

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.576/3/2011/SDR

Dated 22nd March, 2011

To

The Chief Electoral Officers of
All States and UTs

Subject: Filing of nomination papers by overseas electors - regarding.

Sir,

As you are aware the Parliament has recently amended the Representation of the People Act, 1950 vide the Representation of the People (Amendment) Act, 2010. By this amendment, a new Section (Section 20A) has been inserted in the Representation of the People Act, 1950. This new Section 20A provides that every citizen of India, who has not acquired citizenship of any other country and who is absenting from his place of ordinary residence in India owing to employment, education or otherwise outside India (whether temporarily or not), shall be entitled to have his/her name registered in the Electoral Roll of the constituency, at his/her place of residence in India as mentioned in his/her passport.

2. Consequently, amendments have been made in the Registration of Electors Rules, 1960 vide Registration of Electors (Amendment) Rules, 2011, notified vide Notification No. H-7(18)/9 8-Leg.II(Vol. IV), dated 03-02-.2011 and subsequent Corrigenda and notification dated 09.02.2011 and 23-02-2011 of the Ministry of Law & Justice.

3. In pursuance of these amendments, an overseas elector who is entitled to be registered in the roll under Section 20A of the Representation of People Act, 1950 shall be included in the part of the roll pertaining to the locality in which his place of residence in India as mentioned in his passport is located and has to submit his claim application. The claim application in Form 6A shall be submitted either in person directly to the ERO of the constituency concerned or sent by post to the ERO alongwith self attested copy of the requisite documents as mentioned in Form 6A. Necessary instructions of the Commission for processing such applications have already been conveyed to you vide the Commission's letter No.3/1/2010/SDR dated 14.2.2011 and subsequent letter dated 12-3-2011.

4. Enrolment in the electoral roll would also confer on an overseas elector the right to contest elections, subject to the fulfillment of the other requirements of the law. One of the essential qualifications prescribed under the law (Articles 84 and 173 of the Constitution, section 4(a) of the Government of UT Act, 1963, or section 4 (a) of the Government of NCT of Delhi Act, 1991, as the case may be,) is that the candidate should make and subscribe an oath or affirmation in the prescribed form, before a person authorized by the Commission in this behalf. The Commission, vide its three separate notifications dated 18th March, 1968, has notified the persons before any one of whom the candidate may make and subscribe the oath or affirmation. These notifications are reproduced in Annexure XIII of the Handbook for Returning Officers (2009 edition). The RO and ARO are among the persons so authorized for this purpose. In the case of a candidate who is outside India, the oath can be made before the diplomatic or consular representative of India in the country where the candidate happens to be. An overseas elector may approach the authorized person in the Indian Mission of the country concerned for making the oath or affirmation.

5. If an overseas elector who may file nomination papers is in India at the time of filling nomination, he may make the oath or affirmation before the RO/ARO. If a candidate who is an overseas elector appears before the RO/ARO to make the oath, the RO/ARO concerned shall ensure that the identity of the person is properly verified by carefully going through the particulars in the passport of the person. Thus, such person will necessarily have to produce his/her original passport for verification by the RO/ARO at the time of making the oath or affirmation.

6. At the time of voting also, the identity of the overseas electors has to be verified by checking the particulars in their passports. The Commission has separately issued instructions in this regard that the overseas electors shall produce their original passport when they come to the polling station for voting.

7. This may be immediately brought to the notices of all concerned.

Yours faithfully,

(K.F.WILFRED)
SECRETARY