

Scheme for Kashmiri migrants to vote in person at transitory camps

Introductory

- 1.1 A large number of electors registered in several parts of the State of Jammu and Kashmir, particularly Kashmir province, were forced to leave their native places during late 1980s and early 1990s because of the terrorist activities of extremist elements supported from across the Indian borders. They are still residing either in transitory camps in Jammu and Delhi or elsewhere in several other parts of the State or outside the State. Because of their emotional ties with their native place and in order not to lose their permanent residentship status of their native State, they were not willing to enrol in the constituencies in which they are physically resident presently but wanted their names to be continued in the rolls of their native places. Therefore, the Election Commission, after consultation with the Central Government and the State Government, decided that such of the migrants who left their native places in Kashmir Valley after 1st April, 1989 shall be deemed to be ordinarily resident in the constituencies in which they were so resident before their migration and their names shall continue to be borne on the electoral rolls of the assembly and parliamentary constituencies concerned in the Kashmir Province of the State of Jammu and Kashmir. Their descendants, who have meanwhile come of age, were also permitted to have their names included in those rolls on the basis of their claim applications.
- 1.2 At the time of the election to the State Legislative Assembly in 1996, a special scheme was devised which enabled these migrant voters to vote by postal ballot in their respective constituencies of their native places. For this purpose, the Jammu and Kashmir Representation of the People Act, 1957 and the Jammu and Kashmir Conduct of Elections Rules, 1965 were specifically amended. According to that scheme, the said voters, who were called as 'notified voters' under section 70(c) of the J&K 1957 Act, were required to make an application in Form 12 C appended to the J&K 1965 Rules to a specific Assistant Returning Officer, designated by the Election Commission at Jammu, for supply of postal ballot papers, if they wished to

vote by post. Such applications were required to reach the said Assistant Returning Officer at least 10 days before the date of poll in the respective constituencies. Further, these applications were required to be verified and attested by the officers in charge of the transitory camps or by any other gazetted officer. Such of those migrant voters as are employed in the government jobs or were retired pensioners were required to have their applications verified and attested by the head of their offices or by the manager of the bank or treasury from where they were drawing their pension. The ARO, on being satisfied as to the entitlement of the applicant to vote by post, was then obliged to send the postal ballot paper to the applicant at least 8 days before the date of poll. The marked postal ballot papers were to reach the Returning Officer of the constituency concerned before the hours fixed for counting of votes.

- 1.3 Similar facility to the aforesaid class of voters was extended at the time of the general election to the House of the People held in 1988 and 1999 by amending the Representation of the People Act, 1951 [Section 60(c)] and the Conduct of Elections Rules, 1961 (Rules 27A to 27K).
- 1.4 Taking into consideration several complaints that the postal ballot papers sent to and by the aforesaid notified class of voters from different parts of the Country were delayed in transmission, the Election Commission had decided during the general election to the Legislative Assembly of Jammu and Kashmir held in September-October, 2002 that in order to make the voting right of such migrant voters effective and really meaningful, they should be enabled **to vote in person at the transitory camps** where they were living in Jammu, Delhi etc., by providing polling station(s) specially for them (hereinafter referred to as 'special polling stations') in those transitory camps. Further, such of the migrant voters as were living not in camps but nearby in Jammu and Delhi or in some neighboring places and wished to vote in person at these polling stations were **also permitted to avail of that facility**. Those of migrant voters who **were not in a position to avail of this facility to vote in person** at these special polling stations were given the option of exercising their right to vote by availing of the facility to **vote by post** as in the previous elections.

- 1.5 The scheme devised for the purpose worked very well during the general election to the Legislative Assembly held in September-October, 2002.
- 1.6 The Commission has, after taking into consideration the success of this scheme, decided to extend the said scheme for the general election to the House of the People from Jammu and Kashmir scheduled to be held in April-May, 2004.

Details of the Scheme

Notification of classes of persons entitled to vote in person at special polling stations and by post.

- 2.1 Section 25 of the Representation of the Peoples Act, 1951 provides that the District Election Officer shall, with the previous approval of the Election Commission, provide a sufficient number of polling stations for every constituency and the polling area or group of voters for which they have respectively been provided.
- 2.2 In view of the position stated in the preceding para, the Election Commission has, as a first step, **to specify**, in terms of Section 25 of the Representation of the People Act, 1951, the Kashmiri migrants whose names are registered in any of the 3 Parliamentary Constituencies in Kashmir province, as a **group of voters** for whom the polling stations may be provided outside the territorial limits of those constituencies, i.e., **special polling stations** at Delhi, Jammu and Udhampur.
- 2.3 Simultaneously, those of the Kashmiri migrants who are living far away from the camps, etc., **and wish to vote by post**, will need to be separately notified as 'notified voters' in terms of Section 60(c) of the said Act read with rule 27A(b) of the Conduct of Elections Rules, 1961. Necessary consultation with the Central Government has already been made in this regard as required under the said Section 60(c).

