

By Speed Post

# ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi – 110001.

No. 322/ LC/INST/2010-CC&BE

Dated : 24<sup>th</sup> February, 2010

To

The Chief Electoral Officers

1. Maharashtra, Mumbai,
2. Uttar Pradesh, Lucknow,
3. Bihar, Patna,
4. Karnataka, Bangalore,
5. Andhra Pradesh, Hyderabad.

Subject: Biennial/Bye- Elections to the Legislative Councils from Council Constituencies  
Instructions - regarding.

Sir,

I am directed to state that in connection with the Biennial elections/bye-elections to the State Legislative Councils, the Commission has directed that the following instructions shall be scrupulously implemented:-

## 1. ELECTORAL ROLLS {for Local Authorities' Constituencies}

- i) Under Rule 30 (1) of the Registration of Electors Rules, 1960, the Commission has directed that the electoral rolls of the Local Authorities, Constituencies required to be maintained by the Electoral Registration Officer of the Local Authorities, Constituency concerned under Section 27 (2) (c) of the Representation of the People Act 1950, shall be prepared and maintained in the following format :-

Name of the Local Authorities Constituency:

S.No.	Name of the elector	Sex	Age	Father's/Husband's /Mother's or other relation's name	Educational status	Name of the Local Authority of which he/she is a Member

- ii) For this purpose the Chief Executive Officer of the Local Authority while furnishing the list of members of the Local Authority under section 27(2)(d) of the Representation of People Act, 1950 indicate the educational status of the each member; that is to say whether the member is able to read names on any papers and write figures 1, 2, 3, etc.
- iii) The electoral roll shall be prepared in the official language of the State and in English. The Commission has further directed that the electoral rolls shall be published by the Electoral Registration Officer in his office and also in the offices of the Local Authorities comprised in the Local Authorities Constituency, immediately inviting claims and objections by giving a minimum of seven days for the purpose. Any claims (in Form 17 ) and objections received within the time fixed shall be disposed of by the ERO within a period of three days and the roll shall be again published after incorporating the claims and objections accepted within three days thereafter and in any case before the last date for filing of nominations. The provisions of Section 23(3) of RP Act 1950 will also apply in this case, i.e. **no** addition/deletion/amendment shall be made in the electoral roll after 3.00 P.M. on the last date for filing of nomination.

## **.2. POLLING STATIONS for Local Authorities' Constituencies**

For closer monitoring and management of elections, it has been decided that polling stations shall be set up at sub-divisional level. An immediate review of the existing polling stations for the Local Authorities, Constituencies shall be undertaken by the DEO and fresh proposals shall be forwarded to the Commission for approval, after consulting all political parties.

## **3. CONDUCT OF ELECTIONS in all Council Constituencies:-**

**(1) Model Code of Conduct:** The Commission has directed that the following provisions of Model Code of Conduct shall be strictly implemented immediately on the announcement of elections and will be in force till the completion of the elections:

- i) Ministers, whether Central or State, shall not make any official visit in any district(s) in which any Biennial/Bye-election from a Council Constituency is being held. If for any special reason, an official visit becomes unavoidable, they shall return to their headquarters on completion of their official tours before going on any private tour/visit to the Constituency.

