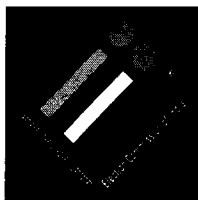


**GUIDELINES OF
ELECTION COMMISSION OF
INDIA
ON
PUBLICITY OF
CRIMINAL ANTECEDENTS
BY POLITICAL PARTIES &
CANDIDATES**

In Compliance with Hon'ble Supreme Court's Decisions in WP (C) No. 784 of 2015 (Lok Prahari Vs. Union of India & Others) and in WP (C) No. 536 of 2011 (Public Interest Foundation & Ors. Vs. UoI & Anr.), in contempt petition(C) no. 2192 of 2018 in WP(C) no. 536 of 2011 and in contempt petition(C) No. 656 of 2020 in contempt petition (C) no. 2192 of 2018 in writ petition (civil) no. 536 of 2011

January-2022



Election Commission of India

Nirvachan Sadan, Ashoka Road, New Delhi-110 001

(Available at eci.gov.in)

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Subject: - Publicity of criminal antecedents by Political Parties & Candidates-

Reference: - 1-No. 3/4/2017/SDR/Vol.II dated 10th October, 2018

2-No. 3/4/2019/SDR/Vol.I dated 19th March, 2019

3-No. 76/ECI/INST/FUNC/EEM/EEPS/2019/VOL. XVII dated 8th May, 2019

4-No. 3/4/2019/SDR/Vol.III dated 30th August, 2019

5-No. 3/4/2020/SDR/Vol.III dated 6th March, 2020

6-No. 3/4/2020/SDR/Vol.III dated 19th March, 2020

7-No. 3/4/2019/SDR/Vol.IV dated 16th September, 2020

8- No. 3/4/2019/SDR/Vol.IV dated 30th October, 2020

9- No. 3/4/2020/SDR/Vol.III dated 11th January, 2021

10- No. 3/4/2021/SDR/Vol.III dated 26th August, 2021

INTRODUCTION

Indian elections are extremely competitive. In 17th General Elections, 2019, a total of **8054** candidates belonging to **673** political parties including independents vied for 543 seats in the Lok Sabha. One of the main concerns of electoral environment has been the participation of some candidates with criminal backgrounds. Hon'ble Supreme Court in its catena of judgments [dated 13th March, 2003 in Civil Appeal No. 490 of 2002 (People's Union for Civil Liberties and another v Union of India)] facilitated disclosure of full background including criminal antecedents and financial status of every candidate in the form of affidavit. Subsequently, in WP (C) No. 784 of 2015 (Lok Prahari Vs. Union of India & Others) and WP (C) No. 536 of 2011 (Public Interest Foundation & Ors. Vs. Union of India & Anr. the Court on 25th September, 2018 directed vide Para 4:

- (i) Each contesting candidate shall fill up the form as provided by the Election Commission and the form must contain all the particulars as required therein.*

(ii) It shall state, in bold letters, with regard to the criminal cases pending against the candidate.

(iii) If a candidate is contesting an election on the ticket of a particular party, he/she is required to inform the party about the criminal cases pending against him/her.

(iv) The concerned political party shall be obligated to put up on its website the aforesaid information pertaining to candidates having criminal antecedents.

(v) The candidate as well as the concerned political party shall issue a declaration in the widely circulated newspapers in the locality about the antecedents of the candidate and also give wide publicity in the electronic media. When we say wide publicity, we mean that the same shall be done at least thrice after filing of the nomination papers.”

2. In pursuance of this, Election Commission issued detailed instructions on 10th October 2018.

In its directions, it prescribed six forms for the following purposes:

| Formats | Action to be taken by | Platform |
|----------------|---|--|
| C1 | Candidates | News Paper & TV |
| C2 | Political Parties | Newspaper, TV & Political Party's website, |
| C3 | Returning Officer | Reminder to the Candidate. |
| C4 | Candidate To DEO | Report to be submitted before the DEO (in case of elections to Lok Sabha and Vidhan Sabha) or the RO (in case of elections to Rajya Sabha and Vidhan Parishad) |
| C5 | Political Parties To CEO of the State concerned | Report about publishing of the declaration. |
| C6 | CEO To The Commission | Report regarding compliance by the political parties |

3. The Commission also released detailed Frequently Asked Questions (FAQs) on 5th November, 2018 which was reiterated on 19th March, 2019 in this regard.