Appointment of Assistant Returning Officers for 'specified' and 'notified' voters

- 3.1 To operationalise this scheme, **Assistant Commissioner (Relief)** in the Relief Commissioner's office and who has several officers of the rank of Superintendent, etc., to assist him, may be designated as **Assistant Returning Officer for the three Parliamentary Constituencies in the Kashmir Valley**. He may be made responsible for the receipt of applications from the electors who wish to vote at the special polling stations and also from those who wish to vote by post. He may also be made responsible for preparation of marked copies of electoral rolls for those polling stations, etc., and all other arrangements for the conduct of polls at these polling stations. They may also handle supply of postal ballot papers.
- 3.2 Likewise, **Secretary, Resident Commission, J&K Government**, posted in the Resident Commissioner's office at Delhi may be appointed as the ARO for the receipt of applications, conduct of poll, etc, at the special polling station(s) to be provided in Delhi. **Addl. Deputy Commissioner, Udhampur** may be appointed in respect of the special polling station(s) at Udhampur.
- 3.3 Further, **these AROs** may be made responsible not only for the conduct of poll at the special polling stations but also **for the counting of votes cast at these polling stations**, which would obviate the necessity of transporting the EVMs used at these polling stations to the Returning Officers of the three parliamentary constituencies across the Kashmir Valley. The result of the polling at these polling stations can be ascertained by the said AROs and communicated to the Ros concerned which would be taken by the latter into account for determining and declaring the final result of the election in their constituencies.
- 3.4 Keeping in view the convenience of voters, living in various camps in Jammu Division and Delhi, camps and also nearby, it is proposed, that the following special polling stations may be provided in Jammu, Udhampur

and Delhi as has been done during the last General Election to the J&K Legislative Assembly held in September, October, 2002 :-

Jammu

1. Govt. Women's College, Gandhinagar, Jammu
2. Directorate of Statistics and Evaluation, Janipur.
3. Directorate of Education, Accountancy Training Institute, Muthi.
4. Chandrabhaga Community Hall (Canal Road).
5. Directorate of Rural Development Department & Horticulture Department, Talab Tilo.
6. Govt. Higher Sec. School for Migrants, Nagrota.
7. Govt. Higher School Prakhoo.
8. Govt. High School, Mishriwala,

Udhampur

9. High School, Battal Ballian, Udhampur.

Delhi

10. Office of the Resident Commission, J&K House, 5, Prithviraj Road, New Delhi, New Delhi
11. Office of the ADM(HQ), Tiz Hazari Courts, Delhi.

- 4.1 In so far as the **Kashmiri Migrants living in other parts of the country** are concerned, it may **not** be feasible to provide polling stations for them and they will have the **option to exercise their franchise through the postal ballot system**, as was done at the time of general elections in 1996, 1998 and 1999, and the arrangements made in this behalf in 1999, etc., will have to be repeated.

Collection of information from 'specified voters' as to where they would like to vote

- 5.1 In order to ascertain as to who among the specified voters would like to vote at which of the above mentioned polling stations, we may ask the voters to give their preference in writing. As this information is to be gathered for the purpose of allocating these voters to the above mentioned polling stations, it may suffice if the **head of the family** or **any senior member** of the family gives intimation in respect of all the members of his family and we may **not** insist upon individual intimation from each elector.

Though the right to vote is an individual right, the gathering of such information from the head of the family would not militate against the individual right as at the time of election, the voter concerned will have to exercise that right individually after satisfying the polling staff of his identity. We may **obtain this information** from the head/senior members of the families in a **non-statutory form**, a **format** whereof is placed below for consideration. It may be called '**Form M**' as is to be used by migrant voters.

- 5.2 Copies of this form may be **distributed** through the Relief Commissioner's office at Jammu and Resident Commissioner's office at Delhi and through the camp commandants of the migrant camps. **Wide publicity** may also be given in the newspapers and also through the head of departments in the case of registered migrants who are working in the Government offices in an around Jammu.
- 5.3 The head/senior members of the families of specified voters may be asked to give the requisite information in **Form M** to the above-referred **AROs** at Jammu, Udhampur and Delhi immediately and **latest by 3rd April, 2004**.
- 5.4 To enable the applicants to give the requisite intimation in Form M by the stipulated date, **copies of the electoral rolls of all three Parliamentary Constituencies** may be made available urgently at the **offices of the above AROs for inspection** by the intending applicants.

Assignment of voters to special polling stations and preparation of marked copies of electoral rolls.