- ii) No official of any rank of the district(s) dealing with election related work where the biennial/bye-elections are being held shall be called to attend any meeting by any Minister at any place; that is to say, even in the other districts where election is not being held.
- iii) No member of any Local Authority which forms part of the electorate of a Local Authorities' Constituency shall be called for any official meeting by any Minister/Political functionary. Routine meetings of the Local Bodies, when essential, may be held with the prior permission of the District Election Officer of the District concerned.
- iv) Any official who meets the Minister on his private visit to the constituency where elections are being held shall be deemed to be guilty of misconduct under the relevant service rules; and if he happens to be an officer mentioned in Section 129 (1) of the Representation of People Act, 1951, he shall also be additionally considered to have violated the statutory provisions of that section and liable to penal action provided thereunder.
- v) No pilot car(s) or car(s) with beacon lights of any colour or car(s) affixed with sirens of any kind making his presence conspicuous shall be used by any Minister during his private visit to the constituency, even if the State administration has granted him a security cover requiring presence of armed guards accompanying him on tour.
- vi) No policy announcement or programme would be initiated in the Government Departments related to the constituents of the election under reference. For example, if the election is from a Local Authorities' Constituency, no programme or policy could be initiated by Urban or Rural Local Bodies Department. Likewise, for Teachers' Constituencies, no new policy or programme will be initiated/ announced by the Education Department dealing with the teachers. In the case of elections from Graduates' Constituencies, no programme/ policy likely to influence the graduates, shall be announced, such as Un-Employment Allowance, new Employment Schemes, etc.
- vii)** The Commission has directed that a special video team shall be put in place for every Tehsil. Every political meeting shall be videographed. Ministers and other important political functionaries visiting the District shall be video-trailed. Copy of the video

recording shall be given to the Observers by the evening of the same day. The Observers will go through it and report any violation to the Commission. The Observers will submit reports as per the seven formats prescribed for Assembly/Parliament Elections.

#### **4. BAN ON TRANSFER OF OFFICERS**

There shall be a total ban on the transfer of Returning Officers and Assistant Returning Officers appointed for Biennial elections/bye-elections to State Legislative Councils after the announcement of elections and this ban will be in force till the completion of elections. The transfer orders in respect of the above officers issued prior to the date of announcement but not implemented should not be given effect to without obtaining the specific permission of the Commission. In those cases where transfer of an officer is necessary on account of administrative exigencies, the State Govt. may with full justification approach the Commission for prior clearance.

#### **5. TRAINING FOR POLLING/COUNTING OFFICIALS**

A training programme may be organized for all the Polling Officials and Counting Officials to make them thorough about the procedures of poll and counting of votes.

#### **6. ELECTION AGENTS/POLLING AGENTS/COUNTING AGENTS**

- (i) It should be ensured that no person who is employed in Govt./Semi Govt. offices nor any person who is holding a post accruing political benefit shall be allowed to be appointed as Election Agent/ Polling agent/ Counting agent of a contesting candidate.
- (ii) Election Agents/ Polling Agents/Counting Agents should not be office bearers of the Local Bodies (rural or urban local bodies) such as Sarpanchs, Pradhan, Zilla Pramukh, Mayor, Dy. Mayor etc.
- (iii) Election Agents/Polling Agents/Counting Agents should be persons from the same Legislative Council Constituency.

## **7. OBSERVERS**

It has been decided to appoint Observers for each of the Constituencies. The Commission will be appointing Observers in due course. A briefing meeting will be organized by the Commission for the Observers. The guidelines for the Observers are enclosed at **Annexure 'A'**

## **8. MICRO OBSERVERS**

The Commission has directed that micro observers shall be appointed in each polling station on the day of poll. These micro observers shall be officials of the Central Govt./Central PSUs. The Guidelines and checklist for the micro observers are enclosed at **Annexure 'B' & Annexure 'C'**.

## **9. POLL DAY PROCEEDINGS:**

- i) The poll proceedings inside all the Polling Stations shall be video-graphed on the day of poll. The videography should be continuous and uninterrupted under the supervision of an officer who would be accountable for it. While doing so, it should be ensured that the secrecy of ballot is not at all violated/compromised.
- ii) The videography must cover each and every voter as well as any accompanying person in such a way that he/she is identifiable from the video-frame itself.
- iii) The video-grapher should be properly briefed and trained by the Returning Officer/Observer. The videographer appointed for a particular polling station shall be under the control and supervision of the Micro Observer (and in his absence, the Presiding Officer) of that polling station on the day of poll. The Presiding Officer and the Micro Observer shall be responsible for the compliance of instructions related to videography at polling station.
- Iv) The video cameras should be positioned in such a way that by remaining static it can cover every voter, along with person(s) accompanying voters as well as poll proceedings inside the polling station, without compromising the secrecy of vote.
- v) The video-grapher should be issued an identity card for identification

