when the leader of a political party addresses such a meeting. In cases where there are more than one candidate of the political party present at the time of the said meeting of the "leader", the expenditure will be apportioned equally amongst all, and the District Election Officer of the district where such a meeting takes place shall obtain the final costs from the concerned government agencies within three days of the event and intimate to the candidates their respective share of expenditure. This information will also be intimated to the Returning Officer / District Election Officer of the Constituency / District to which the other candidates belong,
- ii. Where such construction of rostrums/barricades are done on account of security considerations by the candidate(s) or the political party or the organizers from their own funds, amount will be reflected in the accounts of the concerned candidate or a group of candidates present in the meeting of the "leader". These accounts will be duly verified by the Election Observer or the Designated Officer appointed for scrutiny of the accounts.

5. The Commission has further directed that in all cases where the construction of barricades/rostrums are being done by government agencies the candidate/political party /organizer will deposit the estimated cost of barricades/rostrum in advance.

6. For expenditure already incurred on such items between the date of notification issued for the first and second phases of the current general elections, the concerned DEOs shall immediately take action as per para 4 above and inform all candidates concerned.

Election Commission's letter No. 437/6/OR/95/MCS/1158 dated 29.03.1996 addressed to The Secretary to the Government of India, Ministry of Home Affairs, New Delhi and copy endorsed to CEOs of All States and Union Territories.

Subject: Expenditure on security of PM during election visits

Please refer to letter of Shri V.K. Malhotra, Joint Secretary (CS) dated 21.2.96 regarding clarification sought by Orissa Government in connection with the expenditure to be incurred on the barricading and rostrums etc. for Prime Minister's visit in connection with elections.

2. Attention is drawn to Commission's Order No. 437/6/ES0025/94/MCS dated 21.10.94 (copy enclosed) wherein it has been clarified that the State Governments/Union Territories should strictly adhere to the Order of the Supreme Court given by its Order dated 29.4.94 in the writ petition (Civil) No.312 of 1994. In the Commission's Order, it has further been directed that such individuals who visit State/ Constituency for electioneering and election arrangements like barricading/rostrums etc. shall be borne by the concerned political party.

3. It is, therefore, directed once again that instructions as contained in Commission's Order dated 21.10.1994 should be strictly adhered to.

Annexure

Letter No. 437/6/ES0025/94/MCS Dated 21 st October 1994 addressed to Chief Secretaries and CEOs of all States and UTs.

ORDER

The Commission vide its letter No. 437/6/93-PS-II dated 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.

3. 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.

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

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

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

5. In the light of the above order of the Supreme Court the Commission had substituted paragraph 3of its letter No. 437/6/93/PS-II dated 31 st December, 1993 vide para 6 of letter of even number datedJ 8th May, 1994 to say that "the Commission has decided that para 3 of its above referred circular letter No. 437/6/93-P-II dated 31 st December, 1993 will stand substituted by the following :-

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

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

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

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

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

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.76/./2009/SDR

Dated : 28th January, 2009

To

The President/General Secretary of
All recognized National and State political parties.

Sub: Election related advertisements of political parties- effect on account of election expenses of individual candidates.

Sir,

Reference is invited to the Commission's letter No. 76/2007/JS-II, dated 29th March, 2007 (copy enclosed), on the subject of election expenditure of candidate.

In the above referred letter dated 29th March, 2007, it was clarified that expenditure incurred by the political parties which is relatable to the election of a particular candidate or a group of candidates shall be treated as expenditure authorized by the candidates concerned and the same should be accounted for in the election expenses accounts of the candidates concerned. It is seen that, as part of propaganda/advertisement, the political parties put up advertisement hoardings with photographs of party functionaries/leaders. In such cases, it is clarified that when such advertisement material containing reference to or photograph of particular party leaders are put up in the area falling within the constituencies where such leaders are themselves candidates contesting election, the expenditure on such material appearing within the constituencies concerned will be booked to their election expenses account for the purposes of Sections 77 and 78 of the Representation of the People Act, 1951. This position may be made clear to all candidates of the party and to the cadres of the party at all levels.

