

Most Immediate

Bye-Election to the TLC from Nizamabad LAC -2020

OFFICE OF THE CHIEF ELECTORAL OFFICER, TELANGANA
5th Floor, Buddha Bhavan, Tank Bund Road, Secunderabad – 500003.

Memo.No.528/Elec.A/2020-5,

Dated:06.03.2020.

Sub: Elections - Bye-Election to the Telangana State Legislative Council from Nizamabad Local Authorities Constituency, scheduled to be held on 07th April, 2020 (Tuesday) - Applicability of Model Code of Conduct - Intimation - Reg.

Ref: 1. From Election Commission of India, New Delhi, Press Note No.ECI/PN/30/2020, dated 05.03.2020.
2. From the ECI Lr. No.100/LET/ECI/FUNC/MT-LC-LAC/8/BIEN/2019 Dt.05.3.2020.

The attention of the Collectors & District Election Officers Of Nizamabad and Kamareddy are invited to the references cited (copies enclosed) and they are informed that the ECI have issued a Press Note, vide reference first cited, for conduct of Bye-Election to the Telangana State Legislative Council from Nizamabad Local Authorities Constituency of Telangana State and also directed that the Model Code of Conduct will come into force with immediate effect i.e., from 05.03.2020 in the erstwhile district.

2. They are further informed that the Commission. vide its letter 4th cited has directed that with the announcement of biennial elections all the provision of Model Code of Conduct as mentioned in its letter dt.05.03.2020 have come into force with immediate effect from i.e., 05.03.2020. As per the directions of ECI dt.26.12.2016 all provisions of Model Code of Conduct for the political parties and candidates' shall apply **mutatis mutandis** in the present Biennial Elections to the State Legislative Councils from Graduates' & Teachers' Constituencies as well as Local Authorities' Constituencies; that various instructions issued by the Commission from time to time in clarification of the MCC provisions would also apply for such elections.

3. The Commission have further stated that the instructions of the Commission which have been issued from time to time to ensure level playing field and also to ensure that a party in power doesn't misuse its position for electoral gains, shall also be applicable in connection with Biennial/ Bye Elections to the State Legislative Councils from Graduate & Teachers' Constituencies as well as Local Authorities' Constituencies (from the date of announcement of election till the date of completion of election).

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4. The Instructions of the Commission, ECI Letter dated: 26-12-2016 (copy enclosed) are once again reiterated hereunder:

- I. Ministers, whether Central or State (including Chief Minister may make official visit to any district(s) in which any Biennial/ Bye-election form 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, the teachers and members of Local Authorities 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, even in another district, where election is not being held. 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/she happens to be an officer mentioned in Section 129 (1) of the Representation of People Act, 1951, he/she shall also be additionally considered to have violated the statutory provisions of that section and liable to penal action provided there under.
- III. No member of any Local Authority which forms part of the electorate of a Local Authorities' Constituency shall be called for any meeting/video conference by any Minister (in his capacity as Minister). 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. No pilot car(s) or other 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.
- V. No policy announcement or programme, which influences the electorate either directly or indirectly, shall be initiated in the Government Department till the completion of elections.

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- VI. On need basis and in consultation with CEO of the state/ECI Observer, the DEO/RO should put in place for every tehsil a special video team to videograph political meeting at public places and to record visits of the Ministers and other important political functionaries. The ECI observer shall see the video recording in the evening of the same day so that he can report any violation to the commission in prescribed format.
- VII. In case of elections from Local Authorities' Constituencies, the restrictions on "Official Tours" by Central & State Ministers will also be-applicable to the 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 only be allowed for travel to & from Office to Residence.
- VIII. Public places such as maidans etc., for holding election meetings, and use of helipads for air-flights in connection with elections shall not be monopolized by the party in power. Other parties and candidates shall also be allowed to use them on first-cum-first served basis.
- IX. No fresh Sanction of work using the IT Platform to be used depending upon the MP/MLA/MLC schemes for work that would amount to influencing the electorate.
- X. There shall be a total ban on the transfer of Returning Officers and Assistant Returning Officers appointed for Biennial elections/by 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.
- XI. In order to conduct free and fair elections and to keep a check on adverse role of money power and to check the movement of black money during biennial elections/bye-elections to Legislative Council, the Standard Operating Procedure (SOP) issued on 29.05.2015, excepting deployment of Static Surveillance Teams, should be made applicable.
- XII. State and District Media Certification and Monitoring Committee (MCMC) shall be appointed, as prescribed in the Compendium of Instructions on Election Expenditure Monitoring, immediately on announcement of biennial/ bye elections for pre-certification of

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election advertisements as in case of TV Channel / Cable Network, Radio including private FM Channels, Cinema Halls, Audio-Visual display in public place and social media and also monitoring the general conduct of political functionaries during campaign.

