



**Handbook For**

**RETURNING OFFICERS**

**FOR ELECTIONS TO THE COUNCIL OF STATES**

**& STATE LEGISLATIVE COUNCILS**

**February, 2016**

**Document 4 Edition 1**



**भारत निर्वाचन आयोग**

**Election Commission of India**

Nirvachan Sadan, Ashoka Road, New Delhi-110001

*"Greater Participation for a Stronger Democracy"*

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Returning Officers  
for Elections to the Council of States  
&  
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डा० नसीम जैदी  
भारत के मुख्य निर्वाचन आयुक्त  
**DR. NASIM ZAIDI**  
Chief Election Commissioner of India



  
**भारत निर्वाचन आयोग**  
**Election Commission of India**



Message from Hon'ble Chief Election Commissioner of India

I am happy to note that the Election Commission Secretariat is publishing a revised edition of the Hand Book for the Returning Officers of elections to the Council of States (Rajya Sabha) and State Legislative Councils (Vidhan Parishad). As the first edition of the HandBook was published way back in 1992, there was a felt need for publishing a revised edition of the Hand Book incorporating all the subsequent amendments and changes in law, rules and instructions on these elections. This edition of Handbook contains the updated information and directions of the Commission with necessary annexure on the subjects contained. As an innovation, a list of Frequently Asked Questions (FAQs) along with their responses, covering all major legal aspects of the election has been added at the end of this edition. It is expected that this would prove to be of immense help to all the election officials by giving them insight into various aspects of the election laws and rules and would equip them to perform their duties more effectively.

It is hoped, this edition 2016 would serve as a guide to all election officials and other stakeholders.

New Delhi

  
Dr. Nasim Zaidi



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**Amendments & Corrigenda**

Amendments			Corrigenda		
S. No.	Date	Subject	S. No.	Date	Subject



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## CHAPTER I

# PRELIMINARY

The smooth conduct of an election right from the issue of public notice for election to the declaration of the result and safe custody of election papers thereafter mainly depend on you and the electoral machinery under you. Even a slight mistake/lapse or wrong interpretation of the law or the rules may vitiate the election. You have a well-defined and vital role to play in the entire process. It is, therefore, necessary for you to acquaint yourself fully with the up-to-date rules and procedures connected with the conduct of elections and also familiarize yourself thoroughly with the steps to be taken at various stages.

2. This Handbook is designed to serve that purpose. The broad outlines of your duties are given in the following pages. It may be noted that this Handbook cannot be treated as exhaustive in all respects or as a substitute reference for various provisions of election laws governing the conduct of elections. Whenever you are in doubt as to the clarity of instructions contained herein, reference should be made to the corresponding Acts and Rules.

3. The provisions relating to election to the Council of States and Legislative Councils are contained mainly in:

- (1) The Constitution of India;
- (2) The Representation of the People Acts, 1950 and 1951 and the rules made thereunder, namely: The Registration of Electors Rules, 1960 and The Conduct of Elections Rules, 1961;
- (3) The Prohibition of Simultaneous Membership Acts of concerned States and the Prohibition of Simultaneous Membership Rules made by the President under Articles 101(2) and 190(2) of the Constitution;
- (4) The Parliament (Prevention of Disqualification) Act, 1959 and Acts of the State Legislatures relating to the removal of disqualifications; and
- (5) The Delimitation of Council Constituencies Orders.

It is essential that the relevant provisions of these enactments should be studied carefully.

4. There are some special features and characteristics of these elections. These are enumerated below:

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- (1) Neither the Council of States nor the Legislative Council of a State is subject to dissolution. As nearly as possible, one third of the members thereof retire, as soon as may be, on the expiration of every second year [Articles 83 and 172(2)]. Biennial elections are held to fill the vacancies of members in the Council of States and Legislative Councils of States retiring on the expiration of their term of office (Sections 2 and 16 of the Representation of the People Act, 1951). Bye-elections are held to fill casual vacancies (Sections 147 and 151 of the Representation of the People Act, 1951).
  - (2) (a) The total number of elected representatives of States including Union Territories in the Council of States should not exceed 238 [Article 80(1)(b)]. The representatives of a State are elected by the elected members of the Legislative Assembly of the State [Article 80(4)]. The representatives of the Union Territories are chosen in the manner prescribed by Parliament by Law [Article 80(5) and Part IV-A-Sections 27A to 27] of the Representation of the People Act, 1950. The President nominates not more than twelve members having special knowledge or practical experience in respect of such matters as literature, science, art and social service [Article 80(1) (a) and (3)].
    - (2) (b) The allocation of seats in the Council of States to be filled by representatives of States and Union Territories is fixed by the Fourth Schedule of the Constitution (reproduced as Annexure I-A).
  - (3) (a) The total number of members of Legislative Council of a State shall not exceed one-third of the total number of members in the Legislative Assembly of that State. But such total number of members of State Legislative Council shall in no case be less than 40 [Article 171 (1)]. (The State of J & K also has Legislative Council. But the elections are conducted in terms of J & K RP Act. 1957)
  - (3) (b) The members of the Legislative Council of a State are elected as provided in Article 171(3) of the Constitution. As nearly as may be, (i) one-third of its members are elected from Local Authorities' Constituencies, (ii) one-twelfth each from Graduates' and Teachers' Constituencies, (iii) one-third by members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly, and (iv) the remainder is filled by nomination by Governor

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of persons having special knowledge or practical experience in respect of such matters as literature, science, art, co-operative movement and social service.

- (3) (c) The allocation of seats in the State Legislative Councils to be filled by elections from Local Authorities' Constituencies, Graduates' Constituencies and Teachers' Constituencies, by election by members of the State Legislative Assembly, and by nomination by Governor are fixed by the Third Schedule of the Representation of the People Act, 1950 (reproduced as *Annexure I-B*). The fourth schedule to the said act (*Annexure I-C* hereto) specifies the Local Authorities in each State whose members constitute the electorates for the Local Authorities' Constituencies in that State.
- (4) The elections to the Council of States and the Legislative Council of a State are held in accordance with the system of proportional representation by means of the single transferable vote [Articles 80(4) and 171(4)].
- (5) A member elected to the Council of States or the State Legislative Council at a biennial election holds office for a period of six years. A member chosen to fill a casual vacancy will serve for the remainder of his predecessor's term of office (Sections 154 to 157 of the Representation of the People Act, 1951).
- (6) The Delimitation of Council Constituencies Orders issued by the President after consulting the Election Commission determine in respect of each State having a Legislative Council, the division of Council Constituencies, the extent thereof and the number of seats allotted to each such Constituency (Sections 11 and 12 of the Representation of the People Act, 1950). [These orders are reproduced in the Manual of Election Law].
- (7) There is no provision of reservation of seats for members of Scheduled Castes or Scheduled Tribes in the Council of States or the Legislative Councils.
- (8) Symbols are not allotted to any candidate.
- (9) The provisions relating to the lodging of accounts of election expenses by contesting candidates do not apply to elections to the Council of States or the Legislative Council (Section 76 of the Representation of the People Act, 1951).

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- (10) The method of voting adopted at these elections is by marking on the ballot papers, the figures 1, 2, 3, etc. in the international form of ~~the~~ Indian numerals or in the Roman form or in the form used in any Indian language. Such preferences are not to be indicated in words (Rule 37-A under Rule 70 of the Conduct of Elections Rules, 1961).
  - (11) The provisions relating to marking of the elector's (word 'elector' used in Rule 49K, the Conduct of Election Rules, 1961) left forefinger with indelible ink do not apply to elections to the Council of States and to the State Legislative Councils by members of the State Legislative Assembly and from Local Authorities' Constituencies.
  - (12) Before any ballot paper is delivered to an elector at an election by Members of Legislative Assembly or in a Local Authorities' Constituency, the serial number of the ballot paper should be effectively concealed in the manner directed by the Commission [Rule 38A(5) under Rule 70 of the Conduct of Elections Rules, 1961].
  - (13) The minimum period of eight hours poll as fixed under section 56 of the Representation of the People Act, 1951 for elections in Parliamentary and Assembly Constituencies is not applicable to these elections. However, Commission normally fixes the time for poll from 9 AM to 4 PM for elections to the Council of States / State Legislative Councils by MLAs; and 8 AM to 4 PM for elections to the State Legislative Councils from Graduates', Teachers' and Local Authorities' Constituencies.

5. The provisions of Model Code of Conduct are applicable in the elections to the State Legislative Councils from Graduates', Teachers' and Local Authorities' Constituencies in terms of the instructions contained in Commission's letter no. 322/LC/INST/2010-CC&BE dated 24th February, 2010 and 23rd March, 2010. Various other instructions also issued vide this letter. (Reproduced at Annexure I-D).

6. The above special features are explained and dealt with in greater detail in the following chapters.

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***Note: the portion of the Model Code of Conduct issued vide 322/LC/INST/2010-CC&BE dated 24th February, 2010, has been modified and has been reproduced in Chapter 'X' in para 5.6.***

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## **CHAPTER II**

# **CONSTITUENCIES, ELECTORAL ROLLS AND POLLING STATIONS**

### **I. CONSTITUENCIES**

#### **Elections by Members of Legislative Assembly.**

- 1.1 There are no territorial Constituencies for elections to the Council of States as these are held by the elected members of the Legislative Assemblies of the States. As mentioned in the preceding chapter, elections of, as nearly as may be, one-third members of a State Legislative Council are also held by members (both elected and nominated) of the State Legislative Assembly.
- 1.2 For the sake of brevity, both these elections have been referred to in the Conduct of Elections Rules, 1961 [see Rule 2(1) (c)] and in this Handbook as Elections by Members of Legislative Assembly.

#### **Elections from Council Constituencies**

2. Elections to the State Legislative Councils may be divided into two broad categories, namely, (1) elections by Members of Legislative Assembly, referred to in the preceding paragraph, and (2) elections from Council Constituencies. Elections from Council Constituencies further consist of three types, viz., (1) elections from Local Authorities' Constituencies, (2) elections from Graduates' Constituencies, and (3) elections from Teachers' Constituencies.

#### **Delimitation of Council Constituencies**

- 3.1 The Council Constituencies of the three types mentioned above are territorial constituencies delimited by the orders made by the President, after consulting the Election Commission, under Section 11 of the Representation of the People Act, 1950. These orders determine the extent of each Council Constituency and the number of seats allotted to each such Constituency.
- 3.2 The Delimitation of Council Constituencies Orders as in force at present are reproduced in Part II of the Manual of Election Law. If you are the Returning Officer for a Council Constituency, please study the Delimitation Order relating to your State carefully and ascertain correctly the exact territorial extent of your constituency and the number of seats allotted to it. In several cases, Council Constituencies extend over more than one administrative district. Your constituency may be one such constituency and you may have to coordinate

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with the election authorities of the other districts for the conduct of election in your constituency.

## **II. ELECTORAL ROLLS**

### **Electoral rolls for Elections by Members of Legislative Assembly**

- 4.1 For an Election by Members of Legislative Assembly, the Returning Officer is required under Section 152 of the Representation of the People Act, 1951 to maintain in his office a list of members of the State Legislative Assembly in such form as the Election Commission may direct under rule 96 of the Conduct of Elections Rules, 1961.
- 4.2 The direction issued by the Commission under the said rule for the maintenance of the list of Members of Legislative Assembly is reproduced in *Annexure II-A*. You should always keep that list corrected up-to-date in the prescribed form. It may again be mentioned here that the said list for election to the Council of States shall consist only of the *elected* members of the State Legislative Assembly, whereas for election to the State Legislative Councils, the name of nominated member, if any, will also be included in that list.
- 4.3 Such list of members of State Assembly has been referred to in the Conduct of Elections Rules, 1961 [see Rule 2(l)(c)] and in this Handbook as the electoral roll for election by Members of Legislative Assembly.

### **5. Electoral Rolls for Council Constituencies**

ECI letter No. 37/LC/2013-ERS, dated 27th May, 2013, addressed to the Chief Electoral Officers of Andhra Pradesh, Bihar, Karnataka, Maharashtra and Uttar Pradesh.

Traditionally, electoral rolls of Legislative Council constituencies are being prepared de-novo immediately before every election. This requires all electors for Graduates and Teachers' Constituencies to apply afresh along with authenticated copy of relevant document, for enrolment in the electoral rolls before every election. There have been complaints that the electors are put to a lot of inconvenience and that many of them are not able to get their names enrolled as they find it difficult to apply with document before every election.

In this connection, a writ petition [WP (C) No. 6084 of 2007-Sh. PrafulJagannathHurne vs. Election Commission of India & Others] was filed before Bombay High Court ( Aurangabad Bench). The High Court, by its Order dated 20.12.2007, held that the relevant Act and Rules do not confer jurisdiction or power

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on the Election Commission to order for preparation of electoral rolls afresh every time, an election is held to Graduates'/Teachers' constituencies. The Court directed the Commission not to ask for document from the electors, already enrolled in the electoral rolls of Graduates'/Teachers' constituencies. The Commission filed an SLP in the Supreme Court, however, the Supreme Court declined to grant against the Bombay High Court's impugned Order. The SLP is still pending before the Supreme Court. The Commission, therefore, issued guidelines for compliance of the orders of the Bombay High Court.

Similarly, several other High Courts have also given directions on various issues relating to electoral rolls of council constituencies.

Keeping in view the directions of courts of law, the Commission appointed a Committee of Chief Electoral Officers of Andhra Pradesh, Bihar, Karnataka, Maharashtra and Uttar Pradesh, the states having Legislative Councils, to suggest a comprehensive policy on preparation and maintenance of electoral rolls of Legislative Councils. The Committee deliberated on the subject and submitted its recommendations to the Commission on 22.08.2012. Accordingly, the Commission issued instructions on 28.09.2012 for the State of Andhra Pradesh, where elections to certain Graduates' and Teachers' constituencies were held in 2012.

After experience in Andhra Pradesh, draft comprehensive instructions on electoral rolls of council constituencies were prepared and circulated among the Chief Electoral Officers of the above five States for their comments. A video-conference was also held on 26th February, 2013 with these Chief Electoral Officers in which the matter was further discussed in detail and inputs given by them were compiled before the Commission.

The Commission taking all the factors into consideration has approved the comprehensive instructions on the subject, which are being issued as under:-

## **5.1 LEGAL PROVISIONS-**

As per clause (3) of Article 171 of the Constitution of India, the composition of the Legislative Council of a state will be as under:-

- (a) As nearly as may be, one-third of the total members shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities in the state as Parliament may, by law, specify;
- (b) As nearly as may be, one-twelfth of total members shall be elected by



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electorates consisting of persons residing in the state who have been for at least three years graduates of any university in the territory of India or have been for at least three years in possession of qualifications prescribed by or under any law made by Parliament as equivalent to that of a graduate of any such university;

- (c) As nearly as may be, one-twelfth of the total members shall be elected by electorates consisting of persons who have been for at least three years engaged in teaching in such educational institutions within the State, not lower in standard than that of a secondary school, as may be prescribed by or under any law made by parliament;
- (d) As nearly as may be, one-third of the total members shall be elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly;
- e) The remainder of the total members shall be nominated by the Governor and shall consist of persons having special knowledge or practical experience in respect of such matters as the following –Literature, Science, Art, Co-operative Movement and Social Service.

It is clear from the above, that there are three types of constituencies of Legislative Councils for which electoral rolls are prepared. These are :-

- I. Local Authorities' Constituency
- II. Graduates' Constituency
- III. Teachers' Constituency

The relevant legal provisions for electoral rolls for Legislative Council are provided in Section 27 of Representation of the People Act, 1950 and Rules 30 and 31 of Registration of Electoral Rules, 1960.

## **5.2 Local Authorities' Constituencies –**

According to Section 27 (2) (a) of Representation of the People Act, 1950 the electorate shall consist of members of such local authorities exercising jurisdiction in any place or area within the limits of that Constituency as are specified in relation to that State in the Fourth schedule of the said Act.

- 5.2.1 Clause (b) of Section 27 (2) provides that every member of each such local authority within a Local Authorities' constituency shall be entitled to be registered in the electoral roll.
- 5.2.2 Clause (d) of Section 27(2) provides that in order to enable the electoral registration officer to maintain the electoral roll corrected up-to-date, the chief executive officer of every local authority (by whatever designation such officer may be known) shall immediately inform the electoral

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registration officer about every change in the membership of that local authority and the electoral registration officer shall, on receipt of the information, strike off from the electoral roll the names of persons who have ceased to be, and include therein the names of persons who have become, members of that Local authority.

- 5.2.3 Clause (e) of Section 27 (2) provide that the provisions of sections 15, 16, 18, 22 and 23 of Representation of the People Act, 1950 shall apply in relation to Local Authorities constituency as they apply in relation to assembly constituencies.
- 5.2.4 Rule 30 (1) of Registration of Electors Rules, 1960 Provides that the roll for every Local Authorities constituency shall be prepared and maintained in such form, manner and language as the Election Commission may direct.
- 5.2.5 Rule 26 [except sub-rules (3) and (4)] and Rule 27 of Registration of Electors Rules, 1960 shall apply in relation to Local Authorities constituency as they apply in relation to assembly constituencies provided that an application for inclusion of name in the roll of local authorities constituency shall be made in Form-17.

### **5.3 Graduates' Constituencies-**

According to Section 27 (5) (a) of Representation of People Act, 1950, a person must fulfill the following conditions for being entitled to be registered in electoral roll of a Graduates' Constituency-

- 5.3.1 Should be ordinarily resident in the Graduates Constituency.
- 5.3.2 Should have, for at least three years before the qualifying date, been either a graduate of a University the territory of India or in possession of any of the qualification specified under clause (a) of sub-section (3) of section 27 of Representation of the People Act, 1950, by the State Government concerned as qualifications which shall be deemed to be equivalent to that of a graduate of a University in the territory of India.
- 5.3.3 Section 27 (6) of Representation of the People Act, 1950 stipulates that the qualifying date shall be the 1st day of November of the year in which the preparation or revision of the electoral rolls is commenced.
- 5.3.4 The provisions of Sections 15, 16, 18, 21, 22 and 23 of Representation of the People Act, 1950 shall apply in relation to Graduates constituency as they apply in relation to assembly constituencies.
- 5.3.5 Rule 31 of Registration of Electors Rules, 1960 provides that the roll for

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every Graduates' constituency shall be prepared in such form, manner and language as the Election Commission may direct.

5.3.6 The provisions of Rules 10 to 27 except clause (c) of sub-rule (1) and clause (c) of sub-rule (2) of Rule 13 of Registration of Electors Rules, 1960 shall apply in relation to Graduates constituency as they apply in relation to assembly constituencies. The claim application for inclusion in the roll of a Graduates' constituency shall be made in Form 18.

#### **5.4 Teachers' Constituencies-**

According to Section 27 (5) (b) of Representation of the People Act, 1950, a person must fulfill the following conditions for being entitled to be registered in electoral roll of a Teachers' Constituency-

5.4.1 Should be ordinarily resident in the Teachers' Constituency.

5.4.2 Within the six years Immediately before the qualifying date, for a total period of at least three years, should have been engaged in teaching in any of the educational institutions specified under clause (b) of sub-section (3) of Section 27 of Representation of the People Act, 1950 by the State Government concerned as educational institutions within the State not lower in standard than that of a secondary school.

5.4.3 Section 27 (6) of Representation of the people Act, 1950 stipulates that the qualifying date shall be the 1st day of November of the year in which the preparation or revision of the electoral roll is commenced.

5.4.4 The provisions of Section 15, 16, 18, 21, 22, and 23 of Representation of the People Act, 1950 shall apply in relation to Teachers' constituency as they apply in relation to assembly constituencies.

5.4.5 Rule 31 of Registration of Electors Rules, 1960 provides that the roll for every Teachers' constituency shall be prepared in such form, manner and language as the Election Commission may direct.

5.4.6 The provisions of Rules 10 to 27 except clause (c) of sub-rule (1) and clause (c) of sub-rule (2) of Rule 13 of Registration of Electors Rules, 1960 shall apply in relation to Teachers' constituency as they apply in relation to assembly constituencies. The claim application for inclusion in the roll of the Teachers' constituency shall be made in Form 19.

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## **6. PROCEDURE FOR ENROLMENT-**

### **6.1 For Local Authorities' Constituencies –**

- 6.1.1 In the case of Local Authorities' Constituencies, there is no qualifying date.
- 6.1.2 Electoral Rolls of Local Authorities 'Constituencies are not revised. But they are kept to date by correction being made by Electoral Registration Officer concerned on the basis of the changes which are brought to their notice by the Executive Officers of the Local Authorities concerned. All ex-officio and nominated members, if any, of the Local Authorities are entitled to be included in the Electoral Rolls along with elected Members. In the Case of members of one Local Authority some of whom are ex-officio members of other Local Authorities; their names should appear only once where they are members. However, the facility of being enrolled in electoral rolls and voting in elections extended to the ex-officio and nominated members is subject to the conditions provided in the state laws pertaining to the said Local Authorities in the concerned state.
- 6.1.3 According to Rule 30 of Registration of electors Rules 1960, a person can apply for enrolment in a Local Authorities' Constituency in form 17. When such an application is received by the Electoral Registration Officer, he shall refer the application to the Chief Executive Officer of the Local Authority concerned and on receipt of information in relation thereto from the Chief Executive Officer, the Electoral Registration Officer shall act in accordance with clause [d] of sub-section [2] of Section 27 of Representation of the People Act, 1950.
- 6.1.4 Before every election from a Local Authorities' Constituency, the electoral rolls shall be published by the Electoral Registration Officer in his Office and also in the offices of the Local Authorities comprised in the said Local Authorities' constituency, immediately inviting claims and objections by giving a minimum of seven days for the purpose. Any claims (in form 17) and objections received within the time fixed shall be disposed of by the Electoral Registration Officer within a period of three days and the roll shall be again published after incorporating claims and objections accepted within three days thereafter and in any case before the last date for filing of nominations for election. The provisions of Section 23(3) of Representation of the People Act, 1950 will also apply

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in this case, i.e. no addition/deletion/amendment shall be made in the electoral roll after 3.00 P.M. on the last date for filing of nominations for election.

## **6.2 For Graduates and Teachers' Constituency-**

- 6.2.1** As mentioned in the preceding paragraphs, the qualifying date for being enrolled in these constituencies is 1<sup>st</sup> day of November of the year in which the preparation or revision of the electoral rolls is commenced.
- 6.2.2** According to Rule 31 of Registration of Electors Rules, 1960 the Electoral Registration Officer shall issue a public notice on or before 1<sup>st</sup> October calling upon every person entitled to be registered in that roll to send to or deliver at his office before the 7<sup>th</sup> day of November next following an application in form 18 or Form 19, as the case may be, for inclusion of name.
- 6.2.3** The said notice shall be published in two newspaper having circulation in the constituency and republished in them once on or about 15<sup>th</sup> October and again on or about 25<sup>th</sup> October.

## **7. REVISION OF ELECTORAL ROLLS OF GRADUATES' AND TEACHERS' CONSTITUENCIES-**

According to sub-section (4) of Section 27 Representation of the People Act, 1950, the provisions of Sections 15,16,18,21,22 and 23 shall apply in relation to Graduates' and Teachers' constituencies as they apply in relation to assembly constituencies. According to sub-section(2) of section 21 of Representation of the People Act, 1950, the electoral rolls shall, unless otherwise directed by the Election Commission for reasons to be recorded in writing, be revised in the prescribed manner with reference to the qualifying date before every general election or before every bye-election to fill a casual vacancy and in any year, if such revision has been directed by the Election Commission, provide that if the electoral rolls are not revised as aforesaid the validity or continued operation of the said electoral rolls shall not thereby be affected. It is clear from this provision of law that electoral rolls of Graduates and Teachers' constituencies are of permanent nature. They do not have to be prepared de-novo before every election. They only need to be revised with reference to the qualifying date, which is 1<sup>st</sup> day of November of the year in which the preparation or revision of rolls is commenced. The revision should be done in the year in which the election is due from the constituency and in the year previous to that

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year. Accordingly, Chief Electoral Officer should prepare schedule for revision of electoral rolls of Graduates' and Teachers' constituencies well before the date of publication of notice for enrolment on 1<sup>st</sup> October of the year in which the election is due from the constituency and also in the year previous to that year, and send it for approval of the Commission.

## **7A. SPECIAL GUIDELINES FOR REVISION OF ELECTORAL ROLLS-**

### **a. Local Authorities' Constituencies**

1. In order to enable the Electoral Registration Officer to maintain electoral rolls corrected up-to-date, the Chief Executive Officer of every local authority (by whatever designation such officer may be known) shall inform the Electoral Registration Officer each change in the membership of that local authority immediately after its occurrence. The Electoral Registration Officer shall on receipt of the information, strike off from the electoral rolls the names of persons who have ceased to be, and include therein the names of persons who have become, members of that local authority.
2. When an application for inclusion [Form 17], deletion, or correction of entries is received by the electoral Registration Officer of the local authority concerned and on receipt of information relating thereto from the Chief Executive Officer of the said local authority, Electoral Registration Officer shall take further necessary action for inclusion / deletion / correction of entries. Every subsequent correction in the rolls, whether by way of addition / deletion / modification shall be authenticated by full signature of the Electoral Registration Officer.
3. Electoral Registration Officer should obtain, once in a quarter by the 15<sup>th</sup> January, 15<sup>th</sup> April, 15<sup>th</sup> July and 15<sup>th</sup> October, from the Chief Executive Officer of the Local authorities, in his jurisdiction, a certificate to the effect that all corrections have been duly intimated by them. The format of the certificate is given at Annexure -IIB.

### **b. Graduates' Constituencies-**

1. Before revision of electoral rolls in the year in which the election is due from the constituency and in the year previous to that year, the Chief Electoral Officer should obtain a copy of all Notifications issued by the State Government under Section 27 (2) (3) (a) of Representations of

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the People Act, 1950 specifying the qualifications which shall be deemed to be equivalent to that of a graduate of a University in the territory of India. The Chief Electoral Officer should then prepare an updated list of such specified qualifications and send a copy of the list to every Electoral Registration Officer. Wide publicity should be given to the list of specified qualifications for information of the public.

2. When a person applies (in Form 18) for the first time for enrolment in Graduates' Constituency, in addition to verification of the ordinary resident status of the applicant, it is necessary to verify that the applicant is in possession of the required educational qualifications for at least three years prior to the qualifying date. The three year period for which a person should be a graduate before registration will count from the date on which the result of the qualifying degree examination was declared and published by the university or an authority concerned and not from the date of convocation. The applicant should submit documentary proof of having such an educational qualification to the satisfaction of the Electoral Registration Officer or the Assistant Electoral Registration Officer concerned. The Electoral Registration Officer or the Assistant Electoral Registration Officer concerned should make such verification of the documentary proof as he considers necessary. A Copy of degree or mark-sheet of the required educational qualification attested by a Gazetted Officer should normally be considered adequate documentary proof of possessing that educational qualification.
3. The eligible persons should apply for enrolment of their names in the prescribed Form 18 along with any of the documents listed below-
  - a) The degree/diploma certificate, in original, issued by the University of Institution concerned or a copy thereof duly authenticated by the Designated Officer/Additional Designated Officer/ Gazetted Officer of the District concerned/Booth Level Officer of the polling station area is assembly constituency concerned, after due verification of the same with the original constituency degree/diploma certificate; or
  - b) A copy of an entry in the Government record or a certificate issued to a Graduate employee by the Gazetted Head of officer/Institutes on the basis of entries in Government records in his custody or a copy of an entry in the record of Statutory Bodies, Corporations or Public undertakings specifying the degree, diploma or certificate



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- possessed by the claimant, duly attested by the head of the office concerned; or
- c) An attested copy of the card of registration as Registered Graduate issued by the University, a certified copy of the relevant entry in the list of Registered Graduates' the Roll of Advocates, the Register of Medical Practitioners, the Register of Chartered Accountants, the Register of Engineers maintained by Institute of Engineers, etc; or
  - d) An affidavit by the claimant, supported by certificate from the Registrar of a University, or the Principal of a College affiliated to University or form the Head of the Department of such College under whom he had studied; or
  - e) The mark sheet, in original, issued by the University or Institution concerned or a copy thereof, duly authenticated by the Additional Designated Officer/Gazette Officer of the District concerned/Booth Level Officer of the polling station area in assembly constituency concerned, agree due verification of the same with the original mark-sheet, provided that there is a clear indication that the claimant has passed the relevant examination.
4. The applications can also be sent by post to the Electoral Registration Officer/ Assistant Electoral Registration Officer / Designated Officer, enclosing a copy of applicants' degree/ diploma certificate/mark sheet or other requisite document duly authenticated by the Designated Officer Additional Designated Officer/ Gazetted Officer of the district concerned / Booth Level Officer of the polling station area in assembly constituency concerned, after due verification of the same with the original degree/diploma certificate/mark-sheet, other requisite document.
5. In case the applicant submits his application in person before the Assistant Electoral Registration Officer or Designated Officer, duly appointed for the purpose, he will produce the original degree/diploma certificate/ mark sheet before them. The Officer will scrutinize the degree/diploma certificate/mark sheet or requisite document submitted with the application and after satisfying himself and record either "Verified with original and found correct" or "Verified with original and found not correct- Rejected". He will then-affix his signature, full name and PIN number (in case of Designated Officer) on the application as



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mark of a summary enquiry and forward the application to the Electoral Registration Officer.

6. Any application where the above procedure is not followed will summarily be rejected by the Electoral Registration Officer as incomplete.
7. It is obvious that once a person has been enrolled in a graduates' constituency on the basis of being a graduate of University in the territory of India or in possession of any of the qualification specified under clause (a) of sub-section (3) of section 27 of Representation of the People Act, 1950, by the State Government concerned for at least three years before the qualifying date, such an elector will never cease to have such a qualification. It is therefore not required to re-verify the educational qualifications of a person who is already enrolled in a graduates' constituency unless an objection has been made to his continued enrolment in that constituency on the basis of wrong enrolment in the first place. Documentary proof of educational qualification should therefore not be asked from an elector already enrolled in graduates' constituency unless his enrolment has been challenged on the basis of not having such an educational qualification by an objector or the Electoral Registration Officer or Assistant Electoral Registration Officer has started a case of suo-moto deletion based on information that the elector does not have the required educational qualification.
8. Section 20(4) of the RP Act, 1950 does not apply for this purpose of electoral rolls for Graduates' constituency. Therefore, the facility of enrolment of declared office holders in native place by the declaration in Form I is not available in the case of Graduates' constituency. They can get their name enrolled in the place where they are ordinarily resident for the time being.
9. Applications in bulk whether submitted in person or by post; shall not be considered for inclusion by the Electoral Registration Officer. However, the Head of the Institutions may forward the applications of all his eligible staff together. Similarly, a person may also submit Form 18 in respect other eligible members of his family, residing at the same address and may get the certificate verified by producing original certificate in respect of each member. Any bulk applications submitted by political parties, Booth Level Agents or Resident Welfare Associations shall not be considered.

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### **c. Teachers' Constituencies-**

1. Before revision of electoral rolls in the year in which the election is due from the constituency and in the year previous to that year, the Chief Electoral Officer should obtain a copy of all Notifications issued by the State Government under Section 27 (2) (3) (b) of Representations of the people Act, 1950, to specify the educational institutions within the state not lower in standard than that of a secondary school. The Chief Electoral Officer should then prepare an updated list of such specified educational institutions and send a copy of the list to every Electoral Registration Officer. Wide publicity should be given to the list of specified educational institutions for information of the Public.
2. Enrolment in Teachers' constituency requires that the elector should have, within the six years immediately before the qualifying date for a total period of at least three years, been engaged in teaching in any of the specified educational institutions. Since this status can change every year, it is necessary to verify the status of this qualification for every elector enrolled in teachers' constituency not only at the time of first time enrolment but at the time of each revision as well. If at the time of revision on verification, it is found that an elector is no longer qualified to be enrolled based on this qualification, his name should be deleted from the electoral rolls of Teachers' constituency.
3. The engagement of a person in teaching in the specified educational institutions for at least three years within the preceding six years may be either in one continuous spell or in broken spells and further, may be either in one institutions or more institutions, but all such institutions must be specified by the State Government. Therefore, it is immaterial whether a person, who has been so engaged in teaching for a total period of three years in one or more specified educational institutions, has been employed in those institutions as teacher on regular basis or on ad-hoc basis but he should be whole time teacher (even if there is no sanctioned post) and not engaged on a part-time basis as the condition for three years engagement in teaching cannot be fulfilled by a part-time teacher. Part-time teachers are not eligible for enrolment in the electoral rolls of Teachers' constituency.
4. Every person applying for enrolment (in Form- 19) in Teachers' constituency must submit documentary proof of having been engaged in

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teaching in any of the specified educational institutions for a total period of at least three years within six years immediately before the qualifying date. Electoral Registration Officer/ Assistant Electoral Registration Officer concerned should make such verification of the documentary proof as he considers necessary. A certificate by the Head of the teaching institution should normally be considered adequate documentary proof of possessing that teaching qualification. If any person, who has applied for inclusion of his name in a teachers' constituency, has been engaged in teaching in more than one specified educational institutions in the last six years, the certificate from the Head of institution of each of such educational institution will be required for the period for which he was engaged in teaching in that educational institution. The certificate from the Head of the Institution shall be in the Format at Annexure-IIC.

5. Electoral Registration Officer should maintain a history table of teaching in a specified educational institution for each elector enrolled in the Teachers' Constituency in the format at Annexure-IID, Data in the history table should be updated at the time of revision in the year in which the election is due from the Constituency and in the year previous to that year. If Electoral Registration Officer/Assistant Electoral Registration Officer finds that an elector enrolled in the 'Teacher' Constituency has not been engaged in the teaching for a total period of at least three years within six years immediately before the qualifying date, he should take immediate action for deletion of the name of such elector from the electoral rolls. Electoral Registration Officer/Assistant Electoral Registration Officer can obtain the information for keeping this history table updated either directly from electors or from the head of the concerned educational institutions. Before deletion of name of a person from electoral rolls a notice has to be served on him giving a opportunity to prove that he is still qualified to remain enrolled in the concerned Teachers' constituency.
6. As soon as Electoral Registration Officer receives list of specified educational institutions obtained by the Chief Electoral Officer from State Government he should collect information about all persons who are eligible for enrolment in Teachers' constituency; from heads of specified educational institutions, to check whether all such eligible persons are enrolled in the electoral rolls or not. If the Electoral Registration Officer finds that an eligible person is left out, he should send a blank Form 19 to he concerned person with a request to fill the application form and send

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it to Electoral Registration officer through the head of the institution, in which the applicant has been working.

7. Section 20(4) of the RP Act, 1950 does not apply for this purpose of electoral rolls for Teachers' constituency. Therefore, the facility of enrolment of declared office holders in native place by the declaration in Form I is not available in the case of Teachers' constituency. They can get their name enrolled in the place where they are ordinarily resident for the time being.
8. In case a person who is resident in a particular place at the time of filling the application, later on shifts to some other place outside the constituency, he loses his residential qualification and his application is liable to be rejected by Electoral Registration officer. But if a person moves to another place within the same constituency and the new place of residence is also known to the Electoral Registration Officer, he can include the name of the applicant at that new address which is different from the address mentioned in the claim form.
9. It is not necessary that the educational institution in which an eligible elector is employed should also fall within the same Teachers' constituency. The eligibility to be enrolled in a particular Teachers' constituency should be determined on the basis of the applicants, place of ordinary residence and not on the basis of his place of work.
10. Applications in bulk whether submitted in person or by post, shall not be considered for inclusion by the Electoral Registration Officer. However, the Head of the Institutions may forward the applications of all his eligible staff together. Similarly, a person may also submit Form 19 in respect of other eligible members of his family, residing at the same address and may get the certificate verified by producing original certificates in respect of each member. Any bulk applications submitted by political parties, Booth Level Agents or Resident Welfare Associations shall not be considered.

## **7B. SPECIAL GUIDELINES FOR COLLECTING EPIC NUMBERS-**

The existing electoral roll, after integrating all the supplements with the mother roll, shall be published as draft roll on 1st October and a notice for revision shall be issued by Electoral Registration Officer. After disposal of claims and objections, supplementary shall be prepared including all inclusions,

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deletions and modifications and the electoral rolls shall be finally published. In addition to the above instructions, all instructions of the Commission issued on preparation of electoral rolls of assembly constituencies shall apply to the electoral rolls of graduates' and teachers' constituencies as well. The Commission has decided to prepare photo electoral rolls for Graduates' and Teachers' Constituencies. Accordingly, Chief Electoral officers shall issue instructions to collect photographs of all electors enrolled in Graduates' and Teachers' constituencies. For this purpose, EPIC numbers of the electors should be collected through Booth Level Officers. Since EPIC coverage in assembly constituencies is very high, it should not be difficult to collect EPIC number of almost all persons enrolled in Graduates' and Teachers' constituencies. After collecting this information, entries in electoral rolls of graduates' and Teachers' constituencies should be linked with the entries in electoral rolls of assembly constituencies and their photographs can then be extracted from electoral rolls of assembly constituencies and merged with electoral rolls of Graduates' and Teachers' constituencies to prepare photo electoral rolls for council constituencies. There is no need to issue a separate EPIC for electors enrolled in Graduates' and Teachers' constituencies, but EPIC numbers already assigned to them in assembly constituencies should be entered in electoral rolls of Graduates' and Teachers' constituencies.

#### **7C. APPLICABILITY OF SECTIONS 17 AND 18 OF THE REPRESENTATION OF THE PEOPLE ACT, 1950 IN ENROLMENT IN COUNCIL CONSTITUENCIES-**

The provisions of Section 17 and 18 will apply in respect of enrolment in council constituencies also. A person cannot be registered as voter more than once in any Constituency or in more than one constituency of the same category. But a person can, if duly qualified, be registered as a voter in Constituencies of different categories, namely, Graduates', Teachers and Local Authorities. For example a graduate teacher with the requisite qualification will be entitled to be registered both in the graduates' constituency as well as in the Teachers constituency. However, in the case of members of one Local Authority. Some of whom may be ex-officio members of other local authorities; their names should appear only once where they are members.

#### **7D. FORMAT OF ELECTORAL ROLLS OF COUNCIL CONSTITUENCIES-**

1. According to Rules 30(1) and 31 (1) of the Registration of electors Rules,

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1960 the electoral rolls of Local authorities', Graduates' and Teachers' constituencies shall be prepared and maintained in such form, manner and language as the Election Commission may direct.

2. Format of the roll:- As mentioned earlier, the Commission has decided to prepare photo electoral rolls for Local Authorities', Graduates, and Teachers' Constituencies. The electoral rolls for Local authorities', Graduates' and Teachers' Constituencies shall be maintained electoral part wise, one electoral part will have 800 to 1400 electors. Ordinarily, each electoral part will have one polling station. The part will be further divided into sections. Each section will ordinarily have 70 to 100 electors. The rolls of Local Authorities' constituencies should be prepared in different pages depending upon different types of Local Authorities in the State whose members take part in the elections to Legislative Council. The name in each page should be arranged in alphabetical order. The Local Authorities in each page should be given serial number in one continuous series for the entire section. This number should be entered along with the name of the Local Authority at the top of the page relating to that Local Authority. The electoral rolls of Local Authorities' Graduates' and Teachers' Constituencies shall be printed in the formats given at Annexure IIE, IIF, and IIG, respectively.
3. It may be seen that in the formats of rolls, fields such as serial no. of elector, name of relation, date of birth, photo, EPIC number, no. and name of part, no. and name of assembly constituencies and name of state have been provided. For collecting information for these additional fields, amendments in Forms 17, 18 and 19 would be required and for this purpose, the proposal would be sent to the Ministry of law and Justice.
4. Language of the roll:-

The electoral rolls of council constituencies shall be printed in the following languages:-

**a) Andhra Pradesh and Telangana**-Telugu and English

**b) Bihar and Uttar Pradesh**-Hindi and English

**c) Karnataka**- Kannada and English; and

**d) Maharashtra**- Marathi and English

To sort out technical problems in converting the names in various

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languages, Unicode font should be used for electoral date base.

## **7E. ELECTORAL MACHINERY FOR PREPARATION AND REVISION OF ELECTORAL ROLLS FOR COUNCIL CONSTITUENCIES-**

- 1 **Electoral Registration Officers** – There shall be one separate Electoral Registration Officer for each Local Authorities’ Graduates’ and Teachers’ constituency. Electoral Registration officers shall be officers of the State Government not below an Additional District Magistrate in rank. Normally, the Divisional Commissioners/ Deputy Commissioners are appointed as such Electoral Registration Officers.
- 2 **Assistant Electoral Registration Officers-** There shall be as many Assistant Electoral Registration Officers for each Graduates’ and Teachers’ constituency as may be required. Electoral Registration Officers and Assistant Electoral Registration Officers of all the assembly constituencies falling within the concerned Graduates’/ Teachers’ constituency shall be designated as the Assistant Electoral Registration Officers for said Council Constituency. There shall be at least one Assistant Electoral Registration Officer at Tahsil/Taluka level. The Assistant Electoral Registration officer shall be an officer of the State Government not below a Tahsildar in rank. Generally, Assistant Electoral Registration officers are not appointed in any of the Local Authorities’ constituencies.
- 3 **Designated Officers-** Electoral Registration officers shall appoint one Designated officer for each polling station of Graduates’ and Teachers’ constituency during the period of receiving claims and objections. Designated officers shall be available at polling stations during working hours on all working days to receiving claims and objections. Electoral Registration officers can also appoint Designated officers for verifying the applications received by them and also for authentication of the documents to be submitted by the applicants. Designated officers will be of the rank of a Deputy Collector/ Sub Division Officer/ Revenue officer/ Block Development officer within the limits of the Constituency. The Designated officer will be assigned a PIN No. and this will be mentioned by him in all correspondence with the Electoral Registration officer as well as on the copies of the applications where verification has been done by him. The names of the Designated officers along with the offices where they will be located and the days on which they will be present to received applications’ in person shall be notified by the



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Electoral Registration Officers as part of the notice issued under rule 31(3) of the Registration of Electors Rule,1960 in the first Schedule, to that notice. All Designated officers shall, without fail, attend to the duties from the time of issue of public notice under Rule 31(3) up to the last date of receipt of applications. The Designated Officer will do supervisory checks with regard to status of ordinary residence of an elector during the period of disposal of claims and objections. Assistant Electoral Registration Officers and Electoral Registration officers will make further supervisory check by conducting visits to offices of the Heads of Institutions/ households of the applicants as the case may be. These supervisory checks shall not be less than 12%, 8% and 4% respectively of the verifications made by the respective field officers.

- 4 **Additional Designated Officers**-Electoral Registration Officers can appoint Additional Designated officers for the purpose of attesting the documents of the electors. The officers of the following ranks can be appointed as the additional Designated Officer:- (a) Tehsildars; (b) Principal of the Govt. Degree Colleges/Inter Colleges; (c) principal of the Govt. Girls Degree Colleges / Girls Inter Colleges; (d) joint Block Development Officers of all Blocks; and (e) Executive Officers (Gazetted) of Nagar Palikas/ Nagar Panchayats. Post Masters of post offices also can be appointed as Additional Designated Officers for the purpose of attesting the documents of the electors of the district in which the post office is situated.
- 5 **Booth Level Officers**-Electoral Registration officers can use Booth level Officers of polling areas in assembly constituencies for verification of entries of Graduates' and Teachers' constituencies including the status of ordinary residence of electors with regard to their respective areas. They can also be authorized to attest the documents of the electors of Graduates" and Teachers' constituencies residing in the respective polling areas in assembly constituency.

## **7E. SPECIAL EFFORTS TO ENROLL ALL ELIGIBLE PERSONS-**

**Chief Electoral Officers must make all efforts including the following to ensure that each and every eligible person is duly enrolled and no eligible person is left out from enrolment:-**

- a) Adequate publicity should be given to the process of revision of electoral rolls through print and electronic media in addition to the newspapers



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advertisement which are mandatory under the rules.

- b) Special counters for collection of Forms should be arranged at every tehsil, block office, office of every District Election Officer, Electoral Registration Officer and Assistant Electoral Registration officer.
- c) Voter Registration Centers functioning for assembly constituencies should also be use as Voter Registration Centers for council constituencies.
- e) Facility for on-line filing of application forms should be provided on the website of Chief Electoral Officers.
- d) Arrangements should be made for distributing of blank application forms for enrolment in Teachers' constituencies to all specified educational institutions. Heads of Such educational institutions should be asked to collect filled application forms and send to the Electoral Registration Officers concerned.

## **7G. INSTRUCTIONS RELATED TO TRANSPARENCY-**

The Commission has issued detailed instructions with respect to transparency of revision process for assembly constituencies. These instructions shall apply to Graduates; and Teachers' constituencies as well. At the time of draft publication and final publication of the electoral rolls, polling stations wise electoral rolls of Graduates' and Teachers' constituencies shall be posted on the Chief Electoral Officers' website. These rolls shall not contain the images of electors. One soft copy and one hard copy of the electoral roll shall be given to all recognized political parties at the time of draft publication and final publication of electoral rolls, however, such soft copy of the rolls should not contain the images of electors. A polling station wise list of claims and objections with drill down to individual application form without photograph shall also be put on the website of the Chief Electoral Officer, with facility for status checking of the application form. Further, facility for searching the name in the electoral roll based on EPIC number and name of elector should be made available on the website of the Chief Electoral Officer. In the case of Graduate constituencies, scanned copies of the Degree/Diploma Certificates, submitted by the electors along with applications may ne uploaded in the computerized data base.

## **7H. ELECTORAL ROLLS FOR COUNCIL CONSTITUENCIES TO BE COMPUTERIZED-**

Electoral rolls for council constituencies shall be computerized. Detailed instructions for computerization of these rolls are at Annexure-III. ERMA

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software for Graduates' and Teachers' constituencies would be developed in the Commission and made available to the Chief Electoral Officers as soon as it is developed.

## **7I. DATABASE STRUCTURE OF ELECTORAL ROLLS FOR GRADUATES' AND TEACHERS' CONSTITUENCIES-**

The database of Graduates and Teachers' constituencies shall be maintained according to the structure prescribed in **Annexure-II-I**. The Commission's instructions on security of electoral database of assembly constituencies will also apply to the electoral databases of Graduates' and Teachers' constituencies.

## **7J. CONTINUOUS UPDATION-**

The electoral rolls for Graduates' and Teachers' constituencies shall be continuously updated under the provisions of Sections 22 and 23 of the Representation of the People Act, 1950, however, the qualifying date for purpose of such continuous updation shall continue to remain the same with reference to which the rolls were last prepared/revised.

## **III. PLACE OF POLL & POLLING STATIONS**

### **Place of Poll for Election by Members of Legislative Assembly**

- 8.1 Under Section 29(1) of the Representation of the People Act, 1951, the Returning Officer is required to fix, with the previous approval of the Election Commission, the place at which the poll will be taken for election by Members of Legislative Assembly and to notify the place so fixed in the manner directed by the Commission.
- 8.2 A suitable hall or room in the precincts of the Legislative Assembly building is normally fixed as such place of poll. The Commission obtains (through the Chief Electoral Officer) the information with regard to the place of poll while considering the programme for the election and conveys its approval in the matter along with its approval of the election programme. While conveying such approval in respect of the place of poll, the Commission also sends a draft notice to be issued by the Returning Officer.
- 8.3 Accordingly, you should issue a notice in that *format* and display it on the notice board of the Legislative Assembly as per the direction of the Commission as soon as may be after the notification calling for the election has been issued.

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(N.B. The place of poll for election by *Members of Legislative Assembly* has been referred to hereafter in this Handbook as polling station.)

### **Polling stations for Council Constituencies**

- 9.1 Under Section 25 of the Representation of the People Act, 1951, it is the responsibility of the District Election Officer to provide, with the previous approval of the Election Commission, a sufficient number of polling stations for the Council Constituency. Accordingly, the rest of this Chapter is addressed to the District Election Officer.
- 9.2 Under the said Section 25, the District Election Officer is to provide polling stations for the Constituency the whole or greater part of which lies within his jurisdiction. Where a Constituency extends to two districts, the Chief Electoral Officer shall decide as to in which district the greater part of the Constituency lies and the District Election Officer of such district shall provide polling stations for the whole Constituency including the areas falling in the other district. Where, however, a Constituency extends over more than two districts of which neither the whole nor the greater part of the Constituency lies within the jurisdiction of any one District Election Officer, the District Election Officer of every district will provide polling stations for the areas falling within the territorial jurisdiction of his district.
10. As mentioned above, the polling stations have to be provided with the previous approval of the Commission. There is no provision for *ex post facto* approval and any change in the approved list of polling stations without the prior approval of the Commission to such changes would tantamount to non-compliance with the provisions of Section 25 which may vitiate the election.
11. The draft list of polling stations must be forwarded to the Election Commission for scrutiny and approval through the Chief Electoral Officer at least two weeks before the last date for withdrawal of candidatures.
12. The following guidelines should be kept in view while preparing the draft list.

### **List of Polling Stations for Graduates' and Teachers' Constituencies**

- 13.1 For an area to be eligible for use as a polling station, there should be a minimum of 30 electors (teachers and graduates taken together). It may

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be necessary to set up a polling station even for a fewer number in a particular area, if these electors have otherwise to travel long distances to reach the polling station. The polling stations should be located, as far as possible, within easy reach of every elector. Ordinarily, the distance to be travelled by a voter to reach his polling station should not exceed *16kms*.

- 13.2 Separate polling stations shall be provided for elections from Graduates' and Teachers' Constituencies even when held simultaneously. A common polling station may, however, be provided, in exceptional cases if the number of electors is small or considered convenient for the electors concerned as many electors may be common for both the elections.
- 13.3 The assignment of electors to polling stations may be made group-wise or individually, as may be considered convenient and practicable. It should, however, be ensured that every elector is assigned to the polling station nearest to his place of residence and no elector is left out from being allotted to any polling station.
- 13.4 As far as possible, polling stations should be located in Government buildings or offices or schools. When this is impossible, these may be located in private buildings. Such private buildings should be properly requisitioned and/or the consent of the owner should be obtained in writing. The private building so requisitioned should be at the disposal of the Returning Officer at least one day before the date of poll and till such further period as may be considered necessary. The building, and the area around it up to a radius of two hundred meters, should be under the control of the Presiding Officer. No watch and ward or other personnel connected with the owner of the building, whether armed or unarmed, should be allowed to remain either at the polling station or within a radius of two hundred meters around it. The security arrangements at the polling station and the area mentioned above will be the responsibility entirely of the Central or State Security Forces under the control of the Presiding Officer. After nominations are filed, it will be ensured that the owner is not a contesting candidate or a known sympathizer or worker of any of the candidates at the election.
- 13.5 No polling station should be located in places of worship such as temples, churches, mosques, gurudwaras, etc. or places having religious significance or in police stations or in buildings which belong to any

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political party, prominent member of a party, contesting candidates or their known sympathizers.

- 13.6 In case no suitable buildings are available, the polling stations may be located in temporary structures constructed for this purpose. But, as far as possible, this should be avoided as it involves considerable expenditure to Government and is also open to other risks if there are heavy rains, fire, etc.
- 13.7 Not more than four polling stations in urban areas and not more than two polling stations in rural areas should be located in one building. This is necessary to avoid overcrowding and to facilitate maintenance of peace and order.
- 13.8 Where two polling stations are set up in the same building or compound, it will be better if one is set up for graduates and the other for teachers when these elections are held simultaneously.
- 13.9 Select the actual site of each polling station carefully, in advance, and arrange for materials, structural fittings, etc., well in time so that it will satisfy the requirements of the law and of practical convenience.
- 13.10 The polling station should have normally as far as practicable a minimum area of 20 sq. meters to avoid congestion inside the polling station.
- 13.11 Room/Halls selected should be well-lit and having two openings at least so that one can be used as 'entrance' and the other as "exit" for the smooth and orderly conduct of poll.
- 13.12 The draft list of Polling Stations should be drawn up in the following form:

## List of Polling Stations

**For the ..... Graduates’/Teachers’ Constituency  
in the State of .....District .....**

Sl. No	Location of polling station	Building in which It will be located	Area of polling station	Whether there is a separate entrance and exit. If not, reasons therefor	Polling area	Whether common for all voters or for Graduates only or Teachers only	Total number of voters assigned	Maximum distance the voters have to travel to reach the polling station	Remarks
1	2	3	4	5	6	7	8	9	10

13.13 The polling area should be clearly demarcated. The name of each town, ward, street, block, village or other revenue unit covered by the polling area and the number of voters thereof should be shown in the respective columns against each polling station. Only by a clear description of the polling area, will it be possible for an ordinary voter to know to which polling station he should go for casting his vote.

13.14 In order to ensure uniformity of method in filling up the various columns in the draft list, the following instructions will be kept in mind:

**Column 1** - The serial numbers of the polling stations should be given on a rational basis commencing with the north-western corner of the Constituency and proceeding in a zig-zag manner to the south eastern corner of the Constituency.

**Column 2** - The location to be specified is the name of the area in which the polling station is located. In the case of temporary structures, the description of the exact site chosen for the location of the temporary structure should be clearly indicated.

**Column 3** - The name of the building in full should be clearly described. No abbreviations shall be used. In cases where more than one polling station is located in the same building, the location should be made clear by mentioning “North wing”, “South wing”, etc.

**Column 4** - The area of the polling station should be indicated in square

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meters. The reason for locating polling stations in rooms/halls having an area of less than 20 square meters where it is totally unavoidable should be furnished in “Remarks” Columns of the proforma against the appropriate entry.

**Column 5** – If there is a separate entrance and a separate exit, ‘Yes’ may be written. Otherwise reasons why it has not been possible to locate the polling station in a room/hall with separate entrance and exit may be given.

**Column 6** - The name of villages, blocks, wards, streets, localities, house numbers, etc. should be given. In case parts of the roll are split up and the voters are assigned to different polling stations, then the serial numbers of the voters in each part so split up should be mentioned.

**Column 7** - It should be indicated whether the polling station is for graduates only or teachers only or for both graduates and teachers.

Column 8 - This column should contain information about the total number of voters assigned to the polling station according to the finally published electoral roll of the Constituency.

**Column 9** - This column should indicate the distance to be travelled by the voters from the farthest corner of the polling area.

**Column 10** – Wherever, it is not practicable to conform to the Commission’s directions in regard to the location, building or area of any polling station or number of electors to be assigned or maximum distance to be travelled by voters, etc., clear reasons shall be given in this column for the consideration of the Commission, besides any other remarks which the District Election Officer may like to make.

13.15 The total number of voters in the Constituency, the total number of polling stations proposed and the average number of voters per polling station should invariably be shown at the end of each list.

13.16 The list should be accompanied by a map, drawn to scale, showing :-

- (i) All the villages and wards or localities in towns with the number of voters in each such village or locality on the map itself, and where this is not convenient or practicable in a statement affixed to the map;
- (ii) the place selected for location of the polling station;
- (iii) the area covered by each polling station; and
- (iv) serial number of the polling stations indicated in a systematic manner,

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preferably beginning from the north-western corner of the Constituency, proceeding zig-zag and ending at the south-eastern corner.

13.17 The use of abbreviations in the list is prohibited.

13.18 If any local terms are used to describe buildings, etc., in the list, these should be explained.

### **Publication of the List of Polling Stations in Draft**

14.1 After preparation of the list of polling stations on the lines indicated in preceding paragraphs, the District Election Officer should publish it in draft in the language or languages of the electoral roll for the Constituency for general information and invite objections and suggestions by a specified date, allowing a period of not less than seven days for this purpose. The notice of publication of such draft list and the places at which it can be inspected should also be given in the local newspapers and written objections or suggestions should be invited for consideration. Copies of the lists should be supplied to the local units of all recognized political parties, representative associations or bodies of teachers/graduates and to the sitting Members of Parliament and State Legislature. The District Election Officer should thereafter call the party representatives, of associations or bodies of graduates/ teachers and legislators to a meeting and discuss the draft list with them. Any bonafide person who wishes to take part in the discussions at this meeting should also be permitted to do so. The District Election Officer should then amend the draft list, wherever necessary. He should then forward it immediately to the *Chief Electoral Officer*.

14.2 The Chief Electoral Officer, after scrutiny, will forward the list and the enclosures with his comments to the Election Commission for approval so as to reach at least 15 days before the last date for withdrawal of candidatures.

14.3 The Commission will consider and approve the proposed list of polling stations with such changes and after calling such further information, as it may deem necessary. The list finally approved by the Commissions should be published as directed in paragraph 15 of this Chapter.

**Notes:-**(a) The approval of the Commission will be communicated by the Election Commission directly to the District Election Officer with a copy to the Chief Electoral Officer. After the approval of the Commission is



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received, the District Election Officer should once again check the list and incorporate the changes, if any, *directed by the Commission in the list.*

- (b) The District Election Officer should send the draft list along with the scrutiny sheet duly filled in and a certificate in the prescribed form (*Annexures II-J and II-K*).
- (c) The list forwarded to the Commission should be accompanied by a translation in English in case it is in any language other than English or Hindi. There is, however, no need to print or cyclostyle the approved list of polling stations in English, unless copies in English are required for official use or by the public.

### **Final publication of the List of Polling Stations.**

- 15.1 The District Election Officer shall publish, the list of polling stations as approved by the Commission. He shall display a copy thereof in the manner prescribed by the Commission in its order reproduced in *Annexure II-L* at his office by a notice in the form give *in Annexure II-M*. On such publication, the list shall be the list of polling stations for that Constituency. The entries in columns 4, 5, 8, 9 and 10 and the entries at the bottom of the list relating to the total number of voters, the total number of polling stations and the average number of voters per polling station, should be deleted before the final publication of the list.
- 15.2 The District Election Officer can correct only printing or clerical mistakes, if any, after such publication.

### **Modifications in the List of Polling Stations.**

- 16.1 Modifications, if considered necessary, as a result of variation in the number of voters within the polling area allotted to a polling station consequent on the revision of electoral rolls should be reported to the Commission for prior approval.
- 16.2 Changes in the location of polling stations to new buildings or sites may become necessary where the owner of the building or site originally proposed for a polling station has since become a contesting candidate or has strong sympathies for any candidate or a political party or because of any natural calamity that might have destroyed or damaged such building. All such changes should be reported forthwith to the Commission for approval.

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- 16.3 District Election Officer should on no account make any change in the location of polling stations already approved by the Commission without its prior approval, as any change may vitiate the election. Where changes become inevitable and have to be made, such changes should be referred to the Commission for its prior approval. The changes if approved by the Commission should be fully publicized and all contesting candidates and political parties, etc., informed in writing.

### **Changes in the Nomenclature of the Building of a Polling Station**

17. After the approval of the list of polling stations for a Constituency, if there is any change in the nomenclature of the building in which the polling station is proposed to be set up, for example, upgradation of a Primary School to a Middle School and the like, but otherwise there is no change in the location of the polling station, cases of such change need not be referred to the Commission for its approval. However, the Commission should be informed of such a change immediately. The political parties and the contesting candidates etc., should also be informed in writing about such changes.

### **Supply of copies of the List**

- 18.1 Each contesting candidate at an election shall be supplied, free of cost, with three copies of the list of polling stations for that Constituency, immediately after the last date for withdrawal of candidatures. Copies should also be made available for sale.
- 18.2 The District Election Officer should also supply the required number of copies to the Director General of Police or Superintendent of Police, as the case may be. Copies should also be supplied to the Returning Officer and Assistant Returning Officer(s) and the Chief Electoral Officer.

### **List of Polling Stations for Bye-election**

- 19.1 Whenever any bye-election is to be held in the Constituency, the District Election Officer should examine whether any addition to or alteration in, the list of polling stations already approved is necessary.
- 19.2 If at any such bye-election, no change or modification in the approved list is considered necessary and the same is proposed to be adopted *in toto* for that bye-election, the Commission should be informed and its approval obtained.

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19.3 Where, however, the list of polling stations already approved by the Commission is proposed to be adopted with modifications for the said bye-election, the District Election Officer should call a meeting of the representatives of the local *units* of the recognized political parties, the legislators and representative associations or bodies of Graduates/Teachers, if any, after consulting them, forward the revised list to the Chief Electoral Officer, with reasons for the modifications. The Chief Electoral Officer, in turn, will forward one copy of the list and the other enclosure with his comments to the Commission for approval. While suggesting the modifications, it should be ensured by the Chief Electoral Officer that the District election Officer furnishes a certificate to the effect that he has consulted the political parties, representatives, associations of Graduates/Teachers, if any, and the legislators. Where a modification is not acceptable to any political party or legislators or a candidate and such modification is necessary from the point of view of District Election Officer, full justification for the change should be furnished to the Commission. After the list is approved by the Commission, it should be published for general information in the Constituency in the manner indicated in para 15.

### **Facility of Postal Ballot**

- 20.** In rare cases, it may be desirable to allow postal ballot facility for voters in remote and inaccessible areas in a Council Constituency for whom no polling station can be set up within a reasonable distance. In such cases, the Election Commission may, on the recommendation of the Chief Electoral Officer, issue a notification under rule 68 of the Conduct of Elections Rules, 1961 at any time before the last date for withdrawal of candidatures at the election directing that the method of voting by postal ballot shall be followed in the whole or specified part of the Constituency. Electors subjected to preventive detention and electors on election duty, if any, are also entitled to vote by post in the Constituency.
- 20.1** Election Duty Certificate may be issued to those electors who cannot be appointed on election duty at the polling station where they are entitled to vote so that they can vote in person in other polling station within the constituency.
- 20.2** If due to unavoidable reasons, postal ballot paper is required to be issued under Rule 18(b)(i) of Conduct of Elections Rules 1961, then there may

be no objection if the guidelines issued for smooth management of postal ballot papers to employees on poll duty at elections to Lok Sabha/ Legislative Assembly is followed. It should be strictly ensured that secrecy of voting is not violated at the facilitation centre. The reference to Assembly/Parliamentary Constituency in relevant Forms 12, 12A, and 12B may be modified to mention the name of the Graduates/Teachers Constituency.

**List of Polling Stations for Local authorities Constituencies**

- 21.1 For close monitoring and management of elections, it has been decided that polling stations shall be set up at sub-divisional level. An immediate review of the existing polling stations for the Local Authorities’ Constituencies shall be undertaken by the DEO and fresh proposals shall be forwarded to the Commission for approval, after consulting all political parties.
- 21.2 No elector will be assigned by name to a particular polling station and no elector will be allotted to a polling station different from the one in which he is entitled to vote in accordance with the above instruction.
- 21.3 The list of polling stations for a Local Authorities’ Constituency shall be prepared in the following form:

**.....LEGISLATIVE COUNCIL**

List of Polling Stations

For the Local Authorities’ Constituency

in the State of.....

District .....

SI. No.	Location of the polling station	Building in which it will be located	Names of Local Authorities the voters of which will be entitled to vote	Total number of voters assigned	Maximum distance the voter has to travel to reach the polling station	Remarks
1	2	3	4	5	6	7

- 21.4 All other instructions in the foregoing paragraphs relating to preparation of draft lists for Graduates’ and Teachers’ Constituencies, publication of such draft lists for inviting suggestions and objections, consultation

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with political parties, etc., forwarding of such lists through the Chief Electoral Officer to the Commission for its approval and publication of finally approved lists shall apply *mutatis mutandis* to the preparation and *finalisation* of lists for Local Authorities' Constituencies.

## Right to Vote

22.1. There may be cases in which names of electors appear at more than one place in the electoral roll of a Local Authorities' Constituency. In such cases, the Returning Officer should bring to the notice of the electors concerned in writing the provisions of section 62(4) of the Representation of the People Act, 1951. Such electors may also be asked to indicate to the Returning Officer their choice as to the polling station at which they wish to cast their votes if their names have been allocated to different polling stations. Entries against their names in the marked copy of the electoral roll supplied to the other polling station should be made as follows:

“Ballot paper not to be issued as the elector has opted to vote at polling station No.....”

22.2 A list showing the options made by the concerned electors should also be circulated to the Presiding Officers of the concerned polling stations.

## Date, Time and Place of Counting for Council Constituencies

23.1 The Election Commission normally fixes the date and time for the counting of votes and announces the same along with the schedule for conducting the election to the State Legislative Councils from Graduates' or Teachers' or Local Authorities' Constituency vide its Press Note itself.

23.2 As soon as possible the proposal for place of counting of votes shall be sent to the Election Commission for its prior approval. The proforma prescribed by the Commission, had already been circulated to the Chief Electoral Officers of all States and UTs vide its letter no. 470/98/PLN-I dated 26<sup>th</sup> December, 1997 (any subsequent instruction).

23.3 The place for the counting of votes in a Constituency is left entirely to your discretion. It may either be at your own headquarters, the district headquarters or any other place which you consider to be convenient for the purpose. There will be no legal objection even if the place so fixed is outside the limits of the Constituency.

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- 23.4 As far as possible, counting of votes of two Constituencies may not be held together in one building as such an arrangement would attract larger crowds outside the counting centre posing serious problems regarding the maintenance of law and order.
- 23.5 Give notice of the place, date and time to each candidate or his election agent as may be appropriate in the form prescribed by the Commission for the purpose, vide Annexure II-N.
- 23.6 If, for any unavoidable reason, you are unable to proceed with the counting at the place so fixed and communicated to the candidates, you can fix another place for the counting of votes. You should give notice of every such change in writing to each candidate and his election agent well before the date of counting.
- 23.7 If, for any unavoidable reason, you are unable to proceed with the counting on the date and time so fixed for counting of votes, the same shall be brought to the notice of the Election Commission for consideration and further necessary action in such case.
- 23.8 As far as practicable, counting of votes in temporary structures should be avoided as seasonal conditions like rains, etc., would affect the process of counting in such places. However, if it becomes unavoidable to arrange the counting in temporary structures made of inflammable material, care should be taken to post security guards and fire brigade (or other arrangements for extinguishing fire) in case of emergency.

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## CHAPTER III

### POLLING PERSONNEL

#### **A. Elections to Council of States**

1. Under section 29(2) of the Representation of the People Act, 1951, the Returning Officer is required to act as Presiding Officer for such election at the place fixed for the poll. He may appoint such Polling Officer or officers to assist him as he thinks necessary.

#### **B. Elections to State Legislative Council by Members of the Legislative Assembly**

2. In these elections also, the Returning Officer will act as the Presiding Officer and may appoint such number of Polling Officers as he considers necessary.

#### **C. Elections in Graduates' and Teachers' Constituencies**

3. Under section 26 of the Representation of the People Act, 1951, the District Election Officer is required to appoint a Presiding Officer and such number of Polling Officers, as he thinks necessary, for each polling station within his district. In cases where a Council Constituency extends over more than one district, the respective District Election Officers of the districts in which the Constituency falls shall prepare the lists of Presiding and Polling Officers within their jurisdiction. The District Election Officer responsible for providing polling stations for that Constituency will adopt these lists in toto and make the appointments.

#### **Power to appoint Polling Personnel.**

4. Doubts arise as to whether the District Election Officer, or, as the case may be, the Returning Officers can appoint under section 26 of the Representation of the People Act, 1951, a person as a Presiding Officer or a Polling Officer unilaterally against the consent of that person and, if so, whether the refusal to accept the appointment order by a person so appointed will attract the provisions of Section 134 of the said act. In this connection attention is drawn to the judgment, dated 6<sup>th</sup> March, 1971 of the Calcutta High Court in *shri R.P. Roy alias Rampada Roy Vs. Shri D. Rudra, District Election Officer and District Magistrate, Howrah* (Air 1971 - Calcutta 461) which manifestly answers in the affirmative on both the points referred to above. The High court has categorically held that section 26 of the Representation of the People

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Act, 1951, confers not only the power to appoint unilaterally the Presiding and Polling Officers but also imposes on them all the obligations of such office irrespective of their consent. Refusal to accept appointment will attract the provisions of section 134 of the Representation of the People Act, 1951.

### **Complement of staff for a Polling Party**

- 5.1 In a Graduates' or Teachers' Constituency normally one Presiding Officer, one Polling Officer for identification of voters and application of indelible ink, one Polling Officer for issue of ballot papers and another Polling Officer for issue of marking instruments are appointed for each polling station. If the number of electors assigned to a polling station is very small, say, 100 or so, only two Polling Officers may be sufficient. There is no need for any reserve Polling Officer or peon for each polling station. A common reserve list of polling personnel for the entire district should, however, be kept by the District Election Officer to enable him to send substitutes in the place of any Presiding or Polling Officer absenting himself on the Polling day owing to any unavoidable circumstances.
- 5.2 Although the second proviso to sub-section (1) of section 26 permits the appointment of a common Presiding Officer for two or more polling stations, no Presiding Officer should be placed in charge of more than one polling station, unless a common polling station is provided in the same hall/room for Graduates' Constituency and a Teachers' Constituency at a simultaneous election.

### **Selection of staff for Polling Parties**

- 6.1 As the number of polling stations to be set up in each district is generally small and as the elections are not held simultaneously throughout the State at any time, the selection for appointment of Polling Personnel should be restricted to employees of Central and State Governments and Local Bodies. The Presiding Officer should generally be of the status of a Tahsildar or Dy. Tahsildar. The Polling Officer should generally be of the status of an Accountant or an Assistant. As far as possible, persons selected for polling duty in a district should be posted for duty in the polling stations set up in that district. Persons who have already done polling duty at a previous election from a Council Constituency or a Parliamentary or Assembly Constituency should, as far as possible, be selected for polling duty, as they would have acquired the requisite experience and training.



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6.1.A. In order to avoid any allegation of collusion among the polling personnel of a polling party in favour of any particular candidate or political party and to instill confidence in the minds of political parties and candidates about free and fair elections, you should ensure proper mix of polling personnel drawn from Central and State Governments at the time of formation of a polling party in the Graduates' or Teachers' Constituency.

6.1.B. In order to ensure that the above instructions are complied with strictly, you should furnish to the Secretary, Election Commission as well as to the Chief Electoral Officer of your State a CERTIFICATE to the following effect immediately after the polling parties have been formed for an election

**CERTIFICATE**

Certified that (i) the polling parties have been formed by a proper mix of officials drawn from different offices and departments, and

(ii) that the officers have been drawn from State Government's departments as well as from the Central Government's offices, as far as practicable.

6.2 After preparing the list of polling personnel on the lines indicated above, a copy of the list giving clear details of the name of the person selected, his official designation and the post and polling station for which he is selected should be sent to the Returning Officer of the Constituency, if the concerned District Election Officer is not himself the Returning Officer of that Constituency.

6.3 Under Rule 18(b)(i) of the Conduct of Election Rules, 1961, 'Voters on Election Duty' are entitled to vote by post at an election in a Council Constituency. In order to avoid the necessity of issuing postal ballot papers, the District Election Officer should see that, as far as possible, no elector in a Graduates' or Teachers' Constituency is selected for appointment as a Presiding or Polling Officer. If it is not possible to avoid this, efforts may be made to post such elector for duty at the polling station where he is entitled to vote so that he may exercise his franchise at that polling station itself.

6.4 It may be noted that the facility to vote on the basis of 'Election Duty Certificate' at the polling station on which a voter on election duty is posted, which is available under the provisions of Rules 20(2) and 35A to polling personnel in Assembly and Parliamentary Constituencies, *is not* available in Council Constituencies.

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## **Form for the Appointment**

- 7.1 The form for the appointment of Presiding and Polling Officers is given in *Annexure III-A*. The Presiding and Polling Officers should be formally appointed. The order of appointment should also bear the clear seal of the District Election Officer.
- 7.2 The list of Polling Personnel in respect of all polling stations in the Constituency should be displayed on your notice board, but not earlier than two or three days before of the date of poll. There is no need to supply such lists to the political parties and contesting candidates.

## **Polling rehearsals**

8. The polling staff must have been trained at earlier elections. Brush up their knowledge and experience by more rehearsals. Invite the candidates to such rehearsals and encourage them to secure the attendance of their prospective polling agents at these rehearsals. Explain at these rehearsals the vital points for the polling agents to remember at the poll.

## **Unavoidable Absence of Presiding Officer**

9. While appointing a polling party for a polling station, the District Election Officers should authorise one of the Polling Officers to perform the duties of Presiding Officer in case the latter is unavoidably absent from the polling station.

## **Arrival at Polling Station**

10. The Presiding Officer and the Polling Officers should reach the polling station at least 45 minutes before the poll is due to commence.

## **Absence of Polling Officer**

11. If any Polling Officer appointed for a polling station is absent from the polling station, the Presiding Officer of that polling station has the power to appoint any person as a Polling Officer on the spot in his place. He should not, however, appoint any person who is an active supporter of any of the candidates or an active opponent of any candidate or a known worker or sympathizer of any party. Later on, he will inform the District Election Officer/Returning Officer of such appointment formally in writing.

## **Delegation of duties of Presiding Officer**

12. If the Presiding Officer himself is absent from the polling station on account

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of illness or other unavoidable reason, the Polling Officer previously authorised in this connection by District Election Officer/Returning Officer will act in his place. He will exercise all the powers and duties of the Presiding Officer. In the alternative, subject to the availability of time, the District Election Officer can also appoint a Presiding Officer from his reserve list. The Presiding Officer may direct any Polling Officer to perform any of his functions in the polling station. This will, however, not absolve him of his own responsibility as he is in overall charge of the entire operation.

### **Set up of Polling Stations**

13.1 The Presiding Officer, on his arrival at the place where the polling station is to be set up, will first inspect the building proposed for the purpose and also the polling station itself, if it is already set up, Diagrams of model polling stations are given in [Annexure III-B](#). While it is open to the Presiding Officer to make minor modifications to the actual set up of the polling station taking into account the topography of the place and other local factors, he must make sure that :-

- (i) there is enough space for the voters to wait outside the polling station;
- (ii) there is separate waiting space for men and women voters as far as practicable;
- (iii) there is separate entrance and exit for voters. (In case there is only one door, this can be achieved by tying a rope or fixing bamboos or other partitioning structure to make separate entrance and exit through the same door);
- (iv) there is smooth flow of voters from the time they enter the polling station to the time they leave it and there is no criss-cross movement, within the polling station;
- (v) the polling agents are seated in such a way as they can see the face of elector as and when he enters the polling station and is identified by the first polling officer so that they can challenge the identity of the elector, if need be;
- (vi) the seating arrangements of the Polling Officers and polling agents are such as they are not in a position to see how a voter is marking his ballot paper inside the voting compartment;
- (vii) the inner side of the voting compartment is sufficiently lighted. If necessary, suitable additional lamps/lights may be provided.

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- 13.2 If more polling stations than one are located in the same building, it should be ensured that necessary arrangements have been made for segregation of voters and making them wait in queues in different parts of the space in front of each polling station without causing confusion.
  - 13.3 If the polling station is located in a private building, the building and the area around it up to a radius of 200 meters should be totally under the control of the Presiding Officer. He should not allow any watch and ward or other personnel connected with the owner, whether armed or unarmed, to remain either at the polling station or within a radius of 200 meters around it. The security arrangements at the polling station and within a radius of 200 meters thereof will be entirely the responsibility of the police under the control of the Presiding Officer.
  - 13.4 No photograph of leaders of political parties or slogans having a bearing on the elections should be exhibited inside the polling station. In case such photographs or slogans are already there, they should be removed till poll is over.
  - 13.5 No cooking or lighting of fire for any purpose should be permitted inside the polling station on the day of poll under any circumstance.

### **Transport for Polling Parties**

14. You will have to arrange for the transport of the polling parties and polling materials like ballot boxes, etc. Take stock of the vehicles at your disposal. Requisition more vehicles as may be necessary. Draw up well in advance the movement programme carefully for each polling party so that the arrangements may not fail at the last moment. Have reserves of transport handy to meet emergencies.

### **Accommodation and food for Polling Parties**

15. Check the arrangements for the accommodation, food and drinking water facilities for the polling parties.

### **D. Elections in Local Authorities' Constituencies**

- 16.1 It would be convenient if the Executive Officer of the Panchayat or the Commissioner of the Panchayat Union or Municipality is appointed as the Presiding Officer for the polling station in his area. He should be assisted by two or more Polling Officers depending on the number of electors, who may be drawn from the Panchayat Office or Municipal Office or from the Revenue

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Department. If it is found that it is not possible to appoint the Executive Officer or the Commissioner of the Panchayat Union or the Municipality as Presiding Officer, or the Commissioner of the Panchayat Union or the Municipality as Presiding Officer, persons of the status of Tehsildars or Deputy Tehsildars in the Revenue Department who were previously appointed for the polling duty in the Council elections or Assembly elections may be selected for appointment as Presiding Officers. The Polling Officers may be of the status of Head Accountant or Assistant.

- 16.2 A common reserve list of Polling Personnel for the entire district should be kept by the District Election Officer to enable him to send substitutes in the place of any Presiding Officer or Polling Officer absenting on polling day owing to any unavoidable circumstances.
- 16.3 The other instructions given in the case of Graduates' and Teachers' Constituencies will apply mutatis mutandis to the polling personnel in respect of this election also.

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## CHAPTER IV

### ELECTION MATERIALS

#### A. Elections by Members of Legislative Assembly

1. You may require a number of polling materials for the conduct of poll, and you yourself will have to act as Presiding Officer also. A standard list of such materials is given in Annexure IV-A. Estimate your total requirement for the same and lay your stock of election materials in time, as particular items may be difficult to procure at the last moment. Besides you will also require some items for carrying out your own duties up to the counting and declaration of results. These should also be secured in advance.

#### Forms

3. Throughout the election, you will have to use many Forms yourself. You should first thoroughly familiarise yourself with all these Forms. The candidates, their agents and other members of the public will also have to hand over certain documents in different prescribed Forms. Most of the Forms will be printed by the State Government. At times, it may not be possible to satisfy the public demand in respect of these Forms. You must accept freely all such documents whether they have been drawn up in the officially printed Form or in manuscript, type written, cyclostyled or privately printed version of any of these Forms so long as texts of the Forms have been correctly copied. No document should be rejected merely on the ground that it has not been drawn up in a government printed Form

#### B. Elections in Council Constituencies

4. Each polling party has to be supplied with necessary election materials for the poll. A standard list of such polling materials is given in [Annexure IV-A](#). Estimate your total requirement and lay your stock of election materials in time, as particular items may be difficult to procure at the last moment. Besides, you will also yourself require some items for carrying out your own duties up to the counting and declaration of results. These should also be procured in advance.

#### 5. Ballot Boxes

- 5.1 You may provide two ballot boxes for each polling station. Normally one should be sufficient but the extra one will be useful in case of an emergency.

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The number of contesting candidates and the consequent size of the ballot papers should also be kept in view while providing ballot boxes to the polling parties. An extra ballot box may be supplied when common polling stations are set up for Graduates' and Teachers' Constituencies.

- 5.2 The ballot boxes should be individually checked and necessary repairs carried out before issue to polling parties. In all cases, oiling and cleaning will be done in advance for the smooth functioning of the locking devices.
- 5.3 Do not, in any circumstance, issue any defective ballot box to any polling party. Even one defective ballot box can result in the entire poll being vitiated.
- 5.4 The Commission has recently directed that each ballot box available in a district shall be serially numbered showing the name of the State (in abbreviated form), code no. of the district and the serial no. of the box, like AP/1/00001. Such serial no. shall be engraved in figures both inside and outside of each ballot box.
- 5.5 Only such serially numbered ballot boxes should be supplied to polling parties. The use of any ballot box which is not so serially numbered shall be viewed by the Commission as a grave lapse inviting severe action.

