

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi - 110001.

No. ECI/PN/57/2017

Dated: 6th July, 2017

Press Note

Subject: - Presidential Election, 2017 – Right to vote or not to vote – Clarification - reg.

Certain doubts have arisen in the minds of some of the electors at the current Presidential Election, 2017 to the effect whether a member of a political party voting in defiance of the political party's decision would attract the disqualification on the ground of defection under the Tenth Schedule to the Constitution of India or the political party taking such decision would be liable to any penalty for asking their members to vote in a particular manner or not to vote at all. During the past also, similar points were raised during the currency of the Presidential Elections. The Commission had issued clarification through Press Notes in the past as well. The contents of the Press Notes issued in this regard are reproduced below for general information.

“The Commission would like to clarify in this context that the voting at election to the Office of President of India is not compulsory, like the voting at elections to the House of the People and State Legislatures where also there is no compulsion to vote. The ‘electoral right’ of a voter is defined in section 171A(b) of the Indian Penal code to ‘mean the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or **to vote or refrain from voting at election**’. Thus, every elector at the Presidential election has the freedom of making a choice to vote for any of the candidates or not to vote at the election, as per his free will and choice. This will equally apply to the political parties and they are free to canvas or seek votes of electors for any candidate or requesting or appealing to them to refrain from voting. However, the political parties cannot issue any direction or whip to their members to vote in a particular manner or not to vote at the election leaving them with no choice, as that would tantamount to the offence of undue influence within the meaning of section 171C of the IPC.

The Commission may also like to further clarify that voting at election to the office of President is different from voting by a member of Parliament or State Legislature inside the House and that, as held by the Hon'ble Supreme Court in *kuldipNayar v Union of India (AIR 2006 SC 3127)* whether the provisions of Tenth Schedule to the Constitution would be attracted in the case of the election to the Rajya Sabha if a member of a State Legislative Assembly votes for a candidate in defiance the