Yours faithfully,

(K.F.WILFRED)
SECRETARY

Copy to the Chief Electoral Officers of all States and U.T.s with the request to furnish a copy of this letter to each of the political parties based in the State.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.23/BLA/2008/ERS/

Dated 19th November, 2008

To

The President/Secretary,
All the National and State
Recognised political parties.
(As per list attached)

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

Sir,

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

2. In all the States and Union Territories, except Assam, Nagaland and Jammu & Kashmir, the photo of the elector is also printed in the electoral roll (Photo electoral Roll). The Commission is determined to prepare the electoral rolls as accurately as possible. To achieve the objective, it desires active cooperation of political parties and public right from the beginning of the process of revision.

3. You are aware that two copies of the draft electoral roll, one printed copy and another in CD, are supplied to recognised political parties under the provisions of rule 11 of the R.E. Rules, 1960 immediately after publication of the draft roll. As per the existing practice these copies are supplied to the representatives of recognised political parties by the CEO/DEO/ERO. The political parties are expected to get the list verified through their party workers and bring to the notice of the EROs the discrepancies, if any, therein to enhance the fidelity of the roll.

4. It has, however, been the experience that not many parties come forward to point out the discrepancies in the draft roll, till after final publication of electoral roll in an election year. It goes without saying that if the discrepancies are brought to the notice of the ERO immediately after draft publication, he can take appropriate action to set these right before final publication of the electoral roll.

5. It is observed that the electoral rolls provided to the office bearers of the political parties, for one or other reason, are not reaching the grass root level workers. The factors affecting the fidelity of the electoral roll such as the presence of the names of the

dead voters in the electoral roll, the presence of shifted voters in the electoral roll can indeed be attended to if only the inputs are available from the grass root level.

6. As you are already aware, in order to enhance the fidelity of the electoral roll through a grass root level feedback mechanism, the Election Commission of India introduced recently a system of appointing Booth Level Officers (BLO). The BLOs are election officials responsible for accuracy of electoral rolls at polling station level.

7. In order to enhance the participation by the recognised political parties in roll revision, the Commission has desired that you may appoint one Booth Level Agent (BLA) for roll revision on the pattern of appointment of Polling Agents during polling (and Counting Agents during counting) to complement the BLO. In this regard, each recognised political party is expected to take the following actions: -

7.1 Every recognised political party through its President or Secretary or any other office bearer of the party shall authorize one **district representative** to appoint Booth Level Agents (BLAs). The specimen of the authorization Form is annexed herewith as **Form ID : BLA 1**. The Form must be signed, in ink only.

7.2 The authorized district representative of political party will further appoint **Booth Level Agents (BLAs) for each Polling Station in Form ID : BLA 2**. The BLA will collect one printed copy of relevant Part(s) of the draft electoral roll from the Designated Officer/Booth Level Officer. The specimen of the authorization Form is annexed herewith as **Form ID : BLA 2**. The Form must be signed, in ink only.

7.3 Normally, one **BLA** may be appointed for each part of electoral roll. The BLA must be a registered elector in the relevant part of the draft electoral roll for which he/she is appointed as it is expected that the BLA will scrutinize the entries in the draft roll of the area where he resides to identify entries of dead persons and shifted persons.

7.4 No person in the service of the Government or a local authority or a PSU can act as Booth Level Agent.

7.5 One **BLA** may be appointed for more than one part of electoral roll provided the polling stations for the corresponding parts of electoral roll are set up within the same polling station location. In case, due to unavoidable reasons, one **BLA** is authorized to receive printed draft electoral roll in respect of more than one part of electoral roll, then separate authorization in Form ID : BLA 2 should be given for each such part of electoral rolls.