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## CHAPTER V

# NOMINATIONS

### Introductory

1. The pressure of work increases substantially as soon as the notification has been issued calling upon the Constituency to elect a member or members. All the preliminary and preparatory steps should have been taken by you already before this notification is issued. Generally, you will be informed beforehand of the date on which such notification will be issued.

### Notifications for Elections to the Council of States

- 2.1 In the case of biennial elections to the Council of States, the President of India, under section 12 of the Representation of the People Act, 1951, shall, by one or more notifications published in the Gazette of India on such date or dates as may be recommended by the Election Commission, call upon the elected members of the Legislative Assembly of each State or members of the electoral college of each Union Territory concerned to elect members for the purpose of filling seats of members to the Council of States retiring on the expiration of their terms of office.
- 2.2 Notifications in respect of bye-elections to the Council of States will be issued by the Election Commission under the provisions of section 147 of that act.
3. On the same date on which the above notification calling the election is issued, the Election Commission will publish notification in the Gazette of India and republish in concerned State Official Gazette under Section 39 of the Act fixing the programme for various stages of the election.

### Notifications for Elections to the Legislative Council

- 4.1 In the case of biennial elections to the Legislative Councils, the Governor of the State, under section 16 (section 15A in case of initial constitution of a State Legislative Council) of the Representation of the People Act, 1951 shall, by one or more notifications published in the State gazette on such date or dates as may be recommended by the Election Commission, call upon the members of the Legislative Assembly of the State and the Council Constituencies concerned to elect members for the purpose of filling seats of members of the Council retiring on the expiration of their terms of office.
- 4.2 Notifications in respect of bye-elections will be issued by the Commission under the provisions of section 151 of that Act.



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5. On the same date on which the above notification calling the election is issued, the Election Commission will issue a notification, which is to **published in** the concerned State Official Gazette, under section 30 in the case of elections in the Council Constituencies or under section 39 in the case of election by members of the Legislative Assembly, fixing the programme for various stages of the election.

### **Issue of Public Notice by the Returning Officer**

- 6.1 Immediately after such notification, you are required to issue a public notice of the election under section 31 of the Representation of the People Act, 1951 read with rule 3 of the Conduct of Elections Rules, 1961. The notice will be issued in Form I appended to the said rules.
- 6.2 In the public notice, you have to specify, among other thing, the name(s) of the Assistant Returning Officer(s) who will also receive nomination papers, in addition to you, and also the place(s) at which the nomination papers shall be received by you and the specified Assistant Returning Officer(s). Normally, you should not specify more than one Assistant Returning Officer for the purpose and he should as far as possible be the one stationed at your headquarter.
- 6.3 The public notice shall be published in the following manner:-
- (i) It shall be in Form 1 appended to the Conduct of Elections Rules, 1961 and shall be published on the same date on which the notification of election is published.
  - (ii) At an election by members of the Legislative Assembly, the notice shall be prepared in English and in the regional language of the State; and at elections from the Council Constituencies, it shall be in English and the official language of the State or the regional language of the particular area of the State in which the Constituency is wholly situated.
  - (iii) The notice shall be published in each of the languages on the notice board of your office and at such other places as you may consider necessary for giving wide publicity to it including offices of **Panchayat Samities**, Gram Panchayats, etc.

### **Public Holidays Effects on Election Programme**

- 7.1 A candidate may present his nomination paper on the very day of the notice, or any of the seven days following that day unless any of these days is a public holiday.

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- 7.2 In case the last date for filing nominations or the date of scrutiny of nominations or the last date for withdrawal of candidatures is declared a public holiday under the Negotiable Instruments, Act, 1881, due to some reasons after the issue of notifications, the fact may be brought to the notice of the Chief Electoral Officer and the Election Commission immediately. The last date for filing nominations or the date of scrutiny of nominations or the last date for withdrawal of candidatures and other dates will be amended by the Commission as necessary. If the date fixed for the scrutiny of nominations is declared a public holiday under the Negotiable Instruments Act, 1881 the scrutiny will be held on the next succeeding day which is not a public holiday.
- 7.3 Similarly, if the last date for making nominations or the withdrawal of candidatures is declared a public holiday, the nomination papers or, as the case may be, notices of withdrawal of candidatures filed on the next working day should be accepted.
- 7.4 You will bear in mind that the second or fourth Saturdays of a month or all Saturdays of the month where these are observed as holidays for government offices are not to be treated as “public holidays” under the Negotiable Instruments Act, 1881, unless the same are specifically declared as such holidays under that Act.

### **Assistant Returning Officers**

- 8.1 Your Assistant Returning Officer(s) can perform any of your functions subject to your overall control. They are, however, not competent to hold scrutiny of any nomination paper under section 36 unless you are unavoidably prevented from holding such scrutiny yourself.
- 8.2 The Assistant Returning Officer should sign the papers as “Assistant Returning Officer” and not for “Returning Officer”.

### **Nomination Papers – Required Documents**

#### **9.1 FOR ELECTION TO THE COUNCIL OF STATES**

- (i) Form 2C appended to the Conduct of Elections Rules, 1961
- (ii) Security Deposit – Rs. 10000/- or Rs. 5000/- in case of SC/ST (proof of SC/ST shall be produced)
- (iii) No. of Proposers : At least 10% of total electors or ten electors, whichever is less; in the case of candidates set up by recognized party, and ten electors in the case of other candidates

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- (iv) Oath or Affirmation (Annexure V-A.);
  - (v) Affidavit in Form 26, appended to the CE Rules 1961 ;
  - (vi) Documentary evidence to prove that the candidate is a registered elector in a Parliamentary Constituency of India.
  - (vii) Form 'AA' and 'BB'(in case of candidate of a Political Party) – Annexure V-F & V-G.

**9.2 FOR ELECTION TO THE STATE LEGISLATIVE COUNCIL BY MLAs**

- (i) Form 2D appended to the Conduct of Elections Rules, 1961.
- (ii) Security Deposit – Rs. 10000/- or Rs. 5000/- in case of SC/ST(proof of SC/ST shall be produced)
- (iii) No. of Proposers : At least 10% of total electors or ten electors, whichever is less for candidates set up by recognized party, and ten electors in the case for other candidates
- (iv) Oath or Affirmation (Annexure V-A);
- (v) Affidavit in Form 26, appended to the CE Rules 1961.
- (vi) Documentary evidence to prove that the candidate is a registered elector in an Assembly Constituency of that State.
- (vii) Form 'AA' and 'BB'(in case of candidate of a Political Party) – Annexure V-F & V-G.

**9.3 FOR ELECTION TO THE STATE LEGISLATIVE COUNCIL FROM COUNCIL CONSTITUENCIES**

- (i) Form 2E appended to the Conduct of Elections Rules, 1961.
- (ii) Security Deposit – Rs. 10000/- or Rs. 5000/- in case of SC/ST(proof of SC/ST shall be produced)
- (iii) No. of Proposers: At least 10% of total electors or ten electors, whichever is less for candidates set up by recognized party, and ten electors in the case for other candidates
- (iv) Oath or Affirmation(Annexure V-A).
- (v) Affidavit in Form 26, appended to the CE Rules 1961.
- (vi) Documentary evidence regarding elector in an Assembly Constituency of that State

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- (vii) Form 'AA' and 'BB'(in case of candidate of a Political Party) – Annexure V-F & V-G.

## **DETAILS ARE GIVEN AS UNDER :-**

### **No. of Proposers to Subscribe a Nomination**

10. It may be noted that each nomination of a candidate for election to the Council of States or State Legislative Council shall be subscribed by at least ten per cent of the electors at that election or ten such electors, whichever is less, as proposers; in the case of candidates set up by recognized parties, and by ten electors in the case of other candidates. One elector may sign the nomination of more than one candidate as proposer.

### **Dates and time of filing Nominations***Verification of No. of Vehicle and People:*

11. Nomination papers may be presented either before you or before any of your Assistant Returning Officers specified by you in the public notice, on any of the days, other than a public holiday, during the period fixed in the Commission's programme notification. These nomination papers shall be presented only at the place or places specified by you in the public notice at any time between 11 AM and 3 PM and not at any other hour or at any other place. If a candidate or his proposer seeks to present a nomination paper either before 11 AM or after 3 PM, you should not accept the nomination paper saying that under the provisions of the law, neither the candidate has the right to deliver, nor the Returning Officer has the right to accept, a nomination paper outside the hours prescribed for the purpose. Likewise, you should not accept any nomination paper at any place other than the place specified in the public notice. ***The maximum number of vehicles in the convoy of a candidate allowed to come within a periphery of 100 metres of RO/AROs office has been restricted to three and maximum number of persons allowed is restricted to five only including candidate.***

### **Who canfile Nomination Paper and where**

12. All nomination papers must be presented personally either by the candidate or his proposer, and by no one else, to the Returning Officer or the specified Assistant Returning Officer at the place or places specified in the public notice between 11 AM and 3 PM on any day, other than a public holiday, fixed for the purpose. ***The candidate shall submit one set of latest photograph (2 c.m. x 2.5 c.m.) alongwith the nomination paper. The photograph should bear the signature of the candidate on the reverse side of photograph.***

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## Number of Nomination Papers

13. Under sub-section (6) of section 33 of the Representation of the People Act, 1951, a maximum *of four* nomination papers only, can be presented by or on behalf of any candidate or accepted for election in the same Constituency. You must ensure that no candidate files nomination papers for the same Constituency in excess of this number. If a candidate seeks to present any nomination paper or papers in excess of this number, you must not accept such nomination paper or papers saying that under the provisions of the law neither the candidate has the right to present, nor the Returning Officer has the right to accept, any nomination paper or papers in excess of four.

## Serial Number of Nomination Papers

- 14.1 Each nomination paper must be serially numbered, as soon as it is presented, by the officer receiving it who must also note on the body of the nomination paper the date and exact time at which it was received by him. In view of the limitation on the number of nomination papers that can be delivered by a candidate, you should ask the Assistant Returning Officer specified by you to receive nomination papers to work in close collaboration with you.
- 14.2 When a number of nomination papers are delivered to you in a bunch, you must assign serial numbers to them in the order in which you deal with them one after the other.

## Deposits

- 15.1 Every candidate at an election the Council of States or a State Legislative Council is required to make a deposit of Rs. 10,000/- (Section 34 read with section 39 (2) of the Representation of the People Act, 1951) ***as amended by the Representation of the People (Amendment) Act, 2009 (come into force from 1<sup>st</sup> February, 2010)***. The amount of deposit shall be Rs. 5,000/- only, if he/she is a member of a Scheduled Castes or Scheduled Tribes.
- 15.2 The Deposits may be made either in cash with the Returning Officer or in the Reserve Bank of India or in a Government Treasury. Where the deposit is made in the Reserve Bank or in a Government Treasury, the receipt making the deposit should be enclosed by the candidate with his nomination paper.
- 15.3 The deposit should be made under the following head of account:—  
“8443-Civil Deposits-121-Deposits in connection with Elections-2-Deposits made by Candidates for Parliament”.

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## **One Deposit Sufficient for each Election**

16. Only one deposit is required from each candidate in respect of his candidature in an election. When one such deposit has been made and the receipt enclosed with the first nomination paper, the candidate is not required to make any other deposit in respect of subsequent nomination papers which may be presented on his behalf in that election. However, a candidate has to make a separate deposit in respect of any other election in which he files nomination paper.

## **Preliminary Examination of Nomination Papers**

17. As each nomination paper is filed, you or the specified Assistant Returning Officer will examine it then and there from the technical standpoint. But you are not to hold a formal scrutiny of any nomination papers at this stage. You should compare the entries in the nomination paper with the entries in the electoral rolls relating to the serial numbers, part numbers and the names of the candidates and their proposers. Make sure that the electoral roll with which you make such comparison is the one currently in force for the Constituency concerned.

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## Original/Duplicate

(Original to be kept with nomination paper and duplicate to be handed over to candidate)

### Check list of documents in connection with filing of nomination

Name of constituency .....

Name of the candidate .....

Date and time of filing nomination paper .....

Sl.No. of nomination paper .....

Sl. No.	Documents	Whether filed (Write Yes/ No) <i>{if there is any defect/ shortcoming in the documents, the same should be specified}</i>
1	Affidavit in Form 26 – (a) Whether all columns are filled up. (b) If not, which are blank column(s) ( Please specify): (c) Whether the affidavit is sworn before an Oath Commissioner or Magistrate of First Class or before a Notary Public.	
2	Certified extract of electoral roll( when candidate is an elector of a different constituency)	
3	Form A and B ( applicable in the case of candidates set up by political parties)	
4	Copy of cast certificates ( if the candidate claims to belong to SC/ ST)	
5	Security deposit (whether made)	
6	Oath and affirmations (whether taken)	

The following documents which have not been filed should be filed as indicated below:

(a) \_\_\_\_\_ should be filed latest by\_\_\_\_\_.

(b) Above mentioned columns in the Affidavit in Form 26 have been left blank. You must submit a fresh Affidavit will columns duly filled up before the

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commencement of scrutiny of nominations, failing which the nomination paper will be liable to be rejected.

(c) \_\_\_\_\_ should be filed latest by \_\_\_\_\_

Received.

.....

(Signature of candidate)

.....

Signature of RO/ARO

Date & time: Place:

N.B

1. The affidavit in Form 26 and Forms A& B have to be filed latest by 3.00 P.M on the last date of filing nominations.
2. The nomination paper will be rejected if a candidate fails to fill the blanks in Form 26 even after reminder by RO by the hour fixed for scrutiny of nomination paper.
3. Oath has to be taken after filing nomination paper and before the date fixed for scrutiny.
4. Certified extract of electoral roll can be filed up to the time of scrutiny.
5. Security deposit
5. Security deposit should be made either before filing of nomination paper or at the time of filing of nomination paper. Therefore, there is no question of issuing notice for making the security deposit.



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## Documentary Evidence of Registration of Candidate as an Elector

- 18.1 For an election to the Council of States from a State or Union Territory, a candidate must be an elector of any Parliamentary Constituency in India. (Section 3 of the Representation of the People Act, 1951 as amended by Act 40 of 2003 w.e.f. 28.8.2003).
- 18.2 For an election to a State Legislative Council, a candidate must be an elector in any *Assembly* Constituency in that State, (section 6 *ibid*)
- 18.3 Every candidate must produce documentary evidence to show that he is an elector for a Parliamentary Constituency or, as the case may be, Assembly Constituency. Such evidence has to be produced in the form of the electoral roll of the Constituency in which the candidate's name is registered or a relevant part thereof or a certified copy of the relevant entries in such roll.
- 18.4 In the case of an election to the Council of States or a State Legislative Council by members of the State Legislative Assembly, such documentary evidence has to be produced by the candidate at the time of presentation of his nomination paper. If he has not done so, you may require him to produce such evidence.
- 18.5 In the case of an election from a Council Constituency, such evidence may be produced by the candidate at the time of presenting his nomination paper and if he has not done so, he must do that at the time of the scrutiny of nominations. Strictly speaking, the responsibility for producing such documentary evidence vests entirely with the candidate. However, the Commission considers that in order to reduce the scope of rejection of nomination papers on this ground, the attention of the candidate should be drawn to the aforesaid requirement when his nomination paper is presented and examined from the technical standpoint. This is best done by means of a written memo as in *Annexure V-C*.

## Oath or Affirmation by Candidates

- 19.1 A candidate at an election to the Council of States or State Legislative Council is required under Article 84 (a) or, as the cases may be, Art.173(a) of the Constitution to make and subscribe an oath or affirmation in the prescribed form before any of the persons authorised in that behalf by the Election Commission. The forms of oath or affirmation are given in *Annexure V-A*.
- 19.2 The Election Commission's Notifications authorising certain persons in this behalf are reproduced as *Annexure V-D*
- 19.3 For any particular election, the authorised persons are mainly the Returning

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Officer and the Assistant Returning Officer for the election. In the case of a candidate confined in a prison or under preventive detention, the Superintendent of the Prison or Commandant of the Detention Camp in which he is so confined or is under such detention is authorised to administer the oath. In the case of a candidate confined to bed in a hospital or elsewhere owing to illness or any other cause, the Medical Superintendent, in-charge of the hospital or the medical practitioner attending him, is similarly authorised. In the case of a candidate who is out of India, the oath or affirmation may be made and subscribed before the Diplomatic or Consular Representative of India in the country where the candidate happens to be or any person authorised by such diplomatic or consular representative. Where the candidate is for any other reasons unable to appear or present before the Returning Officer concerned or the Assistant Returning Officer, the oath or affirmation may be made and subscribed before another person specially nominated by the Election Commission on an application made to it in this behalf. The Commission has also authorised all Stipendiary Presidency Magistrates, all Stipendiary Magistrates of 1<sup>st</sup> Class, all District Judges and all the persons belonging to the Judicial Services of the States other than a District Judge as officers before any one of whom a candidate can make and subscribe the oath or affirmation.

- 19.4 The oath or affirmation should be made and subscribed before the date fixed by the Election Commission for scrutiny of nomination papers at that election. The decisions of the Supreme Court in *Pasupati Nathsingh vs. Harihar Prasad Singh* (A.I.R. 1968 S.C.-1064) and *Khadar Khan Hussain Khan and other vs. Nijalingappa* [(1970) (1) S.C.A-548] have clarified the position and removed all doubts in regard to actual making and subscribing the oath or affirmation. According to these judgments, the oath or affirmation can be made and subscribed by a candidate only after his nomination paper is delivered and it cannot be so made and subscribed on the date of scrutiny. You should, therefore, advise the candidates to make the oath or affirmation immediately after presenting their nomination papers and in any case not later than the day previous to the date of scrutiny. The oath or affirmation is to be made in person before the authorised person.
- 19.5 The onus of proving that the candidate had made or subscribed the oath or affirmation before an authorised person lies on the candidate himself. It is not necessary that every nomination paper of a candidate must be accompanied by the form of oath signed by the candidate. It is sufficient if the candidate or his representative satisfies you at the time of scrutiny that the candidate had made

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and subscribed the oath or affirmation before an authorised person for that election.

- 19.6 Section 36(2) (a) of the Representation of the People Act, 1951 requires that on the date of scrutiny of nominations, the nominated candidate should have the requisite qualifications including the qualification of having made and subscribed the oath or affirmation. If the oath or affirmation, is not made and subscribed before the date appointed for the scrutiny of nomination papers, the candidate will be held by you as not qualified to stand for the election.
- 19.7 The oath or affirmation is first to be made and then signed by the candidate before the authorised person. It should be borne in mind that mere signing on the paper on which the form of oath is written is not sufficient. The candidate must make the oath before the authorised person. The latter should ask the candidate to read aloud the oath and then to sign and given the date on the paper on which it is written. If the candidate is illiterate or unable to read the form, the authorised person should read out the oath and ask the candidate to repeat the same and thereafter take his thumb impression on the form. The authorised person should endorse on the form that the oath or affirmation has been made and subscribed by the candidate before him on that day and hour.
- 19.8 The authorised person will forthwith give a certificate to the candidate that he has made and subscribed the oath or affirmation before him on that day and that particular hours. This certificate will be given to the candidate without his applying for it. This will avoid all controversy later on as to whether the candidate has taken the oath or not.
- 19.9 If the authorised person is the Superintendent or Commandant of the Prison or Detention Camp, he should issue forthwith to the candidate a certified copy of the oath for producing it as evidence before you at the time of scrutiny of nominations. The Superintendent of the Prison or Commandant of the detention camp will simultaneously send a letter by fax and speed post to you indicating the date and time at which the particular candidate made and subscribed the oath or affirmation. He will also send to you the original of the oath or affirmation made and signed by the candidate.
- 19.10 If the authorized person is a Medical Superintendent of a Hospital or Medical Practitioner or a Diplomatic or Consular Representative of India in the country where the candidate happens to be or the District Judge or person belonging to the Judicial Service of a State (Other than a District Judge) or Stipendiary Magistrate of the 1<sup>st</sup> Class or any other persons nominated by the Election

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Commission, he should, as soon as the candidate has made and subscribed the oath or affirmation, certify this fact on the form, keep a copy for his record and hand over the original to the candidate. It will be the responsibility of the candidate to see that the original oath or affirmation is produced before you on or before the time fixed for the scrutiny of the nomination papers.

- 19.11 It is for the candidate himself to ensure that he makes and subscribes the requisite oath or affirmation so as to become qualified in terms of article 84(a) or, as the case may be, Article 173 (a) of the Constitution. In order, however, to see that he does not lose sight of this mandatory requirement which would result in his nomination being rejected, the Commission desires that his attention may be drawn thereto by means of a written memo as in *Annexure V-E* when his nomination paper is presented and examined from technical standpoints.
20. Copies of *Annexures V-C and V-E* should be got cyclostyled and kept with you at the time of receipt of nomination papers. The name of the candidate or his proposers whoever presents the nomination paper should be entered in the appropriate Memo, which you should sign, and it should be handed over to him and a receipt obtained from him in the form provided for it at the bottom of the main form. The receipt should be detached and kept with the nomination form.

### **Affidavits by Candidates**

- 21.1 A candidate at an election to the Council of States or State Legislative Council is required to submit an Affidavit in Form 26 regarding pending Criminal antecedents, if any, assets, liabilities of candidates, spouse and dependents and educational qualification of candidate.

### **Filing of false affidavit in Form 26**

*Now the affidavit is in Form 26 under Section 33A of the Representation of the People Act, 1951, making false declaration/concealing of information in the affidavit would be covered under Section 125A of the Act. Under Section 125A, there is no stipulation that complaints under that section have to be made by the public servant concerned (in this case the RO). Therefore, it would be open to any aggrieved person to move petition before the appropriate Court of competent jurisdiction with petition for action under Section 125A in the case of any false declaration or concealing of information in the affidavit in Form 26.*

*Therefore, it will be no longer necessary under the Cr.PC for the Returning Officer to move the competent court in relation to any complaint about a false affidavit. The complainant himself*

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*can be the complainant before the court as well. In the event of complaints about false statement in the affidavit in Form 26, the complainant can be informed that it would be open for him to move the appropriate court of law for action under Section 125A of the RP Act 1951.*

### **Intimation by Political Parties of Name of candidates set up by them**

- 22.1 In the list of contesting candidates, you have also to mention the party affiliation of the candidate if he has been set up by any Recognized National or State or Registered Unrecognized Political Party. The candidate may have made a declaration in his nomination paper that he has been set up by a particular political party. But such declaration by the candidate alone is not sufficient. The political party concerned must also intimate you the name of that candidate as having been set up by it. Such intimation by the party must reach you not later than 3.00 PM on the last date for making nomination. Any intimation received after the aforesaid date and time shall not be entertained by you in any case.
- 22.2 For giving the aforesaid intimation of the name of the candidate set up by a political party for an election to the Council of States or State Legislative Council, the Commission has prescribed the same procedure as is prescribed in Para 13 of the Election Symbols (Reservation and Allotment) Order, 1968 for intimation of name of candidates for elections to the House of the People and State Legislative Assemblies, though the said order does not apply in terms in relation to former elections. Under the said Para 13 of the Symbols Order, a candidate shall be deemed to have been set up by a political party, if and only if, :-
- (a) the candidate has made a declaration to that effect in his nomination paper,
  - (aa) the candidate is a member of that political party and his name is borne on the rolls of members of the party;
  - (b) a notice in writing in Form BB be delivered to the Returning Officer of the Constituency, not later than 3 PM on the last day of making nominations;
  - (c) the said notice is signed by the President, the Secretary or any other office bearer of the party and the President, Secretary or such other office bearer is authorised by the party to send such notice; and
  - (d) the name and specimen signature of such authorized person are communicated by the Party in Form AA to the Returning Officer of the

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Constituency and to the Chief Electoral Officer of the State not later than, 3 PM on the last date for the making nominations.

- 22.3 For the convenience of all concerned, the Commission has devised Forms AA& BB in which the party should intimate the names of their authorized office bearers and the candidates set up by them. A copy each of these Forms is given in [Annexure V-F & V-G](#).
- 22.4 Political parties have been instructed that these forms must reach to the Returning Officer and Chief Electoral Officer of the state not later than 3 PM on the last date for the making nominations.
- 22.5 Accordingly, in the list of contesting candidates you will show the party affiliation of only such of the candidates in respect of whom all the above mentioned procedural formalities have been completed by the political parties concerned before the stipulated date and time.

### **Notice of Nominations**

- 23.1 After 3.00 PM on each day between the date of notification and the last date for making nominations, both days inclusive, publish on your notice board, a notice of the nomination papers presented before you on that day.
- 23.2 The notice shall be prepared in Form 3B appended to the Conduct of Elections Rules, 1961, in the case of an election to the Council of States or State Legislative Council by members of the State Legislative Assembly. It shall be prepared in Form 3C in the case of an election to the State Legislative Council from a Council Constituency.
- 23.3 Your Assistant Returning Officer should also do the same in respect of the nomination papers presented before him at the end of each day. If more nomination papers than one have been presented before you in respect of the same candidate, notice must be given of each of them separately. A copy of this daily notice should be forwarded to you by the Assistant Returning Officer from day to day so that you may be aware of the latest position about the election as a whole.

### **Preparation of List of Nominated Candidates**

- 24.1 Immediately after 3.00 PM on the last date for filing nomination papers, prepare a consolidated list of all the nomination papers presented before you or the specified Assistant Returning Officers during the period fixed for the purpose, in the following form :-

S I . No.	Name of the candidate	Address of the candidate	Name of the political party, National or State or Registered, by which the candidate claims to have been set up/ Independent candidate
1	2	3	4
1 *			
2			
3			
4			
5			
PLACE Date			RETURNING OFFICER

24.2 The names of candidates shall be arranged alphabetically according to the script of the language first specified in the second column of S.O. No. 39/67 and 2/78 (**Annexure VI-A & VI-B**) as explained in chapter VI.

24.3 If more nomination papers than one have been presented in respect of the same candidate, it is not necessary to include the same in the list more than once.

24.4 Send one copy of this list to the Chief Electoral Officer and another to the Superintendent of State Government Press in which the ballot papers are to be printed, by the next available post marked "Election Immediate". One copy of the list should also be sent forthwith to the Election Commission.

### **Transmission of Nomination Papers by Assistant Returning Officer**

25. Instruct the Assistant Returning Officer to forward to you in safe custody all the nomination papers received by him as also all other papers connected therewith immediately after the last day for making nominations or if convenient in batches from day to day. In any case all such papers should reach you by 7 PM on the last date for making nominations.

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## CHAPTER VI

### SCRUTINY

#### Scrutiny of Nominations by Returning Officer

1. The scrutiny of the nomination papers should be done by you and not by any of the Assistant Returning Officers. The only exception to this mandatory requirement is when you are unavoidably prevented from doing so in which case one of the Assistant Returning Officers authorized by you in this behalf can do scrutiny. Such exceptions should, however, be **extremely rare**. If it happens unfortunately in your case that you have to delegate this duty unavoidably, it would be safe to record immediately the unavoidable reasons for such delegation as also your written authority in favour of your Assistant Returning Officer.

#### Persons entitled to be present during Scrutiny

2. On the day and at the hour fixed for the purpose, take up the scrutiny of the nomination papers, admit at the scrutiny only such persons as are entitled to be present under section 36, viz. the candidates, their election agents, one proposer of each candidate and one other person duly authorized in writing by each candidate and no other person.

#### Examination of Nomination Papers by Candidate, etc.

3. If any candidate, his election agent, his proposer or the person authorized by him desires to examine any of the nomination papers, allow him all reasonable facilities for doing so. In fact, an adequate period at the beginning of the day may be conveniently set apart for this purpose.

#### All Nomination Papers to be scrutinized

4. You should then take up nomination papers one after another and scrutinize them. If more than one nomination papers have been presented by or on behalf of one candidate, you should take them up together and scrutinize them one after another. In case there is any minor error in any one of the nomination papers of a candidate in regard to particulars, such as part number, name, serial number, etc. of the electoral roll, it can be made up with correct particulars given in another nomination paper of the same candidate. All the nomination papers presented to you and the Assistant Returning Officer must be scrutinized by you. Merely, because one or more nomination papers of a



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candidate have been already found valid by you, it would not be correct or legal to pass over other nomination papers of that candidate without scrutiny.

### **Objections and Summary Enquiry - reasons to be recorded in every case of objection or Rejection**

5. Even if no objection has been raised to a nomination paper, you have to satisfy yourself that the nomination paper is valid in law. If any objection is raised to any nomination paper, you will have to hold a summary inquiry to decide the same and to treat the nomination paper to be either valid or invalid. Record your decision in each case giving brief reasons particularly where an objection has been raised or where you reject the nomination paper. The objector may be supplied with a certified copy of your decision accepting the nomination paper of a candidate after overruling the objections raised by him, if he applies for it. Your decision may be challenged later in an election petition and so your brief statement of reasons must be recorded at this time.

### **Presumption of validity**

6. There is a presumption that every nomination paper is valid unless the contrary is *prima facie* obvious or has been made out. In case of a reasonable doubt as to the validity of a nomination paper, the benefit of such doubt must go to the candidate concerned and the nomination paper should be held to be valid. Remember that whenever a candidate's nomination paper has been improperly rejected and he is prevented thereby from contesting the election, there is a legal presumption that the result of the election has been materially affected by such improper rejection and the election will, therefore, be set aside. There is no such legal presumption necessarily in the converse case where a candidate's nomination has been improperly accepted. It is always safer, therefore, to be comparatively more liberal overlooking minor technical or clerical errors rather than being strict in your scrutiny of the nomination papers.

### **Scrutiny quasi-judicial duty**

7. While holding the scrutiny of nomination paper, you are performing an important quasi-judicial function. You have, therefore, to discharge this duty with complete judicial detachment and in accordance with highest judicial standards. You must not allow any personal or political predilections to interfere with the procedure that you follow or the decisions you take in any case. Fairness, impartiality and equal dealing with all candidates are expected of you by law. You must also deport yourself in such a manner as it would appear

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to all concerned that you are following this high code of conduct. Even if a candidate or his agent is difficult or cantankerous, you must exercise courtesy and patience. But at the same time you have to be firm so that your task may be accomplished in a prompt, orderly and businesslike manner.

### **Crucial date for determining qualifications / disqualifications**

- 8.1 You will notice that sub-section (2)(a) of section 36 of the Representation of the People Act, 1951 clarifies that the qualification or a disqualification of a candidate should be related to the date fixed for scrutiny of nominations. This is sometimes material e.g. in regard to the age of a candidate or in regard to being an elector in a Constituency, in regard to the subsistence of a contract with government, etc., in deciding whether a person is disqualified to contest the election. You should, therefore, see whether the disqualification subsists on the date fixed for scrutiny.
- 8.2 Chapter III of Part II of the Representation of the People Act, 1951 deals with disqualifications for membership of Parliament and State Legislatures. You should carefully study these provisions.

### **Grounds which are Insufficient for rejection of Nomination Paper**

- 9.1 Do not reject any nomination paper on the ground of any defect which is not of a substantial character [Section 36(4)]. Any mistake or error of a technical or clerical nature should, therefore, be ignored by you.
- 9.2 Also, a nomination paper should not be rejected for the reason only that none of the persons referred to in section 36(1) was present at the time of scrutiny of nomination; it should be accepted or rejected on merits, taking all the available material into account.
- 9.3 In the past there were instances where nomination papers were rejected on flimsy grounds e.g. for mistakes made in the nomination paper regarding: (a) the year of election or (b) the exact name of the House of the Legislature or the Constituency, (c) the description of an electoral roll number or (d) some discrepancy between the age, name, or other particulars of the candidate or his proposer as given in the nomination paper and in the electoral roll and so on. Such unjustifiable and improper order of rejection on technical grounds can lead to election petitions and the eventual setting aside of election with consequent avoidable waste of time, money and labour for all concerned. The Returning Officers should interpret the provisions of the law intelligently and with common sense. Do not, therefore, reject any nomination paper for such

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technical or clerical error or discrepancies. Most of them can and should be directed by you to be set right at the time of the presentation of the nominations paper [Section 33(4) proviso]. It would, therefore, be very improper if you fail at the proper stage to help a candidate by exercising your powers and discretion under the proviso to section 33(4) and later at the time of scrutiny you reject his nomination paper on the ground of those very defects which could have been set right under that section. You should examine meticulously the receipts for payments made as deposit either in the Reserve Bank of India or in a Government Treasury with reference to the seals of the Treasury or Bank, etc. and make sure that the deposit has actually been made in the Bank or Treasury. It may be ensured that where a Treasury is a “Banking Treasury” the payment receipt of the Bank is endorsed on the challan. Doubts, if any, should be got clarified then and there.

### **Grounds for Rejection of Nomination Papers**

10. You must reject a nomination paper, if—
  - (i) the candidate is clearly not qualified in law to be a member of the Parliament or Legislature concerned, (Qualification for election to Council of States have been prescribed in Article 84 of the Constitution and in Section 3 of the Representation of the People Act, 1951. Disqualifications are given in Article 102 (1) of the Constitution and in Section 8 to 10A of the Representation of the People Act, 1951. In election to Legislative Council the Qualification are given in Article 173 of the Constitution and Section 6 of RP Act, 1951. Disqualification are given in Article 191 (1) of the Constitution and in Section 8 to 10A of the RP Act, 1951) or
  - (ii) the candidate is clearly disqualified in law to be such member, or  
N.B The Commission will supply to you through the Chief Electoral Officer consolidated list of persons who have incurred disqualification under Sections 8-A and II -A(b) for corrupts practices) and 10-A (for failure to lodge account of election expenses) of the R.P. Act, 1951. In other cases you may, if necessary, consult the Chief Electoral Officer of the State/Union territory.
  - (iii) the nomination paper has been delivered before 11 AM or after 3 PM on any of the days notified for making nominations, or
  - (iv) the nomination paper has been delivered to you or to your specified Assistant Returning Officer by a person other than the candidate himself of his proposer, or

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- (v) the nomination paper has been delivered at a place other than that specified in the public notice, or
  - (vi) the nomination paper has been delivered to a person other than yourself or your Assistant Returning Officer, specified by you (in public notice in format) in this behalf, or
  - (vii) the nomination paper is not substantially in the prescribed form, or
  - (viii) the nomination paper has not been signed by the candidate or requisite no. of proposers, or
  - (ix) Any of the proposer is not an elector of the Constituency or
  - (x) the proper deposit has not been made in accordance with section 34/39, or
  - (xi) the oath or affirmation is not made by the candidate as required under the Constitution of India, or

**(xii) *the prescribed affidavit has not been filed at all by the candidate, or [N.B. If the prescribed affidavit has been filed, but are found or considered to be defective or containing false information, the nomination should NOT be rejected on the ground.]***

**(xiii) *incomplete affidavits are liable to be rejected leading to rejection of nomination paper on the ground of not filling up all columns in the affidavit even after reminders since the Hon'ble Supreme court of India has held that the voter has the elementary right to know full particulars of the candidate who is to represent him in the Parliament/Assemblies and such right to get information is universally recognized as natural right flowing from the concept of democracy and is an integral part of Art. 19(1)(a) of the Constitution of India.***

11. It should be noted that under the law it is not necessary that a candidate for election from a Graduates' Constituency or a Teachers' Constituency should be a graduate or teacher. Therefore, a nomination paper in such a Constituency should not be rejected on the ground of the candidate not being a graduate or, as the case may be, a teacher.
12. You should invariably record the reasons for rejecting a nomination paper on the spot and supply certified copies of the orders immediately in cases where all the nomination papers filed by a candidate have been rejected by you. This

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shall be done even in the absence of an application from him and without payment. Where one of the nomination papers of a candidate is accepted by you, in that case, you shall supply a certified copy thereof to the candidate if he applies for it.

### **Adjournment of hearing of Objection**

13. If a candidate to whose nomination paper, an objection has been taken applies for time to rebut such objection you should adjourn the hearing of the objection till the next day or the day after that. The scrutiny of the other nomination papers must, of course, be completed on the day of scrutiny notwithstanding such adjournment in respect of one or more nomination papers. If the day next is a holiday, the hearing should be completed before 11 AM on the day fixed for withdrawal of candidatures.

### **List of Validly Nominated candidates**

14. When the scrutiny has been completed, draw up a list of the validly nominated candidates, in Form 4 appendix to the Conduct of Elections Rules, 1961. There will be one entry only in respect of each validly nominated candidate in the list, although more nomination papers than one in respect of him may have been accepted as valid by you. Do not enter the name of any candidate in this list if none of his nomination papers has been found valid on scrutiny.

### **Correction in the Name of a Candidate**

15. If a candidate considers that his name is incorrectly spelt or is otherwise incorrectly shown in his nomination paper or is different from the name by which he is popularly known, he may, at any time before the list of contesting candidates is prepared, furnish in writing to you the proper form and spelling of his name and you shall on being satisfied as to the genuineness of the request, make the necessary correction or alternation in the list in form 4 and adopt that form and spelling in the list of contesting candidates.

### **Alphabetical Arrangement of Name of Candidates**

- 16.1 You will determine the arrangement of the name of candidates in alphabetical order in the list of validly nominated candidates, the list of contesting candidates and also in ballot papers on the basis of the first letter of his name irrespective of whether the name given is the proper name or surname. The initials, if any, prefixed to the name of candidates should be ignored for the aforesaid purpose. Thus in the case of a candidate giving his name as 'T.K. Reddy',

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the place of that candidate in the said lists according to alphabetical order should be determined with reference to the letter “r” and not “R”. If two candidates have the same name but different initials, for example, P.S Reddy and T.K. Reddy, then the two names should be arranged with reference to the first letter of the initials, further, if two or more candidates have the same names but different surnames, then their names should be arranged in alphabetical order with reference to the surnames.

- 16.2 Rules 22(3) and 30(3) of the Conduct of Elections Rules, 1961 provide that if two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner. In such cases, the arrangement of names in the list of contesting candidates and in the ballot papers will be with reference to the distinguishing names of the candidates.
- 16.3 There will also be no objection to the addition of any honorific, academic, hereditary, professional or any other title to the name of a candidate, but such title should on no account be taken into consideration, in the arrangement of names in alphabetical order in the list of validly nominated candidates and in ballot papers.
17. Arrange in this list the names of the candidates alphabetically according to the script of the language first specified in S.O. No. 39/67, dated 30-5-1967 (relating to election to State Legislative Councils) Or S.O.No. 2/78 dated 24-2-1978 (relating to election to the Council of States) as may be applicable. These S.Os. are reproduced in **Annexure VI-A & VI-B**.
18. Send two copies of the list to the Chief Electoral Officer by the next available post or by special messenger, also forward one copy of the list along with an English translation to the Election Commission. The list of validly nominated candidates should be sent by you on the very day on which scrutiny of all nomination papers is completed and dispatched immediately so that it reaches the Commission before the last date for the withdrawal of candidatures.

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## CHAPTER VII

### WITHDRAWAL OF CANDIDATURES

#### Notice of Withdrawal

- 1.1 Any candidate may withdraw his candidature by giving you a notice in Form 5 signed by him and delivered before 3 PM of the last date fixed for such withdrawal. Any withdrawal after that hour is invalid and has no legal effect. Every notice of withdrawal must be delivered to you by (i) the candidate, or (ii) his proposer, or (iii) his election agent. The proposer or the election agent must, however, have been authorized in writing by the candidate to deliver the notice of withdrawal on his behalf. If there is no such authority or if the person so authorized by the candidate is neither his proposer nor his election agent, the withdrawal is of no effect and must be ignored. As each candidate has more proposers than one in respect of different valid nomination papers, he may authorize any one of them to deliver his notice of withdrawal to you and it will be valid and must be given effect to if it has been delivered to you in time.
- 1.2 The scheme of section 30, 33 and 39 (1) of the Representation of the People Act, 1951, is such that the public holiday should be ignored for election purposes, Accordingly, the notice of withdrawal should neither be delivered to nor be received by you on a day which is a public holiday under the Negotiable Instruments Act, 1881.
- 1.3 A candidate may give notice of withdrawal only after the scrutiny of nomination is over. Such notice can be given on the date of scrutiny after the scrutiny is over or on the next day, if it is not a public holiday, or, on the second day after the day of scrutiny in terms of section 37 and if the second day is a public holiday, then on the next succeeding day which is not a public holiday.

#### Receipt for withdrawal

2. Form 5 contains in its bottom portion a receipt which you have to fill in and hand over to the person who delivers the notice of withdrawal to you. Detach the receipt portion from the body of the form and hand it over to that person then and there, also fill in the other particulars in the second portion of the notice of withdrawal below the signature of the candidate. This document so completed will be your record of the withdrawal.

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## Valid withdrawal not be Cancelled

3. Once a candidate has validly withdrawn his candidature, he cannot be allowed to cancel such withdrawal and to continue as a candidate [Section 37 (2)].

## Publication of Notice of Withdrawal

4. As soon as any valid notice of withdrawal is received by you, publish a notice thereof in Form 6 (appendix in CE Rules, 1961) on you notice board.

## List of Contesting Candidates- Preparation of

- 5.1 Immediately after 3 PM on the last day fixed for withdrawal of candidatures, draw up a list in Form 7B (appendix in CE Rules, 1961 & reproduced in Annexure VII-A) of contesting candidates that is to say, the candidates whose names were included in the list of validly nominated candidates prepared by you in Form 4 and who have not withdrawn their candidatures.
- 5.2 The list of contesting candidates should be prepared alphabetically in the language or languages as specified in the Commission's S.O. No. 39/ 67, dated 30-5-1967 (relating to elections to State Legislative Councils) or S.O.No. 2/78, dated 24.2.78 relating to Council of States), as may be applicable. These S.Os. are reproduced in **Annexure VI-A**.
- 5.3 In the list of contesting candidates, you have also to mention the party affiliation of the candidate if he has been set up by any Recognized National or State or Registered Unrecognized Political Party. The candidate may have made a declaration in his nomination paper that he has been set up by a particular political party.

## Publication of list of Contesting Candidates

- 6.1 Immediately after the preparation of the list of contesting candidates, *cause a copy* of the list to be affixed in some conspicuous place in your office. You shall also supply a copy of the list to each contesting candidate or his election agent.
- 6.2 Sub-rule (1) of rule 31 requires a copy of the list of contesting candidates to be displayed outside each polling station on the day of poll.
- 6.3 Inform the Chief Electoral Officer immediately by telegram or special messenger the names of the contesting candidates. Any delay may seriously affect the programmes for printing of ballot papers. Also send forthwith a copy of the list along with its English version to the Election Commission.



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## **Publication of List of contesting candidate in the Official Gazette**

- 7.1 Rule 11(2) of the Conduct of Elections Rules, 1961, requires that you shall publish the list of contesting candidates in the Official Gazette. The responsibility for getting the list published in the Gazette is thus laid on you. But as the press may not accept notifications direct from you for publication in the gazette, the Commission has directed that the publication of these lists should be arranged through the Chief Electoral Officer in the case of elections to the state Legislatures and the Election Commission of India in the case of elections to Parliament. The lists of contesting candidates of elections to the Council of States shall be sent to the Election commission who will get it published in the Gazette of India and also ask the Chief Electoral Officer, of the State concerned to get it republished in the concerned State Govt. gazette. The list of contesting candidates for State Legislative councils shall be sent to the Chief Electoral Officer of the State concerned who will get it published in the State Govt. gazette. As, however, all these elections, are held under the superintendence, direction and control of the Election Commission, these notifications should indicate at the top that they are notifications of the Election Commission of India. The specimen forms of notification for publishing the list of contesting candidates in the Official Gazette at biennial elections as well as bye-elections, are given at **Annexure VII-D**.
- 7.2 It is necessary to prepare a list of contesting candidates even in the case of uncontested election. It is, however, not necessary to publish it in the Official Gazette.

## **Safe Deposit of papers relating to Nominations, Scrutiny and Withdrawal of Candidatures.**

- 8.1 All election papers and proceedings relating to nominations, scrutiny and withdrawal of candidatures for an election should be put together in a packed or envelope and should be sealed with your seal. The particulars of the election and a brief description of its contents should be noted on the packet or envelope for ready reference.
- 8.2 In the case of an election to the Council of States or State Legislative Council by the members of State Legislative Assembly, these papers are required to be kept in the safe custody of the Returning Officer.
- 8.3 In the case of election to a State Legislative Council from a Council Constituency, these papers should be transferred to the District Election Officer for safe

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custody, like all other election papers after the declaration of result of the election.

### Issue of Identity Cards to Contesting Candidates

9.1 After the finalization of the list of contesting candidates, issue an identity card to each contesting candidate in the form given below:

<b>CANDIDATE'S IDENTITY CARD</b>	
Shri.....is a contesting candidate for election to the ..... from..... and is set up by the .....party.	
Place.....	.....
	(Signature of the candidate)
Date.....	Attested by
	.....
	(Returning Officer)
	(Seal)
<i>N.B.</i> — If the candidate is set up by a National Party or a State Party or a registered unrecognized Party you should enter the name of the Party, otherwise last line in the form should be scored out.	

9.2 You must keep required number of forms of identity cards ready for this purpose. Use a thick card-board for the above purpose.

### Appointment of election agents

10.1 Note that under the law, it is not necessary or incumbent on a candidate to appoint an election agent at the time of filing of his nomination paper. Such appointment may, if the candidate so desires, be made at any time he likes or not at all. In other words, the appointment of an election agent has, in the first place, been made optional and, secondly, has been made independent of the time of nomination. Every such appointment has to be made by a formal communication by the candidate in form 8 in duplicate which has to be forwarded to you. Return one copy thereof to the election agent after affixing thereon your seal and signature in token of your approval of the appointment.

10.2 Any person who is for the time being disqualified under the Constitution or under the Representation of the People Act, 1951, for being a member of

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either House of Parliament or either House of the Legislature of a State or for voting at elections, shall so long as the disqualification subsists, also be disqualified for being an election agent at any election.

#### 10.3 While Appointing Election Agents/Polling Agents/ Counting Agents:-

- (i) It should be ensured that no person who is employed in Govt./Semi Govt. offices nor any person who is holding a post accruing political benefit shall be allowed to be appointed as Election Agent/ Polling agent/ Counting agent of a contesting candidate.
- (ii) Election Agents/ Polling Agents/Counting Agents should not be office bearers of the Local Bodies (rural or urban local bodies) such as Sarpanchs, Pradhan, Zilla Pramukh, Mayor, Dy. Mayor etc.
- (iii) Election Agents/Polling Agents/Counting Agents should be persons from the same Legislative Council Constituency.

#### 10.4. Appointment of Authorised Agents in Form 22A

Rule 39AA (2) of the Conduct of Elections Rules, 1961 does not specify who shall be the authorized agents of the Party, and apart from that the election to the Council of States have a system of 'Open Ballot Paper'. Hence, an MLA or Minister can also be appointed as the Authorized Agent of the political party in respect of election to the Council of States.

The above instruction shall also be applicable to the appointment of polling agents/counting agents/election agents in respect of election to the Council of States/ Legislative Council.

In election to Council of States same person cannot be appointed as the authorised agent of more than one party.

### **Revocation of Appointment of Election Agent**

11. A candidate may revoke the appointment of election agent at any time by a letter in Form 9 (CE Rules, 1961) which is to be lodged with you in order to take effect. If an election agent's appointment has been revoked or if he dies, the candidate may appoint another election agent in his place.

### **TRAINING FOR POLLING/COUNTING OFFICIALS**

12. A training programme may be organized for all the Polling Officials and Counting Officials to make them thorough about the procedures of poll and counting of votes.

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## **Attention of Candidates to be invited to Law Relating to Corrupt Practices and Electoral Offences**

13. For the sake of purity of elections and for the guidance of the contesting candidate, you should draw attention of the contesting candidates by a notice in writing to the provisions relating to the corrupt practices and electoral offences in the Representation of the People Act, 1951 and offences relating to elections contained in Chapter DC-A in the Indian Penal code. The candidates should be clearly informed in the said notice that the list contained in the notice should not be taken as exhaustive. For the purpose of giving such notice, a model form is given in **Annexure VII-D**. The above notice may be issued to the contesting candidates immediately after the last date fixed for the withdrawal of candidatures.

## **Intimation to Contesting Candidates regarding Restrictions on the Printing of Pamphlets or Posters, etc.**

- 14.1 Section 127A of the Representation of the People Act, 1951 requires that every election pamphlet or poster should have on its face the names and addresses of the printer and publisher thereof, and that within a reasonable time after the printing of the document, one copy of the declaration as to the identity of the publisher together with a copy of the document should be sent to the Chief Electoral Officer of the State, if printed at the state capital, or to the District Magistrate of the district in which it is printed. Any contravention of these provisions shall be punishable with imprisonment for a term which may extend to six months, or with fine, which may extend to two thousand rupees, or with both.
- 14.2 In order that there is a strict observance of, and compliance, with the requirements of the above mentioned provisions of law on the subject, the Commission has issued the following directives :-
1. The District Magistrates and other concerned authorities shall be instructed that they should write to all printing presses in their districts -
    - (i) pointing out to them the requirement of the above mentioned section 127A and instructing them to indicate clearly in print line the names and addresses of printer and publisher;
    - (ii) asking them to send four copies of the printed material and the declaration of the publisher within ten days of its printing, the failure of which would be treated as a violation of the above provisions;

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(iii) impressing upon them in clear terms that any violation of provisions of Section 127A would be very seriously viewed and stern action, which may in appropriate cases include even the revocation of the license under the relevant law, would be taken.

2. The printer shall be asked to furnish along with the declaration and a copy of the printed material, the particulars regarding number of copies of the pamphlets, etc. printed and the price charged for such job in a proforma prescribed by the Commission, duly signed and authenticated by such printer.

3. The District Magistrates shall exhibit at some conspicuous place in the office, all the election posters, pamphlets, etc. received by them from the printing presses so that the candidates and other interested persons may be able to check in respect of which documents the requirements of law have been complied with, so as to enable them to bring to the notice of the authorities concerned the cases of other election posters, pamphlets, etc., in respect of which the above requirements of law have been violated.

The Chief Electoral Officers shall also do likewise in respect of such documents received by them.

4. One copy of such printed matter shall also be sent to the Commission by the District Magistrate, or as the case may be the Chief Electoral Officer.

5. The District Magistrates and other authorities charged with the detection and investigation of offences shall be instructed that they should initiate prompt action and investigation if any case of publication of election poster, pamphlet, etc. in violation of the abovementioned provisions of section 127A either comes, or is brought, to their notice. In all such cases, prosecutions should be launched against the offenders expeditiously.

14.3 The Commission's note on the subject and the proforma prescribed for furnishing of information by printing presses are reproduced in **Annexure VII-E and VII-F**.

14.4 On the last date fixed for the withdrawal of candidatures, you should supply to each contesting candidate an extract in full of the provisions of section 127A of the Act and also a copy of the Commission's note and the prescribed Performa referred to above (**Annexure VII-E & VII-F**). You should also inform the contesting candidates of the provisions of law and the Commission's above

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directives in this regard and request them to bring any instance of the violation of the law to the notice of the Chief Electoral Officer when the election pamphlet or poster is printed in the capital of the State and in any other case, to the District Magistrate of the district in which it is printed. On receipt of such information, the Chief Electoral Officer or the District Magistrate will cause the matter to be investigated immediately and take appropriate action under the law.

- 14.5 You are also advised to issue a press note for the guidance of printing presses so as to enable them to comply with the mandatory provisions in section 127A of the Act.

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## CHAPTER VIII

### UNCONTESTED ELECTION

#### Declaration of result of Uncontested Election

- 1.1 If in any election the number of contesting candidates is equal to the number of seats to be filled, declare all such candidates to be elected to fill those seats, immediately after the last hour fixed for withdrawal of candidatures [Section 53(2) of the Representation of the People Act, 1951]. In that event a poll is not necessary.
- 1.2 If the number of contesting candidates is less than the number of seats to be filled, then also declare all such candidates to be elected and report the matter to the Election Commission for issuing further notification under Section 53(3) of the Representation of the People Act, 1951 for filling the remaining seats.
2. You shall declare the result of election in Form 21A or 21B (CE Rules, 1961) as may be appropriate.

#### Completion of Return of Election

3. After making the declaration of result of election as above, complete the return of election in Form 23B (CE Rules, 1961) after suitable adaptation and deletions, as necessary. Mention that the election was uncontested.

#### Report of result of Uncontested Election

- 4.1 Report the result of such uncontested election by sending a copy of your declaration in form 21A/21B to
  - (1) the Election Commission;
  - (2) the Government of India in the Ministry of Law and Justice, in the case of an election to the Council of States; *or*
  - (3) the State Government, in the case of election to the State Legislative Council;
  - (4) the Secretary General of the Council of States; or
  - (5) the Secretary of the State Legislative Council, in the case of election to that Council;
  - (6) the Chief Electoral Officer of the State/Union Territory.

N.B.— It is only after this report is received from you that the appropriate authority will be able to publish the declaration in the Official Gazette as laid down in

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Section 67. In a bye-election any delay on your part in forwarding the report to the Secretary of the House concerned may also entail delay in that Secretariat taking further action to administer oath to the elected member and admit him into the House.

- 4.2 The date to be given on the declaration should be the date on which the result of election is declared and not the date on which the declaration is dispatched. Even if occasion arises when you have to rectify some error in your original declaration, there should be no change in that date which should continue to be the date on which the result was declared.

### **Certificate of Election**

- 5.1 As soon as may be after a candidate has been declare elected, you should grant to such candidate a certificate of election in Form 24 (CE Rules, 1961) and obtain from him an acknowledgement of its receipt duly signed by him. It is essential that this acknowledgement is signed by the candidate himself and his signature is attested by you personally before dispatch. The acknowledgement Form is given in **Chapter XIII**. Immediately thereafter, send the acknowledgement by registered post to the Secretary General of the Rajya Sabha or, as the case may be, the Secretary of the State Legislative Council. This is very important as otherwise the elected candidate will not be able to take his seat in the House promptly. This acknowledgement is required by the authorities concerned for verifying the identity of the elected candidate at the time of making and subscribing oath or affirmation by him as member of the House.
- 5.2 If the elected candidate is not present at the time of declaration of result and also does not visit the locality shortly thereafter, the certificate may be handed over to a person duly authorised by him in this behalf and personally known to you. The acknowledgement (duly signed by the candidate) shall also be obtained through the same person.



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## CHAPTER IX

# BALLOT PAPERS AND BALLOTBOXES

### General

- 1.1 With the withdrawal of candidatures and the preparation of the lists of contesting candidates, the first stage of election process comes to an end. Then begins the second stage of preparation for the actual conduct of election. This stage is very crucial. Great care and planning for adherence to the time schedule are essential.
- 1.2 The minimum interval between the last date for withdrawal of candidatures and the first day of poll is 7 days in the case of elections to the Council of States and State Legislative Councils by Members of Legislative Assembly and 14 days in the case of elections to the state Legislative Councils from Council Constituencies. The time available is very short and during this short period the ballot papers are to be printed and distributed.

### Ballot Papers—Form and Language

2. The postal and ordinary ballot papers for elections to the Council of States and state Legislative Council are to be printed in such form and language (s) as may be directed by the Commission under rules 22 and 30(1) read with rule 70 of the Conduct of Elections Rules, 1961. The directions issued by the Commission in this behalf and as amended from time to time are reproduced below. These directions should be strictly followed while getting the ballot papers printed :-

### Form and Language of Ballot Papers for Election by Members of Legislative Assembly

S.O. No. 322/2015(1)—In pursuance of sub-rule (1) of rule 22 and sub-rule (1) of rule 30, read with rule 70 of the Conduct of Elections Rules, 1961 and in supersession of its directions contained in S.O. 3/71 of, 1971 as subsequently amended, the Election Commission hereby directs that the ballot papers for an election by Members of Legislative Assembly shall be prepared as indicated below:

- (i) Every ballot paper shall have a counterfoil attached to it. The counterfoil shall be at the top of ballot paper and its depth shall not ordinarily exceed 15cms. The counterfoil shall contain the following:
  - a. Space for stitching at the top of the counterfoil;
  - b. a black border of **.5 cm (5 mm)** at the top of the counterfoil;
  - c. The particulars of the election shall be printed immediately below item (b) above or on the back of the counterfoil as may be convenient;

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- d. “serial No. of elector” on the left hand or right hand, as may be convenient;
- e. Serial number of the ballot paper on the left hand side either on the front or on the back as may be convenient;
- f. Place for signature or thumb impression of elector just above the words “Signature/Thumb impression” on the right hand side; and
- g. One block of lines of **.5 cm (5 mm)** with a perforated rule/disjointed straight line below separating the ballot paper from counterfoil.
- (ii) There shall be one block of lines **.5 cm (5 mm)** below the perforated rule/disjointed line on the ballot paper.
- (iii) The width of the ballot paper shall be 15 cm irrespective of the number of candidates. The length of the ballot paper excluding the counterfoil and the heading shall be 20 cm where the number of candidates is 4 or less (**including NOTA**). When the number of candidates is more than 4, the length of the ballot paper shall be determined at the rate of 4 cm for the panel of each candidate. The panel of each candidate shall be uniform in all cases. Just below the heading of the ballot paper, **three** vertical lines shall be drawn from its top to bottom dividing the width of the ballot paper into **four** columns. The first column on the left hand side shall be 2 cm in width for the serial number of each candidate to be printed. ***The second column shall be 8 c.m. in width and the name of each candidate and the party affiliation or the word “Independent”, as the case may be, shall be printed in the column on the panel reserved for him. Third column shall be 2 c.m. in width for the stamp sized (2 c.m. X 2.5 c.m.) photograph of the candidate. The last column on the right hand side of the vertical line shall be 3 cm in width. This column will be used by voters for making their preference(S).***
- (iv) The space between the names of any two candidates shall be divide by means of a single thick horizontal line.
- (v) (a) At the top of the ballot paper portion; the following headings shall be printed in a horizontal row, in small letters with a thick line below:-  
“Serial Number of Candidate”, “Name of Candidate with party affiliation if any”, “Photograph of the **Candidate**” and “Mark order of preference.
- (b) Under the column “Serial number of the candidate”, running serial numbers for each candidate starting from 1 (International from of Indian numeral) shall be given.

- (c) Under the column, “Name of Candidate with Party affiliation, if any,” the name of the Candidate and immediately below the name of the candidate, the party affiliation, if any, of the candidate, shall be printed. In the case of candidates without any party affiliation, the word “Independent” shall be mentioned immediately below the name of such candidate.
- (vi) On the reverse side of the ballot paper, the particulars of the election shall be printed at the bottom.
- (vii) The serial number of the ballot paper shall be printed on the left hand side either on the front or on the back as may be convenient.
- (viii) The particulars on the ballot paper in respect of an election in a State/ Union territory specified in column 1 of the table below shall be printed in the language or languages specified in the corresponding entry in column 2.

**TABLE**

<b>Name of State/Union territory</b>	<b>Language or Languages</b>
(1)	(2)
Andhra Pradesh	Telegu and English
Arunachal Praesh	English
Assam	Assamese and English
Bihar	Hindi
Chhatisgarh	Hindi
Gujarat	Gujarati
Goa	Konkani in Devnagri Script, Marathi and English
Haryana	Hindi
Himachal Pradesh	Hindi
Jammu and Kashmir	Urdu and English
Jharkhand	Hindi
Karnataka	Kannada and English
Kerala	Malayalam

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Madhya Pradesh	Hindi
Maharashtra	Marathi
Manipur	Manipuri and English
Meghalaya	English
Mizoram	English
Nagaland	English
Orissa	Oriya
Punjab	Punjabi
Rajasthan	Hindi
Sikkim	English, Nepali and Tibetan
Tamil Nadu	Tamil
Telangana	Telugu and English
Tripura	Bengali and English
Uttar Pradesh	Hindi
Uttarakhand	Hindi
West Bengal	Bengali and English
Delhi	Hindi and English
Pondicherry	Tamil and English

- (ix) The postal ballot paper will be of the same design as the one to be used at the place of poll except that the words “Postal Ballot Paper” will be stamped on the back of the ballot paper.
- (x) The ballot papers will be stitched into convenient bundles with consecutive serial numbers. It will be ensured that the serial numbers on each ballot paper and its counterfoil are identical.
- (xi) In case of ballot papers for election to Legislative Council by the members of Legislative Assembly, the serial number of the Ballot papers shall be concealed with a thick black paper of suitable size gummed at the form comes over the serial number.
- (xii) A sample ballot paper is Annexed at (Annexure IX-A).

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## FORM AND LANGUAGE OF BALLOT PAPERS FOR COUNCIL CONSTITUENCIES

NO. 322/2015(2)—In pursuance of sub-rule (1) of rule 22 and Sub-Rule (1) of rule 30, read with Rule 70 of the Conduct of Elections Rules 1961, and in suppression of its direction contained in S.O. No. 5/72 dated the 5th February, 1972, as subsequently amended, the Election Commission hereby directs that the ballot papers for an election to a Legislative Council from a Council Constituency shall be prepared as specified below:--

- (i) Every ballot paper shall have a counter foil attached to it. The counterfoil shall be at the top of ballot paper and its depth shall not ordinarily exceed 6 cm. The counterfoil shall contain the following:--
  - (a) Space for stitching at the top center of the counterfoil;
  - (b) A black border of 0.5 cm (5 mm) at the top of the counterfoil;
  - (c) The particulars of the election shall be printed immediately below item (b) above;
  - (d) “Electoral Roll Part No.” and “Serial No. of Elector” on the left hand side;
  - (e) Serial number of the ballot paper on the left hand side on the back of the counterfoil of ballot paper;
  - (f) Place for signature or thumb impression of elector just above the words “Signature/Thumb impression” on the right hand side, on the front side; and
  - (g) One block of lines of 0.5 cm (5 mm) with a perforated rule/disjointed straight line below, separating the ballot paper from counterfoil.
- (ii) There shall be one block of lines of **0.5 cm (5 mm)** below the perforated rule/disjointed line on the ballot paper.
- (iii) The width of the ballot paper shall be 15 cm irrespective of the number of candidates. The length of the ballot paper excluding the counterfoil and the heading shall be 20 cm where the number of candidates is 4 or less (**including NOTA**). When the number of candidates is more than 4, the length of the ballot paper shall be determined at the rate of 4 cm for the panel of each candidate. The panel of each candidate shall be uniform in all cases. Just below the heading of the ballot paper, **three** vertical lines shall be

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drawn from its top to bottom dividing the width of the ballot paper into **four** columns. The first column on the left hand side shall be 2 cm in width for the serial number of each candidate to be printed. **The second column shall be 8 c.m. in width and the name of each candidate and the party affiliation or the word “Independent”, as the case may be, shall be printed in the column on the panel reserved for him. Third column shall be 2 c.m. in width for the stamp sized (2 c.m. X 2.5 c.m.) photograph of the candidate. The last column on the right hand side of the vertical line shall be 3 cm in width. This column will be used by voters for making their preference(S).**

- (iv) The space between any two candidates should be divided by means of a single thick horizontal line.
- (v) (a) At the top of the ballot paper portion; the following headings shall be printed in a horizontal row, in small letters with a thick line below:-  
“Serial Number of Candidate”, “Name of Candidate with party affiliation if any”, “Photograph of the candidate” and “Mark order of preference.
- (b) Under the column “Serial number of the candidate”, running serial numbers for each candidate starting from 1 (International from of Indian numeral) shall be given.
- (c) Under the column, “Name of Candidate with Party affiliation, if any,” the name of the Candidate and immediately below the name of the candidate, the party affiliation, if any, of the candidate, shall be printed. In the case of candidates without any party affiliation, the word “Independent” shall be mentioned immediately below the name of such candidate.
- (vi) On the reverse side of the ballot paper, the particulars of the election and the serial number of the ballot paper should be printed.
- (vii) The particulars on the ballot paper, other than serial number, shall be—
- (a) (i) in the case of Local Authorities’ Constituency, in the language or languages in which the electoral roll or any part of the electoral roll for the Constituency has been prepared;
- (ii) in the case of Graduates’ or Teachers’ Constituency, in the language or languages indicated below:

<b>State</b>	<b>Language or Languages</b>
(1)	(2)
Andhra Pradesh	Telugu and English
Bihar	Hindi
Maharashtra	Marathi and English
Karnataka	Kannada and English
Telangana	Telugu and English
Uttar Pradesh	Hindi

- (a) all numbers including serial number on any ballot paper shall be in the international form of Indian numerals.
- (viii) The postal ballot papers will be of the same design as the one to be used at the polling station Except that the words “ Postal Ballot Paper” will be stamped on the back of the ballot paper.
- (ix) Where elections to the Graduates, and Teachers Constituencies are held simultaneously, the ballot papers for the Graduates’ Constituency election shall be printed on paper of white color and for Teachers’ Constituency election on pink color.
- (x) The ballot papers will be stitched into convenient bundles with consecutive serial numbers. It will be ensured that the serial numbers on each ballot paper and its counterfoil are identical.
- (xi) In the case of ballot papers for Local Authorities’ Constituencies, the serial number on the ballot paper only shall be concealed with a thick black paper of suitable size gummed at the four corners over each such serial number without concealing the serial number on the counterfoil of ballot paper.
- (xii) A sample ballot paper is Annexed at (Annexure IX-B)

**Printing of ballot papers-photograph of candidate to be also printed along with the other particulars**

The Commission has noted that there are many cases where candidates with same or similar names contest from the same constituency. Although appropriate suffixes are added to the names of candidates in the event of two or more candidates having same name, the Commission considers that additional measures are required for removing confusion in the minds of electors at the time of voting. There is also a

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writ petition on this very subject pending before the Hon'ble Supreme Court [WP(C) No. 541 of 2014-Akash Gahlot Vs. Election Commission of India & another].

Having considered all aspects of the matter, the Commission in partial modification of its existing directions under Rule 22, Rule 30 and Rule 49B of the Conduct of Elections Rules, 1961, hereby specifies that for elections to be held from 1st May, 2015 onwards, the postal ballot papers, the ordinary ballot papers and the ballot papers to be displayed on the balloting unit of EVMs shall, in addition to the particulars as per the existing directions, also contain the photograph of the candidate. The photograph of the candidate shall be printed in the panel for the name of the candidate and shall appear on the right side of the name in between the name and symbol of the candidate. The size of the photograph printed on the ballot paper shall be 2cm.X2.5cm. (two cm. in breadth and 2.5 cm. in height).

The above direction for printing of photograph of candidate on the ballot paper shall also apply in relation to elections by Assembly members and election from Council constituencies. In respect of the said elections, the directions are in exercise of powers under Rule 30 as made applicable to these elections by Rule 70 of the said Rules.

The specifications of the photograph are as follows:-

- (i) Candidates are required to submit their recent photograph (taken during the preceding period of 3 months before the date of notification).
- (ii) Photograph should be of stamp size 2 cm. X 2.5 cm. (two cm. in breadth and 2.5 cm. in height) in white/off white background, with full face view directly facing the camera, neutral facial expression with eyes open. The photo may be in colour or black and white as may be convenient for the candidate.
- (iii) Photograph should be in normal clothing. Photograph in uniform is not permitted. Caps/hats should be avoided. Dark glasses also to be avoided.

The candidates at every election shall be required to submit their photograph confirming to the above requirements/specifications alongwith their nomination papers and, in any case, latest by the date fixed for scrutiny of nominations. The photographs should bear the signature of the candidate/election agent on the reverse side of the photograph. When the photograph is submitted, the candidate/election agent/proposer submitting the photograph shall be asked to give a declaration stating that the photograph being submitted is that of the candidate (mentioning the name



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and address) taken during the period of preceding 3 months. A printed format for the declaration as annexed (Annexure-IX-C) to this letter shall be kept with the RO/ARO for this purpose.

When the nomination is filed, if the photograph of the candidate is not submitted, the RO shall give a notice asking the candidate to submit the photograph latest by the date of scrutiny of nomination. In the same Notice, it shall also be added that if the photograph is not submitted, his/her photograph will not be printed on the ballot paper. If any candidate still fails or refuses to give his photograph, that candidate will not have his photograph printed on the ballot paper. It may be added that non-submission of the photograph by the candidate shall NOT be a ground for rejection of the nomination of the candidate.

The Returning Officer shall display a list of validity nominated candidates with the photographs of the candidates against their names on the day following the date fixed for scrutiny of nominations. The Returning Officer shall inform the candidates at the time of scrutiny that the photographs to be printed on ballot paper will be displayed on his notice board on the next day (time may also be specified). If there is any error in the photograph or other particulars, the candidates/others will get an opportunity to point out the same to the Returning Officer for rectifying the error.

### **Provision of “None of the above” option on ballot paper for elections to RajyaSabha**

A doubt has been raised about applicability of NOTA option during elections to RajyaSabha in the light of the Hon’ble Supreme Court judgment dated 27.09.2013 in W.P. (C) No. 161 of 2004 (PUCL &Anr. Vs UOI &Anr.). The Commission has duly considered the matter and it has been decided that the NOTA option will also be applicable for elections to RajyaSabha. Accordingly, the Commission hereby directs that after the name and particulars of the last candidate on the ballot paper another panel may be provided and the words “None of the above (NOTA)” shall be printed therein in the languages in which the ballot paper is printed as per the direction issued by the Commission in pursuance of Sub-Rule (1) of Rule 22 and Sub-Rule (1) of Rule 30, read with Rule 70 of the Conduct of Elections Rules 1961.

### **Marking of ballot paper for exercising the option of “None of the above” for elections to RajyaSabha and Legislative Council Elections.**

As per previous instructions, option for NOTA was to be marked with a cross or tick mark against ‘None of the Above’ panel on the ballot paper. In supersession of all previous instruction with regards to the “exercising the NOTA option, the

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new instruction issued vide Commission's letter No. 576/3/2015/SDR, Dated: 12<sup>th</sup> November, 2015 as following:

There have been some cases where electors having marked 1st preference against one of the candidates put cross mark or mentioned subsequent preference (2nd 3rd , etc.) against NOTA, which have led to rejection of the ballot paper. In the light of such cases, the Commission has considered the matter afresh and, with a view to ensuring the compliance of rule 73 (2) of the CE Rules 1961 and adoption of a uniform approach towards the requirement of providing for NOTA option and the manner of voting in preferential system using single transferable vote, the Commission has given the following directions for exercising of NOTA option in elections to RajyaSabha and State Legislative Councils:-

- (i) Marking against NOTA shall be by way of writing figures 1,2,3, etc. as in the case of marking preference for candidates, i.e. in international form of Indian numerals or in the Roman form or in any Indian language;
- (ii) If preference '1' is marked against NOTA, it shall be treated as a case of not voting for any of the candidate and such ballot shall be treated as invalid, even if '1' is also marked against any other candidate in addition to being marked against NOTA;
- (iii) If 1st preference is validly marked against one of the candidates, and 2nd preference is marked against NOTA, such ballot paper shall be treated as valid for the candidate for whom 1st preference has been marked, provided there is no other ground to invalidate it, under rule 73(2). In such case, at the stage of examining 2nd preference is marked against NOTA. Similarly, if 1st and 2nd preferences are validly marked against a candidate each and 3rd preference is marked against NOTA, the ballot shall be valid for the first count and for the purposes of the 2nd preference, but, at the stage of examining the 3rd preference, if such stage comes, the ballot shall be treated as exhausted. These instructions shall apply for subsequent preferences also.
- (iv) If 1st preference and subsequent preferences, if any, are validly marked against the candidates and cross/tick is marked against NOTA, the ballot paper shall not be rejected as invalid only on this ground, and the preferences marked against the candidates shall be considered and counted accordingly. However, the general provisions of the rules and the Commission's instructions regarding marks that may identify the voter shall apply in the case of the mark against NOTA option, and if

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the RO considers that the mark put therein reasonably points towards identification of the voter within the meaning of rule 73(2)(d), that would render the ballot liable to rejection on that ground.

3. Some sample (Sample 1 to 7) markings on the ballot in accordance with the above directions are attached herewith for more clarity. (Annexure- IX-D)

### **Particulars of Election Printed on Ballot Papers**

3. The particulars of the election on the ballot papers shall be printed in the manner indicated below:

Biennial election to the Council of States by the elected members of the Legislative Assembly of .....(State) - 20....

Bye-Election to the Council of States by the elected members of the Legislative Assembly of .....(State) - 20...

Biennial election to the Council of States by the members of the electoral college of .....(Union territory) - 20....

Bye-election to the Council of States by the members of the electoral college of .....(Union Territory) – 20....

Biennial election to the ..... (State) Legislative Council by the members of the Legislative Assembly – 20....

Bye-election to the ..... (State) Legislative Council by the members of the Legislative Assembly – 20....

Biennial election to the..... (State) Legislative Council from ..... Council Constituency – 20....

Bye-election to the ..... (State) Legislative Council from ..... Council Constituency – 20....

### **Assessment of the Requirement of Ballot Papers for Elections by Members of Legislative Assembly.**

4. The number of ballot papers to be printed for an election to the Council of States or a State Legislative Council by Members of Legislative Assembly is to be calculated on the basis of the number of electors rounded off to the next ten. 10% ballot papers, subject to a minimum of ten and maximum of twenty five, should be allowed to be printed extra for issue as postal ballot papers and for meeting contingencies like defective ballot papers or ballot papers spoiled inadvertently by any elector, etc.

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## **Assessment of the requirement of Ballot Papers for use in Council Constituencies.**

5. The requirement of ballot papers for use in Council Constituencies should be assessed in the following manner. The number of ballot papers with counterfoils to be supplied to each polling station should be equal to the number of electors allotted to the polling station, rounded off to the next ten. The sum total of the ballot paper as required for all the polling stations in the Constituency should be rounded off to the next hundred, to the total so ascertained another 5% ballot papers, subject to a minimum of 100 and maximum of 500, may be printed extra for issue of postal ballot paper, and for meeting contingencies like defective ballot papers or loss of ballot papers at *any* polling station etc. Proper register should be maintained of the total number of ballot papers printed for each Constituency and of the total number of ballot papers supplied to each Polling Station.

### **Colour of Paper for Printing Ballot Papers**

- 5.A.1 The ballot papers for elections to the Council of States shall be printed on paper of white colour. When there are two simultaneous elections, the ballot papers should be printed on papers of white colour and pink colour respectively.
- 5.A.2 The ballot papers for all elections to the State Legislative Council shall be printed on pink colour paper. Where, however, elections to the graduates and teachers Constituencies are held simultaneously and some common polling stations are set up for both the elections, the ballot papers for the Graduates Constituency' shall be printed on paper of white colour and for Teachers Constituency' on pink colour paper, as already mentioned in item (ix) of the directions relating to form and language of ballot papers for Council Constituencies under Para 2 above.

### **Special Paper for Printing Ballot Papers for elections by Members of Legislative Assembly**

6. The ballot papers for elections to the Council of States and State Legislative Councils by Members of Legislative Assembly should be printed on paper on which the legend 'Election Commission of India' is printed all over in light shade on one side. The side on which the legend is so printed will form the reverse side of the ballot paper. The legend 'Election Commission of India' should be printed in light shade so that the particulars which have to appear on

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the reverse side of the ballot paper and the distinguishing mark which is to be put on the back of ballot paper are clearly visible. For saving time, sufficient quantity of paper with the legend 'Election Commission of India' printed on one side in light shade should be kept in readiness so that printing of ballot papers starts as soon as the list of contesting candidates is ready.

### **Concealment of Serial Numbers of Ballot Papers for use at elections to the State Legislative Councils by Members of Legislative Assembly and from Local Authorities' Constituencies**

- 7.1 rule 23(3) and 38A(5) read with rule 70 of the Conduct of Elections Rules, 1961, provide that before any ballot paper is issued or delivered to an elector at an election to the State Legislative Council by Members of Legislative Assembly or from a Local Authorities' Constituency, its Serial Number shall be effectively concealed in such a manner as the Election Commission may direct.
- 7.2 The directions issued by the Commission in pursuance of the above referred rules provide that the serial number of every ballot paper should be effectively concealed by placing a thick black paper of suitable size gummed at the four corners over each such serial number. Before doing so, however, it shall be checked and verified that the serial numbers on the ballot paper and its counterfoil are identical.
- 7.3 If the serial number of the ballot paper is visible on the reverse of the ballot paper on account of the thinness of the paper used or the percolation of ink, such impression on the reverse side should also be effectively covered by wholly pasting thereon a piece of thick black paper.
- 7.4 It should be noted that such concealment is to be done only of the serial number printed on the ballot paper and not on its counterfoil. In other words, the serial number printed on the counterfoil of the ballot paper shall not be concealed.
- 7.5 The concealment of the serial numbers on the ballot papers before they are issued to electors may be very inconvenient if done at the polling station. Therefore, this work of concealment of serial numbers of the ballot papers, both postal ballot papers and ordinary ballot papers, should be done either in the press itself or in your office immediately after the ballot papers have been printed.

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## **Distinguishing Mark on the Ballot Papers for use at elections by Members of Legislative Assembly**

- 8.1 Every ballot paper before it is issued to an elector and its counterfoil, are required under the Rules [Rule 38A(1) read with rule 70] to be stamped on the back with such distinguishing mark as the Election Commission may direct.
- 8.2 In pursuance of above referred rule, the Commission has directed that the distinguishing mark to be put on the back of the ballot paper and its counterfoil for use at an election by Members of Legislative Assembly shall be the mark made by means of a special brass seal with specific number which shall be specially supplied by the Commission to the Returning Officer at each such election.
  - 8.3.1 The said brass seal shall be prepared and kept by the Commission and shall be supplied to the Returning Officer only on the eve of the poll.
  - 8.3.2 The said brass seal must be returned by the Returning Officer to the Commission within twenty four hours of completion of poll by registered insured post and securely placed inside the container box in which it is supplied so that the brass seal is not damaged in transit.
- 8.4 The above mentioned distinguishing mark may be stamped in the middle or at any appropriate place on the back of the ballot paper in such a manner that in whatever manner the elector folds the ballot paper, some portion of the distinguishing mark is visible to the Presiding Officer or the Polling Officer in whose presence the ballot paper is inserted into the ballot box. If in view of the large number of candidates and consequent increase in size of the ballot paper this is not possible, the ballot paper may be refolded in advance before issue to an elector in such a way that some portion of the distinguishing mark is clearly visible when it is inserted in the ballot box.

## **Distinguishing Mark on the Ballot Papers for use at elections in Council Constituencies**

- 9.1 In pursuance of the above referred rule 38A( 1) read with rule 70, the Commission has prescribed that the distinguishing mark to be put on the back of a ballot paper and its counterfoil which is to be used at an election from a Council Constituency, shall be the serial number of the polling station at which that particular ballot paper is used. Thus, on the

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back of every such ballot paper and its counterfoil, the serial number of the polling station where it is used shall be rubber-stamped. For instance, all ballot papers issued to electors at polling station No. 53 in a Council Constituency shall be stamped as : (53).

- 9.2 Where it is not found practicable to rubber stamp the serial number of the polling station on the ballot paper on account of any unavoidable reason, it shall suffice if the aforesaid serial number is noted by hand in ink on the back of each such ballot paper and its counterfoil, and it may not be necessary to enclose that number within a circle.