- XIII. The bulk SMSs/Voice messages on phone in election campaigning shall also be in the purview of pre-certification of election advertisement as in case of TV Channels / Cable Network, Radio including private FM Channels, Cinema Halls, Audio-Visual displays in public place and social media. The legal provisions, as applicable to other modes of electronic media shall also be applicable to bulk SMSs/Voice messages.
- XIV. Under Section 29 of the Representation of the People Act, 1951 read with Rule 69 of the Conduct of the 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.
- XV. The provision regarding prevention of misuse of vehicles and regulation of convoys during campaign period as in the case of elections to House of People / Legislative Assemblies shall be made applicable for Council elections also.
- XVI. Restriction on the presence of political functionaries in a constituency after the campaign period is over i.e., 48 hours before the closure of the poll as in , the case of elections to House of People / Legislative Assemblies shall be made applicable for Council elections from Council Constituencies also.
5. The Commission, in the context of certain queries that have been raised in this connection, have also clarified that: -
- (a) The practice of keeping the electors in hotels/resorts and other similar places during election period would amount to bribing of electors. It is clarified that such practice shall be construed as violation of sub Para (4) of Para I-General Conduct of MCC apart from being violation of Section 171 B of I PC.
- (b) The phrase 'the rest houses/ dak bungalows or other Government accommodation' in paragraph (VII- (iii)) of MCC would also include *Guest Houses* of all institutions that are getting form Government assistance in Government assistance in Government assistance in any form of grant – in – aid etc.

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(c) With regard to paragraph (VII-(v) & (vi) of MCC, it is clarified that these would be made applicable only with regard to the Graduates'/Teachers'/Local Authorities' Constituencies where the elections is being held.

6. In the light of the above, the District Election Officers and District Collectors noted in the address entry are, therefore, requested to adhere to the above directions of the Commission from today itself i.e., 05.03.2020. These will be in force in the entire districts mentioned in the address entry, till the completion of election process.
7. They are further requested to take immediate action on the following issues so as to implement the Model Code of Conduct scrupulously and to conduct the elections in a free, fair and peaceful manner:
 - i) Appointment of Videography teams, Flying Squads, MCC Teams with the composition of members as enumerated in the compendium of Election Expenditure Monitoring at the rate of 1 team each for each Mandal, (1 Videography Team, 1 Flying Squad Team, 1 Model Code of Conduct Team).
 - ii) Appointment of District Level Media Certification and Monitoring Committee (MCMC) with the composition of officials as enumerated in the compendium of Election Expenditure Monitoring, for pre-certification of election advertisements and SMS messages.
 - iii) Establishment of Single Window set up for issue of various permissions to the contesting candidates and political parties;
 - iv) Appointment of Nodal Officers for taking up various pre-poll and during the poll activities;
 - v) Setting up of responsible mechanism for sending daily MCC reports from the day of commencement of MCC replies to complaints.
 - vi) Initiation of action for issue of Magisterial Powers by the Home Department to the Officers appointed under various teams, under a copy to this office.
 - vii) **Defacement of Property-** ECI instructions contained in letters, No. 437/6/INST /2015- CCS, dated 29th December, 2015, No. 437/6/INST/2012- CC&BE dated 18th January, 2012 and No. 3/7/2008 JS-II dated 7th October, 2008, provide for prevention of defacement of property. The Commission has directed to ensure strict compliance of its instructions and to take time bound action as prescribed below-

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- (a) **Defacement of Government property-** For this purpose a Government premise would include any Government office and the campus wherein the office building is situated. All wall writing, posters/papers or defacement in any other form, cutout/hoardings, banners, flags etc, on Government property shall be removed within 24 hours from the announcement of elections.
- (b) **Defacement of public property and misuse of public space-** All unauthorized political advertisement, in the form of wall writing/posters/papers of defacement in any other form, cutout/hoardings, banners flags etc. at public property and in public space like railway station, Bus stands, Airports, railway Bridges, Roadways, Govt. Buses, Electric/Telephone poles, municipal /local bodies' buildings etc., shall be removed within 48 hours from the announcement of elections by the Commission.
- (c) **Defacement of private property-** All unauthorized political advertisement displayed at private property and subject to local law and court's directions, if any, shall be removed within 72 hours from the announcement of elections by the Commission.

8. They are requested to communicate the same to all concerned i.e., Returning Officers, Assistant Returning Officers, Nodal Officers, Election Observers, Members of various teams for information and strict compliance:

9. This may be treated as Most Immediate and requested to furnish the action taken report with the name, designation, mobile number of the officers so appointed under various teams.

T. RAVI KIRAN
CHIEF ELECTORAL OFFICER (FAC)

To
The Collectors and District Election Officers of Nizamabad and Kamareddy. (w.e.)
Copy to:
The Director General of Police, Telangana, Hyderabad. (w.e)
All Officers in the O/o CEO.
All Sections on the O/o. CEO.
SF/SCs.

