

**ELECTION COMMISSION OF INDIA**  
**NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001.**

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No.464/INST/2009/EPS

Dated:30<sup>th</sup> December, 2009

To,

The Chief Electoral Officers of  
All States and Union Territories.

Subject: Requisition of Staff for election purpose – Regarding.

Sir/Madam,

I am directed to invite your attention to provisions of section 159 of the Representation of People Act, 1951 which, inter alia, provide that on a request of the Chief Electoral Officer of the State, the authorities specified in sub-section(2) shall make available to any returning officer such staff as may be necessary for the purpose of any duties in connection with an election. Under the said sub-section(2) of the section 159, the following authorities have been specified:

- (i) every local authority;
- (ii) every university established or incorporated by or under a Central, Provincial or State Act;
- (iii) a Government company as defined in section 617 of the Companies Act, 1956;
- (iv) any other institution, concern or undertaking which is established by or under a Central, Provincial or State Act, or which is controlled, or financed wholly or substantially by funds provided, directly or indirectly, by the Central Government or a State Government.

2. Section 26 of the Representation of People Act, 1951 empowers the District Election Officers to appoint Presiding Officers and Polling Officers for polling stations falling in his district.

3. Further, under section 20A of the Representation of People Act, 1951, the District Election Officer is required to coordinate and supervise all work in the District in connection with conduct of elections. Therefore, by convention and for convenience, the District Election Officers have been requisitioning staff for conduct of election under Section 159 of the R. P. Act, 1951.

4. During the recently held general election to the Legislative Assembly of Maharashtra, the order of requisition of staff issued by the DEO and Collector of Thane district and Mumbai sub-urban district was quashed by the Hon'ble Bombay High Court in Writ Petition Nos. 8052 of 2009, No. 8039 of 2009, No. 8089 of 2009, No. 8111 of 2009, on the following grounds:-

- (i) that the action on the part of the DEOs, the Collectors in issuing of requisition orders by invoking sections 26 of R. P. Act, 1951 and 13 AA of the R.P. Act, 1950, without giving due regard to the provisions of section 159 of the R.P. Act, 1951 is improper and arbitrary; and
- (ii) that the orders of requisitioning of the staff by the District Election Officer without any delegation of powers to the DEOs by the CEO is in breach and in violation of Section 159 of the R.P. Act, 1951.

5. The Hon'ble Court further observed that the Chief Electoral Officer, under Section 159 of the R. P. Act, 1951, should issue legal and valid requisition orders for requisitioning of staff of the organisation covered by section 159 of R. P. Act, 1951 in accordance with law.

A copy of the common order dated 25<sup>th</sup> September, 2009 passed by Hon'ble Court of Bombay in W. P. Nos. 8052, 8039, 8089 and 8111 of 2009 is enclosed herewith.

6. In view of the position explained above, in order to avoid difficulties at the time of future elections, you must, in exercise of powers under section 159(1) of R.P. Act,

1951, either request the authorities mentioned in sub-section(2) of section 159 of Representation of the People Act, 1951 to make available to Returning Officer such staff as may be necessary for performance of any duties in connection with elections. The following guidelines should be observed: -

(a) While requisitioning the staff, availability of the staff from the authority concerned be considered. Thereafter, keeping in view the guidelines issued by the Commission, the staff of the institution may be requisitioned. Further, the requisitioning of staff of the institution covered under sub section 2(iv) of section 159 of the R. P. Act, 1951 be made in consultation with the Nodal Officer of that institution.

(b) During the process of requisitioning of staff for election duties, it is once again reiterated that employees of banks, LIC may be drafted on election duty to the minimum extent possible, only in a constituency where sufficient numbers of govt. employees are not available or in emergent circumstances such as strike etc. by the Govt. employees. Care should be taken to ensure that normal functioning of banks, LIC are not interrupted. Further, if practicable, their posting to any polling station outside their normal place of duty may be avoided. Care should further be taken to ensure that minimum numbers of employees of such institutions is requisitioned so that the business of these institutions is not hampered.

It is reiterated that while requisitioning of the staff for conduct of future elections, rank etc. should be kept in mind while making appointments and the above guidelines should be strictly adhered to in true spirit.

This may be brought to the notice of all concerned.

Yours faithfully,

**SUMIT MUKHERJEE**  
**(UNDER SECRETARY)**