

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi – 110001.

No. 76/2016/SDR

Dated: 30th April, 2016

To

The Presidents/General Secretaries of
All recognized and registered unrecognized
Political parties.

Subject:- Election expenses of candidates and political parties – travel expenses on visits to foreign countries for purposes of canvassing – regarding.

Sir,

I am directed to say that as per section 20A of the Representation of the People Act, 1951 inserted by the Representation of the People (Amendment) Act, 2010, Indian citizens absenting from their place of ordinary residence in India owing to their employment, education or otherwise outside India (whether temporarily or not) are entitled to have their names registered in the electoral rolls in the constituencies in which their place of residence in India as mentioned in their passports is located. The Indian citizens so registered as electors in India (called under the Registration of Electors Rules 1960 as 'overseas electors') are entitled to vote in their respective native constituencies in India if they happen to be present in their native places on the day of poll in the constituency in which they are registered as such overseas electors. Pursuant to the above provisions of law, a large number of Indian citizens living abroad have got their names enrolled in the electoral rolls in different parts of the country for the purposes of elections to the House of People and State Legislative Assemblies.

2. It has been brought to the notice of the Commission that in connection with the current round of general elections to the Legislative Assemblies of Kerala, Puducherry, Tamil Nadu & West Bengal and several by-elections being currently held in some of the States, some candidates are travelling from India to overseas countries for the purposes of canvassing in their favour to seek votes of the overseas electors residing in those countries. In this context, the Commission would like to clarify that though seeking votes of overseas electors by going abroad by the candidates or their agents or party leaders is not prohibited under the law, all expenditure incurred by those candidates, their agents or party leaders on their travel, boarding, lodging, etc.,

in those countries would be deemed to be the expenditure incurred or authorized by the candidates in connection with their election. Thus, all such expenditure would come within the meaning of section 77(1) of the Representation of the People Act, 1951 and will have to be included by the candidates concerned in their accounts of election expenses which are subject to the limits prescribed by Rule 90 of the Conduct of Elections Rules 1961.

3. The Commission would, however, like to further clarify that any inducement to overseas electors by way of Air tickets or any other allurements to them, in cash or kind, to come to India for the purpose of voting at the aforesaid elections would amount to the electoral offence of 'bribery' within the meaning of section 171B of the Indian Penal Code, as also the corrupt practice of 'bribery' within the meaning of section 123(1) of the Representation of the People Act, 1951. Needless to add that the commission of the above mentioned electoral offence and corrupt practice of bribery would invite penal action against them under the relevant provisions of law. Further, any other person or organization offering to bear the travel expenses of overseas electors to India in connection with the voting in the above elections, or any other such allurements to them to seek their votes, with the consent of the candidate or his election agent, would also attract the same penal action against them.

4. You are, therefore, requested to inform all the candidates set up by your party of the above provisions or law for their information, guidance and compliance.

5. The above clarifications of law by the Commission will equally apply in relation to all elections to the House of the People and State Legislative Assemblies in future.

6. Kindly acknowledge receipt.

Yours faithfully,



(K.F. WILFRED)
PRINCIPAL SECRETARY

Copy to Chief Electoral Officers of all States and UTs for information and necessary action. It is requested that copy of this letter may be given to all political parties based in the State/UT.