

By Speed Post

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110 001

No. 100/CS-MT/1/2012-CC&BE

Dated:24th January, 2013

To

The Chief Electoral Officer,
Maharashtra,
Mumbai.

Subject: - Bye -election to the Council of States from Maharashtra – Declaration of 'Dry Day'- regarding.

Sir,

Kindly refer to your letter No. Bye(Council of State)-2012/CR.282(1)/12/33, dated 27th December, 2012, on the subject cited above, wherein you have sought a clarification from the Commission whether under Section 135 of the Representation of the People Act, 1951, it is required to issue orders to the concerned authorities about declaration of 'Dry Day' for the aforesaid election. I am directed to clarify that under Section 29 of the Representation of the People Act, 1951 read with Rule 69 of the Conduct of Election Rules, 1961, a place of poll is fixed for conducting poll in respect of election to the Council of States and the State Legislative Councils by MLAs. As per Section 135C, "dry day" is to be declared in Polling Areas and polling area is defined in Section 25 of the Representation of the People Act, 1951, which is applicable to elections from Constituencies i.e. for elections to Lok Sabha, Legislative Assemblies and elections to Legislative Councils from Graduates', Teachers' and Local Authorities' Constituencies. These do not apply to elections to Council of States and Legislative Council by MLAs where there are no constituencies.

As such provisions of Section 135C of the Representation of the People Act, 1951 are not applicable in elections to the Council of States and Legislative Councils by MLAs, and therefore, declaration of 'Dry Day' for election to the Council of States or Legislative Councils by MLAs is not required.

Yours faithfully,


(DILIP K. VARMA)
UNDER SECRETARY

Copy to the Chief Electoral Officers of all States (except Maharashtra) and NCT of Delhi & UT of Puducherry.