7.6 The BLA will handover the appointment letter in prescribed Form to Designated Officer/Booth Level Officer at the polling station location after draft publication of electoral roll.

7.7 On the strength of the appointment letter, the Designated Officer/Booth Level Officer will handover a printed copy of the relevant part(s) of the electoral roll

to the BLA under proper acknowledgement only after production of the appointment letter by the BLA.

- 7.8 The printed copies of each part of electoral roll to be supplied to the BLAs are the copies of electoral roll required to be supplied free of cost to every recognised political party under rule 11 of R.E. Rules, 1960. The second copy of the complete roll in CD will be supplied to the political party by the CEO/DEO/ERO, as the case may be, from their headquarters.
- 7.9 In case no BLA is appointed by a political party for any part of electoral roll, then the copy of the draft electoral roll for that part of electoral roll will not be handed over to any other person by the DO/BLO. In respect of those parts of electoral roll for which no Booth Level Agents (BLAs) could be appointed in **Form ID: BLA 2** by the political party, the printed copy of electoral roll for those parts may be collected from the office of the ERO by the authorised representative of the party. The party representative will hand over a list of those parts of electoral roll for which they have appointed BLA and another list where no BLA could be appointed.
- 7.10 The BLAs will not receive claims and objections from public. They will only guide the public to file appropriate applications for inclusion, deletion, correction and transposition of entries in the electoral roll. No repeat no bulk applications shall be collected and presented by the BLAs.
- 7.11 The authorized BLAs of all recognised political parties will be required to be present on the special campaign days fixed generally on holidays for receipt of claims and objections under the aegis of Designated Officers/BLOs. On these dates, the BLO will go through the draft electoral roll with the BLAs of recognized political parties of State concerned and identify the corrections etc.
- 7.12 The BLAs can list out the dead and shifted voters through house to house survey or any other means and present the list to the Designated Officers / BLOs in the format prescribed with this letter. They should give an undertaking that the information furnished by them is on the basis of verification conducted by them and they are liable for action under section 31 of the Representation of the People Act, 1950 for making false declaration, if any.
- 7.13 The BLAs will motivate the electors within the jurisdiction of the part of the electoral roll to come forward to inspect the draft roll during the period when it is displayed and file applications for correction, deletion and transposition of entries. Similarly, they may guide newly eligible electors of 18 years of age and above and those persons who might have shifted in from other places to file applications for inclusion of their names.
- 7.14 The appointment of a BLA shall not be revoked during the revision process except in very unavoidable circumstances like death cases. In case a new BLA is appointed by the authorized representative then the copy of the draft roll already supplied to the previous BLA shall be used for reference

purpose. The Designated Officer/BLO will not supply another copy of the relevant part of draft electoral roll if a copy has already been supplied earlier.

7.15 In case any political party so wishes they may also issue photographed Identity Cards to their BLAs with signature of the authorised representative empowered by the party to appoint BLAs.

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

Kindly acknowledge receipt.

Yours faithfully,

(Ritvik Pandey)
Secretary

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

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

(Ritvik Pandey)
Secretary

FORM ID : BLA 1

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

To

1. The Chief Electoral Officer,
.....(State/Union Territory).

2. The District Election Officer,
.....
.....(State/Union territory)

3. The Electoral Registration Officer,
ofassembly constituency.

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

Sir,

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

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

2. The specimen signatures of the above mentioned person (s) so authorised are given below:-

(1) Specimen signatures of Shri
(i) (ii)
(iii)

(2) Specimen signatures of Shri
(i) (ii)
(iii)

(3) Specimen signatures of Shri
(i) (ii)
(iii)

Yours faithfully,

President/Secretary
Name of the Party

Place

Date

(Seal of the Party)

NB.

1. This must be delivered to the Electoral Registration Officer, District Election Officer and the Chief Electoral Officer concerned by 3 p.m. **within 7 days of announcement** of the scheduled date for draft publication

2. Form must be signed in ink by the office bearer (s) mentioned above. No facsimile signature or signature by means of rubber stamp, etc., of any office bearer shall be accepted.

