

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi - 110001.

No. 78/2009EPS

Dated: 30th March, 2009

To,

1. The Chief Secretaries to the Government of all States and Union Territories.
2. The Chief Electoral Officers of all States and Union Territories.
3. The Secretary to the Govt. of India. M/o P.P.& P. Department of Personnel & Training. New Delhi.

Sub:- Grant of paid holiday to employees on the day of poll - regarding.

Sir,

I am directed to invite your attention to Commission's letter Nos. 78/99-PLN-I dated 06.04.1999 and to state that the Goa MRF Employees Union (Trade Union), had filed a writ Petition in the High Court of Bombay at Panaji (Goa) challenging the legality of contents of Para 4 of above said letter and the Hon'ble High Court has struck down Para 4 of the above said letter and directed concerned authorities to take appropriate action regarding declaration of holiday(s) on the poll day(s) by the Central/State Governments in connection with General Election and Bye election to the House of the People and State Legislative Assemblies.

The Representation of the People Act. 1951 amended in August, 1996 added a new Section 135B to the Act. The Section 135B is reproduced below: -

"135B. Grant of paid holiday to employees on the day of poll.

- (1) Every person employed in any business trade, Industrial undertaking or any other establishment and entitled to vote at election to the House of the people or the legislative assembly of a State shall, on the day of poll, be granted a holiday.
- (2) No deduction or abatement of the wages of any such person shall be made on account of holiday having been granted in accordance with sub-section (1) and if such person is employed on the basis that he would not ordinarily receive wages he would have drawn had not a holiday been granted to him on that day.

- (3) If an employer contravenes the provisions of sub-section (1) or sub-section (2), then such employer shall be punishable with fine, which may extend to five hundred rupees.
- (4) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged."

3. The above provisions require that all establishment and shops shall be closed on the day of poll in the Constituency where a General/bye-election is to be held. However, there may be cases where a person is ordinarily resident of the Constituency and registered as an elector, may be serving/employed in an industrial undertaking or an establishment located outside the Constituency having a general/bye election. It is clarified that in such a situation, even those electors including casual workers working outside the constituency concerned would be entitled to the benefit of a paid holiday extended under the Section 135B(1) of R.P. Act, 1951.

4. The daily wage/casual workers are also entitled for a holiday and wages on poll day as provided in Section 135B of R.P. Act, 1951.

5. The Commission desired that suitable instructions should be issued to all concerned and a copy thereof be endorsed to the Commission for its information and record.

6. The receipt of this letter may please be acknowledged.

Your faithfully.

(SUMIT MUKHERJEE)
UNDER SECRETARY