### **Instructions regarding Verification of Ballot Papers — time of issuing to Presiding Officers in Council Constituencies**

10. The ballot papers for elections to the Council of States/State Legislative Councils will be supplied in convenient bundles. Each bundle will have consecutive serial numbers. On receipt of the ballot papers you should check all of them to ensure the following:
- (a) The names of all the contesting candidates have been printed properly and correctly.
  - (b) The serial number of the ballot paper corresponds with that on the counterfoil. Where serial numbering is done by means of hand numbering machine, the serial numbers will appear at the back of the ballot paper and counterfoil.
  - (c) There is no discrepancy in the number of ballot papers as sent by the Press and the number found on actual counting at your end.
  - (d) Clear instruction should be given that ballot papers with duplicate numbers and the number of ballot papers with missing numbers are clearly noted in a register and published on the notice board at the distributing centre. A copy of the notice should be sent to each of contesting candidates.
  - (e) The ballot papers should be distributed only on the day before the poll, in respect of polling stations which can be reached by the polling parties in one day. In cases in which it will take more than one day for the polling parties to reach the polling stations, the ballot papers should not be issued a day earlier than absolutely necessary. In either case, from the moment the ballot papers are delivered to the Presiding Officers, they should be provided with security guards and they should proceed



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straight from the place of distribution to the polling stations. In cases in which it requires more than one day for the polling party to reach the polling station, it would be desirable not to deliver the ballot papers *to* the Presiding Officers along with the other materials required for the poll, but to arrange to distribute the ballot papers required for each polling station through the sector offices who are required to visit each polling station within their charge at least once on a day before the poll. In that case, the ballot papers will be checked by the Presiding Officers at the polling stations and their receipt will be obtained by the sector officers concerned.

- (f) The defective ballot paper, if any, in the stitched bundle of ballot papers should be first removed from the bundle by the Returning Officer or by some other responsible officer nominated by the Returning Officer and then that bundle has to be re-stitched immediately by bostich machine or with thread. If, in spite of the above procedure, any ballot paper is found defective at the polling station, it will be cancelled by the Presiding Officer.
- (g) The ballot papers should be allotted to each polling station having regard to the number of voters (rounded off to the next ten) and for this purpose if need arises, the required number of ballot papers should be taken out from the last stitched bundle intended for that polling station and re-stitched. In that case the supply of ballot papers to the next polling station will start from the first serial no. of the re-stitched bundle and not from a new separate bundle.

### **Safe Custody of Undistributed Ballot Papers**

11. Immediately after issuing the ballot papers to the Presiding Officers for the poll is completed, the bundles of undistributed ballot papers should be put inside a steel trunk or receptacle and that steel trunk or receptacle shall be deposited in treasury/sub treasury or strong room till the election is completed. These un-distributed ballot papers may be used for fresh polls or adjourned polls, if necessary. Proper safeguards must however be taken to ensure that undistributed ballot papers remain either under your personal custody or the personal custody of any of your Assistant Returning Officers nominated by you, and are not entrusted to mobile officers. After completion of the election, this steel trunk or receptacle should be either sent to the Chief Electoral Officer or kept in the treasury/sub-treasury under the orders of the Chief



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Electoral Officer until the undistributed ballot papers therein are destroyed in the manner required by the Rules and Orders. (See Chapter xv)

### **Facility to vote by Post—Supply and return of Postal Ballot Papers Persons entitled to vote by Post**

12.1 The following persons are entitled to vote by post, namely:

- (a) at an election by members of Legislative Assemblies :-
  - (i) electors subjected to preventive detention; and
  - (ii) all electors if directed by the Election Commission in this behalf under clause (a) of rule 68;
- (b) at an election from a Council Constituency-
  - (i) voters on election duty;
  - (ii) electors subjected to preventive detention; and
  - (iii) electors in the whole or any specified parts of the Constituency if directed by the Election Commission in this behalf under clause(b) of rule 68

12.2 “electors subjected to Preventive Detention” means any person subjected to preventive detention under any law for the time being in force.

12.3 “a voter on election duty” means a Polling agent, a Polling Officer, Presiding Officer or other public servant who is an elector in the Constituency and is by reason of his being on election duty, unable to vote at the polling station where he is entitled to vote. Thus, the observers appointed by the Commission and their staff members accompanying them are also voters on election duty.

### **Voting by Post by all Electors or in a Part of the Constituency**

13.1 Under Rule 68 of the Conduct of Elections Rules 1961, the Election Commission is empowered to direct that the method of voting by postal ballot shall be followed (i) by all electors at an election to the Council of States or State Legislative Council by Members of Legislative Assembly, or (ii) in the whole or any specified parts of the Constituency in the case of an election in a Council Constituency.

13.2 This power will be invoked by the Commission only in very exceptional cases where it is satisfied that the normal method of voting by electors in person will be very inconvenient for the electors concerned.

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## Form of Postal Ballot Paper

14. The postal ballot papers shall be the same as the ordinary ballot papers except that the words 'Postal ballot Paper' shall be stamped on back side of the ballot papers and on the back side of their counterfoils (See paragraph 2 in this connection).

## Papers to be sent with Postal Ballot Paper

- 15.1 You will have to send to each voter a form of declaration (Form 13-A), a smaller cover containing the postal ballot paper (Form 13-B), a larger cover addressed to yourself in Form 13-C (no postage to be affixed on this cover) and a copy of the printed instructions to voters in Form 13-D. These will be placed inside an outer cover and sent to each voter by ordinary post under certificate of posting. Before you send these documents to any elector, remember to fill up in ink correctly in Forms 13-A and 13-B the serial number of the respective postal ballot paper. This is very important as at the time of counting of votes you will have to compare these numbers on Forms 13-A and 13-B and see that they tally. If they do not tally in the case of any voter, his postal ballot paper will have to be rejected. These Forms are appended to the Conduct of Elections Rules, 1961.
- 15.2 Also remember to fill up correctly the hour and date before which the postal ballot paper must reach you, in Form 13-D.
- 15.3 The statistics of women voters who cast their votes by postal ballot paper should be ascertained by boldly noting the letter "W" on the inner envelope in Form 13-C, i.e., the envelope addressed to the Returning Officer, in the case of every woman voter while sending the ballot paper to her.

## Voters on Election Duty

- 16.1 Applications from voters on election duty for permission to vote by postal ballot are required by law to be made at least seven days or such shorter period as you may allow before the day of poll or the first day of the poll in the Constituency. This is to enable you to send the postal ballot papers in time and to make the necessary entries in the working copies of the electoral rolls for the respective polling stations. If you have appointed the officers and supplied them with the application forms in time you need not relax this seven day rule. A Presiding Officer, Polling Officer or policeman or other public servant may be appointed for duty at a polling station so late that though he is otherwise entitled to apply for a postal ballot paper, he cannot do so seven days before

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the first date fixed for the poll. You should, whenever practicable, exercise your discretion in favour of such officer or public servant and allow him the facility of postal ballot when he applies for such facility.

- 16.2 Many of the officers appointed for duty at polling stations (including police personnel) may be on duty on the polling day at polling stations other than the ones where they are respectively entitled to vote. So far as the officers you have yourself appointed for polling duty are concerned, you should supply them copies of application forms in prescribed Form 12 appended to the CE Rules, 1961, along with the order appointing them for polling duty. If two elections are being held simultaneously, two copies of the form will have to be supplied. The officer will apply to you or to the Returning Officer of the Constituency where he is enrolled, for permission to vote by postal ballot.
- 16.3 Officers appointed for polling duty by other Returning Officers/ District Election Officers may also apply to you for permission to vote by post if they are voters in your Constituency. If you are satisfied of any such officer's claim to vote by post you will send him a postal ballot paper. To obviate any delay or difficulty in issuing postal ballot papers to voters drafted for election duty, the Commission has directed that you or as the case may be, the District Election Officer should issue to such voters the order of appointment in duplicate so that the voter on election duty may enclose one copy of that order of appointment to the Returning Officer along with his application form for supplying the postal ballot paper thereby facilitating the easy identification of the applicant and decision regarding his entitlement to the issue of postal ballot paper.
- 16.4 The order of appointment in duplicate should also bear the clear seal of the Returning Officer or the District Election Officer.
- 16.5 In order to enable the voters on election duty to submit their applications in the prescribed Form 12 for the postal ballot papers without much difficulty, you should make available for their inspection a copy of the electoral roll at the centre(s) for rehearsal and training classes, so that polling personnel attending such classes can note down the particulars of their electoral roll numbers which, they have to furnish in their applications for postal ballot papers. Also make available for supply to them the application Forms 12 at the said centre(s)

## **Polling Agents**

- 17.1 So far as the polling agents are concerned, many of them will, for the same reason as in the case of Polling Officers, require the facility of postal ballot

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if they are to vote at all. They are themselves required to apply on their own motion, however, for ballot papers. You should satisfy yourself in respect of each polling agent who thus applies that (1) his name has been entered in the electoral roll and (2) that he is physically unable to vote in person by reason of his appointment as a polling agent. If you are so satisfied, allow him to vote by post and send him a postal ballot paper.

- 17.2 For this purpose you may lay down your own procedure for satisfying yourself about the genuineness of the claim for a postal ballot. For example, you may insist upon the countersignature of the concerned candidate or his election agent on Form 12 or a certificate from the candidate or his election agent or you may get a duly certified list giving details of polling agents from the candidate or his election agent.
- 17.3 If the appointment of any polling agent has been revoked after the issue of ballot paper to him, he can vote by post only.

### **Persons in Preventive Detention**

18. The appropriate Governments should communicate to you within 15 days after the date of the notification of the election (a) the names of all such voters in your Constituency as are being held by them in preventive detention and (b) the respective places where they are being so held. Even if the Government has failed to do so, an elector held in preventive detention may himself give you in writing a notice of his intention to vote by postal ballot. In either case, if you are satisfied (a) that his name has been entered in the electoral roll, and (b) that he is held in preventive detention you will send him a postal ballot paper addressed to the place where he is being so held.

### **Record of Postal ballot Papers**

- 19.1 Before sending any postal ballot paper to an elector in preventive detention or a voter on election duty, you should record on the counterfoil of the ballot paper the electoral roll number of the elector as entered in the marked copy of the electoral roll and electoral part number. Put letter 'PB' against the name of the elector in the marked copy of the electoral roll to indicate that a ballot paper has been issued to him, without however, recording therein the serial number of the ballot paper issued to that elector. This is necessary to ensure that elector is not allowed to vote at the polling station. You should also seal in a separate packet the counterfoils of ballot papers issued to such electors entitled to vote by post and record on the packet a brief description of its

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contents and the date on which it is sealed. Any elector who has been allowed to vote by post and to whom the postal ballot has been issued will not be allowed by the Presiding Officer to vote in person. He can only vote by post.

- 19.2 After all the postal ballot papers for voters have been issued, seal the marked copy of the electoral roll and arrange to give it to the concerned Presiding Officer to be used as the marked copy of the electoral roll at the polling station. It is very important that this copy of the electoral roll on which the letters 'PB' have been recorded should be used as the marked copy of the electoral roll at the polling station; otherwise such a voter may vote at the polling station in addition to voting by postal ballot. The counterfoils of the postal ballot papers issued to the electors should be sealed in a separate packet and kept in your safe custody.

### **Supply of Second Set of Postal Ballot Papers, etc., in Exchange for First Set**

20. You may issue a second postal ballot paper to a voter (along with the other connected papers) only if the latter (a) returns to you the entire set of papers first issued to him, and (b) further satisfies you that through inadvertence he has so spoilt the first set of papers that they are incapable of being used. Cancel the returned papers, seal them in a packet and note the serial numbers of the postal ballot papers thus returned to you on the packet.

### **Postal Ballot Papers Returned in Time**

- 21.1 Keep in safe custody all the postal ballot papers which are received back by you in time. Postal ballot papers should be returned to you at the latest by the hour fixed for the commencement of counting of votes for the election.
- 21.2 For keeping correct account of the postal ballot papers received back in time and ensuring that no such ballot paper is lost or misplaced, you should open a register in which the number of postal ballot papers received should be duly entered. The entries in this register should be made from day to day and should be countersigned by you or Assistant Returning Officer at the end of each day.

### **Postal Ballot Papers Returned Late**

22. You should not decline to receive any cover containing postal ballot paper delivered after expiry of the hour fixed for its return. Postal ballot papers received by you too late (i.e. after the hour fixed for the commencement of the counting of votes or on any subsequent date) cannot be counted and must be

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rejected. Note the date and time of its receipt on each such cover received too late. These covers are not to be opened and should be kept together for future reference, if any. The ballot papers contained in those covers need not be included in the total number of rejected votes for the purposes of the Return of Election in Form 23B.

### **Attestation of Declaration of an Elector Voting by Post**

- 23.1 Sub-rule (2) of rule 24 of the Conduct of Elections Rules, 1961 requires that the elector voting by postal ballot shall sign the declaration in Form 13A in the presence of, and have the signature attested by, a stipendiary Magistrate or such other officer as is specified in the rule for this purpose.
- 23.2 The officers so specified for the purpose of elections to the Council of States and State Legislative Councils are:- any Gazetted Officer or the Presiding Officer of the polling station, in the case of a voter on election duty; the Superintendent of the Jail or the Commandant of the Detention Camp, in the case of an elector under preventing detention; and such other officer as may be notified by the Election Commission, in any other case.
- 23.3 The Commission has notified under the above referred rule the following officers any one of whom may attest the declaration of an elector in respect of an election in a Council Constituency:
1. Any Gazetted Officer of the State or the Central Government and Heads of Offices in the State or in the Central Government;
  2. Vice-Chancellor, Registrar or any member of the Senate or of the Academic Council of any Statutory University of India;
  3. The Chairman or President of any local authority specified in the Fourth Schedule to the Representation of the People Act, 1950;
  4. The Commissioner or the Chief Executive Officer of a Corporation;
  5. The Chief Executive Officer of any local authority specified in the Fourth Schedule to the Representation of the People Act, 1950;
  6. The head of any educational institution within the State notified by the State Government under clause (b) of sub-section (3) of section 27 of the Representation of the People Act, 1950, as being not lower in standard than that of a secondary school.

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23.4 It is sometimes alleged that candidates or their supporters get the postal ballot papers from the voters without the vote having been recorded thereon and merely signing their declarations and get them attested later on by obliging attesting officers even in the absence of the electors in person, as required by law. To guard against such malpractices, if they really exist, the Commission has requested all State Governments and High Courts to suitably alert every stipendiary Magistrate and to insist that the formal legal requirements regarding the identification of each elector and the attestation of his signature on the declaration in connection with his postal ballot paper must be strictly complied with whenever they have occasion to attest such signature. You may note that honorary Magistrates are not competent under the law to attest any postal ballot paper. A Member of Parliament or State Legislature will not be deemed to be a ‘Gazetted Officer’ for purposes of attestations of postal ballot papers.

### **Delivery of Postal Ballot Papers**

24.1 The Director-General of posts and Telegraphs has been requested to instruct all postal authorities regarding the provisions of law making it their legal duty to arrange for the prompt delivery of every cover containing postal ballot paper to the correct addressee so that the system of postal ballot may work satisfactorily. Under the rules, postal ballot papers can be returned to you as ‘Service Unpaid’ and you have to pay cash against each such delivery. Since it will be very difficult to pay cash every time the covers are delivered, it is suggested that you should open a deposit account at the nearest post office from which you will receive delivery of the covers so that the postal authorities can adjust the charges, against the deposit every time the covers are delivered. An account of such covers so received may be kept.

24.2 The Director-General of Posts and Telegraphs will also inform all postal authorities regarding prompt delivery of postal ballot papers to you on the polling day irrespective of Sundays and post office holidays.

### **Ballot Boxes**

25.1 Only the ballot boxes of the design approved by the Election Commission under rule 29 (read with Rule 70) should be used in any election.

25.2 The ballot boxes to be used at any election to the Council of States or a State Legislative Council by Members of Legislative Assembly are approved by the Election Commission on each occasion at the time of every such election. You

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should, therefore, ensure that the approval of the Election Commission for the boxes to be used at the current election has been obtained.

25.3 For election to the State Legislative Councils from Council Constituencies, the Commission has approved the ballot boxes of the following type and sizes.

### **GODREJ TYPE**

- (i) 6" high x 9" long x 7½" wide (i.e., 152mm high x 229mm Long x 191mm wide)
- (ii) 8" high x 9" long x 7½ "wide (i.e., 203mm high x 229mm long x 191 mm wide)
- (iii) 9" high x 9" long x 7½ "wide (i.e., 229mm high x 229mm long x 191 mm wide)

### **TANSI/ALLWYN/DAGA TYPE**

475mm high x 280mm long x 335mm wide

- 25.4 You must assess the requirement of ballot boxes well in advance and take step for getting the supply.
- 25.5 The ballot boxes should be thoroughly checked to ensure that they are in perfect working condition. They should be oiled and cleaned and, if necessary, painted well before the date of poll.
- 25.6 Each ballot box must be checked for its proper working before issuing to a Presiding Officer.
- 25.7 As has been mentioned in Para 5.4 of Chapter IV, the Commission has directed that each ballot box available in the district shall be engraved with a serial number in the manner described in that Para. Only such serially numbered ballot boxes should alone be supplied to the polling parties for use at the polling stations. No ballot box which does not have a serial number engraved shall be used at any polling station in any circumstance.



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## CHAPTER X

# ARRANGEMENTS FOR THE POLL

### A-Elections by Members of Legislative Assembly

1. As soon as the list of contesting candidates has been published, you should arrange for the ballot boxes and other polling materials and also arrange for the printing of the ballot papers. You will get only seven days for all these and you should ensure that everything is ready before conducting the poll. Here is a sample list (illustrative not exhaustive) of your tasks during this period:
  - (1) Selecting the Polling Officers to assist you in the poll;
  - (2) Ensuring that you are having adequate stock of the polling materials required;
  - (3) Supplying the contesting candidates the forms for appointment of polling and counting agents;
  - (4) Preparing the up-to-date list of members to be used as marked copy of the electoral roll;
  - (5) Fixing up of the place of poll and setting up of the polling station;
  - (6) Informing the electors by a notice of the date, time and place of poll as required under rule 69;
  - (7) Sending the postal ballot papers to the electors entitled to vote by post.

### B-Elections in Council Constituencies

- 2.1 The period between the withdrawal of candidatures and the date of poll which will ordinarily be 14 days will be the busiest time for you. During this period, you have to make your arrangements final and check that everything is ready for conducting the poll.
- 2.2 Maintain a forward diary of the different items of work that you have to attend from time to time and keep it up-to-date by adding remarks to show the progress made in respect of each item. Here is a sample list (not exhaustive but illustrative) of your tasks during this period:
  - (1) Ensuring that formal appointment orders for the Presiding Officers and Polling Officers for each polling station in your Constituency have been issued by the District Election Officer;

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- (2) Issuing of forms of application (Form 12) for postal ballot papers to the polling personnel including the police;
  - (3) Requisitioning of vehicles required for the poll including the vehicles required for transport arrangements of polling personnel and polling materials;
  - (4) Checking up the deployment of police forces;
  - (5) Dispatch of postal ballot papers along with connected papers to voters entitled to vote by post;
  - (6) Review of your requirement of polling materials including forms, etc., in the light of actual number of contesting candidates and the total number of polling stations;
  - (7) Meeting with contesting candidates with a view to seeking their cooperation and removing their misapprehensions, if any;
  - (8) Supplying the contesting candidates with (i) lists of polling stations and the areas covered by each polling station and (ii) forms for appointment of polling and counting agents;
  - (9) Preparing three working copies of the relevant parts of the electoral roll for use in each polling station;
  - (10) Provision of one or more voting compartments at each polling station in any one of which a voter can mark his vote on the ballot paper in secrecy;
  - (11) Training classes for your polling personnel;
  - (12) Publicity about the location of polling stations;
  - (13) Distribution of polling materials to the polling parties;
  - (14) Supply of copies of Instructions to Electors for marking Ballot Papers' to political parties/candidates for distribution among electors.
  - (15) Arrangements for the return of the polling parties after the poll and the receipt of the ballot boxes and other materials and papers from them;
  - (16) Arrangements for the safe custody of these polled ballot boxes and other election papers.

2.3 In the case of elections from Graduates' and Teachers' Constituencies, you have also to obtain from the Electoral Registration Officer of the Constituency

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the original claim applications of electors for enrolment of their names in the electoral roll made by them in Form 18 or, as the case may be, Form 19 of the Registration of Electors Rules, 1960. You should have these forms arranged polling station-wise and also elector-wise for supply to the Presiding Officer along with other election materials.

### **Contacts with Candidates**

3. Meet the contesting candidates as often as you can. Keep them informed of the arrangements you have made. Request them to supply you at an early date a list of dead, absent and bogus voters in the electoral roll polling station wise. These lists should be supplied to you at least 12 days before commencement of the poll. You should tell them that unless they cooperate with you in this matter and supply the lists in time, it will be difficult for the Presiding Officers to check impersonation and that any complaint that the candidates may make later regarding impersonation of voters can hardly carry weight and would be useless. Also request the candidates to ensure that their lists are correctly and carefully prepared so that genuine voters are not put to any harassment in the course of verification by the Presiding Officers of their identity. You should also warn them that if considerable number of entries in any of these lists are found to be incorrect, the Presiding Officers would be directed not to attach any importance to them thereafter.

#### Cooperation for Law and Order

4. The contesting candidates, if they are tactfully approached will also be of great help to you in preserving law and order before and during the poll. If you can secure their cooperation, many of your other difficulties would also be easily solved.

### **Model Code of Conduct and its Observance**

- 5.1 It hardly needs to be emphasized that for the smooth conduct of an election, peaceful atmosphere should prevail during the election period. The most potent cause which tends to mar the conduct of elections and disturbs the atmosphere of friendly rivalry that should prevail is the violation of statutory provisions of election law relating to corrupt practices and electoral offences by some or other political party, or the candidates or their workers. This, apart from vitiating the general atmosphere in the Constituency, creates problems for the authorities responsible for the maintenance of law and order as well. With a view to maintaining a healthy and peaceful atmosphere during the

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election period conducive to free and fair elections, Commission has issued its instructions for implementing the provisions of Model Code of Conduct vide its letter dated 24<sup>th</sup>February, 2010 and 23<sup>rd</sup> March, 2010 (reproduced in ***Annexure I-D***)

- 5.2 For ensuring compliance with the Model Code of Conduct by all political parties and contesting candidates and for considering specific cases of violation of that code, the Commission directs that a Standing Committees should be constituted in each district under the Chairmanship of head of the District Administration and representatives of all recognized and registered political parties at the district level as its members. This Committee may meet as often as may be convenient and necessary. In such meetings, you should address a special appeal to the members to cooperate in the observance of Model Code of Conduct and to take effective steps to ensure that no one in any excess of zeal and excitement oversteps the limits laid down by law and renders himself liable to penalties prescribed by law. It should be impressed upon the members that any violation of the Code committed on behalf of any party or member cannot but create a feeling of bitterness and resentment in the minds of other parties and candidates and their supporters. In case of violation of the Code, you may seek the cooperation of the local magistracy and the police.
- 5.3 The Committee may also consider apart from the Model Code any other matter which is of common interest to the members and is intended to further the object of holding free and fair election.
- 5.6 Proper minutes of all meetings of the Committee should be maintained.
- 5.6 The provisions of Model Code of Conduct in the elections to the State Legislative Councils from all Council Constituencies shall be strictly implemented immediately on the announcement of elections and will be in force till the completion of the elections:
  - D) Ministers, whether Central or State (including Chief Minister) can make official visit to any district(s) in which any Biennial/Bye-election from a Council Constituency is being held subject to the following conditions:-
    - a. They shall not do any inauguration/ laying of foundation stones of any educational institution, which are constituents of Graduates' and Teachers' Constituencies.
    - b. Official visit shall not be combined with the election related work/ tours.

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- c. There shall be no announcement of new policy programme/ policy likely to influence the graduates, and the teachers, who form the electorate of the Constituencies going to poll.
- II) No official of any rank of the district(s) dealing with election related work where the biennial/bye-elections are being held shall be called to attend any meeting by any Minister at any place, if such meetings called by Ministers are related to issues of the Educational Institutions which are constituents of Graduates' and Teachers' Constituencies.
- III) No member of any Local Authority which forms part of the electorate of a Local Authorities' Constituency shall be called for any official meeting by any Minister/Political functionary. Routine meetings of the Local Bodies, when essential, may be held with the prior permission of the District Election Officer of the District concerned.
- IV) Any official who meets the Minister on his private visit to the Constituency where elections are being held shall be deemed to be guilty of misconduct under the relevant service rules; and if he happens to be an officer mentioned in Section 129 (1) of the Representation of People Act, 1951, he shall also be additionally considered to have violated the statutory provisions of that section and liable to penal action provided thereunder.
- V) No pilot car(s) or car(s) with beacon lights of any colour or car(s) affixed with sirens of any kind making his presence conspicuous shall be used by any Minister during his private visit to the Constituency, even if the State administration has granted him a security cover requiring presence of armed guards accompanying him on tour.
- VI) No policy announcement or programme would be initiated in the Government Departments related to the constituents of the election under reference. For example, if the election is from a Local Authorities' Constituency, no programme or policy could be initiated by Urban or Rural Local Bodies Department. Likewise, for Teachers' Constituencies, no new policy or programme will be initiated/ announced by the Education Department dealing with the teachers. In the case of elections from Graduates' Constituencies, no programme/ policy likely to influence the graduates, shall be announced, such as Un-Employment Allowance, new Employment Schemes, etc.

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- VII) The Commission has directed that a special video team shall be put in place for every Tehsil. Every political meeting shall be videographed. Ministers and other important political functionaries visiting the District shall be video-trailed. Copy of the video recording shall be given to the Observers by the evening of the same day. The Observers will go through it and report any violation to the Commission. The Observers will submit reports as per the seven formats prescribed for Assembly/Parliament Elections.
- VIII) The restrictions on “Official Tours” by Central & State Ministers will also be applicable to use of any “Official Cars” by “Office Bearers” of Local Authorities, like, Mayors of Municipal Corporations, Presidents of Municipal Councils & Zilla Parishads. The use of official cars by them shall be allowed for travel to & from Office to Residence.
- IX) If the statutory Meetings of Municipal Corporations, Municipal Councils, Zilla Committees, etc., are unavoidable, it shall be allowed, but no policy decision should be taken and release /sanctions of funds shall be subject to the same restrictions as they apply during Lok Sabha/Assembly elections.
- X) In addition, the provisions of Model Code of Conduct and ECI instructions applicable to Assembly Elections, with regard to defacement of public & private properties, shall also be applicable.
6. The Commission in pursuance to Article 324 of the Constitution of India, and all powers enabling it in this regard to conduct free and fair elections and to keep a check on adverse role of money power, has decided to check the movement of black money during biennial elections/bye-elections to Legislative Council of States as per the Standard Operating Procedure (SOP) issued on 29-05-2015 (provided below at 6.5) excepting deployment of Static Surveillance Teams.
- 6.1 The Chief Electoral Officer shall communicate the State Police Deptt. to keep a close watch in the elections to Legislative Council of the State as and when the Commission declares elections for the Legislative Councils. A separate communication has been sent to the Income Tax Department on it. *Annexure (X-A)*
- 6.2 The Chief Electoral Officer shall make necessary advertisement in local media about the measures taken in this regard and advise the public, not to carry huge cash without proper documents.

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6.3 The Chief Electoral Officer shall further communicate the name, address, Telephone No. Mobile No., e-mail id and FAX no. of the Nodal Officer of the CEO Office for this monitoring, Police Deptt. of the rank of IGP in the State capital and Income Tax Deptt. (Investigation), when the Commission declares the elections for Legislative Councils in your state.

6.4 For conduct of free and fair poll, the Chief Electoral Officer shall call a meeting with leaders of political parties and apprise them about the measures taken by the Commission and they may be advised to exercise self-restraint and also to instruct their party functionaries not to carry large amount of cash in the run up to election to Legislative Council in the State as and when held.

6.5 FileNo.76/Instructions/EEPS/2015/Vol-II Dated: 29 May 2015

### **Order**

- a) Whereas, the Superintendence, direction and control of all elections to Parliament and the Legislature of every State is vested in the Election Commission under Article 324 of the Constitution; and
- b) Whereas, all forms of intimidation, threat, influence and bribing of electors must be prevented in the interest of free and fair election and; reports are received that money power and muscle power are being used during election process for inducement of electors by way of distribution of cash, gift items, liquor or free food; or for intimidation of electors by threat or intimidation; and
- c) Whereas, distribution of cash or any item of bribe or use of muscle power for influencing electors are crime under sections 171 B and 171 C of IP Code and also are Corrupt Practices under Section 123 of R.P. Act, 1951;
- d) Now, therefore, for the purpose of maintaining purity of elections, the Election Commission of India hereby issues the following Standard Operating Procedure for Flying Squads, constituted for keeping vigil over excessive campaign expenses, distribution of items of bribe in cash or in kind, movement of illegal arms, ammunition, liquor, or antisocial elements etc. in the constituency during election process:
- e) Flying Squads (FS)
  - (1) There shall be three or more Flying Squads (FS) in each Assembly

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Constituency/Segment. The FS shall start functioning from the date of announcement of election and shall continue till completion of poll.

- (2) The Flying Squad shall (a) attend to all model code of conduct violations and related complaints; (b) attend to all complaints of threat, intimidation, movement of anti-social elements, liquor, arms and ammunition and large sum of cash for the purpose of bribing of electors etc.; (c) attend to all complaints regarding election expenditure incurred or authorized by the candidates/political party; (d) videograph with the help of Video Surveillance Team (VST), all major rallies, public meetings or other major expenses made by political parties after the announcement of election by the Commission.
- (3) In Expenditure Sensitive Constituencies (ESC), there shall be more FSs, depending on the requirement. The FS shall not be given any other work during the period. The names and mobile numbers of the Magistrate as head of the FS and other officials in FS shall be provided to the Complaint Monitoring Control Room and Call Centre, RO, DEO, General Observer, Police Observer, Expenditure Observer and Assistant Expenditure Observer. In ESCs, CP For State Armed Police may be mixed in the FS, depending on the situation and the DEO shall take necessary steps in this regard. The DEO shall constitute the FS with officers of proven integrity.
- (4) Whenever a complaint regarding distribution of cash or liquor or any other item of bribe or regarding movement of anti-social elements or arms and ammunition, is received, the FS shall reach the spot immediately. In case of suspicion of commission of any crime, the in-charge Police Officer of FS shall seize cash or items of bribe or other such items, and gather evidence and record statement of the witnesses and the persons from whom the items are seized and issue proper Panchnama for seizure as per the provisions of CrPC to the person from whom such items are seized. He shall ensure that case is submitted in the Court of competent jurisdiction within 24 hrs. The Magistrate of the FS will ensure that proper procedure is followed and there is no law and order problem.
- (5) The Magistrate of the FS shall send a Daily Activity report in respect of items of seizure of bribe or cash to the D.E.O. in a format as per [Annexure-\(X-B\)](#), with a copy to R.O., S.P. and the Expenditure Observers, and shall also send Daily Activity report in respect of model code of



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conduct violations to RO, DEO, S.P. and General Observer in the format as given in [Annexure-\(X-C\)](#). The S. P. shall send daily activity report to Nodal Officer of Police Headquarter, who shall compile all such reports from the district and send a consolidated report in the same format i.e., [Annexure-\(X-B&X-C\)](#) on the next day by fax/e-mail to the Commission with a copy to the CEO of the state.

- (6) The entire proceeding shall be video recorded. The In-charge Officer of FS shall also file complaints/F.I.R. immediately against (i) the persons, receiving and giving bribe; and (ii) any other person from whom contraband items are seized, or (iii) any other anti social elements found engaged in illegal activity. The copy of the complaint/FIR shall be displayed on the notice board of the R.O. for public information and be sent to the DEO, General Observer, Expenditure Observer and Police Observer. The Expenditure Observer shall mention it in the Shadow Observation Register, if it has links with any candidate's election expenditure.
- (7) In case, a complaint is received about distribution of cash, gift items, liquor or free food; or about threat/ intimidation of electors; or of movement of arms/ammunitions/anti social elements and it is not possible for the FS to reach the spot immediately, then the information shall be passed on to the Static Surveillance Team, nearest to the spot or to the police station of that area, who shall rush a team to the spot for taking necessary action on the complaint. All seizures made by the police authorities either on receipt of complaints forwarded by FS received independently shall also be reported to the FS which shall incorporate such seizure reports in its Daily Activity Reports in relevant rows/columns and this is done to avoid duplication of reports of seizure.
- (8) Each FS shall announce through a Public address system, fitted on to its vehicle, the following in local language in the area under its jurisdiction: "As per section 171B of Indian Penal Code, any person giving or accepting any gratification in cash or kind during election process, with a view to inducing the person to exercise his electoral right is punishable with imprisonment up to one year or with fine or with both. Further, as per section 171 C of Indian Penal Code, any person who threatens any candidate or elector, or any other person, with injury of any kind, is punishable with imprisonment up to one year or with fine or both. Flying Squads have been formed to register cases against both the giver and the taker of bribe and for taking action against those who are engaged in

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threat and in intimidation of electors. All the Citizens are here by requested to refrain from taking any bribe and in case, anybody offers any bribe or is having knowledge about the bribe or cases of threat/intimidation of electors, then he should in form on the toll free number....., of the 24x7 Complaint Monitoring Cell of the district, setup for receiving the complaints”.

- (9) As per Commission’s instruction No. 23/1/2015-ERS, dated 21-02-2015, Booth Level Awareness Groups (BAGs) formed for purification and authentication of electoral rolls of the booth will also be associated in collecting the evidences of malpractices taking place in their area either by mobile software developed by the Commission or otherwise. Whenever the BAG provides any information, the Flying Squad should reach the spot within shortest possible time and take necessary action and gather corroborative evidences.
  - (10) The DEO shall publish pamphlets quoting the above in English or Hindi or local language and distribute through the flyings quad in prominent places. Pressrelease should also be is sued by the DEO on the election expenditure monitoring measures.
  - (11) After the announcement of elections, DEO shall make an appeal as mentioned in para 8 above in print and electronic media for the benefit of general public about the monitoring mechanism, which is being put in place during election process.
  - (12) All the vehicles used by the Flying Squads shall be fitted with the CCTV cameras/ webcams or shall have video cameras (keeping in view the availability and economic viability) for recording the interception made by the Flying Squads.
- f) StaticSurveillanceTeam(SST)
- I. There shall be three or more Static Surveillance Teams in each Assembly Constituency/Segment withone executive magistrate and three or four police personnel in each team who shall be manning the check post. Depending on the ensitivity of the area, the CPF members will be mixed in the SSTs.
  - II. This team shall put check posts at Expenditure Sensitive pockets/hamlets, and shall keep watch on movement of illicitliquor, items of bribe, orlarge amount of cash, arms and ammunition and also movement of anti socialelements in their area.Theentireprocessofcheckingshallbe captured in video or CCTV.

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- III. The Magistrate of the SST shall send Daily Activity report to the D.E.O. with copy to R.O., S.P. and Expenditure Observer, General Observer, and Police observer in a for matasper Annexure-(X-D), on the same day. The S.P. shall send daily activity update to Nodal Officer of Police Head quarter, who shall compile all such reports from the district and send a consolidated report in the same format (i.e.,Annexure-(X-D), on the next day by fax/e-mail to the Commission with a copy to the CEO of the State.
- IV. The checkingby the SSTs shall be done in the presence of an Executive Magistrate and shall bevideo-graphed. No such checking shall take place without the presen ceof Executive Magistrate. The video/CCTV record with an identification mark of date, place and team number shall be deposited with the R.O, on then extday who shall preserve the same for verification by the Commission at later point of time. It may also be widely advertised by the DEO that any member of the public can obtain a copy of the video/CCTV record by depositing Rs.300/-.
- V. When ever Check Posts are put at the borders of the district/State or at any other place by any agency, for any purpose, then the nearest SST shall be present there in such team, to avoid duplication of checking in the area and reporting of seizure of cash or items of bribehas tobedone bytheSST.
- VI. Checking by SST on the major roads or arterial roads shall commence from the date of notification of election. The SSTs shall be controlled by the DEO and S.P. in consultation with General Observer and Expenditure Observers and the mechanism shall best rengthenedinlast72Hrs. be fore the poll, particularly in vulnerable areas or in Expenditure sensitive pockets and during such period, the SST shall not be dismantled under any circumstances.
- VII. During checking, if any cash exceeding Rs.50,000/- is found in a vehicle carrying a candidate, hisagent, or party worker or carrying posters or election materials or any drugs, liquor, arms or gift items which are valued at more than Rs.10,000/-, likely to be used for in ducement of electors or any other illicitarticles are found in a vehicle, shall be subject to seizure. The whole event of checking and seizureis to be captured in a video/CCTV, which will be submitted to the Returning Officer, everyday.
- VIII. If any star campaigner is carrying cash up to Rs. 1 Lakh, exclusively for his/her personal use, or any party functionary is carrying cash with certificate from the treasurer of the party mentioning the amount and its end use, then the authorities in SST shall retain a copy of the certificate and will not seize

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the cash. If cash of more than 10 Lakh is found in a vehicle and there is no suspicion of commission of any crime or linkage to any candidate or agent or party functionary, then the SST shall not seize the cash, and pass on the information to the Income-Tax authority, for necessary action under Income - Tax Laws.

- IX. During checking, if there is any suspicion of commission of crime, the seizure of cash or any item shall be done by the in-charge Police Officer of the SST as per provision of CrPC in presence of the Executive Magistrate. The Police Officer in charge of SST shall file complaint/FIR in the Court, having jurisdiction, within 24 hours..
- X. FS and SST shall be polite, decent and courteous, while checking the baggage or vehicle. The purse held by the ladies shall not be checked, unless there is a lady officer. The FS shall also supervise the functioning and proper conduct of SSTs during checking in their areas.
- XI. Advance training of FSs and SSTs should be done as per direction of the Commission. The DEO and the SP of the district shall ensure that the teams are constituted and properly trained. The Nodal Officer at the Police Headquarters shall ensure that proper training and sensitisation of the police force in this regard is done.
- XII. In case of any grievance about the conduct of the FS or SST, the Authority, whom the person can appeal for redressal of grievance on misconduct or harassment shall be the Dy. DEO of the district (in charge of the Expenditure Monitoring Cell).
- XIII. After seizure, the seized amount shall be deposited in such manner as directed by the Court and a copy of seizure of cash, in excess of Rs. 10 Lakh shall be forwarded to the Income Tax authority, engaged for the purpose. The DEO shall issue necessary instructions to the treasury units to receive the seized cash beyond office hours and on holidays also, in case it is required.
- XIV. Wherever the FS or SST or police authorities receive information about any suspicious items in their area, including movement of huge amount of cash, they shall keep the respective Law enforcement agencies informed about such items.
- XV. All the vehicles, used by SSTs and FSs may be fitted with GPRS enabled tracking unit so that timely action by the teams can be monitored.

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## Release of Cash

- I. In order to avoid inconvenience to the public and genuine persons and also for redressal of their grievances, if any, a committee shall be formed comprising three officers of the District, namely, (i) CEO, ZilaParishad/CDO/P.D,DRDA (ii) Nodal Officer of Expenditure Monitoring in the District Election Office (Convenor) and (iii) District Treasury Officer. The Committee shall suo-motu examine each case of seizure made by the Police or SST or FS and where the Committee finds that no FIR/Complaint has been filed against the seizure or where the seizure is not linked with any candidate or political party or any election campaign etc., as per Standard Operating Procedure, it shall take immediate step to order release of such cash etc. to such persons from whom the cash was seized after passing a speaking order to that effect. The Committee shall look into all cases and take decision on seizure.
- II. The procedure of appeal against seizure should be mentioned in the seizure document and it should also be informed to such persons at the time of seizure of cash. The functioning of this committee should be given wide publicity, including telephone no. of the convenor of the Committee.
- III. All the information pertaining to release of cash, shall be maintained by the Nodal Officer expenditure monitoring in a register, serially date wise with the details regarding amount of Cash intercepted/seized and date of release to the person(s) concerned.
- IV. If the release of cash is more than Rs. 10 (Ten) Lac, the nodal officer of Income Tax shall be kept informed before the release is affected.
- V. All cases of seizure of cash etc., effected by FS, SST or Police authorities shall immediately be brought to the notice of the Committee formed in the District and the Committee shall take action as per para (i) mentioned above. In no case, the matter relating to seized cash/ seized valuables shall be kept pending in malkhana or treasury for more than 7(Seven) days after the date of poll, unless any FIR/Complaint is filed. It shall be the responsibility of the Returning Officer to bring all such cases before the appellate committee and to release the cash/valuables as per order of the appellate committee.

It is further informed that the EEMS software for Daily Activity Report, available in the Commission's website may be used for sending the report to the Commission.

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7. Pre-Certification of political advertisements- Use of bulk SMSs /voice messages in political campaigning-reg.
- I. The Commission has taken cognizance of the fact that political parties/candidates often use bulk SMSs and recorded voice messages in their election campaigning. Likewise, their supporters/workers and other organizations supporting them also resort to the said method of carrying out election campaign on their behalf. Apart from use of normal SMS gateway through mobile, internet is also linked with the mobile gateways to send SMSs and recorded messages. This feature may also be sometimes misused for sending malicious and vilifying materials in political campaigning and thereby violating electoral and criminal laws and Model Code of Conduct relating to elections. The Commission vide its letter no. 464/INST/2008/EPS dt 5/11/2008 has already issued direction regarding monitoring of such bulk SMSs by police authorities and inclusion of expenditure on such bulk SMSs into election expenditure accounts of the candidates (copy enclosed).
- II. The Commission has now decided that it is necessary to monitor the contents of such bulk SMSs to the electors during election process so that objectionable contents are not transmitted through this medium. As per law, the said medium of Communication – through SMSs is also part of ‘electronic media’ by definition. The Commission, vide its order no. 509/75/2004/JS-I dated 15/4/2004, and the subsequent order dated 18/3/2009, has put in place mechanism at district and state level for certifying political advertisements on TV channels, Cable Network and Radio. The Commission has decided that the directions in the said order shall hereinafter apply mutatis mutandis to the use of bulk SMSs/voice messages over phone for political campaigning during elections.
- III. Accordingly, in continuation of Commission’s earlier letter dated 27th August, 2012 and 25th October, 2013, in regard to certification of political advertisement on election media including Social media, the Commission has directed that bulk SMSs/voice messages on phone in election campaigning shall also be in the purview of pre-certification of election advertisements as in case of TV Channels/Cable Network, Radio including private FM Channels, Cinema Halls, audio-visual displays in public places and Social Media. Legal provisions, as apply on other mode of electronic media, shall also be applicable on bulk SMSs/voice messages. The procedure prescribed in the order dated 15.4.2004 shall be followed for this purpose.

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- IV. The above may be brought into the notice of State/District MCMCs, political parties/ candidates mobile service providers and all others concerned.
8. (a) Under Section 29 of the Representation of the People Act, 1951 read with Rule 69 of the Conduct of Election Rules, 1961, a place of poll is fixed for conducting poll in respect of election to the Council of States and the State Legislative Councils by MLAs. As per Section 135C, “dry day” is to be declared in Polling Areas and polling area is defined in Section 25 of the Representation of the People Act, 1951, which is applicable to elections from Constituencies i.e. for elections to Lok Sabha, Legislative Assemblies and elections to Legislative Councils from Graduates’, Teachers’ and Local Authorities’ Constituencies. These do not apply to election to Council of States and Legislative Council by MLAs where there are no constituencies.
- (b) As such provisions of Section 135C of the Representation of the People Act, 1951 are not applicable in election to the Council of States and Legislative Councils by MLAs, and therefore, declaration of ‘Dry Day’ for election to the Council of States or Legislative Councils by MLAs is not required.

## **BAN ON TRANSFER OF OFFICERS**

There shall be a total ban on the transfer of Returning Officers and Assistant Returning Officers appointed for Biennial elections/bye-elections to State Legislative Councils after the announcement of elections and this ban will be in force till the completion of elections. The transfer orders in respect of the above officers issued prior to the date of announcement but not implemented should not be given effect to without obtaining the specific permission of the Commission. In those cases where transfer of an officer is necessary on account of administrative exigencies, the State Govt. may with full justification approach the Commission for prior clearance.

## **Dummy Ballot Papers**

6. There is no objection in printing dummy ballot papers by candidates and political parties. A dummy ballot paper should not, however, closely resemble the official ballot paper in colour and size. It can be printed on any colour other than pink and white, such as brown, yellow or grey so as to avoid any confusion. There is also no objection to a candidate printing a dummy ballot paper using his name indicating the place where it would appear on the ballot paper. But it should not contain the actual names of other contesting candidates.

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## Unofficial Identity Slips

- 7.1 The political parties and candidates may issue unofficial identity slips containing the following information to the voters:
- (i) The name and SI. No. of the voter in the electoral roll;
  - (ii) Part number of the electoral roll;
  - (iii) S.No. and name of the polling station.
- 7.2 The identity slips should be on white paper and should not contain the name of the candidate and/or the name of his party or its symbol. The slips should not contain slogans or any exhortation to vote for a party or for a candidate since these would amount to canvassing within the polling station. The circulation of any slip containing any such slogan or exhortation within 100 meters of the polling station would amount to canvassing which is an electoral offence.
- 7.3 A sample of the slip which can be issued by the candidate is given below:

<b>Kanpur Graduates' Constituency</b>	
Polling Station :	
Part No :	
Elector's SI. No :	
Name of Elector ;	
Age :	
Father's/Husband's Name:	
Date of poll :	
Address	



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## CHAPTER XI (i)

# THE POLL FOR ELECTIONS TO THE COUNCIL OF STATES

### The Poll

1. Poll is the most important event in the election process. It is through the poll that the electors express their choice of the candidate to represent them in a democracy. Any irregularity in the conduct of poll may vitiate the election and, therefore, you should ensure that the poll is conducted strictly in accordance with the law and the prescribed procedure.

### Legal Provisions

- 2.1 The legal provisions for the conduct of poll at an election to the Council of States or to a State Legislative Council are contained in sections 56 to 62 of the Representation of the People Act, 1951 and rules 67 to 70 of the Conduct of Elections Rules, 1961. By rule 70, the provisions of rules 28 to 35 and 36 to 48 (including 39AA) of the said Rules and Forms 14 to 16 appended to the said rules making provisions for the conduct of poll in parliamentary and assembly Constituencies have been made applicable to elections to the Council of States and the State Legislative Councils, subject to the modifications as specified in rule 70. You should fully familiarize yourself with these legal provisions.
- 2.2 As elections to the Council of States and State Legislative Council have certain distinguishing features, various matters relating to the conduct of poll at these two types of elections have been discussed hereunder separately.

## ELECTIONS TO THE COUNCIL OF STATES

### Place of Poll

- 3.1 At an election to the Council of States by members of the State Legislative Assembly, the poll shall be taken at such place as may be fixed by the Returning Officer with the previous approval of the Election Commission [*vide* section 29(1)]. You are required by section 29(1) to notify the place so fixed (hereinafter referred to as ‘polling station’) in such manner as the Election Commission may direct. The Election Commission has directed that this place may be notified by displaying a notice to that effect on the notice board of the Legislative Assembly.
- 3.2 The place of poll should normally be fixed in the precincts of the Legislative Assembly building. The room or hall selected for the purpose should be

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adequately big so that there is sufficient accommodation for making the seating arrangements of the polling agents and the polling personnel and the setting up of the voting compartments. The room or the hall selected for the purpose should have two doors-one for the entry of electors and the other for their exit.

### **Returning Officer to act as Presiding Officer**

4. The Returning Officer also acts as the Presiding Officer at such polling station i.e. the place fixed for poll [*vide* section 29(2)]. You should, therefore, be fully conversant with the procedure for the conduct of poll and the relevant instructions and directions of the Commission in this regard.

### **Polling Officers**

- 5.1 You may appoint such number of persons to act as polling officers to assist you in the conduct of poll as you think necessary. Normally, two polling officers will be enough for the purpose. In case you feel that the number of electors is quite large, you may appoint three polling officers.
- 5.2 Those polling officers should normally be drawn from the Secretariat of the Legislature. They should be formally appointed by you as such polling officers under the provisions of section 29(2).

### **Duties of Polling Officers**

- 6.1 The details of duties to be performed by each polling officer, when two polling officers are appointed, are indicated in *Annexure XI(i)-A*. Likewise, the details of duties to be performed by them when three polling officers are appointed are indicated in *Annexure XI(i)-B*.
- 6.2 Intensive training should be given to the polling officers so that they are fully conversant with their duties.

### **Notice to Electors**

- 7.1 At an election by Members of Legislative Assembly where poll becomes necessary, you are required to send, as soon as may be after the last date for withdrawal of candidatures, a notice to each elector informing him of the date, time and place fixed for polling [*vide* rule 69].
- 7.2 Such notice should be sent to each elector including an elector under preventive detention, if any. As has been explained earlier, an elector under preventive detention is entitled to vote by postal ballot. The appropriate Governments

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should communicate to you within 15 days after the date of the notification of the election (a) the names of all such voters as are being held by them in preventive detention and (b) the respective places where they are being so held. Even if the Government has failed to do so, an elector under preventive detention may himself give you, in writing, a notice of his intention to vote by postal ballot. In either case, if you are satisfied (a) that his name has been entered in the electoral roll and (b) that he is under preventive detention, you will send him a postal ballot paper addressed to the place where he is being so detained.

### **Exhibition of Notice outside the Polling Station**

- 8.1 Under rule 31(l)(b) as applied by rule 70, you are required to display prominently outside the polling station, a copy of the list of contesting candidates.
- 8.2 In order that the electors are properly informed about the system and the procedure followed at elections to Council of States, and to minimize the rejection of ballot papers the Commission has decided that suitable instructions should be issued to the electors. For this purpose, individual letters must be issued to electors on the procedure of voting. In addition, a notice containing important instructions should be displayed prominently outside the polling station. A form of such model notice is given in [Annexure XI\(i\)-C](#).

### **Seating Arrangements for Presiding Officer and Polling Officers**

9. Inside the polling station, you as the Presiding Officer should sit in such a place from where you can watch all the proceedings in the polling station. The polling officers should be so seated that an elector after entering into the polling station straightway proceeds to the first polling officer and from him to the tables of other polling officers in a systematic manner. No criss-cross movement of the electors should be permitted.

### **Seating Arrangement for Polling Agents during poll for Council of States**

10. Suitable seating arrangement should be made for polling agents when they are present at the poll. Their seats should be provided at the back of the first Polling Officer so that they may have adequate opportunity to challenge the identity of electors before they are supplied with ballot papers. Where this is not practicable because of the situation of the door for entrance, they may be given seats just opposite this polling officer. In any seating arrangement they should be provided opportunity of seeing the faces of the electors and challenging their identity whenever necessary. And also the Polling Agents of

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the political party shall be suitably able see the marked ballot papers of the electors of their party as required under Rule 39AA.

### **Voting Compartments**

11. One or more voting compartments should be provided in the polling station, depending upon the size of the room/hall, the number of electors and the number of contesting candidates. Efforts should be made to provide at least two voting compartments where the number of electors or the number of contesting candidates is large so that the electors may not have to wait for long for going into the voting compartment for marking their votes.

### **Who is Entitled to Vote**

- 12.1 At an election to the Council of States, only the elected members of the State Assembly are entitled to vote [*Article* 80(4) of the Constitution].
- 12.2 The list of members entitled to vote shall be maintained by you under section 152 of the Representation of the People Act, 1951 in the manner prescribed by the Commission under rule 96 of the Conduct of Elections Rules, 1961. The Commission's directions in this behalf have already been reproduced for facility of your reference in Chapter-II.

**Note** - Elected members of State Legislative Assemblies can take part in elections to Council of States/State Legislative Council even before taking oath as members of respective State Legislative Assemblies (as held by the Supreme Court in PashupatiNathSukul Vs. Nem Chandra Jain & others (74 ELR-83)).

### **Right to Vote of a Member whose Election has been Set Aside but Operation of the Order stayed Pending Appeal**

13. A question arose at the time of 1968 biennial election to the Council of States from West Bengal as to whether the name of a member whose election had been set aside by the High Court as a result of an election petition should be included in the list of electors maintained under section 152, and whether he should be eligible to vote at the biennial election in view of the *conditional stay* granted by the Supreme Court. The Supreme Court to which a reference in the matter was made, directed that such a member would not be allowed to vote in the election to the Council of States or to the Legislative Council.

### **Persons to be Admitted Inside the Polling Station**

- 14.1 You should admit inside the polling station only the following persons:

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- (a) Polling officers;
  - (b) each candidate, his election agent and one polling agent of each candidate at a time;
  - (c) Authorized agents of the Parties appointed in terms of Rule 39 AA.
  - (d) persons authorized by the Commission;
  - (e) public servants on duty specifically authorised;
  - (f) a child in arms accompanying an elector;
  - (g) a person accompanying an illiterate voter who cannot vote without help or a blind or an infirm voter who cannot move without help; and
  - (h) such other persons as you may from time to time specifically admit for the purpose of identifying voters or otherwise assisting you in taking the poll.

14.2 The Returning Offices have been asked to issue identity cards to the contesting candidates. In case necessity arises, you may ask for its production. Similarly, the election agents of the candidates can be asked to produce the attested duplicate copy of their appointment letters. The attestation is made by the Returning Officer.

14.3 You should note that the expression ‘public servants on duty’ does not include Ministers, State Ministers and Deputy Ministers of the Centre or of any State and does not also normally include police officers. Such officers whether in uniform or in plain clothes should not normally be allowed to enter into a polling station unless you decide to call them in, in unavoidable circumstances for the maintenance of law and order or some similar purpose.

N.B. No security guards accompanying any elector or any candidate or his election agent or any of his polling agents shall be allowed to enter the polling station in any circumstance.

### **Regulation of Entry of Voters inside the Polling Station**

15.1 Subject to any special direction of the Election Commission, the entry of voters inside the polling station should be so regulated that at any given point of time, not more than four electors are inside the place of poll. The next voter shall be allowed entry inside the place of poll only after one of the voters inside such place has gone out after casting his vote.

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- 15.2 A separate room or place adjacent to the place of poll shall be arranged and facilities provided for sitting, etc., so that the voters can conveniently await their turn for voting.
- 15.3 No voter having security guards should be permitted to take his security guards inside the place of poll under any circumstance.

### **Facilities to Press Representatives and Photographers**

16. Subject to the maintenance of peace and order, there is no objection to any photographer taking photographs of a crowd of voters lining up outside the polling station. However, no one including the publicity officials of the State Government should be allowed inside a polling station without a specific letter of authority from the Election Commission. Authority issued by any other person, agency or authority other than the Election Commission shall not be valid for such entry. In no circumstance will any photograph be allowed to be taken of a voter marking his ballot paper.

### **Attendance of Polling Agents**

- 17.1 (i) The polling agents of the candidates should be asked to reach the polling station at least 15 minutes before commencement of poll in order to be present when you are going through the preliminaries. If any part of these preliminaries has already been gone through, the proceedings need not be commenced *de novo* to accommodate any latecomer. The law does not specify any time limit for the appointment of polling agents and even if a polling agent turns up late at a polling station he should be allowed to participate in the further proceeding at the polling station.
- 17.1 (ii) In respect of elections to the Council of States, the Election Commission vide its letter no. 318/CS/2008-PLN-III dated 25<sup>th</sup> March, 2008 has directed that under Rule 39AA of the Conduct of Elections Rules (Amendment), 1961 dated 27<sup>th</sup> February, 2004, the power to appoint authorized agent has been given to the Political Parties which have elected MLAs in the Assembly and not to the candidates, irrespective of whether such Political Parties have set up their own candidate(s) at the election or not. The MLAs belonging to Political Parties are required to show the ballot paper after marking votes to the authorised agent of the Political Party concerned.

### **Production of Appointment Letters by Polling Agents**

- 17.2 Every polling agent must produce before you the appointment letter in Form 10 by which the candidate or his election agent has appointed him. Check

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that the appointment is for your polling station. The polling agent should then complete the document and sign the declaration therein in your presence and then deliver it to you before he can be admitted into the polling station. Preserve all such appointment letters and at the end of the poll keep them in a cover for safe custody along with other documents.

### **Passes for Polling Agents**

18. Each candidate can appoint one polling agent and two relief polling agents at each polling station. However, only one polling agent of a candidate should be allowed inside the polling station at any given time. Give to every polling agent who is admitted into the polling station a permit or pass on the authority of which he can come in and go out of the polling station, as may be necessary.

### **Preparation of BallotBox**

19. You should begin preparing the ballot box for the poll, 10 or 15 minutes before the hour fixed for the commencement of poll. The instructions for operating a ballot box of the design in use in your State are contained in the booklet 'handbook for Presiding Officers', printed for your State. You should obtain a copy of that booklet from the Chief Electoral Officer of your State and familiarize yourself with the operation of the box.

### **Fixing of Paper Seal**

20. Fix the paper seal, where it is used, in position in the frame so that the green background is visible through the window of the ballot box. You should note that only one paper seal will be used. Take the signatures of the polling agents present and affix your own signature on the white surface of the paper seal. See that the signatures of the polling agents tally with their signatures on the declaration in Form 10. Verify that the paper seal cannot be shifted from the position by softly pulling it at the end. Do not use a damaged paper seal. As the green paper seal will be 10” (25.4 cm) in length, you should take care to fold the two ends so that the paper seal does not hang loose inside the ballot box where it may be damaged when the ballot papers are pushed by means of pusher.

### **Commencement of Poll at election to the Council of States-through**

21. The system of voting in the elections to the Council of States shall be through an “Open Ballot System” provided vide Representation of People (Amendment) Act, 2003 – no. 40 of 2003 dated 28<sup>th</sup> August, 2003 and Government of India Notification Dated 27<sup>th</sup> February, 2004.

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## Open Ballot System:

In election to Rajya Sabha, open ballot system was introduced in 2003 by amendment of Section 59 of Representation of the People Act, 1951. In this system, the elector (elected MLA), who belongs to a political party is required to show the marked ballot paper to an agent appointed by the political party who will be seated inside the polling station.

Section 59 provides that voting shall be in the manner prescribed (i.e. prescribed by rules). The rules provide that a voter has to mark the ballot in voting compartment and insert the ballot paper in the ballot box, and that he has to maintain secrecy of vote in the polling station. Any violation of the voting procedure prescribed under the rules will render the ballot paper of the voter concerned liable to be cancelled for such violation. ***In the case of voting in Rajya Sabha election, a proviso was inserted in Section 59 to provide that elections to Rajya Sabha shall be by open ballot. The manner of voting in the Rajya Sabha election has been provided by necessary amendment in the Rules stipulating that the electors belonging to political parties, after marking the ballot, have to show the marked ballot to the representative of the party before inserting it in the ballot box.***

Rule 39AA (2) of the Conduct of Elections Rules, 1961 does not specify who shall be the authorized agents of the Party, and apart from that the election to the Council of States have a system of 'Open Ballot Paper'. Hence, an MLA or Minister can also be appointed as the Authorized Agent of the political party in respect of election to the Council of States.

In election to Council of States same person cannot be appointed as the authorised agent of more than one party

## Declarations to be made by the Presiding Officer at the Commencement of Poll

22.1 Immediately before the commencement of the poll, you as the Presiding Officer, are required under the law to demonstrate to the polling agents and others present that the marked copy of the electoral roll (*i.e.* the list of electors) to be used during the poll does not contain any entries other than those made in pursuance of rule 20(1)(b) and rule 23(2)(b) relating to supply of postal ballot papers (rule 33A). You are also required to demonstrate that the ballot box to be used for conducting the poll is empty. You are also required to affix your signature on the paper seal used, if any, for securing the ballot box, and to obtain thereon the signatures of such of the polling agents as are present and



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desirous of affixing the same. Further, the Commission has directed that the polling agents will be allowed to note the first and the last of the serial numbers of the ballot papers to be used at the polling station.

- 22.2 In order to ensure that these requirements have been complied with, the Commission has prescribed a declaration to be made by you as the Presiding Officer and to be signed by the polling agents before the commencement of the poll. The said declaration is contained in Part I of [Annexure XI\(i\)-E](#). Read out and complete that declaration without fail before the commencement of poll.

### **Declaration to be made in Case Additional Ballot Boxes Used**

- 22.3 If during the process of poll, it becomes necessary for you to use an additional ballot box, you are again required to demonstrate it to the polling agents and others present that the same is empty, and to seal and secure it in the manner as was followed for sealing and securing the first ballot box. Every time an additional ballot box is used, you are required to make further declaration as contained in Part II of [Annexure XI\(i\)-E](#) and obtain the signatures of the polling agents thereon.

### **Preparation of Ballot Papers for Issue-Signature of Presiding Officer and Distinguishing Mark on the Back of Ballot Paper**

- 23.1 Under rule 38A(1) read with rule 70, every ballot paper, before it is issued to an elector, and the counterfoil attached to the ballot paper, shall be stamped on the back with such distinguishing mark as Election Commission may direct. Further, every ballot paper, before it is issued, shall be signed in full on its back by the Presiding Officer. The details of such distinguishing mark prescribed by the Commission have already been given in Chapter IX. It should be ensured that every ballot paper issued at your polling station carries such distinguishing mark both on its back and the back of its counterfoil. To ensure this, you should get all the ballot papers marked with the distinguishing mark 10 or 15 minutes before the commencement of poll.
- 23.2 As mentioned above, you are also required to put your signature in full on the back of each ballot paper before it is issued to an elector. You should put your signatures uniformly at the same space on the back of each ballot paper as that would facilitate easy verification when the ballot paper is being dropped by the elector in the ballot box after marking his vote thereon. The space in the bottom half of the distinguishing mark as prescribed by the Commission can be conveniently used by you for your signature.

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23.3 In order that the polling process is not hampered, you may sign one bundle of ballot papers a few minutes before the commencement of poll and the other bundles may be signed by you as and when necessary during the progress of the poll.

### **Shuffling of Bundles of Ballot Papers**

24.1 At an election to the Council of States, there is no need for concealment of the Serial No. of the ballot papers since the poll is held through open ballot.

24.2 At an election to the State Legislative Council by Members of Legislative Assembly or from a Local Authorities' Constituency, the serial numbers of the ballot papers are effectively concealed by placing strips of black paper in the manner described in Chapter IX, but the serial numbers of the counterfoils of the ballot papers are not so concealed. Therefore, in order to remove any possibility of any polling agent, etc, noting the serial number of a ballot paper issued to a particular voter, the Commission has directed that the ballot papers should not be issued in consecutive serial order but at random. However, as the ballot papers are supplied not in loose sheets but in bundles, you should therefore, shuffle the first three or four bundles of ballot papers and use the bundles at random. This process should not, however, be repeated towards the close of the poll so that on the conclusion of the poll, the numbers of ballot papers issued to the voters will, as far as possible, be in continuous and unbroken series. The unused ballot papers with their counterfoils are to be kept in a separate sealed cover at the close of the polling. The counterfoils of used ballot papers shall be kept in a separate sealed cover.

### **Record of Electoral Roll Number of Elector on Counterfoil**

25. Under rule 38A(2)(a) read with- rule 70, before a ballot paper is issued to an elector, the polling officer shall record on its counterfoils the electoral roll number of the elector as entered in the marked copy of the electoral roll. Therefore, the polling officer in charge of ballot papers must note down the electoral roll number of the elector in the space provided for the purpose on the counterfoil of the ballot paper. The first polling officer, in charge of the marked copy of the electoral roll, should also underline the entry relating to the name of that elector in the marked copy of the electoral roll, and should also put a tick mark (√) on the left hand side of the name of the elector if she is a *female* elector, to indicate that the ballot paper has been issued to the elector. He should, however, not record the serial no. of the ballot paper issued to the elector in the marked copy of the electoral roll.

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## Signature of Elector on Counterfoil

26. Under rule 38A(2)(b) read with rule 70, the signature or thumb impression of every elector must be obtained on the counterfoil of the ballot paper before it is issued to him. If any elector refuses to put his signature or his thumb impression on the counterfoil of the ballot paper, he shall not be issued any ballot paper.

## Meaning of Signature

27. A signature may be described as the writing of a person's name on a document with the intention of authenticating that document. A literate person, while signing a counterfoil of the ballot paper, will be required to write his name, *i.e.*, both his name or names and his surname in full or in any case his surname in full or name either in full or by means of initials of that name or names. The preferable course in the case of a literate voter will be to request him to sign his name, *i.e.*, both his Christian name or names and his surname in full. If a literate person puts simply a mark and insists that that mark should be taken as a signature while claiming to be a literate person, then that mark cannot be taken to be his signature because, as stated, signature means, in the case of a literate person, the writing of the name of that person by himself in authentication of a document on which he writes his name. In such a case, if he refuses to sign his name in full as indicated above, then his thumb impression should be taken. If he refuses to give his thumb impression also, then no ballot paper should be given to him.

## Meaning of Thumb Impression

28. In conformity with rule 37(4) of Conduct of Elections Rules, 1961, if the left thumb of the voter is missing, then the impression of the right thumb should be taken. If both thumbs are missing, the impression of one of the fingers of the left hand starting from the forefinger should be taken. If there are no fingers on the left hand, the impression of the fingers of the right hand starting from the forefinger should be taken. If no fingers are available, the voter being unable to mark his ballot paper will necessarily have to seek assistance of a companion under rule 40A of the said rules. In that case the signature or thumb impression of the companion should be taken on the counterfoil.

## Voting by Illiterate, Blind and Infirm Voters

- 29.1 As the system of proportional representation by means of the single transferable vote is adopted in these elections, and as the symbol system is not followed,

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not only blind and infirm electors, but also illiterate electors are permitted to take the help of a companion for the purpose of recording the vote on the ballot paper. If you are satisfied that owing to illiteracy, blindness or other physical infirmity, a voter is unable to read the names of candidates on the ballot paper or to record his vote without assistance, you should permit the voter to take with him a companion of not less than 18 years of age into the voting compartment for recording his vote on the ballot paper on his behalf. ***But at an election by Members of Legislative Assembly, no elector at the election can act as such companion of another elector.*** You should also ensure that no person is permitted to act as the companion of more than one elector at any polling station on the same day and that he makes a declaration to the effect that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any polling station on that day. The declaration will be taken in the Form given in [Annexure XI\(i\)-F](#).

- 29.2 **As per Commission's Instruction dated 24<sup>th</sup> February, 2010** ([Annexure I-D\(i\)](#)), no helper or companion should be allowed inside the polling booths for helping / assisting the voters except in the case of an illiterate/blind/infirm voter in accordance with rule 40A (under rule 70) of the Conduct of Elections Rule, 1961. In case an elector wishes to avail of the facility of a companion because of his illiteracy, blindness or infirmity, he must give an advance intimation to that effect to the Returning Officer at least 3 days before the date of Poll. The Returning Officer shall examine the eligibility of the elector for getting the facility of companion and in case the Returning find the elector eligible as per laid down provision, he/she shall indicate the same on the Electoral Roll by making a mark against the name of the elector. On the day of poll, before voting, such voters must also submit a declaration in the proforma enclosed at [Annexure XI\(i\)-F\(b\)](#) herewith that he/she is illiterate/blind/infirm and thereafter action will be taken by the Presiding Officer concerned as per Rule 40A of the Conduct of Elections Rules, 1961 and accordingly maintain a record for that purpose as per rule (Form 14A of the Conduct of Elections Rules, 1961). The provisions contained in Rule 40A of the Conduct of Elections Rules, 1961 shall be strictly followed in this regard. This list in Form 14(A) shall be scrutinized along with the other documents viz. the CDs of video, Micro Observer's report, Presiding Officer's report etc. by the Observer next day
- 29.3 Same person shall not be allowed to be accompanying more than one voter as provided in the first proviso to Rule 40A.

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29.4 There should be no objection to a candidate or an election agent or a polling agent (if they are not electors for this election) acting as a companion of an illiterate, blind or infirm voter. But they cannot act as such companion for more than one elector. You or any polling officer should not accompany any illiterate, blind or infirm voter inside the voting compartment.

29.5 You should keep a record of all such cases in Form 14A.

### **Signature/Thumb impression on Counterfoil of Ballot Paper by Illiterate, Blind or Infirm Voters**

30. Thumb impression of an illiterate, blind or infirm voter should be obtained on the counterfoil of ballot paper. In case any blind or infirm voter is literate, he will be allowed to put his signature. If any infirm voter can put neither his signature nor his thumb impression, his companion shall put his signature or thumb impression on the counterfoil of ballot paper. A note may be made on the counterfoil regarding signature or thumb impression of the companion.

### **Challenged and Tendered Votes**

31.1 At an election by Members of Legislative Assembly, the voters will be normally known to you and it is expected that there will be no impersonation at the election. However, if the identity of any voter is challenged by a polling agent, you are required to enquire into the matter and to proceed according to the provisions made in this behalf in rule 36. A separate account of such challenged votes should be maintained by you in Form 14.

31.2 Likewise, if an elector applies for a ballot paper after another person has already voted as such elector, you may give him a ballot paper (known as “tendered ballot paper”) after following the procedure prescribed in rule 42. A separate account of such tendered votes should be maintained in Form 15.

### **Method of Voting**

32.1 The elections to the Council of States are held under the system of proportional representation by means of the single transferable vote. A voter has to record his vote by marking his preference or preferences for the candidate(s) of his choice against his/her/their names on the ballot paper.

32.2 An elector has as many preferences as the number of contesting candidates irrespective of the number of candidates to be elected.

32.3 These preferences are to be indicated in figures, i.e., in the international form of Indian numerals or in the Roman form or in the form used in any Indian

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language, **but shall not be indicated in words**[see Explanation to rule 37A(2) read with rule 70 and Explanation to rule 73(2)].

### **Marking of Ballot Papers by Electors with Articles Supplied for the purpose**

- 33.1 Rule 39A(2)(b) read with rule 70 envisages that the elector shall record his vote on the ballot paper with the article supplied for the purpose. A ballot paper marked by an elector otherwise than with the article supplied for the purpose shall become invalid under rule 73(2)(e).
- 33.2 The Commission has directed that only violet sketch pens should be supplied to the electors for marking the ballot papers. Therefore, you should ensure that only violet sketch pens, of identical ink and shade are supplied to the electors and the same should be available in sufficient quantity with you so that the polling process is not hampered.

### **Polling Agents Not to Note Down Serial Number of Ballot Papers Issued to Voters**

34. Rule 38A(4) provides that no person in the polling station shall note down the serial numbers of the ballot papers issued to particular electors.

### **Voting Procedure to be Strictly Followed**

35. Information regarding casting of votes.- (1) Notwithstanding anything contained in rule 39A, the presiding officer shall, between the period when an elector being a member of a political party records his vote on a ballot paper and before such elector inserts that ballot paper into the ballot box, allow the authorised agent of that political party to verify as to whom such elector has cast his vote:
- 35(i) Provided that if such elector refuses to show his marked ballot paper to the authorised agent of his political party, the ballot paper issued to him shall be taken back by the presiding officer or a polling officer under the direction of the presiding officer and the ballot paper so taken back shall then be further dealt with in the manner specified in sub-rules (6) to (8) of rule 39A as if such ballot paper had been taken back under sub-rule (5) of that rule. (2) Every political party, whose member as an elector casts a vote at a polling station, shall, for the purposes of sub-rule (1), appoint, in Form 22A, two authorised agents.
- 35(ii) An authorised agent appointed under sub-rule (2) shall be present throughout the polling hours at the polling station and the other shall

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relieve him when he goes out of the polling station or vice versa.”. The voters belonging to political parties to show to the authorized agents of their parties (if any appointed by them under the Rule) to whom they have voted. They are to show this only to the Authorised agents of their party and to nobody else. If they show to others, the Presiding Officer will take back the filled ballot paper from them and get cancelled after following the procedure prescribed.

36 During elections to the Council of States, it should be ensured that every voter follows scrupulously the voting procedure laid down under rule 39AA.

36(i) Every voter shall be made to leave the place of poll immediately after casting his vote. He will not be permitted to remain in the place of poll after he has voted.

### **Safeguards Against Insertion of Spurious Ballot Papers in the Ballot Box**

37.1 Reports have been received by the Commission that attempts are sometimes made to smuggle the ballot papers out of the polling station for misuse. One way of doing this is to put some spurious paper resembling a ballot paper into the ballot box and to take the genuine ballot paper out of the polling station. In order to check this malpractice, the Commission has directed that a sufficiently large distinguishing mark (as specified in Chapter IX) should be put on the back of each ballot paper so that it becomes visible even after the ballot paper is folded. Additionally, the Commission has desired that a special quality paper on which the legend “Election Commission of India” is printed or micro tinted all over on the reverse may be used for the purpose of printing ballot papers for the elections by Members of Legislative Assembly. Further, you are also required by law to put your signature on the back of each ballot paper. If these safeguards are taken, it can be generally ensured that no spurious ballot paper is inserted by any elector into the ballot box. A strict vigil on the part of the polling officer in charge of the ballot box is nevertheless required to ensure that an elector inserts only the genuine ballot paper into the box. In any doubtful case, you can ask the elector to show the distinguishing mark on the back of the ballot paper before its insertion into the ballot box.

37.2 It may also be noted that putting fraudulently anything into the ballot box other than the ballot paper which an elector is authorized by law to put in, is an electoral offence under section 136. This offence is cognizable. Therefore, if any elector is found to be indulging in such electoral offence, you should not hesitate to proceed forthwith against him under the law.



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## Safeguards Against Removal of Ballot Papers from Place of Poll

- 37.3 In case any complaint is received from a candidate or his election agent or polling agent that a ballot paper is being illegally taken out of the place of poll by a voter and you are prima-facie satisfied about the genuineness of such complaint, you should arrange for a search being carried out on the person of such voter with full regard to the status of the voter.
- 37.4 It may be noted that taking or attempt to take a ballot paper out of a polling station fraudulently is a-cognizable electoral offence under section 135. Therefore, you should proceed forthwith against any elector who is found to be indulging in such electoral offence.

## Close of Poll

38. The poll should be closed at the hour fixed for the purpose, even if for certain unavoidable reasons, it had commenced somewhat later than the hour appointed for the commencement of poll. However, all voters present at the polling station at the hour appointed for the close of poll should be permitted to cast their vote even if the poll has to be continued for some time beyond the appointed closing hour.

## Supply of Attested Copy of Ballot Paper Account to Polling Agents

39. Every Presiding Officer is required by rule 45 read with rule 70 to prepare at the close of the poll the ballot paper account in Part I of Form 16. He is also required by the said rule to furnish to every polling agent present at the close of the poll a true *attested* copy of the ballot paper account prepared by him after obtaining a receipt from those polling agents. A sample ballot paper account prepared in Part I of Form 16 is given for your guidance at [Annexure XI\(i\)-G](#).

## Declaration to be Made at the Close of Poll

40. In order that the requirements of rule 45 regarding furnishing of copies of ballot paper account to the polling agents, referred to above, are fulfilled by the Presiding Officer, the Commission has devised a declaration (Part III, [Annexure XI\(i\)-E](#) which should be made by the Presiding Office. At the close of poll, you should, therefore, make that declaration in the prescribed form at the close of poll and obtain signatures of the polling agents, to whom the copies of ballot paper account have been furnished by you, on that form. Copies of the ballot paper account should be furnished to every polling agent present even without his asking for it.



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## Sealing of the ballot Box and safe Custody thereof at the Close of Poll

41. At the close of poll, you should seal and secure the ballot box(es) in accordance with the provision of rule 44B read with rule 70.

## Report to the Election Commission about the Conduct of Poll

42.1 As soon as may be after close of poll and the sealing of the ballot box(es), you should send a complete report to the Election Commission about the poll proceedings by the fastest means of communication available, i.e. Fax/E-mail. The report should be sent to the Commission in the prescribed format reproduced in [Annexure XI\(i\)-H](#).

42.2 The counting of votes shall not be taken up until the clearance of the Election Commission for commencement of counting of votes is received by you in writing after the receipt of your said report.

## Sealing of Election Papers

43.1 After the close of poll, all election papers relating to the poll should be sealed in accordance with the provisions of rule 46 read with rule 70 and the instructions and directions of the Commission on the subject. The instructions and directions of the Commission about the sealing of the election papers and election materials are contained *in* [Annexure XI\(i\)-I](#). You should meticulously follow those instructions in so far as they cover the election records maintained by you at your polling station.

## Arrangements for Safe Custody of Election Records

43.2 Under the second proviso to rule 92(2) all election papers shall be kept in the custody of the Returning Officer in the case of election by Members of Legislative Assembly. You are, therefore, responsible under the law for the maintenance and safe custody of the election records relating to election conducted by you.

## SIMULTANEOUS ELECTIONS TO THE COUNCIL OF STATES

44. Sometimes elections may be held simultaneously to the Council of States from a State. At such simultaneous elections, the Commission directs that the following arrangements shall be done for each election :-

- (i) Public notice under rule 3 of the Conduct of Elections Rules, 1961 is required to be issued separately for each election.
- (ii) Each candidate shall have to mention in his nomination paper clearly as

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to which election he intends to contest by indicating clearly the name of the election viz. “Biennial election to the .....” or “Bye-election to the .....” If required the name of the members for whose vacancy the election is being held shall be indicated in order to avoid any confusion.

- (iii) Separate sets of ballot papers will be prepared for both elections and the colour of the ballot paper shall also be different for each election as has been explained earlier in Chapter IX.
  - (iv) Separate polling stations, preferably by making partition in the place proposed as polling station, for each election may be made and outside each polling station, a notice may be displayed by indicating “Polling Station for Biennial election to the .....” or “ Polling Station for Bye-election to the .....” If required the name of the members for whose vacancy the election is being held shall be indicated in order to avoid any confusion.
  - (v) Separate ballot boxes should be used for each election.
  - (vi) Separate sets of electoral roll should be used at each polling station.
  - (vii) Each polling station should be manned by separate set of officers; and
  - (viii) Counting of the votes should also be taken up separately.
45. You will observe from paragraph 5 above that two polling officers will normally be enough for a single election to the Council of States from a State. At simultaneous elections, additional polling officer should be appointed separately who should be in-charge of the marked copy of the electoral roll and the ballot papers for election. The details of duties to be performed by each polling officer, when more polling officers are appointed at simultaneous elections are indicated at Annexure XI(i)-J. Where, however, you decide to appoint four polling officers, the duties to be performed by them shall be as indicated in [Annexure XI\(i\)-K](#).

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## CHAPTER XI (ii)

### ELECTIONS TO THE STATE LEGISLATIVE COUNCIL

#### A. ELECTIONS TO THE STATE LEGISLATIVE COUNCIL BY MEMBERS OF LEGISLATIVE ASSEMBLY

##### The Poll

1. Poll is the most important event in the election process. It is through the poll that the electors express their choice of the candidate to represent them in a democracy. Any irregularity in the conduct of poll may vitiate the election and, therefore, you should ensure that the poll is conducted strictly in accordance with the law and the prescribed procedure.

##### Legal Provisions

- 2.1 The legal provisions for the conduct of poll at an election to the a State Legislative Council are contained in sections 56 to 62 of the Representation of the People Act, 1951 and rules 67 to 70 of the Conduct of Elections Rules, 1961. By rule 70, the provisions of rules 28 to 35 and 36 to 48 (except Rule 39AA) of the said Rules and Forms 14 to 16 appended to the said rules making provisions for the conduct of poll in parliamentary and assembly Constituencies have been made applicable to elections to the Council of States and the State Legislative Councils, subject to the modifications as specified in rule 70. You should fully familiarize yourself with these legal provisions.
- 2.2 As elections to the State Legislative Council have certain distinguishing features, various matters relating to the conduct of poll at these two types of elections have been discussed hereunder separately.
- 2.3 Election to the State Legislative Council by members of the State Legislative Assembly is also known under the Conduct of Elections Rules, 1961 as an “election by Members of Legislative Assembly” [see rule 2(l)(c)]. “Therefore, the poll at an election to the State Legislative Council by members of the State Legislative Assembly is taken in the same manner as the poll at an election to the Council of States except for open ballot system followed in the case of election to the Council of States. The notable distinctions are that **(i) the secrecy of ballot papers shall be strictly maintained during elections to the State Legislative Councils i.e. open ballot system is not applicable in the case of election to the Legislative Council by MLAs** and (ii) the *nominated* members, if any, of the State Assembly also vote at an election to the

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State Legislative Council, whereas only the *elected* members vote at an election to the Council of States.