- vi) There should be proper back-up battery, CD, Diskettes, etc., for the videography to continue uninterrupted throughout the polling hours.
- vii) No helper or companion should be allowed inside the polling booths for helping / assisting the voters except in the case of an illiterate/blind/infirm voter in accordance with rule 40A (under rule 70) of the Conduct of Elections Rule, 1961. **In case an elector wishes to avail of the facility of a companion because of his illiteracy, blindness or infirmity, he must give an advance intimation to that effect to the Returning Officer at least 3 days before the date of Poll.** The Returning Officer shall examine the eligibility of the elector for getting the facility of companion and in case the Returning find the elector eligible as per laid down provision, he/she shall indicate the same on the Electoral Roll by making a mark against the name of the elector. On the day of poll, before voting, such voters must also submit a declaration in the proforma enclosed at **Annexure 'D'** herewith that he/she is illiterate/blind/infirm and thereafter action will be taken by the Presiding Officer concerned as per Rule 40A of the Conduct of Elections Rules, 1961 and accordingly maintain a record for that purpose as per rule (Form 14A of the Conduct of Elections Rules, 1961). The provisions contained in Rule 40A of the Conduct of Elections Rules, 1961 shall be strictly followed in this regard. This list in Form 14(A) shall be scrutinized along with the other documents viz. the CDs of video, Micro Observer's report, Presiding Officer's report etc. by the Observer next day
- viii) Same person shall not be allowed to be accompanying more that one voter as provided in the first proviso to Rule 40A.
- ix) In order to ensure strict compliance of the above provisions and instructions all Micro Observers should be properly briefed and trained so that they take due care that the Presiding Officers comply with the same for proper identification of electors in accordance with the above guidelines and observance of requirement of DECLARATION made by ILLITERATE/BLIND OR OTHERWISE INFIRM ELECTORS and their companions. In case they notice any deviation / violation of the instructions of the Commission, the Micro Observer should immediately bring the same to the notice of the Presiding Officer of the polling station concerned and invariably report the incident to the Commission's Observer at the earliest for appropriate action in this regard.

- x) In case they notice any deviation/violation of the instructions of the Commission, the Micro Observer should immediately bring the same to the notice of the Presiding Officer of the Polling Station concern and invariably report the incident to the Commission's Observer at the earliest for appropriate action in this regard.
- xi) Arrangements shall be made for live web-cast of the poll process at each polling station on the poll day.
- xii) During the poll, all the voters shall have to produce either EPIC or any other identity document having photograph of the elector or their Identity Cards issued by the Local Authorities concerned of which they are members.
- xiii) During poll proceedings, voters should use only the pen provided by the Presiding Officer to record their votes in voting compartment. There shall be a total ban on carrying Mobile Phones, any type of camera viz. Digital /Pen camera etc., by any of the voters inside the Polling Stations

10. It has further been decided that instructions regarding 'How to vote in the Elections of Council Constituencies (copy enclosed at **Annexure 'E'**) may be circulated to all the voters in local vernacular.

11. The receipt of the letter be acknowledged urgently and immediate action shall be taken on each of the above instructions.

Yours faithfully

(K. AJAYA KUMAR)  
SECRETARY

**Copy to:**

Secy. (YS) for issuing instructions in respect of the Legislative Council Elections of Jammu and Kashmir.