//FORWARDED::BY ORDER//


SECTION OFFICER



भारत निर्वाचन आयोग
Election Commission of India

निर्वाचन सदन
NIRVACHAN SADAN
अशोक रोड, नई दिल्ली-110001
ASHOKA ROAD, NEW DELHI-110001

No. 100/LET/ECI/FUNC/MT-LC-LAC/8/BIEN/2019

Dated: 05th March, 2020

To

1. The Cabinet Secretary,
Government of India,
Rashtrapati Bhawan,
New Delhi.
2. The Chief Secretary to the Government of
Telangana, Hyderabad

GI

No: 528

Date: 6/3/2020

Section A

3. The Chief Electoral Officer,
Telangana, Hyderabad

Subject:

Bye election to the Telangana Legislative Council from Nizamabad Local Authorities' Constituency - Applicability of Model Code of Conduct - regarding.

Sir,


I am directed to state that the Commission has announced bye election to the Telangana Legislative Council from Nizamabad Local Authorities' Constituency *vide* Press Note No. ECI/PN/30/2020 dated 05th March, 2020.

2. With this announcement, the provisions of the Model Code of Conduct contained in Commission's instruction No. 322/ECI/INST/FUNC/BIEN-LC/2016 dated 26th December, 2016, for the guidance of the Political Parties and Candidates have come into force with immediate effect in the above mentioned poll bound Constituency.

3. A copy of instruction No. 322/ECI/INST/FUNC/BIEN-LC/2016 dated 26th December, 2016 is enclosed. This may be brought to the notice of all concerned Departments of State/Central Government.

4. The receipt of this letter may kindly be acknowledged.

Yours faithfully


(VARINDER KUMAR)
SR. PRINCIPAL SECRETARY



भारत निर्वाचन आयोग
Election Commission of India

निर्वाचन सदन
NIRVACHAN SADAN
अशोक रोड, नई दिल्ली - 110 001
ASHOKA ROAD, NEW DELHI - 110 001

No. 322/ECI/INST/FUNC/BIEN-LC /2016

Dated: 26th December, 2016

To

- The Chief Electoral Officers
1. Maharashtra, Mumbai,
 2. Uttar Pradesh, Lucknow,
 3. Bihar, Patna,
 4. Karnataka, Bangalore,
 5. Andhra Pradesh, Hyderabad.
 6. Telangana, Hyderabad.

Subject: Biennial/Bye-Elections to the Legislative Councils from Council Constituencies - by Graduates' and Teachers' and Local Authorities' Constituencies- MCC-instructions - regarding.

Sir,

I am directed to state that some experience during conduct of elections to Legislative Councils shows that there is lack of clarity with regard to applicability of provisions of Model Code of Conduct in such elections.

2 The Commission constituted a Working Group to examine the matter. The Commission, having considered the report of the Working Group and the matter in its entirety, has directed that all provisions of Model Code of Conduct for the political parties and candidates' shall apply mutatis mutandis in Biennial including Bye Elections to the State Legislative Councils from Graduates' & Teachers' Constituencies as well as Local Authorities' Constituencies. Consequently, various instructions issued by the Commission from time to time in clarification of the MCC provisions would also apply for such elections.

3. I am further to say that the following instructions of the Commission which have been issued from time to time to ensure level playing field and also to ensure that a party in power doesn't misuse its position for electoral gains, shall also be applicable in connection with Biennial/Bye Elections to the State Legislative Councils from Graduates' & Teachers' Constituencies as well as Local Authorities' Constituencies (from the date of announcement of election till the date of completion of election).

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Tel : 011-23717391-98, Fax: 011-23713412, Website : www.eci.nic.in

“मजबूत लोकतंत्र - सबकी भागीदारी”

Greater participation for a stronger democracy

- I. Ministers, whether Central or State (including Chief Minister) may 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, the teachers and members of Local Authorities who form the electorate of the Constituencies going to poll.
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- VI. On need basis and in consultation with CEO of the state/ECI Observer, the DEO/RO should put in place for every tehsil a special video team to videograph political meeting at public places and to record visits of the Ministers and other important political functionaries. The ECI observer shall see the video recording in the evening of the same day so that he can report any violation to the Commission in prescribed format.
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4. In the context of certain queries that have been raised in this connection, it is clarified that: -
- (a) The practice of keeping the electors in hotels/resorts and other similar places during election period would amount to bribing of electors. It is clarified that

such practice shall be construed as violation of sub Para (4) of Para I-General Conduct of MCC apart from being violation of Section 171 B of IPC.

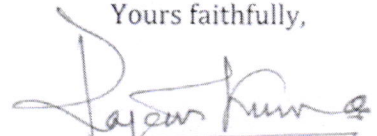
(b) The phrase 'the rest houses/dak bungalows or other Government accommodation' in paragraph (VII- (iii)) of MCC would also include *Guest Houses* of all institutions that are getting Government assistance in any form of grant-in-aid etc.

(c) With regard to paragraph (VII-(v) & (vi)) of MCC, it is clarified that these would be made applicable only with regard to the Graduates'/Teachers'/Local Authorities' Constituencies where the election is being held.

Kindly inform all concerned including all registered and recognized parties based in your state.

Please ensure compliance.

Yours faithfully,



(R. K. SRIVASTAVA)

SR. PRINCIPAL SECRETARY