3. The seal of the party must be put.

4. No form transmitted by fax or e-mail shall be accepted.

FORM ID : BLA 2

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

To

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

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

Sir,

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

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

Specimen signatures of Shri/Smt./Kum.

.....

(i) (ii)

.....

(iii)

Yours faithfully,

Place:
the
Date :
Party)

(Name and Signature of
Authorised person of the

(Seal of the Party).

N.B.

1. This must be delivered to the Designated Officer/Booth Level Officer appointed by the Electoral Registration Officer for the part of the electoral roll on draft publication of electoral roll at the designated location any time commencing from the date of draft publication of the roll till the last date for filing claims and objections.

2. Form must be signed in ink by the authorised person mentioned above. No facsimile signature or signature by means of rubber stamp, etc. shall be accepted.

3. This Form must be presented in person before the Designated Officer/Booth Level Officer

FORMAT FOR FURNISHING LIST OF DEAD VOTERS

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

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

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

Date:

(full signature of BLA)

Name in full:

Name of the Party:

FORMAT FOR FURNISHING LIST OF SHIFTED ELECTORS

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

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

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

Date:

(full signature of BLA)

Name in full:

Name of the Party:

FORM OF ACKNOWLEDGMENT

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

Date :

(full signature of BLA)

Name in full:

Name of the Party:

ELECTION COMMISSION OF INDIA

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

Letter No. 23/BLA/2008/ERS

Dated 28th November, 2008

To

The President/Secretary,
All the National and State
Recognised political parties.
(As per list attached)

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

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

Madam / Sir,

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

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

Yours faithfully,

(Ashish Chakraborty)
Under Secretary

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

Election Commission's letter No. 3/7/2008/JS-II Dated 07.10.2008 addressed to The President/Secretary, All the National and State Recognised political parties and copy endorsed to the Chief Electoral Officers of all states/UTs.

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

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

2. In the past, the Commission has suggested the enactment of special laws by state governments for dealing with defacement of properties effectively. Some states have enacted special legislations to govern and regulate defacement of property, while the other states have legislation that either only cover specific areas, like municipalities etc, or have no legislation at all. A tabular statement on respective positions obtaining in the states in this respect based on the information available in the Commission is enclosed in the schedule appended to this circular (marked as Annexure-1). Since a uniform law throughout the country is not available, what is enforceable differs from state to state. Keeping in view the forthcoming general election to the Lok Sabha due in 2009, it has become necessary to lay down, for smooth conduct of campaign during elections and for clear understanding of all authorities who have the responsibility for the implementation at the field level as also of the observers who are deputed to oversee the elections in different states/constituencies, a comprehensive set of guidelines with respect to defacement of property.

3. After considering all aspects of the matter in depth, the Commission has, in **supersession of the earlier instructions**, laid down the following directions, to be followed by political parties, candidates, individuals and organizations etc. during the election period:

DEFACEMENT OF PUBLIC PLACES

4. (a) No wall writing, pasting of posters/papers or defacement in any other form, or erecting/displaying of cutouts, hoardings, banners flags etc. shall be permitted on any Government premise (including civil structures therein). For this purpose a Government premise would include any Govt. office and the campus wherein the office building is situated.

(b) If the local law expressly permits or provides for writing of slogans, displaying posters, etc., or erecting cut-outs, hoardings, banners, political advertisement, etc., in any public place, (as against a Govt. premise) on payment or otherwise, this may be allowed strictly in accordance with the relevant provisions of the law and subject to Court orders, if any on this subject. It should be ensured that any such place is not dominated/monopolized by any particular party(ies) or candidate(s). All parties and candidates should be provided equal opportunity in this regard.