**ANNEXURE – A**

**DUTIES & RESPONSIBILITIES OF OBSERVERS FOR BIENNIAL/BYE-ELECTIONS TO LEGISLATIVE COUNCILS**

- I. (i) To observe the process of nominations, scrutiny and withdrawal of candidatures.
- (ii) To examine the video clippings of the nomination process, if the Commission directs so, as well as to make proper investigations into the complaints received in connection with the process of nominations. Also to examine the unresolved grievances by the candidate/Political Parties.
- (iii) To submit four reports as per the Proformae enclosed.
- (iv) To check of the final list of contesting candidates.
- (v) To monitor training to ensure that proper training is arranged for the election staff, including the counting officials.
- (vi) To visit polling stations to monitor that all polling stations have been visited by election officials for verification from fitness angle. Also to verify that the list of polling stations is approved by the Commission.
- (vii) To discuss the poll, counting and security arrangements with District Election Authorities and to review the law and order issues in general.
- (viii) To monitor the Electoral Roll/Electoral College list prepared by the Electoral Registration Officer/Returning Officer as per the Conduct of Elections Rules, 1961.

II Apart from the above, the Observers should seek prior permission from the Commission every time they want to leave the headquarters on personal work or on official work not connected with performance of their duties as Observers. Any request in this regard for special permission shall be made to the Deputy Election Commissioner concerned in Secretariat of the Election Commission. Observers shall not be allowed to go on foreign trip during the period of the election process. No request in this regard should be made to the Commission. Only in case of receipt of late intimation about selection of the officer to attend a foreign training, which is duly sponsored by the DOPT as per prescribed procedure, the State Government may recommend release of such officer by substituting/sponsoring an officer of equivalent or of higher rank

III. The Observer shall also perform any other task, as assigned by Election Commission.

IV Visit Schedule of the Observer shall be as follows:-

- |   |  |
|---|--|
| (a) First Visit -   | From the last date of nominations to the last date for the withdrawal of candidatures.                 |
| (bi) Second Visit -<br>(In the case of election from council constituencies.) | For 3 days after one week of the last date for the withdrawal of candidatures.                         |
| (bii)Second Visit<br>(In the case of elections by MLAs)                       | For one day after three days of the last date for withdrawal of candidatures                           |
| (c) Third Visit -   | From the date prior to the day of actual poll and till the counting of votes and declaration of result |

## OBSERVER REPORT-1

(To be submitted after the last date for the withdrawal of candidature(s))

Name of Constituency				
State				
1	Is there any critical event	Yes	No	If yes, give details
2	Electoral Roll (for Graduates' & Teachers' Constituencies)/Electoral College for Local Authorities by MLAs etc. already finalised/available for use.	Yes	No	If no, give details
3	Affidavits uploaded on CEO web site, put on notice boards and published	Yes	No	-do-
4	Arrangements for ballot paper printing	Done	Not done	-do-
5	Preparation of list of polling personnel	Done	Not done	-do-
6	Schedule for training of polling personnel finalised or not	Done	Not done	-do-
7	Adequate preventive steps taken for maintenance of Law & Order	Done	Not done	-do-
8	Whether the election machinery is aware of Conduct of Elections Rules, 1961	Yes	No	-do-

Overall observation - (Indicate any arrangements not made, requiring improvements, overall coordination assessment) Indicate areas of concern.

**Date:**

**Place:**

**Signature of the Observer**

## OBSERVER REPORT-2

(To be submitted 3 days before the poll)

### POLL PREPAREDNESS REPORT

Name of Constituency	
State	

1	Whether all the materials for actual poll ready ?	Yes	No	If no, indicate present position
2	Whether polling parties formed?	Yes	No	-do-
3	Whether approval of list of polling stations obtained from the Commission ?	Yes	No	-do-
4	Whether approval for counting centre obtained from the Commission ?	Yes	No	-do-
5	Whether appointment and training of officials done ?	Yes	No	-do-

Any special input: -

Date:

Place:

**Signature of the Observer**

## OBSERVER REPORT-3

(To be submitted after counting of votes is over and the result is declared)

Name of Constituency	
State	

1	Whether poll was conducted as per procedure laid down under the law ?	
2. (a)	Whether poll vitiated in any polling stations	
(b)	If so, details	
(c)	Whether the repoll was ordered by the Commission ?	
3.	Whether the counting of votes was done as per procedure laid down under law ?	
4. (a)	Whether any request for recount of votes received ?	
(b)	If yes, whether it was accepted by RO ?	
(c)	Whether R.O. recorded reasons for accepting/ rejecting request for recount.	
5	Whether the Commission's permission was obtained before commencement of counting of votes and declaration of result.	

