

OFFICE OF THE CHIEF ELECTORAL OFFICER, TELANGANA
5th Floor, North Block, Buddha Bhavan, Secunderabad – 03

Memo No.181/Elecs.D/2021-57,

Dated:27.03.2021.

Sub:- ELECTIONS - Bye Elections to the TSLA, 2021 from 87- Nagarjuna Sagar AC — Appointment of Election Agent, Polling Agent or their substitution by relief agents and Counting Agents — Election Commission of India instructions — Communicated - Reg.

- Ref:- 1. ECI, Lr.No.464/INST/2014/EPS, dated: 01.04.2014
2. ECI, Lr.No.76/2014/SDR, dt: 08.04.2014.
3. ECI, Lr.No.464/inst/2014-EPS, dated: 4.5.2014.
4. ECI, Lr.No.364/INST.2014/EPS, dated: 05.05.2014.
5. ECI, Press Note No.ECI/PN/28/2021, dated: 16.03.2021.

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The attention of the Dist. Election Officer, Nalgonda and the Returning Officer for 87- Nagarjuna Sagar Assembly Constituency are invited to the references cited, the ECI had issued detailed instructions regarding appointment of Election Agent, Polling Agent and Counting Agents.

Election Agent

2. Under Section 40 of the Representation of the People Act, 1951, every candidate at an election is entitled to appoint a person as his/her Election Agent. The appointment of Election Agent is to be made in Form 8 appended to the Conduct of Election Rules, 1961 in the manner mentioned in Rule 12 of the said Rules. The Election Agent so appointed can perform all functions mentioned in the R.P. Act, 1951 on behalf of candidate.
3. Any person who is disqualified under the constitution or under the Representation of People Act, 1951, for being a member of 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, be disqualified for being an election agent at any election (**vide para 5.26.3 of HB-RO 2019**).
4. The Commission has instructed that the Ministers of the Union or States and MP, MLA, MLCs and any other person provided with security cover by the State shall not be appointed as election agents (and also for polling and counting agents). No person with security cover can be allowed to surrender the security cover to enable him to become an election agent. (**vide para 5.26.4 of HB RO 2019**).
5. Every candidate is also permitted to appoint an additional election agent for assisting the candidate in various expenditure related matters. This additional agent would be for the purpose of performing only the non-statutory duties relating to expenditure monitoring matters. The statutory duties, the election agent is authorized to perform on behalf of the candidate can be performed only by the election agent appointed under Section 40 of the Representation of the People Act, 1951 read with Rule 12 of the Conduct of Elections Rules, 1961. (**Para5.26.5 of Hand Book for ROs.**)

6. A candidate may revoke the appointment of election agent at any time by a letter in Form 9, which is to be lodged with Returning Officer 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. **(Para 5.27.1 of Hand Book for ROs.)**

7. In order to prevent any malpractices at polling stations by unscrupulous persons pretending to be polling agents appointed by the candidates or their election agents, Returning Officer should obtain and circulate the specimen signatures of the candidates and their election agents to each Presiding Officer in the proforma as given in Annexure 21, so that the Presiding Officers are in a position to verify the signatures of candidates / their election agents on any form or document presented on their behalf. **(Para 5.28.1 of Hand Book for ROs.)**

Polling Agent

8. The appointment of a polling agent can be made either by the candidate himself or by election agent, and by no one else. The appointment has to be made by a letter of appointment in the **Form 10** and signed by the person making the appointment i.e., by the election agent or the candidate. The polling agent should sign his/her letter of appointment in the presence of the candidate or his election agent. Such letter of appointment shall be handed over to the polling agent for production in original at the polling station, so that the Presiding Officer may admit him into the polling station. The polling agent shall have to sign again in the presence of the Presiding Officer at the polling station **(7.1 of HB for Polling Agent)**.