- 2.4 However, all the polling procedure for taking up the poll for an election to the State Legislative Council by members of the State Legislative Assembly, are given in detail in the following paras :-

### **Place of Poll**

- 3.1 At an election to the State Legislative Council by the members of the Legislative Assembly of the State, the poll shall be taken at such place as may be fixed by the Returning Officer with the previous approval of the Election Commission [*vide* section 29(1)]. You are required by section 29(1) to notify the place so fixed (hereinafter referred to as ‘polling station’) in such manner as the Election Commission may direct. The Election Commission has directed that this place may be notified by displaying a notice to that effect on the notice board of the Legislative Assembly.
- 3.2 The place of poll should normally be fixed in the precincts of the Legislative Assembly building. The room or hall selected for the purpose should be adequately big so that there is sufficient accommodation for making the seating arrangements of the polling agents and the polling personnel and the setting up of the voting compartments. The room or the hall selected for the purpose should have two doors-one for the entry of electors and the other for their exit.

### **Returning Officer to act as Presiding Officer**

4. The Returning Officer also acts as the Presiding Officer at such polling station i.e. the place fixed for poll [*vide* section 29(2)]. You should, therefore, be fully conversant with the procedure for the conduct of poll and the relevant instructions and directions of the Commission in this regard.

### **Polling Officers**

- 5.1 You may appoint such number of persons to act as polling officers to assist you in the conduct of poll as you think necessary. Normally, two polling officers will be enough for the purpose. In case you feel that the number of electors is quite large, you may appoint three polling officers.
- 5.2 Those polling officers should normally be drawn from the Secretariat of the Legislature. They should be formally appointed by you as such polling officers under the provisions of section 29(2).

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## Duties of Polling Officers

- 6.1 The details of duties to be performed by each polling officer, when two polling officers are appointed, are indicated in [Annexure XI\(i\)-A](#). Likewise, the details of duties to be performed by them when three polling officers are appointed are indicated in [Annexure XI\(i\)-B](#).
- 6.2 Intensive training should be given to the polling officers so that they are fully conversant with their duties.

## Notice to Electors

- 7.1 At an election by Members of Legislative Assembly where poll becomes necessary, you are required to send, as soon as may be after the last date for withdrawal of candidatures, a notice to each elector informing him of the date, time and place fixed for polling [*vide* rule 69].
- 7.2 Such notice should be sent to each elector including an elector under preventive detention, if any. As has been explained earlier, an elector under preventive detention is entitled to vote by postal ballot. The appropriate Governments should communicate to you within 15 days after the date of the notification of the election (a) the names of all such voters as are being held by them in preventive detention and (b) the respective places where they are being so held. Even if the Government has failed to do so, an elector under preventive detention may himself give you, in writing, a notice of his intention to vote by postal ballot. In either case, if you are satisfied (a) that his name has been entered in the electoral roll and (b) that he is under preventive detention, you will send him a postal ballot paper addressed to the place where he is being so detained.

## Exhibition of Notice outside the Polling Station

- 8.1 Under rule 31(l)(b) as applied by rule 70, you are required to display prominently outside the polling station, a copy of the list of contesting candidates.
- 8.2 In order that the electors are properly informed about the system and the procedure followed at elections to Council of States, and to minimize the rejection of ballot papers the Commission has decided that suitable instructions should be issued to the electors. For this purpose, individual letters must be issued to electors on the procedure of voting. In addition, a notice containing important instructions should be displayed prominently outside the polling station. A form of such model notice is given in [Annexure XI\(i\)-C](#).

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## Seating Arrangements for Presiding Officer and Polling Officers

9. Inside the polling station, you as the Presiding Officer should sit in such a place from where you can watch all the proceedings in the polling station. The polling officers should be so seated that an elector after entering into the polling station straightway proceeds to the first polling officer and from him to the tables of other polling officers in a systematic manner. No criss-cross movement of the electors should be permitted.

## Seating Arrangement for Polling Agents

10. Suitable seating arrangement should be made for polling agents when they are present at the poll. Their seats should be provided at the back of the first Polling Officer so that they may have adequate opportunity to challenge the identity of electors before they are supplied with ballot papers. Where this is not practicable because of the situation of the door for entrance, they may be given seats just opposite this polling officer. In any seating arrangement they should be provided opportunity of seeing the faces of the electors and challenging their identity whenever necessary.

## Voting Compartments

11. One or more voting compartments should be provided in the polling station, depending upon the size of the room/hall, the number of electors and the number of contesting candidates. Efforts should be made to provide at least two voting compartments where the number of electors or the number of contesting candidates is large so that the electors may not have to wait for long for going into the voting compartment for marking their votes. The voting compartments must be such as to ensure total secrecy during marking.

## Who is Entitled to Vote

- 12.1 At an election to the Council of States, only the elected members of the State Assembly are entitled to vote [*Article* 80(4) of the Constitution].
- 12.2 The list of members entitled to vote shall be maintained by you under section 152 of the Representation of the People Act, 1951 in the manner prescribed by the Commission under rule 96 of the Conduct of Elections Rules, 1961. The Commission's directions in this behalf have already been reproduced for facility of your reference in Chapter-II.

**Note** - Elected members of State Legislative Assemblies can take part in elections to Council of States/State Legislative Council even before taking oath as

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members of respective State Legislative Assemblies (as held by the Supreme Court in PashupatiNathSukul Vs. Nem Chandra Jain & others (74 ELR-83).

### **Right to Vote of a Member whose Election has been Set Aside but Operation of the Order stayed Pending Appeal**

13. A question arose at the time of 1968 biennial election to the Council of States from West Bengal as to whether the name of a member whose election had been set aside by the High Court as a result of an election petition should be included in the list of electors maintained under section 152, and whether he should be eligible to vote at the biennial election in view of the *conditional stay* granted by the Supreme Court. The Supreme Court, to which a reference in the matter was made, directed that such a member would not be allowed to vote in the election to the Council of States or to the Legislative Council. The entire correspondence in this regard is reproduced for your guidance in [Annexure XI\(i\)-D](#).

### **Persons to be Admitted Inside the Polling Station**

14.1 You should admit inside the polling station only the following persons:

1. Polling officers;
2. each candidate, his election agent and one polling agent of each candidate at a time;
3. persons authorized by the Commission;
4. public servants on duty specifically authorised;
5. a child in arms accompanying an elector;
6. a person accompanying an illiterate voter who cannot vote without help or a blind or an infirm voter who cannot move without help; and
7. such other persons as you may from time to time specifically admit for the purpose of identifying voters or otherwise assisting you in taking the poll.

14.2 The Returning Offices have been asked to issue identity cards to the contesting candidates. In case necessity arises, you may ask for its production. Similarly, the election agents of the candidates can be asked to produce the attested duplicate copy of their appointment letters. The attestation is made by the Returning Officer.

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- 14.3 You should note that the expression ‘public servants on duty’ does not include Ministers, State Ministers and Deputy Ministers of the Centre or of any State and does not also normally include police officers. Such officers whether in uniform or in plain clothes should not normally be allowed to enter into a polling station unless you decide to call them in, in unavoidable circumstances for the maintenance of law and order or some similar purpose.

*N.B. No security guards accompanying any elector or any candidate or his election agent or any of his polling agents shall be allowed to enter the polling station in any circumstance.*

### **Regulation of Entry of Voters Inside the Polling Station**

- 15.1 Subject to any special direction of the Election Commission, the entry of voters inside the polling station should be so regulated that at any given point of time, not more than four electors are inside the place of poll. The next voter shall be allowed entry inside the place of poll only after one of the voters inside such place has gone out after casting his vote.
- 15.2 A separate room or place adjacent to the place of poll shall be arranged and facilities provided for sitting, etc., so that the voters can conveniently await their turn for voting.
- 15.3 No voter having security guards should be permitted to take his security guards inside the place of poll under any circumstance.

### **Facilities to Press Representatives and Photographers**

16. Subject to the maintenance of peace and order, there is no objection to any photographer taking photographs of a crowd of voters lining up outside the polling station. However, no one including the publicity officials of the State Government should be allowed inside a polling station without a specific letter of authority from the Election Commission. Authority issued by any other person, agency or authority other than the Election Commission shall not be valid for such entry. In no circumstance will any photograph be allowed to be taken of a voter marking his ballot paper.

### **Attendance of Polling Agents**

17. The polling agents of the candidates should be asked to reach the polling station at least 15 minutes before commencement of poll in order to be present when you are going through the preliminaries. If any part of these preliminaries has already been gone through, the proceedings need not be commenced *de novo* to



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accommodate any latecomer. The law does not specify any time limit for the appointment of polling agents and even if a polling agent turns up late at a polling station he should be allowed to participate in the further proceeding at the polling station.

### **Production of Appointment Letters by Polling Agents**

- 17.2 Every polling agent must produce before you the appointment letter in Form 10 by which the candidate or his election agent has appointed him. Check that the appointment is for your polling station. The polling agent should then complete the document and sign the declaration therein in your presence and then deliver it to you before he can be admitted into the polling station. Preserve all such appointment letters and at the end of the poll keep them in a cover for safe custody along with other documents.

### **Passes for Polling Agents**

18. Each candidate can appoint one polling agent and two relief polling agents at each polling station. However, only one polling agent of a candidate should be allowed inside the polling station at any given time. Give to every polling agent who is admitted into the polling station a permit or pass on the authority of which he can come in and go out of the polling station, as may be necessary.

### **Preparation of BallotBox**

19. You should begin preparing the ballot box for the poll, 10 or 15 minutes before the hour fixed for the commencement of poll. The instructions for operating a ballot box of the design in use in your State are contained in the booklet 'handbook for Presiding Officers', printed for your State. You should obtain a copy of that booklet from the Chief Electoral Officer of your State and familiarize yourself with the operation of the box.

### **Fixing of Paper Seal**

20. Fix the paper seal, where it is used, in position in the frame so that the green background is visible through the window of the ballot box. You should note that only one paper seal will be used. Take the signatures of the polling agents present and affix your own signature on the white surface of the paper seal. See that the signatures of the polling agents tally with their signatures on the declaration in Form 10. Verify that the paper seal cannot be shifted from the position by softly pulling it at the end. Do not use a damaged paper seal. As the green paper seal will be 10" (25.4 cm) in length, you should take care to fold the

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two ends so that the paper seal does not hang loose inside the ballot box where it may be damaged when the ballot papers are pushed by means of pusher.

### **Commencement of Poll-Warning about Secrecy of Voting**

21. Before commencing the poll, explain to all present the provisions of section 128 of the Representation of the People Act, 1951, regarding their duty to maintain the secrecy of the vote and the penalty for any breach thereof. Detailed instructions has been issued by the Commission in March 1988.

### **Declarations to be made by the Presiding Officer at the Commencement of Poll**

- 22.1 Immediately before the commencement of the poll, you as the Presiding Officer, are required under the law to demonstrate to the polling agents and others present that the marked copy of the electoral roll (*i.e.* the list of electors) to be used during the poll does not contain any entries other than those made in pursuance of rule 20(1)(b) and rule 23(2)(b) relating to supply of postal ballot papers (rule 33A). You are also required to demonstrate that the ballot box to be used for conducting the poll is empty. You are also required to affix your signature on the paper seal used, if any, for securing the ballot box, and to obtain thereon the signatures of such of the polling agents as are present and desirous of affixing the same. Further, the Commission has directed that the polling agents will be allowed to note the first and the last of the serial numbers of the ballot papers to be used at the polling station.
- 22.2 In order to ensure that these requirements have been complied with, the Commission has prescribed a declaration to be made by you as the Presiding Officer and to be signed by the polling agents before the commencement of the poll. The said declaration is contained in Part I of [Annexure XI\(i\)-E](#). Read out and complete that declaration without fail before the commencement of poll.

### **Declaration to be made in Case Additional Ballot Boxes Used**

- 22.3 If during the process of poll, it becomes necessary for you to use an additional ballot box, you are again required to demonstrate it to the polling agents and others present that the same is empty, and to seal and secure it in the manner as was followed for sealing and securing the first ballot box. Every time an additional ballot box is used, you are required to make further declaration as contained in Part II of [Annexure XI \(i\)-E](#) and obtain the signatures of the polling agents thereon.

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## **Preparation of Ballot Papers for Issue-Signature of Presiding Officer and Distinguishing Mark on the Back of Ballot Paper**

- 23.1 Under rule 38A(1) read with rule 70, every ballot paper, before it is issued to an elector, and the counterfoil attached to the ballot paper, shall be stamped on the back with such distinguishing mark as Election Commission may direct. Further, every ballot paper, before it is issued, shall be signed in full on its back by the Presiding Officer. The details of such distinguishing mark prescribed by the Commission have already been given in Chapter IX. It should be ensured that every ballot paper issued at your polling station carries such distinguishing mark both on its back and the back of its counterfoil. To ensure this, you should get all the ballot papers marked with the distinguishing mark 10 or 15 minutes before the commencement of poll.
- 23.2 As mentioned above, you are also required to put your signature in full on the back of each ballot paper before it is issued to an elector. You should put your signatures uniformly at the same space on the back of each ballot paper as that would facilitate easy verification when the ballot paper is being dropped by the elector in the ballot box after marking his vote thereon. The space in the bottom half of the distinguishing mark as prescribed by the Commission can be conveniently used by you for your signature.
- 23.3 In order that the polling process is not hampered, you may sign one bundle of ballot papers a few minutes before the commencement of poll and the other bundles may be signed by you as and when necessary during the progress of the poll.

## **Shuffling of Bundles of Ballot Papers**

24. At an election to the State Legislative Council by Members of Legislative Assembly or from Local Authorities' Constituency, the serial numbers of the ballot papers are effectively concealed by placing strips of black paper in the manner described in Chapter IX, but the serial numbers of the counterfoils of the ballot papers are not so concealed. Therefore, in order to remove any possibility of any polling agent, etc, noting the serial number of a ballot paper issued to a particular voter, the Commission has directed that the ballot papers should not be issued in consecutive serial order but at random. However, as the ballot papers are supplied not in loose sheets but in bundles, you should therefore, shuffle the first three or four bundles of ballot papers and use the bundles at random. This process should not, however, be repeated towards the close of the poll so that on the conclusion of the poll, the numbers of

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ballot papers issued to the voters will, as far as possible, be in continuous and unbroken series. The unused ballot papers with their counterfoils are to be kept in a separate sealed cover at the close of the polling. The counterfoils of used ballot papers shall be kept in a separate sealed cover.

### **Record of Electoral Roll Number of Elector on Counterfoil**

25. Under rule 38A(2)(a) read with- rule 70, before a ballot paper is issued to an elector, the polling officer shall record on its counterfoils the electoral roll number of the elector as entered in the marked copy of the electoral roll. Therefore, the polling officer in charge of ballot papers must note down the electoral roll number of the elector in the space provided for the purpose on the counterfoil of the ballot paper. The first polling officer, in charge of the marked copy of the electoral roll, should also underline the entry relating to the name of that elector in the marked copy of the electoral roll, and should also put a tick mark (√) on the left hand side of the name of the elector if she is a *female* elector, to indicate that the ballot paper has been issued to the elector. He should, however, not record the serial no. of the ballot paper issued to the elector in the marked copy of the electoral roll.

### **Signature of Elector on Counterfoil**

26. Under rule 38A(2)(b) read with rule 70, the signature or thumb impression of every elector must be obtained on the counterfoil of the ballot paper before it is issued to him. If any elector refuses to put his signature or his thumb impression on the counterfoil of the ballot paper, he shall not be issued with any ballot paper.

### **Meaning of Signature**

27. A signature may be described as the writing of a person's name on a document with the intention of authenticating that document. A literate person, while signing a counterfoil of the ballot paper, will be required to write his name, *i.e.*, both his name or names and his surname in full or in any case his surname in full or names either in full or by means of initials of that name or names. The preferable course in the case of a literate voter will be to request him to sign his name, *i.e.*, both his Christian name or names and his surname in full. If a literate person puts simply a mark and insists that that mark should be taken as a signature while claiming to be a literate person, then that mark cannot be taken to be his signature because, as stated, signature means, in the case of a literate person, the writing of the name of that person by himself in authentication of

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a document on which he writes his name. In such a case, if he refuses to sign his name in full as indicated above, then his thumb impression should be taken. If he refuses to give his thumb impression also, then no ballot paper should be given to him.

### Meaning of Thumb Impression

28. In conformity with rule 37(4) of Conduct of Elections Rules, 1961, if the left thumb of the voter is missing, then the impression of the right thumb should be taken. If both thumbs are missing, the impression of one of the fingers of the left hand starting from the forefinger should be taken. If there are no fingers on the left hand, the impression of the fingers of the right hand starting from the forefinger should be taken. If no fingers are available, the voter being unable to mark his ballot paper will necessarily have to seek assistance of a companion under rule 40A of the said rules. In that case the signature or thumb impression of the companion should be taken on the counterfoil.

### Voting by Illiterate, Blind and Infirm Voters

- 29.1 As the system of proportional representation by means of the single transferable vote is adopted' in these elections, and as the symbol system is not followed, not only blind and infirm electors, but also illiterate electors are permitted to take the help of a companion for the purpose of recording the vote on the ballot paper. If you are satisfied that owing to illiteracy, blindness or other physical infirmity, a voter is unable to read the names of candidates on the ballot paper or to record his vote without assistance, you should permit the voter to take with him a companion of not less than 18 years of age into the voting compartment for recording his vote on the ballot paper on his behalf. *But at an election by Members of Legislative Assembly, no elector at the election can act as such companion of another elector.* You should also ensure that no person is permitted to act as the companion of more than one elector at any polling station on the same day and that he makes a declaration to the effect that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any polling station on that day. The declaration will be taken in the Form given in [Annexure XI\(i\)-F](#).
- 29.2 There should be no objection to a candidate or an election agent or a polling agent (if they are not electors for this election) acting as a companion of an illiterate, blind or infirm voter. But they cannot act as such companion for more than one elector. You or any polling officer should not accompany any illiterate, blind or infirm voter inside the voting compartment.

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29.3 You should keep a record of all such cases in Form 14A.

### **Signature/Thumb impression on Counterfoil of Ballot Paper by Illiterate, Blind or Infirm Voters**

30. Thumb impression of an illiterate, blind or infirm voter should be obtained on the counterfoil of ballot paper. In case any blind or infirm voter is literate, he will be allowed to put his signature. If any infirm voter can put neither his signature nor his thumb impression, his companion shall put his signature or thumb impression on the counterfoil of ballot paper. A note may be made on the counterfoil regarding signature or thumb impression of the companion.

### **COMPULSORY IDENTIFICATION OF VOTERS AT THE TIME OF VOTING FOR THE ELECTION TO THE STATE LEGISLATIVE COUNCIL**

**31.1** The documents that will be required to be produced during poll in various Constituencies are as under:-

<b>Sl No.</b>	<b>Name of Elections</b>	<b>Document to be produced at the time of voting.</b>
1.	State Legislative Council By MLAs	Identity card issued by Legislative Assembly.
2.	State Legislative Council from Graduates' Constituency / Teachers' Constituency	EPIC or any identity card having photograph/ or other alternate document which may be prescribed by the Commission at the appropriate time during election for Graduates' Constituencies.
3.	State Legislative Council from Local Authorities' Constituency	EPICs/Identity cards issued by local bodies concerned.

### **Challenged and Tendered Votes**

31.2 At an election to the State Legislative Council, the voters will be normally known to you and it is expected that there will be no impersonation at the election. However, if the identity of any voter is challenged by a polling agent, you are required to enquire into the matter and to proceed according to the provisions made in this behalf in rule 36. A separate account of such challenged votes should be maintained by you in Form 14.

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31.3 Likewise, if an elector applies for a ballot paper after another person has already voted as such elector, you may give him a ballot paper (known as “tendered ballot paper”) after following the procedure prescribed in rule 42. A separate account of such tendered votes should be maintained in Form 15.

### **Method of Voting**

32.1 The elections to the State Legislative Councils are held under the system of proportional representation by means of the single transferable vote and through secret ballot. A voter has to record his vote by marking his preference or preferences for the candidate(s) of his choice against his/her/their names on the ballot paper.

32.2 An elector has as many preferences as the number of contesting candidates irrespective of the number of candidates to be elected.

32.3 These preferences are to be indicated in figures, i.e., in the international form of Indian numerals or in the Roman form or in the form used in any Indian language, *but shall not be indicated in words* [see Explanation to rule 37A(2) read with rule 70 and Explanation to rule 73(2)].

### **Marking of Ballot Papers by Electors with Articles Supplied for the purpose**

33.1 Rule 39A(2)(b) read with rule 70 envisages that the elector shall record his vote on the ballot paper with the article supplied for the purpose. A ballot paper marked by an elector otherwise than with the article supplied for the purpose shall become invalid under rule 73(2)(e).

33.2 The Commission has directed that only violet sketch pens should be supplied to the electors for marking the ballot papers. Therefore, you should ensure that only violet sketch pens, of identical ink and shade are supplied to the electors and the same should be available in sufficient quantity with you so that the polling process is not hampered.

### **Secrecy of Voting**

34. It is of paramount importance that complete secrecy of voting is maintained not only by the polling personnel responsible for the conduct of poll, but also by the candidates, their agents and others present in the polling station as well as the electors themselves.

### **Polling Agents Not to Note Down Serial Number of Ballot Papers Issued to Voters**

35. The polling agents should not be permitted to take notes of the serial number of any ballot paper issued to any voter. Nor should they take any other notes



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which may enable them to work out these serial numbers, as this would violate the secrecy of vote. You have the authority to prevent anyone from taking any such notes, as this amounts to misconduct as being an attempt to violate the secrecy of the vote. You are competent to seize and forfeit any document on which a polling agent may have taken any such note. If any polling agent persists in taking such notes, in spite of warning, you should not allow him to remain in the polling station.

### **Voting Procedure to be Strictly Followed**

- 36.1 It should be ensured that every voter follows scrupulously the voting procedure laid down under rule 39A(2) read with rule 70. He must record his vote on the ballot paper only inside the fully screened voting compartment in complete secrecy and at no other place. No voter or any other person inside the polling station should be permitted in any case to violate the secrecy of voting. The elector after marking his ballot paper inside the voting compartment should fold it on the refolded lines before coming out of the voting compartment. If he violates the secrecy of voting by displaying his marked ballot paper to anyone inside the polling station or in any other manner or refuses after being warned by you, to observe the prescribed voting procedure, the ballot paper should be taken back from him whether he has recorded his vote thereon or not. The ballot paper so taken back should be cancelled by you and you should record on its back the words “Cancelled: voting procedure violated” and put your signature below these words. Such cancelled ballot paper shall be kept by you in a separate cover which shall bear on its face the words “Ballot Papers - voting procedure violated”.
- 36.2 Every voter shall be made to leave the place of poll immediately after casting his vote. He will not be permitted to remain in the place of poll after he has voted.

### **Safeguards Against Insertion of Spurious Ballot Papers in the Ballot Box**

- 37.1 Reports have been received by the Commission that attempts are sometimes made to smuggle the ballot papers out of the polling station for misuse. One way of doing this is to put some spurious paper resembling a ballot paper into the ballot box and to take the genuine ballot paper out of the polling station. In order to check this malpractice, the Commission has directed that a sufficiently large distinguishing mark (as specified in Chapter IX) should be put on the back of each ballot paper so that it becomes visible even after the ballot paper is folded. Additionally, the Commission has desired that a special quality



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paper on which the legend “Election Commission of India” is printed or micro tinted all over on the reverse may be used for the purpose of printing ballot papers for the elections by Members of Legislative Assembly. Further, you are also required by law to put your signature on the back of each ballot paper. If these safeguards are taken, it can be generally ensured that no spurious ballot paper is inserted by any elector into the ballot box. A strict vigil on the part of the polling officer in charge of the ballot box is nevertheless required to ensure that an elector inserts only the genuine ballot paper into the box. In any doubtful case, you can ask the elector to show the distinguishing mark on the back of the ballot paper before its insertion into the ballot box.

37.2 It may also be noted that putting fraudulently anything into the ballot box other than the ballot paper which an elector is authorized by law to put in, is an electoral offence under section 136. This offence is cognizable. Therefore, if any elector is found to be indulging in such electoral offence, you should not hesitate to proceed forthwith against him under the law.

### **Safeguards Against Removal of Ballot Papers from Place of Poll**

37.3 In case any complaint is received from a candidate or his election agent or polling agent that a ballot paper is being illegally taken out of the place of poll by a voter and you are *prima-facie* satisfied about the genuineness of such complaint, you should arrange for a search being carried out on the person of such voter with full regard to the status of the voter.

37.4 It may be noted that taking or attempt to take a ballot paper out of a polling station fraudulently is a cognizable electoral offence under section 135. Therefore, you should proceed forthwith against any elector who is found to be indulging in such electoral offence.

### **Close of Poll**

38. The poll should be closed at the hour fixed for the purpose, even if for certain unavoidable reasons, it had commenced somewhat later than the hour appointed for the commencement of poll. However, all voters present at the polling station at the hour appointed for the close of poll should be permitted to cast their vote even if the poll has to be continued for sometime beyond the appointed closing hour.

### **Supply of Attested Copy of Ballot Paper Account to Polling Agents**

39. Every Presiding Officer is required by rule 45 read with rule 70 to prepare at the close of the poll the ballot paper account in Part I of Form 16. He is also

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required by the said rule to furnish to every polling agent present at the close of the poll a true *attested* copy of the ballot paper account prepared by him after obtaining a receipt from those polling agents. A sample ballot paper account prepared in Part I of Form 16 is given for your guidance at [Annexure XI\(i\)-G](#).

### **Declaration to be Made at the Close of Poll**

40. In order that the requirements of rule 45 regarding furnishing of copies of ballot paper account to the polling agents, referred to above, are fulfilled by the Presiding Officer, the Commission has devised a declaration (Part III, [Annexure XI \(i\)-E](#)) which should be made by the Presiding Office. At the close of poll, you should, therefore, make that declaration in the prescribed form at the close of poll and obtain signatures of the polling agents, to whom the copies of ballot paper account have been furnished by you, on that form. Copies of the ballot paper account should be furnished to every polling agent present even without his asking for it.

### **Sealing of the ballot Box and safe Custody thereof at the Close of Poll**

41. At the close of poll, you should seal and secure the ballot box(es) in accordance with the provision of rule 44B read with rule 70.

### **Report to the Election Commission about the Conduct of Poll**

- 42.1 As soon as may be after close of poll and the sealing of the ballot box(es), you should send a complete report to the Election Commission about the poll proceedings by the fastest means of communication available, i.e. Fax/E-mail. The report should be sent to the Commission in the prescribed format reproduced in [Annexure XI \(i\)-H](#).
- 42.2 The counting of votes shall not be taken up until the clearance of the Election Commission for commencement of counting of votes is received by you in writing after the receipt of your said report.

### **Sealing of Election Papers**

- 43.1 After the close of poll, all election papers relating to the poll should be sealed in accordance with the provisions of rule 46 read with rule 70 and the instructions and directions of the Commission on the subject. The instructions and directions of the Commission about the sealing of the election papers and election materials are contained in [Annexure XI \(i\)-I](#). You should meticulously follow those instructions in so far as they cover the election records maintained by you at your polling station.

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## Arrangements for Safe Custody of Election Records

43.2 Under the second proviso to rule 92(2) all election papers shall be kept in the custody of the Returning Officer in the case of election by Members of Legislative Assembly. You are, therefore, responsible under the law for the maintenance and safe custody of the election records relating to election conducted by you.

## Simultaneous Elections to State Legislative Council by Members of Legislative Assembly

45. Sometimes elections may be held simultaneously to the State Legislative Council by Members of Legislative Assembly. At such simultaneous elections, the Commission directs that the following arrangements shall be done for each election :-

- (i) Public notice under rule 3 of the Conduct of Elections Rules, 1961 is required to be issued separately for each election.
- (ii) Each candidate shall have to mention in his nomination paper clearly as to which election he intends to contest by indicating clearly the name of the election viz. “Biennial election to the .....” or “Bye-election to the .....” If required the name of the members for whose vacancy the election is being held shall be indicated in order to avoid any confusion.
- (iii) Separate sets of ballot papers will be prepared for both elections and the colour of the ballot paper shall also be different for each election as has been explained earlier in Chapter IX.
- (iv) Separate polling stations, preferably by making partition in the place proposed as polling station, for each election may be made and outside each polling station, a notice may be displayed by indicating “Polling Station for Biennial election to the .....” or “ Polling Station for Bye-election to the .....” If required the name of the members for whose vacancy the election is being held shall be indicated in order to avoid any confusion.
- (v) Separate ballot boxes should be used for each election.
- (vi) Separate sets of electoral roll should be used at each polling station.
- (vii) Each polling station should be manned by separate set of officers; and
- (viii) Counting of the votes should also be taken up separately.

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46. You will observe from paragraph 5 above that two polling officers will normally be enough for a single election to the State Legislative Council by member of Legislative Assembly. At simultaneous elections, additional polling officer should be appointed separately who should be in-charge of the marked copy of the electoral roll and the ballot papers for election. The details of duties to be performed by each polling officer, when more polling officers are appointed at simultaneous elections are indicated at [ANNEXURE X\(ii\)-A](#). Where, however, you decide to appoint four polling officers, the duties to be performed by them shall be as indicated in [ANNEXURE X\(ii\)-B](#).

### **Sealing of Election Papers at Simultaneous Elections**

47. All election records pertaining to each election, like marked copies of electoral rolls, ballot papers and their counterfoils, ballot paper accounts, lists of challenged and tendered votes, etc., have to be maintained separately. Accordingly, after the close of poll, election papers referred to in rule 46 of the Conduct of Elections Rules, 1961 read with rule 70 pertaining to each of the elections should also be sealed separately for each election.

## **B. ELECTIONS TO THE STATE LEGISLATIVE COUNCILS FROM COUNCIL CONSTITUENCIES**

- 48.1 The poll in Council Constituencies is taken at polling stations located at different places spread over the Constituency. For this purpose, the polling stations must have already been set up by the District Election Officer with the previous approval of the Election Commission and in accordance with its instructions contained in Chapter II. The District Election Officer also must have appointed the Presiding Officers, Polling Officers and other personnel required for the conduct of poll at these polling stations. You should ensure well in advance of the date of poll that all arrangements for provision of polling stations and polling personnel have been made by the District Election Officer. It shall be your responsibility to provide each polling party with the polling materials required for the setting up of the polling stations and the conduct of poll. The details of these polling materials have been given in Chapter IV and [Annexure IV-A](#).
- 48.2 You should also ensure, in consultation with the authorities concerned, that proper law and order is maintained in and around the polling stations so that a free and fair poll takes place. Adequate measures should be taken to provide full security to the polling personnel and the polled ballot boxes and other election materials till the polling parties with the polled boxes and other election materials reach the collection/counting centres after the close of poll.

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## Procedure for Conduct of Poll

49. The procedure for conduct of poll at polling stations in Council Constituencies is the same in all essential aspects (except in the matter of application of indelible ink in Graduates' and Teachers' Constituencies as explained later) as the procedure for the conduct of poll at an election to the State Legislative Council by Members of Legislative Assembly. Therefore, the instructions in the foregoing paragraphs Nos. 4 to 47 shall *mutatis mutandis* apply in the conduct of poll at polling stations in Council Constituencies.

### **POLL DAY PROCEEDINGS during elections from Council Constituencies :**

- i) The poll proceedings inside all the Polling Stations shall be video-graphed on the day of poll. The videography should be continuous and uninterrupted under the supervision of an officer who would be accountable for it. While doing so, it should be ensured that the secrecy of ballot is not at all violated/compromised.
- ii) The videography must cover each and every voter as well as any accompanying person in such a way that he/she is identifiable from the video-frame itself.
- iii) The videographer should be properly briefed and trained by the Returning Officer/Observer. The videographer appointed for a particular polling station shall be under the control and supervision of the Micro Observer (and in his absence, the Presiding Officer) of that polling station on the day of poll. The Presiding Officer and the Micro Observer shall be responsible for the compliance of instructions related to videography at polling station.
- iv) The video cameras should be positioned in such a way that by remaining static it can cover every voter, along with person(s) accompanying voters as well as poll proceedings inside the polling station, without compromising the secrecy of vote.
- v) The videographer should be issued an identity card for identification
- vi) There should be proper back-up battery, CD, Diskettes, etc., for the videography to continue uninterrupted throughout the polling hours.
  - (i) No helper or companion should be allowed inside the polling booths for helping / assisting the voters except in the case of an illiterate/ blind/infirm voter in accordance with rule 40A (under rule 70) of

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the Conduct of Elections Rule, 1961. **In case an elector wishes to avail of the facility of a companion because of his illiteracy, blindness or infirmity, he must give an advance intimation to that effect to the Returning Officer at least 3 days before the date of Poll.** The Returning Officer shall examine the eligibility of the elector for getting the facility of companion and in case the Returning find the elector eligible as per laid down provision, he/she shall indicate the same on the Electoral Roll by making a mark against the name of the elector. On the day of poll, before voting, such voters must also submit a declaration in the proforma reproduce at [Annexure XI\(ii\)-Cherewith](#) that he/she is illiterate/ blind/ infirm and thereafter action will be taken by the Presiding Officer concerned as per Rule 40A of the Conduct of Elections Rules, 1961 and accordingly maintain a record for that purpose as per rule (Form 14A of the Conduct of Elections Rules, 1961). The provisions contained in Rule 40A of the Conduct of Elections Rules, 1961 shall be strictly followed in this regard. This list in Form 14(A) shall be scrutinized along with the other documents viz. the CDs of video, Micro Observer's report, Presiding Officer's report etc. by the Observer next day

- (ii) Same person shall not be allowed to be accompanying more than one voter as provided in the first proviso to Rule 40A.
- (iii) In order to ensure strict compliance of the above provisions and instructions all Micro Observers should be properly briefed and trained so that they take due care that the Presiding Officers comply with the same for proper identification of electors in accordance with the above guidelines and observance of requirement of DECLARATION made by ILLITERATE/BLIND OR OTHERWISE INFIRM ELECTORS and their companions. In case they notice any deviation / violation of the instructions of the Commission, the Micro Observer should immediately bring the same to the notice of the Presiding Officer of the polling station concerned and invariably report the incident to the Commission's Observer at the earliest for appropriate action in this regard.
- (iv) In case they notice any deviation/violation of the instructions of the Commission, the Micro Observer should immediately bring the

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same to the notice of the Presiding Officer of the Polling Station concern and invariably report the incident to the Commission's Observer at the earliest for appropriate action in this regard.

- (v) Arrangements shall be made for live web-cast of the poll process at each polling station on the poll day.
- (vi) During the poll, all the voters shall have to produce either EPIC or any other identity document having photograph of the elector or their Identity Cards issued by the Local Authorities concerned of which they are members.
- (vii) During poll proceedings, voters should use only the pen provided by the Presiding Officer to record their votes in voting compartment. There shall be a total ban on carrying Mobile Phones, any type of camera viz. Digital /Pen camera etc., by any of the voters inside the Polling Stations.

### **Ballot Papers**

50. The serial numbers printed on the ballot papers for use at elections by Members of Legislative Assembly are concealed by putting black paper strips there on. Serial numbers of the ballot papers for use at elections in Local Authorities' Constituencies are also required to be concealed in the same manner as at elections by Members of Legislative Assembly. **However, the serial numbers of the ballot papers used at elections in the *Graduates' and Teachers' Constituencies are not so concealed.***

### **Application of Indelible Ink in Graduates' and Teachers' Constituencies**

- 51.1 It is significant to note that the provision of rule 37 relating to application of indelible ink on the left forefinger of the voter before issue of a ballot paper to him have been made applicable in case of election from Graduates' and Teachers' Constituencies. Under the instructions of the Commission, the left forefinger of the voter should be marked with indelible ink soon after the identity of the elector is verified by the first Polling Officer in charge of the marked copy of electoral roll and *before* his signature or thumb impression is obtained on the counterfoil of the ballot paper by the polling officer in charge of ballot papers. The underlying purpose of this instruction is that there should be a sufficient time gap for the indelible ink to dry and leave a proper indelible mark on the elector's left forefinger before he leaves the polling station. The Commission has also instructed that the last polling officer



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in charge of the ballot boxes and marking instruments should again check the voter's left forefinger before he leaves the polling station in order to verify that there is a clear indelible ink mark on the finger. If the elector has wiped off the ink or if there is no proper ink mark visible, the voter's forefinger should again be marked with indelible ink.

Whenever there is a simultaneous election in both Graduates' and Teachers' Constituencies, the Indelible Ink shall be applied on left hand fore-finger of the voters of Graduates' Constituency and left hand middle finger of the voters of Teachers' Constituency.

Whenever there is a simultaneous election in both Graduates' and Teachers' Constituencies and election to Legislative Assembly/Parliamentary Constituency is to be held shortly, the Indelible Ink shall be applied on right hand fore-finger of the voters of Graduates' Constituency and right hand middle finger of the voters of Teachers' Constituency to avoid confusion during the election to Legislative Assembly/Parliamentary Constituency.

### **Application of Indelible Ink when Elector has no Left Forefinger**

51.2 If an elector has no left forefinger, then indelible ink should be applied on any such finger which he has on his left hand starting with his left forefinger. If he does not have any fingers on his left hand, the ink should be applied on his right forefinger and if he has no right forefinger, on any other finger which he has on his right hand starting with his right forefinger. If he has no fingers on either hand, ink should be applied on such extremity (stump) of his left or right hand as he possesses.

### **Verification of Signature of Voter**

52.1 In order to check impersonation in Graduates' and Teachers' Constituency, the Commission has instructed that the signature of the voter as obtained on the counterfoil of the ballot paper should be compared with the signature of the voter on his original claim application for enrolment of his name in the electoral roll made by him in Form 18 or, as the case may be, Form 19 of the Registration of Electors Rules, 1960, before the issue of ballot paper to him.

52.2 For this purpose, the Presiding Officer should be supplied with all the original claim applications (Forms 18 and/or, as the case may be, Forms 19) of the electors assigned to the polling station. These forms should be arranged serially according to the serial number of the electors in the electoral roll. The Presiding Officer shall be personally responsible for safe custody of these forms and



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shall deliver them back after the poll to you or your authorized officer against a proper receipt.

### **Number of Polling Officers and their Duties**

- 53.1 At an election in a Graduates' or Teachers' Constituency, normally three polling officers should be appointed. The duties to be performed by each polling officer are indicated in [Annexure XI\(ii\)-B](#).
- 53.2 Where the number of electors assigned to a polling station is not large, even two polling officers may be sufficient at such polling station. In that case, duties of the first and the second polling officers as indicated in [Annexure XI\(ii\)-D](#) can be conveniently performed by one polling officer.
- 53.3 At an election in a Local Authorities' Constituency, the number of electors assigned to a polling station is usually not very large. Therefore, two polling officers will normally be sufficient for such polling station. In such cases also, the duties of the first and second polling officer can be conveniently performed by one polling officer.

### **Common Polling Stations for Graduates' and Teachers' Constituencies at Simultaneous Elections**

54. At a simultaneous election to the Graduates' and Teachers' Constituencies sometimes common polling stations are provided where the number of electors for these two elections is not very large. In such cases, a common Presiding Officer is appointed for both the elections. Normally, four polling officers should be appointed to assist him in the conduct of poll at such common polling stations. The first polling officer will be in charge of the marked copy of the electoral roll and ballot papers for Graduates' Constituency and responsible for identification of electors of that Constituency. He will verify the signature of the voter as obtained on the counterfoil of the ballot paper with that on his claim application for enrolment in the electoral roll (Form 18), and also apply indelible ink on the elector's left forefinger. Similar responsibilities in respect of the Teachers' Constituency will be entrusted to the third polling officer. The second polling officer will be in charge of the bundles containing original claim applications of the electors in Forms 18 and 19 and will make available the relevant Form of the elector concerned to the first or the third polling officer, as the case may be, to enable him to verify the signature of the elector. The fourth polling officer will be in charge of ballot box which will be common for both the elections and the articles for marking ballot papers. The details of

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duties of each such polling officer are given in [Annexure XI\(ii\)-E](#). In case it is felt necessary by you for the appointment of any additional polling officer at such a polling station, you may make such adjustment in the duties of the polling officers as you deem appropriate.

### **Maintenance of Diary by Presiding Officer**

- 55.1 The Presiding Officer of every polling station should be asked to maintain a diary in which he should draw the proceedings connected with the poll in the polling station. The Performa of the diary to be maintained by the Presiding Officer is given at [Annexure XI\(ii\)-F](#). He should be asked to go on recording the relevant events in the diary as and when they occur.
- 55.2 It has been observed in some cases that the Presiding Officers do not make the entries in the relevant columns of the diary at regular intervals or from time to time as envisaged, and fill in all entries and complete the diary at the end of the poll. This is highly objectionable and it may be impressed upon all Presiding Officers that any lapse on their part in the proper maintenance of diary at all points of time during the process of poll will be seriously viewed.
- 55.3 The Commission has recently directed that all Presiding Officers' diaries supplied to the polling parties should be serially numbered by means of numbering machines. Only such serial numbered Presiding Officers' diaries should be supplied to the Presiding Officers. A proper account should be maintained of such diaries showing the precise number of the diary issued to each Presiding Officer.
- 55.4 The Presiding Officers should maintain their diaries only in such serially numbered diaries. No un-numbered diary should be supplied to, or used by, any Providing Officer in any circumstances.

### **Safe Custody of Polled Ballot Boxes After Poll**

56. You should make proper arrangements for the safe transportation and custody of polled ballot boxes and other election papers and materials after the close of the poll from the polling station to the storage centre, where the polled ballot boxes will be stored pending the counting. In this connection, the following instructions of the Commission should be particularly taken note of and followed:-
- (a) It will be desirable to take the sealed ballot boxes and other election materials after the completion of the poll direct to the place fixed for

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counting of votes. This arrangement would ensure that the sealed ballot boxes are handled only once before the votes are counted. It must be ensured that there are sufficient arrangements for the safe transportation and custody of ballot boxes.

- (b) You should inform the candidates or their election agents sufficiently in advance about the programme of the collecting parties being sent by you, if any, and the route chart for the collection of the polled ballot boxes and other election materials from the polling station after the conclusion of the poll, so that the candidates may make arrangements, if they so desire, for sending their agents to accompany such collecting parties. The agents of the candidates should, however, make their own arrangements for their transport and they, in no case, should be allowed to travel in the same vehicles in which the ballot boxes and other election materials and polling parties are transported.
- (c) You may earmark inside the storage room or building, specified parts of the floor space in the form of squares in advance for stacking the ballot boxes received from particular polling stations. The arrangement for this should follow the serial number of polling stations.
- (d) All ballot boxes received from one polling station must invariably be kept together at one place on the same square. The ballot paper account and the paper seal account, if any, of each polling station should be kept on top of the box or boxes from the polling station.
- (e) Sufficient space should be left between row of boxes as they are being stacked so that other boxes received subsequently out of turn (from the point of view of serial numbers of the polling stations) may be kept at their appropriate allotted space without the necessity of having to shift any of the ballot boxes received and stacked earlier in point of time.
- (f) All Presiding Officers or Collecting parties should deposit the ballot boxes in the buildings selected for deposit of ballot boxes after the poll pending counting without any avoidable delay. Any officer who defaults in this respect will make himself liable to disciplinary action.
- (g) If any of the contesting candidates so desires, he may be permitted to post an agent to keep watch at the place where the ballot boxes are stored and also allow him to affix his own seals to the doors and windows of the buildings in which ballot boxes have been stored in addition to the

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seals that may be affixed by you. It should also be ensured that after all the ballot boxes have been received and stored and the room has been locked, no one is allowed to go in until the morning of the day fixed for counting. If during this interval, for some unavoidable reason, the room has to be opened you should send for the candidates or their authorized representatives and open the room in their presence and immediately after the purpose for which the room is opened is over, the candidates or their representatives should again be allowed to seal the door and windows. Whenever it is necessary to open the room where the ballot boxes are stored, proper entries should be made in the log book giving details of the persons entering the room, the purpose of such entry, time of entry, time of exit, signature of the guards, etc. The form in which the log book should be maintained is given in [ANNEXURE XI\(ii\)-G](#). These instructions will also apply with appropriate modifications to the storage of the ballot boxes during the interval between the original count and the recount, if any.

### **Safe Custody of Metal Seals, Rubber Stamps, etc.**

57. According to the instructions issued by the Commission, (1) the metal seal of the Presiding Officer, (2) the rubber stamp bearing distinguishing mark of the polling station and (3) the articles for marking the ballot papers used at the polling station will be put inside the second bigger envelope containing non-statutory items. Before placing them inside the bigger envelope these three items of materials should be first put inside separate envelopes on the outside of which the names of the articles should be super scribed and the Returning Officer or the Assistant Returning Officer should arrange to collect the packets containing these articles and deliver them as soon as may be practicable after the poll to the District Election Officer for safe custody. These three articles after they are returned by the Presiding Officers and duly accounted for, can be used at any subsequent election if still serviceable.

### **Allegations Against Polling Staff**

58. Whenever specific allegations of a serious nature are made in writing against the Presiding Officer or the polling staff about his conduct during polling at an election, you should enquire into the matter as soon as practicable and send the papers together with your report to the Chief Electoral Officer and the Commission. Where, however, the complaint is anonymous, you should exercise your discretion in deciding whether it deserves to be enquired into or not.

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### **Returning Officer to be in Headquarters on Poll Day**

59. You and your Assistant Returning Officer should be available on the polling day at a definite place near a telephone in the Constituency or as near the Constituency as possible and the Presiding Officers should know where you will be available for contact and instructions as and when necessary.

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## CHAPTER XI (iii)

# GENERAL PROVISIONS RELATING TO ADJOURNMENT OF POLL AND FRESH POLL OF THE ELECTION IN THE COUNCIL OF STATES AND STATE LEGISLATIVE COUNCIL

### Death of a Candidate Before Poll – Adjournment of Poll

- 1.1 As per the provision of Section 52 as amended in 1996, in the event of the death of a candidate set up by a recognized political party in the following situations, viz;
- (i) if he dies at any time after 11 A.M. on the last date for making nominations and if his nomination is found valid on scrutiny;
  - (ii) if he dies after his nomination has been found valid on scrutiny and he has not withdrawn his candidature, and in either case a report of his death is received by you at any time before the publication of the list of contesting candidates; or
  - (iii) if he dies as a contesting candidate and a report of his death is received before the commencement of the poll.
- 1.2 In the case of death of a candidate mentioned at (i) above, the order for adjournment a poll should be made only after the scrutiny has been made of all the nominations including the nomination of the deceased candidate on the date fixed for scrutiny of nominations.
- 1.3 If you adjourned the poll in any of the above situations report the fact to the Election Commission and to the appropriate authority, i.e., the Government of India in the Ministry of Law, Justice and Company Affairs in the case of election to the Council of State, and the Government of the State in the case of election to Legislative Council of the State.
- 1.4 The Commission will then issue notice to the recognize Party Concerned calling upon the Party to nominate other candidate. The revised schedule for nomination of new candidate, scrutiny of nomination of such candidate, etc and the new date of poll will be fixed by the Commission.

### Adjournment of Poll

- 2.1 Under section 57(1) of the Representation of the People Act, 1951, the Returning Officer (acting as Presiding Officer at the place fixed for poll at

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an election to the Council of States or State Legislative Council by Members of Legislative Assembly) and the Presiding Officer of a polling station in a Council Constituency are empowered to adjourn the poll on account of-

- (i) a natural calamity like flood, heavy snowfall, a severe storm and the like, or
- (ii) non-receipt or loss of or damage to essential polling materials like ballot boxes, ballot papers and the like, or
- (iii) disturbance of peace at the polling station making it impossible to take the poll, or
- (iv) non-arrival of the polling party at the polling station due to obstruction on the way or any other serious difficulty, or
- (v) any other sufficient cause.

2.2 Whenever the poll is adjourned at any polling station in a Council Constituency, the Presiding Officer is required to report that fact to the Returning Officer who shall forthwith report the matter to the Commission.

### **Procedure for Completing the Adjourned Poll**

3.1 For completing the .adjourned poll, the Returning Officer shall-

- (i) report the circumstance immediately to the Election Commission, the Chief Electoral Officer and the appropriate authority (The ‘appropriate authority’ has been defined in section 2 of the Representation of the People Act, 1951, to mean, in relation to an election to either House of Parliament, the Central Government, and in relation to an election to the Legislative Assembly or Legislative Council of a State, the State Government. It is an obligation cast by law upon you to report the circumstances of the case to the appropriate authority and the Election Commission.);
- (ii) seek the approval of the Election Commission for the date, hours and place which you propose for holding the adjourned poll;
- (iii) formally fix the date, hours and the polling station as approved by the Election Commission;
- (iv) inform the contesting candidates or their election agents accordingly but only after the receipt of the Commission’s formal approval;

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- (v) affix a notice on your notice board notifying the date, hours and the polling station so fixed; and;
  - (vi) announce by beat of drum or otherwise in the polling area concerned about the date, hours, and the polling station so fixed.
- 3.2 For the sake of convenience, uniformity and completeness of the report to be sent to the Commission under the said section 57(2), the Commission has prescribed a format of such report at [Annexure XI\(iii\)-A](#). You should send a consolidated report in that format in respect of all the polling stations where the poll has been adjourned. The Commission will not accept any piece-meal reports in this behalf.

***N.B :*** *While suggesting the hours for holding an adjourned poll in the particular polling station, you may propose any period sufficient for completing the poll being conducted. Section 57(2) is independent of section 56 and it is, therefore, not necessary when fixing the hours for the adjourned poll to deduct the hours during which the poll had already taken place before the adjournment.*

- 3.3 Where the poll has been adjourned at a polling station under the provisions of sub-section (1) of section 57, the adjourned poll will recommence from the stage at which it was left immediately before the adjournment, i.e., the electors who have not already voted before the poll was adjourned will alone be permitted to vote at the adjourned poll. You should provide the Presiding Officer of the polling station, at which such adjourned poll is taken, with the sealed packet containing the marked copy of the electoral roll and the sealed packet containing the stitched bundles of ballot papers with their counterfoils received from the Presiding Officer of the polling station at which the poll was adjourned, and also a new ballot box. Before the commencement of the poll, the sealed packets should be reopened by the Presiding Officer in the presence of the candidates or their agents who may be present at the polling station and the marked copy of the electoral roll contained in the sealed packet and stitched bundles of ballot papers with their counterfoils contained in another sealed packet should be used for adjourned poll. If a bundle is used only partly that bundle need not be opened for use but fresh unused bundles only should be used.
- 3.4 The provisions of rules 28 to 35 and 36 to 47 as modified by rule 70 will apply to the conduct of an adjourned poll as they apply to the poll before it was so adjourned.
- 3.5 Where the poll could not be commenced due to non-arrival of the polling party or other reasons, the provisions of above mentioned rules will apply to every such adjourned poll as they apply to the original poll.



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## Procedure for Holding Fresh Poll

- 4.1 Under Section 58 of the Act in the case of destruction, etc., of ballot boxes the Election Commission is competent to declare the poll at a polling station to be void, if at that polling station –
- (i) any ballot box has been unlawfully taken away by an unauthorized person, or
  - (ii) any ballot box has been accidentally or intentionally destroyed or lost or damaged or tampered with and you are satisfied that the result of the poll at that polling station cannot be ascertained for that reason, or
  - (iii) any error or irregularity in procedure as is likely to vitiate the poll has been committed.
- 4.2 You should report the fact forthwith to the Election Commission and the Chief Electoral Officer. For the sake of convenience, uniformity and completeness of the report to be sent to the Commission under the said Section 58(1), the Commission has prescribed a format of such report ([Annexure XI\(iii\)-B](#)). You should send a consolidated report in that format in respect of all the polling stations where the poll has been vitiated. The Commission will not accept any piecemeal reports in this behalf.
- 4.3 After considering all the material circumstances, the Commission will, if necessary-
- (i) declare the poll at the polling station to be void; and
  - (ii) formally fix the date and hours for a fresh poll.
- 4.4 On receiving intimation from the Commission, you should inform in writing the contesting candidates or their election agents of the date, time and place fixed for the fresh poll and affix a notice on your notice board, notifying the date and hours so fixed. Also you should announce by beat of drum or otherwise in the polling area concerned the place, the date and hours so fixed.
- 4.5 Every effort should be made to take the fresh poll as soon as possible after the original poll is declared void. All electors entitled to vote at- the polling station or stations in question will be entitled to vote at the fresh poll. The stitched bundles of ballot papers with their counterfoils unused in the original poll shall be used but, if necessary, fresh ballot papers with counterfoils may be printed with the next serial numbers for the Constituency. Subject to the above modification the provisions of the Act and the Rules and Orders made

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thereunder, will apply to the fresh poll in exactly the same way as they apply to the original poll. All the ballot boxes used at the original poll should be preserved carefully, unopened and with the seals intact.

### **Procedure for Holding Fresh Poll in Case of Booth Capturing**

- 5.1 Under Section 58A, if booth capturing (as defined in Section 135A) has taken place at a polling station or at a place fixed for a poll in such a manner that the result of the poll of that polling station cannot be ascertained, the Returning Officer shall forthwith report the matter to the Election Commission. On receipt of that report from the Returning Officer, the Election Commission shall, after taking all material circumstances into account, either (i) declare the poll at that polling station to be void and direct a fresh poll to be taken on a date to be appointed by it, or (ii) countermand the election if it is satisfied that in view of the large number of polling stations or places involved in booth capturing the result of the election is likely to be affected.
- 5.2 In order to enable the Commission to take appropriate decision in case booth capturing has taken place at any polling station or place of poll, the Commission has prescribed a format in which the Returning Officer should send his report to the Commission in the matter. The said format has been reproduced in [Annexure XI\(iii\)-C](#) for facility of reference.
- 5.3 In case any polling station or place of poll for the election for which you are the Returning Officer is involved in booth capturing, you should send your report to the Commission forthwith in the prescribed format. It should be a consolidated report in respect of all polling stations or places of poll involved in booth capturing. The Commission will not accept any report piece-meal.
- 5.4 If the Commission directs fresh poll to be taken at any polling station you should proceed for taking such fresh poll in accordance with the instructions contained in the preceding paragraph.
- 5.5 If the election is countermanded by Commission on account of booth capturing, all proceedings for that election will commence anew and a fresh notification calling for the election will be issued in due course.

### **No Counting if Poll Adjourned or Fresh Poll Ordered**

6. Do not commence counting of votes for the election until the poll adjourned under Section 57 has been completed or the fresh poll ordered under Section 58 or Section 58A has been taken.

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## CHAPTER XII

### COUNTING OF VOTES

#### General

- 1.1 Counting of votes, is one of the most important aspects of the election procedure. The result of the entire election may be nullified by wrong, irregular or careless counting. Being entrusted with this important work, you should exercise great vigilance on the work of the counting staff and also in maintenance of discipline. If counting is done properly and carefully, there will be no request for recounting.
- 1.2 Instances have come to the notice of the Commission where valid ballot papers have been rejected by the Returning Officers and during the trial of election petitions, the courts have ordered counting of such valid ballot papers in favour of the candidates to whom they are marked. In some cases valid ballot papers in favour of candidate X have been counted in favour of Y. On scrutiny by the courts, this mistake has been detected. Such incidents will undermine the confidence of the political parties and the general public in the electoral system and should be avoided at all costs. Therefore, as a Returning Officer, a heavy responsibility lies on your shoulders to ensure proper, systematic and accurate counting. To ensure this, you must follow the instructions given in the following paragraphs to the minutest detail and also see that the counting supervisors and counting assistants are imparted proper training and they carry out their duties properly.

#### Legal Provisions

- 2.1 The Counting of votes at elections to the Council of States and the State Legislative Councils (i.e., elections by Members of Legislative Assembly and from the Council Constituencies) is regulated by the provisions of Sections 64 to 67A of the Representation of the People Act, 1951 and Rules 71 to 83 of the Conduct of Elections Rules, 1961. Rule 72 also makes the provisions of Rules 51 to 54 relating to the appointment of date, time and place of counting and counting agents, etc., at elections in Parliamentary and Assembly Constituencies applicable to the counting of votes at elections to Council of States and State Legislative Councils. Further, Rule 73(l)(a) provides that the covers containing the postal ballot papers shall be dealt with in the manner prescribed in sub-rules (2) to (7) of Rule 54A.

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- 2.2 The elections may be held either to fill only one seat or more than one seat. Procedure of counting of votes for filling one seat is different from the procedure when more seats than one are to be filled.
  - 2.3 The provisions of Rules 71 to 74 providing for some definitions, scrutiny and opening of ballot boxes, scrutiny of ballot papers and postal ballot papers and arrangement of valid ballot papers in parcels are common to both the above mentioned procedures. Where only one seat is to be filled, the counting is to proceed under the provisions of Rule 75 and when more than one seat is to be filled, counting is to be done in accordance with the procedure laid down under Rules 76 to 83. You should study these provisions very carefully so that the various aspects of counting are properly understood. In this connection, the detailed illustration given in the schedule to the Conduct of Elections Rules, 1961, is very useful. But the illustration does not deal with various contingencies which may arise in the course of counting. A more detailed and exhaustive illustration has been prepared by the Commission and reproduced in [Annexure XII-A](#). These illustrations should be referred to whenever doubts arise.

## **COUNTING OF VOTES AT ELECTION TO THE COUNCIL OF STATES**

### **Date, Place and Time for Counting**

- 3.1 Under the instructions of the Commission, you have to send a report (in the prescribed format mentioned in previous Chapter) to the Election Commission as soon as may be after the close of poll about the poll proceedings. The counting of votes shall be taken up only when you receive the clearance in writing from the Commission after it has considered your said report. You should, therefore, always leave a minimum gap of one hour between the hour fixed for the close of poll and the hour fixed for the commencement of counting of votes so that meanwhile you may complete all required formalities. The place of poll itself should be fixed as the place of counting.
- 3.2 Give notice of the date, place and time to each candidate or his election agent at least one week before the date of poll. Such notice may be given in the form prescribed by the Commission for the purpose *vide* [Annexure XII-B](#).
- 3.3 If, for any unavoidable reason, you are unable to proceed with the counting at the place and time and on the date so fixed and communicated to the candidates, you can postpone the counting and fix another date and time and, if necessary, another place for the counting of votes. You should give notice of every change in writing to each candidate or his election agent.

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## Appointment of Counting Personnel

- 4.1 Clause (a) of sub-rule (1) of Rule 53 allows you to appoint such persons (to be known as Counting Supervisors and Counting Assistants) as you may require for assisting you in the counting. It is advisable to make an order of appointment in writing for this purpose. For the sake of convenience, a form in which such appointments may be made is given in [Annexure XII-C](#).
- 4.2 The counting personnel should normally be drawn from the Legislative Assembly Secretariat. They should be given intensive training for counting of votes.

## Number of counting tables and Arrangement of Counting Tables

- 5.1 The counting of votes under the proportional representation system by means of single transferable vote followed at elections to the Council of States will be mainly done at your table. In order that the Assistant Returning Officer, Counting Supervisors and Counting Assistants appointed to assist you are properly seated by your side, a sufficiently long table should be used.
- 5.2 For keeping a watch over the counting proceedings, the candidates may not require a large number of counting agents. Therefore, each candidate may be permitted to appoint not more than *two* counting agents in addition to his election agent.
- 5.3 The candidates, their election agents and counting agents may be provided seats opposite to you on the other side of your table from where they can watch the counting proceedings.
- 5.4 Inform the candidates about the number of counting agents they can appoint and ask them to send their letters of appointment not later than one hour before the time fixed for counting. A candidate may appoint all his counting agents by a single letter in Form 18 appended to the Conduct of Elections Rules, 1961 suitably modified. In that case, all the agents should also have signed the letter in token of their acceptance of the appointment and should sign the declaration thereon later in your presence. After necessary verification, you may give them identity cards in advance for production at the time of entry into the counting hall.
- 5.5 Each counting agent may be given a badge indicating whose agent he is.

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## Persons Allowed in Counting Hall

- 6.1 Only the following persons can be allowed inside the counting hall-
- (i) Counting Supervisors and Counting Assistants;
  - (ii) Persons authorised by the Election Commission;
  - (iii) Public servants on duty in connection with the election; and
  - (iv) Candidates, their Election Agents and Counting Agents.

**N.B.** - No security guards accompanying any candidate or his election agent or any of his counting agents shall be allowed to enter the counting hall in any circumstance.

- 6.2 Before counting begins see that no one else is present in the room.
- 6.3 You should note that term public servant on duty in connection with election does not normally include police officers; such officers whether in uniform or in plain clothes should not, as a general rule, be allowed to enter inside the counting hall, unless you decide to call them in for the maintenance of law and order or some similar purpose. Their presence in the counting hall without any compelling reason has on occasions given rise to complaints by some candidates or parties who have alleged that their agents had been overawed by an unnecessary show of force.
- 6.4 You should also note that the above expression public servant on duty in connection with election' does not include the Ministers, State Ministers and Dy. Ministers of the Union or the States.
- 6.5 You should note that no counting agent is to be admitted into the place fixed for counting unless he has delivered to you the second copy of his appointment letter after duly completing and signing the declaration contained therein and has been issued by you an authority for such entry. Similarly the election agents of the candidates may also be asked to produce the attested duplicate copy of their appointment letters.
- 6.6 Entry of persons should be strictly regulated as detailed above as otherwise the counting process may be vitiated by the presence of unauthorised persons. There will be overcrowding and attendant confusion and law and order problem. The smooth progress and accuracy of the counting will also be affected.
- 6.7 If you or the Assistant Returning Officer or other Officers have a reasonable doubt about the presence of any person in the counting hall, you can have him

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searched, if necessary, even though the person concerned may be in possession of a valid authority letter to enter the place of counting.

- 6.8 In the performance of your duties, you are only bound by the instructions of the Election Commission. You are not to take orders from or show any favour to your official superiors or political leaders including Ministers. Even in the matter of requests for entry into the counting hall from these, you need allow them only if they are in possession of a valid authority letter issued by the Commission.

### **Warning About the Secrecy of Vote**

7. Read out and explain, as necessary, the provisions off Section 128 of the Representation of the People Act, 1951, to those present and also explain the procedure for counting to the Counting Supervisors and Assistants. Thereafter, you should commence the counting.

### **Counting of Votes Received by Post**

- 8.1 Under the law [Rule 73(l)(a)], the covers containing the postal ballot papers are to be dealt with first. Such covers are to be dealt with in the manner as prescribed in sub-rules (2) to (7) of Rule 54A. It should be noted that after a postal ballot paper has been taken out of the cover containing it, the same should not be taken forthwith for detailed scrutiny to determine its validity or otherwise. All postal ballot papers should be taken up for such detailed scrutiny along with the ballot papers taken out of the ballot boxes [Rule 73(l)(c)].
- 8.2 Covers in Form 13C containing postal ballot papers received after the hour fixed for the commencement of the counting of votes should not be opened. They should be rejected and kept in a separate packet and sealed, noting thereon the appropriate particulars.
- 8.3 The covers in Form 13C received in time should be opened one after another. As each cover is opened, you should take out the declaration in form 13A and the cover in Form 13B and scrutinizes the declaration. If the declaration in Form 13A is not found in the cover or the declaration has not been duly signed and attested or attested by an officer not competent to do so or is otherwise substantially defective or if the serial number of ballot paper appearing in the declaration is different from the serial-number on the cover in Form 13B the cover containing the postal ballot paper should not be opened but the ballot paper should be rejected. Each such rejected cover should be endorsed suitably and the declaration and cover should be replaced in the cover in Form 13C.

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All such covers in Form 13C should be kept together in a separate packet and sealed and full particulars such as the name of the Constituency, the date of counting and a brief description of contents should be noted thereon for easy identification. All the declarations in Form 13A which have been found to be in order, should then be kept in a separate packet in order to ensure that the secrecy of the postal ballot is kept inviolate. The packet should then be sealed noting thereon the particulars regarding the name of the Constituency, the date of counting and brief description of contents. This should be done before the covers containing the ballot papers in Form 13B are opened.

- 8.4 Thereafter the covers in Form 13B should be opened one after another and the ballot papers contained therein taken out. The stamp of “Postal Ballot Paper” (placed on back side of ballot papers) must be checked on each ballot paper received by post. These postal ballot papers must not be unfolded until these are mixed with other ballot papers taken out from the ballot boxes, for scrutiny/counting.

### **Opening of ballot Box(es)**

9. While you are engaged in dealing with the covers containing postal ballot papers, the Assistant Returning Officer can have the ballot box(es) used at the election opened. The ballot papers contained therein should be taken out ensuring that no ballot paper is left inside the box(es). The ballot papers so taken out of the box(es) should be *counted for numbers*. The number so ascertained should be tallied with the number of ballot papers which should have been found in the ballot box(es) as indicated in Item 5 of the ballot paper account in Part I of Form 16 (CE Rules, 1961). Though Part II of Form 16 is in terms not applicable to the counting of votes at elections to the Council of States, the number of ballot papers taken out of the ballot box(es) may be noted in Item III of said Part II.

### **Scrutiny of ballot Papers**

- 10.1 After all the ballot papers have been taken out of the ballot box(es), they should be mixed with the postal ballot papers taken out of the covers as mentioned in paragraph 8.4 above. Thereafter, all these ballot papers should be taken up for detailed scrutiny one by one.
- 10.2 In order that a proper account of the ballot papers taken out of the ballot box(es) and the postal ballot papers which are taken up for detailed scrutiny is maintained, the number of such ballot papers should be noted in a statement. The form of that statement is given in *Annexure XII-D*.



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## Valid Ballot Papers

11. Under the system of proportional representation by means of single transferable vote, every elector has one vote only as the expression “single transferable vote” implies. The voter is, however, required to indicate his preferences for the different candidates. An elector in giving his vote has to place on his ballot paper the figure ‘1’ in the place opposite the name of the candidate for whom he wishes to vote in the first instance. He may, in addition, place on his ballot paper the figure ‘2’ or the figures ‘2’ and ‘3’ or the figure ‘2’, ‘3’ and ‘4’ and so on in the space opposite the names of other candidates in the order of his choice. In other words, the marking of figure ‘1’ is obligatory and the marking of figures ‘2’, ‘3’, ‘4’, etc., is optional. Therefore, a ballot paper will be valid if the figure ‘1’ is properly marked by the elector indicating his first preference. Thus, in order to determine whether a ballot paper is valid or invalid, you have to see whether the first preference has been validly indicated by placing figure ‘1’ (in vertical position) on the ballot paper by the elector. A ballot paper on which figure ‘1’ has been validly marked is a valid ballot paper, if it is not invalid for some other reason under the law.

## Grounds for Rejection of Ballot Paper

- 12.1 A ballot paper shall be invalid on which –
- (a) the figure ‘1’ is not marked; or
  - (b) the figure ‘1’ is set opposite the name of more than one candidate; or
  - (c) the figure ‘1’ is so placed as to render it doubtful to which candidate it is intended to apply; or
  - (d) the figure ‘1’ and some other figure like 2, 3, etc., are set opposite the name of the *same* candidate; or
  - (e) there is any mark or writing by which the elector can be identified; or
  - (f) there is any figure marked on the ballot paper otherwise than with the article (i.e., sketch pen of violet colour ink) supplied by you for the purpose.
- 12.2 The ballot papers are required to be marked by the electors only with the article supplied by you for the purpose. A ballot paper marked with any other article shall be rejected. This requirement, however, cannot obviously apply in the case of postal ballot papers. Therefore, a postal ballot paper should not be rejected on the ground that it is marked with some article other than the article

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which was supplied by you for the marking of ballot papers at your polling station. You should also not reject a ballot paper used at your polling station on the ground that it is marked otherwise than with the article supplied for the purpose, if you are satisfied that any such defect has been caused by any mistake or failure on the part of a Polling Officer.

- 12.3 If a ballot paper is marked with an article other than supplied by you, it may be a postal ballot paper. Then the stamp of “Postal Ballot Paper” on its back side should be checked. If the stamp is not found on its back, the same should be rejected.

### **Ballot Paper on Which First Preference has been Indicated in Words**

13. Under the *Explanation* to Rule 37A(2) read with Rule 70 and the Explanation to rule 73(2), the electors are required to indicate their preferences by marking the figures 1, 2, etc., and *such preferences cannot be indicated in words*. Therefore, if the first preference on any ballot paper has been indicated in contravention of the above provisions by writing the word or worlds ‘one’ or ‘first preference’ instead of figure ‘1’ or such words have been written in addition to the figure ‘1’, such ballot paper shall be rejected.

### **Ballot Paper Marked Partly in Figures and Partly in Words**

#### **14. “Mark or writing by which an elector may be identified”.**

Under Rule 73(2) (d), a ballot paper shall be rejected if it bears any mark or writing by which an elector can be identified. The Supreme Court has held in *Shradha Devi Vs. Krishna Chandra Pant* (AIR 1982 SC 1592) that the mark or writing which would invalidate the ballot paper must be such as to itself unerringly point in the direction of or reasonably give indication of the identity of the voter. There must be some causal connection between the mark and the identity of the voter that looking at one, the other becomes revealed. In the absence of such suggested mark or writing the ballot paper cannot be rejected merely because there is some mark or writing. Any mark or writing of an innocuous nature cannot be raised to the level of such suggestive mark or writing as to reveal the identity of the voter.

15. Under the rules, it is obligatory for an elector only to mark figure ‘1’ in the ballot paper. The placing of figure ‘2’ or subsequent preferences is only optional. For the above reasons, a ballot paper should **usually** be treated as valid if the first preference has been indicated correctly thereon by marking it with figure “1”. If the other preferences are not indicated at all or, are indicated not in figures

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but in words, then those preferences should be treated as having been not made at all. In other words, the elector will be regarded as having indicated only his first preference. The correct indication of the first preference is enough to make it a valid vote and such a ballot paper should not **generally** be rejected **in to**. It shall be counted and taken into account for further transfers up to that subsequent preference which has been validly indicated in figures. (Such a ballot paper would become exhausted only at that stage at which it is sought to be transferred further with reference to such preferences as have been indicated not in figures but in words.)

However, if it is noticed that **a particular pattern has been followed by an elector in indicating his subsequent preferences in words like ‘two’ or ‘second preference’ instead of figure ‘2’ and so on or** such words have been written in addition to the figure ‘1’, **‘2’ and so on in a particular manner which apparently points to attempt to reveal the identity of the elector to the candidate(s), that can be treated as leading to some causal connection between the mark and the identity of the voters.** Such ballot paper would be liable to be rejected

- 15A. The explanation under to rule 37A permits that the figures indicating preferences may be marked in the international form of Indian numerals or in the Roman form or in the form used in any Indian language but shall not be indicated in words. A voter can therefore choose to mark all the preferences, as he/she may like to indicate, in figures either in international form of Indian numerals or in the Roman form or in the form used in any Indian language generally used in the State where the election is being held. The elector cannot use a combination of languages for writing the preferences in figures. Some electors who may have arrived at some pre-planned agreement with candidates may adopt the pattern of marking preferences in a particular pre-determined combination of different forms of numerals to reveal their identity to the candidate(s) concerned. There have been such complaints in the past. Therefore, such cases, which can lead to some causal connection between the mark and the identity of the voters, should be viewed from that angle, and if the design is obvious, such ballot papers would be liable to be rejected.

### **Grounds on which ballot Paper not to be Rejected**

16. A ballot paper should not be rejected simply because-
- (a) the figure ‘1’ has been marked not in the column meant for marking the order of preferences but at some other place in the panel of candidate,

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or '1' is marked in the space meant for marking and also marked in the box containing the name of the candidates. Where, however, such double marking is seen as a pattern adopted by an elector as a pre-determined plan to reveal his identity to the candidate(s) concerned, such double marking may be interpreted as leading to a casual connection between the marking and identity of the electors, in which case the ballot papers may be liable to be rejected.

- (b) the original mark is patently in the column of one candidate but an impression or smudge thereof appears against the name of some other candidate due to wrong folding;
- (c) there is a faint un-decipherable thumb impression or smudge impression left inadvertently by the elector on the ballot paper while handling it because of the presence of some ink on his thumb which was put thereon for the purpose of obtaining his thumb impression on the counterfoil of the ballot paper.

### **Reasonable facilities to candidates for inspection of invalid ballot paper**

- 17.1 Before rejecting any ballot paper, you should give a reasonable opportunity to the candidates or their agents present at your table to see the ballot paper. However, while doing so, do not allow them to handle any ballot paper physically.
- 17.2 You should also not allow the serial number of any ballot paper to be noted down by anyone in the case of elections in the local authorities constituencies and by members of the Legislative Assembly to the State Legislative Council where the serial numbers of ballot papers are effectively concealed.

### **Rejected Ballot Papers to be Suitably Endorsed/Signed by Returning Officer**

- 18.1 You should endorse on every ballot paper which you reject the word 'Rejected' and the ground(s) for such rejection in abbreviated form either in your own hand or by means of a rubber stamp. You should also initial each such endorsement but you need not give the date.
- 18.2 A rubber stamp in the following form specifying the various reasons for rejecting a ballot paper may be used. In that case what you are required to do is to affix this stamp which mentions all the reasons and make a tick mark (✓) against the particular reason for which the ballot paper is to be rejected and then affix your initial.

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## Rejected

- (i) No marking
- (ii) Mark on blank area
- (iii) Multiple voting
- (iv) Voter identifiable
- (v) Preference(s) indicated in words.
- (vi) Marked with un-official article

(If the ballot paper is rejected on any other ground, the same may be recorded in hand)

## Separation of Valid Ballot Paper from Rejected Ballot Papers

19. After each ballot paper has been scrutinized in the manner indicated above, the ballot papers accepted as valid votes should be separated from the ballot papers which have been rejected by you. The total number of rejected ballot papers and valid ballot papers should be carefully noted in the statement at [Annexure XII-D](#).

## Arrangement of Valid ballot Papers in Parcels

20. After the valid ballot papers have been separated from the rejected ballot papers, the next step will be to distribute the valid ballot papers among the contesting candidates according to the *first* preference recorded on each such ballot paper. After these ballot papers have been distributed candidate wise, the ballot papers of each candidate should be tagged in the bundles of 25 or 50 ballot papers (as you think suitable) and all the bundles should be kept into a separate parcel. The number of ballot papers in each such parcel of every candidate should be counted and recorded in a separate sheet.

## Value of Votes

- 21.1 At an election where only one seat is to be filled, every valid ballot paper shall be deemed to be of the value of '1' at *each* count. Therefore, at an election where, say, 401 valid votes are cast, the total value of votes to be taken for the purpose of ascertainment of quota and other subsequent stages of counting will be 401. The number of votes secured by each candidate shall be equal to the number of ballot papers placed in his parcel on which the first preferences have been recorded for him. Thus, the value of votes secured by a candidate A at the first count shall be 45 if there are 45 valid ballot papers in his parcel.

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21.2 At any election where more than one seat is to be filled, every valid ballot paper shall be deemed to be of the value of ‘100’ at the *first* count and is called the original vote. Therefore, in the above example of an election where 401 valid ballot papers have been cast, the total value of votes shall be  $401 \times 100 = 40,100$  and the value of original votes obtained by candidate A shall be  $45 \times 100 = 4500$ .

21.3 The total value of all valid votes and the value of original votes secured by each candidate as worked out in the manner indicated above, should then be noted in the relevant columns provided for the purpose in the return of election in Form 23B appended to the Conduct of Elections Rules 1961.

### Ascertainment of Quota

22.1 *Where only one seat is to be filled.* – The quota sufficient to secure the return of a candidate at an election where only one seat is to be filled shall be determined by (i) dividing by 2(two) the total value of valid votes as determined in the preceding paragraph, and (ii) adding one to the quotient, ignoring the remainder, if any. Thus, in the above mentioned example where 401 valid votes are cast, the quota sufficient to secure the return of a candidate will be  **$401/2+1=201$** .

22.2 *Where more than one seat is to be filled.* - The quota sufficient to secure then return of a candidate at an election where more than one seat is to be filled shall be determined by (i) dividing the total value of votes as determined in the preceding paragraph by a number which exceeds by one the number of vacancies to be filled, and (ii) adding one to the quotient, ignoring the remainder, if any. Thus, in the above example of election where 401 valid votes are cast, the quota sufficient to secure the return of a candidate, supposing further that 10 candidate are to be elected, shall be

$$\frac{40,100}{11} + 1 = 3646$$

### Candidates with Quota Elected at First Count

23.1 If any candidate has secured votes the value of which is equal to or greater than the quota sufficient to secure the return of a candidate as determined above, such candidate shall be declared elected by you at the first count.

23.2 If only one seat is to be filled at the election, the counting of votes will come to an end if a candidate is declared elected at the first count as mentioned above.

23.3 At an election where more than one seat is to be filled, if the number of candidates, who are declared elected at the first count in the manner indicated

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above, is equal to the number of seats to be filled then also the counting of votes would come to an end and the election would be complete.

### **Procedure for Counting when all Seats are not Filled at First Count**

24. If all the seats which are required to be filled at an election are not filled at the first count, the counting of votes will proceed further in the manner explained in the following paragraphs.

### **DETAILED PROCESS OF COUNTING WHEN ONLY ONE SEAT IS TO BE FILLED**

25. If no candidate is declared elected at the first count for the reason that no candidate has secured the quota, the further counting shall then proceed in the following manner:-

- (i) as a first step, the candidate who has been credited with the lowest value of votes at the first count shall be excluded from the poll;
- (ii) all the ballot papers in the parcel of the excluded candidate shall be scrutinized again with reference to the second preference marked on each such ballot papers;
- (iii) all ballot papers on which the second preference has not been marked at all or has not been validly marked in the prescribed manner as discussed earlier, shall be treated as *exhausted* papers and shall not be counted further;
- (iv) a ballot paper shall also be deemed to have become exhausted wherever :-
  - [a] the names of two or more candidates, whether continuing or not, are marked with the same figure), which is next in order of preference (for example '2' is marked against two or more candidates in second round; or
  - [b] the marked figure is not following consecutively after some other figure on the ballot paper (i.e. '3' / '4' etc. is marked in the second round instead of '2') against any candidate; or
  - [c] the name of the candidate next in order of preference, whether continuing or not, is marked by more than one figures;
- (v) all unexhausted ballot papers (i.e. ballot papers which are not treated as exhausted) shall then be distributed and transferred among the continuing

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candidates according to the second preference recorded on each ballot paper,

- (vi) all ballot papers thus distributed to each continuing candidate shall be arranged in a separate sub-parcel for each candidate;
  - (i) the value of votes in each sub-parcels of continuing candidates shall be credited to the candidate concerned;
  - (ii) if by so adding the value of the additional votes credited to each continuing candidate, any candidate secures the quota, then he shall be declared elected;
  - (iii) if no candidate secures the quota at the end of this second count also, the process of exclusion of candidate lowest on the poll at that stage and the distribution and transfer of his unexhausted ballot papers in his parcel and sub-parcel, if any, according to the next available preference recorded on each ballot paper will be repeated. If this also does not help any candidate in securing the requisite quota, the above process will be further repeated until a candidate secures the required quota and is declared elected;
  - (iv) if in the above process of exclusion of candidates lowest on the poll, all candidates but one get excluded and there is only one continuing candidate at the end of any count, then such one continuing candidate shall be declared elected even if he has not secured the quota sufficient to secure the return of the candidate.