Any other irregularity noticed -

Date:

Place:

**Signature of Observer**

## OBSERVER REPORT-4

(Departure Report)

Date of reporting by the Observer in the Constituency for election duty

Date of departure of Observer

Was there any break by the Observer from the duty ?

If Yes, give details

Was there any late reporting to duty ?

If yes, by how many days ?

Date:

Place:

**Signature of Observer**

## **Guidelines for Micro Observers**

1. Observers have a very crucial role to play in the conduct of an independent, free and fair election. To strengthen the system of observation, the Commission has consciously decided to deploy Micro Observers at each and every Polling Station of the Council Constituency. These Micro Observers would directly work under control and supervision of the General Observer of the Commission.
2. For deployment as Micro Observer, the Returning Officer will obtain the list of Gazetted Officers/officials of Government of India / Public Sector Undertakings from different offices in the district. Such Gazetted officers / officials will be eligible to be deployed as Micro Observer. In case Gazetted officers are not sufficient in number, Group 'B (Non-Gazetted)' or Group 'C' employees and above can also be utilized for this purpose.
3. There shall be a nodal officer identified by the Returning Officer for Micro Observers to handle logistics and deployment related tasks of Micro Observers in each district. General Observers will be in close touch with them for their requirements of Micro Observers relating to their constituencies.
4. Each Micro Observer shall be given a photo-pass and identity card by the Returning Officer to ensure his access to the polling stations.
5. Observers will arrange and train their Micro Observers. The officer selected for the job of Micro Observer may not be aware of different aspects of election process. Therefore, a basic training of election processes on the day of the poll shall have to be given to them. This should enable them to understand and observe the activities relating to election on the day of the poll. Since the Micro Observer shall be reporting to the Observer alone, it will be the responsibility of the Observers to ensure that they are trained properly on the relevant and crucial issues. The Returning Officers will organize the training of these Micro Observers.

6. The required number of officers for deployment as Micro Observer would be picked up randomly from the list of all eligible officers. Further the assigning of polling stations also will be done in random manner a day prior to the day of departure in presence of the Observer and duly approved by him.

7. The Returning Officer should ensure that the Micro Observers are separately dropped to their destinations. Micro Observer should be provided with an Identity card, entry pass to his/her polling stations, and such other requirements as may be necessary for discharge of duties as per the direction of the Commission.

8. On the day of poll the Micro Observer should reach the polling station at least one hour before the commencement of the poll. If for certain reason it is not possible to reach in the morning, he should reach in the evening of the previous day.

9. Having reached the polling station he should assess the preparedness for the poll. During the poll day he should regularly note down the important points on the pre printed Performa (a Performa for this is appended). It is made absolutely clear that in no case the Micro Observer will act as presiding officer or the polling officer. His task is to observe that election process is being carried out in a free and fair manner and there is no vitiation of any kind.

10. In the process of observation on the day of the poll, the Micro Observer should specially observe: -

- Presence of Polling Agents and observance of ECI instructions with regard to them,
- Observance of videography in the Polling Station without compromising secrecy of votes,
- The observance of entry pass system and access to Polling Station,
- Proper identification of electors in accordance with ECI guidelines,
- Identification and recording procedures for the Absentee, Shifted and Duplicate voter's list (ASD list),
- Noting down particulars of electors in Counterfoil of Ballot Papers,
- Issuance of ballot papers to electors
- Secrecy of voting,

- Observance of DECLARATIONS made by ILLITERATE/BLIND OR OTHERWISE INFIRM ELECTORS and their companions.
- Conduct of polling agents, their complaints, if any, etc.

11. During the poll, if the Micro Observer feels that the poll is being vitiated for any reason, he will immediately bring it to the notice of Observer through whatever means of communication is available, for example, phone or wireless or any other means.