9. If any candidate and / or his election agent refuse(s) to affix specimen signature on the format (Appendix-1A), the Presiding Officer may not entertain any appointment letter in **Form 10** from the polling agents appointed by him where the Presiding Officer is in reasonable doubt as to the genuineness of the signature of the candidate or his election agent, whose specimen signature is not available in the prescribed format (Appendix-1A) **(7.2 of HB for Polling Agent)**.

10. In the reference 3rd cited, the Election Commission of India has directed that with a view to ensure that the polling agents are properly facilitated to keep effective watch on poll process. Apart from compliance to the existing instructions such as taking signature of the polling agents in the mock-poll certificates, declarations at the start of poll and end of the poll etc., as mentioned in Chapter XVI of Presiding Officers Handbook, the following shall be ensured:

- (a) A "polling agents/relieving agents movement sheet" should be provided to each polling station, in which each and every polling agent shall be required to sign indicating the time at which he/she came to the polling station and also when left the polling station. This sheet shall be handed over after poll at the EVM reception center along with other documents. The observer, Sector Magistrate, Senior officers who visit the polling station during the course of poll shall also ensure that the aforesaid sheet is being properly maintained.

- (b) The Telephone Nos. of ROs/AROs/Key Police Officers/ Sector Officers/Control Rooms shall be displayed at the polling stations so that if polling agents have any complaint they can call them for immediate intervention.
- (c) Any complaint received from polling agents at any level shall be inquired immediately. The RO/Observer shall also scrutinize the documents related to such polling stations carefully and record their views specifically.
- (d) All the Micro-observers along with their reports shall be present at the time of Scrutiny of Form 17A and related documents. This is necessary so that the observers can take their inputs, if required, in conduct of scrutiny.

11. Section 46 of the Representation of the People Act, 1951 read with Rule 13 of the Conduct of Election Rules, 1961 provides that at every election, each candidate or his election agent can appoint one polling agent and two relief polling agents at each polling station. The Commission in the past had issued guidelines on various respects of appointment of polling agent. All these instructions relating to Polling Agents have been incorporated in Hand Book for Polling Agents. The polling agents, who are appointed by the contesting candidates, shall be ordinary residents and electors of same polling station or in the alternate from the neighboring polling station falling in the same Constituency. Such polling agents must have Elector Photo Identity Card or any other recognized identification device issued by the Government, or any Government agency which bears his / her identity.

12. No person in the service of the Government can act as a polling agent of a candidate (Section 134-A of the R.P. Act, 1951). If he does so, he is punishable with imprisonment for a term, which may extend to 3 months or with fine or with both **(Para 9.2 of HB for Polling Agent)**

13. A minister of a government or any other person who has been given security cover at state expense is not allowed to function as a polling agent, as he can neither be allowed to enter the polling station' along with his security personnel nor can his security be compromised by allowing him to enter the polling station without security cover. The security personnel accompanying Ministers or political functionaries shall not be allowed entry inside the polling station. They can stand waiting at the door of the polling station but shall not identify the voters or check their EPICs or other alternative documents of identification during this period **(9.3 of HB for Polling Agent)**

Counting Agent

14. Each candidate should be allowed to appoint as many counting agents as the number of counting tables and one more to watch the counting at the RO table. The RO should inform the candidates about the total number of counting agents they are entitled to appoint. The counting agents are required, under law, to be appointed in **Form-18**. Any request on a plain paper received from the candidate/election agent should not be accepted. Declaration of counting agents in Form-18 is to be signed by them in the presence of the RO. A candidate can also appoint one more counting agent to attend the counting of postal ballot papers as the place fixed for the purpose by the RO (para 15.12.1 of FIB RO 2019).

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15. The RO should obtain a list of counting agents in **form-18** (in duplicate) with their photographs from all the contesting candidates by 1700 hours on the day three days prior to the date fixed for counting of votes. RO shall prepare the photo identity cards of the counting agents then and there under his seal and signature and should be issued to the contesting candidates and obtain acknowledgement thereof along with second copy of **form-18**. Each counting agent may have a badge indicating whose agent he is and the serial number of the table at which he will observe the counting. Each counting agent should affix his signature in full on the badge immediately after issued to him. (para 15.12.2 of HB RO 2019).

