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ELECTION COMMISSION OF INDIA

**Nirvachan Sadan,
Ashoka Road,
New Delhi – 110001.**

No.56/2000/Jud.III

Dated: 1st December, 2000.
10 Agrahayana, 1922 (Saka)

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NOTIFICATION

In exercise of the powers conferred by Article 324 of the Constitution of India, read with Rules 5 and 10 of the Conduct of Elections Rules 1961, and all other powers enabling it in this behalf, the Election Commission of India hereby makes the following Order to further amend the Election Symbols (Reservation and Allotment) Order, 1968, namely:-

1. Short title and commencement:-

This Order may be called the Election Symbols (Reservation and Allotment) (Amendment) Order, 2000.

It shall come into force on the date of its publication in the Gazette of India.

2. Substitution of paragraphs 6 and 7:-

In the Election Symbols (Reservation and Allotment) Order, 1968 [hereinafter referred to as the 'principal Order'], for paragraphs 6 and 7, the following paragraphs shall be substituted, namely:-

"6. Classification of political parties – (1) For the purposes of this Order and for such other purposes as the Commission may specify as and when necessity therefor arises, political parties are either recognised political parties or unrecognised political parties.

(2) A recognised political party shall either be a National party or a State party.

6A. Conditions for recognition as a National party – A political party shall be treated as a recognised National party, if, and only if, -

either (A)(i) the candidates set up by it, in any four or more States, at the last general election to the House of the People, or to the Legislative Assembly of the State concerned, have secured not less than six percent of the total valid votes polled in their respective States at that general election; and (ii) in addition, it has returned at least four members to the House of the People at the aforesaid last general election from any State or States;

or (B)(i) its candidates have been elected to the House of the People, at the last general election to that House, from at least two percent of the total number of parliamentary constituencies in India, any fraction exceeding one-half being counted as one; and (ii) the said candidates have been elected to that House from not less than three States.

6B. Conditions for recognition as a State party – A political party, other than a National party, shall be treated as a recognised State party in a State or States, if, and only if, -

either (A)(i) the candidates set up by it, at the last general election to the House of the People, or to the Legislative Assembly of the State concerned, have secured not less than six percent of the total valid votes polled in that State at that general election; and (ii) in addition, it has returned at least two members to the Legislative Assembly of the State at the last general election to that Assembly;

or (B) it wins at least three percent of the total number of seats in the Legislative Assembly of the State, (any fraction exceeding one-half being counted as one), or at least three seats in the Assembly, whichever is more, at the aforesaid general election.

6C. Conditions for continued recognition as a National or State party. – If a political party is recognised as a National party under paragraph 6A, or as a State party under paragraph 6B, the question whether it shall continue to be so recognised after any subsequent general election to the House of the People or, as the case may be, to the Legislative Assembly of the State concerned, shall be dependent upon the fulfilment by it of the conditions specified in the said paragraphs on the results of that general election.

7. Savings and Interpretation– (1) Notwithstanding anything contained in paragraph 6A, 6B or 6C, if any political party stands recognised, immediately before the commencement of the Election Symbols (Reservation and Allotment) (Amendment) Order, 2000, either as a National party or as a State party in some State or States, the said party shall continue to have and enjoy the status of such National or State party for the purposes of the next general election, to be held after the commencement of the said Order, to the House of the People or, as the case may be, to the Legislative Assembly of the State concerned, and its continued recognition as such National or State party shall thereafter be dependent upon the fulfilment by it of the conditions specified in paragraph 6A or, as the case may be, paragraph 6B.

(2) For the removal of doubt, it is hereby clarified that the conditions in paragraph 6A or paragraph 6B shall not be deemed to have been satisfied by a political party, -

- (i) if it is newly formed, whether as a result of split in a recognised National or State party or otherwise, and registered with the Commission under section 29A of the Representation of the People Act, 1951, after the last general election to the House of the People or, as the case may be, to the Legislative Assembly of the State concerned; or
- (ii) on the joining or taking the membership of that party, by a member of the House of the People, or the Legislative Assembly of a State, after his election to that House or, as the case may be, that Assembly.

3. Amendment to paragraph 9:-

In clause (b) of paragraph 9 of the principal Order, for the word and figure 'paragraph 6', the word, figure and letter 'paragraph 6B' shall be substituted.