### **Meaning of 'Next Preference' or 'Next Available Preference'**

26. In carrying out the above operations of transfer of unexhausted ballot papers to the different continuing candidates on the basis of next preference or next available preference recorded on each ballot paper, all preferences recorded for candidates who are already excluded' from the poll shall be ignored. Take, for example, a ballot paper on which preferences 1, 2, 3, 4 & 5 are marked in favor of candidates A, B, C, D and E respectively. When such ballot paper is sought to be transferred at the exclusion of A, it shall be transferred to B, if he is a continuing candidate. It shall be transferred straight from A to C if B is already excluded from the poll. Likewise, it will go to D, if both B and C are excluded from the poll and will go to E, if D also stands excluded from the poll before A's exclusion.



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**Note :** At an election where more than one seat is to be filled, the preference marked in favor of a candidate already elected shall also be ignored like the preference marked in favour of an excluded candidate, while transferring the ballot paper with reference to the next available preference marked thereon.

### **Maintenance of Transfer Sheets**

27. In order that a proper record of transfer of ballot papers of the excluded candidates is maintained, the Commission has devised a Performa of transfer sheet which should be carefully and properly filled at the end of each count. A copy of such transfer sheet filled in for your guidance is given at [Annexure XII-E](#).

### **Detailed Process for Counting when more than one Seat is to be Filled**

28. At an election where more than one seat is to be filled, if the number of candidates declared elected at the first count is less than the number of seats to be filled or if no candidate is declared elected at all at the first count for the reason that no candidate has secured the quota, further counting shall proceed in the manner described in the following paragraphs.

### **Distribution of Surplus of Elected Candidate**

29.1 If some candidate(s) is/are declared elected at the first count, first of all the surplus of such elected candidate(s) shall be distributed among the remaining continuing candidates. The surplus means the difference between the value of votes obtained by an elected candidate and the quota sufficient to secure the return of a candidate. Thus, if the value of votes of a candidate is 5000 and the required quota is 4651, then the surplus of such elected candidate will be 349. If more candidates than one have surpluses, the largest surplus shall be dealt with first and the other surpluses shall be dealt with in descending order of their magnitude.

29.2 In order to transfer the surplus of a candidate who got the quota at the first count, all the unexhausted ballot papers (contained in the main parcel since the main parcel is the first and last parcel at first round) of such candidate(s) will be distributed first to the remaining candidates for second round of counting. The value of such votes could be different from the original value of votes (Described in para 30 below)

Note : After the first round, in the subsequent rounds of counting, if a candidate gets the quota by receiving the transferred votes, only the unexhausted

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votes contained in the last sub-parcel of such candidate shall be distributed to the remaining candidates (details given in para 33 below).

29.3 Where there are more surpluses than one to distribute as a result of first count and two or more surpluses are equal, the Returning Officer shall decide by lot which candidate shall have his surplus first distributed. However, if such equal surpluses are to be distributed after the second or subsequent counts, regard shall be had to the original votes of each candidate and the candidate for whom most original votes are recorded shall have his surplus first distributed.

29.4 When the surplus of any candidate declared elected at the first count is distributed, you shall re-examine all the ballot papers in the parcel belonging to that candidate, with reference to the next preference or next available preference recorded thereon [Rule79(4)(a) of CE Rules, 1961] . All the exhausted ballot papers shall be separated and shall be placed in a separate sub-parcel.

**Note:** The Meaning of ‘next preference’ and ‘next available preference’ has been explained in paragraph 26 above. The meaning of ‘exhausted ballot paper’ has also been explained in paragraphs 25(iii) & (iv) above and in Rule 71(3).

29.5 All the unexhausted ballot papers shall be divided among the continuing candidates with reference to the next available preference recorded on each such ballot paper. All the ballot papers so divided and transferred to any one continuing candidate shall be placed in a separate sub-parcel for that candidate.

### **New Value of Transferred Ballot Paper**

30.1 The value of such transferred ballot papers shall not remain the original value and the new value of each such ballot paper shall be ascertained by dividing the surplus by the total number of unexhausted papers. If there is any remainder by so dividing the surplus by the total of unexhausted ballot papers, it shall be ignored. Thus, if the surplus value of votes to be distributed is 349 and the number of unexhausted ballot paper is 40, the new value of each such transferred ballot paper will be 8 [349/40, remainder 29 being ignored].

30.2 However, if the new value of a transferred ballot paper as ascertained in the above manner comes to more than the value of the ballot paper at which that ballot paper was received by the elected candidate, the new value of such ballot paper shall also then remain at its previous value. In other words, the new value of a transferred ballot paper shall in no case exceed the value at which it was received by the candidate whose surplus is being distributed. Thus, in the above

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example where surplus to be distributed is 349, if the number of unexhausted papers is, say, three, the new value of the transferred papers shall also be 100 each, i.e., the value of the original vote sought to be transferred.

- 30.3 The total value of the ballot papers in each sub-parcel transferred to a continuing candidate shall be credited to that candidate and the result of election ascertained after the transfer of surplus of each elected candidate.

### **Election of a Candidate during Transfer of Votes**

31. If the value of votes of any candidate as a result of the above transfer of surplus exceeds the required quota, he shall be declared elected and no further votes shall be given to him.

### **Counting to Proceed if Required No. of Candidates not Elected**

32. If the number of candidates declared elected at the first count and at the second and subsequent counts (where the surplus of the candidates declared elected at the first count are distributed) is still less than the number of seats to be filled and some seats still remain to be filled, the counting will proceed further.

### **Distribution of Surplus of a Candidate Elected at Second or Subsequent Count**

- 33.1 If any candidate has been declared elected at the second or the subsequent counts, his surplus will again be further divided among the remaining continuing candidates. In such a case, the quota will be secured on account of the original votes received by the candidate concerned at the first count and the ballot papers received by him by way of transfers at the subsequent counts. Thus, the surplus will arise out of the transferred ballot papers received last by him and contained in last sub-parcel. Therefore, while distributing the surplus of such elected candidate only the ballot papers in the **last sub-parcel received by him shall be re-examined by you for the purpose of their further distribution among the remaining continuing candidates.** In other words, the original votes received by him and contained in the main parcel and transferred ballot papers in other sub-parcels (except the last sub-parcel) shall not be re-examined.
- 33.2 The transfer of surplus among the remaining continuing candidates will again be done in the manner indicated above. The new value of such transferred ballot papers will be further worked out by dividing the surplus with the number of unexhausted ballot papers so that the new value shall in no case exceed the

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value at which these ballot papers were previously transferred to the elected candidate.

### **Exclusion of candidate Lowest on the Poll**

- 34.1 If as a result of transfer of surpluses of elected candidates the required number of seats is still not filled, the counting of votes will then proceed by the exclusion of the candidate lowest on the poll at that stage.
- 34.2 If two or more candidates have the same value of votes and are the lowest on the poll, the candidate for whom fewest original votes are recorded shall be first excluded. If the values of their original votes are also equal, then the candidate with the smallest value at the earliest count at which these candidates had unequal values shall be first excluded.
- 34.3 If two or more candidates are lowest on the poll and each has the same value of votes at all counts, you shall decide by lot which candidate shall be excluded first.
- 34.4 When a candidate is excluded from the poll in the manner indicated above, *all* his ballot papers shall be distributed among the remaining continuing candidates according to the next available preferences recorded thereon.
- 34.5 First of all, his original ballot papers shall be re-examined and the exhausted ballot papers shall be separated from the unexhausted ballot papers. The exhausted ballot papers shall be placed in a separate packet.
- 34.6 All the unexhausted ballot papers will be divided among the remaining continuing candidates according to the next available preference recorded on each such ballot paper.
- 34.7 All the ballot papers received by a continuing candidate as a result of such transfer shall be kept in a separate sub-parcel. The value of each ballot paper in this sub-parcel will remain 100.
- 34.8 After the original votes of an excluded candidate have been distributed, the votes obtained by him by way of transfers at the second or the subsequent counts shall be distributed further. *For this purpose, each sub-parcel will be taken up one after the other separately in the same order in which these sub-parcels were received.* The unexhausted ballot papers in each sub-parcel will be transferred further to the remaining continuing candidates according to the next available preferences recorded thereon.
- 34.9 These ballot papers will be transferred at the same value at which they were received by the excluded candidate.

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34.10 If at any stage during the transfer of ballot papers contained in a parcel or sub-  
parcel of an excluded candidate, the value of votes of any continuing candidate  
exceeds the required quota and he thus gets elected, he shall continue to get  
further papers from the same parcel or sub-  
parcel if any such ballot paper is  
otherwise liable to be transferred to him. However, no further ballot paper shall  
be transferred to him from the next succeeding sub-  
parcels of that excluded  
candidate. The transfer of ballot papers contained in these succeeding sub-  
parcels  
will nevertheless continue till the last sub-  
parcel of the said excluded  
candidate has been dealt with. In other words, the transfer of these sub-  
parcels shall not be  
interrupted for the distribution of the surplus of the elected candidate.

34.11 If any candidate gets elected by transfer of votes of an excluded candidate, his  
surplus shall be distributed in the manner described above. Such surplus will  
arise out of the ballot papers contained in his last sub-  
parcel.

### **Continuing the Process till all Seats are Filled**

35.1 If any seat still remains to be filled, the candidate now lowest on the poll will  
be excluded and his votes transferred in the manner described above.

35.2 The above process of transfer of surplus votes of the elected candidates and  
the total votes of the excluded candidates will be repeated until all the seats  
required to be filled at the election have been filled by the candidates who  
secure the required quota.

### **Filling the last Vacancy(ies)**

36.1 When at the end of any count, the **number** of the continuing candidates is  
reduced (by the above process of election of candidates who secure the required  
quota and the exclusion of the candidates lowest on the poll) equal to the number  
of vacancies remaining to be filled, all such continuing candidates shall be declared  
elected even if they have not secured the required quota [rule 81(1)].

36.2 When at the end of any count, only one vacancy remains unfilled and the  
value of the ballot papers of someone candidate exceeds the total value of the  
ballot papers of all the other continuing candidates together with any surplus  
of an elected candidate not transferred up to that stage, that candidate shall be  
declared elected [rule81(2)].

### **Filling the last Vacancy when there is Equality of Votes**

37. When at the end of any count, only one vacancy remains unfilled and there are  
only two continuing candidates, each of whom has the same value of votes and

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no surplus remains capable of transfer, you shall decide by lot which of those two candidates shall be excluded. After excluding one candidate by draw of lot, the other candidate should be declared elected [section 65 and rule 81(3)].

### **Proper Maintenance of Parcels and Sub-Parcels of Candidates**

- 38.1 As you must have observed from the foregoing paragraphs, the counting of votes under the proportional representation system by means of single transferable vote is extremely complex. The operation of the distribution of surplus votes of the elected candidates and transfer of all votes of the excluded candidates among the remaining continuing candidates involves re-examination and transfer of the same ballot papers over and over again from one candidate to another. These transfers have to be made in a very systematic manner and the ballot papers contained in parcels and sub-parcels of the candidates have to be re-scrutinised and transferred in a definite order, i.e., in the same order in which they were received by the candidate concerned. You will have, therefore, to be cautious to ensure that the ballot papers contained in the parcel or any of the sub-parcels of a candidate do not get mixed up. This precaution is also necessary for the reason that the value of the ballot papers contained in parcels and different sub-parcels might be different. Therefore, the ballot papers should be kept carefully in the parcels and different sub-parcels. For this purpose, envelopes of suitable size should be used for keeping the ballot papers in the parcels and sub-parcels. On each parcel and sub-parcels, endorsements should be made showing the number of ballot papers and the value of each ballot paper contained therein. All sub-parcels should be serially numbered starting with sub-parcel No.1.
- 38.2 It will be advisable for you to have one separate Counting Assistant for dealing with the ballot papers of each candidate. He should be responsible for the preparation and maintenance of parcels and sub-parcels in the consecutive order. For this purpose, a tray of suitable size should be provided to him for keeping parcel and sub-parcels of the candidate under his charge.

### **Maintenance of Proper Account of Votes Received by Each Candidate**

- 39.1 Each Counting Assistant in charge of ballot papers of a candidate should maintain a correct account of the votes received by the candidate concerned at each transfer when he prepares the different sub-parcels. For the accurate preparation of such account, the Commission has prescribed a statement from which should be carefully filled by the Counting Assistant. A sample form, filled in for your guidance, is given at [Annexure XII-F](#).

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39.2 An accurate and up-to-date preparation of the account of votes received by a candidate stage by stage will also help you in keeping a watch over the progress of the different continuing candidates who are about to reach the required quota or are lowest on the poll and on the verge of exclusion.

### **Maintenance of Transfer Sheets**

40.1 In carrying out the operations of distribution and transfer of surplus votes of elected candidates or of the total votes of the excluded candidates, you are required to transfer the unexhausted ballot papers from one candidate to another. Many ballot papers become exhausted in that process. In order that a proper and accurate account of such transfers is maintained at each stage, the Commission has devised the forms of Transfer Sheets for showing-

- (1) the distribution of surplus votes of an elected candidate, and
- (2) the transfer of all votes of an excluded candidate.

You should get these Transfer Sheets prepared and completed accurately immediately after the transfer of ballot papers in each parcel and sub-parcel of candidate.

40.2 A sample form each of these two Transfer Sheets, filled in for your guidance, is given at [Annexure XII-G](#) and [Annexure XII-H](#).

### **Completion of Return of Election**

41.1 On the completion of counting of votes, you are required to prepare a return of election in Form 23B. In order that this return is prepared carefully and accurately, the entries should be made therein after each count, i.e., after the distribution of surplus of each elected candidate and the transfer of votes of each excluded candidate. The result should be ascertained by you at the end of each count so that the counting proceeds smoothly and you know at each stage how many candidates have been declared elected and how many vacancies remain to be filled. This timely completion of the return of election after each count will also enable you to keep a watch over the progress of those continuing candidates who are about to reach the required quota. This will also help you in ascertaining correctly as to which of the candidates is lowest on the poll after the end of any count whose name may have to be excluded from the poll. The completion of this return of election will ultimately enable you to make the formal declaration of result in the appropriate form. (The form in which the formal declaration of result shall be made by you is discussed in the next chapter.)

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41.2 After the peaceful completion of counting of votes, the result of votes must not be declared without obtaining the permission of the Election Commission for declaration of result. For the purpose, you have to send your report in respect of peaceful completion of the counting of votes. The report shall be sent in the Performa prescribed by the Commission as appendix at [Annexure XII-I](#).

### **Recount**

- 42.1 At an election in a parliamentary or Assembly Constituency, the application for recount can be entertained by the Returning Officer only after the completion of counting and before the formal declaration of result. However, at an election to the Council of States, the request for recount is *not* to be postponed till the completion of counting. Such request can be made at any time during the counting of votes either before the commencement of any transfer of votes contained in a parcel or sub-parcel or after the completion of any such transfer. Such request can be made for the re-examination or recount of the ballot papers of all or any candidates. However, such request cannot be made for the re-examination or recount of any ballot papers which have been set aside at any previous transfer as finally dealt with. Whenever any valid request for the re-examination or recount of the ballot papers is made, you shall forthwith re-examine or recount the same accordingly.
- 42.2 You have discretion to recount the votes either once or more than once, if you are not satisfied as to the accuracy of any previous count. It is not, however, obligatory by law on your part to recount the same votes more than once.
- 42.3 The request for recount can be made by any candidate or in his absence by his election agent or counting agent. Such request can be made either orally or in writing. Law does not insist for a written application for recount at elections to the Council of States.

## **COUNTING OF VOTES AT ELECTIONS TO THE STATE LEGISLATIVE COUNCIL**

### **A - Counting at Election by Members of State Legislative Assembly**

- 43.1 The counting of votes at an election to the State Legislative Council by members of the State Legislative Assembly shall be conducted in the same manner as has been explained in paragraphs 3 to 42 above in relation to the counting of votes at an election to the Council of States.



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- 43.2 During simultaneous elections to the Council of States or simultaneous elections to the State Legislative Council by members of the State Legislative Assembly, the counting should preferably be done in the same counting hall but on different counting tables. At such elections, a common ballot box will be used for receiving the ballot papers of the elections (either to the Council of States or State Legislative Councils by MLAs). For counting the votes cast at these elections, you will first have to separate the ballot papers for each election. The counting tables should be so arranged that the actual movement of ballot papers for these two elections from the table where they are sorted out election wise to the tables where they are to be counted separately is visible to the counting agents sitting at both the counting tables.
- 43.3 However, the elections to both of the Houses viz. the Council of States and State Legislative Councils by MLAs in the same State and in accordance with a common programme shall be avoided. Such as simultaneous elections to both the Houses shall not be conducted due to the practice of open ballot system introduced in the elections to the Council of States.

### **B-Counting at Elections in Council Constituencies**

- 44.1 The system of elections in Council Constituencies is also the same as in the case of elections to the Council of States and the State Legislative Council by members of the State Legislative Assembly. Therefore, the actual process of counting of votes at elections in Council Constituencies is also similar in all essential aspects to the process of counting of votes at elections by Members of Legislative Assembly as explained in the foregoing paragraphs.
- 44.2 However, as the poll in Council Constituencies is taken at different polling stations spread over the Constituency, you will have to keep in view different considerations in regard to the fixing of date, time and place of counting, the number of counting tables to be provided in the counting hall, opening of ballot boxes after their inspection by the counting agents of the candidates and the like. In this context, the instructions given in the following paragraphs, should be taken note of and meticulously followed by you.
- 44.3 Verify as early as possible that all the ballot boxes from all the polling stations within your Constituency have been received. Counting should not commence unless all the ballot boxes from all the polling stations have reached you.
- 44.4 The room or the hall must be spacious enough to accommodate you, the counting assistants, the candidates and their agents.

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44.5 There should be proper lighting arrangements. Stand-by arrangements like generator or gas lights should be provided to tide over emergencies created by power failure.

### **Counting to be Done at One Place**

45.1 The counting should be done at *one* place only under your direct supervision. Under the system of proportional representation by means of single transferable vote followed at elections in Council Constituencies, all the ballot papers after they have been taken out of the ballot boxes have to be counted together. Therefore, the counting of votes at these elections at more than one place is not possible.

45.2 The law enables your Assistant Returning Officer also to count the votes. Therefore, if you are the Returning Officer for simultaneous election from more than one Council Constituency, the votes of these Constituencies can be counted under the direct supervision of your Assistant Returning Officers subject to your overall control. In such cases, the counting should be arranged as far as possible in adjacent halls in the same building so that you can have an effective control over the counting of votes at all such places.

45.3 At such simultaneous election from Graduates' and Teachers' Constituencies, it is quite possible that some common polling stations may have been provided for taking the poll for both the elections. At such polling stations, a common ballot box will be used for receiving the ballot papers of both the elections. However, these ballot papers will be of different colours. These ballot papers may be sorted out and separated election wise at the counting hall for the Graduates' Constituency. The ballot papers for the Graduates' Constituency should then be retained in that counting hall and the ballot papers meant for the Teachers' Constituency should be passed on to the counting hall where the counting for Teachers' Constituency is taken up. This should be done in the presence of the candidates and/or their agents.

### **Number and Arrangement of Counting Tables**

46.1 As already mentioned in the preceding Para 45.1 at an election from a Council Constituency, the counting of votes shall be done only at one place. After opening the ballot boxes pertaining to different polling stations, the ballot papers contained therein should be taken out and counted for numbers. Such counting for numbers can be done at different tables. The number so ascertained should be tallied with the ballot paper account of each polling station. Thereafter,

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the ballot papers of all the polling stations should be mixed together and then scrutinised with reference to the first preference marked thereon and sorted out candidate wise. In other words SORTING OUT OF BALLOT PAPERS SHALL BE DONE ONLY CANDIDATE-WISE **i.e. sorting out of ballot papers shall not be done polling station-wise**. This process of sorting out ballot papers candidate wise with reference to the first preference marked thereon, after all the ballot papers have been mixed together, may be done at different counting tables, if you consider it more convenient where the number of votes polled is large. But further process of distribution of surplus votes of elected candidates and the distribution of total votes of candidates excluded from the poll cannot be done at different tables. For these subsequent stages of counting, all ballot papers of individual candidates have to be kept at one place, arranged in parcels and sub-parcels. Therefore, after all the ballot papers of each candidate have been collected and kept together and arranged in different parcels for each candidate, the further process of counting will be mainly conducted at your table.

- 46.2 Keeping in view the above, you should decide in advance how many counting tables you are going to have for the preliminary work mentioned above. On that depends the number of counting assistants you will have to appoint and the number of counting agents which each candidate will be entitled to appoint.
- 46.3 The total number of counting tables mentioned in Para above should not normally be more than 15, apart from your own table. If the hall available at the place is not commodious enough, the number of tables may be reduced to any figure which you may consider suitable after taking into account the size of the hall, number of counting personnel to be deployed and also the total number of candidates whose agents will have to be accommodated.
- 46.4 While fixing the number of counting tables, you should also keep in view the fact that after the preliminary work mentioned above has been completed at the different counting tables, the candidates may not require a large number of counting agents to keep watch over the proceedings which will be mainly done at your table. Therefore, you may try to reduce, as far as possible, the number of counting tables for the preliminary work so that there is no unnecessary overcrowding in the counting hall after the preliminary work is over at the different counting tables.

### **Stationery Required at the Counting Tables**

48. Provide every counting table with the following articles of stationery:

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a knife or razor blade,  
pencils,  
sheets of paper,  
wet sponge or water in a small cup,  
twine or rubber bands,  
one or two paper weights,  
sufficient envelopes of suitable size for preparation of parcels and sub-parcels  
of ballot papers of each candidate,  
wooden or metal trays to keep the envelopes.

### **Number of Counting Agents & Letters of Appointment of Counting Agents**

- 50.1 Each candidate should be allowed to appoint as many counting agents as there are counting tables for counting of votes polled at the election that he contests and one more to watch the counting at the Returning Officer's table.
- 50.2 Inform the candidates about the number of counting agents they can appoint and ask them to send their letters of appointment not later than one hour before the time fixed for counting. A candidate may appoint all his counting agents by a single letter in Form 18 suitably modified. In that case all the agents should also have signed the letter in token of their acceptance of the appointment and should sign the declaration later in your presence. After necessary verification, you may give them identity cards in advance for production at the time of entry into the counting hall.
- 50.3 In all cases, where the number of contesting candidates is five or more, the candidates should be asked to submit the lists of their counting agents at least two days before the date of counting, together with the photographs of such agents, so that they are issued with identity cards bearing their photographs.

### **Badges of Counting Agents**

- 51.1 Each counting agent may have a badge indicating whose agent he is and the serial number of the table at which he will watch the counting. Each counting agent should affix his signature in full on the badge immediately after it has been issued to him. He should keep seated near the table allotted to him and should not be allowed to move about all over the hall. The extra counting agent may sit and watch the proceedings at your table. However, as far as possible,

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in order to avoid overcrowding at your table, only one person whether the candidate himself or his election agent or his counting agent should be present at a time at that table on behalf of a contesting candidate.

- 51.2 The candidates and their election agents will be free to go round to any part of the hall. In the absence of both the candidate and his election agent his extra counting agent at your table may be allowed to go round to any part of the hall.

### **Appointment of Counting Assistants**

- 52.1 You may appoint such staff as you may require for assisting you in the counting. Such appointments may be made in the form given in [Annexure XII-C](#).
- 52.2 You should appoint as counting supervisors only Gazetted Officers of the Central or State Government or officers of comparable status from Central/ State Government undertakings. The counting assistants also should similarly be drawn from officers of a comparatively higher level. They should be given intensive training in counting.
- 52.3 You should not appoint as counting supervisor or as counting assistant any one who has been employed by or on behalf of, or has otherwise been working for a candidate in or about an election.
- 52.4 At each table there should be one counting supervisor and two or more counting assistants.
- 52.5 In addition, appoint a sufficient number of Group D Government employees also as counting assistants to carry the ballot boxes to and from the counting tables.

### **Maintenance of Discipline and Order at Counting**

- 53.1 You should not permit any person, other than those mentioned in paragraph 6.1 above, to enter or remain inside the counting hall.
- 53.2 Post police constables on duty at the door or doors of the counting hall. Do not allow any person to enter or leave the room without your permission. You must ensure that complete order and discipline prevail and counting takes place in a business-like manner. You may send out of the counting hall any person who persists in disobeying your directions. You should not allow smoking inside the counting hall. The persons required to sit inside the counting hall may go out, if they desire to smoke, without, however, causing any dislocation in the counting process.

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## Commencement of Counting

54. Commence the counting at the hour fixed for the purpose. Everyone present in the counting hall should be instructed to maintain secrecy of vote. For that purpose, the provisions of section 128 of the Representation of the People Act, 1951 should be brought to the notice of everyone.

## Counting of Votes Received by Post

55. As has been explained in paragraph 8 above, the covers containing the postal ballot papers are to be dealt with first. Therefore, you should first deal with covers containing the postal ballot papers in the manner explained in that paragraph.

## Opening of Ballot Boxes

- 56.1 While you are engaged in dealing with the covers containing postal ballot papers, the work of distribution of ballot boxes on the various tables can be done. Keep an account of such distribution with you for your information.
- 56.2 All the ballot boxes used at one polling station should be brought in one lot and given to one table for initial counting. Along with the ballot box or boxes of each polling station, the counting table should also be supplied with the relative Ballot Paper Account in Form 16 and the Paper Seal Account in the appropriate form received from the polling station. All the boxes should not, however, be opened simultaneously. Only one box should be opened and counted at a time.

## Checking Seals on Ballot Boxes

- 57.1 As soon as a ballot box has been placed on the counting table, allow the counting agents for the table to satisfy themselves that the seals on the ballot box are intact and have not been tampered with. Where a paper seal is used for closing a ballot box, the outer seals of the ballot box are not vital and even if these outer seals are damaged, but the inner paper seal is intact, the contents of the ballot box could not have been tampered with. Similarly, where such paper seal is not used but metal seals are used, the outer seals are not vital in such a box and even if those outer seals are damaged, but the inner seals are intact, the contents of the ballot box could not have been tampered with. If any candidate or his counting agent raises any objection in respect of these outer seals, reject such objections and proceed with the counting.
- 57.2 *Candidates and agents are entitled to check identity marks and paper seals* - As each ballot

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box is opened, allow every candidate or his counting agent to check the identity of the box with reference to :-

the identity marks on the paper seal or the label or address tag as the case may be, and

the serial number of the paper seal (where one is used for sealing a ballot box).

- 57.3 *Comparison of serial numbers of paper seals* - Where paper seals are used, the serial number on the paper seal of each box should be compared with their numbers as given in the paper seal account sent to you by the Presiding Officer. Allow the counting agents of the candidates to note the serial numbers of the unused paper seals returned by the Presiding Officer and of paper seals used as shown in the paper seal account and the paper seal actually found on a box. If the numbers do not tally in respect of any particular box, there would be a prima facie suspicion that the ballot box has been tampered with or that paper seal account contains a mistake. Decide the question after checking the serial numbers of the unused paper seals returned by the Presiding Officer and other relevant circumstances, including notes, if any, made by the candidates' polling agents at polling stations, if available. If you find it to be a case of mistake, ignore the discrepancy. If you are satisfied that the ballot box has in fact been tampered with, follow the procedure given in paragraphs 57.4 and 60 to 62 below.
- 57.4 If the paper seals (for Godrej-type ballot boxes) or the inner seal (for Bungo-type ballot boxes) are found to have been tampered with in any box in such a way that the box is no longer secure and its contents could have been interfered with, and if you are further satisfied that the box has, in fact, been tampered with, you should not open the box or bring out its contents. Reseal the box without counting, wrap it up in cloth or gunny bag and keep it separate. Report the facts to the Election Commission and the Chief Electoral Officer and arrange, with the prior approval of the Commission, for a repoll in the polling station concerned. In such a situation, the counting shall remain suspended till the completion of the repoll.
- 57.5 After the seals and the identity of the ballot boxes from a polling station have been checked in the manner detailed above and found to be in order, their contents should be taken out on the respective counting tables.
- 57.6 Allow the counting agents to satisfy themselves that all ballot papers have been taken out from the boxes and that they are empty.

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57.7 The counting assistants should be careful to see that no ballot paper goes astray while being handled by them.

### **Taking out Ballot Papers from ballot Boxes and Tallying their Numbers**

58.1 After each ballot box used at a polling station has been opened, the ballot papers contained therein should be taken out ensuring that no ballot paper is left inside the ballot box. The ballot papers so taken out of the ballot box(es) used at a polling station should be *counted for numbers* separately for each polling station. The number so ascertained should be tallied with the number of ballot papers which should have been found in the ballot box(es) used at that polling station as indicated in item 5 of the Ballot Paper Account in Part I of Form 16.

58.2 Though Part II of Form 16 is in terms not applicable to the counting of votes at elections in Council Constituencies, Item III of said Part II may be filled by noting down the total number of ballot papers taken out of the ballot box(es) used at the polling station for purpose of tallying that number with the total number of ballot papers which should have been found in the ballot box(es) as shown in Item 5 of Part I of that Form. A model Form 16 duly filled in is given for your guidance at [Annexure XII-J](#).

58.3 The number of ballot papers taken out of ballot box(es) used at each polling station should then be noted polling station wise in a statement [rule 73(l) (b)]. The form of such statement as devised by the Commission is given at [Annexure XII-K](#).

58.4 After all ballot papers have been taken out of the ballot boxes and their numbers noted polling station wise in the statement at aforesaid [Annexure XII-K](#), the number of postal ballot papers, if any, should also be noted in the said statement. These postal ballot papers should then be kept along with the ballot papers taken out of the ballot boxes. All these ballot papers should then be taken up for detailed scrutiny one by one.

### **Scrutiny of ballot Papers and Further Procedure of Counting**

59.1 From this stage onwards, the counting of votes shall proceed in the same manner as has been explained in paragraphs 10 to 43 in relation to the counting of votes for election to the Council of States. Therefore, you should proceed accordingly to scrutinize the ballot papers so as to determine their validity or otherwise, ascertain the quota sufficient to secure the return of a candidate, declare the candidate(s) elected at the first count who secure(s) the required



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quota, distribute the surplus votes of the elected candidate(s), transfer the votes of the excluded candidates, if necessary, for filling the remaining vacancies in the manner explained above. A proper record of the distribution of surplus votes of elected candidates and the transfer of votes of excluded candidates should be kept by you in the Transfer Sheets prescribed *vide* Annexure XI-G & XI-H.

- 59.2 Here, it may be noted that there will be no objection in allowing the candidates and their agents to note the serial numbers of the rejected ballot papers, if they so desire, in the Graduates' and Teachers' Constituencies. However, in the Local Authorities' Constituencies, the serial numbers of the rejected ballot papers shall not be permitted to be noted down as the serial numbers on the ballot papers for elections in Local Authorities' Constituencies are also concealed in the same manner as in the case of elections in the Council of States and the State Legislative Council by members of the State Legislative Assembly.

### **Counting not to Proceed in case any Ballot Box Found Tampered with**

60. Under the law, it is not necessary to adjourn the entire counting if a ballot box has been found by you to have been tampered with. However, under the system of proportional representation by means of single transferable vote followed at elections to Council of States and the State Legislative Councils, the counting cannot proceed unless all the valid ballot papers have first been determined and sorted out because the quota sufficient to secure the return of a candidate depends upon the number of valid ballot papers. Therefore, under this system, the counting cannot proceed if any ballot box has been found tampered with and unless decision is taken by the Election Commission under section 58 or 58A or 64A as may be applicable whether the ballot papers contained therein should be counted or not. Thus, if any ballot box is found by you to have been tampered with, report the matter forthwith to the Election Commission for necessary direction under section 58 or 58A or 64A. If the Commission directs that a repoll shall be taken in the affected polling stations(s), arrange for such repoll and the votes should be counted after the repoll has been taken.

### **Procedure to be followed in case of Destruction, Loss, etc. of Ballot Papers before Completion of Counting**

61. Under the law (section 64A) the Commission is competent to direct, after taking all material circumstances into account, the counting of votes to be stopped and, if necessary, order fresh poll if it is reported by the Returning

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Officer before completion of the counting of votes that ballot papers used at a polling station have been-

- (i) Unlawfully taken out of his custody, or
- (ii) Accidentally or intentionally destroyed or lost, or
- (iii) Damaged or tampered with,

to such an extent that the result of the poll at that polling station cannot be ascertained. If any such occasion arises, you should forthwith report full facts of the case to the Election Commission and await its directions in regard to the counting of votes.

### **Procedure to be followed in the case of Booth Capturing at the Counting Centre**

62.1 Under section 58A of the Representation of the People Act, 1951 as inserted w.e.f. 15.03.1989, if booth capturing takes place in any place of counting in such a manner that result of the counting at that counting centre cannot be ascertained, the Returning Officer shall forthwith report the matter to the Election Commission.

62.2 On receipt of the report of the Returning Officer, the Commission shall, after taking all material circumstances into account, either direct a repoll at the affected polling stations or countermand the election. Therefore, once you have reported the matter to the Commission under section 58A, await its directions in this regard and proceed further according to its directions when received.

### **Adjournment of Counting**

63. In other cases, you should proceed with the counting continuously. In case you have to suspend or adjourn the counting before its completion for any unavoidable reason, seal up all the ballot papers in packets as also all other papers relating to the election. Allow every candidate or his agent, if he desires to do so, to place his seal on every packet, etc., in which these papers are kept.

N.B. - It is preferable to keep all the sealed packets, etc., in a steel or other strong admiral or in a separate room and have the admiral or the room sealed and secured with your seal and the seals of the candidates or their agents. Alternatively, the candidates may put their own locks in addition to yours on such admiral or room.

### **Counting after Repoll**

64. If any repoll has been held at a polling station, the Election Commission shall fix the date and time for counting the votes after such repoll. You should give

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notice of the same to every candidate or his election agent. You should follow the same procedure as detailed above for such further counting as far as it applies.

### **Sealing of Ballot Papers etc., after Counting for Ensuring Safe Custody**

- 65.1 Under rule 93(1) of the Conduct of Elections Rules, 1961, the packets of election papers specified therein shall not be opened and their contents shall not be inspected by or produced before, any person or authority except under the order of a competent Court. Special care has thus to be taken for the safe custody of these papers.
- 65.2 These papers are:
- a. the packets of unused ballot papers with counterfoils attached thereto;
  - b. the packets of used ballot papers whether valid, tendered, or rejected (This also includes, the packets in which covers containing postal ballot papers received late are kept);
  - c. the packets of the counterfoils of used ballot papers;
  - d. the packets of the marked copy of the electoral roll; and
  - e. the packets of the declarations by electors and the attestation of their signatures.
- 65.3 In view of the important nature of these election papers, the Commission has directed that these papers should be sealed with the secret seal of the Commission.
- 65.4 The papers mentioned at item (2) [*except packets of tendered ballot papers*] and item (5) above shall be made into packets at the time of counting. Such packets shall be sealed by you with your own seal immediately after the counting of the votes is over and with a special secret seal which will be supplied by the Commission for the election for each Constituency. The secret seal will be in addition to the seals, if any, put on these packets by such of the candidates, their election agents or counting agents, as may desire to affix their seals thereon. You should point out to the candidates or their agents present that it is in their own interest to affix their seals on these packets to avoid any possibility of tampering with these packets. They may also be permitted to note the number of the Commission's secret seal used. These two kinds of packets should be separated from the rest of the papers relating to the election and kept in separate sealed steel trunk(s).

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65.5 In Connection with sealing of documents, the Returning Officer should take note of the provisions of the proviso under rule 84 in the event there is a request for the verification as provided therein.

65.6 After the sealing of the above packets at the counting place after the counting of votes, you should draw up proceedings mentioning therein:

- a. the full particulars of the candidates/agents present in the counting hall;
- b. the fact that they were asked to affix their signatures and seals on the packets of used ballot papers, etc., if they so desired; and
- c. the particulars of persons who had signed and sealed the packets and the particulars of those persons who had refused to do so.

Then, you should sign the proceedings and obtain on it the signatures of such of the candidates/agents who are present and willing to sign. The proceedings should be put inside an envelope which should be sealed and the sealed envelope should be kept along with the packets of used ballot papers.

65.7 In the case of elections in Council Constituencies, all the packets of papers mentioned at items (1), (3) and (4) in Para 65.2 above and the packets of tendered votes will be received from the Presiding Officers of polling stations in duly sealed packets. As these packets are not required for any purpose at the time of counting of votes, each of them should be immediately sealed with the secret seal of the Commission as soon as they are received at the receiving centre and placed in steel trunk(s).

65.8 You should put a responsible Officer-in-charge for the supervision of the actual sealing of these packets. Otherwise, there is possibility of important election papers going astray which would create complications and confusion if and when a competent Court orders the production of these papers.

65.9 Each steel trunk shall be locked with two locks and each lock shall be sealed. You should ensure that the secret seal of the Commission is put on packets only and not on any of the locks of the steel trunk or trunks.

### **Safe Custody of Election Records by District Election Officer**

66.1 Immediately after the declaration of the result of the election, on the same day and, in any case, not later than the noon of the following day, the sealed-trunk(s) containing the above packets should be dispatched to the District Election Officer at his headquarters and on receipt of the sealed trunk(s) the

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District Election Officer should forthwith arrange to deposit them in safe custody in the Treasury/Sub-treasury under double lock. *In the case of election by Members of Legislative Assembly, the steel trunk(s) referred to in sub-paragraphs 65.2 to 65.4 should be deposited by you in safe custody in the Treasury under double lock either on the same day or in any case not later than the noon of the following day.* The key of one of the locks of each trunk will be entrusted to the Treasury Officer or an Officer in the Treasury/Sub-treasury authorized under the Treasury Code and the key of the other lock of each trunk should be kept by the District Election Officer himself or by you (in the case of an election by Members of Legislative Assembly) or a senior officer nominated for the purpose by the District Election Officer/you.

- 66.2 The armed police guard posted at the room where the ballot boxes are stored before the counting of votes, should not be removed after the counting is over, but should continue to keep guard of the room till the transport of the election records to the District Headquarters. As far as possible, the same guard should be used for protection during the transport also, and this fact should be mentioned in the log book maintained by the guard.

### **Return of Secret Seal of the Commission**

67. After the packets required to be sealed with the secret seal of the Commission are sealed, the secret seal or seals should be put into a separate packet which should be sealed with the seals of such of the candidates, their election agents or counting agents, as may desire to affix their seals thereon. Thereafter, the packet containing the secret seal of the Commission should be returned immediately to the Commission by registered insured post and in any case not later than 24 hours after the counting of votes is completed. Any noncompliance with these instructions will be taken serious note of. If more than one seal had been supplied, the name of the Constituency and the number of the seal that was used should be indicated.

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## CHAPTER XIII

# DECLARATION AND PUBLICATION OF RESULT OF ELECTION

- 1.1 Elections to the Council of States and State Legislative Councils can be held either for filling one seat for or for filling more than one seat. The counting procedures to be followed when only one seat is to be filled and when more than one seat is to be filled are different and have been explained in detail in the previous Chapters. You must have observed from those procedures that at an election where only one seat is to be filled, the counting is complete as soon as a candidate reaches the quota sufficient to secure the return of a candidate at that election. At an election where more than one seat is to be filled, the candidates may get elected on reaching the requisite quota in different rounds as different times when the process of counting is going on. In order that you know at each stage of, counting as to how many candidates have been declared elected and how many seats remain to be filled, you have been instructed in the previous Chapter to get the return of election in Form 23B prepared and completed as each count proceeds. When all the seats at the election have been filled up by electing the required number of candidates during the process of counting, the counting will be complete in all respects and return of election will also be prepared fully.
- 1.2 After completion of counting, you shall make a formal declaration of the result of election in favour of the candidates who have got elected.

### **Form of Declaration of Result**

- 2.1 The formal declaration of result should be made by you either in Form 23 or Form 23A of the Conduct of Elections Rules, 1961 as may be appropriate. The declaration shall be made in Form 23 in the case of **biennial election**. In the case of a **bye-election** to fill a casual vacancy, the declaration shall be made in Form 23A.
- 2.2 The date to be given in the declaration should be the date on which result of the election is declared and not the date on which declaration is dispatched. Even if an occasion arises when you have to rectify some error in your original declaration, there should be no change in that date which should continue to be the date on which the result was declared.

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### **Authorities to whom Copies of Declaration should be Sent**

3. Send copies of the declaration of result in Form 23 or 23A, as the case may be, to :
- (i) the Election Commission;
  - (ii) the Chief Electoral Officer of the State;
  - (ii) (a) Union Ministry of Law and Justice (Legislative Department), New Delhi;
  - (b) The Secretary General to the Rajya Sabha, New Delhi, in the case of election to the Council of States;
- Or,
- (a) The State Government;
  - (b) The Secretary to State Legislative Council, in the case of election to the State Legislative Council.

### **Authorities to whom Return of Election should be Sent**

- 4.1 When you have declared the result in the manner indicated above, you should complete and certify the return of election in Form 23B of the Conduct of Elections Rules, 1961. Forward copies of the return to:
- (i) The Election Commission
  - (ii) The Chief Electoral Officer of the State.
- 4.2 If any candidate or his agent wants to take a copy or an extract from this return, he should be permitted to do so. You may supply a copy of such return to an applicant on payment of fee of Rs. 2/- [Rule 93(3)].

### **Report of Result of Election**

- 5.1 You should intimate by an immediate Fax/E-Mail message, the result of every election as soon as the declaration of result after obtaining clearance of the Election Commission, to the appropriate Authorities viz. :-
- (i) the Election Commission of India, New Delhi;
  - (ii) the Chief Electoral Officer of your State;
  - (iii) The Information Officer, P.I.B., New Delhi;
  - (iv) The Ministry of Law, Justice and Company Affairs (Legislative

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- Department), New Delhi (in respect of election to the Council of States);
- (v) The State Government (in respect of elections to the State Legislative Council);
  - (vi) The Secretary General, Rajya Sabha, New Delhi (in respect of election to the Council of States);
  - (vii) The Secretary of the State Legislative Council (in respect of election to the State Legislative Council);etc.
- 5.2 The result of the election to the Council of States or State Legislative Council by Members of Legislative Assembly should indicate the following particulars:
- (i) Name of the State;
  - (ii) Name of election;
  - (iii) No. of seats to be filled;
  - (iv) Total number of valid votes polled;
  - (v) No. of votes rejected;
  - (vi) Names of the *elected* candidates with their party affiliation.
- 5.3 The result of the election State Legislative Council from a Council Constituency should indicate the following particulars:
- (i) Name of the State;
  - (ii) SI. No. and name of the Constituency (as given in the Delimitation of Council Constituencies Order);
  - (iii) Total No. of electors in the Constituency;
  - (iv) Total number of valid votes;
  - (v) No. of votes rejected;
  - (vi) No. of seats to be filled;
  - (vii) Names of elected candidates with their party affiliation.
- 5.4 You should further ensure that whenever you refer to a woman candidate in the result you should prefix her name with “Kumari” or “Shrimati”, as the case may be, so that it is definitely understood that the candidate is a woman.
- 5.5 You should also ensure that figures of votes which are mentioned while



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reporting the result are given in words and not in numerals as the latter are likely to be mutilated during transmission.

### Sample Telegrams

6. To secure uniformity in communicating the result of election and ensure economy in expenditure you should adopt the specimen forms of Fax/Telex message/telegrams given in [Annexure XIII-A & XLIII-B](#) or adapt them suitably.

### Certificate of Election in Form 24

- 7.1 As soon as may be after a candidate has been declared elected, you should grant to such candidate a Certificate of Election in Form 24 and obtain from the candidate an acknowledgement of its receipt duly signed by him. It is essential that this acknowledgement is signed by the candidate himself and his signature is attested by the Returning Officer personally before dispatch. There after immediately send this acknowledgement by registered post to the Secretary General to the Council of States or, as the case may be, the Secretary of the Legislative Council. The acknowledgement shall be in the form shown below:

<b>ACKNOWLEDGEMENT</b>	
I ..... acknowledge receipt of the Certificate of Election in Form 24 in respect of my election to ..... from ..... Constituency, declared on .....	
	Signature of the returned candidate
Date .....	
	Attested and forwarded to the Secretary .....
	Returning Officer

- 
- 7.2 The Certificate of Election should be handed over to the candidate, and its acknowledgement obtained immediately after declaration of result, if he happens to be present at the counting. Where he is not so present he should be contacted as quickly as possible and the dispatch of the acknowledgement completed within a day or two. These acknowledgements are required by the authorities concerned for verifying the identity of the elected candidates at the time of making or subscribing the oath or affirmation by them before taking their seat in the House concerned.
- 7.3 The Certificate of Election, in respect of both Parliament and the State Legislatures, should be issued in English or in Hindi but it should be open to the elected candidate to sign the acknowledgement in any language he likes.
- 7.4 Where the elected candidate is not present at the counting nor visits the locality shortly thereafter, the Certificate may be handed over to a person duly authorized by the candidate in his behalf and personally known to the Returning Officer, the acknowledgement (duly signed by the candidate) being also obtained through the same person.

### **Publication of Results of Elections and of Names of Nominated Persons**

- 8.1 After the completion of biennial election to the Council of States and the Legislative Council in any year, the appropriate authority, namely, the Central Government in the case of biennial election to the Council of States, or the State Government in the case of biennial election to the Legislative Council is required to issue a notification containing the names of elected candidates under section 71 or 74, as the case may be, of the Representation of the People Act, 1951.
- 8.2 In relation to the biennial election to the Council of States, the names of members elected by the elected members of the Legislative Assemblies of the States and by the members of the electoral colleges for the various Union Territories at the said election together with the names of any persons nominated by the President to the Council of States under article 80(l)(a) or under any other provision, are notified in the *Gazette of India* under section 71.
- 8.3 In the case of biennial elections to the State Legislative Council, the names of the members elected from the various Council Constituencies and by the members of the Legislative Assembly of the State at the said elections together with the names of any persons nominated by the Governor under article

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171(3)(e) are notified in the *Official Gazette* of the State under section 74 of the Representation of the People Act, 1951.

- 8.4 The notification under section 71 of the Representation of the People Act, 1951 mentioned above is issued by the Ministry of Law and Justice, Legislative Department, Government of India immediately after the expiry of term of office of the retiring members. If the member is retiring on 2<sup>nd</sup> April of the year in which the biennial election is held, the notification under section 71/74 must be issued on 3<sup>rd</sup> April. The list of names of all the members elected from each State at the biennial election should therefore reach the Ministry of Law and Justice well before the due date. The gap between the dates of declarations of the results in respect of election to the Council of States and the date on which the notification under section 71 of the Act is to be issued very often happens to be narrow. In case where there is only a gap of two or three days, the complete list of elected members should be brought to Delhi by a special messenger by the quickest mode of travel, after the declaration of results by the Returning Officers concerned. The Chief Electoral Officer should also ensure that the complete list of such elected members are transmitted through Fax/E-Mail.

### **Term of Office of Members**

9. The statutory provisions governing the term of office of members are contained in section 154 (Term of office of members of the Council of States), 155 (Commencement of the term of office of members of the Council of States), 156 (Term of office of members of the State Legislative Council), 157 (Commencement of the term of office of members of the Legislative Councils). The provisions contained in sections 67, 71 and 74 of the Representation of the People Act, 1951 should also be carefully studied.

### **Council of States**

- 10.1 A member of the Council of States chosen at a biennial election serves for the full term of six years. However, a person chosen to fill a casual vacancy will serve only for the remainder of his predecessor's term of office [Section 154(3)].
- 10.2 The term of office of a member of the Council of States whose name is required to be notified in the *Official Gazette* under section 71, i.e., members elected at a biennial election under-section 12 of the Act, and the nominated member shall begin on the date of notification [Section 155(1)].

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10.3 The term of office of a member of the Council of States whose name is not required to be notified under section 71, i.e., members elected at bye-election, shall begin on the date of publication in the *Official Gazette* of the declaration containing the names of such person as elected under section 67 or of the notification issued under article 80(I)(a) or under any other provision announcing the nomination of such person to the Council of States, as the case may be.

### **Legislative Councils**

11. The provisions are the same, but sections applicable are sections 74, 156 and 157.

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## CHAPTER XIV

# RETURN AND FORFEITURE OF DEPOSITS

## ELECTIONS TO THE COUNCIL OF STATES

1. Every candidate whose nomination papers were found valid must have made the requisite deposit of Rs. 10,000/- (Rs. 5,000/- in the case of a candidate belonging to a Scheduled Caste or Scheduled Tribe). Some of the candidates, if not all, whose nomination papers were found invalid and were rejected by you, must also have made the deposit. There would also be some validly nominated candidates who have withdrawn their candidatures according to law before the expiry of the time limit for such withdrawals. Lastly, some candidates would be defeated at the polls while some candidate(s) will have been duly elected to fill the seat(s) at the election. Deposits made by them have either to be returned to candidates or forfeited to Government.

### Legal provisions

2. Section 158 lays down the method of disposal of the deposits made by the candidates. Follow its provisions carefully when you dispose of applications for the return of the deposit by the candidates or by the persons who made the deposits on their behalf.

**N.B.— A deposit can be refunded only to the whose name it was made in the treasury, or his legal representative if he is dead.**

### Conditions for return

3. The deposit made by a candidate shall be returned if the following conditions are satisfied:
  - (i) the candidate is not shown in the list of contesting candidates, that is to say, either his nomination was rejected or after his nomination was accepted, he withdrew his candidature; or
  - (ii) he dies before the commencement of the poll; or
  - (iii) he is elected; or
  - (iv) he is not elected but gets more than  $1/6^{\text{th}}$  of the number of votes sufficient to secure the return of a candidate, i.e., the requisite quota as worked out for the return of the candidate at the election.

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**N.B.— (1) For the purposes of clause (iv) above, the votes got by a candidate shall be deemed to be :-**

- (i) the votes obtained by him at the end of the final count, if he was a continuing candidate till the end, and**
  - (ii) the votes obtained by him at the end of the count immediately preceding his exclusion, if he was a candidate excluded from the poll [rule 97(a)].**
- (2) If the candidate has polled exactly 1/6<sup>th</sup> of the number of votes sufficient to secure the return of a candidate, the deposit will not be refunded.**
- (3) If the candidate was elected, the deposit will be refunded even if he did not poll more than 1/6<sup>th</sup> of the votes sufficient to secure the return of a candidate (which will, however, be quite improbable).**

### **Return: When to be made**

4. If the candidate is not shown in the list of contesting candidates or if he dies before the commencement of the poll, the deposit should be returned as soon as practicable after the publication of the list or after his death, as the case may be. Some candidates may have made along with their second and subsequent nominations further security deposits. The second and subsequent deposits should be returned, as far as practicable, after the publication of the list of contesting candidates. In other cases, the deposit should be returned as soon as practicable after the result of the election is declared.

### **Form of application for return**

- 5.1 The law does not prescribe any form in which a candidate may apply to you for the return of his security deposit. However, in order to facilitate the candidate in making the application and to enable you to verify easily the claim for the return, he may be asked to make an application in the form given in [Annexure XIV-A](#).
- 5.2 If the deposit was made by someone else on behalf of the candidate, the application may be obtained in the form given in [Annexure XIV-B](#).
- 5.3 If the candidate has died, his legal representative may make the application in the form given in [Annexure XIV-C](#).

### **Prompt settlement of applications for refund**

6. In the past, complaints of considerable delay in refunding the deposit, possibly because the candidates did not comply with some formality or the other,

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reached the Commission. The Commission impresses upon you that all such cases should be promptly settled. Any discrepancy found in the application for return of deposit should be immediately brought to the notice of the candidate who should be given all help in the matter.

### **Forfeiture of Security Deposit**

- 7.1 Forfeit to Government every deposit which is not refundable under any of the above paragraphs in this Chapter.
- 7.2 The forfeited amount of the deposit shall be credited to revenues under the following head:  
“065-Other Administrative Services/B. Elections/ Sale proceeds of election forms and documents/Fees, fines and forfeiture. Other receipts”.

### **Elections to the State Legislative Councils**

- 8.1 The candidates at an election to the State Legislative Council either by Members of Legislative Assembly or from a Council Constituency are also required to make a deposit of Rs.10,000/- (Rs. 5,000/- in the case of a candidate belonging to a Scheduled Caste or Scheduled Tribe). The return of deposits made by them is also governed by the above mentioned provisions of section 158 of the Representation of the People Act, 1951. Therefore, the instructions contained in the foregoing paragraphs 1 to 7 shall be applicable in relation to the return of deposits made at elections to the State Legislative Councils.
- 8.2 However, while allowing the return of a deposit made for an election to the State Legislative Council, the instructions contained in the following paragraph 9 shall also be kept in view, apart from the conditions for return mentioned in paragraph 3 above.

### **Deposit Returnable in One Constituency only at Elections to State Legislative Council**

- 9.1 Note that if a candidate was a contesting candidate at a biennial election to the State Legislative Council in more than one Council Constituency, he cannot get a return of more than one deposit made by him or on his behalf. Likewise, if he was a contesting candidate at an election in a Council Constituency and also at the election by Members of the State Legislative Assembly to fill seats in the Legislative Council in the same biennial election, he shall be entitled to the refund of only one deposit. Other deposits made by him or on his behalf will be forfeited and deposited to Government A/C.
- 9.2 A contesting candidate at an election to the Council of States and also at an

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election to the State Legislative Council, when simultaneously held, is entitled to the return of deposits made in both the elections, if he is otherwise entitled to such return, as the two elections are different.

### **Form of Application for Refund**

- 10.1 In order that you may be in a better position to decide whether the candidate was a contesting candidate from more Council Constituencies than one or whether he was a contesting candidate both from a Council Constituency and at the election by Members of Legislative Assembly to the State Legislative Council at the same biennial election, obtain a declaration from the candidate whether he did so or not. For this purpose, every application for a return of deposit should be required to be made by candidate (or by the person who made the deposit in his behalf) in the form in [Annexure XIV-D](#) or [Annexure XIV-E](#) as may be appropriate. When a person other than the candidate has made the deposit, the candidate should be required to verify the application.
- 10.2 Even if a declaration is made by the candidate to the effect that he was not a contesting candidate from more than one Council Constituency or that he was not a contesting candidate both from the Council Constituency and at the election by Members of Legislative Assembly to the State Legislative Council at the same biennial election, you are entitled to satisfy yourself from such other materials and information as may be available to you that he did not in fact do so.
- 10.3 If the candidate has died, his legal representative may make the application for return of deposit in the form in [Annexure XIV-F](#).

### **Refund to a Candidate Belonging to Scheduled Caste or Scheduled Tribe**

- 11.1 Where a candidate belonging to a Scheduled Caste or a Scheduled Tribe contests an election he is required to make a deposit of only Rs. 5,000/- instead of Rs. 10,000/- for any election to the Council of States or State Legislative Council. If he deposits by mistake or otherwise the full amount Rs. 10,000/- instead of what he is required to deposit as above, he is always entitled to the refund of the excess amount actually deposited by him. You should satisfy yourself of his being a member of a Scheduled Caste or a Scheduled Tribe before allowing such a refund.
- 11.2 As all the papers relating to nominations, scrutiny and withdrawal in a Council Constituency would have been sent by you to the District Election Officer after the declaration of the result, you may, before ordering refund, get the application and other details required for the purpose verified by the District Election Officer concerned.



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## CHAPTER XV

### MISCELLANEOUS

#### **Signing by illiterate persons**

1. Sub-rule (2)(a) of rule 2 of Conduct of Elections Rules, 1961 lays down that a persons who is unable to write this name shall be deemed to have signed an instrument or a paper if he has placed a mark on such instrument or other paper in the presence of the Returning Officer or the Presiding Officer or such other officer as may be specified in this behalf by the Election Commission. The Commission has, accordingly, specified every officer belonging to an administrative service not below the rank of a Sub Divisional Officer as an officer in whose presence such mark may be placed.

#### **Manuscript, typewritten, cyclostyled or privately printed forms to be accepted**

2. Rule 2(I)(g) defines “form” as a form appended to the said Rules including a translation thereof in any of the languages used for official purposes of the State. As sufficient number of any particular form printed officially by Government may not al ways be available to satisfy public demand, the public would be put to a lot of inconvenience if officially printed forms are insisted upon by election officers. In order to avoid any such inconvenience, the Election Commission has specified that although forms may have been printed by the Government, Returning Officers. Electoral Registration Officers, Presiding Officers and other Election Officers shall freely accept manuscript, typewritten, cyclostyled or privately printed copies of every form so long as they have been correctly copied and such officers shall not reject any document merely because it has not been drawn up on a form printed by the Government.

#### **Submission of Report by the Returning Officer**

3. If you are a Returning Officer for a Council Constituency, immediately after the declaration of the result in the Constituency, you should, through the Chief Electoral Officer of the State, forward to the Election Commission two copies of your report on the various items as shown in [Annexure XV-A](#) for preparation of the Report on the Elections by the Commission. You should advise the Presiding Officers working under you to give in their Diary detailed information on the various items with which they are concerned namely, items 12, 14, 15, 16, 21, 22, 24, 29, 31, 32, 33, 36, 37, 38, 40 and 42 of the said

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Annexure. Please ensure that this information is furnished by you to the Chief Electoral Officer within a fortnight from the declaration of the result. If you are a Returning Officer for more than one Constituency, you should submit within time a separate report for each Constituency. You should not, however, delay the submission of the report on the ground that any particular information is not readily available. Any information which could not be included in the report before the due date for submission should be sent by a supplementary report.

### **Safe Custody of Election Papers**

4.1 The District Election Officer of the District in the case of a Council Constituency or you, if you happen to be Returning Officer for an election by Members of Legislative Assembly, shall be responsible for the safe custody of the packets containing election papers referred to in sub-rule (2) of rule 92 of the Conduct of Elections Rules, 1961.

These are :-

- (1) the packets of unused ballot papers with counterfoils attached thereto;
- (2) the packets of used ballot papers, whether valid, tendered or rejected (this also includes packet in which covers containing postal ballot papers received late are kept);
- (3) the packets of the counterfoils of used ballot papers;
- (4) the packets of the marked copy of the electoral roll;
- (5) the packets of the declaration by electors and the attestation of their signatures; and
- (6) all other papers relating to the election which include the packets containing all papers and proceeding relating to nomination, scrutiny and withdrawal of candidatures.

4.2 Under the rule when a Council Constituency extends over more districts than one, the election papers of that Constituency will be kept in the custody of such one of the District Election Officers having jurisdiction over the Constituency as the Election Commission may direct. Under this arrangement, normally, the District Election Officer who had under the law provided the polling stations for the Constituency will be responsible for the safe custody of these papers.

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## **Arrangement for safe custody of election records**

- 5.1 According to Commission's direction, you or, as the case may be, the District Election Officer will have to keep the above mentioned steel trunks containing papers referred to at items (1) to (5) under double lock in the District Treasury or Sub-Treasury, as may be convenient.
- 5.2 One set of keys of the sealed steel trunks kept in the Treasury/Sub-Treasury will be entrusted to the Treasury Officer or an officer in the Treasury authorized in the Treasury Code. The other set of keys will be kept by you/District Election Officer himself or by a senior officer nominated by you/him.
- 5.3 A date wise log book about the movement or disposal of the election records from the Treasury should be maintained. All these security arrangements are necessary because these election papers may be summoned at any time during the trial of an election petition by High Court or by the Supreme Court or other competent Court.
- 5.4 The box(es) containing election records mentioned at item (6) in Para 4.1 above should be kept by you/District Election Officer in your/his own safe custody.
- 5.5 For proper maintenance and safe custody of these records, the Commission feels that the election records should be kept in separate and properly secured store rooms. A suitable register should be introduced to ensure that whenever an official is required to carry out his official duties in the record room in question he makes an entry showing the purpose for which a particular record was required and signs his name. Where separate store rooms for election records are not available, the State Governments may provide them. If separate rooms cannot be provided, arrangements should be made to store the records in steel almirahs in charge of a responsible officer.
- 5.6 Special care is necessary with regard to the safe custody of the election records in respect of an election called in question by an election petition which is pending. In order to guard against any tampering with or theft of such election records, they should be kept in a Government Treasury till the final disposal of the election petition.

## **Production and Inspection of Election Papers**

- 6.1 Sub-rule (2) of rule 93 of the Conduct of Elections Rules, 1961 provides that all papers relating to an election other than those referred to in sub-rule (1)

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thereof shall be open to public inspection subject to such conditions and to the payment of such fee, if any, as the Election Commission may direct.

6.2 In pursuance of the said sub-rule read with section 76 of the Indian Evidence Act, 1872, the Commission has issued the following directions in its S.O. No. 51/69, dated the 6<sup>th</sup> February, 1969.

(1) **Inspection.**—(a) Every application for inspection of the said documents (other than an account of election expenses) shall be made in writing and should contain the particulars concerning the record of which inspection is required;

(b) An inspection of the documents shall be allowed to any person applying for the same on payment of fee of Re. 1 per hour of inspection or part thereof, unless inspection is required to be made urgently in which case the fee shall be Rs. 2 per hour or fraction thereof;

(c) Inspection on an ordinary application shall be allowed on the day following the date on which the application is made or on a subsequent day and inspection on an urgent application, shall be allowed on the same day.

(2) **Certified copy** - A certified copy of any of the said documents (other than an account of election expenses) shall be given to any person applying for the same, on payment of fees at the same rate as is charged in the State for a copy of an order by a Revenue Officer. The procedure to be followed in respect of an application for it shall be the same as for a similar application made in respect of a case dealt with by a Revenue Officer.

(3) The application should establish the right of the applicant for inspection or for supply of certified copies of documents and for that purpose should clearly disclose that the applicant has a direct and tangible interest in such document or documents and the nature of such interest.

(4) No fee shall be charged when inspection or certified copy of a document is required for official purposes.

7. When election records are inspected by interested persons soon after the completion of the election, effective supervision by officials is necessary. To avoid removal of any paper from the records simultaneous inspection by a large number of persons should not be allowed.

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## Supply of Copies of Election Returns

8. Under sub-rule (3) of rule 93, the copies of election return in Form 23B may be supplied by the Returning Officer, District Election Officer, Chief Electoral Officer, or the Election Commission on a payment of Rs. 2 for each copy.

## Disposal of Election Papers

9. The Commission has made the following directions under rule 94 of the Conduct of Elections Rules, 1961. Subject to any direction to the contrary given by the Commission or by a competent Court and subject to the instructions contained in Para 10 below the election papers may be disposed of as indicated below :-

- (a) **Direction under rule 94(a)**- (i) The packets of unused ballot papers with counterfoils returned by Presiding Officers after the poll is over and referred to in clause (a) of sub-rule (1) of rule 93 and clause (a) of rule 94 and kept in separate steel trunk or trunks under double lock shall be retained in the Treasury for a period of six months after the completion of the election and then destroyed.

(ii) The stock of undistributed ballot papers with counterfoils left with the Returning Officers after issue to Presiding Officers for use at a polling station should be returned to the Chief Electoral Officer immediately after the poll and the Chief Electoral Officer should retain such ballot papers for six months to be computed—

- (a) where no election petition has been filed, from the date of declaration of result of the election;
- (b) where an election petition has been filed, from the date of the judgment of the High Court or the Supreme Court.

Where the Chief Electoral Officer has not got sufficient accommodation to store the undistributed ballot papers, these ballot papers may be kept in Treasuries/Sub-Treasuries under the orders of the Chief Electoral Officer and destroyed at the appropriate time either under his supervision or under the supervision of officers specifically authorized by the Chief Electoral Officer of the State in the manner specified above.

- (b) **Direction under rule 94(b)** - (i) The sealed packets of used ballot papers (except the packets containing the counterfoils of used ballot papers) whether valid, tendered or rejected, the packets of the marked copies

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of the electoral roll and the packets of declarations by electors and the attestation of their signatures, which are contained in the sealed steel trunks under the double lock and kept in the Treasury should be retained for a period of one year after the completion of the election and then destroyed.

The packets containing counterfoils of used ballot papers shall be retained for a period of one year after the completion of the election and shall thereafter be destroyed in all cases except those in respect of which election petitions or election appeals or prosecutions for impersonation are pending.

- (c) **Direction under rule 94(c)** - Papers specified in [Annexure XV-B](#) should be destroyed at the expiry of six months from the date of the declaration of the result.

- 9.2 The list of challenged votes (Form 14) and the receipt book used for collection of challenge fee, the dispatch register of postal ballot papers and forms of nomination papers should not be destroyed before the expiry of 5 years from the date of declaration of the result or till they are audited and audit objections, if any, settled whoever is earlier.
- 9.3 Every order appointing a person as a Presiding Officer or Polling Officer should not be destroyed before the expiry, of three years from the date of the election to which the appointment relates.
- 9.4 Declaration of Result of Election (Forms 21A, 21B, 23 and 23A) and Return of Election (Form 23B) should be kept as permanent records of election.
- 9.5 The register of deposits may be destroyed in the same manner as revenue registers, provided that in no case shall the register be destroyed before ten years.

### **Retention of Papers Where Petition is Pending**

10. Where an election petition is pending for trial by a High Court, or any other matter in respect of an election is pending adjudication by a Court, the papers relating thereto should not be destroyed until the expiry of six months from the date of disposal of such petition or matter finally.

### **Mode of Disposal of Election Papers**

- 11.1 All election papers including restricted or confidential papers like used and unused ballot papers and their counterfoils, copies of electoral rolls, etc.,

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should be shredded and thereafter made into pulp which can be recycled for manufacture of paper, etc., in the case of restricted category of papers, such shredding shall be done in the presence of a Gazetted Officer. A certificate should also be recorded by the concerned officer.

- 11.2 All District Election Officers should see that the election papers are shredded under their direct supervision, in their office, by borrowing, if necessary, shredding machines so that these can be converted into pulp and recycled. The District Election Officers should ensure that under no circumstances the unthreaded papers leave their office.

### **Disposal of Surplus and Waste Ballot Papers**

12. The following instructions should be strictly followed in regard to the manner of disposal of surplus ballot papers:
- (1) As soon as the poll in a Constituency is over and it is ascertained that there is no need for an adjourned poll or a fresh poll in any polling station in that Constituency, the surplus ballot papers which are kept in safe custody in the Government Press should be cut into small pieces and destroyed along with the floor sweeping and other waste ballot papers, by burning in the presence of the Chief Electoral Officer himself, or of a Senior Officer duly authorized in writing by the Chief Electoral Officer for the purpose. If the printing of the ballot papers is done at a Government Press situated at a District headquarters, away from the State Capital, the destruction of the surplus and waste ballot papers by burning should be done in the presence of the District Collector/District Magistrate/Deputy Commissioner or a Senior Officer duly authorized in writing by him for the purpose.
  - (2) The officer in whose presence the surplus and waste ballot papers are destroyed by burning should record a certificate regarding the number/quantity of such surplus and waste ballot papers destroyed in his presence and he should also obtain the countersignature of the Superintendent of the Government Press on the certificate.
  - (3) As soon as practicable after the declaration of the result and in any case within ten days thereof, a report should be sent to the Commission by the Chief Electoral Officer certifying that all surplus and waste ballot papers printed for the election, have been destroyed in the manner indicated above.

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## **Facilities Allowed by the Posts and Telegraphs Department for the Conduct of Elections**

- 13.1 The Posts and Telegraphs Department has been requested to extend special facilities during the period of elections for receipt and delivery of letters and other communications. They will issue their instructions to all the postal authorities in the country.

## **Two Unused Ballot Papers for Record of the Commission**

14. Two unused ballot papers for each biennial election / bye-election to Council of States or Legislative Council should be sent to the Commission for its record. The Chief Electoral Officer is to direct concerned Returning Officers in his State/Union Territory to send as soon as possible after election is over two such un issued ballot papers to him with the words “Cancelled for record in the Election Commission” written on the reverse of each ballot paper under the signature of the Returning Officer and thereafter the Chief Electoral Officer should sent the same without delay to the Commission.



**FOURTH SCHEDULE**

[Articles 4 (1) and 80(2)]

**Allocation of Seats in the Council of States**

To each State or Union Territory specified in the first column of the following table, there shall be allotted the number of seats specified in the second column thereof opposite to that State or that Union Territory, as the case may be :

TABLE

Andhra Pradesh	11
Assam	7
Bihar	16
Jharkhand	6
Goa	1
Gujarat	11
Haryana	5
Kerala	9
Madhya Pradesh	11
Chhattisgarh	5
Tamil Nadu	18
Maharashtra	19
Karnataka	12
Odisha	10
Punjab	7
Rajasthan	10
Telangana	7
Uttar Pradesh	31
Uttrakhand	3
West Bengal	16
Jammu & Kashmir	4
Nagaland	1
Himachal Pradesh	3
Manipur	1
Tripura	1
Meghalaya	1
Sikkim	1
Mizoram	1
Arunachal Pradesh	1
Delhi	3
Puducherry	1
<b>Total</b>	<b>233</b>

**The Third Schedule to the R.P. Act, 1950**

(See section 10)

**Allocation of Seats in the Legislative Councils**

Name of State	Total number of seats	Number to be elected or nominated under article 171(3)				
		Sub-clause (a)	Sub-clause (b)	Sub-clause (c)	Sub-clause (d)	Sub-clause (d)
1	2	3	4	5	6	7
Andhra Pradesh**	58	20	5	5	20	8
Bihar	96	34	8	8	34	12
Madhya Pradesh*	90	31	8	8	31	12
Maharashtra	78	22	7	7	30	12
Karnataka	75	25	7	7	25	11
Tamil Nadu#	78	26	7	7	26	12
Telangana**	40	14	3	3	14	6
Uttar Pradesh	108	39	9	9	39	12

\* Provisions relating to Constitution of the Madhya Pradesh Legislative Council under the Legislative Councils Act, 1957 have been brought into force. Consequently, there is no Legislative Council in Madhya Pradesh.

# Provisions relating to Constitution of the Tamil Nadu Legislative Council under the Tamil Nadu Legislative Council Act, 2010 dated 18th May, 2010 have been brought into force. Consequently, there is no Legislative Council in Tamil Nadu.

\*\* Provisions relating to reorganisation of the State of Andhra Pradesh under The Andhra Pradesh Reorganisation Act, 2014 and The Andhra Pradesh Reorganisation (Amendment), Act 2015 .

**The Fourth Schedule to the R. P. Act, 1950**

[See section 27(2)]

**Local Authorities for purposes of Elections to  
Legislative Councils**

**ANDHRA PRADESH**

- (1) Municipal Corporations
- (2) Municipalities
- (3) Nagar Panchayats
- (4) Cantonment Boards
- (5) ZilaPrajaParishads
- (6) MandalPrajaParishads

**BIHAR**

- (1) Nagar Parishads
- (2) Cantonment Boards
- (3) Nagar Panchayats
- (4) ZilaParishads
- (5) PanchayatSamitis
- (6) Nagar Nigams(Corporations)
- (7) Gram Panchayats

**MADHYA PRADESH**

- (1) Municipalities
- (2) JanapadaSabhas
- (3) MandalPanchayats
- (4) Cantonment Boards

- 
- (5) Notified Area Committees
  - (6) Town Area Committees

### **MAHARASHTRA**

- (1) Municipalities
- (2) Cantonment Boards
- (3) ZillaParishad

### **KARNATAKA**

- (1) City Municipal Corporations
- (2) City Municipal Councils
- (3) Town Municipal Councils
- (4) Town Panchayats
- (5) ZillaPanchayats
- (6) TalukPanchayats
- (7) GramaPanchayats
- (8) Cantonment Boards

### **\* TAMIL NADU**

- (1) Municipalities, as referred to in Article 243Q of the Constitution
- (2) PanchayatUnion Councils
- (3) Cantonment Boards
- (4) District Panchayats referred to in Tamil Nadu Panchayat Act, 1994

### **TELANGANA\*\***

- (5) Municipal Corporations.
- (6) Municipalities.
- (7) Nagar Panchayats.
- (8) Cantonment Boards.
- (9) ZilaPrajaParishads.
- (10) MandalPrajaParishads.

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## UTTAR PRADESH

- (1) Municipal Corporations.
- (2) Municipal Councils.
- (3) ZillaPanchayats.
- (4) Nagar Panchayats.
- (5) KshettraPanchayats.
- (6) Cantonment Boards.

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\*Subs. By The Tamil Nadu Legislative Council Act, 2010 dated 18.05.2010

\*\* Subs. By The Andhra Pradesh Reorganisation Act, 2014 dated 01.03.2014

**ELECTION COMMISSION OF INDIA**

NirvachanSadan, Ashoka Road, New Delhi – 110001.

No. 322/ LC/INST/2010-CC&BE

Dated : 24th February, 2010

To

The Chief Electoral Officers

1. Maharashtra, Mumbai,
2. Uttar Pradesh, Lucknow,
3. Bihar, Patna,
4. Karnataka, Bangalore,
5. Andhra Pradesh, Hyderabad.

Subject: Biennial/Bye- Elections to the Legislative Councils from Council Constituencies Instructions - regarding.

Sir,

I am directed to state that in connection with the Biennial elections/bye-elections to the State Legislative Councils, the Commission has directed that the following instructions shall be scrupulously implemented:-

**1. ELECTORAL ROLLS{for Local Authorities' Constituencies}**

- i) Under Rule 30 (1) of the Registration of Electors Rules, 1960, the Commission has directed that the electoral rolls of the Local Authorities, Constituencies required to be maintained by the Electoral Registration Officer of the Local Authorities, Constituency concerned under Section 27 (2) ( c) of the Representation of the People Act 1950, shall be prepared and maintained in the following format :-

Name of the Local Authorities Constituency:

S. No.	Name of the elector	Sex	Age	Father's/Husband's/ Mother's or other relation's name	Educational status	Name of the Local Authority of which he/ she is a Member

- (ii) For this purpose the Chief Executive Officer of the Local Authority while furnishing the list of members of the Local Authority under section 27(2)(d)

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of the Representation of People Act, 1950 will indicate the educational status of the each member; that is to say whether the member is able to read names on any papers and write figures 1, 2, 3, etc.

- (iii) The electoral roll shall be prepared in the official language of the State and in English. The Commission has further directed that the electoral rolls shall be published by the Electoral Registration Officer in his office and also in the offices of the Local Authorities comprised in the Local Authorities Constituency, immediately inviting claims and objections by giving a minimum of seven days for the purpose. Any claims (in Form 17 ) and objections received within the time fixed shall be disposed of by the ERO within a period of three days and the roll shall be again published after incorporating the claims and objections accepted within three days thereafter and in any case before the last date for filing of nominations. The provisions of Section 23(3) of RP Act 1950 will also apply in this case, i.e. **no** addition/deletion/amendment shall be made in the electoral roll after 3.00 P.M. on the last date for filing of nomination.

## **2. POLLING STATIONS for Local Authorities' Constituencies**

For closer monitoring and management of elections, it has been decided that polling stations shall be set up at sub-divisional level. An immediate review of the existing polling stations for the Local Authorities ' Constituencies shall be undertaken by the DEO and fresh proposals shall be forwarded to the Commission for approval, after consulting all political parties.

## **3. CONDUCT OF ELECTIONS in all Council Constituencies:-**

**(1) Model Code of Conduct:** The Commission has directed that the following provisions of Model Code of Conduct shall be strictly implemented immediately on the announcement of elections and will be in force till the completion of the elections:

- I. Ministers, whether Central or State (including Chief Minister) can make official visit to any district(s) in which any Biennial/Bye-election from a Council Constituency is being held subject to the following conditions:-
  - a. They shall not do any inauguration/ laying of foundation stones of any educational institution, which are constituents of Graduates' and Teachers' Constituencies.
  - b. Official visit shall not be combined with the election related work/ tours.

- 
- c. There shall be no announcement of new policy programme/ policy likely to influence the graduates, and the teachers, who form the electorate of the Constituencies going to poll.
- II. No official of any rank of the district(s) dealing with election related work where the biennial/bye-elections are being held shall be called to attend any meeting by any Minister at any place, if such meetings called by Ministers are related to issues of the Educational Institutions which are constituents of Graduates' and Teachers' Constituencies.
- [para I & II have been substituted vide ECI letter No. 322/LC/ INST/2014-CC&BE, dated 26<sup>th</sup> February, 2014]***
- III. No member of any Local Authority which forms part of the electorate of a Local Authorities' Constituency shall be called for any official meeting by any Minister/Political functionary. Routine meetings of the Local Bodies, when essential, may be held with the prior permission of the District Election Officer of the District concerned.
- IV. Any official who meets the Minister on his private visit to the constituency where elections are being held shall be deemed to be guilty of misconduct under the relevant service rules; and if he happens to be an officer mentioned in Section 129 (1) of the Representation of People Act, 1951, he shall also be additionally considered to have violated the statutory provisions of that section and liable to penal action provided the reunder.
- V. No pilot car(s) or car(s) with beacon lights of any colour or car(s) affixed with sirens of any kind making his presence conspicuous shall be used by any Minister during his private visit to the constituency, even if the State administration has granted him a security cover requiring presence of armed guards accompanying him on tour.
- VI. No policy announcement or programme would be initiated in the Government Departments related to the constituents of the election under reference. For example, if the election is from a Local Authorities' Constituency, no programme or policy could be initiated by Urban or Rural Local Bodies Department. Likewise, for Teachers' Constituencies, no new policy or programme will be initiated/ announced by the Education Department dealing with the teachers. In the case of elections from Graduates' Constituencies, no programme/ policy likely to influence the



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graduates, shall be announced, such as Un-Employment Allowance, new Employment Schemes, etc.

- VII. The Commission has directed that a special video team shall be put in place for every Tehsil. Every political meeting shall be video graphed. Ministers and other important political functionaries visiting the District shall be video-trailed. Copy of the video recording shall be given to the Observers by the evening of the same day. The Observers will go through it and report any violation to the Commission. The Observers will submit reports as per the seven formats prescribed for Assembly/Parliament Elections.
- VIII. The restrictions on “Official Tours” by Central & State Ministers will also be applicable to use of any “Official Cars” by “Office Bearers” of Local Authorities, like, Mayors of Municipal Corporations, Presidents of Municipal Councils & Zilla Parishads. The use of official cars by them shall be allowed for travel to & from Office to Residence.
- IX. If the statutory Meetings of Municipal Corporations, Municipal Councils, Zilla Committees, etc., are unavoidable, it shall be allowed, but no policy decision should be taken and release /sanctions of funds shall be subject to the same restrictions as they apply during Lok Sabha/Assembly elections.
- X. In addition, the provisions of Model Code of Conduct and ECI instructions applicable to Assembly Elections, with regard to defacement of public & private properties, shall also be applicable.

***[para VIII, IX & X have been added by the Commission subsequently]***

#### **4. BAN ON TRANSFER OF OFFICERS**

There shall be a total ban on the transfer of Returning Officers and Assistant Returning Officers appointed for Biennial elections/bye-elections to State Legislative Councils after the announcement of elections and this ban will be in force till the completion of elections. The transfer orders in respect of the above officers issued prior to the date of announcement but not implemented should not be given effect to without obtaining the specific permission of the Commission. In those cases where transfer of an officer is necessary on account of administrative exigencies, the State Govt. may with full justification approach the Commission for prior clearance.

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## 5. TRAINING FOR POLLING/COUNTING OFFICIALS

A training programme may be organized the Polling Officials and Counting Officials to make them thorough about the procedures of poll and counting of votes.