16. The Security personnel are not allowed to enter the counting hall as per standing instructions of the Election Commission, the following persons cannot be appointed as Counting Agent of a Candidate during an election:

- (a) Any sitting Minister Union Government
- (b) Any sitting Minister of State Government
- (c) Sitting Member of Parliament
- (d) Sitting Member of Legislative Assembly/Legislative Council
- (e) Chief/Head/Chairperson of Urban Local Bodies, viz Mayor of a Corporation, Chairperson of Municipality/ Nagar Panchayat.
- (f) Chairperson of District level "Lila Parishad/ Block level Panchayat Samiti.
- (g) Elected Chairpersons of National / State/ District co-operative institutions
- (h) Political functionaries appointed as Chairpersons of Central PSUs / State PSUs, Chairperson of Government bodies, Government Pleader/Additional Government Pleader
- (i) Any Government Servant

17. The Returning Officer is further informed that in the reference 1st cited, the Election Commission of India while referring their letters No.464/INST/2008/EPS, dated: 14.10.2008 & No.464/INST/2009/EPS, dated:25.04.2009 has instructed that any sitting Minister either of Union Government or of a State Government, sitting Member of Parliament, sitting Member of Legislative Assembly/ Legislative Council, Mayor of a Corporation or Chairperson of Municipality/ Zilla Parishad/ Panchayat Union etc. will not be allowed to act as Election Agent, Polling Agent or Counting Agent of any candidate during an election, irrespective of whether he/she is provided with security or not or anything else in order to ensure maintenance of a level playing field and prevent undue influence on the election process for effective implementation of the guidelines issued by the Commission to follow the model code of conduct.

18. A Government servant also cannot act as a counting agent of a candidate (Section 134-A of the R.P. Act. 1951). If he so acts, he is punishable with imprisonment for a term which may extend to 3 months or with fine or with both.

Cont....P.[5]

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19. ECI in its latest guidelines for conduct of Bye-Elections during COVID-19, has instructed that "If polling agent or counting agent is having temperature above the prescribed limit, then their reliever shall be allowed by Presiding Officer, who will keep a record accordingly."

20. The District Election Officer, Nalgonda is therefore, requested to bring the above instructions to the notice of the Returning Officer, 87-Nagarjuna Sagar AC and Assistant Returning Officers / Sector Officers and Presiding Officers. The above instructions are not exhaustive for detailed instructions, the Hand Book for Returning Officers, Manual on Polling Stations (2016), other Hand Books, Broad Guidelines for Conduct of Bye-Elections during COVID-19 and latest instructions of the Election Commission of India issued from time to time, should be referred and followed.

**Dr. SHASHANK GOEL,
CHIEF ELECTORAL OFFICER &
E.O. SPL. CHIEF SECRETARY TO GOVERNMENT**

To

The Collector & DEO, Nalgonda, (w.es)

Copy to :-

The Returning Officer, 87-Nagarjuna Sagar Assembly Constituency. (w.es)

Mr. Sudhakar, CMC (SLA), (with a request to upload on CEO website) (w.es)

//FORWARDED:: BY ORDER//


SECTION OFFICER

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

No. 464/INST/2014/EPS

Dated:- 1st April, 2014

To

The Chief Electoral Officers,
of all States/UTs.

Sub: Prohibition of Appointment of sitting Minister/MP/MLA/MLC as Election Agent, Polling Agent or Counting Agent – Clarification regarding.

Sir/Madam,

I am directed to refer to the Commission's Instructions communicated vide letter No. 464/INST/2008/EPS, dated 14.10.2008, on the subject cited above, and to state that the Commission has prohibited any sitting Minister either of Union Government or of a State Government, sitting Member of Parliament, sitting Member of Legislative Assembly/ Legislative Council or any other person having security cover provided by the State (both Union and State Govts.) to act as Election Agent, Polling Agent or Counting Agent of any candidate during an election in view of their security cover. Further, any person having security cover is not allowed to surrender his security cover to act as such agent of a candidate during an election keeping in view that any untoward incident involving them may have serious repercussions in the conduct of free, fair and peaceful election.