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

DEFACEMENT OF PRIVATE PLACES

5. (a) In the States where there is no local law on the subject, and subject to the restrictions under the law where there is a law, temporary and easily removable advertisement materials, such as flags and banners may be put up in private premises with the voluntary permission of the occupant. The permission should be an act of free will and not extracted by any pressure or threat. Such banner or flag should not create any nuisance to others. Photo-copy of the voluntary permission in writing obtained in this connection should be submitted to the Returning Officer within 3 days of putting up the flags and banners in such cases in the manner prescribed in sub-para(c) below.

(b) If the local law does not expressly permit wall writing, pasting of posters, and similar other permanent/semi-permanent defacement which is not easily removable, the same shall not be resorted to under any circumstances, even on the pretext of having obtained the consent of the owner of the property. This will also apply in the states where there is no local law on the subject of prevention of defacement of property.

(c) Where the local law expressly permits wall writings and pasting of posters, putting up hoardings, banners, etc. on private premises with the owner's permission, the contesting candidates or the political parties concerned shall obtain prior written permission from the owner of the property and submit photocopies of the same within 3 days to the Returning Officer or an officer designated by him for the purpose, together with a statement in the **enclosed proforma** (marked as Annexure-2). The statement in such cases and in the cases mentioned in sub-para (a) above should clearly mention therein the name and address of the owner of the property from whom such permission has been obtained together with expenditure incurred or likely to be incurred for the purpose. Nothing inflammatory or likely to incite disaffection amongst communities shall be permissible in such writings/display.

The expenditure incurred in this mode on specific campaign of candidate(s) shall be added to the election expenditure made by the candidate. Expenditure incurred on exclusive campaign for a party without indicating any candidate shall not be added to candidates expenditure. The contesting candidate shall furnish such information village/locality/town-wise, to the Returning Officer, or the authorized officer within 3 days of obtaining the requisite permission, for easy checking by the Returning Officer or the Election Observer or any officer connected with the conduct of elections.

(d) Subject to any restrictions under any local law or any court orders in force, the political parties, candidates, their agents, workers and supporters may put up banners, buntings, flags, cut-outs, on their own property, provided they do so on their own volition, voluntarily and without any pressure from any party, organization or person, and provided further that these do not cause any inconvenience in any manner to

anyone else. If such display of banners, flags etc. aims to solicit vote for any particular candidate, then the provisions of Section 171H of the IPC would be attracted and would have to be followed. Section 171H of the IPC stipulates that whoever without the general or special authority in writing of a candidate incurs or authorises expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees: Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

DEFACEMENT OF HALLS/AUDITORIUMS AND OTHER PUBLIC PROPERTIES

6. In the case of Halls/Auditoriums/Meeting venues owned/controlled by the Government/local authorities/PSUs/Cooperatives, if the law/guidelines governing their use do not preclude political meetings therein, there is no objection to it. It shall be ensured that the allocation is done on equitable basis and that there is no monopolization by any political party or candidates. In such venues, displaying of banners, buntings, flags, cut-outs, may be permitted during the period of meetings subject to any restrictions under the law/guidelines in force. Such banners, flags, etc. shall be got removed by the party/individual who used the premises immediately after conclusion of the meeting, and in any case within a reasonable period after the meeting is over. Permanent/semi-permanent defacement such as wall writing/pasting of posters etc. shall not be permitted in such premises.

7. If any political party/association/candidate/person indulges in defacement of any property in violation of the local law, if any, or the above instructions, the Returning Officer/ District Election Officer shall issue notice to the offender for removing the defacement forthwith. If the political party/association/candidate/person does not respond promptly, the district authorities may take action to remove the defacement, and the expenses incurred in the process shall be recovered from the political party/association/candidate/person responsible for the defacement. Further, the amount also shall be added to the election expenditure of the candidate concerned, and action should also be initiated to prosecute the offender under the provisions of the relevant law (under the law relating to prevention of defacement, if any, or under the provisions of the general law for causing willful damage to the property of others).