## 6. ELECTION AGENTS/POLLING AGENTS/COUNTING AGENTS

- (i) It should be ensured that no person who is employed in Govt./Semi Govt. offices nor any person who is holding a post accruing political benefit shall be allowed to be appointed as Election Agent/ Polling agent/ Counting agent of a contesting candidate.
- (ii) Election Agents/ Polling Agents/Counting Agents should not be office bearers of the Local Bodies (rural or urban local bodies) such as Sarpanchs, Pradhan, ZillaPramukh, Mayor, Dy. Mayor etc.
- (iii) Election Agents/Polling Agents/Counting Agents should be persons from the same Legislative Council Constituency.

## 7. OBSERVERS

It has been decided to appoint Observers for each of the Constituencies. The Commission will be appointing Observers in due course. A briefing meeting will be organized by the Commission for the Observers. The guidelines for the Observers are enclosed at **Annexure 'A'**

## 8. MICRO OBSERVERS

The Commission has directed that micro observers shall be appointed in each polling station on the day of poll. These micro observers shall be officials of the Central Govt./Central PSUs. The Guidelines and checklist for the micro observers are enclosed at **Annexure 'B' & Annexure 'C'**.

## 9. POLL DAY PROCEEDINGS:

- i) The poll proceedings inside all the Polling Stations shall be video-graphed on the day of poll. The videography should be continuous and uninterrupted under the supervision of an officer who would be accountable for it. While doing so, it should be ensured that the secrecy of ballot is not at all violated/compromised.
- ii) The videography must cover each and every voter as well as any accompanying person in such a way that he/she is identifiable from the video-frame itself.

- 
- iii) The video-grapher should be properly briefed and trained by the Returning Officer/Observer. The videographer appointed for a particular polling station shall be under the control and supervision of the Micro Observer (and in his absence, the Presiding Officer) of that polling station on the day of poll. The Presiding Officer and the Micro Observer shall be responsible for the compliance of instructions related to videography at polling station.
  - iv) The video cameras should be positioned in such a way that by remaining static it can cover every voter, along with person(s) accompanying voters as well as poll proceedings inside the polling station, without compromising the secrecy of vote.
  - v) The video-grapher should be issued an identity card for identification
  - vi) There should be proper back-up battery, CD, Diskettes, etc., for the videography to continue uninterrupted throughout the polling hours.
  - vii) No helper or companion should be allowed inside the polling booths for helping / assisting the voters except in the case of an illiterate/blind/infirm voter in accordance with rule 40A (under rule 70) of the Conduct of Elections Rule, 1961. **In case an elector wishes to avail of the facility of a companion because of his illiteracy, blindness or infirmity, he must give an advance intimation to that effect to the Returning Officer at least 3 days before the date of Poll.** The Returning Officer shall examine the eligibility of the elector for getting the facility of companion and in case the Returning Officer find the elector eligible as per the laid down provisions, he/she shall indicate the same on the Electoral Roll by making a mark against the name of the elector. On the day of poll, before voting, such voters must also submit a declaration in the proforma enclosed at **Annexure 'D'** herewith that he/she is illiterate/blind/infirm and thereafter action will be taken by the Presiding Officer concerned as per Rule 40A of the Conduct of Elections Rules, 1961 and accordingly maintain a record for that purpose as per rule (Form 14A of the Conduct of Elections Rules, 1961). The provisions contained in Rule 40A of the Conduct of Elections Rules, 1961 shall be strictly followed in this regard. This list in Form 14(A) shall be scrutinized along with the other documents viz. the CDs of video, Micro Observer's report, Presiding Officer's report etc. by the Observer next day
  - viii) Same person shall not be allowed to be accompanying more than one voter as provided in the first proviso to Rule 40A.

- 
- ix) In order to ensure strict compliance of the above provisions and instructions all Micro Observers should be properly briefed and trained so that they take due care that the Presiding Officers comply with the same for proper identification of electors in accordance with the above guidelines and observance of requirement of DECLARATION made by ILLITERATE/BLIND OR OTHERWISE INFIRM ELECTORS and their companions. In case they notice any deviation / violation of the instructions of the Commission, the Micro Observer should immediately bring the same to the notice of the Presiding Officer of the polling station concerned and invariably report the incident to the Commission's Observer at the earliest for appropriate action in this regard.
- x) Arrangements shall be made for live web-cast of the poll process at each polling station on the poll day.
- xi) During the poll, all the voters shall have to produce either EPIC or any other identity document having photograph of the elector or their Identity Cards issued by the Local Authorities concerned of which they are members.
- xii) During poll proceedings, voters should use only the pen provided by the Presiding Officer to record their votes in voting compartment. There shall be a total ban on carrying Mobile Phones, any type of camera viz. Digital /Pen camera etc., by any of the voters inside the Polling Stations
10. It has further been decided that instructions regarding 'How to vote in the Elections of Council Constituencies (copy enclosed at **Annexure 'E'**) may be circulated to all the voters in local vernacular.
11. The receipt of the letter be acknowledged urgently and immediate action shall be taken on each of the above instructions.

Yours faithfully

(K. AJAYA KUMAR)

SECRETARY

**Copy to:**

Secy. (YS) for issuing instructions in respect of the Legislative Council Elections of Jammu and Kashmir.

**DUTIES & RESPONSIBILITIES OF OBSERVERS FOR BIENNIAL/BYE- ELECTIONS TO LEGISLATIVE COUNCILS**

- I. (i) To observe the process of nominations, scrutiny and withdrawal of candidatures.
- (ii) To examine the video clippings of the nomination process, if the Commission directs so, as well as to make proper investigations into the complaints received in connection with the process of nominations. Also to examine the unresolved grievances by the candidate/Political Parties.
- (iii) To submit four reports as per the Proforma enclosed.
- (iv) To check the final list of contesting candidates.
- (v) To monitor training to ensure that proper training is arranged for the election staff, including the counting officials.
- (vi) To visit polling stations to monitor that all polling stations have been visited by election officials for verification from fitness angle. Also to verify that the list of polling stations is approved by the Commission.
- (vii) To discuss the poll, counting and security arrangements with District Election Authorities and to review the law and order issues in general.
- (viii) To monitor the Electoral Roll/Electoral College list prepared by the Electoral Registration Officer/Returning Officer as per the Conduct of Elections Rules, 1961.
- II Apart from the above, the Observers should seek prior permission from the Commission every time they want to leave the headquarters on personal work or on official work not connected with performance of their duties as Observers. Any request in this regard for special permission shall be made to the Deputy Election Commissioner concerned in Secretariat of the Election Commission. Observers shall not be allowed to go on foreign trip during the period of the election process. No request in this regard should be made to the Commission. Only in case of receipt of late intimation about selection of the officer to attend a foreign training, which is duly sponsored by the DOPT as per prescribed procedure, the State Government may recommend release of such officer by substituting/sponsoring an officer of equivalent or of higher rank
- III. The Observer shall also perform any other task, as assigned by Election Commission.

IV Visit Schedule of the Observer shall be as follows:-

(a) First Visit -	From the last date of nominations to the last date for the withdrawal of candidatures.
(b-i) Second Visit -	For 3 days after one week of the last date for the withdrawal of candidatures.
(In the case of election from council constituencies.)	
(b-ii) Second Visit	For one day after three days of the last date for withdrawal of candidatures
(In the case of elections by MLAs)	
(c) Third Visit -	From the date prior to the day of actual poll and till the counting of votes and declaration of result

### OBSERVER REPORT-1

(To be submitted after the last date for the withdrawal of candidature(s))

Name of Constituency				
State				
1	Is there any critical event	Yes	No	If yes, give details
2	Electoral Roll (for Graduates' & Teachers' Constituencies)/Electoral College for Local Authorities by MLAs etc. already finalised/available for use.	Yes	No	If no, give details
3	Affidavits uploaded on CEO web site, put on notice boards and published	Yes	No	-do-
4	Arrangements for ballot paper printing	Done	Not done	-do-
5	Preparation of list of polling personnel	Done	Not done	-do-
6	Schedule for training of polling personnel finalised or not	Done	Not done	-do-
7	Adequate preventive steps taken for maintenance of Law & Order	Done	Not done	-do-
8	Whether the election machinery is aware of Conduct of Elections Rules, 1961	Yes	No	-do-

Overall observation - (Indicate any arrangements not made, requiring improvements, overall coordination assessment) Indicate areas of concern.

Date:

Place:

Signature of the Observer

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## OBSERVER REPORT-2

(To be submitted 3 days before the poll)

### POLL PREPAREDNESS REPORT

Name of Constituency	
State	

1	Whether all the materials for actual poll ready?	Yes	No	If no, indicate present position
2	Whether polling parties formed?	Yes	No	-do-
3	Whether approval of list of polling stations obtained from the Commission ?	Yes	No	-do-
4	Whether approval for counting centre obtained from the Commission ?	Yes	No	-do-
5	Whether appointment and training of officials done ?	Yes	No	-do-

Any special input: -

Date:

Place:

**Signature of the Observer**

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## OBSERVER REPORT-3

(To be submitted after counting of votes is over and the result is declared)

Name of Constituency	
State	

1	Whether poll was conducted as per procedure laid down under the law ?	
2. (a)	Whether poll vitiated in any polling stations	
(b)	If so, details	
(c)	Whether the repoll was ordered by the Commission ?	
3.	Whether the counting of votes was done as per procedure laid down under law ?	
4. (a)	Whether any request for recount of votes received ?	
(b)	If yes, whether it was accepted by RO ?	
(c)	Whether R.O. recorded reasons for accepting/ rejecting request for recount.	
5	Whether the Commission's permission was obtained before commencement of counting of votes and declaration of result.	

Any other irregularity noticed -

Date:

Place:

**Signature of Observer**



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## OBSERVER REPORT-4

(Departure Report)

Date of reporting by the Observer in the Constituency for election duty

Date of departure of Observer

Was there any break by the Observer from the duty ?

If Yes, give details

Was there any late reporting to duty ?

If yes, by how many days ?

Date:

Place:

**Signature of Observer**

**Guidelines for Micro Observers**

1. Observers have a very crucial role to play in the conduct of an independent, free and fair election. To strengthen the system of observation, the Commission has consciously decided to deploy Micro Observers at each and every Polling Station of the Council Constituency. These Micro Observers would directly work under control and supervision of the General Observer of the Commission.
2. For deployment as Micro Observer, the Returning Officer will obtain the list of Gazetted Officers/officials of Government of India / Public Sector Undertakings from different offices in the district. Such Gazetted officers / officials will be eligible to be deployed as Micro Observer. In case Gazetted officers are not sufficient in number, Group 'B (Non-Gazetted)' or Group 'C' employees and above can also be utilized for this purpose.
3. There shall be a nodal officer identified by the Returning Officer for Micro Observers to handle logistics and deployment related tasks of Micro Observers in each district. General Observers will be in close touch with them for their requirements of Micro Observers relating to their constituencies.
4. Each Micro Observer shall be given a photo-pass and identity card by the Returning Officer to ensure his access to the polling stations.
5. Observers will arrange and train their Micro Observers. The officer selected for the job of Micro Observer may not be aware of different aspects of election process. Therefore, a basic training of election processes on the day of the poll shall have to be given to them. This should enable them to understand and observe the activities relating to election on the day of the poll. Since the Micro Observer shall be reporting to the Observer alone, it will be the responsibility of the Observers to ensure that they are trained properly on the relevant and crucial issues. The Returning Officers will organize the training of these Micro Observers.
6. The required number of officers for deployment as Micro Observer would be picked up randomly from the list of all eligible officers. Further the assigning of polling stations also will be done in random manner a day prior to the day of departure in presence of the Observer and duly approved by him.
7. The Returning Officer should ensure that the Micro Observers are separately dropped to their destinations. Micro Observer should be provided with an Identity card, entry pass to his/her polling stations, and such other requirements

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as may be necessary for discharge of duties as per the direction of the Commission.

8. On the day of poll the Micro Observer should reach the polling station at least one hour before the commencement of the poll. If for certain reason it is not possible to reach in the morning, he should reach in the evening of the previous day.
9. Having reached the polling station he should assess the preparedness for the poll. During the poll day he should regularly note down the important points on the pre printed Performa (a Performa for this is appended). It is made absolutely clear that in no case the Micro Observer will act as presiding officer or the polling officer. His task is to observe that election process is being carried out in a free and fair manner and there is no vitiation of any kind.
10. In the process of observation on the day of the poll, the Micro Observer should specially observe: -
  - Presence of Polling Agents and observance of ECI instructions with regard to them,
  - Observance of videography in the Polling Station without compromising secrecy of votes,
  - The observance of entry pass system and access to Polling Station,
  - Proper identification of electors in accordance with ECI guidelines,
  - Identification and recording procedures for the Absentee, Shifted and Duplicate voter's list (ASD list),
  - Noting down particulars of electors in Counterfoil of Ballot Papers,
  - Issuance of ballot papers to electors
  - Secrecy of voting,
  - Observance of DECLARATIONS made by ILLITERATE/BLIND OR OTHERWISE INFIRM ELECTORS and their companions.
  - Conduct of polling agents, their complaints, if any, etc.
11. During the poll, if the Micro Observer feels that the poll is being vitiated for any reason, he will immediately bring it to the notice of Observer through whatever means of communication is available, for example, phone or wireless or any other means.

- 
12. After the poll process is over, the Micro Observer will report to the Observer in the format as enclosed as [Annexure II](#) at the collection center and hand over his envelop containing the report for the day personally to the Observer and brief him/her on any thing of importance that had happened during the day.
  13. Observers will go through the report and if any further clarification is required then he should arrange for the Micro Observer to be called for ascertaining those further details.
-

### Checklist for Micro Observers

- i) Whether more than one polling agent from the same candidate were present inside the polling station at any time?
- ii) Whether the entry pass system was enforced properly? Whether any unauthorized person was inside the polling station at any point of time?
- iii) Whether identity of each elector was properly checked?
- iv) Whether events are recorded from time to time as and when they occur in the Presiding Officer's Diary?
- v) Whether only one ballot paper was issued to each voter?
- vi) Whether the Presiding Officer or Polling Officer was going towards voting compartment or giving any undue instructions to the voters?
- vii) Whether copies of accounts of votes recorded have been given to the polling agents?
- viii) Whether videography of the poll proceeding done without compromising secrecy of voting and voting compartment was properly placed to ensure secrecy of voting?
- ix) Whether any complaint by polling agent, election agent or any political party was received? If yes its substance.
- x) Any other incident or issue that you would like to highlight
- xi) Whether any unauthorized and ineligible person has been allowed to accompany the infirm/blind/illiterate voter by the Presiding Officer.

Signature \_\_\_\_\_

Name (in full) : \_\_\_\_\_

Designation : \_\_\_\_\_

Phone No. : \_\_\_\_\_

Date & Time : \_\_\_\_\_

**DECLARATION BY ILLITERATE/BLIND OR OTHERWISE  
INFIRM ELECTOR**

I, \_\_\_\_\_ S/D/W/o \_\_\_\_\_  
R/o : \_\_\_\_\_, do hereby solemnly  
affirm and declare that I am unable to read the ballot paper or to record vote thereon  
in accordance with Rule 37A of the Conduct of Elections Rule, 1961 by the reason  
of illiteracy/blindness/other infirmity.

Signature/Left Hand Thumb Impression of elector \_\_\_\_\_

Name of Elector \_\_\_\_\_

Part No. & Serial No. in the Electoral Rolls \_\_\_\_\_

Declaration given in my presence

Signature of Presiding Officer

## HOW TO RECORD VOTES AT ELECTIONS TO LEGISLATIVE COUNCIL

- (1) To vote, use only the **violet sketch pen**, supplied to you along with the ballot paper. **Do not use** any other pen, pencil, ball-point pen.
- (2) Vote by placing the figure “1” in the column marked ‘**order of preference**’ provided opposite the name of the candidate you have chosen as your first preference.
- (3) **Even if the number of candidates to be elected is more than one, the figure “1” shall be put opposite the name of only one candidate.**
- (4) You have as many preferences as there are contesting candidates irrespective of the number of candidates to be elected.
- (5) Indicate your further preferences for the remaining candidates by placing the subsequent figures 2,3,4 etc., in the order of your preference.
- (6) Put only one figure opposite the name of any candidate. Same figure should **not be put** opposite the names of more than one candidate.
- (7) **Preference shall be indicated in figures only, i.e. 1,2,3, etc., and shall not be indicated in words, one, two, three, etc.**
- (8) Figures may be marked in the international form of Indian numerals like 1,2,3, etc., or in the Roman form I, II, III, etc., or in the form used in any Indian Language, **recognized** in the Eighth Schedule to the Constitution.
- (9) **DO NOT** sign or initial or write your name or any words on the ballot paper. Also, **do not** put your thumb impression.
- (10) DO NOT PUT ‘tick’ mark or ‘cross’ mark like “✓” or “✕” to indicate your preferences. Such ballot paper will be rejected.
- (11) To make your ballot paper valid, you should indicate your first preference by placing figure “1” against one of the candidates. The other preferences are only optional and not compulsory.

**ELECTION COMMISSION OF INDIA**

NirvachanSadan, Ashoka Road, New Delhi – 110001.

No. 322/ LC/INST/2010-CC&BE

Dated : 23<sup>th</sup> March, 2010

**To**

**The Chief Electoral Officers**

1. Andhra Pradesh, Hyderabad,
2. Bihar, Patna,
3. Karnataka, Bangalore,
4. Maharashtra, Mumbai
5. Uttar Pradesh, Lucknow,

Subject: Biennial/Bye-Elections to the Legislative Councils from Council Constituencies Instructions - regarding.

Sir,

In continuation of the Commission's instructions of even number dated 24.2.2010, I am directed to convey the following further instructions of the Commission in addition to the instructions contained in para 3 of the said letter dated 24.2.2010:-

- (viii) The restrictions on "Official Tours" by Central & State Ministers will also be applicable to use of any "Official Cars" by "Office Bearers" of Local Authorities, like, Mayors of Municipal Corporations, Presidents of Municipal Councils & Zilla Parishads. The use of official cars by them shall be allowed for travel to & from Office to Residence.
- (iv) If the statutory Meetings of Municipal Corporations, Municipal Councils, Zilla Committees, etc., are unavoidable, it shall be allowed, but no policy decision should be taken and release /sanctions of funds shall be subject to the same restrictions as they apply during Lok Sabha/Assembly elections.



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**ANNEXURE-II-A**

**Voting at elections by Members of the Legislative Assembly—  
List of Members of State Assemblies and Electoral Colleges**

No. 3/4/2011(1):—In exercise of the powers conferred by sub-rule (1) of rule 96 of the Conduct of Elections Rules, 1961, and in supersession of its direction S.O. No. 18/62 dated 5th March, 1962, the Election Commission hereby directs that the list of Members of Legislative Assembly of a State, to fill a seat or seats in the Council of States or in the Legislative Council of a State, shall be maintained under the said rule in the form given below.

By Order,  
(Signed) K.F. WILFRED,  
Secretary

NEW DELHI :

*Dated the 17<sup>th</sup> March, 2011*

**FORM**

Serial no. of Elector	Serial no. and Name of the Constituency from which elected	Name of Elector	Address	Party affiliation (mention the name of the Political Party in the case of members belonging to political parties. In the case of others, write independent')	Remarks
1	2	3	4		5

@ Applicable only to election to the Legislative Council.

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## LIST OF MEMBERS OF ELECTORAL COLLEGES OF UNION TERRITORIES

No. 3/4/2011(2)—In exercise of the powers conferred by sub-rule (2) of rule 96 of the Conduct of Elections Rules, 1961, and in supersession of its direction S.O. No. 28/64 dated 13<sup>th</sup> January, 1964, the Election Commission hereby directs that the list of Members of Electoral College to be maintained under the said rule shall be in the form given below:-

By Order,  
(Signed) K.F. WILFRED,  
Secretary

NEW DELHI :

*Dated the 17<sup>th</sup> March, 2011*

### FORM

Serial no. of Elector	Serial no. and Name of the Constituency from which elected	Name of Elector	Address	Party affiliation (mention the name of the Political Party in the case of members belonging to political parties. In the case of others, write independent)	Remarks
1	2	3	4		5

---

**Annexure-IIB**

Certified that all changes in the membership of.....  
(name of the local body concerned such as Municipalities/District Board/  
Cantonment Boards/ Notified Area Committee/ZillaParishads/PanchayatSamitis/  
MandalPanchayats etc.) during the quarter ending March/June/September/  
December, 20.....have been intimated to the Electoral Registration Officer  
vide letter No.....and dated.....mentioned  
below:-

- 1.
- 2.
- 3.

Chief Executive Officer

.....

(name of the local body concerned)

Date:

**Certificate of Head of Institution of an educational institution specified by the State Government under clause (b) of sub-section (3) of section 27 of the Representation of the People Act, 1950**

This is to certify that Shri/Smt./Kum.....has been teaching in .....(name of the institute) for a period of three years within the last preceding six years as shown below against a post on regular/adhoc/contact\* basis with specified scale of pay of Rs...../Consolidated Pay.

- (1) (a) \* As per the records of the institution, he/she has been engaged in this institution continuously from.....(date) to.....(date), without any break.

OR

- (b) \* As per the records of the Institution, he/she has been engaged in this institution for the following periods of service:-

From..... to.....

From..... to.....

From..... to.....

- (2) The dates of commencement of service & retirement of the teacher:  
(a) The date of commencement of service:  
(b) The date of retirement:

(Signature, Name & Seal of the Head of Institution)

(\*Strike out whichever is not applicable)

**History of being engaged in teaching in an educational institution specified by the State Government under clause (b) of sub-section (3) of section 27 of the Representation of the People Act, 1950**

Name of State.....

No. and Name of Teachers' Constituency.....

No. and Name of Part.....

S.No.	Name of Elector	Name of Specified Educational Institution and the period for which the elector has been engaged in teaching in the specified Educational Institution during the last six years. (If an elector has been engaged in teaching in more than one specified educational institutions in the last six years, the name of each such educational institution and the duration for which the elector has been engaged in teaching in that educational institution should be given)

## Format of Electoral Rolls of Local Authorities' Constituency

(Note: - Roll shall be published Part wise for each Local Authorities Constituency. Roll of each part will be information is to be obtained from chief Executive Officer every quarter. These may not be published section wise. Separate inclusion, deletion and modification supplementary lists shall be published along with the mother roll till the electoral roll is integrated. There shall be as many supplementary lists as the number of revisions after the last integration)

Constituency Header

Part Header

Electoral Roll of the Part

Part Summary

Constituency Summary

The Electoral Roll of the part shall be published in the following columns:-

- (1) Serial Number in part
- (2) First Name of Elector
- (3) Surname of Elector
- (4) Name of Relation
- (5) Surname of Relation
- (6) Relation Type (Father/Mother/Other)
- (7) Sex (Male / Female/ Other)
- (8) Date of Birth
- (9) Name of local authority of which elector is member
- (10) Photo
- (11) EPIC Number
- (12) Name of State where elector is enrolled in Assembly Constituency ( if enrolled in any assembly constituency)
- (13) No. of Assembly Constituency where elector is enrolled ( if enrolled in any assembly constituency)
- (14) Name of Assembly Constituency where elector is enrolled ( if enrolled in any assembly constituency)
- (15) No. of Part of Assembly Constituency where elector is enrolled ( if enrolled in any assembly constituency)
- (16) Name of Part of Assembly Constituency where elector is enrolled ( if enrolled in any assembly constituency)
- (17) Serial Number in Part where elector is enrolled ( if enrolled in any assembly constituency)

## Format of Electoral Rolls of Graduates' constituency

(Note: - Roll shall be published part wise for each graduates' constituency Roll of each part will be published section wise. Separate inclusion, deletion and modification supplementary lists shall be published along with the mother roll till the electoral roll is integrated. There shall be as many supplementary lists as the number of revisions after the last integration)

Constituency Header

Part Header

Electoral Roll of the Part

Part Summary

Constituency Summary

The Electoral Roll of the Part shall be published in the following columns:-

- (1) Serial Number in Part
- (2) First Name of Elector
- (3) Surname of Elector
- (4) Name of Relation
- (5) Surname of Relation
- (6) Relation Type ( Father/Mother/Other)
- (7) Sex (Male/ Female/ Other)
- (8) Date of Birth
- (9) Educational Qualification ( The qualification on the basis of which elector is enrolled in the graduates' constituency)
- (10) Photo
- (11) EPIC Number
- (12) Name of State where elector is enrolled in Assembly Constituency ( if enrolled in any assembly constituency)
- (13) No. of Assembly Constituency where elector is enrolled ( if enrolled in any assembly constituency)
- (14) Name of Assembly Constituency where elector is enrolled ( if enrolled in any assembly constituency)
- (15) No. of Part of Assembly Constituency where elector is enrolled ( if enrolled in any assembly constituency)
- (16) Name of Part of Assembly Constituency where elector is enrolled ( if enrolled in any assembly constituency)
- (17) Serial Number in Part where elector is enrolled ( if enrolled in any assembly constituency)

## **Format of Electoral Rolls of Teachers' Constituency**

(Note: - Roll shall be published Part wise for each Teachers' Constituency. Roll of each part will be published section wise. Separate inclusion, deletion and modification supplementary lists shall be published along with the mother roll till the electoral roll is integrated. There shall be as many supplementary lists as the number of revisions after the last integration)

Constituency Header

Part Header

Electoral Roll of the Part

Part Summary

Constituency Summary

The electoral Roll of the part shall be published in the following columns:-

- (1) Serial Number in part
- (2) First Name of Elector
- (3) Surname of Elector
- (4) Name of Relation
- (5) Surname of Relation
- (6) Relation Type (Father/Mother/Other)
- (7) Sex (Male / Female/ Other)
- (8) Date of Birth
- (9) Name of Specified educational institutions where engaged in teaching for three years out of last six years ( names of all such educational institutions should be given in which the elector has been engaged in teaching in the last six years)
- (10) Photo
- (11) EPIC Number
- (12) Name of State where elector is enrolled in Assembly Constituency ( if enrolled in any assembly constituency)
- (13) No. of Assembly Constituency where elector is enrolled ( if enrolled in any assembly constituency)
- (14) Name of Assembly Constituency where elector is enrolled ( if enrolled in any assembly constituency)
- (15) No. of Part of Assembly Constituency where elector is enrolled ( if enrolled in any assembly constituency)
- (16) Name of Part of Assembly Constituency where elector is enrolled ( if enrolled in any assembly constituency)
- (17) Serial Number in Part where elector is enrolled ( if enrolled in any assembly constituency)



## Detailed Instructions for Computerization of Electoral Rolls of Legislative Council

- (1) Separate tables to be created as specified below for each such constituency, part and electors along with the existing tables of Electoral Roll Management System.
- (2) The data for each such tables to be maintained in language English as well as in vernaculars of that constituency.
- (3) The naming convention maintained in existing control tables should be used for linking all such units. For Eg. ( ST\_CODE for State Code, AC\_NO for Assembly Constituency No and PART\_NO for Part)
- (4) All the parts should be maintained separately for each constituency.
- (5) Each Part for such constituency to be linked with districts using District No.
- (6) For maintain electors details separate tables to be used for Graduates' and Teachers' constituency.
- (7) The electors details can be linked with existing electoral roll of ERMS on the basis of the following fields:
  - a. State Code
  - b. AC No
  - c. Part No
  - d. EPIC No
- (8) The roll for each such constituency should be printed part wise.
- (9) The prescribed format of existing electoral roll can be utilized for the printing of its roll along with the details of control tables.
- (10) The existing roll of ERMS can be utilized to identify all such electors.

## **Database Structure of Legislative Council Electoral Rolls**

### **Database Name: ECICONTROLTABLE**

1. Table Name-TC\_LIST

CCODE	bigint	Primary Key and Identity Yes
ST_CODE	char(3)	Checked
TC_NO	int	Checked
TC_NAME_EN	nvarchar(100)	Checked
TC_NAME_V1	nvarchar(100)	Checked
  
2. Table Name-GC\_LIST

CCODE	bigint	Primary Key and Identity Yes
ST_CODE	char(3)	Checked
GC_NO	int	Checked
GC_NAME_EN	nvarchar(100)	Checked
GC_NAME_V1	nvarchar(100)	Checked
  
3. Table Name-TPART\_LIST

CCODE	bigint	Primary Key and Identity Yes
ST_CODE	char(3)	Checked
TC_NO	int	Checked
TPART_NO	int	Checked
DIST_NO	int	Checked
TPART_NAME_EN	nvarchar(100)	Checked
TPART_NAME_V1	nvarchar(100)	Checked
  
4. Table Name-GPART\_LIST

CCODE	bigint	Primary Key and Identity Yes
ST_CODE	char(3)	Checked
GC_NO	int	Checked
GPART_NO	int	Checked
DIST_NO	int	Checked
GPART_NAME_EN	nvarchar(100)	Checked
GPART_NAME_V1	nvarchar(100)	Checked

**SCRUTINY SHEET FOR LIST OF POLLING STATIONS**

.....*Council Constituency* of. .... State.

1. Date of poll .....
2. Total number of voters in the Constituency :
  - (a) Men .....
  - (b) Women .....
  - (c) Others.....
  - (d) Service Voters .....Total .....
3. Number of polling stations required on the basis of an average of 750 voters per polling station.
4. Total number of polling stations actually provided.
5. Average number of voters per polling station.
6. Number of polling stations to each of which more than 750 voters have been assigned, indicating the highest number of voters assigned to a polling station.
7. The lowest number of voters assigned to a polling station.
8. Whether the number of voters in respect of each component village or other unit of the polling area has been shown in the list/map.
9. No. of polling stations for which the maximum distance that a voter will have to travel is more than 16 kilometers.
10. Whether all the polling areas have been clearly demarcated.
11. Whether serial number of polling stations has been done in a systematic manner.
12. (a) Whether there are any areas predominantly inhabited by electors belonging to depressed classes and other weaker sections of the society.  
(b) If so, the number of polling stations set up separately for them and the total number of electors assigned to each of them.

- 
13. Whether any polling station has been proposed to be located in any :
    - (a) Private building
    - (b) Temporary structure, and if so, whether the exact site chosen for the location of the polling station has been clearly indicated in the list.
  14. Number of polling stations which have less than 20 sq. mt.area.
  15. Whether it has been certified that the private buildings do not belong to any of the Candidates, his active workers or known sympathizers.
  16. Details of polling stations where more than 4 polling stations in urban areas and more than 2 polling stations in rural areas have been located in the same building.
  17. Whether it has been certified that all the polling areas within the Constituency are covered by the proposed polling stations.
  18. (a) Serial Nos. of separate polling stations provided for women voters.
    - (b) In case of (a) above whether polling stations for men and women voters of a particular area have been located in the same building.
  19. Serial number of polling stations which have not been situated in the villages having the largest number of voters.
  20. Serial number of polling stations which have not been located in any of the villages attached to it.
  21. Whether the list has been informally published and discussed with the political parties, etc.
  22. When the electoral roll of the Constituency was last prepared; and whether there is any proposal of such preparation again during the year.
  23. Any other remarks.

*District Election Officer*

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Note—Please specify the serial numbers in addition to total number of polling stations against items 6, 7, 12(b), 13, 14, 16, 18, 19 and 20.

**Certificate to be furnished along with list of polling stations :**

- (i) That the draft list was duly published, objections and suggestions were invited, and discussed with the party representatives and legislators on the lines indicated in the Commission's directions;
- (ii) That .all the polling areas within the Constituency have been covered in the list;
- (iii) That no building, public or private, which is a temple, church, mosque, gurdwara or has any religious significance or in respect of which any section of the public may have any legitimate objection to enter, has been proposed as a polling station;
- (iv) That no police station, hospital or dispensary is proposed as a polling station;
- (v) That separate polling stations have been set up in areas, electors of which are predominantly depressed classes and other weaker sections of the society and that no such area has been either left out or linked with areas where electors predominantly belong to forward or strong communities;
- (vi) Where the usual limit of 750-1,000 voters per polling station or the limit of 16 kilometers beyond which a voter should not ordinarily be required to walk has not been maintained, no better arrangement is practicable
- (vii) That no private building in the list of polling stations belongs to any political party or is known to belong to any prominent or active member of any of the political parties; and
- (viii) In case where private buildings have been selected as polling stations, the written consent of the owner(is it necessary? the requisitioning can be done without consent)for the purpose has been obtained.

Place.....

Dated .....

Signature of the  
*District Election Officer/ Returning Officer*

**ORDER**

In exercise of the powers conferred by section 25 of the Representation of the People Act, 1951, the Election Commission hereby directs that the concerned District Election Officer shall publish the list of polling stations provided by him for every Council Constituency with the previous approval of the Commission, by making a copy thereof available for inspection and displaying notice in the form appended.

- (a) at his Office; and
- (b) at the Office of the Electoral Registration Officer for the Constituency.

The District Election Officer shall, as far as practicable, also make a copy of the relevant parts of the list, together with the notice in the form appended, available for inspection at such of the following places as he may consider necessary :

- (i) In the Office of the Collector/District Magistrate/Sub-divisional Magistrate/Revenue Divisional Officers/Judges and Munsiff Courts/Prant Officer/Tahsildar/Amildar/District Boards/Municipal Committee/Notified Area Committee/Deputy Tahsildar/ Sub-registrar/Police Stations/Mauzadars or Sarpanch or Union PanchayatGhars/Universities;
- (ii) In the case of Teachers' Constituencies in educational institutions in the Constituency not lower in standard than a secondary school; and
- (iii) such other places and in such other manner as he may consider necessary and suitable.

**NOTICE OF PUBLICATION OF LIST  
OF POLLING STATIONS**

In pursuance of the provisions of section 25 of the Representation of the People Act, 1951, (I)..... District Election Officer in the State of ... ..... hereby provide for the..... Constituency, with the previous approval of the Election Commission, the polling stations specified in the appended list for the polling areas or groups of voters noted against each.

Dated.....

District Election Officer  
..... *Constituency*

**Notice to Candidates or their Election  
Agents regarding the Date, Time and  
Place for counting  
Election to the Council of States**

..... Legislative Council

..... Constituency

In pursuance of rule 51 of the Conduct of Election Rules, 1961, I hereby give notice that I have, in accordance with the said ' rule, fixed the.....  
..day of.....(month) 20....., ..... a.m./p.m. as the date and time for the  
counting of votes for the above election and..... (place) in.....  
.....as the place for such counting.

*Place*.....

*Signature* .....

*Dated*.....

*Returning Officer* .....

To

All candidates or their election agents



## ORDER OF APPOINTMENT OF PRESIDING AND POLLING OFFICERS

### Biennial/Bye-election to the Legislative Council of...

In pursuance of sub-section (1) and sub-section (3) of section 26 of the Representation of the People Act, 1951, (43 of 1951) I hereby appoint the officers specified in columns 2 and 3 of the Table below as Presiding Officer and Polling Officers respectively for the polling station specified in the corresponding entry in column 1 of the Table provided by me\* for..... Graduates\*/ Teachers\*/Local Authorities Constituency. I also authorise the Polling Officer specified in column 4 of the Table against that entry to perform the functions of the Presiding Officer during the unavoidable absence, if any, of the Presiding Officer.

TABLE

Polling Station number and name with complete particulars of its location	Name of the Presiding Officer	Name of the Polling Officer	Polling Officer authorised to perform the function of the Presiding Officer in the latter's absence
1	2	3	4

The Poll will be taken on..... (date) during the hours..... to ..... The Presiding Officer should arrange to collect the polling materials from. ....(full address of the place) and after the poll, these should be returned to collecting centre at .....(full address of the place).

Place :.....

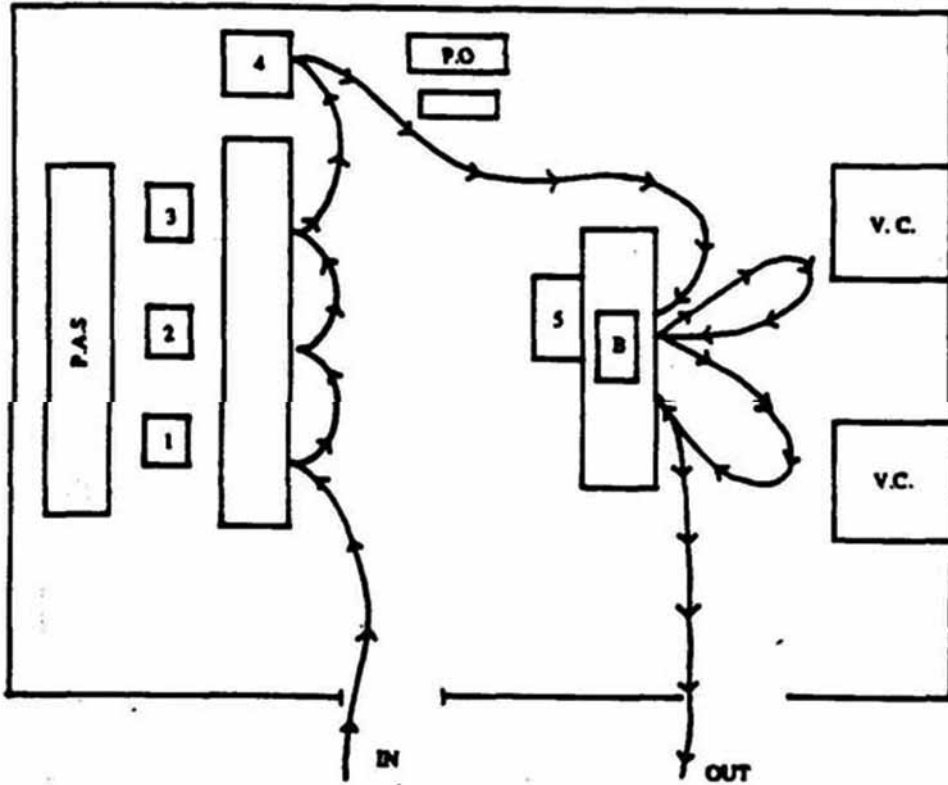
Date :.....

Signature  
District Election Officer/  
Returning Officer  
District

\*Omit if not applicable.

## LAYOUT OF POLLING STATION

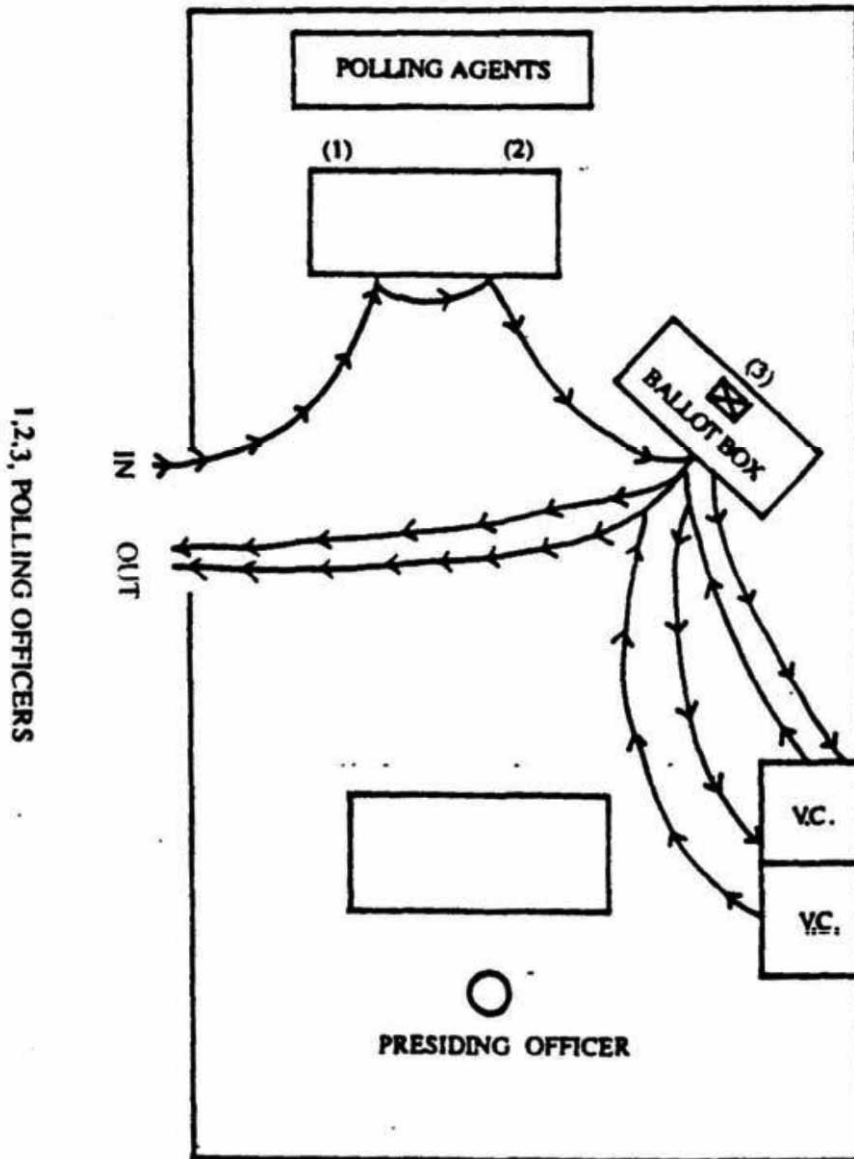
SIMULTANEOUS ELECTION



P.O. PRESIDING OFFICER  
1,2,3,4 & 5 POLLING OFFICERS  
PAS POLLING AGENTS  
B BALLOT BOX  
VC VOTING COMPARTMENT

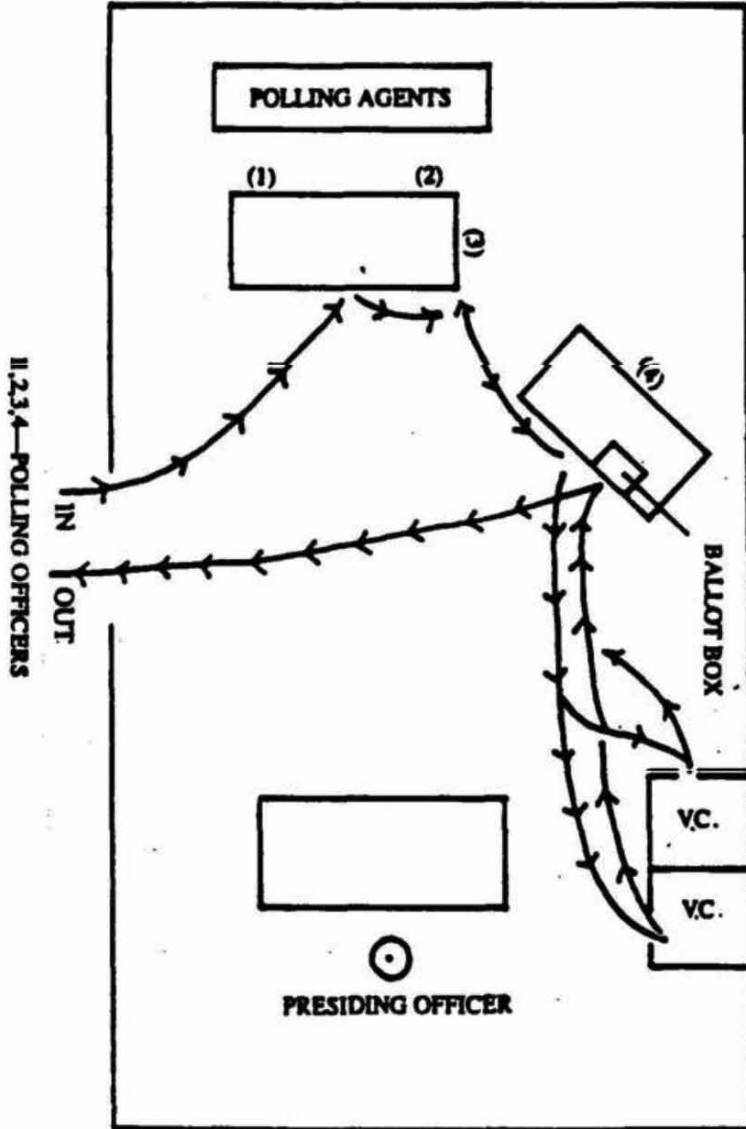
## LAYOUT OF POLLING STATION

SINGLE ELECTION



## LAYOUT OF POLLING STATION

SINGLE ELECTION



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## INSTRUCTION FOR LAYOUT OF POLLING STATIONS

- (a) The construction of the voting compartment should be given special attention. Large and heavy curtains which only make these compartments dark and frightening should not be used simply because they are available in stock. A simple and inexpensive arrangement is to tie four poles to the four legs of a small table or a tea-poy and a curtain round the poles covering three sides. The table raised to a high of 5 feet above the ground with the help of bricks and placed at a distance of less than 2 feet from the wall will provide an excellent voting compartment.
- (b) The same idea can be carried out more neatly at a slight expense as follows :  
A thin wooden board 24" x 18" with a hole in each corner, four wooden rods 18" long to fit into the four holes, and piece of cloth attached to the rods round three sides will be sufficient portable equipment for one voting compartment. This should be set up on a small table raised to a height of 3 feet from the ground with bricks. Where practicable, two such sets may be provided for each polling party. If cheap material is used it should not cost more than Rs. 3.00 per unit and could be readily prepared at tehsil headquarters.
- (c) The third alternative method of setting up voting compartments) side by side is by hanging a curtain parallel to the wall at a distance of about 2 feet from it, another curtain hung at right angles to the first curtain as indicated on the line plan. These curtains need not come right down to the ground. It would be sufficient to have them of 3 or 4 feet width. In places where 'tails' are readily available, the voting compartments can be easily constructed with the help of two 'talis' placed at right angles to each other in one corner of the room.

## LIST OF POLLING MATERIALS TO BE SENT TO EACH POLLING STATION

	<b>Serial number and description of materials</b>	<b>Scale of supply</b>
	1	2
1.	Ballot boxes	2
2.	Ballot papers with counterfoils	Specified number
3.	Electoral rolls for use as marked copy and for the use of the Presiding Officer	2
4.	Paper Scale	4
5.	Metal seal for Presiding Officer	1
6.	Rubber stamp bearing distinguishing mark of polling station	1
7.	Self-inking purple pad	1
8.	(i) Form 14-List of challenged votes (ii) Form 14 A-List of illiterate, Blind and Infirm Voters (iii)Form 15-List of tendered votes	One form
9.	Form 16-Ballot paper account	(One+No.of contesting candidates)-Forms.
10.	(i) Presiding Officer's diary (ii) Paper seal account (iii) Form for declaration by Presiding Officer before commencement of the poll and at the end of poll	One form  One form 1
11.	(i) Form of declaration by companion of blind or infirm voters (ii) Form of receipt for challenge fee (iii) Letter of complaints to Sub-Inspector of Police	1  One book Five forms
12.	Pieces of thin wire	6
13.	Furniture	Scale as required and available
14.	Posters showing the particulars of voters allotted to each polling station	1
15.	Poster showing the list of contesting candidates	1
16.	List of contesting candidates with .the name of the election agent of . each candidate	1
17.	Labels for ballot-boxes	6

18.	Address tags	6
19.	Badges with safety pin	One badge for each polling personnel printed appropriately.
20.	Fools cape white paper	4
21.	Blotting paper	4 bits of 1/4 size
22.	(i) Ink bottles, pen-holders and nibs (ii) Carbon Papers (iii) Copying pencils (iv) Sketch Pens of violet colourink	2 sets or a ballpoint pen. 4 1 for marking the vote by voter.
23.	Cardboard for use as padding below paper seal	One big piece
24.	Pins	A strip of 10 pins
25.	Gem Clips	Three clips
26.	White Twins	4 meters
27.	Sealing wax	250 grams
28.	Brown sheet for packing	Three sheets
29.	Sets of covers- (i) Cover for unused ballot papers with counterfoils (ii) Cover for tendered ballot papers (iii) Cover for cancelled returned ballot papers (iv) Cover for marked copy of electoral rolls (v) Cover for tendered votes list (vi) Cover for list of challenged votes (vii) Cover for record under rule 40 (viii) Cover for record under rule 41 (ix) Cover for ballot paper account (x) Cover for appointment letter of polling agents (xi) Cover for miscellaneous papers. (xii) Blank cover (xiii) Cover for unused and damaged paper seal (xiv) Cover for paper seal account (xv) Cover for receipt for challenge fee One set. (xvi) Cover for declaration by companion of blind or infirm voters. (xvii) Cover for Presiding Officer's diary (xviii) Cover for counterfoils of used ballot papers (xix) Cover for declaration by the Presiding Officer before commencement of the poll and at the end of poll	One set
30.	Candle	1

31.	Match-box	1
32.	Gum and paste	Required quantity
33.	Needle	1
34.	Country twine (sutli - thread)	2 bundles
35.	Pusher for pushing ballot papers into ballot box	1
36.	Gunny bag for transport of polling materials	1
37.	Materials for voting compartments	Required materials
38.	Instructions to Presiding Officers	One copy
39.	Papers for polling agents	At the rate of three per candidate.
40.	Postage stamp	Service postage stamp to the value of Rs.5 in suitable Denominations.
41.	Metal rule for detaching ballot papers from counterfoils	1
42.	Canvas bag or new cloth for wrapping ballot-box or boxes	
43.	Sufficient quantity of ribbon or tape for securing the ballot box by passing it on all sides.	

**N.B.**-In Graduates\* or Teacher' Constituencies, the original application of the electors (assigned to the polling stations) for enrolment of names in the electoral roll as submitted in Form 18/Form 19 should also be supplied to the Presiding Officer.



**Form of Oath or Affirmation**

**[Article 84(a)/173(a) of the Constitution of India]**

I ..... having been nominated as a candidate to fill a seat in the \*”Council of State/ Legislative Council do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India.

(Signature and Name in block letters of the candidate)

Sworn in the name of God/Solemnly affirmed by Shri/Shrimati.....  
..... at ..... (place) at .....(hour) this  
.....day of ..... 20.....

Before me Signature of Authorised Person  
(Name, designation and seal)

**Certificate for Receipt of Form of Oath**

(To be handed over to the candidate by the authorised person)

Certified that ..... (name) a candidate for election to the #.....  
.....has made and subscribed the oath/affirmation as required by the  
Constitution of India before me at my office at..... (hour) on .....  
(date).

Signature of Authorised Person  
(Name and designation)

Date .....

Seal.

\*Score out which is not applicable, Here insert one of the following alternatives as may be appropriate.

# Council of States by the elected members of the Legislative Assembly  
.....(State). Legislative Council by the members of the Legislative  
Assembly. Legislative Council from the .....Constituency.

**Affidavit to be filed by the candidate alongwith Nomination Paper  
Before the Returning Officer**

**For election to** ..... (Name of the House)

**From**.....**Constituency** (Name of the Constituency)

I ....., \*\*son/daughter/wife of .....  
Aged ..... years, resident of ..... (mention full postal address), a candidate at the above Election, do hereby solemnly affirm and state on oath as under:-

- (1) I am a candidate set up by ..... (\*\*name of the political party ) / \*\*am contesting as an Independent candidate. (\*\*strike out whichever is not applicable)
- (2) My name is enrolled in ..... (Name of the constituency and the State), at Serial No. .... in Part No. ....
- (3) My contact telephone number(s) is/are ..... and e-mail id (if any) is .....
- (4) Details of PAN and status of filing of Income tax return :

Sl. No.	Names	Permanent Account Number (PAN)	The financial year for which the last Income-tax return has been filed	Total income shown In Income Tax Return ( in Rupees)
1.	Self			
2.	Spouse-			
3.	Dependent 1			
4.	Dependent 2			
5.	Dependent 3 .....			

- (5) I am/am not accused of any offence(s) punishable with imprisonment for two years or more in a pending case(s) in which charge(s) has/have framed by the court(s) of competent jurisdiction.

If the deponent is accused of any such offence(s) he shall furnish the following information :-

- (i) The following case(s) is/ are pending against me in which charges have been framed by the court for an offence punishable with imprisonment for two years or more :-

(a)	Case/First Information Report No./Nos. together with complete details of concerned Police Station/ District/State	
(b)	Section(s) of the concerned Act(s) and short description of the offence(s) for which charged	
(b) (c)	Name of the court, Case No. and date of order taking cognizance :	
(d)	Court(s) which framed the charge(s)	
(e)	Date(s) on which the charge(s) was/were framed	
(f)	Whether all or any of the proceeding(s) have been stayed by any Court(s) of competent jurisdiction	

- (ii) The following case(s) is/ are pending against me in which cognizance has been taken by the court [other than the cases mentioned in item (i) above]

(a)	Name of the court, Case No. and date of order taking cognizance :	
(b)	The details of cases where the court has taken cognizance, section(s) of the Act(s) and description of the offence(s) for which cognizance taken	
(b) (c)	Details of Appeal(s)/Application(s) for revision (if any) filed against the above order(s)	

- (6) have been/have not been convicted of an offence(s) {other than any offence(s) referred to in sub-section (1) or sub-section (2), or covered in sub-section (3), of section 8 of the Representation of the People Act, 1951 (43 of 1951) and sentenced to imprisonment for one year or more.

If the deponent is convicted and punished as aforesaid, he shall furnish the following information:

In the following cases, I have been convicted and sentenced to imprisonment by a court of law:

(a)	The details of cases, Sections of the Act and description of the offence for which convicted :	
(b)	Name of the Court(s), Case No. and Date(s) of order(s) :	
(c)	Punishment imposed :	
(d)	Whether any appeal was/has been filed against the conviction order. If so, details and the present status of the appeal:	

(7) That I give herein below the details of the assets (movable and immovable etc.) of myself, my spouse and all dependents:

### A. Details of movable assets :

*Note:*

1. Assets in joint name indicating the extent of joint ownership will also have to be given.
2. In case of deposit/Investment, the details including Serial Number, Amount, Date of Deposit, the Scheme, Name of Bank/ Institution and Branch are to be given.
3. Value of Bonds/Share/Debentures as per the current market value in Stock Exchange in respect of listed companies and as per books in case of non-listed companies should be given.
4. Dependent here has the same meaning as assigned in, Explanation (v) under section 75A of the Representation of the People Act, 1951.
5. Details including amount is to be given separately in respect of each investment.

S. No.	Description	Self	Spouse	Dependent-1	Dependent-2	Dependent-3
(i)	Cash in hand					
(ii)	Details of Deposits in Bank accounts (FDRs, Term Deposits and all other types of Deposits including saving accounts), Deposits with Financial Institutions, Non Banking Financial Companies and Cooperative societies and the amount in each such deposit					

(iii)	Details of investment in Bonds, Debentures/shares and units in companies/Mutual Funds and others and the amount.					
(iv)	Details of investment in NSS, Postal Savings, Insurance Policies and investment in any Financial Instrument in Post office or Insurance Company and the amount					
(v)	Personal loans/advance given to any person or entity including firm, Company, Trust etc. and other receivables from debtors and the amount.					
(vi)	Motor Vehicles/Aircrafts/Yachts/Ships (details of Make, Registration No. etc, Year of Purchase and amount )					
(vii)	Jewelry, bullion and valuable thing (give details of weight and value)					
(viii)	Any other assets such as value of Claims/interest					
(ix)	Gross Total value					

## **B. Details of Immovable assets:**

*Note:*

1. Properties in joint ownership indicating the extent of joint ownership will also have to be indicated
2. Each land or building or apartment should be mentioned separately in this format.

<b>S. No.</b>	<b>Description</b>	<b>Self</b>	<b>Spouse</b>	<b>Dependent-1</b>	<b>Dependent-2</b>	<b>Dependent-3</b>
<b>(i)</b>	<b><u>Agricultural Land</u></b>					
	Location(s)					
	Survey number(s)					
	Area (Total measurement in acres)					
	Whether inherited property (Yes or NO)					
	Date of purchase in case of self acquired property					
	Cost of Land (in case of purchase) at the time of purchase					
	Any Investment on the land by way of development, construction etc.					
Approximate Current market value						
<b>(ii)</b>	<b><u>Non-Agricultural Land</u></b>					
	Location(s)					
	Survey number(s)					
	Area (Total measurement in sq. ft.)					
	Whether inherited property (Yes or NO)					
	Date of purchase in case of self acquired property					
	Cost of Land (in case of purchase) at the time of purchase					
	Any Investment on the land by way of development, construction etc.					
Approximate Current market value						

<b>(iii) Commercial Buildings</b> (including apartments) - Location(s) - Survey number(s)					
	Built up Area (Total measurement in sq. ft.)				
	Whether inherited property (Yes or NO)				
	Date of purchase in case of self acquired property				
	Cost of property (in case of purchase) at the time of purchase				
	Any Investment on the property by way of development, construction etc.				
	Approximate Current market value				
	<b>(iv) Residential Buildings</b> (including apartments,) - Location(s) - Survey number(s)				
Area (Total measurement in sq. ft.)					
Built up Area (Total measurement in sq. ft.)					
Whether inherited property (Yes or NO)					
Date of purchase in case of self acquired property					
Cost of property (in case of purchase) at the time of purchase					
Any Investment on the land by way of development, construction etc.					
Approximate Current market value					
<b>(v) Others</b> (such as interest in property)					
<b>(vi) Total of Current Market Value of (i) to (v) above</b>					

(8) I give herein below the details of liabilities/ dues to public financial institutions and government :-

(Note: Please give separate details of name of Bank , institution, entity or individual and amount for each item)

S. No.	Description	Self	Spouse(s)	Dependent-1	Dependent-2	Dependent-3
<b>(i)</b>	Loan or dues to Bank/financial institution(s) Name of Bank or Financial Institution, Amount outstanding Nature of loan					
	Loan or dues to any individuals/ Entity other than mentioned above. Name(s), Amount outstanding, nature of loan					
	Any other liability					
	Grand total of liabilities					
<b>(ii)</b>	<b>Government Dues:</b> Dues to departments dealing with government accommodation					
	Dues to departments dealing with supply of water					
	Dues to departments dealing with supply of electricity					
	Dues to departments dealing with supply of telephones/ mobiles					
	Dues to departments dealing with government transport (including aircrafts and helicopters)					
	Income Tax Dues					
	Wealth Tax Dues					
	Service Tax Dues					
	Municipal /Property Tax Dues					
	Sales Tax Dues					



	Any other dues					
(iii)	Grand total of all Govt. dues					
(iv)	Whether any other liabilities are in dispute, if so, mention the amount involved and the authority before which it is pending.					

(9) Details of profession or occupation:

a. Self.....

b. Spouse .....

(10) My educational qualification is as under:

.....  
 .....

(Give details of highest School / University education mentioning the full form of the certificate/ diploma/ degree course, name of the School /College/ University and the year in which the course was completed.)

## PART-B

### (11) ABSTRACT OF THE DETAILS GIVEN IN (1) TO (10) OF PART-A:

1.	Name of the candidate	Sh./Smt./Kum.
2.	Full postal address	
3.	Number and Name of the constituency and state	
4.	Name of the Political party which set up the candidate (otherwise write 'Independent')	
5.	(i) Total number of pending cases where charges have been framed by the Court for offence punishable with imprisonment for two years or more	
	(ii) Total number of pending cases where the court (s) have taken cognizance [other than the cases mentioned in item (i) above]	

6.	Total Number of cases in which convicted and sentenced to imprisonment for one year or more [except for offences referred to in sub-section (1), (2) and (3) of section 8 of Representation of the People Act, 1951].					
7.		<b>PAN of</b>	<b>Year for which last Income Tax Return filed</b>	<b>Total Income Shown</b>		
	(a) Candidate					
	(b) Spouse:					
	(c) Dependents					
8.	<b>Details of Assets and Liabilities in rupees</b>					
	<b>Description</b>	<b>Self</b>	<b>Spouse</b>	<b>Dependent-I</b>	<b>Dependent-II</b>	<b>Dependent-III</b>
A.	Moveable Asset (Total value)					
B.	Immovable Asset					
(i)	Purchase Price of self-acquired immovable property					
(ii)	Development/ construction cost of immovable property after purchase (if applicable)					
(iii)	Approximate Current Market Price of					
	(a) Self-acquired assets (Total Value)					
	(b) Inherited assets (Total Value)					
9.	<b>Liabilities</b>					
	(i) Government dues (Total)					
	(ii) Loans from Bank, Financial Institutions and others (Total)					
10.	<b>Liabilities that are under dispute</b>					
(i)	Government dues (Total)					
(ii)	Loans from Bank, Financial Institutions and others (Total)					

11.	<p><b>Highest educational qualification:</b>          (Give details of School / University education mentioning the full form of the certificate/ diploma/ degree course, name of the School /College/ University and the year in which the course was completed.)</p>
-----	--

## VERIFICATION

I, the deponent, above named, do hereby verify and declare that the contents of this affidavit are true and correct to the best of my knowledge and belief, no part of it is false and nothing material has been concealed there from. I further declare that :

(a) there is no case of conviction or pending case against me other than those mentioned in items 5 and 6 of Part A and B above;

(b) I, my spouse, or my dependents do not have any asset or liability, other than those mentioned in items 7 and 8 of Part A and items 8, 9 and 10 of Part B above.

Verified at ..... this the ..... day of ..... 201 .....

## DEPONENT

- Note:**
1. Affidavit should be filed latest by 3.00 PM on the last date of filing nominations.
  2. Affidavit should be sworn before an Oath Commissioner or Magistrate of the First Class or before a Notary Public.
  3. All columns should be filled up and no column to be left blank. If there is no information to furnish in respect of any item, either “Nil” or “Not applicable”, as the case may be, should be mentioned.
  4. The affidavit should be either typed or written legibly and neatly.”

**OFFICE OF THE RETURNING  
OFFICER**

Election to the Legislative Council of ..... from .....  
Council Constituency.

Memo. No. ....

Date .....

To

..... (Name of the Candidate).

In your nomination paper, you have mentioned that you are an elector in .....Assembly Constituency : but you have not produced documentary evidence thereof. In this connection, your attention is invited to sub-section (5) of section 33 of the Representation of the People Act, 1951 which reads as follows :

“Where the candidate is an elector of different Constituency, a copy of the electoral roll of that Constituency or of the relevant part thereof or a certified copy of the relevant entries in such rolls shall, unless it has been filed along with the nomination paper, be produced before the Returning Officer at the time of scrutiny.

Dated .....

Signature  
Returning Officer

Received Memo, No. .... dated ..... from the Returning  
Officer, Election to the Legislative Council of ..... from .....  
..... Council Constituency to-day.

Place .....

Signature of Candidate  
or Proposer

## ELECTION COMMISSION OF INDIA

*New Delhi, the 18th March, 1968*

### Notification

No. 3/6/68 (1).—In pursuance of clause (a) of article 84 and clause (a) of article 173 of the Constitution of India and in supersession of its notification No. 3/3/66, dated the 25th April, 1967, the Election Commission hereby authorises —

- (i) the Returning Officer concerned and all the Assistant Returning Officers subordinate to him.
- (ii) all stipendiary Presidency Magistrates and all stipendiary Magistrates of the first class and
- (iii) all district judges and all persons belonging to the judicial service of a State other than district judges.

as the person before any one of whom a person having been nominated as a candidate (hereinafter referred to as the candidate) for election to fill a seat in the Council of States, or in the House of the People, or in the Legislative Assembly of a State (other than Jammu and Kashmir), or in the Legislative Council of a State (other than Jammu and Kashmir) having a Legislative Council, shall make and subscribe the oath or affirmation in the form set out for the purpose in the Third Schedule to the said Constitution.

2. Notwithstanding anything contained in paragraph 1, in pursuance of clause (a) of the said article 84 and clause (a) of the said article 173, the Election Commission hereby also authorises as the person before whom the candidate may make and subscribe the said oath or affirmation,—

- (a) where the candidate is confined in a prison, the superintendent of the prison;
- (b) where the candidate is under preventive detention, the commandant of the detention camp;
- (c) where the candidate is confined to bed in a hospital or elsewhere owing

- 
- to illness or any other cause, the medical superintendent in charge of the hospital or the medical practitioner attending on him;
- (d) where the candidate is out of India, the diplomatic or consular representative of India in the country where the candidate happens to be or any person authorised by such diplomatic or consular representative;
  - (e) where the candidate is for any other reason unable to appear or prevented from appearing, before the Returning Officer concerned or any Assistant Returning Officer as aforesaid, any other person nominated by the Election Commission on application made to it in this behalf.

**Explanation.—In this notification,—**

- (1) the expression “the Returning Officer concerned” means—
  - (a) where a person has been nominated as a candidate for election to fill a seat in the House of the People from a Parliamentary Constituency or a seat in the Legislative Assembly of a State from an Assembly Constituency, or a seat in the Legislative Council of a state from a Council Constituency the Returning Officer for that Constituency;
  - (b) where a person has been nominated as a candidate for election to fill a seat in the Council of States by the elected members of the Legislative Assembly of a State, the Returning Officer for that election;
  - (c) where a person has been nominated as a candidate for election to fill a seat in the Legislative Council of a State by the members of the Legislative Assembly of that State, the Returning Officer for that election;
- (1A) the expression “district judge” and “judicial service” shall have the meanings respectively assigned to them in article 236 of the Constitution of India.
- (2) the expressions “Parliamentary Constituency”, “Assembly Constituency” and “Council Constituency” shall have the meanings respectively assigned to them in the Representation of the People Act, 1950 (43 of 1950).

**OFFICE OF THE RETURNING  
OFFICER**

Election to the Council of States/Legislative Council of ..... by  
Members of the Legislative Assembly of ..... from ..... Council  
Constituency.

Memo. No. .... Date .....

To

..... (Name of the Candidate).

This is to inform you that you have not made and subscribed oath or affirmation  
as required by Article 84(a)/ Article 173(a) of the Constitution. This may be done  
either before me or any of the persons authorised by the Election Commission in this  
behalf on any day before the date appointed for of nominations.

Dated .....

Signature

Returning Officer

Received Memo No. .... dated ..... from the Returning  
Office for Election to the Council of State/Legislative Council of ..... by  
Members of the Legislative Assembly of ..... from .....  
Council Constituency.

Place .....

Signature of candidate

Dated .....

or Proposer

FORM 'AA'

**COMMUNICATION WITH REGARD TO AUTHORISED  
PERSONS TO INTIMATE NAME OF CANDIDATES  
SET UP BY THE POLITICAL PARTY**

FOR USE AT ELECTIONS TO COUNCIL OF STATES  
AND LEGISLATIVE COUNCIL

To

1. The Chief Electoral Officer,  
..... (State/Union Territory).

\*2. The Returning Officer for the biennial/bye-election to the Council of  
States/Legislative Council by Assembly members .....

OR

\*The Returning Officer for the biennial/bye-election from

\*\*.....(Constituency).

**Subject :** Biennial/Bye-election to Council of States/ Legislative Council from  
..... (State/ Union Territory-Authorization of person(s) to intimate  
name(s) of candidate(s).

Sir,

I hereby communicate that the following Person has/have been authorised  
by ..... Party, which is a National Party/State Party/Registered  
Unrecognized Party in the State of ..... to intimate the name(s) of the  
candidate(s) proposed to be set up by the Party at the election cited above :-

<b>Name of person authorised to send notice</b>	<b>Name of Office held in the party</b>	<b>District(s)/area(s)/Constituency/ Constituencies in respect of which he has been authorised</b>
1	2	3
1.		
2.		
3.		



---

2. The specimen signature of the above mentioned person(s) so authorised are given below :

1. Specimen signatures of Shri .....

(i).....(ii)..... (iii) .....

2. Specimen signatures of Shri .....

(i).....(ii)..... (iii) .....

3. Specimen signatures of Shri .....

(i)..... (ii).....(iii).....

Place .....

Date .....

Yours faithfully  
(Name in Capital letters)  
President/Secretary  
Name of the Party  
(Seal of the Party)

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.

Place .....

Date .....

Yours faithfully,  
Name (in block letters)  
and Signature of the authorised  
Person of the Party  
(Name of the Party)  
(Seal of the Party)

\* Strike out whichever is not applicable.

\*\*Mention name of Graduates'/Teachers'/Local- Authorities' Constituency, as the case may be.

---

**N.B.-**

- (1) This must be delivered to the Returning Officer and Chief Electoral Officer *not later than 3.00 p.m. on the last date for the making nominations.*
- (2) Form must be signed in ink by the office bearer(s) mentioned above. No facsimile signature or signature by means of runner stamp, etc., of any office bearer shall be accepted.
- (3) No Form transmitted by fax shall be accepted.
- (4) Para 2 of the Form must be scored off, if not applicable, or must be properly filled, if applicable.

FORM 'BB'

**NOTICE AS TO NAMES OF CANDIDATES SET  
UP BY THE POLITICAL PARTY FOR USE AT  
ELECTIONS TO COUNCIL OF STATES  
AND LEGISLATIVE COUNCIL**

To

1. The Chief Electoral Officer,  
..... (State/Union Territory).

\*2. The Returning Officer for the biennial/bye-election to the Council of  
States/Legislative Council by Members of Legislative Assembly .....

OR

\*The Returning Officer for the biennial/bye-election from

\*\*.....(Constituency) from the State of .....

**Subject :** Election to Council of States/Legislative Council from .....  
(State/Union Territory)—Setting up of candidates.

Sir,

1. I hereby give notice on behalf of .....(Party)-

(i) that the person(s) whose particulars are furnished in columns(2) to (4)  
below is/are the approved candidate(s) of the party above named, and

(ii) the person(s) whose particulars are mentioned in columns (5) to (7)  
below is/are the substitute candidate(s) of the party, who will step in on  
the approved candidates' nomination being rejected on scrutiny or on  
his/their withdrawing from the contest, if the substitute candidate(s) is/  
are still a contesting candidate(s)

at the ensuing Biennial/Bye-election to the Council of State/State Legislative  
Council:

<b>Name of Constituency***</b>	<b>Name of approved candidate</b>	<b>Father's/ Mother's/ Husband's name of approved candidate</b>	<b>Postal address of approval candidate</b>	<b>Name of the substitute candidate who will step-in on the event of approved candidate's nomination being rejected on scrutiny or his withdrawal from the contest if substitute candidate is still a contesting candidate</b>	<b>Father's/ Mother's/ Husband's name of approved candidate</b>	<b>Postal address of substitute candidate</b>
1	2	3	4	5	6	7
1. 2. 3. 4. etc.						

2. \* The notice in Form 'BB' given earlier in favour of Shri/Smt./Sushri ..... as party's approved candidate, and Shri/Smt./Sushri ..... as party's substitute candidate is hereby rescinded.
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

Place .....

Date .....

Yours faithfully  
Name (in block letters)  
and Signature of the authorised  
Person of the Party  
(Name of the Party)  
(Seal of the Party)

\* Strike out whichever is not applicable.

\*\* Mention names of Graduates'/Teachers'/Local Authorities' Constituency, as the case may be.

\*\*\* Under this column mention name of the Constituency, as 1. By Assembly Member, 2. Graduates'

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Constituency, 3. Teachers' Constituency, 4. Local Authorities' Constituency, as the case may be.

§ If more than one candidate is to be elected from the Constituency.

**N.B.-**

- 1 This must be delivered to the Returning Officer and Chief Electoral Officer *not later than 3.00 p.m. on the last date for the making nominations.*
- 2 Form must be signed in ink by the office bearer(s) mentioned above. No facsimile signature or signature by means of runner stamp, etc., of any office bearer shall be accepted.
- 3 No Form transmitted by fax shall be accepted.
- 4 Para 2 of the Form must be scored off, if not applicable, or must be properly filled, if applicable.

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## ANNEXURE VI-A

### LIST OF CONTESTING CANDIDATES

New Delhi, dated the 30th May, 1967  
Jyaistha 9, 1889 (Saka)

S.O. No. 39/67. -In pursuance of sub-rules (1) and (5) of rule 10 of the Conduct of Election Rules, 1961, the Election Commission hereby directs that at any election to a Legislative Council, the list of contesting candidates in Form 7B shall, in a State specified in column 1 of the Table below, be prepared in the language or languages specified against that State in column 2 thereof, and where the list is prepared in more than one language the names of candidates shall be arranged alphabetically according to the script of the language first specified in the said column.

**TABLE**

<b>Name of State</b>	<b>Languages or Languages</b>
1	2
*Andhra Pradesh	Telugu and English
Bihar	Hindi
Maharashtra	Marathi and English
Karnataka	Kannada and English
*Telangana	Telugu and English
Uttar Pradesh	Hindi

The Commission's direction contained in S.O. No. 38/67, dated the 20th May, 1967 is hereby superseded.

\* Andhra Pradesh Legislative Council Constituted in 2007 and Telangana in 2014.

## LIST OF CONTESTING CANDIDATES

S.O. No. 2/78 (dt. 24.2.78).-In pursuance of subrules (1) and (3) of rule 10 of the Conduct of Election Rules, 1961, and in super session of its S.O. No. 19/67, dated 30th May, 1967, as subsequently amended, the Election Commission hereby directs that, at any election to the Council of States the list of contesting candidates in Form 7B shall, in a State/Union Territory specified in column 1 of the Table below, be prepared in the language specified against that State/Union territory in column 2 thereof, and where list is to be prepared in more than one language, the names of candidates shall be arranged alphabetically according to the script of the language specified in the said column :-

**TABLE**

Name of State/ Union territory	Language
1	2
Andhra Pradesh	Telugu and English
Assam	Assamese and English
Bihar	Hindi and English
**Chhattisgarh	Hindi and English
Gujarat	Gujarati and English
Haryana	Hindi and English
Himachal Pradesh	Hindi and English
Jammu and Kashmir	Urdu and English
**Jharkhand	Hindi and English
Karnataka	Kannada and English
Kerala	Malayalam and English
Madhya Pradesh	Hindi and English
Maharashtra	Marathi and English
Manipur	Manipuri and English
Meghalaya	English
Nagaland	English
Odisha	Oriya and English
Punjab	Punjabi and English
Rajasthan	Hindi and English
Sikkim	English, Nepali and Tibetan
Tamil Nadu	Tamil and English
**Telangana	Telugu and English
Tripura	Bengali and English

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Uttar Pradesh	Hindi and English
**Uttarakhand	Hindi and English
West Bengal	Bengali and English
Arunachal Pradesh	English
Delhi	Hindi and English
Pondicherry	Tamil and English
Mizoram	English
Goa	Konkani in Devnagri Script Marathi and English

\*\* these are newly created States.



**ELECTION COMMISSION OF INDIA**

New Delhi, dated..... 19

**NOTIFICATION**

No.—In pursuance of sub-rule (2) of rule 11 of the Conduct of Election Rules, 1961, the following is published for general information :

FORM 7B

**List of Contesting Candidates**

*[See rule 10 (1)]*

Election to the @.....

<b>SI. No.</b>	<b>Name of candidate</b>	<b>Address of Candidate</b>	<b>Party Affiliation</b>
1	2	3	4
1.			
2.			
3.			
4.			
Etc.			

Place .....

Date .....

Returning Officer

Secretary

Election Commission of India

\* Indicate name in capitals.

\*\* Indicate designation in capitals.

@ Here insert one of the alternatives as may be appropriate —

(1) Council of States by the Elected Members of the Legislative Assembly of ..... (State).

(2) Council of States by the Members of the electoral college .....(Union Territory).

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FORM 7B

**List of Contesting Candidates**

*[See rule 10 (1)]*

Election to the @.....

<b>SI. No.</b>	<b>Name of candidate</b>	<b>Address of Candidate</b>	<b>Party Affiliation</b>
1	2	3	4
1. 2. 3. 4. Etc.			

Place .....

Returning Officer\*

Date .....

Chief Electoral Officer\*\*

---

\* Indicate name in capitals.

\*\* Indicate designation in capitals.

@ Here insert one of the alternatives as may be appropriate —

- (1) Legislative Council of ..... (State) by the Members of the Legislative Assembly.
- (2) Legislative Council of ..... (State) from the ..... Constituency.

**NOTICE TO CONTESTING, CANDIDATES  
REGARDING PENAL PROVISIONS IN  
THE ELECTION LAW**

Please take note that following are the provisions relating to the corrupt practices and electoral offences in the Representation of the People Act, 1951, and the offences relating to elections in Chapter IX-A of the Indian Penal Code. The list enumerated below is not to be taken as exhaustive. You are advised to study also relevant provisions in the law. The proof of the Commission of these corrupt practices and electoral offences may entail as per law the election being declared void and/or also award of punishments as laid down in the law.

**(I) REPRESENTATION OF THE PEOPLE ACT, 1951**

**A. Corrupt Practices**

1. *Section 123.*—(i) Bribery, (ii) undue influence, (iii) appeal on the ground of religion, race, caste, community or language or the use of, or appeal to religious or national symbols, (iv) promotion of feelings of enmity or hatred between different classes of citizens on grounds of religion, race, caste, community or language, (v) publication of false statement in relation to the personal character or conduct of a candidate or his candidature, (vi) the hiring or procuring of vehicles or use of such vehicle for the free conveyance of voters, (vii) the incurring or authorizing of election expenses in excess of the prescribed limit, and (viii) the obtaining or procuring of assistance from specified categories of Government servants, (ix) booth capturing.

**B. Electoral Offences**

2. *Section 125.*—Promoting enmity between different classes in connection with election.
3. *Section 126.*—Prohibition of public meetings during the prohibited period.
4. *Section 127.*—Disturbance at election meetings.
5. *Section 127-A.*—Restrictions on the printing of pamphlet, posters, etc.

- 
6. *Section 128.*—Maintenance of secrecy of votes.
  7. *Section 130.*—Prohibition of canvassing in or near polling stations.
  8. *Section 131.*—Disorderly conduct in or near polling stations.
  9. *Section 132.*—Misconduct at polling station.
  10. *Section 133.*—Illegal hiring or procuring of conveyances at elections.
  11. *Section 135.*—Removal of ballot paper from polling stations.
  12. *Section 135-A.*—Booth capturing.
  13. *Section 136.*—Fraudulent or unauthorized destruction of election papers, documents, ballot papers, ballot boxes, etc.

## **(II) INDIAN PENAL CODE**

14. *Section 171-B.*—Bribery.
15. *Section 171-C.*—Undue influence at elections.
16. *Section 171-D.*—Personation at elections.
17. *Section 171-G.*—False statement in connection with an election.
18. *Section 171-11.*—Illegal payments in connection with an election.
19. *Section 171-1.*—Failure to keep election accounts.

**COMMISSION'S NOTE FOR THE GUIDANCE OF  
PRINTING AND PUBLISHING OF ELECTION  
PAMPHLETS AND POSTERS**

The attention of all political parties, contesting candidates and owners of printing presses is invited to the section 127-A of the Representation of the People Act, 1951, and the restrictions it imposes on the printing and publishing of election pamphlets and posters.

This section first lays down that every election pamphlet, hand-bill, placard or poster which is printed or multi graphed by any process (except copying by hand) must bear on the front the name and address of the printer and the name and address of the publisher.

The printer of any such document must obtain from the intending publisher a declaration (in duplicate) as to his identity signed by him and attested by two persons to whom he is personally known.

As soon as the document is printed, the printer must send one copy of the declaration and one copy of the document to the Chief Electoral Officer, if the document is printed at the capital of the State and to the District Magistrate of the District in which it is printed in any other case.

Contravention of any of the provisions of the section is made punishable with imprisonment up to six months or fine up to two thousand rupees or with both.

These restrictions, however do not apply to any hand-bill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.