2. In the said instructions, it is also stated that if an MP, MLA/MLC or a sitting Minister acts as an agent of a candidate that would not be desirable from the point of view of maintaining the level playing field during an election apart from their security being compromised.

3. Further, the Commission, vide its instruction No. 464/INST/2009/EPS dated 25.04.2009, extended the said prohibition to Mayor of Corporation, Chairman of Municipality/Zila Parishad/Panchayat Union, etc. also, stating that "a large number of employees of local authorities are deployed on election-duty. Therefore, a Mayor of Corporation or Chairman of Municipality/Zila Parishad/Panchayat Union, etc. acting as agent for a candidate will be improper and would be contrary to the spirit of level playing field."

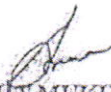
4. In this connection, a clarification has been sought by the CEO, Puducherry as to whether a sitting MLA/Rajya Sabha MP without security cover be allowed to be appointed as

Election/Polling/Counting Agent as it could be inferred that persons without security cover will not be covered under the above instructions.

5. The Commission, keeping in view all the relevant factors in this regard, has decided that any sitting Minister either of Union Government or of a State Government, sitting Member of Parliament, sitting Member of Legislative Assembly/Legislative Council, Mayor of a Corporation or Chairperson of Municipality/Zila Parishad/Panchayat Union, etc.. will not be allowed to act as Election Agent, Polling Agent or Counting Agent of any candidate during an election, irrespective of whether he/she is provided with security or not or anything else, in order to ensure maintenance of a level playing field and prevent undue influence on the election process, for effective implementation of the guidelines issued by the Commission, to follow the Model Code of Conduct.

6. This may be brought to the notice of all concerned, especially for compliance by the candidates while they appoint such agents to watch their interests during an election.

Yours faithfully,


(SUMIT MUKHERJEE)
SECRETARY

ELECTION COMMISSION OF INDIA

Niryachan Sadan, Ashok Road, New Delhi-110 001

No. 76/2014/SDR

Dated: 8th April, 2014

To,

The Chief Electoral Officers of
all States and Union Territories.

Subject: - Appointment of Election Agent-regarding.

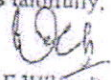
Sir/Madam,

Under Section 40 of the Representation of the People Act, 1951, every candidate at an election is entitled to appoint a person as his/her Election Agent. The appointment of Election Agent is to be made in Form 8 appended to the Conduct of Election Rules, 1961 in the manner mentioned in Rule 12 of the said Rules. The Election Agent so appointed can perform all functions mentioned in the 1951 Act on behalf of the candidate.

2. The Commission has allowed appointing an additional agent for assisting the candidate for closer and better monitoring of the election expenses (vide letter no. 76/2011/SDR dated 18th March, 2011).

3. It has now been brought to the notice of the Commission that Candidates of large Parliamentary Constituencies spread over the entire State or more than one district are finding it difficult to monitor the process of election in the entire parliamentary constituency with only one Election Agent permitted under the law. Taking into account the genuine difficulty expressed by the Candidates, the Commission has decided to permit appointment of "Authorised Nominees" in addition to the Election Agent. Such 'Authorised Nominees' will not have the legal status of Election Agent but may represent the candidates for meeting with officials and may perform non-statutory functions on behalf of the candidate. The number of such Authorised Nominees shall not be more than the number of Assembly segments in the Parliamentary Constituency, and in the case of smaller States with one or two Parliamentary Constituencies, the number of Authorised Nominees shall not be more than the number of districts falling in the Parliamentary Constituency. The Authorised Nominees may be issued vehicle permit for the particular area for which he is nominated by the candidate, upto the end of the campaign period. Needless to mention that the expenditure on the vehicles used by the 'Authorised Nominee' shall be booked to the account of election expenses of the candidate. A format for appointment of 'Authorised Nominee' is enclosed herewith.