DEFACEMENT OF VEHICLES

8. (a) In private vehicles, subject to the provisions of the Motor Vehicles Act, Rules thereunder and subject to court orders in force, if any, flags and stickers may be put on the vehicles by the owner of the vehicle on his own volition, in such a manner that they do not cause any inconvenience or distraction to other road users. If such display of flags and stickers aims to solicit vote for any particular candidate, then the provisions of Section 171H of the IPC would be attracted and would have to be followed.

(b) On commercial vehicles, display of any flag, sticker etc. shall not be permitted, unless such vehicle is a vehicle validly used for election campaign after obtaining the

requisite permit from the District Election Officer/Returning Officer and the display thereof in original on the wind screen.

(c) External modification of vehicles including fitting of Loudspeaker thereon, would be subject to the provisions of the Motor Vehicles Act/Rules and any other Local Act/Rules. Vehicles with modifications and special campaign vehicles like Video Rath etc., can be used only after obtaining the requisite permission from the competent authorities under the Motor Vehicles Act.

OTHER CAMPAIGN RELATED ITEMS

9. Subject to accounting for the expenditure, the following may be permitted:-

(a) In processions and rallies etc., flags, banners, cutouts etc. can be carried subject to local laws and prohibitory orders in force;

(b) In such procession, wearing of party/candidate supplied special accessories like cap, mask, scarf etc. may be permitted. However, supply of main apparels like saree, shirt, etc. by party/candidate is not permitted.

(c) Educational institutions including their grounds {whether Govt. aided, private or Govt.} shall not be used for political campaigns and rallies.

10. The Chief Electoral Officers are requested to bring the directions of the Commission to the notice of the District Election Officers, Returning Officers and all other election related authorities, and all political parties in the State, including State units of recognized National and State parties, and all registered un-recognized parties based in the State, and also the contesting candidates (at the time of elections) for information and compliance.

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

Annexure-1

Defacement of Properties – Law

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

9.	Jammu & Kashmir	The Jammu & Kashmir Prevention of Defacement of Property Act No. XIX of 1985.	It extends to the entire State.
10.	Karnataka	The Karnataka Open places (Prevention of Disfigurement) Act, 1981 as amended vide Act of 1983.	It extends to Banglore, Mysore, Hubli, Dharwar, Mangalore and Belgaun constituted or continued under the Karnataka Municipal Corporation Act - 1976, or under any other law on 5.5.81 and come into force in the Municipalities, notified areas, sanitary Boards, constituted or continued under the Karnataka Municipalities Act - 1964, or under any other law, or in any other local area, on such date, as the State Govt. may by notification appoint.
11.	Madhya Pradesh	The Madhya Pradesh Sampatti Virupan Nivaran Adhiniyam, 1994.	It extends to the entire State.
12.	Maharashtra	Maharashtra Act No. VIII of 1995 – regarding Prevention of Defacement of Property	Nothing is specifically mentioned about the extent of applicability.
13.	Mizoram	The Mizoram Prevention of Defacement of Property Act, 1995.	It extends to the entire State.
14.	Nagaland	The Nagaland Prevention of Defacement of Property Act, 1985.	It extends to the notified areas constituted under the Assam Tribal Areas (Administration of Tow Committee) regulation 1950, or in any other local area or areas, on such date, as the State

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

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

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

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

Annexure-

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

Name of the Village / Town / Locality _____

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

Election Commissioner's Letter No. 3/7/2008/J.S.-II/SDR Dated 10.11.2008 addressed to The President/Secretary, All the National and State Recognised political parties and copy endorsed to the Chief Electoral Officers of all states/UTs.

Sub:- Instructions on defacement of property- regarding.

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

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

Defacement of private property

Where there is a Law which prohibits defacement

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

Where the Law permits defacement of private property

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

Where there is no Law on defacement

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

Please acknowledge receipt of this letter.