In order that there is a strict observance of, and compliance with the requirements of the above mentioned provisions of law on the subject the Commission has issued the following directives:

- (1) The District Magistrates and other concerned authorities shall be instructed that they should write to all printing press in their Districts —
  - (i) pointing out to them the requirements of the abovementioned section 127-A and instructing them to indicate clearly in print line the names and addresses of printer and publisher;

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- (ii) asking them to send four copies of the printed material and the declarations of the publisher within ten days of its printing, the failure of which would be treated as a violation of the above provisions;
  - (iii) impressing upon them in clear terms that any violation of the provisions of section 127-A would be very seriously viewed and stern action, which may in appropriate cases include even the revocation of the license under the relevant law, would be taken.
- (2) The printer shall be asked to furnish along with the declaration and a copy of the printed material, the particulars regarding number of copies of the pamphlets, etc. printed and the price charged for such job etc., in the Proforma prescribed by the Commission, duly signed and authenticated by such printer.
  - (3) The District Magistrates shall exhibit at some conspicuous place in their office, all the election posters, pamphlets, etc. received by them from the printing press so that the candidates and other interested persons may be able to check in respect of which documents the requirements of law have been complied with, so as to enable them to bring to the notice of the authorities concerned the cases of other election posters, pamphlets, etc., in respect of which the above requirements of law have been violated.

The Chief Electoral Officers shall also do likewise in respect of such documents received by them.

- (4) One copy of such printed matter shall also be sent to the Commission by the District Magistrate, or as the case may be, the Chief Electoral Officer.
- (5) The District Magistrates and other authorities charged with the detection and investigation of offences shall be instructed that they should initiate prompt action and investigation if any case of publication of election poster, pamphlet, etc. in violation of the abovementioned provisions of section 127-A either comes, or is brought to their notice. In all such cases, prosecutions should be launched against the offenders expeditiously.

**PROFORMA FOR SUBMISSION OF  
INFORMATION REGARDING PRINTING OF  
ELECTION POSTERS, PAMPHLETS, ETC.**

1. Name and address of Printer : .....  
.....
2. Name and address of publisher: : .....
3. Date of the printing order of the : .....  
publisher .....  
.....
4. Date of the declaration of the : .....  
publisher .....  
.....
5. Brief particulars of election posters : .....  
Pamphlets etc. ....
6. No. of copies printed of the above : .....  
document .....
7. Printing charges (including cost : .....  
of paper) being charged from the .....  
the publisher in respect of the .....  
above document .....

Place .....

(Signature of Printer)

Date .....

Seal of the Printer

## SAMPLE BALLOT PAPER FOR COUNCIL CONSTITUENCY (FRONT VIEW)

← 15 CM →			
SPACE FOR STITCHING			
PARTICULARS OF THE ELECTION			
Serial Number of Elector .....			
Signature /Thumb impression of elector			
← 2 cm →		← 8 cm →	
← 2 cm →		← 3 cm →	
Serial no. of candidate	Name of the Candidate with party affiliation, if any	Photograph of the candidate	Mark order of preference
	आन सिंह पार्टी का नाम AAN SINGH PARTY NAME		
	दिनेश शर्मा पार्टी का नाम DINESH SHARMA PARTY NAME		
	हरिसंह निर्दलीय HARI SINGH INDEPENDENT		
	जयवीर निर्दलीय JAIVIR INDEPENDENT		
	इनमें से कोई नहीं NONE OF THE ABOVE (NOTA)		

5 mm  
(.5 cm)

5 mm  
(.5 cm)

20 cm



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SAMPLE BALLOT PAPER FOR ELECTIONS BY MEMBERS OF  
LEGISLATIVE ASSEMBLY (BACK VIEW)

SPACE FOR STITCHING

Serial Number of Ballot Paper .....

PARTICULARS OF THE ELECTION

Serial Number of Ballot Paper .....

## SAMPLE BALLOT PAPER FOR COUNCIL CONSTITUENCY (FRONT VIEW)

15 CM			
SPACE FOR STITCHING			
PARTICULARS OF THE ELECTION			
Electoral Roll Part No .....			
Serial Number of Elector .....			
Signature /Thumb impression of elector			
2 cm		8 cm	
2 cm		3 cm	
Serial no. of candidate	Name of the Candidate with party affiliation, if any	Photograph of the candidate	Mark order of preference
	आन सिंह पार्टी का नाम AAN SINGH PARTY NAME		
	दिनेश शर्मा पार्टी का नाम DINESH SHARMA PARTY NAME		
	हरिसंह निर्दलीय HARI SINGH INDEPENDENT		
	जयवीर निर्दलीय JAI VIR INDEPENDENT		
	इनमें से कोई नहीं NONE OF THE ABOVE (NOTA)		

5 mm(.5 cm) ↓

5 mm(.5 cm)

20 cm

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SAMPLE BALLOT PAPER FOR COUNCIL CONSTITUENCY (BACK VIEW)

SPACE FOR STITCHING

Serial Number of Ballot Paper .....

PARTICULARS OF THE ELECTION

Serial Number of Ballot Paper .....

**Declaration by candidate/election agent/proposer while submitting the photograph of the candidate**

**Subject:** Election to ..... (mention the name of the House) from ..... (name of the constituency)/election to Council of States/Legislative Council by Assembly Members.

I .....  
..... (name and address), son/daughter/wife of Sh....., nominated as candidate hereby submit the photograph for the purpose of printing the same on the ballot paper. I declare that the photograph has been taken during the last 3 months before the date of notification of election.

(fill up this part when the candidate himself is submitting the photograph).

I .....  
..... (name), election agent/proposer of Sh..... (name and address of the candidate), son/daughter/wife of Sh....., a candidate for the abovementioned election, hereby submit the photograph of the said candidate for the purpose of printing the same on the ballot paper. I declare that the photograph has been taken during the last 3 months before the date of notification of election.

(fill up this part when the election agent/proposer is submitting the photograph).

Date : .....

Name : .....

Address : .....

Tel No. : .....

**DIRECTION**

**No. 576/3/2015/SDR**

**Dated 21<sup>st</sup> May, 2015**

Whereas, under Rules 22, 30 and 49B read with Rule 70 of the Conduct of Elections Rules, 1961, the ballot paper to be displayed on the balloting unit of the EVM, ordinary ballot papers, and postal ballot papers shall contain such particulars as the Election Commission may specify; and

- (1) Whereas, in terms of abovementioned Rules, the Commission has specified the particulars to be printed on the ballot paper to be displayed on the balloting unit and the postal ballot paper, and on ballot papers for elections from Council Constituencies and at elections by Assembly members; and
- (2) Whereas, the Commission has noted that there are many cases where candidates with same or similar names contest from the same constituency, and although appropriate suffixes are added to the names of candidates in the event of two or more candidates having same name, the Commission considers that additional measures are required for removing confusion in the minds of electors at the time of voting, and further, the Commission considers that photographs of candidates on ballot paper will facilitate the electors in casting their votes and also the candidates in their campaign;
- (3) Now, therefore, after having considered all aspects of the matter, the Commission in partial modified of its existing directions under Rule 22, Rule 30 and Rule 49B of the Conduct of Elections Rules, 1961, hereby specifies that for elections to be held from 1<sup>st</sup> May, 2015 onwards, the postal ballot papers, the ordinary ballot papers and the ballot papers to be displayed on the balloting unit of EVMs shall, in addition to the particulars as per the existing directions, also contain the photograph of the candidate. The photograph of the candidate shall be printed in the panel for the name of the candidate and shall appear on the right side of the name in between the name and symbol of the candidate or the column for marking vote/preference, as the case may be. The specifications of the photograph are as follows:-
  - (i) Candidates are required to submit their recent photograph (taken

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- during the preceding period of 3 months before the date of notification).
- (ii) Photograph should be of stamp size 2 cm. X 2.5 cm. (two cm. in breadth and 2.5 cm. in height) in white/off white background, with full face view directly facing the camera, neutral facial expression with eyes open. The photo may be in colour or black and white as may be convenient for the candidate.
  - (iii) Photograph should be in normal clothing. Photograph in uniform is not permitted. Caps/hats should be avoided. Dark glasses also to be avoided.
- (4) The above direction shall apply in relation to all elections to the House of the People, Council of States, Legislative Assembly and Legislative Council to be held hereafter.

By Order  
Secretary  
(Anuj Jaipurkar)

**Sample-1**

<b>Sl. No.</b>	<b>Name of Candidate and Party affiliation</b>	<b>Photo of candidate</b>	<b>Column for marking preference</b>
1.	Candidate A XXX Party		5
2.	Candidate B YYY Party		1
3.	Candidate C ZZZ Party		3
4.	Candidate D Independent		4
5.	Candidate E Independent		
6.	None of the Above		2

*In this case, vote will be valid for the first preference (i.e. for candidate no. 2 and treated as exhausted as regards second preference onwards as 2<sup>nd</sup> preference is marked for NOTA).*

**Sample-2**

<b>Sl. No.</b>	<b>Name of Candidate and Party affiliation</b>	<b>Photo of candidate</b>	<b>Column for marking preference</b>
1.	Candidate A XXX Party		3
2.	Candidate B YYY Party		
3.	Candidate C ZZZ Party		1
4.	Candidate D Independent		5
5.	Candidate E Independent		2
6.	None of the Above		4

*In this case, vote will be valid for the first three preferences as preferences 1,2 and 3 have been validly marked and treated as exhausted as regards fourth preference onwards.*

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### Sample-3

Sl. No.	Name of Candidate and Party affiliation	Photo of candidate	Column for marking preference
1.	Candidate A XXX Party		3
2.	Candidate B YYY Party		1
3.	Candidate C ZZZ Party		2
4.	Candidate D Independent		5
5.	Candidate E Independent		4
6.	None of the Above		6

*In this case, vote will be valid for all the five preferences as preferences have been validly marked against the candidates.*

### Sample-4

Sl. No.	Name of Candidate and Party affiliation	Photo of candidate	Column for marking preference
1.	Candidate A XXX Party		
2.	Candidate B YYY Party		
3.	Candidate C ZZZ Party		
4.	Candidate D Independent		1
5.	Candidate E Independent		
6.	None of the Above		1

*In this case, vote will be invalid as 1st preference is marked both for a candidate and NOTA .*



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### Sample-5

Sl. No.	Name of Candidate and Party affiliation	Photo of candidate	Column for marking preference
1.	Candidate A XXX Party		
2.	Candidate B YYY Party		
3.	Candidate C ZZZ Party		
4.	Candidate D Independent		
5.	Candidate E Independent		
6.	None of the Above		1

*In this case, vote will be invalid as 1st preference is marked for NOTA .*

### Sample-6

Sl. No.	Name of Candidate and Party affiliation	Photo of candidate	Column for marking preference
1.	Candidate A XXX Party		3
2.	Candidate B YYY Party		4
3.	Candidate C ZZZ Party		5
4.	Candidate D Independent		2
5.	Candidate E Independent		6
6.	None of the Above		1

*In this case, vote will be invalid as 1st preference is marked against NOTA.*

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### Sample-7

<b>Sl. No.</b>	<b>Name of Candidate and Party affiliation</b>	<b>Photo of candidate</b>	<b>Column for marking preference</b>
1.	Candidate A XXX Party		1
2.	Candidate B YYY Party		4
3.	Candidate C ZZZ Party		5
4.	Candidate D Independent		3
5.	Candidate E Independent		2
6.	None of the Above		X

*In this case, vote will be valid for all preferences as the preferences have been validly marked against the candidates.*

**ELECTION COMMISSION OF INDIA**

NirvachanSadan, Ashoka Road, New Delhi-110001

**No. 76/Instructions/2015/EEPS/Vol-IV**

**Dated: 29<sup>th</sup> June, 2015**

To

1. The Director General of Investigation (Inv.), Aayakar Bhawan, BasheerBagh, L. B. Stadium Road, Hyderabad-500004
2. The Director General of Investigation (Inv.), Central Revenue Building, 3rd Floor, Birchand Patel Marg, Patna-800001, Bihar
3. The Director General of Income Tax (Inv.), C R Building, 1st Floor, Sector-17E, Chandigarh
4. The Director General of Income Tax (Inv.), Bangalore, C R Building, 3rd Floor, Queens Road, PB 5005, Bangalore-560001, Karnataka
5. The Director General of Income Tax (Inv.), AayakarBhawan, 12, Sadhu Vaswani Road, Pune-411001, Maharashtra
6. The Director General of Income Tax (Inv.), 3rd Floor, Scindia House, Ballard Estate, Mumbai-400038
7. The Director General of Income Tax (Inv.), North, AayakarBhawan, Annexe 5, Ashok Marg, Lucknow-226001, Uttar Pradesh

Subject: Biennial elections/bye-elections to State Legislative Councils– Monitoring of election expenses- regarding

Sir/Madam,

I am directed to state that instances of distribution of money to electors in biennial elections to Legislative Councils of States have been reported to the Commission in the recent past. This vitiates the conduct of free and fair election.

I am further directed to request you to open a Complaint Cell with toll free number, whenever, the Commission announces biennial elections/bye-elections to Legislative Council of States under your jurisdiction and to monitor closely all the airports, major railway stations, hotels, farm houses, hawala agents, financial brokers, cash couriers, pawn brokers and other suspicious agents/ persons likely to

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be used for movement of Money during the election process. You are also requested to requisition the services of the officers under your supervision for keeping strict vigil over excessive cash withdrawal, transport of cash, distribution of cash, etc., and report to the Commission with copy to the CEO concerned.

Kindly acknowledge the receipt of these instructions referred to above.

Yours faithfully,

(S. K. Rudola)

SECRETARY

1. Copy forwarded to the CEOs of Andhra Pradesh, Bihar, Jammu & Kashmir, Karnataka, Maharashtra, Uttar Pradesh, Telengana for information and necessary action.
2. Code of Conduct and Biennial Elections Section/US(MG)

(S. K. Rudola)

SECRETARY

## ANNEXURE (X-B)

Daily Activity Report by Flying Squad on seizure of Cash / Other items related  
 Complaints on the date ..... Reference No. ....  
 Name of the Sub-Division ..... Name and Designation of the  
 Magistrate ..... State .....

Name of the Police Officer .....

1	2	3	4	5	6	7	8	9	10
S. No.	Name of constituency/district	Nature of the complaint/information	Name of the person against whom complaint received	Cash/ Other Items seized by FS	Cash/ Other Items Seized by Other Police authority	FIRs filed	Name of candidate or party with which links found	Name and designation of the authority to whom seized cash/items is handedover	Remarks (If any)
1									
2									
3									
Description				Figure on date of report			Progressive figure including the date of report		
1	Total amount of cash/Other Items seized by Flying Squad								
2	Total amount of cash/Other Items seized by Other Police authority								
3	Total of number of complaints of cash/ Other Items, received								
4	Total of number of complaints, verified (a) Within half an hour of receipt (b) Beyond half an hour of receipt								
5	Total of number of complaints, pending								
6	Total number of FIRs filed upto the end of the day								

Signature  
 Name & Designation of the Officer in Charge of  
 Flying Squad/Nodal Officer of State Police HQ

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**Note:**

1. The Officer in charge of the Flying Squad will submit the report for each Flying Squad in this format to the DEO with copy to RO, SP, General Observer and Expenditure Observer.
2. The SP will send the report to the Nodal Officer in State Headquarter after compiling the data for the entire district.
3. The Nodal Officer of State Police HQ will compile the data for the whole state and send the report to Commission with copy to CEO of the State.

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## ANNEXURE (X-C)

Daily Activity Report by Flying Squad on MCC related Complaints on the date ..... Reference No. .... Name of the Sub-Division ..... Name and Designation of the Magistrate ..... State ..... Name of the Police Officer .....

1	2	3		4		5	6
S. No.	Name of constituency/district	Name of Complainant	Party Affiliation, if any	Complaint against (Name)	Party Affiliation, if any	Brief Description of MCC violation issue	Action Taken Report/Seizure (if any)
1							
2							
3							

Signature  
Name & Designation of the Officer in Charge of  
Flying Squad/Nodal Officer of State Police HQ

### Note:

1. The Officer incharge of the Flying Squad will submit the report for each Flying Squad in this format to the SP with copy to RO, DEO, SP, General Observer and Expenditure Observer.
2. The SP will send the report to the Nodal Officer in State Headquarter after compiling the data for the entire district.
3. The Nodal Officer of State Police HQ will compile the data for the whole state and send the report to Commission with copy to CEO of the State.

## ANNEXURE (X-D)

Daily Activity Report by Static Surveillance Teams on seizure of Cash / Other items related Complaints on the date ..... Place of Check Post .....  
 ..... Name and Designation of the Magistrate .....  
 ..... District ..... State .....  
 Name and Designation of the Police Officer .....

1	2	3	4	5	6	7	8
S. No.	Number & name of Constituency/ district	Name and Address of Persons searched at the Check Post	Cash/ Other Items	FIR filed	Name of candidate or party having links	Name & designation of Authority to whom cash, goods seized goods are handed over after seizure	Remarks
1							
2							
3							
Description						Figure on date of report	Progressive figure including the date
A.		Total amount of cash Seized by SST					
B.		Total amount of Other items seized by SST					
C.		No. of FIRs lodged					

Signature  
 Name & Designation of the Officer in Charge of  
 Static Surveillance Team / Nodal Officer of State Police HQ

**Note:**

1. The Officer incharge of the SST will submit the report for each Static Surveillance Team in this form at to the DEO with copy to RO, SP, General Observer and Expenditure Observer and Police Observer.
2. The SP will send the report to the Nodal Officer in State Headquarter after compiling the data for the entire district.
3. The Nodal Officer of State Police HQ will compile the data for the whole state and send the report to Commission with copy to CEO of the State/UT



**DUTIES OF POLLING OFFICERS AT A  
SINGLE ELECTION TO THE COUNCIL OF STATES/  
STATE LEGISLATIVE COUNCIL BY MEMBERS OF  
LEGISLATIVE ASSEMBLY**

**(When polling party consists of one Presiding Officer and two Polling Officers)**

**First Polling Officer**

The first Polling Officer will be in charge of the marked copy of the electoral roll (i.e. the list of electors) and responsible for the identification of electors. The voters at this election will normally be known to the Presiding Officer and the Polling Officers and there will not be any difficulty in their identification. A voter may, however, come with an unofficial identity slip which he has received from a candidate. The slip should be on plain white paper and may contain the name of the elector, his serial number in the electoral roll and the number of the electoral part. The slip should not contain the name of the candidate and/or the name of his party. If the voter does not have any such identity slip, the Polling Officer will himself ascertain his name, etc., and will then locate his name from the electoral roll kept by him. The elector should not be compelled to bring an identity slip, nor should he be turned away solely because he has not brought such a slip. The Polling Officer should not treat the identity slip brought by an elector as a conclusive proof of his identity.

After locating the name of the elector and checking it with the particulars in the relevant entry in the roll, the first Polling Officer will call out loudly the page number, the part number, the serial number and the name of the elector to the hearing of the polling agents. The identity slip, if any, brought by the elector should then be torn into pieces and put in the waste paper basket supplied. Such torn slips should not be thrown on the floor. If there is no challenge as regards the identity of the voters, the Polling Officer will underline in every case the entry relating to the elector in the marked copy of the electoral roll with him and, where the elector is a female, put a (√) mark also on the left-hand side of the name of the female elector.

The first Polling Officer will also be in charge of the bundles of ballot papers. He will record on the counterfoil of the ballot paper the electoral roll part number

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and the serial number of the elector, as entered in the marked copy of the electoral roll.

He will then obtain the signature/thumb impression of the voter on the counterfoil of ballot paper. For the purpose of obtaining the thumb impression the stamp pad of purple colour supplied to your polling station should be used and for obtaining signature the copying pencil/ball-points pen should be used. For the use of voters whose thumb impression has been taken on the counterfoil of the ballot paper, a wet piece of cloth may be kept on the table of this Polling Officer for removing the ink. The ballot paper will then be detached from the counterfoil with the help of a flat metal rule having a sharp edge on the lengthwise- side. It will thereafter be delivered to the voter and he will be directed to the second Polling Officer sitting near the voting compartment. No ballot paper should be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of the ballot paper. It is not necessary to have the thumb impression of the elector on the counterfoil attested by the Presiding Officer or a Polling Officer or by any other officer.

### **Second Polling Officer**

The second Polling Officer will be in charge of the articles to be supplied to the elector for marking the ballot paper. He will take the ballot paper from the elector and fold it twice, first vertically and then horizontally, in such a way that the distinguishing mark is clearly visible at the top right hand corner on the back of the ballot paper. He will then unfold the ballot paper and hand it over to the elector. He will also give to the voter marking article and if specifically requested by the voter, instruct him by making a mark with it on a piece of plain paper. The voter will then be asked to proceed to a voting compartment. After recording his vote, the elector will refold the ballot paper along the lines on which it was folded before it was issued to him, come out of the voting compartment and insert the ballot paper into the ballot box kept in front of the Polling Officer.

The Polling Officer in charge of the ballot box will keep a strict vigil to see that no elector inserts anything other than the genuine ballot paper into the ballot box. For this purpose, he may require any elector to show the distinguishing mark and the Presiding Officer's signature on the back of the ballot paper before its insertion into the ballot box.

**DUTIES OF POLLING OFFICERS AT A  
SINGLE ELECTION TO THE COUNCIL OF STATES/  
STATE LEGISLATIVE COUNCIL BY MEMBERS OF  
LEGISLATIVE ASSEMBLY**

**(When polling party consists of one Presiding Officer and three Poling Officers)**

**First Polling Officer**

The first Polling Officer will be in charge of the marked copy of the electoral roll (i.e. the list of electors) and responsible for the identification of electors. The voters at this election will normally be known to the Presiding Officer and the Polling Officers and there will not be any difficulty in their identification. A voter may, however, come with an unofficial identity slip which he has received from a candidate. The slip should be on plain white paper and may contain the name of the elector, his serial number in the electoral roll and the number of the electoral roll part. The slip should not contain the name of the candidate and/or the name of his party. If the voter does not have any such identity slip, the Polling Officer will himself ascertain his name, house number, etc., and will then locate his name from the electoral roll kept by him. The elector should not be compelled to bring an identity slip, nor should he be turned away solely because he has not brought such a slip.

After locating the name of the elector and checking it with the particulars in the relevant entry in the roll, the first Polling Officer will call out loudly the page number, the part number, the serial number and the name of the elector to the hearing of the polling agents. The identity slip, if any, brought by the elector should then be torn and destroyed. If there is no challenge as regards the identity of the voter, the Polling Officer will underline in every case the entry relating to the elector in the marked copy of the electoral roll with him and where the elector is a female, put a (√) mark also on the left hand side of the name of the female elector.

The voter will then move to the second Polling Officer.

**Second Polling Officer**

The second Polling Officer will be in charge of the bundles of ballot papers. As the first Polling Officer reads aloud the part number and serial number of the

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elector, the second Polling Officer will record on the counterfoil of the ballot paper the electoral roll part number and the serial number of the elector as entered in the marked copy of the electoral roll.

The Polling Officer will then obtain the signature/thumb impression of the voter on the counterfoil of ballot paper. For the purpose of obtaining the thumb impression a stamp pad of purple colour supplied to your polling station should be used and for obtaining signature a copying pencil/ball-point pen should be used. For the use of voters whose thumb impression has been taken on the counterfoil of the ballot paper, a wet piece of cloth will be kept on the table of this Polling Officer for removing the ink the ballot paper will then be detached from the counterfoil with the help of a flat metal rule having a sharp edge on the lengthwise side. It will thereafter be delivered to the voter and he will be directed to the third Polling Officer sitting near the voting compartment. No ballot paper should be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of the ballot paper. It is not necessary to have the thumb impression of the elector on the counterfoil attested by the Presiding Officer or a Polling Officer or by any other officer.

### **Third Polling Officer**

The third Polling Officer will be in charge of the article to be supplied to the elector for marking the ballot paper. He will take the ballot paper from the elector and fold it twice, first vertically and then horizontally, in such a way that the distinguishing mark is clearly visible at the top right-hand corner on the back of the ballot paper. He will then unfold the ballot paper and hand it over to the elector. He will also give to the voter the marking article and, if specifically requested by the voter, instruct him by making mark with it on a piece of plain paper. The voter will then be asked to proceed to voting compartment. After recording his vote, the voter will refold the ballot paper along the lines on which it was folded before issue to him, come out of the voting compartment and insert the ballot paper into the ballot box kept in front of the Polling Officer.

The Polling Officer in charge of the ballot box will keep a strict vigil to see that no elector inserts anything other than the genuine ballot paper into the ballot box. For this purpose, he may require any elector to show the distinguishing mark and the Presiding Officer's signature on the back of the ballot paper before its insertion into the ballot box.

**INSTRUCTIONS FOR RECORDING OF VOTES  
AT ELECTIONS TO THE COUNCIL OF STATES AND  
STATE LEGISLATIVE COUNCILS**

**A. Method of Voting**

1. For the purpose of voting, use only the violet sketch pen supplied by the Returning Officer, which will be handed over to you along with the ballot paper. Do not use any other pen, pencil, ballpoint pen or any other marking instrument, as that will invalidate your ballot paper.
2. Vote by placing the figure “1” in the column marked ‘order of preference’ provided opposite the name of the candidate whom you choose as your first preference. This figure “1” shall be placed opposite the name of only one candidate.
3. Even if the number of candidates to be elected is more than one, the figure “1” shall be put opposite the name of only one candidate.
4. You have as many preferences as there are contesting candidates irrespective of the number of candidates to be elected. For example, if there are five contesting candidates and only two are to be elected, you can mark preferences from 1 to 5 against the candidates of your choice in order of your preference.
5. Indicate your further preferences for the remaining candidates by placing in the column marked “Order of Preference” provided opposite the names of such candidates the subsequent figures 2,3,4 etc., in the order of your preference.
6. Make sure that you put only one figure opposite the name of any candidate and also make sure that the same figure is not put opposite the names of more than one candidate.
7. Preference shall be indicated in figures only, i.e. 1,2,3, etc., and shall not be indicated in words, one, two, three, etc.
8. Figures may be marked in the international form of Indian numerals like 1,2,3, etc., or in the Roman form I,II, III, etc., or in Devanagari form 1, 2, 3, or in the form used in any Indian Language, recognized in the Eighth Schedule to the Constitution.

- 
9. Do not write your name or any words and do not put your signature or initials on the ballot paper. Also, do not put your thumb impression. These will make your ballot paper invalid.
  10. It is not sufficient to put a mark “ or ‘X’ against the candidates of your choice to indicate your preferences. Such ballot paper will be rejected. Indicate your preferences only in figures 1,2,3, etc., as explained above.
  11. To make your ballot paper valid, it is necessary that you should indicate your first preference by placing figure “1” against one of the candidates. The other preferences are optional, i.e., you may or may not indicate the second and subsequent preferences.

### **B. Invalid Ballot Papers**

A ballot paper shall be invalid on which-

1. the figure 1 is not marked;
2. the figure 1 is set up opposite the name of more than one candidate;
3. the figure 1 is so placed as to render it doubtful to which candidate it is intended to apply;
4. the figure 1 and some other figure like 2, 3 etc., are also set opposite the name of the same candidate;
5. the preferences are indicated in words instead of in figures;
6. there is any mark or writing by which the elector can be identified; and
7. there is any figure marked otherwise than with the violet sketch pen supplied by the Returning Officer for the purpose of marking such figures.

**COPY OF COMMISSION'S LETTER NO. 318/WB/68,  
DATED THE 12TH FEBRUARY, 1968, ADDRESSED TO  
THE CHIEF ELECTORAL OFFICERS OF ALL  
STATES AND UNION TERRITORIES**

**Subject:** Biennial elections to the Council of States, 1968-List of Members of State Legislative Assemblies and Electoral Colleges.

I am directed to enclose a copy of letter No. I.L.A7E., dated the 29th January, 1968 received from the Secretary, West Bengal Legislative Assembly, Calcutta, on the above subject. The Commission made a reference to the Supreme Court in the matter referred to therein. The Honorable Court has ordered that the Petitioner Shri Satyanarayan Mitra cannot be allowed to take part in the elections to the Council of States or the Legislative Council of the State. A copy of the Supreme Court's letter No. D-5299/67-S.C.-III, dated the 7th February, 1968, along with a copy of the Court's Order dated the 27th October, 1967 is sent herewith.

**COPY OF LETTER NO. I.L.A7E., DATED THE 29TH JANUARY, 1968, FROM SHRI P. ROY, SECRETARY TO THE WEST BENGAL LEGISLATIVE ASSEMBLY, CALCUTTA, TO THE SECRETARY, ELECTION COMMISSION OF INDIA, NEW DELHI**

**Subject:** Biennial elections to the Council of States, 1968-from West Bengal.

In connection with the ensuing election mentioned above, I am to inform you that Shri Satyanarayana Mitra a member of the West Bengal Legislative Assembly from Bankura Constituency, whose election was set aside by the Calcutta High court, has been debarred by the Supreme Court from taking part in the proceedings of the Assembly, and from voting and from drawing salaries etc. [vide orders of the Supreme Court on Civil Miscellaneous Petition No. 2818 of 1967 in the matter of Civil Appeal No. 1408 (NCE) of 1967, a copy of which was forwarded to you by the Assistant Registrar, Supreme Court in his letter No. D-5299/67-S.C.-III, date 30th October 1967] pending the hearing of the appeal.

In view of the above and also in view of the fact that voting in the Assembly is distinct from voting in any election elsewhere, although the power of voting in either

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is derivable from his membership of the Assembly, I am to request you to let me know whether his name should be included in the list of electors maintained under section 152 of the R.P. Act, 1951 and whether he should be eligible to vote in the ensuing biennial elections to the Council of States in 1968 from this State.



**COPY OF LETTER NO.D-5299/67- S.C.III,  
DATED THE 7TH FEBRUARY, 1968 FROM THE  
ASSISTANT REGISTRAR, SUPREME COURT OF INDIA,  
ADDRESSED TO THE SECRETARY, ELECTION  
COMMISSION OF INDIA, NEW DELHI  
Civil Appeal No. 1408 (NCE) of 1967**

**Satyanarayan Mitra**

**Appellant**

**Versus**

**Bireswar Ghose and other**

**Respondents**

With reference to your letter No. 318/WB/68/ 3742, dated the 2nd February, 1968, I am to say that the matter was placed before this Court today for directions when the Court was pleased to pass the following Order:-

“The Court intended by its Stay Order dated the 27th October, 1967 that the petitioner Satyanarayan Mitra will only be permitted to attend the Legislative Assembly in order that he may not lose his seat and that he will get no other advantage by virtue of this order except the Railway Pass. Therefore, he cannot be allowed to vote in the election to the Council of States or the Legislative Council of the State.”

**IN THE SUPREME COURT OF INDIA, CIVIL  
APPELLATE JURISDICTION**

*Civil miscellaneous Petition No. 2818 of 1967*

(Application for stay by notice of motion)

In the matter of:

**Civil Appeal No. 1408 (NCE) of 1967**

(Appeal under section 116-A of the Representation of the People Act, 1951 from the Judgment and Order dated the 21st, 22nd August, 1967 of the Calcutta High Court in Election Petition Case No. 1 of 1967.)

The application above mentioned being called on for hearing before this Court on the 27th October, 1967 upon hearing Mr. A.K. Sen, Counsel for the Petitioner/

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Appellant and Mr. SomNathChatterjee, Counsel for Respondent No. 1. This court doth order: (1) That the operation of the judgment and order dated 21st/22nd August, 1967 of the Calcutta High Court in Election Petition Case No. 1 of 1967 be and is hereby stayed pending the hearing and final disposal by this Court of the appeal above mentioned but the Petitioner/Appellant herein shall attend the West Bengal Legislative Assembly in order that he may not lose his seat and he shall take no part in its proceedings and shall not vote and draw any salary or allowances subsequent to the date of the Order of the High Court under Appeal in this Court; (2) that the parties herein shall file list of documents to be included in the appeal record within fifteen days of the receipt of the notice under rule 15(1) and (2) of Order XV, Supreme Court Rules, 1966; (3) That the Petitioner/Appellant herein shall file his statement of case within 30 days of the receipt of the notice of authentication of record and the Respondents herein shall file their statement of a case within 15 days thereafter; (4) that the hearing of the above appeal shall be expedited and date of hearing will be fixed as soon as possible after the record is ready; (5) that the Registrar of the Calcutta High Court DO Forthwith transmit to this Court the entire original record including all the ballot papers relating to the above matter; AND THIS COURT DOTH FURTHER ORDER that this ORDER be punctually observed and carried into execution by all concerned.

WITNESS the Honorable Mr. KailashNathwanchoo, chief Justice of India, at the Supreme Court, New Delhi, this the 27th day of October, 1967.

M.P Saxena,  
Deputy Registrar

**PART I**

**Declaration by the Presiding Officer before the Commencement of the poll**

Election to... ..

Serial No. and Name of Polling Station .....

Date of Poll .....

I hereby declare-

- (1) that I have demonstrated to the polling agents and other persons present that the ballot box to be used for the poll is empty;
- \* (2) that on the paper seal used for securing the ballot box I have affixed my own signature and obtained thereon the signatures of such of the polling agents as are present and desirous of affixing the same;  
\*[Inapplicable where paper seal is not used.]
- (3) that I have demonstrated to the polling agents and others present that the marked copy of the electoral roll to be used during the poll does not contain any marks other than those used for issuing postal ballot papers; and
- (4) that I have allowed the polling agents to note the first and the last of the serial numbers of the ballot papers which will be used at the polling station.

Signature (.....)

Presiding Officer

Signature of polling agents:

- 1 ....(of candidate .....)
- 2 ..... (of candidate ....)
- 3....(of candidate .....)
- 4 ..... (of candidate ....)
- 5....(of candidate .....)
- 6 ..... (of candidate ....)
- 7 ....(of candidate .....)
- 8 ..... (of candidate ....)
- 9....(of candidate .....)

The following polling agent/s declined to affix his/their signature/s on this declaration:

- 1 ....(of candidate.....)
- 2 ..... (of candidate..... )
- 3 ....(of candidate.....)
- 4 ..... (of candidate..... )

Signature (.....)

Date .....

Presiding Officer

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**PART II**

**Declaration by the Presiding Officer at the time of use of  
subsequent Ballot Boxes**

Election to .....

Serial No. and Name of Polling Station .....

Date of Poll .....

I hereby declare-

- (1) that I have demonstrated to the polling agents and other persons present that the second/third ( ) ballot box to be used for the poll is empty; and
  - \* (2) that on the paper seal used for securing the ballot box I have affixed my own signature and obtained thereon the signatures of such of the polling agents as are present and desirous of affixing the same;
- \*[Inapplicable where paper seal is not used.]

Signature( ..... )

Presiding Officer

Signature of polling agents:

- 1 ....(of candidate..... )      2.....(of candidate .... )
- 3.....(of candidate..... )      4.....(of candidate .... )
- 5.....(of candidate..... )      6.....(of candidate .... )
- 7.....(of candidate..... )      8.....(of candidate .... )
- 9 ....(of candidate ..... )

The following polling agent/s declined to affix his/their signature/s on this declaration:

- 1 ....(of candidate ..... )      2..... (of candidate .... )
- 3.....(of candidate ..... )      4..... (of candidate .....

Signature(.....)

Presiding Officer

Date .....

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**PART III**

**Declaration at the end of the poll**

I have furnished to the polling agents, who were present at the polling station at the close of the poll and whose signatures are affixed below, an attested copy of each of the entries in the ballot paper account in Form 16 as required under rule 45(2) of the Conduct of Election Rules, 1961.

Signature (.....)

Presiding Officer

Date.....

Received an attested copy of the entries made in the ballot paper account.

Signature of polling agents:

- |                           |                              |
|---------------------------|------------------------------|
| 1.... (of candidate.....) | 2 ..... (of candidate..... ) |
| 3.... (of candidate.....) | 4 ..... (of candidate..... ) |
| 5.... (of candidate.....) | 6 ..... (of candidate..... ) |
| 7.... (of candidate.....) | 8 ..... (of candidate..... ) |
| 9.... (of candidate.....) |                              |

The following polling agent/who were present at the close of the poll declined to receive an attested copy of the ballot paper account and to give a receipt therefore and so an attested copy of the ballot paper account was not supplied to them:

- |                           |                             |
|---------------------------|-----------------------------|
| 1.....(of candidate.....) | 2 .....(of candidate..... ) |
| 3.....(of candidate.....) | 4.....(of candidate..... )  |
| 5.....(of candidate.....) | 6.....(of candidate.....)   |
| 7.....(of candidate.....) | 8.....(of candidate.....)   |
| 9.....(of candidate.....) |                             |

Signature ( ..... )

Presiding Officer

Date .....

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**ANNEXURE XI(i)-F(a)**

**Declaration by the Companion of Illiterate, Blind of Infirm Elector**

Election to .....

Serial No. and Name of Polling Station .....

I, ..... son of .....  
aged ..... resident of\*.....  
hereby declare that -

- (a) I have not acted as companion of any other elector at any polling station to-day, the .....
- (b) I will keep secret the vote recorded by me on behalf of .....

.....  
Signature of companion

\* Full address to be given

§ Name, Part No. and Serial Number of elector.

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**ANNEXURE XI(i)-F(b)**

**Declaration by Illiterate/Blind or Otherwise Infirm Elector**

I,.....S/D/W/o .....  
..... R/o .....  
....., do hereby solemnly affirm and declare that I am unable to read the ballot paper or to record vote thereon in accordance with Rule 37A of the Conduct of Elections Rule, 1961 by the reason of illiteracy/blindness/other infirmity.

Signature/Left Hand Thumb Impression of elector\_\_\_\_\_

Name of Elector\_\_\_\_\_

Part No. & Serial No. in the Electoral Rolls\_\_\_\_\_

Declaration given in my presence

Signature of Presiding Officer

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**ANNEXURE XI(i)-G****FORM 16 (Sample Form)**

[See rules 45, 56(7) and 56-A(7)]

**Ballot Paper Account**

Election to the Council of States by Members of U.P. Legislative Assembly.

No. and name of Polling Station (Place of Poll) -

Vidhan Sabha Library

	Serial Nos.		Total No.
	From	To	
1. Ballot paper received	001	430	430
2. ballot papers unused (i.e. not issued to voters)			
(a) With this signature of Presiding Officer	422	423	2
(b) Without the signature of Presiding Officer	424	429	6
* Total :- (a+b)			<b>8</b>
3. Ballot papers used at the polling station (1-2=3)			<b>422</b>
4. Ballot papers used at the polling stations but NOT INSERTED INTO THE BALLOT BOX			
(a) Ballot papers cancelled for violation of voting procedure under rule 39A	239	--	1
(b) Ballot papers cancelled for other reasons	371	--	1
(c) Ballot papers used as tendered ballot papers	430	--	1
*Total (a+b+c)			<b>3</b>
5. Ballot papers to be found in the ballot box (3-4=5)			<b>419</b>

Signature of the Presiding Officer

Date .....

\*(Serial numbers need not be given)

Dated: .....

To:

From:

**PROFORMA FOR SEEKING PERMISSION FOR COMMENCEMENT  
OF COUNTING OF VOTES**

**Name of State** : .....

**Time of Report** : .....

1. Interruption or obstruction of poll due to riots, :  
Open violence, natural calamity or any other  
small cause.
2. Vitiating of the poll by any of the ballot boxes :  
having been unlawfully taken out of the custody  
of the Presiding Officer, accidentally or  
unintentionally lost or destroyed or damaged or  
tampered with.
3. The ballot papers having been unlawfully marked :  
by any person and deposited in the ballot box
4. Booth capturing :
5. Serious complaints :
6. Violence and breach of law and order :
7. Mistakes and irregularities committed which :  
have a bearing on the election
8. Weather condition :



- 
9. Poll percentage :
  10. Whether all the polling parties have returned to  
Headquarter or not :
  11. Whether all the diaries of Presiding Officers have  
been scrutinized and irregularities, if any detected :
  12. Recommendations regarding repoll/fresh poll,  
if Any :
  13. Remarks :

Place : \_\_\_\_\_

Signature of Returning Officer

Date : \_\_\_\_\_

Tel. No. \_\_\_\_\_

Fax No. \_\_\_\_\_

Recommendation of the Observer

Signature of the Observer

### **Sealing of election papers**

After the close of poll, seal all the election papers in separate packets as required by rule 46. All the packets so sealed except the covers containing (i) the ballot paper account, (ii) paper seal account, (iii) the declarations by the Presiding Officer and (iv) the Presiding Officer's diary should be put and sealed in four large packets as explained in the following paragraphs and sent to the Returning Officer. The covers containing (i) the ballot paper account, (ii) paper seal account (iii) the declarations by the Presiding Officer and (iv) the Presiding Officer's diary should, however, be sent separately to the receiving Centre for election papers.

You should allow each candidate or his election agent or his polling agent who may be present at the polling station to affix their seals on the envelopes and packets containing the following documents:

- (i) the marked copy of the electoral roll;
- (ii) the counterfoils of used ballot papers (at the end of the poll, if the last bundle of ballot papers used for the poll contains some unused ballot papers, the counterfoils of used ballot papers in the bundle should be separated from the bundle and kept in this envelope. The counterfoils so separated should be tagged properly);
- (iii) the signed but unused ballot paper with counterfoils, if any;
- (iv) the other unused ballot papers with counterfoils;
- (v) the ballot papers cancelled for violation of voting procedure;
- (vi) the returned and other cancelled ballot papers;
- (vii) the tendered ballot papers and the list of tendered votes in Form 15;
- (viii) the list of challenged votes;
- (ix) the unused and damaged paper seals, if any;
- (x) appointment letters of polling agents; and
- (xi) any other papers that the Returning Officer has directed to be kept in a sealed packet.

### **Packing of 'Statutory Cover' and 'Non statutory Covers and election materials**

In order to avoid delay and inconvenience of waiting at the place for returning sealed boxes, election paper and all other materials, you are advised to pack the covers

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and other materials into four separate packets, as explained below, and hand them over at the place appointed for receipt thereof.

I. The first packet should contain the sealed covers mentioned below and should be superseded as “STATUTORY COVERS”.

- (i) the sealed cover containing the marked copy of the electoral roll;
- (ii) the sealed cover containing counterfoils of used ballot papers including tendered ballot papers;
- (iii) the sealed cover containing the signed but unused ballot papers, with counterfoils;
- (iv) the sealed cover containing other unused ballot papers with counterfoils;
- (v) the sealed cover containing the tendered ballot papers and the list in Form 15;
- (vi) the sealed cover containing the ballot papers cancelled for violation of voting procedure; and
- (vii) the sealed cover(s) containing other cancelled ballot papers.

Even if a statement or record to be put in any cover mentioned above is nil, a slip noting on it that the statement or record is “Nil” may be put in the cover and the total number of seven covers made ready so that no necessity arises for the receiving officials at the receiving centre to enquire about the non-production of any of the sealed covers to be received by him.

II. The *second* packet should contain the following covers and should be superscribed as “NON-STATUTORY COVERS”:

- (i) the sealed cover containing the copy or copies of electoral roll (other than the marked copy);
- (ii) the sealed cover containing the appointment letters of polling agents in Form 10;
- (iii) the sealed cover containing the list of challenged votes in Form 14;
- (iv) the sealed covers containing the list of illiterate, blind and infirm electors in Form 14A and the declarations of the companions, under rule 40(1);
- (v) cover containing the receipt book and cash, if any, in respect of challenged votes; and
- (vi) cover containing unused and damaged paper seals.

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III. The third packet should contain the following items:

- (i) the Handbook 'Instructions to Presiding Officers';
- (ii) pusher for ballot box and metal strip for detaching the ballot papers from counterfoils;
- (iii) self-inking pads;
- (iv) the metal seal of the Presiding Officer;
- (v) articles supplied for marking ballot papers;
- (vi) indelible ink set (with stopper having been secured on each phial effectively with worthen wax to prevent leakage or evaporation in the case of election from Graduates' or Teachers' Constituency).

IV. All the other items if any, should be packed into the fourth packet.

**Delivery and checking of election records and materials at the collecting centre**

You will hand over to the official-in-charge of receiving back the election records and materials at the collecting centre the following 11 items in all:

- (i) the sealed ballot box(es);
- (ii) the unused ballot box(es);
- (iii) the unused canvas bag(s or cloth, as the case may be);
- (iv) cover containing the ballot paper account;
- (v) cover containing the paper seal account;
- (vi) cover containing the declarations of the Presiding Officer;
- (vii) cover containing the Presiding Officer's diary;
- (viii) the first packet super scribed 'statutory covers' containing six covers;
- (ix) the third packet containing seven items of election material, etc.; and
- (x) the fourth packet containing all other items, if any.

All the above items [excluding the items contained in the fourth packet referred to at (x) above] will be checked by the receiving official(s) at the collecting centre in your presence and thereafter you will be released.

## DUTIES OF POLLING OFFICERS AT SIMULTANEOUS ELECTIONS TO THE COUNCIL OF STATES

**(When Polling party consists of one Presiding Officer and three Polling Officers)**

### **First Polling Officer**

First Polling Officer will be in charge of the marked copy of the electoral roll for first election to the Council of States and responsible for identification of electors. The electors at these elections will normally be known to the Presiding Officer and the Polling Officers and there may not be any difficulty in their identification. A voter may, however, come in with an unofficial identity slip which he has received from a candidate. The slip should be on plain white paper and may contain the name of the elector, his serial number in the electoral roll and the number of the electoral roll part. The slip should not contain the name of the candidate and/or the name of his party. If the voter does not have any such identity slip, the Polling Officer will himself ascertain his name, and will then locate his name in the electoral roll kept by him. The elector should not be compelled to bring an identity slip, nor should he be turned away solely because he has not brought such a slip. The Polling Officer should not treat the identity slip brought by an elector as a conclusive proof of his identity.

After locating the name of the elector and checking it with the particulars in the relevant entry in the roll, the first Polling Officer will call out loudly the part number, the page number, the serial number and the name of the elector to the hearing of the polling agents and the second Polling Officer. The identity slip, if any, brought by the elector, should then be torn into pieces and put in the small waste paper basket supplied. Such torn slips should not be thrown on the floor. If there is no challenge as regards the identity of the voter, the Polling Officer will underline the entry relating to the elector in the marked copy of the electoral roll with him in every case and where the elector is a female put (√) mark also on the left hand side of the name of the female elector.

The first Polling Officer will also be in charge of the bundles of ballot papers for first election to the Council of States. He will record on the counterfoil of the ballot paper the electoral roll part number and the serial number of the elector as

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entered in the marked copy of the electoral roll and obtain the signature/thumb impression of the voter on the counterfoil of ballot paper.

For the purpose of obtaining the thumb impression, the stamp pad of purple colour supplied to your polling station should be used and for obtaining signature the copying pencil/ballpoint pen supplied should be used. The ballot paper will be detached from the counterfoil with the help of the flat metal rule having a sharp edge on the lengthwise side. No ballot paper should be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of that ballotpaper. It is not necessary to have the thumb impression of the elector on the counterfoil attested by the Presiding or a Polling Officer or by any other officer. He will then pass on the ballot paper to the second Polling Officer.

### **Second Polling Officer**

The second Polling Officer will be in charge of the bundles of ballot papers for second election to the Council of States and the marked copy of the electoral roll for election. As the first Polling Officer read aloud the part number and serial number of the elector, the second Polling Officer will underline the entry relating to the elector in the marked copy of the electoral roll with him and where the elector is female also put a (√) mark on the left hand side of the name of the female elector. He will record on the counterfoil of the ballot paper the electoral roll part number and the serial number of the elector as entered in the marked copy of the electoral roll and obtain the signature/thumb impression of the voter on the counterfoil of ballot paper. For the purpose of obtaining the thumb impression the stamp pad of purple colour supplied to your polling station should be used and for obtaining signature the copying pencil/ball-point pen should be used. For the use of voters whose thumb impression has been taken on the counterfoil of the ballot paper, a wet piece of cloth may be kept on the table of the Polling Officer for removing the ink. The ballot paper will then be detached from the counterfoil with the help of the flat metal rule having a sharp edge on the lengthwise side. Thereafter both the ballot papers will be delivered to the voter and he will be directed to the third Polling Officer sitting near the voting compartment. No ballot paper should be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of that ballot paper. It is not necessary to have the thumb impression of the elector on the counterfoil attested by the Presiding or a Polling Officer or by any other officer.

### **Third Polling Officer**

The third Polling Officer will be in charge of the article to be supplied to elector for marking the ballot papers. He will take both the ballot papers from the

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elector. He will first fold the ballot paper for one election to the Council of States twice first vertically and then horizontally, in such a way as the distinguishing mark is clearly visible at the top right hand corner on the back of the ballot paper. He will then unfold the ballot paper and hand it over to the elector. He will also give to the voter the marking article and if specifically requested by the voter, instruct him by making a mark with it on a piece of plain paper. The voter will then be asked to proceed to a voting compartment. After recording his vote, the elector will refold the ballot paper along the lines on which it was folded before issue to him, come out of the voting compartment and insert the ballot paper into the ballot box kept in front of the Polling Officer.

In the meantime the third Polling Officer would have folded the other ballot paper for second election to the Council of States also vertically and horizontally. He will then unfold and hand over that ballot paper to the voter, who proceed to another voting compartment, record his vote on the Parliamentary ballot paper, bring it back and drop it into the same ballot box.

Under Section 39AA of the R.P. Act, 1951, the elector of a political party shall show his marked ballot papers to the polling agents of his political party at an election to the Council of States. The same should be strictly ensured.

The Polling Officer in charge of the ballot box will keep a strict vigil to see that no elector inserts anything other than the genuine ballot paper into the ballot box. For this purpose, he may require any elector to show the distinguishing mark and the Presiding Officer's signature on the back of the ballot paper before its insertion into the ballot box.

## DUTIES OF POLLING OFFICERS AT SIMULTANEOUS ELECTIONS TO THE COUNCIL OF STATES

**(When polling party consists of one Presiding Officer and four Polling Officer)**

### **First Polling Officer**

First Polling Officer will be in charge of the marked copy of the electoral roll for first election to the Council of States and responsible for identification of electors. The electors at these elections will normally be known to the Presiding Officer and the Polling Officers and there may not be any difficulty in their identification. A Voter may, however, come in with an unofficial identity slip which he has received from a candidate. The slip should be on Plain white paper and may contain the name of the elector, his serial number in the electoral roll, the number of the electoral roll part and the number and name of polling station where he is to cast his vote. The slip should not contain the name of the candidate and/or the name of his party. If the voter does not have any such identity slip, the Polling Officer will himself ascertain his name and will then locate his name in the electoral roll kept by him. The elector should not be compelled to bring an identity slip, nor should he be turned away solely because he has not brought such a slip.

After locating the name of the elector and checking it with the particulars in the relevant entry in the roll, the first Polling Officer will call out loudly the part number, the page number, the serial number and the name of the elector to the hearing of the polling agents and the second and third Polling Officers. The identity slip, if any brought by the elector, should then be torn and destroyed. If there is no challenge as regards the identity of the voter, the Polling Officer will underline the entry relating to the elector in the marked copy of the Electoral roll with him in every case and where the elector is a female put a (√) mark also on the left hand side of the name of the female elector.

At the end of the day's polling he should count the number of men and women voters who have voted and record the result in the Presiding Officer's report to the Returning Officer. One easy method of doing this would be to write down all the serial numbers from 1 to 200 or 300 on two separate sheets of paper before the



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commencement of the poll.

The voter will then move to the second Polling Officer.

### **Second Polling Officer**

The second Polling Officer will be in charge of the bundles of Council of States ballot papers of first election. As the first Polling Officer reads aloud the part number and serial number of the elector, the Second Polling Officer will record on the counterfoil of the ballot paper the electoral roll part number and the serial number of the elector as entered in the marked copy of the electoral roll and obtain the signature/ thumb impression of the voter on the counterfoil of ballot paper. For the purpose of obtaining the thumb impression a stamp pad of purple colour supplied to your polling station should be used and for obtaining signature a copying pencil/ball-pointpen should be used. The ballot paper will then be detached from the counterfoil with the help of a flat metal rule having a sharp edge on the lengthwise side. No ballot paper should be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of that ballot paper. It is not necessary to have the thumb impression of the elector on the counterfoil attested by the Presiding or a Polling Officer or by any other officer. He will then pass on the ballot paper to the third Polling Officer.

### **Third Polling Officer**

The third Polling Officer will be in charge of the bundles of Council of States ballot papers for second election and the marked copy of the electoral roll for that election. As the first Polling Officer reads aloud the part number and serial number of the elector, the third Polling Officer will underline the entry relating to the elector in the marked copy of the electoral roll with him and where the elector is a female also put a (√) mark on the left hand side of the name of the female elector. He will record on the counterfoil of the ballot paper the electoral roll part number and the serial number of the elector as entered in the marked copy of the electoral roll and obtain the signature/thumb impression of the voter on the counterfoil of ballot paper. For the purpose of obtaining the thumb impression a stamp pad of purple colour supplied to your polling station should be used and for obtaining signature a copying pencil/ball-point pen should be used. For the use of voters whose thumb impression has been taken on the counterfoil of the ballot paper, a wet piece of cloth will be kept on the table of this Polling Officer for removing the ink. The ballot paper will be detached from the counterfoil with the help of a flat metal rule having a sharp edge on the lengthwise side. Thereafter, both the ballot papers will be delivered to the voters and he will be directed to the fourth Polling Officer sitting near the voting

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compartment. No ballot paper should be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of that ballot paper. It is not necessary to have the thumb impression of the elector on the counterfoil attested by the Presiding or a Polling Officer or by any other officer.

### **Fourth Polling Officer**

The fourth Polling Officer will be in charge of the articles to be supplied to elector for marking the ballot papers. He will take both the ballot papers from the elector. He will first fold the ballot paper for Council of States election twice, first vertically and then horizontally, in such a way that the distinguishing mark is clearly visible at the top right hand corner on the back of the ballot paper. He will then unfold the ballot paper and hand it over to the elector. He will also give to the voter marking article and if specifically requested by the voter, instruct him by making a mark with it on a piece of plain paper. The voter will then be asked to proceed to a voting compartment. After recording his vote, the elector will refold the ballot paper along the lines on which it was folded before issue to him, come out of the voting compartment and insert the ballot paper into the ballot box kept in front of the Polling Officer.

In the meantime the fourth Polling Officer would have folded the Legislative Council election ballot paper also vertically and horizontally. He will then unfold and hand over this ballot paper to the voter, who will proceed to another voting compartment, record his vote on this ballot paper, bring it back and drop in into the same ballot box.

Under Section 39AA of the R.P.Act, 1951, the elector of a political party shall show his marked ballot papers to the polling agents of his political party at an election to the Council of States. The same should be strictly ensured.

The Polling Officer in charge of the ballot box will keep a strict vigil to see that no elector is inserting anything other than the genuine ballot paper into the ballot box. For this purpose, he may require any elector to show the distinguishing mark and the Presiding Officer's signature on the back of the ballot paper before its insertion into the ballot, box.

**DUTIES OF POLLING OFFICERS AT  
SIMULATNEOUS ELECTIONS TO THE STATE  
LEGISLATIVE COUNCIL BY MLAs**

**(When Polling party consists of one Presiding Officer and three Polling Officers)**

**First Polling Officer**

First Polling Officer will be in charge of the marked copy of the electoral roll for first election to the State Legislative Council by MLAs and responsible for identification of electors. The electors at these elections will normally be known to the Presiding Officer and the Polling Officers and there may not be any difficulty in their identification. A voter may, however, come in with an unofficial identity slip which he has received from a candidate. The slip should be on plain white paper and may contain the name of the elector, his serial number in the electoral roll and the number of the electoral roll part. The slip should not contain the name of the candidate and/or the name of his party. If the voter does not have any such identity slip, the Polling Officer will himself ascertain his name, and will then locate his name in the electoral roll kept by him. The elector should not be compelled to bring an identity slip, nor should he be turned away solely because he has not brought such a slip. The Polling Officer should not treat the identity slip brought by an elector as a conclusive proof of his identity.

After locating the name of the elector and checking it with the particulars in the relevant entry in the roll, the first Polling Officer will call out loudly the part number, the page number, the serial number and the name of the elector to the hearing of the polling agents and the second Polling Officer. The identity slip, if any, brought by the elector, should then be torn into pieces and put in the Waste Paper basket supplied. Such torn slips should not be thrown on the floor. If there is no challenge as regards the identity of the voter, the Polling Officer will underline the entry relating to the elector in the marked copy of the electoral roll with him in every case and where the elector is a female put (√) mark also on the left hand side of the name of the female elector.

The first Polling Officer will also be in charge of the bundles of ballot papers

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for first election to the State Legislative Council by MLAs. He will record on the counterfoil of the ballot paper the electoral roll part number and the serial number of the elector as entered in the marked copy of the electoral roll and obtain the signature/thumb impression of the voter on the counterfoil of ballot paper.

For the purpose of obtaining the thumb impression, the stamp pad of purple colour supplied to your polling station should be used and for obtaining signature the copying pencil/ballpoint pen supplied should be used. The ballot paper will be detached from the counterfoil with the help of the flat metal rule having a sharp edge on the lengthwise side. No ballot paper should be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of that ballot paper. It is not necessary to have the thumb impression of the elector on the counterfoil attested by the Presiding or a Polling Officer or by any other officer. He will then pass on the ballot paper to the second Polling Officer.

### **Second Polling Officer**

The second Polling Officer will be in charge of the bundles of ballot papers for *second election to the State Legislative Council by MLAs* and the marked copy of the electoral roll for election. As the first Polling Officer read aloud the part number and serial number of the elector, the second Polling Officer will underline the entry relating to the elector in the marked copy of the electoral roll with him and where the elector is female also put a (√) mark on the left hand side of the name of the female elector. He will record on the counterfoil of the ballot paper the electoral roll part number and the serial number of the elector as entered in the marked copy of the electoral roll and obtain the signature/thumb impression of the voter on the counterfoil of ballot paper. For the purpose of obtaining the thumb impression the stamp pad of purple colour supplied to your polling station should be used and for obtaining signature the copying pencil/ball-point pen should be used. For the use of voters whose thumb impression has been taken on the counterfoil of the ballot paper, a wet piece of cloth may be kept on the table of the Polling Officer for removing the ink. The ballot paper will then be detached from the counterfoil with the help of the flat metal rule having a sharp edge on the lengthwise side. Thereafter both the ballot papers will be delivered to the voter and he will be directed to the third Polling Officer sitting near the voting compartment. No ballot paper should be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of that ballot paper. It is not necessary to have the thumb impression of the elector on the counterfoil attested by the Presiding or a Polling Officer or by any other officer.

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### **Third Polling Officer**

The third Polling Officer will be in charge of the article to be supplied to elector for marking the ballot papers. He will take both the ballot papers from the elector. He will first fold the ballot paper for one election to the Council of States twice first vertically and then horizontally, in such a way the distinguishing mark is clearly visible at the top right hand corner on the back of the ballot paper. He will then unfold the ballot paper and hand it over to the elector. He will also give to the voter the marking article and if specifically requested by the voter, instruct him by making a mark with it on a piece of plain paper. The voter will then be asked to proceed to a voting compartment. After recording his vote, the elector will refold the ballot paper along the lines on which it was folded before issue to him, come out of the voting compartment and insert the ballot paper into the ballot box kept in front of the Polling Officer.

In the meantime the third Polling Officer would have folded the other ballot paper for second election to the Council of States also vertically and horizontally. He will then unfold and hand over that ballot paper to the voter, who proceed to another voting compartment, record his vote on the Parliamentary ballot paper, bring it back and drop it into the same ballot box.

The Polling Officer in charge of the ballot box will keep a strict vigil to see that no elector inserts anything other than the genuine ballot paper into the ballot box. For this purpose, he may require any elector to show the distinguishing mark and the Presiding Officer's signature on the back of the ballot paper before its insertion into the ballot box.

## **DUTIES OF POLLING OFFICERS AT SIMULTANEOUS ELECTIONS TO THE COUNCIL OF STATES**

**(When polling party consists of one Presiding Officer and four Polling Officer)**

### **First Polling Officer**

First Polling Officer will be in charge of the marked copy of the electoral roll for first election to the State Legislative Council by MLAs and responsible for identification of electors. The electors at these elections will normally be known to the Presiding Officer and the Polling Officers and there may not be any difficulty in their identification. A Voter may, however, come in with an unofficial identity slip which he has received from a candidate. The slip should be on Plain white paper and may contain the name of the elector, his serial number in the electoral roll, the number of the electoral roll part and the number and name of polling station where he is to cast his vote. The slip should not contain the name of the candidate and/or the name of his party. If the voter does not have any such identity slip, the Polling Officer will himself ascertain his name and will then locate his name in the electoral roll kept by him. The elector should not be compelled to bring an identity slip, nor should he be turned away solely because he has not brought such a slip.

After locating the name of the elector and checking it with the particulars in the relevant entry in the roll, the first Polling Officer will call out loudly the part number, the page number, the serial number and the name of the elector to the hearing of the polling agents and the second and third Polling Officers. The identity slip, if any brought by the elector, should then be torn and destroyed. If there is no challenge as regards the identity of the voter, the Polling Officer will underline the entry relating to the elector in the marked copy of the Electoral roll with him in every case and where the elector is a female put a (√) mark also on the left hand side of the name of the female elector.

At the end of the day's polling he should count the number of men and women voters who have voted and record the result in the Presiding Officer's report to the Returning Officer. One easy method of doing this would be to write down all the

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serial numbers from 1 to 200 or 300 on two separate sheets of paper before the commencement of the poll.

The voter will then move to the second Polling Officer.

### **Second Polling Officer**

The second Polling Officer will be in charge of the bundles of Council of States ballot papers of first election State Legislative Council by MLAs. As the first Polling Officer reads aloud the part number and serial number of the elector, the Second Polling Officer will record on the counterfoil of the ballot paper the electoral roll part number and the serial number of the elector as entered in the marked copy of the electoral roll and obtain the signature/ thumb impression of the voter on the counterfoil of ballot paper. For the purpose of obtaining the thumb impression a stamp pad of purple colour supplied to your polling station should be used and for obtaining signature a copying pencil/ball-point pen should be used. The ballot paper will then be detached from the counterfoil with the help of a flat metal rule having a sharp edge on the lengthwise side. No ballot paper should be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of that ballot paper. It is not necessary to have the thumb impression of the elector on the counterfoil attested by the Presiding or a Polling Officer or by any other officer. He will then pass on the ballot paper to the third Polling Officer.

### **Third Polling Officer**

The third Polling Officer will be in charge of the bundles of Council of States ballot papers for second election State Legislative Council by MLAs and the marked copy of the electoral roll for that election. As the first Polling Officer reads aloud the part number and serial number of the elector, the third Polling Officer will underline the entry relating to the elector in the marked copy of the electoral roll with him and where the elector is a female also put a (√) mark on the left hand side of the name of the female elector. He will record on the counterfoil of the ballot paper the electoral roll part number and the serial number of the elector as entered in the marked copy of the electoral roll and obtain the signature/thumb impression of the voter on the counterfoil of ballot paper. For the purpose of obtaining the thumb impression a stamp pad of purple colour supplied to your polling station should be used and for obtaining signature a copying pencil/ball-point pen should be used. For the use of voters whose thumb impression has been taken on the counterfoil of the ballot paper, a wet piece of cloth will be kept on the table of this Polling Officer for removing the ink. The ballot paper will be detached from the counterfoil with

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the help of a flat metal rule having a sharp edge on the lengthwise side. Thereafter, both the ballot papers will be delivered to the voters and he will be directed to the fourth Polling Officer sitting near the voting compartment. No ballot paper should be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of that ballot paper. It is not necessary to have the thumb impression of the elector on the counterfoil attested by the Presiding or a Polling Officer or by any other officer.

### **Fourth Polling Officer**

The fourth Polling Officer will be in charge of the articles to be supplied to elector for marking the ballot papers. He will take both the ballot papers from the elector. He will first fold the ballot paper for Council of States election twice, first vertically and then horizontally, in such a way that the distinguishing mark is clearly visible at the top right hand corner on the back of the ballot paper. He will then unfold the ballot paper and hand it over to the elector. He will also give to the voter marking article and if specifically requested by the voter, instruct him by making a mark with it on a piece of plain paper. The voter will then be asked to proceed to a voting compartment. After recording his vote, the elector will refold the ballot paper along the lines on which it was folded before issue to him, come out of the voting compartment and insert the ballot paper into the ballot box kept in front of the Polling Officer.

In the meantime the fourth Polling Officer would have folded the Legislative Council election ballot paper also vertically and horizontally. He will then unfold and hand over this ballot paper to the voter, who will proceed to another voting compartment, record his vote on this ballot paper, bring it back and drop in into the same ballot box.

The Polling Officer in charge of the ballot box will keep a strict vigil to see that no elector is inserting anything other than the genuine ballot paper into the ballot box. For this purpose, he may require any elector to show the distinguishing mark and the Presiding Officer's signature on the back of the ballot paper before its insertion into the ballot, box.



**DECLARATION BY ILLITERATE/BLIND OR  
OTHERWISE INFIRM ELECTOR**

I, ..... S/D/W/o .....  
..... R/o .....  
....., do hereby solemnly affirm and declare that I am  
unable to read the ballot paper or to record vote thereon in accordance with Rule  
37A of the Conduct of Elections Rule, 1961 by the reason of illiteracy/blindness/  
other infirmity.

Signature/Left Hand Thumb Impression of elector\_\_\_\_\_

Name of Elector\_\_\_\_\_

Part No. & Serial No. in the Electoral Rolls\_\_\_\_\_

Declaration given in my presence

Signature of Presiding Officer

**DUTIES OF POLLING OFFICERS AT A  
SINGLE ELECTION TO THE STATE LEGISLATIVE  
COUNCIL FROM A COUNCIL CONSTITUENCY**

**(When polling party consists of one Presiding Officer and three Polling Officer)**

**First Polling Officer**

On entering the polling station the elector will proceed direct to the first Polling Officer who will be in charge of the marked copy of the electoral roll, responsible for identification of the electors and application of indelible ink. Usually each voter comes in with an unofficial identity slip which he has received from a candidate. The slip should be on plain white paper and may contain the name of the elector, his serial number in the electoral roll, the number of the electoral roll part and the number and name of the polling station where he is to cast his vote. The slip should not contain the name of the candidate and/or the name of his party. If the voter does not have any such identity slip, the Polling Officer will himself ascertain his name, house number, etc., and will then locate his name from the electoral roll kept by him. The elector should not be compelled to bring an identity slip, nor should he be turned away solely because he has not brought such a slip.

It should be noted that carrying of such slip by an elector does not guarantee the identity of the voter nor does it absolve the Polling Officer of his duty and responsibility of satisfying himself about the identity of such voter.

The first Polling Officer in charge of the marked copy of the electoral roll and identification of electors should not treat the identity of an elector established by the mere production of an 'unofficial identity slip' which he brings to the polling station. Though such a slip will help in locating the entries relating to an elector in the electoral roll, it cannot be automatically taken for granted that the person producing the slip is that particular voter. Therefore, the first Polling Officer should simply take the slip and read out only the Serial No. of the entry of the elector in the electoral roll and not read out his/her name and other particulars from the slip. Thereafter, the Polling Officer should ask the person to announce his/her name loudly and if necessary other particulars relating to the entry so as to ensure that he/she is the genuine voter producing the identity slip. If full satisfaction is not obtained,

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the person may be directed to present himself before the Presiding Officer, who should make a further probe to satisfy himself about the identity of the elector. The Presiding Officer should not hesitate to hand over the elector to the police in case he is proved to be an impersonator.

Though normally a voter coming to a polling station is presumed to be the genuine voter, this presumption is not irrefutable. If from the surrounding circumstances like the difference in the age of the elector given in the electoral roll and the age of the person as ascertainable from his appearance, the Polling Officer entertains any doubt about the identity of the voter before him, he should satisfy himself about the real identity and the genuineness of the voter. In such a case he should not accept the identity of the voter on the mere production of the identity slip and should refer the matter to the Presiding Officer for his decision. Otherwise also, the Polling Officer should make test check of identity of voters with reference to unofficial identity slips brought by them.

After locating the name of the elector and checking it with the particulars in the relevant entry in the roll, the First Polling Officer will call out loudly the page number, the part number, the serial number and the name of the elector to the hearing of the polling agents and the second Polling Officer. The identity slip, if any, brought by the elector should then be torn into pieces and put in the Waste Paper Basket supplied. Such torn slips should not be thrown on the floor. If there is no challenge as regards the identity of the voter, the Polling Officer will underline in every case the entry relating to the elector in the marked copy of the electoral roll with him and where the elector is a female, put a (√) mark also on the left hand side of the name of the female elector.

He will then inspect the voter's left forefinger to see that it does not bear any sign or trace of indelible ink and then put a mark with the indelible ink above the root of the nail in such a way that the ink also spreads on the ridge between the skin and the root of the nail and a clear mark is left on the forefinger. Note that the voter need not be touched at the time of applying the indelible ink on his left forefinger. While application, excess ink should not be taken with the whole length of the rod. Only the tip of the rod should be dipped in the ink. This will avoid excess intake of the ink. The glass (plastic) rod after dipping in the ink should be gently pressed on the finger and rotated so that a clear mark is left on the finger. It must be ensured that the voter's forefinger is perfectly in the horizontal position at the time of the application of the ink and for at least thirty seconds immediately after the application of the ink so that the solvent gets evaporated. If the rod is only lightly touched or

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rubbed against the voter's finger it will merely leave a smudge which is not sufficient. In case it is noticed that an elector has applied any oily or greasy substance on his finger in order to neutralize the indelible ink mark to be put on his finger, such oily or greasy substance should be removed by the polling officer with the help of the piece of cloth or rag supplied before putting indelible ink mark on the finger of the elector. The voter should not be allowed to rub off the mark for at least half a minute after it has been applied on the finger. If an elector has no left forefinger then indelible ink should be applied on any such finger which he has on his left hand. If he does not have any finger on his left hand the ink should be applied on his right forefinger. If he has no finger on either hand, ink should be applied on such extremity (stump) of his left or right hand as he possesses.

The voter will then move to the second Polling Officer.

### **Second Polling Officer**

The second Polling Officer will be in charge of the bundles of ballot papers as well as the bundle containing the original claim applications of voters (in form 18 or form 19 depending on whether the election is from a Graduates' Constituency or a Teachers' Constituency). As the first Polling Officer reads aloud the part number and serial number of the elector, the second Polling Officer will record on the counterfoil of the ballot paper the electoral roll part number and the serial number of the elector, as entered in the marked copy of the electoral roll. At the same time, he will take out the relevant claim application of that voter from the bundle of claim applications under his charge. He will then compare the signature of the voter on the counterfoil of the ballot paper. He will then compare the signature with that on the claim application of the voter. The ballot paper will then be detached from the counterfoil with the help of a flat metal rule having a sharp edge on the lengthwise side. It will thereafter be delivered to the voter and he will be directed to the third Polling Officer sitting near the ballot box. No ballot paper should be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of the ballot paper.

### **Third Polling Officer**

The third Polling officer will be in charge of the articles to be supplied to elector for marking the ballot paper. He will take the ballot paper from the elector and fold it twice, first vertically and then horizontally, in such a way that the distinguishing mark is clearly visible at the top right hand corner on the back of the ballot paper. He will then unfold the ballot paper and hand it over to the elector. He will also give to the voter the marking article and if specifically requested by the voter, instruct him by making a mark with it on a piece of plain paper. The voter will then be asked to

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proceed to a voting compartment. After recording his vote, the elector will refold the ballot paper along the lines on which it was folded before it was issued to him, come out of the voting compartment and insert the ballot paper into the ballot box kept in front of the Polling Officer.

The Polling Officer in charge of the ballot box will keep a strict vigil to see that no elector is inserting anything other than the genuine ballot paper into the ballot box. For this purpose, he may require any elector to show the distinguishing mark and the Presiding Officer's signature on the back of the ballot paper before its insertion into the ballot box.

Before the voter leaves the polling station, the Polling Officer will examine the left forefinger of the elector and satisfy that the indelible ink mark is clearly impressed on the skin, if the voter has removed the mark or the mark is not clear, the voter should be marked again in such a way that the marking is clear and is not immediately removed.

**DUTIES OF POLLING OFFICERS AT SIMULTANEOUS  
ELECTION TO THE STATE LEGISLATIVE COUNCIL  
FROM GRADUATES' AND TEACHERS'  
CONSTITUENCEIS AT A COMMON  
POLLING STATION**

**(When polling party consists of one Presiding Officer and Four Polling Officer)**

**First Polling Officer**

The first Polling Officer will be in charge of the marked copy of the electoral roll for the Graduates' Constituency and responsible for identification of the electors of Graduates' Constituency. He will also be responsible for application of indelible ink on the elector's left forefinger, obtaining signature of the elector, comparing the signature with that on his original claim application in Form 18, and issue of ballot paper for Graduates' Constituency. On entering the polling station, the electors for the Graduates' Constituency will be directed to proceed to the first Polling Officer. Usually each voter comes in with an unofficial identity slip which he has received from candidate. The slip should be on plain white paper and may contain the name of the elector, his serial number in the electoral roll, the number of the electoral roll part and the number and name of the polling station where he is to cast his vote. The slip should not contain the name of candidate and/or the name of his party, if the voter does not have any such identity slip, the Polling Officer will himself ascertain his name, house number etc., and will then locate his name from the electoral roll kept by him. The elector should not be compelled to bring an identity slip, nor should he be turned away solely because he has not brought such a slip.

It should be noted that carrying of such slip by an elector does not guarantee the identity of the voter nor does it absolve the Polling Officer of his duty and responsibility of satisfying himself about the identity of such over.

The First Polling Officer in charge of the marked copy of the electoral roll and identification of electors should not treat the identity of an elector established by the mere production of an 'unofficial identity slip' which he brings to the polling station. Though such a slip will help in locating the entries relating to an elector

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in the electoral roll, it cannot be automatically taken for granted that the person producing the slip is that particular voter. Therefore, the first Polling Officer should simply take the slip and read out only the Serial No. of the entry of the elector in the electoral roll and not read out his/her name and other particulars from the slip. Thereafter, the Polling Officer should ask the person to announce his/her name loudly and if necessary other particulars relating to the entry so as to ensure that he/she is the genuine voter producing the identity slip. If full satisfaction is not obtained, the person may be directed to present himself before the Presiding Officer, who should make a further probe to satisfy himself about the identity of the elector. The Presiding Officer should not hesitate to hand over the elector to the police in case he is proved to be an impersonator.

Though normally a voter coming to a polling station is presumed to be the genuine voter, this presumption is not irrefutable. If from surrounding circumstances like the difference in the age of the elector given in the electoral roll and the age of the person as ascertainable from his appearance, the Polling Officer entertains any doubt about the identity of the voter before him, he should satisfy himself about the real identity and the genuineness of the voter. In such a case he should not accept the identity of the voter on the mere production of the identity slip and should refer the matter to the Presiding Officer for his decision. Otherwise also, the Polling Officer should make test check of identity of voters with reference to unofficial identity slips brought by them.

After locating the name of the elector and checking it with the particulars in the relevant entry in the roll, the first Polling Officer will call out loudly the page number, the part number, the serial number and the name of the elector to the hearing of the polling agents. The identity slip, if any, brought by the elector should than be torn into pieces and put in the waste paper basket supplied. Such torn slips should not be thrown on the floor. If there is no challenge as regards the identity of the voter, the Polling Officer will underline in every case the entry relating to the elector in the marked copy of the electoral roll with him and where the elector is a female, put a (√) mark also on the left had side of the name of the female elector.

He will then inspect the voter's left forefinger to see that it does not bear any sign or trace of indelible ink and then put a mark with indelible ink above the root of the nail in such a way that the ink also spreads on the ridge between the skin and the root of the nail and a clear mark is left on the forefinger. Note that the voter need not be touched at the time of applying the indelible ink on his left forefinger. While application, excess ink should not be taken with the whole length of the rod. Only

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the tip of the rod should be dipped in the ink. This will avoid excess intake of the ink. The glass (plastic) rod after dipping in the ink should be gently pressed on the finger and rotated so that a clear mark is left on the finger. It must be ensured that the voter's forefinger is perfectly in the horizontal position at the time of the application of the ink and for at least thirty seconds immediately after the application of the ink so that the solvent gets evaporated. If the rod is only lightly touched or rubbed against the voter's finger it will merely leave a smudge which is not sufficient. In case it is noticed that an elector has applied any oily or greasy substance on his finger in order to neutralize the indelible ink mark to be put on his finger, such oily or greasy-substance should be removed by the Polling Officer with the help of the piece of cloth or rag supplied before putting indelible ink mark on the finger of the elector. The voter should not be allowed to rub off the mark for at least half a minute after it has been applied on the finger. If an elector has no left forefinger then indelible ink should be applied on any such finger which he has on his left hand. If he does not have any finger on his left hand the ink should be applied on his right forefinger. If he has no finger on either hand, ink should be applied on such extremity (stump) of his left or right hand as he possesses.

The first Polling Officer will also be in charge of the bundles of ballot papers for the Graduates' Constituency. He will record on the counterfoil of the ballot paper the electoral roll part number and the serial number of the elector, as entered in the marked copy of the electoral roll.

He will then obtain the signature of the voter on the counterfoil of ballot paper. He will compare the signature with that on the claim application of the voter in Form 18 which will be supplied by the second Polling Officer. The ballot paper will then be detached from the counterfoil with the help of a flat metal rule having a sharp edge on the lengthwise side. It will thereafter be delivered to the voter and he will be directed to the fourth Polling Officer sitting near the ballot box. No ballot paper should be delivered to an elector unless he has put his signature on the counterfoil of the ballot paper.

### **The Second Polling Officer**

The second Polling Officer will be in charge of the bundles containing the original claim applications of voters in Form 18 and 19. When the first Polling Officer reads aloud the name of the voter for the Graduates' Constituency, the second Polling Officer will take out the relevant claim application of that voter in Form 18 from the bundle of the claim applications under his charge, he will then make available that claim application of the voter concerned to the first Polling Officer for comparison



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of the voter's signature on the counterfoil of the ballot paper with his signature on the claim application. After the first Polling Officer has compared the said signatures, he will return the claim application to the second Polling Officer, who will keep it back at the relevant place in the bundle of those claim applications.

The second Polling Officer will act likewise in respect of voter for the Teachers' Constituency whose identity is being checked by the third Polling Officer.

### **Third Polling Officer**

The third Polling Officer will be in charge of the marked copy of the electoral roll and the ballot papers for the Teachers' Constituency and responsible for the identification of the electors of that Constituency, application of indelible ink on their forefinger and issue of ballot papers to them.

The duties of the third Polling Officer will be similar to the duties of the first Polling Officer as indicated above in all respects.

After a voter for the Teachers' Constituency has been issued with ballot paper by third Polling Officer, he will also be directed to proceed to the fourth Polling Officer.

### **Fourth Polling Officer**

The fourth Polling Officer will be in charge of the ballot box which will be common for both the elections from the Graduates' and Teachers' Constituencies. He will also be in charge of the articles to be supplied to electors for marking the ballot papers. He will take the ballot paper from the elector and fold it twice, first vertically and then horizontally, in such a way that the distinguishing mark is clearly visible at the top right hand corner on the back of the ballot paper. He will then unfold the ballot paper and hand it over to the elector. He will also give to the voter an inked rubber stamp and, if specifically requested by the voter, instruct him by making a mark with it on a piece of plain paper. The voter will then be asked to proceed to a voting compartment. After recording his vote, the elector will refold the ballot paper along the line on which it was folded before issue to him, come out of the voting compartment and insert the ballot paper into the ballot box kept in front of the Polling Officer.

The fourth Polling Officer will keep a strict vigil to see that no elector inserts anything other than the genuine ballot paper into the ballot box. For this purpose, he may require any elector to show the distinguishing mark and the Presiding Officer's signature on the back of the ballot paper before its insertion into the ballot box.