4. All the conditions laid down under Section 41 of the Representation of the People Act, 1951 for appointment of Election Agent and the general prohibition against appointing Minister/MP/MLA/MLC/Mayor of Corporation /Chairman of Municipality/ Zilla Parishad, as any agent for a candidate, would also apply for such Authorised Nominee.
5. For facility of reference, the list of statutory functions that can be performed by the Election Agent is enclosed. The Authorised Nominees are not authorised to perform these statutory functions.
6. These instructions may be brought to the notice of all District Election Officers, Returning Officers and other election officials in the States. This should also be brought to the notice of all the political parties based in the State including the State Units of recognised National Parties and State Parties of other States.

Yours faithfully,

(K.F. Willfred)
Principal Secretary

To

The Chief Electoral Officers of

1. Andhra Pradesh, Hyderabad
2. Bihar, Patna
3. Himachal Pradesh, Shimla
4. Jammu and Kashmir, Sri nagar
5. Uttar Pradesh, Lucknow
6. Uttarakhand, Dehradun
7. West Bengal, Kolkata

Sub: General Elections to Lok Sabha, 2014 --Tracking of presence of Polling Agents - reg.

Ref: Commission's letters no. 464/INST/2007-PLN-I dated 12th October, 2007, 575/11/94/JS-II Vol- I dated 16th December, 1994, 464/INST/2006-PLN-I dated 7th April, 2006 and 464/INST/2008/EPS dated 18th December, 2008.

Sir / Madam,


I am directed to invite your attention to the above referred directions of the Commission and to state that with a view to ensure that the polling agents are properly facilitated to keep effective watch on poll process, the Commission issues the following directions:-

Apart from compliance to the existing instructions such as taking signature of the polling agents in the mock-poll certificates, declarations at the start of poll and end of poll etc. as mentioned in chapter XVI of Presiding Officers Handbook;

1. A "polling agents/relieving agents movement sheet" should be provided to each polling station, in which each and every polling agent shall be required to sign indicating the time at which he/she came to the polling station and also when left the polling station. This sheet shall be handed over after poll at the EVM reception center along with other documents. The observer, Sector Magistrate, Senior officers who visit the polling station during the course of poll shall also ensure that the aforesaid sheet is being properly maintained. A sample "polling agents/relieving agents movement sheet" is enclosed.

2. The Telephone nos. of ROs/AROs/Key Police Officers/ Sector Officers/ Control Rooms shall be displayed at the polling stations so that if polling agents have any complaint they can call them for immediate intervention.
3. Any complaint received from polling agents at any level shall be inquired immediately. The RO/Observer shall also scrutinize the documents related to such polling stations carefully and record their views specifically.
4. All the Micro-observers alongwith their reports shall be present at the time of Scrutiny of Form 17A and related documents. This is necessary so that the Observers can take their inputs, if required, in conduct of scrutiny.
5. Kindly inform all concerned including the candidates so that they can properly convey this to their polling agent.

Yours faithfully,


(Sumit Mukherjee)
Secretary

"Polling agents/relieving agents movement sheet"

S. No.	No. and Name of Parliamentary Constituency	No. and Name of Assembly segment	Name of Candidate	Name of Political Party	Name of Polling agents /Relieving agents	Time of Entry	Signature	Time of Exit	Signature

Signature of the Presiding Officer

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

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No. 464/INST/2014/EPS

Dated:- 5th May, 2014

To

The Chief Electoral Officers,
of all States/UTs.

Sub: Presence of polling agents or their substitution by relief agents inside a polling station –regarding.

Sir/Madam,

I am directed to state that Section 46 of the Representation of the People Act, 1951, read with Rule 13 of the Conduct of Elections Rules, 1961 provides that at every election, each candidate or his election agent can appoint one polling agent and two relief polling agents at each polling station. The Commission in the past had issued guidelines on various aspects of appointment of polling agent.