12. After the poll process is over, the Micro Observer will report to the Observer in the format as enclosed as Annexure II at the collection center and hand over his envelop containing the report for the day personally to the Observer and brief him/her on any thing of importance that had happened during the day.

13. Observers will go through the report and if any further clarification is required then he should arrange for the Micro Observer to be called for ascertaining those further details.

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## Checklist for Micro Observers

- i) Whether more than one polling agent from the same candidate were present inside the polling station at any time?
- ii) Whether the entry pass system was enforced properly? Whether any unauthorized person was inside the polling station at any point of time?
- iii) Whether identity of each elector was properly checked?
- iv) Whether events are recorded from time to time as and when they occur in the Presiding Officer's Diary?
- v) Whether only one ballot paper was issued to each voter?
- vi) Whether the Presiding Officer or Polling Officer was going towards voting compartment or giving any undue instructions to the voters?
- vii) Whether copies of accounts of votes recorded have been given to the polling agents?
- viii) Whether videography of the poll proceeding done without compromising secrecy of voting and voting compartment was properly placed to ensure secrecy of voting?
- ix) Whether any complaint by polling agent, election agent or any political party was received? If yes it's substance.
- x) Any other incident or issue that you would like to highlight
- xi) Whether any unauthorized and ineligible person has been allowed to accompanying the infirm/blind/illiterate voter by the Presiding Officer.

Signature\_\_\_\_\_

Name (in full) :\_\_\_\_\_

Designation :\_\_\_\_\_

Phone No. :\_\_\_\_\_

Date & Time :\_\_\_\_\_

**Annexure 'D'**

**DECLARATION BY ILLITERATE/BLIND OR OTHERWISE INFIRM ELECTOR**

I, \_\_\_\_\_ S/D/W/o \_\_\_\_\_ R/o :  
\_\_\_\_\_, do hereby solemnly affirm and declare  
that I am unable to read the ballot paper or to record vote thereon in accordance with Rule 37A of  
the Conduct of Elections Rule, 1961 by the reason of illiteracy/blindness/other infirmity.

Signature/Left Hand Thumb Impression of elector\_\_\_\_\_

Name of Elector\_\_\_\_\_

Part No. & Serial No. in the Electoral Rolls\_\_\_\_\_

Declaration given in my presence

Signature of Presiding Officer

HOW TO RECORD VOTES  
AT ELECTIONS TO LEGISLATIVE COUNCIL

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1. To vote, use only the *violet sketch pen*, supplied to you along with the ballot paper. **Do not use** any other pen, pencil, ball-point pen.
  
2. Vote by placing the figure “1” in the column marked '*order of preference*' provided opposite the name of the candidate you have chosen as your first preference.
  
3. ***Even if the number of candidates to be elected is more than one, the figure “1” shall be put opposite the name of only one candidate.***
  
4. You have as many preferences as there are contesting candidates irrespective of the number of candidates to be elected.
  
5. Indicate your further preferences for the remaining candidates by placing the subsequent figures 2,3,4 etc., in the order of your preference.
  
6. Put only one figure opposite the name of any candidate. Same figure should ***not be put*** opposite the names of more than one candidate.
  
7. ***Preference shall be indicated in figures only, i.e. 1,2,3, etc., and shall not be indicated in words, one, two, three, etc.***
  
8. Figures may be marked in the international form of Indian numerals like 1,2,3, etc., or in the Roman form I, II, III, etc., or in the form used in any Indian Language, **recognized** in the Eighth Schedule to the Constitution.
  
9. **DO NOT** sign or initial or write your name or any words on the ballot paper. Also, **do not** put your thumb impression.

10. DO NOT PUT 'tick' mark or 'cross' mark like "✓" or "×" to indicate your preferences. Such ballot paper will be rejected.

11. To make your ballot paper valid, you should indicate your first preference by placing figure "1" against one of the candidates. The other preferences are only optional and not compulsory.