- 6.1 On the basis of the intimations given by the specified voters in Form M, the AROs may **Cull out lists, Constituency wise**, (showing therein assembly segment) of electors who opt for voting in person at the above mentioned polling stations and then these electors may be **assigned to the different polling stations** as per the preference indicated by them. If at any polling station, the number of electors from any particular Constituency is **exceedingly large**, say more than 1,500, **more than one booth** may be provided for them in the same polling stations location for the convenience of voters. The **list** of these special polling stations with the **groups of specified voters** assigned to each polling station may then be **notified**,

constituency wise, by the **District Election Officers** concerned under Section 25 of the Representation of People Act, 1951.

- 6.2 The provision of the above mentioned special polling stations in the transitory camps, etc., would mean that the specified class of voters would be entitled to vote only at the specially provided polling stations and not in the polling stations normally provided for them in their native places in their respective constituencies. It will have to be **ensured** that when these persons vote in the special polling stations, **nobody else votes for them in their normal polling stations in the constituency**. The Returning Officers will have to prepare the marked copies of the electoral roll to be used at the normal polling stations that they contain a **clear indication** as to which of the voters would vote at the special polling stations and would not be entitled to vote at the normal polling stations. **Such indication** may be given by putting the letters '**VSPS**' [to denote 'voting at special polling station'] **against the names of the voters** who give intimation of their intention to vote at the special polling stations. [These marked copies will also contain the letters '**PB**' against the names of those electors who wish to **vote by post** and have been supplied with the postal ballot papers].
- 6.3 The **marked copies** of the electoral rolls **to be used at the special polling stations** will consist of **only the names of those electors who have been assigned to those polling stations** as mentioned in paras 6.1 and 6.2 above. Instead of giving the whole electoral roll of the constituency running into several hundred pages and marking the names of persons who will be entitled to vote at these special polling stations, **separate marked copy of the electoral roll may be prepared, polling station wise, containing the names of only those electors who have been assigned to only those polling stations** as per paras 6.1 and 6.2 above³. This marked copy of the electoral roll for the special polling stations **may be prepared in the format at Annexure-I** hereto. On the basis of the marked copy of the electoral roll for each special polling station so prepared, the **Returning Officer** of the constituency will mark the letters '**VSPS**' against the names of the persons, included in the said marked copy (Annexure-I), in the marked copies of the electoral roll to be used at the respective **polling**

stations normally provided for these voters in their native places, as envisaged in para 6.2 above.

Conduct of poll and counting of votes

- 7.1 The **conduct of poll** at these special polling stations will be conducted by using **separate EVMs for each PC as** at the other normal polling stations in the constituency and all rules and directions and instructions applicable to the conduct of poll at the normal polling stations will apply at these special polling stations also.
- 7.2 As has been suggested in para 3.3 above, the **counting of the votes** cast at the special polling stations may be done by the **specified AROs and the result transmitted** by them to the **ROs concerned** by using **Form 20**. Such transmission of the result by the AROs may be done by using **fax, e-mail** or any other means of fast communication available, **followed by a duly authenticated copy**.

FORM M

LETTER OF INTIMATION TO ASSTT. RETURNING OFFICER FOR MIGRANTS

Dated : _____

To

The Assistant Returning Officer,
(For Migrants)
_____ Parliamentary Constituency

(Designation & address of ARO)

Sir,

I, along with the following members of my family whose particulars are given below, wish to cast our votes in person at the polling station being provided at _____ (location of the polling station) in _____ (name of city):-

S. No	Name	Father's/Mother's Husband's Name	Name of the Parliamentary Constituency	Name of the Assembly Segment	Part No. of Electoral Roll	S. NO. in that Part
1.						
2.						
3.						
4.						
5.						

My present address is as follows :-

.....
.....
.....

Yours faithfully,

Signature.....
Name.....

CERTIFICATE

(Certificate by the officer in-charge of the migrant camp/office/area or by head of the office where the applicant is serving as a migrant employee or by a treasury office/bank manager from where the migrant is drawing his pension as a pensioner or by any gazetted officer)

It is hereby certify that the particulars given above by the applicant in Form 'M' are corrected as per our record /to the best of my knowledge and belief.

(Full signature of the attesting officer)

Dated:.....

Name_____

Address _____

Rubber Stamp_____

ANNEXURE-1

Marked copy of electoral roll to be used at the polling station provided under section 25 of the Representation of the People Act, 1951.

Sl.No. & Name of the Parliamentary Constituency _____

Sl.No. & Name of Assembly segment _____

Sl.No & Name of Polling Station _____

Date of poll _____

Part No. of electoral roll	Sl.No of elector in that part	* House No.	* Name of elector	* Relations hip	*Father/M other/Husband's name	* Sex	*Age

* Headings to be the same as in the electoral roll

(Assistant Returning Officer)