2. All these instructions relating to polling agents have been incorporated in Handbook for Polling Agents. As regards the presence of polling agent or his relief agents inside a polling stations at a time, it has been provided in Para 6 of the Handbook for Polling Agents that, *"Only one of them can, however, remain present inside the polling station at a time. They can relieve each other from time to time. Any relief agent can take the place of the polling agent whenever he goes out. Whichever of them is inside the polling station is treated as polling agent of the candidate for the time being and has the same rights and responsibilities as given to the polling agent by law."* It is further stated that *"... However no polling agent shall be allowed to leave the polling station or allowed substituting themselves by their relieving agents after 3.00 p.m."*

3. In the above purview, it has been brought to the notice of the Commission that the polling agents are not allowed to leave the polling stations after 3.00 p.m. even to attend the calls of nature. In this connection, it is clarified that the spirit of the instruction was to ensure that the polling agents should remain present in the polling station till the voting is over as they have to oversee the ceiling procedure of EVMs and sign the declaration, etc.

4. In view of the above, it is clarified that the polling agents may be allowed to go out of the polling stations even after 3.00 p.m. to attend the nature's calls, etc. and come back inside the polling station. However, it may be ensured that only the polling agent or his substitute can be present inside the polling station at a time.

5. It is reiterated that the Presiding Officer shall brief the polling agents to remain present in the polling station till the voting is over to oversee the ceiling procedure of EVMs and sign the declaration, etc.
6. Apart from this instruction, the Commission's recent instruction dated 4th May, 2014 regarding the tracking of presence of polling agents and maintenance of "polling agents/relieving agents movement sheet" should also be brought to the notice of Presiding Officers for submitting their reports in the proforma attached to the above instructions dated 4th May, 2014.
7. All these new instructions may be brought to the notice once again at the time of despatch of the polling parties and the Sector Officers shall also be briefed accordingly.

Yours faithfully,



(SUMIT MUKHERJEE)
SECRETARY

FORMAT FOR APPOINTING AUTHORISED NOMINEE TO ASSIST
ELECTION AGENT

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(For the general/bye election (mention the year)

1. Name of the State: -
2. Name of the Parliamentary Constituency: -
3. Name and Address of the Candidate: -
4. Party Affiliation, if any: -
5. Name of the Authorised Nominee: -
6. Name of Assembly Segment/District for which appointed: -
7. Full Postal Address of the Authorised Nominee: -
8. Contact Telephone Number: -

I (mention the name of the candidate) do hereby appoint Shri/Smt./Ms as my Authorised Nominee for the above election for the Assembly Segments/District mentioned above. I hereby declare that he/she is not disqualified under the law for being chosen as, and for being, a member of Parliament or State Legislature and that the said person is not a Minister/MP/MLA/MLC/Corporation Mayor/Chairman of Municipality/Zila Parishad and is not a person to whom security cover has been provided by the State.



Signature of the Candidate

Place: _____

Date: _____

Statutory functions that can be performed by the Election Agent appointed by the Candidate under Section of the Representation of the People Act, 1951

1. Can attend scrutiny proceedings (Section 36)
2. Can submit the Notice of withdrawal of candidature (signed by the candidate in Form 5) before the Returning Officer, alongwith an authority letter from the candidate (Section 37),
3. Appointment of Polling Agents (Section 46);
4. Appointment of Counting Agents (Section 47),
5. Revocation of appointment of Polling and Counting Agents (Section 48),
6. Attendance and performance of all functions of a candidate (Section 50)
7. Authorised to enter polling stations (Rule 49D of the Conduct of Elections Rules, 1961),
8. Authorised to be present in the counting hall (Rule 53 of the Conduct of Elections Rules, 1961),
9. Applying for re-count of votes, in the absence of the candidate the counting hall (Rule 63 of the Conduct of Elections Rules, 1961),
10. Authorised to maintain account of election expenses of the candidate under Section 77(1) of the Representation of the People Act, 1951.