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Before the voter leaves the polling station, the Polling Officer will examine the left forefinger of the elector and satisfy that the indelible ink mark is clearly impressed on the skin. If the voter has removed the mark or the mark is not clear, the voter should be marked again in such a way that the marking is clear and is not immediately removed.

**PRESIDING OFFICER'S DIARY**

1. Name of the Constituency :  
(in block letters)
2. Date of Poll :
3. Number of the polling station :  
Whether located in
  - i) Government or quasi-Government building :
  - ii) Private building :
  - iii) Temporary structure :
4. Number of Polling Officer recruited locally, if any :
5. Appointment of Polling Officer made in the absence of duly appointed Polling Officer, if any, and the reasons for such appointment :
6. Number of ballot boxes used :
7. Number of paper seals used :
8. Number of polling agents and the number who arrived late :
9. Number of candidates who were appointed as Polling Agents at the polling stations :
10. Number of ballot papers issued according to marked copy of the electoral roll :  
\*Number of ballot papers actually Issued at the polling station

.....  
Signature of Polling Officer in charge of ballot papers

.....  
Signature of First Polling Officer

- 
11. Number of electors who voted-
    - Men .....
    - Women .....
    - Total .....
  
  12. Challenged vote-
    - Number allowed.....
    - Number rejected.....
    - Amount forfeited Rs .....
  
  13. Number of electors who voted with :  
the help of companions
  
  14. Number of tendered votes :
  
  15. Whether it was necessary to adjourn :  
the poll and if so, the reasons for  
such adjournment
  
  16. Number of votes cast
    - From 8 a.m. to 10 a.m. :
    - from 10 a.m. to 12 noon :
    - from 12 noon to 2 p.m. :
    - from 2 p.m. to 4 p.m. and so on :
  
  17. Number of slips issued at the :  
closing hour of the poll  
\* This will include ballot papers cancelled and tendered ballot papers also.
  
  18. Electoral offences with details :
    - Number of cases of-
    - (a) canvassing within one hundred :  
Meters of a polling station
    - (b) impersonation of voters :
    - (c) fraudulent defacing, destroying :  
or removal of a list of notice  
or other document at a polling  
station
    - (d) bribing of voters :
    - (e) intimidation of voters and :  
other persons

---

19. Was the poll interrupted or obstructed by-

- (1) riot :
- (2) open violence :
- (3) natural calamity :
- (4) any other cause :

Please give details of the above.

20. Was the poll vitiated by-

- (1) any ballot at the polling station having been unlawfully taken out of the custody of the Presiding Officer-
- (a) accidentally or internationally lost or destroyed :
- (b) damaged or tampered with :
- (2) the ballot papers having been unlawfully marked by any person and deposited in the ballot box

Please give details.

21. Serious complaints, if any, made by the candidate :

22. Number of cases of breach of law and order :

23. Report of mistakes and irregularities committed, if any, at the polling station :

24. Whether the declarations have been made before the commencement of the poll and if necessary during the course of poll when a new ballot box is placed for reception of marked ballot paper and at the end of poll as necessary :

Place : .....

Date : .....

Presiding Officer

This diary should be forwarded to the Returning Office along with the ballot boxes and other sealed papers.

---

## ANNEXURE XI(ii)-G

Log Book ..... Building in which ballot boxes have been stored pending counting

..... District

..... Constituency

<b>Date of entry</b>	<b>Time of entry</b>	<b>Name and designation of the Officer entering</b>	<b>Purpose of entry</b>	<b>Details of other persons accompanying the officer</b>	<b>Signature of officer entering</b>	<b>Signature of O.I.C Police Guard</b>	<b>Time of exist</b>	<b>Details of persons coming out with the officer</b>	<b>Total time spent inside room</b>	<b>Signature of Officer coming out</b>	<b>Signature of the O.I.C. Police Guard</b>	<b>Remarks</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>

**Model Form for Report U/S 57 of R-P. Act, 1951**

**FAX MESSAGE**

From : Returning Officer  
For ..... Constituency

To : Secretay  
Election Commision of India  
New Delhi

Repeated : To Cheif Electoral Officer of .....

---

No. .... (.) Dated The .....

---

Reference Biennial/ Bye-Election to the .....  
by Elected Members of Legislative Assembly / Members of Legislative Assembly /  
from ..... Constituency (.) Reports have  
been received and verified that Poll on ..... (Date) ..... at following  
Polling Station(S) was adjourned under section 57(1) of the representation of the  
people Act 1951 because of circumstances indicated against each:

Sl. No.	No. & Name of Polling Station	Name/Designation of Reporting Authority	Reasons for Poll being Adjourned
1	2	3	4
1.			
2.			
4.			
5.			
6.			
---			
---			

---

Commission's directions solicited under section 57(2) of the said Act (.). It is recommended that adjourned poll may be held on ..... (Date) between ..... to ..... hours at the above polling stations) at the same Location (s) (.)

Place : .....

Date : .....

Returning Officer

For .....

Constituency and .....

Copy by post in confirmation, forwarded to the:

1. Secretary, Election Commission of India, New Delhi.
2. Chief Electoral Officer, .....

Returning Officer

For .....

Constituency and .....



**Model Form for Report U/S 58 of R.P. Act, 1951**

**FAX MESSAGE**

From : Returning Officer  
For ..... Constituency

To : Secretay  
Election Commision of India  
New Delhi

Repeated : To Cheif Electoral Officer of .....

---

No. .... (.) Dated The .....

---

Reference Biennial/ Bye-Election to the .....  
by Elected Members of Legislative Assembly / Members of Legislative Assembly /  
from ..... Constituency (.) Reports have  
been received and verified that Poll on ..... (Date) ..... at following  
Polling Station(S) was vitiated to such an extent that result of poll thereat cannot be  
ascertained; for reasons indicated against each polling station:

Sl. No.	No. & Name of Polling Station	Name/Designation of Reporting Authority	Reasons for Poll being vitiated
1	2	3	4
1.			
2.			
4.			
5.			
6.			
7.			
---			
---			

---

Matter is reported under sub-section (1) of section 58 of the representation of the people act 1951 (.) Further directions of commission in terms of sub-section (2) of said section 58 are solicited (.)

Place : .....

Date : .....

Returning Officer

For .....

Constituency and .....

Copy by post in confirmation, forwarded to the:

1. Secretary, Election Commission of India, New Delhi.
2. Chief Electoral Officer, .....

Returning Officer

For .....

Constituency and .....

**Model Form for Report U/S 58A of R.P. Act, 1951**

**FAX MESSAGE**

From : Returning Officer  
For ..... Constituency

To : Secretay  
Election Commission of India  
New Delhi

Repeated : To Chief Electoral Officer of .....

---

No. .... (.) Dated The .....

---

Reference biennial/ bye-election to the ..... By elected members of legislative assembly / members of legislative assembly / from ..... Constituency (.) Reports have been received that booth capturing has taken place at the following polling station(s) in such a manner that result of poll taken thereat on ..... (Date) cannot be ascertained (.) Details of booth capturing are given below against each such polling station:

Sl. No.	No. & Name of Polling Station	Name/Designation of Reporting Authority	Details of Booth Capturing
1	2	3	4
1.			
2.			
4.			
5.			
6.			

---

Matter is reported to the election commission in terms of sub-section (1) of section 58a of representation of the people act 1951 (.). Commission's directions under sub-section (2) of said section 58 are solicited (.).

Place : .....

Date : .....

Returning Officer

For .....

Constituency and .....

Copy by post in confirmation, forwarded to the:

1. Secretary, Election Commission of India, New Delhi.
2. Chief Electoral Officer, .....

Returning Officer

For .....

Constituency and .....

## SINGLE TRANSFERABLE SYSTEM OF VOTING- DETAILED ILLUSTRATION

### Detailed steps of Counting Procedure

In order to enable you to have an idea as to how the counting is done, step by step details of the counting are given below:-

#### I. Preliminary Steps

The polled ballot box which is duly sealed is placed in full view of all candidates and their agents in the counting hall. The candidates and their agents are requested by the Returning Officer (R.O.) to examine the seals before it is opened. Thereafter, the box is opened and the Returning Officer takes out all papers from the box and puts them in a tray FACE DOWN. After all papers are taken out, the empty box is shown to all and kept aside. Thereafter, the Returning Officer and counting assistants proceed to count the number of papers in the box. The total number of ballot papers in the box is tallied with the ballot papers to be found in the ballot box as shown in item 5 of the Ballot Paper Account. Let us suppose that the box contains 300 ballot papers.

#### II. Scrutiny of Ballot Papers

The Returning Officer then proceeded to scrutinize each ballot paper as to its validity, after such scrutiny, he rejected 17 ballot papers as invalid, due to reasons like-

1. Blank ballot papers (no marking of preferences).
2. Mark of identification like signature put on ballot papers.
3. Ballot papers marked with an instrument OTHER THAN the one supplied for the purpose.
4. No. "1" preference marked against more than one candidate/marked to no candidate/marked in words like "ONE" and not in figures.

After rejecting the invalid ballot papers, the Returning Officer bundled the VALID BALLOT papers and kept them at one place. Then he directed the Counting Assistants to arrange the wooden trays candidate wise on the Table.

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### III. First Round of Counting

The Counting Assistants arranged the 12 trays and fixed the names of each of 12 candidates on each tray and arranged them in serial order of the candidates as they appeared on the ballot paper.

Thereafter, the Returning Officer Proceeded to distribute the VALID BALLOT papers to each tray of the candidates as per FIRST PREFERENCE given on the ballot papers with Number “1”. If No. 1 was marked to candidate X, then that ballot paper was placed in the tray marked ‘X’ and so on. Thus all 283 VALID ballot papers were distributed to the 12 trays.

After distributing all 283 valid ballot papers, the Returning Officer directed the Counting Assistants (C.A.) to check the ballot papers in each tray to confirm that each of the ballot papers put in that tray was marked with preference “1” in favour of that candidate to whom that tray belonged and there was no mix up of ballot papers. After ensuring that there was no such mix-up, the C.As counted the ballot papers in each tray, noted the total number on a slip and placed the slip on the top of bundle of ballot papers in each tray. The Returning Officer noted on a paper the number of ballot papers polled by each candidate and total the number to ensure that all 283 ballot papers were accounted for. After satisfying that the figures tallied he distributed covers to C.As. who were asked to note on the cover the name of candidate, and other particulars of votes polled as follows:

No. & Name of Candidate: 1- Amit Kumar

**MAINPARCEL (ORIGINAL VOTES)**

\* 49@ 100=4900

\* 49 are ballot papers, 100 is the value of each ballot paper and 4900 is the total value of votes polled by the candidate.

After preparing the above covers for each candidate, the C.As. Put the original votes of each candidate in his respective cover. Thereafter the C.As. entered the result of first round of counting in the sheets kept by the side of each tray known as “PROGRESSIVE TOTAL SHEETS”

The Returning Officer got the result of first count posted in the RESULT SHEET (column 2 of result sheet). Then the Returning Officer proceeded to calculate the QUOTA required for a candidate to get elected.

### IV. Quota for Election

The principle of calculating the quota for election is as follows:

---

$$\frac{\text{Total value of valid ballot papers} + 1}{\text{No. of seats to be filled} + 1} = \text{Quota}$$

(a) Total value of valid ballot papers = 28300

(b) Seats to be filled = 6

$$\text{Quota} = \frac{28300 + 1}{6 + 1} = 4043$$

While calculating as above quota the remainder that comes by dividing 28300 by 7 (i.e., 6+1) was ignored. The round figure that comes by ignoring the remainder was taken and one' more was added to it to arrive at quota. In layman's words, the principle of quota is:

QUOTA = Total value of valid votes divided by number of seats to be filled plus one. One more number is added to quotient after ignoring the fractions and the figure so arrived at is the quota.

As shown above, in the present case the quota for getting elected was arrived at as 4043. Then the Returning Officer announced the result of first round of counting as shown in column 1 and 2 of the result sheet. ShriAmit Kumar who secured 4900 votes secured the quota and the Returning Officer declared him as elected. Shri Amit Kumar secured 857 votes more than the quota and this 857 is known as "SURPLUS" of Shri Amit Kumar (4900-4043=857).

As and when a candidate gets elected, if the seats to be filled are less than the candidates remaining in the field, the surplus secured by the winning candidate has first to be distributed to the remaining candidates (known as continuing candidates). Therefore, the Returning Officer proceeded further to distribute the surplus votes (857) of ShriAmit Kumar after noting in the remarks column (21) of the result sheet against the name of ShriAmit Kumar as "ELECTED-1" as he was the first candidate to get elected.

## **V. Distribution of Surplus of ShriAmit Kumar-Second Round of Counting**

The second round of counting was the distribution of surplus of ShriAmit Kumar Shri A.K. got only one packet of original votes and that packet contained 49 ballot papers due to which he was elected. Therefore, the Returning Officer had to distribute all the 49 ballot papers in Shri A.K.'s packet. For this distribution, the second preference marked on the ballot papers of Shri A.K. had to be seen and ballot papers given to the trays of other candidates according to second preference marked thereon.

Therefore, the Returning Officer proceeded to examine the 49 ballot papers of

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Shri A.K. for their second preference. The Returning Officer found that out of 49 papers, on 30 papers either there was:

1. No Second preference marked;
2. If marked, it was done in words like “TWO”;
3. No. 2 was put against the names of more than one candidate.

Therefore, the Returning Officer rejected those 30 ballot paper. Those ballot papers should NOT be called as rejected papers, but as “EXHAUSTED PAPERS”. The Returning Officer, therefore, found only 19 ballot paper on which second preference was correctly marked with No. 2. He distributed the 19 papers to the candidates remaining in the field (kindly see Transfer Sheet No.1). Now, these 19 ballot papers will not have the same value of 100 each, but a NEW VALUE to be calculated as follows:

The new transfer value of surplus votes is arrived at by dividing the total surplus by the No. of ballot papers actually distributed (unexhausted ballot papers).

$$\begin{array}{rcl} \text{Total Surplus} & = & 857 \\ \text{Ballot papers actually} & & \\ \text{distributed} & = & 19 \\ \text{NEW VALUE} = \frac{857}{19} & = & 45, \text{ Remainder } 2 \end{array}$$

(ignore the remainder 2 and take quotient 45 as the value)

Therefore, the new value was 45 and total value of transferred 19 papers was  $45 \times 19 = 855$  whereas total surplus was 857. Thus the remainder  $2(857 - 855 = 2)$  is known as “loss of value due to neglect of fraction” and was shown in column II(g) of Transfer Sheet No. 1. Thereafter the distribution of surplus of Shri A.K. was entered in the Result Sheet (column 3) and the Progressive total after this round of counting was shown in column 4.

Now that Shri Amit Kumar had been elected, the Returning Officer got his tray removed from the table. NOW ONWARDS Shri Amit Kumar should not receive any further vote and in subsequent counts if any preference was marked in favour of Shri A.K. that preference was to be ignored and the next preference marked on the ballot paper was to be taken into account.

After Shri A.K’s surplus distribution, no further candidate was elected. Therefore, the Returning Officer examined the result in column (4) of the Result Sheet and announced that candidate No. 9-Shri Imito Tombi was the one who got



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lowest number of total votes and, therefore, was to be ELIMINATED from the field of contest. His tray was removed from the table and placed before the Returning Officer for the purpose of elimination as follows.

## **VI. ShriImitoTombi: Elimination of Candidate Lowest at the Poll Distribution of his votes.**

Now kindly refer to TRANSFER SHEET No. 2 .

The Returning Officer announced that ShriImitoTombi (II) got two packets of votes. The first packet was the main parcel containing 11 votes at the value 406 of 100 each and the second packet (sub-parcel-1) 2 ballot papers (transferred to him from the surplus of ShriAmit Kumar) of 45 value each. Now all his votes in both the packets were to be transferred to others as per next preference marked. On such transfer OTHER REMAINING CANDIDATES received ShriTombi's papers AT THE SAME VALUE at which HE RECEIVED THEM.

The transfer of votes of ELIMINATED candidate shall be done packet by packet and SHOULD NOT BE MDCED UP. The Returning Officer took the main parcel containing 11 ballot papers of 100 value. He found 3 papers got no further preference marked and therefore were EXHAUSTED. On 8 papers further preference was marked (2-Baldev Singh got4, 8- Harishanker got 1 and 12 LalitaKumari got 3 papers). Thus they were distributed at the value of 100 each and put into separate sub-parcels for each candidate receiving them. After finishing with the main parcel, the Returning Officer took the second parcel of ShriImitoTombi. That second parcel (sub-parcel No. 1) contained 2 papers of 45 value each. He received them from the elected candidate ShriAmit Kumar. On those two papers, the third preference was marked in favour of ShriBaldev Singh and Dwaraka Das respectively. This distribution was noted on Transfer Sheet No. 2. This distribution was posted on the Result Sheet in column 5 and the progressive total in column 6.

With the transfer of votes of ShriImitoTombi, no further candidate got elected since nobody reached the quota required for election. The Returning Officer pointed out that the next candidate to be ELIMINATED shall be No.7-Gyan Dev Kumar who got total 1845 votes and was the candidate with LOWEST votes at that stage. The tray of Shri G.D. Kumar was removed from the table and placed before the Returning Officer for distribution. At this stage out of total 12 trays on the table, the trays of 3 candidates were removed (No. 1 who got elected, No.9 and No.7 who were eliminated) and the containing candidates were only 9.

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## **VII Elimination of ShriGyanDev Kumar & Distribution of his votes**

Like ShriTombi, ShriGyanDev Kumar also got only 2 parcels, the main parcel containing 18 original votes of 100 value each and the sub- parcel No. 1 only one paper with a value of 45. The Returning Officer distributed both the packets like that of ShriTombi (kindly see Transfer Sheet No.3).

The distribution of votes of ShriGyanDev Kumar as shown in Transfer Sheet No.3 was posted in column 7 of the Result Sheet and the total votes of all candidates as a result of this distribution was shown in column 8 thereof.

From column 8 of Result Sheet, it may be seen that no further candidate was elected. Therefore, Returning Officer announced that No. 6—Shri Frank Mathew with total 2045 votes was the lowest at the poll. Therefore, the Returning Officer proceeded to eliminate Shri Frank Mathew counting.

## **VIII Distribution of Votes of Shri Frank Mathew**

This was the Fifth Round of counting. The tray containing the votes of Shri Frank Mathew was removed from the table and placed before the Returning Officer. The continuing candidates whose trays remained on the table were 8 (excluding candidates at SI. No. 1, 6, 7 and 9). The Returning Officer, therefore, proceeded to distribute the votes of Frank Mathew to the 8 continuing candidates.

Frank Mathew got 3 packets. Main parcel containing 19 original votes of 100 value each and the second parcel which was sub-parcel No. 1 contained one paper of 100 value and the third parcel which was sub-parcel No. 2 contained one paper of 45 value. The Returning Officer distributed votes in his 3 parcels as shown in Transfer Sheet No. 4. The distribution was entered in column 9 and the result thereof in column 10 of the Result Sheet. Even after this round of counting, no further candidate got elected. Therefore, the Returning Officer eliminated candidate No. 10-Jaya Kumari who got only 2345 votes and lowest at the poll.

## **IX Elimination of Jaya Kumari-Sixth Round of Counting**

Kindly see Transfer Sheet No. 5. Jaya Kumari got a total two parcels, the main parcel containing 23 votes of 100 value and the sub-parcel No.1 got one vote of the value of 45. First the Returning Officer distributed the votes in main parcel. Out of these 23 votes, ShriKalyanSundaram (No. 11) secured 700 votes. He already got 3,400 votes and with the 700 votes his total came to 4,100 which was more than the quota required for election. Therefore, after distributing the votes in main parcel of Jaya Kumari the tray of ShriKalyanSundaram who secured the quota for election was

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removed because he SHOULD NOT BE GIVEN ANY FURTHER VOTE FROM THE REMAINING SUB-PARCELS. Returning Officer then distributed the one vote in Sub Parcel No. 1. Thereafter, the distribution of all votes of Jaya Kumari was entered in Transfer Sheet No.5 and the Result Sheet (columns 11 and 12). After noting the result of this round in the Result Sheet , the Returning Officer announced that No. 11 KalyanSundaram was elected and against his name in the Result Sheet, it was noted as “ELECTED-II” in COLUMN 21.

At this stage, before taking up of ELIMINATION of any other candidate, the Returning Officer had to distribute the surplus votes of ShriKalyanSundaram who secured total 4,100 votes. The quota being 4043, the surplus was  $4100-4043=57$

### **X Distribution of surplus of ShriKalyanSundaram**

This was the 7th Round of Counting. Shri K.S. got his surplus from the last sub-parcel (No. 3) in which he got 7 votes of 100 values. Therefore, for the purpose of distribution of his surplus, the Returning Officer had to take into account the 7 votes in the last sub-parcel only.

The Returning Officer examined the 7 ballot paper and found that one was marked to Hari Shankar and 6 were to LalitaKumari. Therefore, all 7 were marked to continuing candidates. Therefore, the NEW VALUE of these 7 papers was calculated as follows (kindly see item No. V of this note). Surplus was 57 and the ballot papers transferred were 7 (see Transfer Sheet no. 6). The New Value was

$$= \frac{57}{7} = 8 \text{ (ignore fraction)}$$

The total value =  $7 \times 8 = 56$  ( $57-56=1$  and this one was the “loss of value due to neglect of fraction”). Thus, the 7 ballot papers were distributed at a new value of 8 each. This was noted in columns 13 and 14 of the Result Sheet.

After distribution of surplus of KalyanSundaram, no other candidate got quota. Therefore, again the Returning Officer had to eliminate the candidate lowest at the poll.

### **XI. Eighth Round of Counting: Elimination of No. 3**

Candidate No.3 Shri Chandra Mohan with 2,680 votes was the lowest at the poll. Returning Officer eliminated him and distributed his votes in main parcel and sub-parcel Nos. 1,2 and 3. Kindly see Transfer Sheet No. 7 and columns 15 and 16 of the Result Sheet. From the 22 original votes of Shri CM., ShriBaldev Singh secured 400 votes from the main parcel. He already got 3,835 votes which have now become

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3,835+400=4,235. Thus he secured the quota required for election. Therefore, he was not entitled for any further vote from the remaining 3 sub-parcel of Shri Chandra Mohan. Shri Baldev Singh's tray was, therefore, kept aside. Thereafter, the Returning Officer distributed the 3 sub-parcels of Chandra Mohan one after the other. After distribution of all votes, the result of this round was entered in the Result Sheet at columns 15 and 16. ShriBaldev Singh was shown as ELECTED-III in column 21.

Before taking up further counting, the surplus of Shri Baldev Singh was to be distributed.

## **XII. Ninth Round of Counting : Distribution of surplus of ShriBaldev Singh**

Shri Baldev Singh got total 4,135 votes and thus he got 192 votes as surplus (4,235-4,043=192). Kindly see Transfer Sheet No.8. The last sub-parcel of Shri Baldev Singh contained 4 ballot papers out of which he got surplus of 192. All 4 ballot papers were marked to continuing candidates. Therefore, the New Value of the 4 ballot papers was 192 divided by 4=48. The result after transfer of surplus of ShriBaldev Singh may be seen at columns 17 and 18 of the Result Sheet.

After distribution of surplus of Shri Baldev Singh the over all position of candidates was as follows:

### **ELECTED**

Shri Amit Kumar (No. 1)-Elected I  
Shri K. Sundaram (No. ID)-Elected II  
Shri Baldev Singh (No. 2)-Elected III

### **ELIMINATED**

Shri Imito Tombi (No. 9)  
Shri Gyan Dev Kumar (No.7)  
Shri Frank Mathew (No.6)  
Kum. Jaya Kumari (No. 10)  
Shri Chandra Mohan (No. 3)

Thus out of 6 seats, 3 seats have already been filled. Out remaining 9 candidates 5 were already eliminated. Now remained 4 candidates as continuing candidates and out of these 4, 3 were to be elected. Therefore, only one of them was to be eliminated. The 4 continuing candidates were:

No. 4 -Dwaraka Das  
No. 5-Ela Joseph  
No. 8-Hari Shankar  
No. 12-Lalita Kumari

---

Out of the 4 above, Hari Shankar with 3,388 votes was the lowest at the poll. Therefore, he had to be eliminated.

### **XIII. Tenth and Last Round of counting: Elimination of Hari Shankar**

The Returning Officer took up the last round of counting and eliminated Shri Hari Shankar. Kindly. See Transfer Sheet No. 9.

Shri Hari Shankar got total 9 parcels (one main parcel and 8 sub-parcels). From his main parcel of 23 votes of 100 value each, Dwaraka Das secured 400, Ela Joseph secured 700 and Lalita Kumari secured 300 votes. After the transfer of main parcel, both Ela Joseph and Lalita Kumari got elected. Therefore, they were not given any further vote from the sub-parcels. Thereafter after receiving one vote of 45 value from sub-parcel 1 and one vote of 100 value from sub-parcel 2, Dwaraka Das also got the quota and elected. Therefore, the Returning Officer closed the counting after transferring up to sub-parcel No. 2 of Hari Shankar. With this, the remaining three seats were also filled. The result was entered in column 19 and 20 of the Result Sheet. Column 21 was also filled up showing the order of election and elimination. Then the Returning Officer declared the 6 candidates as elected, *vide* note below the Result Sheet. The Returning Officer signed the Result Sheet and affixed his seal. Thus the counting ended.

## RESULT SHEET

Total valid votes : 283

No. of seats to be filled : 6

Value of each vote : 100

Quota =  $\frac{\text{Total value of valid votes} + 1}{6}$

Total value of valid votes = 28,300

No. of seats +1

i.e.,  $\frac{28,300}{6} + 1 = 4043$

Name of candidate	Value of votes at first count	Distribution of surplus of 1. Amit K.	Result	Distribution of votes of 9-Imito Tombi	6		7		8		9		Result	Distribution of votes of 10-Jaya Kumari
					Result	Distribution of 7-G.D Kumar	Result	Distribution of 6-Frank Mt	Result	Distribution of 6-Frank Mt	Result	Distribution of 6-Frank Mt		
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1. Amit Kr	4900	(-) 857	4043	--	4043	--	4043	--	4043	--	4043	--	4043	--
2. Baldev Singh	2700	(+) 90	2790	(+) 445	3235	--	3235	(+) 300	3335	(+) 300	3335	(+) 300	3335	(+) 300
3. Chandra. Mohan	2200	(+) 180	2380	--	2380	--	2380	(+) 100	2480	(+) 100	2480	(+) 100	2480	(+) 100
4. Dwarka Das	2200	(+) 180	2380	(+) 45	2425	--	2425	(+) 100	2525	(+) 100	2525	(+) 100	2525	(+) 100
5. E. Joseph	2300	(+) 90	2390	--	2390	(+) 100	2490	(+) 400	2890	(+) 400	2890	(+) 400	2890	(+) 400
6. F. Mathew	1900	----	1900	--	1900	(+) (145)	2045	(-) 2045	--	--	--	--	--	--
7. GyanDev Kumar	1800	(+) 45	1845	--	1845	(-) 1845	--	--	--	--	--	--	--	--
8. Hari Shankar	2300	(+) 135	2435	(+) 100	2535	--	2535	(+) 245	2780	(+) 245	2780	(+) 245	2780	(+) 245
9. I. Thambi	1100	(+) 90	1190	(-) 1190	--	--	--	--	--	--	--	--	--	--
10. Jaya Kumari	2300	(+) 45	2345	--	2345	--	2345	--	2345	--	2345	--	2345	(-) 2345
11. K. Sundaram	2500	----	2500	--	2500	(+) 800	3300	(+) 100	3400	(+) 100	3400	(+) 100	3400	(+) 100
12. LalitaKumari	2100	----	2100	(+) 300	2400	(+) 800	3200	(+) 400	3600	(+) 400	3600	(+) 400	3600	(+) 400
Non Transferable papers														
Loss due to fraction/ Exhausted votes	--	2	2	--	302	--	302	--	400	--	400	--	702	--
<b>Total</b>	<b>28,300</b>		<b>20,300</b>		<b>20,300</b>		<b>28,300</b>		<b>20,300</b>		<b>28,300</b>		<b>20,300</b>	

## RESULT SHEET

Name of candidate (B.F. from pre-page)	12	13	14	Deistribution of votes of 3-C. Moham	16	17	18	Distribution of 8 Hari S.	20	Remarks
1. Amit Kr	4043	--	4043	--	4043	--	4043	--	4043	Elected-I
2. Baldev Singh	3835	--	3835	(+)	4235	(-)	4043	--	4043	Elected-III
3. Chandra. Mohan	2680	--	2680	(-)	--	--	--	--	--	Eliminated-V
4. Dwaraka Das	2725	--	2725	(+)	3525	(+)	3573	(+)	4118	Elected-VI
5. E. Joseph	2935	--	2935	(+)	3680	(+)	3824	(+)	4524	Elected-IV
6. F. Mathew	--	--	--	--	--	--	--	--	--	Eliminated-III
7. GyanDev Kumar	--	--	--	--	--	--	--	--	--	Eliminated-II
8. Hari Shankar	2980	(+)	2988	(+)	3388	--	3388	(-)	--	Eliminated-VI
9. I. Thambi	--	--	--	--	--	--	--	--	--	Eliminated-I
10. Jaya Kumari	--	--	--	--	--	--	--	--	--	Eliminated-IV
11. K. Sundaram	4100	(-)	4043	--	4043	--	4043	--	4043	Elected-II
12. LalitaKumari	3900	(+)	3948	(+)	3993	--	3993	(+)	4293	Elected-V
Non Transferable papers										
Loss due to fraction/ Exhausted votes	1102	--	1103	--	1393	--	1393	--	1843	3236
<b>Total</b>	<b>28,300</b>		<b>28,300</b>		<b>28,300</b>		<b>28,300</b>		<b>28,300</b>	

I declare that: 1. Shri Amit Kumar, 2. Shri Kalyansundaram, 3. Shri Baldev Singh, 4. Miss Ela Joseph, 5. Smt. Lalita Kumar and 6. Shri Dwaraka Das have been duly elected to fill the 6 seats in the Council.

New Delhi : .....

Dated : .....

---

TRANSFER SHEET NO. 1

**Transfer of Surplus votes of ShriAmit Kumar  
(elected candidate)**

I.	(a)	Total value of votes	:	4900
	(b)	Quota	:	4043
	(c)	Value of surplus votes (a-b)	:	857*
II.	(a)	Total No. of ballot papers in the main parcel/last sub-paragraph to be further transferred	:	49
	(b)	Value of each such ballot paper in that parcel/sub-paragraph	:	100
	(c)	No. of exhausted ballot papers	:	30
	(d)	No. of unexhausted ballot paper actually transferred (a-c)	:	19
	(e)	New transfer value of each such transferred ballot	:	$\frac{857}{19}$ or 45
	(f)	Total value of transferred ballot papers	:	855
	(g)	Loss of value due to neglect of fraction/exhausted ballot papers	:	2

III. Distribution of votes among continuing candidates

SI. No. and name of candidate	value of votes obtained
2. Baldev Singh	2 X 45 = 90
3. Chandra Mohan	4 X 45 = 180
4. Dwaraka Das	4 X 45 = 180
5. Ela Joseph	2 X 45 = 90
7. GyanDevKumar	1 X 45 = 45
8. HariShankar	3 X 45 = 135
9. Imito Tombi	2 X 45 = 90
10. Jaya Kumari	1 X 45 = 45
	19X 45 = 855
	Loss due to fraction =2



TRANSFER SHEET NO. 2

**Sl. No. and name of candidate eliminated-9 ImitoTombi**

Total value of votes : 1190

	Main Parcel	Sub-parcels																
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	
1.	No. of ballot papers to be transferred	11	2															13
2.	Value of each ballot Paper	100	45															
3.	Value of votes to be transferred	1100	90															1190
4.	No. of ballot papers actual transferred	8	2															10
5.	Value of transferred votes	800	90															890
6.	No. of Exhausted ballot papers	3	--															3
7.	Value of exhausted ballot papers	300	--															300

**DISTRIBUTION OF VOTES**

CANDIDATE	MAIN PARCEL	SUB-PARCEL				TOTAL
		1	2	3	4	
BALDEV SINGH	400	45	--	--	--	445
DWARAKA DAS	--	45	--	--	--	45
HARI SHANKER	100	--	--	--	--	100
LALITA KUMARI	300	--	--	--	--	300

TRANSFER SHEET NO. 3

**Sl. No. and name of candidate eliminated-7 GyanDev Kumar**

Total value of votes : 1845

	Main Parcel	Sub-parcels																
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	
1.	No. of ballot papers to be transferred	18	1															19
2.	Value of each ballot Paper	100	45															
3.	Value of votes to be transferred	1800	45															1845
4.	No. of ballot papers actual transferred	8	1															19
5.	Value of transferred votes	1800	45															1845
6.	No. of Exhausted ballot papers	--	--															--
7.	Value of exhausted ballot papers	--	--															--

**DISTRIBUTION OF VOTES**

CANDIDATE	MAIN PARCEL	SUB-PARCEL				TOTAL
		1	2	3	4	
ELA JOSEPH	100	--	--	--	--	100
MATHEW	100	45	--	--	--	145
SUNDARAM	800	--	--	--	--	800
LALITA KUMARI	800	--	--	--	--	800
<b>1800</b>		<b>45</b>	<b>--</b>	<b>--</b>	<b>--</b>	<b>1845</b>

TRANSFER SHEET NO. 4

**SI.No. and name of candidate eliminated-6- Frank Mathew**

Total value of votes : 2045

	Main Parcel	Sub-parcels																
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	
1.	No. of ballot papers to be transferred	19	1	1														21
2.	Value of each ballot Paper	100	45															
3.	Value of votes to be transferred	1900	100	45														2045
4.	No. of ballot papers actual transferred	15	1	1														17
5.	Value of transferred votes	1500	100	45														1645
6.	No. of Exhausted ballot papers	4	--	--														4
7.	Value of exhausted ballot papers	400	--	--														400

**DISTRIBUTION OF VOTES**

CANDIDATE	MAIN PARCEL	SUB-PARCEL				TOTAL
		1	2	3	4	
BALDEV SINGH	300	--	--	--	--	300
CHANDRA MOHAN	100	--	--	--	--	100
DWARAKA DAS	100	--	--	--	--	100
ELA JOSEPH	400	100	45	--	--	400
HARI SHANKAR	100	--	--	--	--	245
KALYAN SUNDARAM	100	--	--	--	--	100
LALITA KUMARI	400	--	--	--	--	400
	<b>1500</b>	<b>100</b>	<b>100</b>	<b>--</b>	<b>--</b>	<b>1645</b>

TRANSFER SHEET NO. 5

**Sl.No. and name of candidate eliminated-10 Jaya Kumari**

Total value of votes : 2345

	Main Parcel	Sub-parcels																
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	
1.	No. of ballot papers to be transferred	23	1															24
2.	Value of each ballot Paper	100	45															--
3.	Value of votes to be transferred	2300	45															2345
4.	No. of ballot papers actual transferred	19	1															20
5.	Value of transferred votes	1900	45															1945
6.	No. of Exhausted ballot papers	4	--															4
7.	Value of exhausted ballot papers	400	--															400

**DISTRIBUTION OF VOTES**

CANDIDATE	MAIN PARCEL	SUB-PARCEL				TOTAL
		1	2	3	4	
BALDEV SINGH	300	--	--	--	--	300
CHANDRA MOHAN	200	--	--	--	--	200
DWARAKA DAS	200	--	--	--	--	200
ELA JOSEPH	--	45	--	--	--	45
HARI SHANKAR	200	--	--	--	--	200
KALYAN SUNDARAM	700 Elected-II	--	--	--	--	700
LALITA KUMARI	400	--	--	--	--	300
	<b>1500</b>	<b>45</b>	<b>--</b>	<b>--</b>	<b>--</b>	<b>1945</b>

---

TRANSFER SHEET NO.6

**Transfer of Surplus votes of Kalyan  
Sundaram (elected candidate)**

I.	(a)	Total value of votes	:	4100
	(b)	Quota	:	4043
	(c)	Value of surplus votes (a-b)	:	57*
II.	(a)	Total No. of ballot papers in the last sub-parcel to be further transferred	:	7
	(b)	Value of each such ballot paper in that parcel/sub-parcel	:	100
	(c)	No. of exhausted ballot papers	:	—
	(d)	No. of unexhausted ballot paper actually transferred (a-c)	:	7*
	(e)	New transfer value of each such transferred ballot paper	:	$\frac{8}{56}$ $\frac{*57}{*7}$
	(f)	Total value of transferred ballot papers	:	
	(g)	Loss of value due to neglect of fraction/exhausted ballot papers	:	1

III. Distribution of votes among continuing candidates

SI.	No. and name of candidate	value of votes obtained
8.	Hari Shankar	1 X 8 = 8
12.	Lalita Kumari	6 X 8 = 48

TRANSFER SHEET NO. 7

**SI.No. and name of candidate eliminated-3 Chandra Mohan**

Total value of votes : 2680

	Main Parcel	Sub-parcels																
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	
1.	No. of ballot papers to be transferred	22	4	2														29
2.	Value of each ballot Paper	100	45	100														--
3.	Value of votes to be transferred	2200	180	200														2680
4.	No. of ballot papers actual transferred	20	2	2														25
5.	Value of transferred votes	2000	90	200														2390
6.	No. of Exhausted ballot papers	2	2	--														4
7.	Value of exhausted ballot papers	200	90	--														290

**DISTRIBUTION OF VOTES**

CANDIDATE	MAIN PARCEL	SUB-PARCEL				TOTAL
		1	2	3	4	
BALDEV SINGH	400 Elected III	--	--	--	--	400
DWARAKA DAS	700	--	--	100	--	800
ELA JOSEPH	500	45	--	--	200	745
HARI SHANKAR	400	--	--	--	--	400
LALITA KUMARI	--	45	--	--	--	45
<b>2000</b>		<b>90</b>	<b>100</b>	<b>100</b>	<b>200</b>	<b>2390</b>

---

TRANSFER SHEET NO. 8

**Transfer of Surplus votes of 2-Baldev Singh  
(elected candidate)**

I.	(a)	Total value of votes	:	4235
	(b)	Quota	:	4043
	(c)	Value of surplus votes (a-b)	:	192*
II.	(a)	Total No. of ballot papers in the last sub-parcel to be further transferred	:	4
	(b)	Value of each such ballot paper in that sub-parcel	:	100
	(c)	No. of exhausted ballot papers	:	—
	(d)	No. of unexhausted ballot paper actually transferred (a-c)	:	$\frac{4 \times 192}{*4}$
	(e)	New transfer value of each such transferred ballot	:	48
	(f)	Total value of transferred ballot papers	:	192
	(g)	Loss of value due to neglect of fraction/exhausted ballot papers	:	—

III. Distribution of votes among continuing candidates

SI.	No. and name of candidate	value of votes obtained
5.	Ela Joseph	3 X 48 = 144
4.	Dwaraka Das	1 X 48 = 48

TRANSFER SHEET NO. 9

**Sl.No. and name of candidate eliminated- 8- ShriHari Shankar**

Total value of votes : 3388

	Main Parcel	Sub-parcels															
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1.	No. of ballot papers to be transferred	23	3	1	1	1	2	1	4								37
2.	Value of each ballot Paper	100	45	100	100	45	100	8	100								
3.	Value of votes to be transferred	2300	135	100	100												3388
4.	No. of ballot papers actual transferred	14	1	1	Not transferred												16
5.	Value of transferred votes	1400	45	100	As requisite No. of candidates												1545
6.	No. of Exhausted ballot papers	9	2	--	Got elected												22
7.	Value of exhausted ballot papers	900	90	--	100	100	45	200	8	400							853

**DISTRIBUTION OF VOTES**

CANDIDATE	MAIN PARCEL	SUB-PARCEL				SUB-PARCEL	TOTAL
		1	2	3	4		
DWARAKA DAS	400	45	100		--	545	Elected VI
ELA JOSEPH	700	--	--		--	745	Elected IV
LALITA KUMARI	300	--	--		--	45	Elected V
<b>1400</b>		<b>45</b>	<b>100</b>		<b>--</b>	<b>1545</b>	



**Notice to Candidates or their Election Agents regarding  
the Date, Time and Place for Counting**

---

**Election to the Council of States**

---

..... Legislative Council  
..... Constituency

In pursuance of rule 55 of the Conduct of Election Rules, 1961, I hereby give notice that I have, in accordance with the said rule, fixed the ..... day of ..... (month) 20.....a.m/p.m. as the date and time for the counting of votes for the above election and ..... as the place for such counting.

Place.....

Signature.....

Date.....

Returning Officer.....

To

All candidates or their election agents.

**Appointment of Counting Supervisors/ Assistants**

---

**Election to the Council of States**

---

..... Legislative Council  
..... Constituency

I ..... (name) ..... (designation) appoint the persons whose names are specified below to act as Counting Supervisors/ Assistants and to attend at ..... for the purpose of assisting me in the counting of votes at the said election.

1. ....
2. ....
- .....
- .....

Place.....  
Date.....

Signature.....  
Returning Officer.....

**Election to the Council of States/Legislative  
Council by Members of ----- Legislative Assembly**

Statement showing the No. of ballot papers taken out of the ballot box(es), postal ballot papers and ballot papers found valid and rejected

- |    |   |       |
|----|---|-------|
| 1. | No. of ballot papers taken out<br>of the ballot box(es)               | ..... |
| 2. | No. of Postal ballot papers taken<br>out of covers under rule 54A (7) | ..... |
|    |   | Total |
| 3. | No. of ballot papers rejected   | ..... |
| 4. | No. of ballot papers found valid                                      | ..... |

## ANNEXURE XII-E

(Sample Form when one seat is to be filled)

### TRANSFER SHEET NO.

(To be used for distribution of votes of excluded candidate)

Name of candidate excluded : M

Total value of votes : 41

	Main parcel	Sub-parcels							etc
		1	2	3	4	5	6		
No. of ballot papers to be transferred	29	3	4	2	1	1	1	=41	
Value of each ballot paper	1	1	1	1	1	1	1		
Value of votes to be transferred	29	3	4	2	1	1	1	=41	
No. of ballot papers actually transferred	27	3	2	2	-	-	1		
Value of transferred votes	27	3	2	2	-	-	1	=35	
No. of exhausted ballot papers	2	-	2	-	1	1	-	=6	
Value of exhausted ballot papers	2	-	2	-	1	1	-	=6	

### Distribution of votes

Name of Candidate	Continuing Main Parcel	Value of votes obtained by transfer of ballot paper from								
		Sub-parcels							Etc.	Total
		1	2	3	4	5	6			
A	1	-	1	-	-	-	-	=	2	
B	3	-	-	-	-	-	-	=	3	
C	4	-	-	-	-	-	-	=	4	
D	-	-	1	-	-	-	-	=	1	
K	-	2	-	-	-	-	-	=	2	
N	17	-	-	2	-	-	1	=	20	
Y	1	-	-	-	-	-	-	=	1	
Z	1	1	-	-	-	-	-	=	2	
<b>Total</b>		<b>27</b>	<b>3</b>	<b>2</b>	<b>2</b>	<b>-</b>	<b>-</b>	<b>1</b>	<b>35</b>	

---

## ANNEXURE XII-F

### Election to .....

Account of votes received by Y (candidate)

<b>Main Parcel/ Sub- parcel</b>	<b>Name of candidate from whom transferred</b>	<b>No. of ballot papers</b>	<b>Value of each ballot paper</b>	<b>Total value</b>
Main Parcel (Original votes)		40	100	4000
Sub-parcel (1)	G	3	23	69
Sub-parcel (2)	H	1	100	100
Sub-parcel (3)	M	8	15	120
Sub-parcel (4)	K	11	100	1100
Sub-parcel (5)	K	14	7	98
				5487

(To be used for distribution of surplus votes of elected candidate)

**TRANSFER SHEET NO. 1****Transfer of Surplus votes of Shri Amit Kumar (elected candidate)**

- |     |     |   |   |                        |
|-----|-----|---|---|------------------------|
| 1.  | (a) | Total value of votes  | : | 4900                   |
|     | (b) | Quota   | : | 4043                   |
|     | (c) | Value of surplus votes (a-b)  | : | 857                    |
| II. | (a) | Total No. of ballot papers in the main parcel/last sub-parcel to be further transferred | : | 49                     |
|     | (b) | Value of each such ballot paper in that parcel/sub-parcel                               | : | 100                    |
|     | (c) | No. of exhausted ballot papers  | : | 30                     |
|     | (d) | No. of unexhausted ballot papers actually transferred (a-c)                             | : | 19                     |
|     | (e) | New transfer value of each such transferred ballot                                      | : | $\frac{857}{19}$ or 45 |
|     | (f) | Total value of transferred ballot papers  | : | 855                    |
|     | (g) | Loss of value due to neglect of fraction/exhausted ballot                               | : | 2                      |

**III. Distribution of votes among continuing candidates**

Sl.No. and name of candidate	Value of votes obtained
2. Baldev Singh	$2 \times 45 = 90$
3. ChandraMohan	$4 \times 45 = 180$
4. Dwaraka Das	$4 \times 45 = 180$
5. Ela Joseph	$2 \times 45 = 90$
7. GyanDevKumar	$1 \times 45 = 45$
8. HariShankar	$3 \times 45 = 135$
9. Imito Tombi	$2 \times 45 = 90$
10. Jaya Kumari	$\underline{1 \times 45 = 45}$
	$19 \times 45 = 855$

Loss due to fraction = 2

(To be used for distribution of votes of excluded candidate)  
TRANSFER SHEET NO. 2

**SI.No. and name of candidate eliminated-9 ImitoTombi**

Total value of votes : 1190

	Main Parcel	Sub-parcels																
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	
1.	No. of ballot papers to be transferred	11	2															13
2.	Value of each ballot Paper	100	45															
3.	Value of votes to be transferred	1100	90															1190
4.	No. of ballot papers actual transferred	8	2															10
5.	Value of transferred votes	800	90															890
6.	No. of Exhausted ballot papers	3	--															3
7.	Value of exhausted ballot papers	300	--															300

**DISTRIBUTION OF VOTES**

CANDIDATE	MAIN PARCEL	SUB-PARCEL				TOTAL
		1	2	3	4	
BALDEV SINGH	400	45	--	--	--	445
DWARAKA DAS	--	45	--	--	--	45
HARI SHANKER	100	--	--	--	--	100
LALITA KUMARI	300	--	--	--	--	300

---

**ANNEXURE XII-I**

No. ....

Dated .....

To

From:

**PROFORMA FOR SEEKING PERMISSION FOR  
DECLARATION OF RESULT**

**Name of State** : .....

Time of Report : .....

1. Complaints received, if any from Candidates or their agents about any tamper with seals of ballot boxes and the manner of enquiry and disposal and decision thereon. :
2. Any unusual features found during the counting leading to suspicion of irregularities and decision thereon. :
3. Request from candidates for recounting of votes, their grounds alongwith the decision of the Returning Officer. :
4. (a) Total No. of Electors  
(b) Total number of votes cast  
(c) Total No. of valid votes polled  
(d) Total No. of invalid/ rejected votes  
(e) Total No. of tendered votes  
(f) Quota fixed for the Election.....  
(g) Number of valid votes secured by each contesting candidates :  
(Give the detail in the table below)



---

S. No.	Name of Candidates	Party affiliation If any	Number of valid votes polled after last round of counting *
--------	--------------------	-----------------------------	---

---

- 1.
  - 2.
- 

\* ( For more than one round of counting, enclose counting sheet separately)

5. Any other unusual feature :
6. Recommendation of the Returning Officer :  
alongwith the reasons for such  
recommendations

Place : .....

Signature of Returning Officer

Date : .....

Tel. No. ....

Fax No. ....

Recommendation of the Observer

Signature of the Observer

---

**ANNEXURE XII-J****FORM 16**

[See rules 45, 56(7) and 56A(7)]

**PART-I BALLOT PAPER ACCOUNT**

Election to the Maharashtra Legislative Council  
from Greater Bombay (Graduates) Constituency  
Number and Name of Polling Station—45

	Serial Nos.		Total No.
	From	To	
1. Ballot Papers received	34201	35080	880
2. Ballot papers unused: (i.e., not issued to voters (a) With the signature of Presiding Officer (b) Without the Signature of Presiding Officer	34975  34981	34980  35078	6  <u>96</u> 104
3. *Ballot papers used at the Polling Station (1-2=3)			776
4. Ballot papers used at the Polling Stations but NOT INSERTED INTO THE BALLOT BOX: (a) Ballot papers cancelled for violation of voting procedure under rule 39A (b) Ballot papers cancelled for other reasons  (c) Ballot papers used as tendered ballot papers *Total (a+b+c):	34344 34288 34601 34777 34780 35080 35079		1 4     <u>2</u> 7
5. Ballot papers to be found in the ballot box (3-4=5)			769

Serial numbers need not given.

Sd/-  
Signature of the Presiding Officer

---

**Part II-Result of Counting**

---

I. Name of candidate	Number of valid votes cast
1.	
2.	
3.	
4.	
5.	
etc.	

---

**II. Rejected Ballot Papers**

---

III. Total	769
Whether the total number of ballot papers shown against item No.III above tallies with the total shown against item No.5 of Part I or any discrepancy noticed between these two totals.	No discrepancy

---

Place ..... Sd/-  
Date ..... Signature of Counting Supervisor

Place ..... Sd/-  
Date ..... Signature of Counting Returning Officer

**Statement showing the number of ballot papers taken  
out of the ballot boxes, postal ballot papers and  
ballot papers found valid and rejected**

**Election to .....**

I. No. of ballot papers taken out of ballot boxes and postal ballot papers

---

SI. No. of polling station	No. of ballot papers taken out of the ballot boxes
1.	
2.	
3.	
4.	
5.	
etc.	

---

**Total**

No. of postal ballot papers taken out of  
covers under rule 54A(7) -----

**Grand Total**

---

II. No. of ballot papers rejected

III. No. of valid ballot papers

**SPECIMEN TELEGRAM**

(To be used at an Election by Assembly Members)

**Immediate**

Eleccom  
New delhi

Biennial election 1992 to council of states by members of .....  
(Name of state) legislative assembly (stop) total votes polled two hundred ninety  
one (stop) votes rejected one (stop) valid votes two hundred ninety (stop) number  
of candidates to be elected slx (stop) shrix (name of party) shrim (name of party)  
shrimatik (name of party) shri j (name of party) shri c (name of party) and shrih  
(name of party) declared elected (stop)

**SPECIMEN TELEGRAM**

(For Election in Council Constituency)

**Immediate**

Eleccom  
New delhi

Biennial election 1992 to bihar legislative council. (Stop) .....  
(Name of constituency) teachers' constituency (stop) total electors five thousand  
nine hundred eighty five (stop) votes polled three thousand eight hundred seventy six  
(stop) votes rejected one hundred eighteen (stop) valid votes three thousand seven  
hundred fifty eight (stop) number of seats to be filled one (stop) shri x (name of  
party) declared elected (stop)

**APPLICATION FOR REFUND OF DEPOSIT MADE  
UNDER SECTION 34 READ WITH SECTION 39(2) OF THE  
REPRESENTATION OF THE PEOPLE ACT, 1951**

By a Candidate

From

Name .....

Address .....

To

The Returning Officer for Election to the Council of States by Members of ..  
..... Legislative Assembly.

**Subject :** Return of deposit under section 158 of the Representation of the People Act, 1951.

Sir,

1. I was a candidate for election to the Council of States by Members of..... Legislative Assembly.
2. I made a deposit of Rs .....for that election in the Treasury under receipt No ..... on ..... \*in cash with Returning Officer on .....
3. My nomination paper was accepted/rejected by the Returning Officer:
4. I \*with drew my candidature in time.  
did not withdraw
5. I \*was elected and secured more than one-sixth of the  
was not  
vote sufficient to secure the return of a candidate at that election.
6. I request that the deposit referred to in paragraph 2 may be returned to me.

---

7. I hereby declare that all the statements made in this application are true to my knowledge.

Place : .....

Yours faithfully,

Date : .....

(Signature of Candidate)

---

\*Strike off the words not applicable in your case.



**APPLICATION FOR REFUND OF DEPOSIT MADE  
UNDER SECTION 34 READ WITH SECTION 39(2) OF THE  
REPRESENTATION OF THE PEOPLE ACT, 1951**

By a Depositor when he is not the Candidate

From

Name .....

Address .....

To

The Returning Officer for Election to the Council of States by Members of  
..... Legislative Assembly.

**Subject** : Return of deposit under section 158 of the Representation of the People Act, 1951.

Sir,

1. .... (Name of the candidate) was a candidate for election to the Council of States by Members of..... Legislative Assembly.
2. On behalf of the said candidate, I made a deposit of Rs..... for that election in the .....Treasury under receipt No .....on.....\*in cash with Returning Officer on .....
3. His nomination paper was \*accepted by Returning Officer rejected
4. He \*withdrew his candidature in time.  
did not withdraw
5. He \*was elected and secured more than one-sixth of the  
was not  
vote sufficient to secure the return of a candidate at that election
6. I request that the deposit referred to in paragraph 2 may be returned to me.

---

7. I hereby declare that I have verified all the statements made in this application, and they are true to my knowledge.

Place : .....

Yours faithfully,

Date : .....

(Signature of Applicant)

I .....the above mentioned candidate at the aforesaid election hereby certify that the statements contained in paragraphs 2 to 5 of this application are true to my knowledge.

Place : .....

Yours faithfully,

Date : .....

(Signature of Candidate)

---

\*Strike off the words not applicable in your case.

**APPLICATION FOR REFUND OF DEPOSIT MADE  
UNDER SECTION 34 READ WITH SECTION 39(2) OF THE  
REPRESENTATION OF THE PEOPLE ACT, 1951**

By the Legal Representative of the Candidate

From

Name .....

Address .....

To

The Returning Officer for Election to the Council of States by Members of  
..... Legislative Assembly.

**Subject :** Return of deposit under section 158 of Representation of the People Act, 1951.

Sir,

1. The late Shri ....was a candidate for election to the Council of States by Members of .....Legislative Assembly. He died on the ..... and I am his legal representative.
2. He made a deposit of Rs..... for that election, in the ..... Treasury under receipt No .....on .....\*in cash with Returning Officer on .....
3. His nomination paper was \*accepted by Returning Officer  
rejected
4. He \*withdrewhis candidature in time.  
did not withdraw
5. He \*was elected and secured more than one-sixth of the  
was not  
vote sufficient to secure the return of a candidate at that election
6. I request that the deposit referred to in paragraph 2 may be returned to me.

---

7. I hereby declare that all the statements made in this application are true to my knowledge.

Place : .....

Yours faithfully,

Date : .....

(Signature of Applicant)

---

\*Strike off the words not applicable in your case.

**APPLICATION FOR REFUND OF DEPOSIT MADE  
UNDER SECTION 34 READ WITH SECTION 39(2) OF THE  
REPRESENTATION OF THE PEOPLE ACT, 1951**

By a Candidate

From

Name .....

Address .....

To

The Returning Officer for Election to the ..... Legislative Council.

**Subject :** Return of deposit under section 158 of Representation of the People Act, 1951.

Sir,

1. I was a candidate for \*biennial/\*bye-election to the..... ,, ....  
Legislative Council\*by Members of State Legislative Assembly/from the .....  
..... Constituency.
2. I made a deposit of Rs.....for that election in the Treasury  
under receipt No .....on .....\*in cash with the Returning  
Officer on .....
3. My nomination paper was \*accepted by Returning Officer  
rejected
4. I \*withdrewmy candidature in time.  
did not withdraw
5. I \*was elected and secured more than one-sixth of the  
was not  
votes sufficient to secure the return of a candidate at that election
6. I did not stand as a candidate from any other Council Constituency of this  
biennial election

Or,

- 
- [6. (a) I stood as a candidate at this biennial election also from the
- (i) ..... Council Constituency
  - (ii) ..... Council Constituency
  - (iii) ..... Council Constituency.
- (b) I have not applied for the return of my deposit in any of these other Constituencies. The deposits made in these other Constituencies may be forfeited.]
7. I request that the deposit referred to in paragraph '2' may be returned to me.
8. I hereby declare that all the statements made in this application are true to my knowledge.

Place : .....

Yours faithfully,

Date : .....

(Signature of Candidate)

---

\*Strike off the words not applicable in your case.

Omit the portion within [ ] as necessary.

**APPLICATION FOR REFUND OF DEPOSIT MADE  
UNDER SECTION 34 READ WITH SECTION 39(2) OF THE  
REPRESENTATION OF THE PEOPLE ACT, 1951**

By a Depositor when he is not the Candidate

From

Name .....

Address .....

To

The Returning Officer

.....

**Subject :** Return of deposit under section 158 of Representation of the People Act, 1951.

Sir,

1. .... (Name of the candidate) was a candidate for biennial/bye-election election to the ..... Legislative Council by\* members of State Legislative Assembly/from the ..... Constituency.
2. On behalf of the said candidate, I made a deposit of Rs..... for that election in the .....Treasury under receipt No ...../in cash with Returning Officer on .....
3. His nomination paper was \*accepted by Returning Officer  
rejected
4. He withdrewhis candidature in time.  
did not withdraw
5. He was elected and secured more than one-sixth of the  
was not  
vote sufficient to secure the return of a candidate at that election

---

6. He did not stand as a candidate at the said biennial election from any other Council Constituency.

Or,

- [6. (a) He stood as a candidate at the said biennial election also from the—
- (i) .....Council Constituency
  - (ii) .....Council Constituency
  - (iii) .....Council Constituency.
- (b) No application has been made for the return of the deposits made in connection with the elections in these other Constituencies. The deposits made in these other Constituencies may be forfeited.]
7. I request that the deposit referred to in paragraph '2' may be returned to me.
8. I hereby declare that I have verified all the statements made in this application and they are true to my knowledge.

Place : .....

Yours faithfully,

Date : .....

(Signature of Applicant)

---

\*Strike off the words not applicable in your case.

I, ..... , the above mentioned candidate at the aforesaid election hereby certify that the statements contained in paragraphs 2 to 6 of this application are true to my knowledge.

Place : .....

Yours faithfully,

Date : .....

(Signature of Candidate)

---

Omit the portion within [ ] as necessary.



**APPLICATION FOR REFUND OF DEPOSIT  
MADE UNDER SECTION 34 READ WITH  
SECTION 39(2) OF THE REPRESENTATION  
OF THE PEOPLE ACT, 1951**

**By the Legal Representative of the Candidate**

FROM

Name .....

Address.....

To

The Returning Officer

.....

*Subject*: Return of deposit under section 158 of the Representation of the People Act, 1951.

Sir,

1. The late Shri.....was a candidate for the biennial/bye-election election to the..... Legislative Council by\* members of the State Legislative Assembly/from the...: .....Constituency. He died on the .....and I am his legal representative.
2. He made a deposit of Rs..... for that election in the..... Treasury under receipt No ..... on...../in cash with the Returning Officer on .....
3. His nomination paper was \*accepted by Returning Officer  
rejected
4. He \*withdrewhis candidature in time.  
did not withdraw
5. He \*was elected and secured more than one-sixth of the was not votes sufficient to secure the return of a candidate at that election

---

6. He did not stand as a candidate at the said biennial election from any other Constituency.

Or,

[6. (a) He stood as a candidate at the said biennial election also from the

(i) .....Council Constituency

(ii) .....Council Constituency

(iii) .....Council Constituency.

(b) No application has been made for the return of the deposits made in connection with the elections in these other Constituencies. The deposits made in these other Constituencies may be forfeited.]

7. I request that the deposit referred to in paragraph '2' may be returned to me.

8. I hereby declared that all the statements made in this application are true to my knowledge.

Yours faithfully,

Place .....

Date .....

(Signature of Applicant)

---

\*Strike off the words not applicable in your case.

Omit the portions within [ ] necessary.

**REPORT ON THE ELECTION BY THE  
RETURNING OFFICER**

1. Name of Constituency  
(in Block Letters)
2. Date or dates of poll in  
the Constituency :
3. Number of polling parties  
deployed in the Constituency, the  
composition of each party including  
police or similar officers employed  
for maintaining order at the polling  
station :
4. Nature of the polling programme.  
Single day poll. Constituency divided  
into zones and polling completed one  
after another with one/two days interval  
for transit or single party took up polling  
in adjacent polling stations on successive  
2/3 days of alternative :
5. Total number of electors in the  
Constituency—(i) men (ii) women :
6. Names of candidates nominated and the  
choice of symbols party affiliation shown  
by each in the nomination paper first  
delivered by or on his behalf :
7. Number of nomination papers filed on  
behalf of each candidate :
8. Names of candidates whose nomination  
papers were rejected with brief reasons :
9. Names of candidates who withdrew their  
nominations.

- 
10. Names of contesting candidates together with the description of their party affiliation :
  11. Names of candidates (independents), subsequent to the last date of withdrawal joined some other party, or some party claims that its candidate is contesting the elections as a party candidate :
  12. Number of polling stations located—
    - (i) in Government and quasi-Government buildings :
    - (ii) in private buildings:
    - (iii) in temporary structures:

**Total :**

13. Number of postal ballot papers :—

Returned back

Issued

	In time	after prescribed	undelivered
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(a) Voters under preventive detention:

(b) Voters on election duty :

14. Names of polling stations, if any, where poll was adjourned and repoll was ordered and reasons for such adjournment or repoll :
15. Number of electors who voted—
 

Men :

Women :

Total :
16. Number of illiterate, blind or infirm voters who voted with the help of companions :

- 
17. Percentage of votes polled to total electorate :
  18. Date and time of commencement of counting
  19. Number of valid first preference votes polled by each contesting candidate :
  20. Number of votes rejected :
  21. Challenged votes—
    - Total :
    - Number allowed :
    - Number rejected :
    - Amount forfeited :
  22. Tendered votes— Total :
  23. Date and time of declaration of result :
  24. Number of Polling Officers recruited locally:
  25. Number of candidates :  
Party-wise (also independents and others)—
    - (a) forfeited deposit :
    - (b) amount of deposit forfeited :
  26. Number of candidates who were their own election agents :
  27. Number of election agents appointed :
  28. Number of polling agents appointed :
  29. Number of candidates who appointed polling agents :
  30. Number of counting agents appointed by candidates :
  31. Number of ballot boxes used and types of ballot boxes used :

- 
32. Number of paper seals used, if any:
33. Number of Electoral offences with their details :—  
Number of cases of—
- (a) disorderly conduct at election meetings:
  - (b) convening, holding or attending public meetings within the Constituency on a polling day:
  - (c) illegal hiring or procuring of conveyance for the transport of voters :
  - (d) canvassing within one hundred metres of a polling station :
  - (e) impersonation of voters :
  - (f) fraudulent defacing, destroying or removal of a list or notice or other document at a polling station :
  - (g) bribing of voters :
  - (h) intimidation of voters (and other persons) :
34. Mistakes and irregularities committed by Presiding Officers :
35. Highest and lowest p o l l i n g — p o l l i n g Station-wise:
36. (a) No. of votes cast—  
from 7.30 a.m. to 9.30 a.m. :  
from 9.30 a.m. to 11.30 a.m.:  
from 11.30 a.m. to 1.30 p.m. :  
from 1.30 p.m. to 3.30 p.m. and  
as on  
(b) Number of slips issued at the closing hour of the poll:

- 
37. Serious complaints, if any, made by the candidates :
38. Number of cases of breach of law and order:
39. Recounting of votes—  
(i) Number of applications/requests received for recounting in part or *intoto* :  
  
(ii) Number of applications/requests Allowed for recounting in part or *Intoto* :  
  
(iii) Result before recounting and after recounting of votes :
40. Was the poll interrupted or obstructed by :  
(1) riot,  
(2) open violence,  
(3) natural calamity,  
(4) any other cause  
Please give details of the above:
41. Was the poll vitiated by—  
(1) any ballot box used at the polling station having been unlawfully taken out of the custody of the Presiding Officer—  
(a) accidentally or intentionally destroyed or lost :  
  
(b) damaged or tampered with :  
(2) the ballot papers having been unlawfully marked by any person and deposited in the ballot box:
42. Whether declaration have been made by all the Presiding Officers before the commencement of the poll and at the end of poll as necessary :

**LIST OF PAPERS FOR DESTRUCTION SIX  
MONTHS AFTER THE DECLARATION OF  
RESULT**

1. Form of Notice (Form 1).
2. Notice of nomination (Form 3-A).
3. List of validly nominated candidates under rule 8 (Form 4).
4. Form of Notice of withdrawal ((Form 5).
5. Notice of withdrawal of candidatures (Form 5).
6. List of contesting candidates (Form 7-A).
7. Appointment of election agents (Form 8).
8. List of tendered votes (Form 15).
9. Appointment of polling and counting agents (Forms 10 and 18).
10. Office copies of Form 18.
11. Revocation of the appointment of election agents, polling agents and counting agents (Forms 9, 11 and 19).
12. Used electoral rolls at a polling station other than the marked copy [rule 31(3)].
13. Record kept by the Presiding Officers regarding voting by blind and infirm electors (Form 14-A).
14. Packet containing cancelled ballot papers [rules 39(7) and 41].
15. Notes and record maintained by the Presiding Officer, the declarations made by the polling agents and any other paper directed by the Returning Officer to be kept in a sealed packet.
16. List containing names of persons under preventive detention (rule 21).
17. List of electors permitted to vote by postal ballot.
18. Applications made by persons subjected to preventive detention for permission to vote by postal ballot received by the Returning Officers.
19. Application for postal ballot papers by electors employed on election duty (Form 12 and Form 12- A).



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- 20 Postal ballot papers returned undelivered.
  - 21 Applications made for re-issuing of postal ballot papers.
  - 22 Applications for the recount of votes (rule 63).
  - 23 Unused postal ballot papers with counterfoils.
  - 24 Notice of counting of votes—time, place and date, etc.
  - 25 Notice of inspection of accounts of election expenses.
  - 26 Correspondence between the Returning Officer and the candidates and the election or counting agents.
  - 27 Application for allotment of symbols.
  - 28 Damaged paper seals and unused paper seals including those received back from the Presiding Officers by the Returning Officers.
  - 29 General reports, diaries and memo, note-books from the Presiding Officers.
  - 30 Notices under clauses (a) and (6) of sub-rule (1) of rule 31.
  - 31 Packets containing objections by candidates and agents etc., in the course of poll and counting of votes.
  - 32 Sealed packet containing the proceedings drawn by the Returning Officer after counting of votes.
  - 33 Sealed packets containing check memos for counting of votes.
  - 34 Certified extract of electoral rolls filed along with the nomination papers.
  - 35 Forms of account of ballot papers.
  - 36 Paper seal account.
  - 37 Publicity material such as wall posters, hand bills and open statements issued by the candidates at the election.
  - 38 Election Duty Certificates (Form 12-B).
  - 39 Declarations under rule 40(1).

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## Frequently Asked Questions (FAQ) on Elections to Council of States and Legislative Councils

- (1) Whether an elected member of the legislative assembly of a State or a member of the electoral college of a Union Territory is entitled to participate as an elector at an election to the Council of States or State Legislative Council, even before he has assumed his seat in the legislative assembly and has yet to make and subscribe the requisite oath or affirmation as a member of the assembly under the Constitution?**

Ans: Yes.

This question arose in *Pashupati Nath Sukul Vs Nem Chand Jain* (AIR 1984 SC 399). The Supreme Court held that the members of the newly elected legislative assembly became members of that assembly as soon as the assembly was constituted by the Election Commission by its notification under Section 73 of the RP Act 1951, and such members could participate in all non-legislative activities, including the election to the Council of States, even before taking their seats in the assembly.

This view was reaffirmed by the Supreme Court by its order of 6 January, 1997 [*Madhukar Jetly Vs Union of India and Ors-1997(II)SCC III*].

- (2) Whether the provisions of the Tenth Schedule to the Constitution relating to disqualifications on the ground of defection are applicable to open voting at elections to Council of States?**

Ans: No.

The Supreme Court in its judgment dated 22 August 2006 in the matter of *Kuldip Nayar Vs Union of India and Ors* (AIR 2006 SC3127) observed that *‘The contention that the right of expression of the voter at an election for the Council of States is affected by open ballot is not tenable, as an elected MLA would not face any disqualification from the Membership of the House for voting in a particular manner. He may at the most attract action from the political party to which he belongs.’*

- (3) Whether an elected member of a state legislative assembly, whose election has been set aside by the State High Court on an election petition, but in whose favour a conditional stay has been granted by the Supreme Court during the pendency of his appeal, permitting the member concerned to sign the assembly’s attendance register but not permitting him to take part in the proceedings of the House, can vote at the elections to the Council of States or the State Legislative Council?**

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Ans: No.

The Supreme Court clarified their order of 27 October 1967 (Satyanarayana Mitra Vs Bireswar Ghose Appeal No. 1408 (NCE) of 1967) that the member concerned should not be allowed to participate in the election to the Council of States. Thereafter as a rule, no such member of any State Legislative Assembly has been permitted to either propose the name of any candidate or to vote at any election to the Council of States or State Legislative Council.

- (4) Whether an elected member of a state legislative assembly, whose election has been set aside by High Court on an election petition, but the Supreme Court grants an absolute stay of the High Court's order, can vote at the elections to the Council of States or State Legislative Council?**

Ans: Yes.

In such case the order of the High Court shall be deemed never to have taken affect under Section 116B(3) of the RP Act, 1951, and the member concerned shall continue to enjoy all rights and privileges of a member of the legislative assembly without any fetters, including his right to participate in election to the Council of States or State Legislative Council.

- (5) If a biennial election is not held in due time due to non-existence of the state legislative assembly concerned at the relevant time and the resultant vacancies remain unfilled for a long time during which some other regular vacancies also arise, can the vacancies so arising be combined for a common election or the vacancies arising on each separate occasion (categories) have to be filled by separate elections, even if a common time table for such elections is adopted on the constitution of the assembly concerned?**

Ans: The regular vacancies that arose from different categories/cycles (determined at the time of initial constitution of the Councils) cannot be combined and vacancies arising on separate occasion have to be filled by separate elections, even if a common time table for such elections is adopted. Further, separate election has to be held on the next occasion to fill the seats falling in different categories, even if they were being filled at the same time on the last occasion.

[Surinder Pal Ratawal Vs Shamim Ahmed AIR 1985 Del 22 & A K Walia Vs Union of India and Ors Civil Writ No. 132 of 1994 before Delhi High Court]

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**(6) When is the electorate of a local authorities' constituency said to be available for the purpose of holding election to a State Legislative Council from Local Authorities' Constituencies?**

Ans: The Election Commission has laid down the guideline that if at least 75 percent of the local authorities in a local authorities' constituency are functioning, and in addition at least 75% of the electors out of the total electorate of the constituency are available, then electorate is treated as available for electing representative to the legislative council. This guideline of the Election Commission got the approval of Supreme Court of India in Election Commission of India Vs Shivaji and Ors (AIR 1988 SC 61).

**(7) Whether the members of state legislative assembly who have not yet made and subscribed the oath under art 188 before taking a seat in the Assembly can also act as proposers for the nomination of a candidate at an election to the Council of States or to a state legislative council by members of the state legislative assembly?**

Ans: Yes. The Supreme Court held in Pashupati Nath Sukul Vs Nem Chand Jain and Ors AIR 1968 SC 1064 that the members of state legislative assembly who have not yet made and subscribed the oath under art 188 before taking a seat in the Assembly can also act as proposers for the nomination of a candidate at an election to the Council of States or to a state legislative council by members of the state legislative assembly

**(8) Whether same proposer can propose the nomination of more than one candidate?**

Ans: Yes. There is no bar under the law against an elector proposing the nomination of more than one candidate. Thus, an elector subscribing as proposer for the nomination of one candidate may so subscribe the nominations of one or more other candidates also (Amolak Chand Vs Raghuvver Singh AIR 1968 SC 1203).

Even a candidate himself may propose the nomination of another candidate for the same election.

**(9) Who can present the nomination paper of a candidate?**

Ans: A nomination paper shall be presented to the returning officer or the authorised assistant returning officer either by the candidate himself in person or by any of his proposers [s 33(1) read with Section 39(2), 1951 Act]. It cannot be

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presented by any other person, even if authorised in writing by the candidate or the proposer.

**(10) Whether nomination paper can be sent by post or through any other means of communication, like fax or e-mail?**

Ans: No. Nomination cannot be sent by post or through any other means of communication, like fax or e-mail [see Hari Vishnu Kamath Vs Gopal Swarup Pathak 48 ELR 1]

**(11) Whether the notice of withdrawal of candidature can be revoked?**

Ans: No. Once a candidate has given notice of withdrawal of candidature in the prescribed manner, he has no option or discretion thereafter to withdraw or cancel his said notice [s 37(2) read with Section 39(2) of RP Act 1951].

**(12) The term of certain elected members whose names have been included in the electoral rolls pertaining to the Local Authorities Constituencies, end before the last date of filing nominations. Should their names be removed from the final rolls as their term is going to end before the last date of filing nominations?**

Ans: The Hon'ble Supreme Court of India held in Baidyanath Panjiar Vs Sitaram Mahato (AIR 1970 SC 314) and Narendra Madivalapa Kheni Vs Manikrao Patil and Ors (AIR 1977 SC 2171) that no deletion or inclusion is permissible after 3.00 P.M. on the last date for making nomination in a constituency where election is being held and the electoral roll becomes final at that hour for the purpose of that election.

The name of such elected members whose term will end before the publication of the Final Roll pertaining to the Local Authorities Constituencies, shall be removed before **3.00 P.M. on the last date for making nomination**, as such deletion is not permissible **after 3.00 P.M. on the last date for making nomination**.

**(13) The term of certain elected members of the Local Authorities will end after the last date of filing nominations pertaining to the Local Authorities' Constituencies, but before the poll date. In such cases, though their names appear in the final roll, whether we can disallow them from casting their vote on the poll day as they have ceased to be members of the Local bodies on the day of poll?**

Ans: In this case, although the names were in the rolls, since they are not members

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of local authority on the day of poll, they are not eligible to vote in the election. They should not be permitted to vote, as only members of local authorities can vote under Article 171(3)(a) of the Constitution.

**(14) In some cases new members have come after the last date of filing nominations. Can such names be added in the electoral rolls, who did not exist in either draft roll or the final roll, but who are members as on the day of Poll?**

Ans: The Hon'ble Supreme Court of India held in Baidyanath Panjiar Vs Sitaram Mahato (AIR 1970 SC 314) and Narendra Madivalapa Kheni Vs Manikrao Patil and Ors (AIR 1977 SC 2171) that no deletion or inclusion is permissible after 3.00 P.M. on the last date for making nomination in a constituency where election is being held and the electoral roll becomes final at that hour for the purpose of that election.

The name of such new members shall not be included in the electoral rolls, who come after the final roll publication, as no such inclusion is permissible after **3.00 P.M. on the last date for making nomination.**

**(15) How many affidavits, a candidate has to file with his nomination papers?**

Ans Only one in Form 26.

**(16) Whether the nomination paper is valid, if any of the columns of Affidavit (Form 26) is left unfilled?**

Ans: The Hon'ble Supreme Court in its judgment dated 13/9/2013 in WP(C) No. 121 of 2008 (Resurgence India Vs. Election Commission of India and Ors) held that in the affidavits filed by candidates along with their nomination paper, the candidates are required to fill up all columns therein and no column can be left blank. Therefore, at the time of filing of affidavit, RO has to check whether all columns of the affidavit filed with the nomination paper are filled up. If not, the RO shall give a reminder to the candidate to furnish information against blank columns. The Hon'ble Court has held that if there is no information to be furnished against any item, appropriate remarks such as 'NIL' or 'Not Applicable' etc as may be applicable shall be indicated in such column. They should not leave any column blank. If a candidate fails to fill the blanks even after reminder, the nomination paper will be liable to be rejected by the RO at the time of scrutiny of nomination papers.

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**(17) What is the outer time limit for filing the various documents required to be filed in connection with nomination paper?**

Ans: (a) The affidavit in Form 26 and Forms AA & BB have to be filed latest by 3.00 P.M. on the last date of filing nomination. Revised affidavit in Form 26 may be filed upto the time fixed for scrutiny of nominations, if he had left any column blank in the original affidavit and was reminded by the Returning Officer to furnish missing information.

(b) Oath has to be taken after filing nomination paper and before the date fixed for scrutiny.

(c) Certified extract of electoral roll can be filled up to the time of scrutiny.

**(18) Whether an authorised agent of a party at elections to Council of States can be the authorised agent of another party simultaneously?**

Ans: No. The spirit behind Rule 39AA of the Conduct of Elections Rules 1961 is that MLAs belonging to a political party show their ballot papers (after marking their vote) to the authorized agent of that party only and not to the authorised agent of other parties. As such, the same person cannot be appointed as the authorized agent of more than one party.

**(19) Whether Form AA and Form BB can be sent by Fax or photocopy of the same can be submitted?**

Ans: No.

**(20) Whether Form AA and Form BB can be submitted after 3.00 pm on the last date of filing nominations?**

Ans: No.

**(21) Whether an MLA or Minister can be appointed as authorised agents of the party at the election to the Council of States and State Legislative Councils by MLAs?**

Ans: There is no such restriction imposed by the Commission in elections to the Council of States and State Legislative Council by MLAs.

**(22) In case any voter changes his/her choice by cutting the earlier choice, will such ballot paper be liable for rejection?**

Ans: If any voter changes his/her choice by cutting the earlier choice, which disclose his identity or he can be identified by such mark or writing, rule 73(2)(d) of the Conduct of Elections Rules, 1961 will be applicable rendering such ballot paper liable for rejection.

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**(23) Whether the list of electors to be maintained under section 152 of the Representation of the People Act, 1951 can be amended to include the name of newly elected member of state legislative assembly after the date of notification of election to the Council of States or even after the last date of filing of nomination?**

Ans: In case when a member gets elected to the Legislative Assembly at a bye-election, result of which is declared after the date of notification of election to the Council of States or even after the last date of filing nomination, the name of newly elected MLA should be included in the list of members maintained under Section 152 of the RP Act, 1951. Further, he shall then be entitled to vote at the election to the Council of States if the poll is taken after the date of his election as MLA.

This instruction is also applicable in the case of elections to Legislative Council by MLAs.

**(24) Whether a person can vote at any election if he is confined in a prison, whether under a sentence of imprisonment of transportation or otherwise, or is in the lawful custody of the police?**

Ans: No. The provisions of Section 62(5) of the Representation of the People Act, 1951 provide that no person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment of transportation or otherwise, or is in the lawful custody of the police.

**(25) What action is required to be taken by Presiding Officer/Returning Officer in election to Council of States, in case an elector belonging to a political party refuse to/does not show his/her marked ballot paper to the authorised agent of his party or shows his/her marked ballot paper to the authorised agent of other political party?**

Ans: In such case the ballot paper issued to the elector shall be taken back by the presiding officer or a polling officer under the direction of the presiding officer and the ballot paper and keep it in a separate envelope after recording on the reverse side of the ballot paper "Cancelled-voting procedure violates". Provision in sub-rules (6) to (8) of rule 39A of the Conduct of Elections Rules, 1961, shall apply in such case.

In case before taking back such ballot paper the elector dropped the ballot paper into ballot box, at the time of counting such ballot paper, RO should first separate this concerned ballot paper and it shall not be counted.



**February 2016 - Edition 1**



**भारत निर्वाचन आयोग**

**Election Commission of India**

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