4. Insertion of new paragraph 10A:-

After paragraph 10 of the principal Order, the following paragraph shall be inserted as paragraph 10A, namely:-

"10A. Concession to candidates set up by an unrecognised party which was earlier recognised as a National or State party - If a political party, which is unrecognised at present but was a recognised National or State party in any State or Union territory not earlier than six years from the date of notification of the election, sets up a candidate at an election in a constituency in any State or Union territory, whether such party was earlier recognised in that State or Union territory or not, then such candidate may, to the exclusion of all other candidates in the constituency, be allotted the symbol reserved earlier for that party when it was a recognised National or State party, notwithstanding that such symbol is not specified in the list of free symbols for such State or Union territory, on the fulfilment of each of the following conditions, namely:-

- (a) that an application is made to the Commission by the said party for the exclusive allotment of that symbol to the candidate set up by it, not later than the third day after the publication in the Official Gazette of the notification calling the election;
- (b) that the said candidate has made a declaration in his nomination paper that he has been set up by that party at the election and that the party has also fulfilled the requirements of clauses (b), (c), (d) and (e) of paragraph 13 read with paragraph 13A in respect of such candidate; and
- (c) that in the opinion of the Commission there is no reasonable ground for refusing the application for such allotment:

Provided that nothing contained in this paragraph shall apply to a candidate set up by the said party at an election in any constituency in a State or Union territory where the same symbol is already reserved for some other National or State party in that State or Union Territory."

5. Amendment to paragraph 11:-

In paragraph 11 of the principal Order, for the word and figures 'paragraph 10', wherever they occur, the words, figures and letter 'paragraph 10 or paragraph 10A' shall be substituted.

6. Substitution of paragraph 12:-

For paragraph 12 of the principal Order, the following paragraph shall be substituted, namely:-

"12. Choice of symbols by other candidates and allotment thereof - (1) Any candidate at an election in a constituency in any State or Union territory, other than-

- (a) a candidate set up by a National party, or
- (b) a candidate set up by a political party which is a State party in that State, or
- (c) a candidate referred to in paragraph 10 or paragraph 10A,

shall choose, and shall be allotted, in accordance with the provisions hereafter set out in this paragraph, one of the symbols specified as free symbols for that State or Union territory by notification under paragraph 17.

(2) Where any free symbol has been chosen by only one candidate at such election, the returning officer shall allot that symbol to that candidate, and to no one else.

(3) Where the same free symbol has been chosen by several candidates at such election, then -

- (a) if, of those several candidates, only one is a candidate set up by an unrecognised political party and all the rest are independent candidates, the returning officer shall allot that free symbol to the candidate set up by the unrecognised political party, and to no one else; and, if, of those several candidates, two or more are set up by different unrecognised political parties and the rest are independent candidates, the returning officer shall decide by lot to which of the two or more candidates set up by the different unrecognised political parties that free symbol shall be allotted, and allot that free symbol to the candidate on whom the lot falls, and to no one else:

Provided that where of the two or more such candidates set up by such different unrecognised political parties, only one is, or was, immediately before such election, a

sitting member of the House of the People, or, as the case may be, of the Legislative Assembly (irrespective of the fact as to whether he was allotted that free symbol or any other symbol at the previous election when he was chosen as such member), the returning officer shall allot that free symbol to that candidate, and to no one else;

(b) if, of those several candidates, no one is set up by any unrecognised political party and all are independent candidates, but one of the independent candidates is, or was, immediately before such election a sitting member of the House of the People, or, as the case may be, of the Legislative Assembly, and was allotted that free symbol at the previous election when he was chosen as such member, the Returning Officer shall allot that free symbol to that candidate, and to no one else; and

(c) if, of those several candidates, being all independent candidates, no one is, or was, a sitting member as aforesaid, the returning officer shall decide by lot to which of those independent candidates that free symbol shall be allotted, and allot that free symbol to the candidates on whom the lot falls, and to no one else.

7. Amendment of paragraph 13:-

In paragraph 13 of the principal Order, after clause (a), the following clause shall be inserted, namely:-

"(aa) the candidate is a member of that political party and his name is borne on the roll of members of the party;"

8. Amendment of paragraph 14:-

In paragraph 14 of the principal Order, -

(i) in the heading of that paragraph, for the word and figure 'paragraph 6', the words, figures and letters ' paragraphs 6A or paragraph 6B' shall be substituted;

(ii) in the main paragraph, for the words, figures and brackets 'fulfilled either of the conditions for such recognition specified in sub-paragraph (2) of paragraph 6', the words, figures and letters 'fulfilled any of the conditions for such recognition specified in paragraph 6A or paragraph 6B' shall be substituted.

9. Amendment of paragraph 17:-

In paragraph 17 of the principal Order, -

(i) clause (bb) shall be omitted;

(ii) for clause (c), the following clause shall be substituted, namely:-

"(c) the un-recognised political parties and the addresses of their headquarters registered with the Commission;".

10. Amendment of Form B:-

In Form B appended to the principal Order, after paragraph 2, the following paragraph shall be inserted, namely:-

"3. It is certified that each of the candidates whose name is mentioned above is a member of this political party and his name is duly borne on the rolls of members of this party.".

By Order,

(K.J. RAO)

SECRETARY