

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. : 470/2009/EPS

Dated : 22nd January, 2009

To

The Chief Electoral Officers of all
States and Union Territories.

Sub.: General Election to Lok Sabha-2009-Counting of Votes – **Role of
Commission's Observers** – Regarding.

Sir,

I am directed to invite your attention to section 64 of the Representation of the People Act, 1951 which provides that at every election where a poll is taken, votes shall be counted by, or under the supervision and direction of, the returning officer. Each contesting candidate, his election agent and his counting agent shall have a right to be present at the time of counting. Similarly, section 20-B of the RP Act, 1951 (*ibid*) provides the following:-

(1) The Election Commission may nominate an Observer who shall be an officer of Government to watch the conduct of election or elections in a constituency or a group of constituencies and to perform such other functions as may be entrusted to him by the Election Commission.

(2) The Observer nominated under sub-section (1) shall have the power to direct the returning officer for the constituency or for any of the constituencies for which he has been nominated, to stop the counting of votes at any time before the declaration of the result or not to declare the result if in the opinion of the Observer booth capturing has taken place at a large number of polling stations or at places fixed for the poll or counting of votes or any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the returning officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with to such an extent that the result of the poll at that polling station or place cannot be ascertained.

(3) Where an Observer has directed the returning officer under this section to stop counting of votes or not to declare the result, the Observer shall forthwith report the matter to the Election Commission and thereupon the Election Commission shall, after taking all material circumstances into account, issue appropriate directions under section 58A or section 64A or section 66.

2. The Observers nominated by the Election Commission and deployed in the concerned constituencies during the election process, have been provided special responsibility to oversee and supervise the counting process under the statutory provisions as referred to above. They have also been empowered to stop the counting process at any time before the declaration of result or may direct the Returning Officer/Assistant Returning Officer not to declare the result under difference circumstances as envisaged in the law.

3. I am, therefore, directed to state that in cases where the Observer orders to stop the process of counting, a detailed report in the matter shall be furnished forthwith to the Commission by the Observer and Returning Officer concerned either jointly or seperately for seeking appropriate orders of the Commission.

4. This may be brought to the notice of all the Returning Officers and all other election related officers for their information and compliance.

Yours faithfully,

(SUMIT MUKHERJEE)
UNDER SECRETARY