4. Further, in contempt petition(C) no. 2192 of 2018 in WP(C) no. 536 of 2011, the Hon'ble Supreme Court on 13th February, 2020, in the matter related to candidates with criminal antecedents, directed,

“4. We have also noted that the political parties offer no explanation as to why candidates with pending criminal cases are selected as candidates in the first place. We therefore issue the following directions in exercise of our constitutional powers under Articles 129 and 142 of the Constitution of India:

(1) It shall be mandatory for political parties (at the Central and State election level) to upload on their website detailed information regarding individuals with pending criminal cases (including the nature of the offences, and relevant particulars such as whether charges have been framed, the concerned Court, the case number etc.) who have been selected as candidates, along with the reasons for such selection, as also as to why other individuals without criminal antecedents could not be selected as candidates.

(2) The reasons as to selection shall be with reference to the qualifications, achievements and merit of the candidate concerned, and not mere “winnability” at the polls.

(3) This information shall also be published in :

(a) One local vernacular newspaper and one national newspaper;

(b) On the officials social media platforms of the political party, including Facebook & Twitter.

(4) These details shall be published within 48 hours of the selection of the candidate or not less than two weeks before the first date for filing of nominations, whichever is earlier.

(5) The political party concerned shall then submit a report of compliance with these directions with the Election Commission within 72 hours of the selection of the said candidate.

(6) If a political party fails to submit such compliances report with the Election Commission, the Election Commission shall bring such non-compliance by the political

party concerned to the notice of the Supreme Court as being in contempt of this Court's orders/directions."

5. Meaning of 'National' and 'Local Vernacular' Newspapers, in the context of Hon'ble Supreme Court's Order dated 13th February, 2020, as approved by the Commission, is as below:

(a) National Newspaper- Any daily newspaper which meets all the following norms:

1. At least one edition with circulation beyond 75000 as stated by DAVP/Audit Bureau of Circulation in publicly available records.
2. Editions in more than one State, as reflected in the publicly available records of DAVP/Audit Bureau of Circulation.

(b) Local Vernacular Newspaper- Any daily newspaper which meets all the following norms:

1. At least one edition published within the geographical territory of the State/UT, in the local vernacular language, with a circulation of at least 25,000, as stated by DAVP/ Audit Bureau of Circulation in publicly available records. However, Chief Electoral Officer may, if deemed necessary, fix a lower circulation floor, not below 15,000, in the States of Arunachal Pradesh, Goa, Manipur, Meghalaya, Mizoram, Nagaland, Tripura, and in UTs except Delhi and Chandigarh.
2. Registered with the DIPR of the concerned State/UT, and eligible for receiving advertisements from it.
3. List of local vernacular languages in each State/UT shall be specified by the CEO of the State/UT who may, if deemed necessary, seek advice from the DIPR of the State/UT, in the matter.

6. The Commission, in pursuance to this, on 6th March, 2020 prescribed two more forms for compliance by the political parties,

| Formats | Action to be taken by | Purpose |
|----------------|------------------------------|--|
| C7 | Political Parties | Newspapers, social media platforms & website of the party. |

| | | |
|----|---------------------------------------|-----------------------------|
| C8 | Political Parties To Commission | Report of compliance of the |
|----|---------------------------------------|-----------------------------|

7. The Commission has now decided to consolidate all related instructions on this matter so that concerned political parties and candidates comply with the directions of Hon'ble Supreme Court, in the interest of electors, without any difficulty.

8. Also, for ensuring periodic awareness of electors during the campaign, the Commission has now prescribed following timeline for publicity of criminal antecedents during the period starting from the day following the last date of withdrawal and upto 48 hours before ending with the hour fixed for conclusion of poll,

- i. Within first 4 days of withdrawal of nominations.
- ii. Between next 5th – 8th days.
- iii. From 9th day till the last day of campaign (the second day prior to date of poll)

(Illustration: if the last date for withdrawal is 10th of the month and poll is on 24th of the Month, the publication of declaration shall be done in the following time period: -

- i. First block for publication shall be done between 11th and 14th of the Month,**
- ii. Second block for publication shall be done between 15th and 18th the Month**
- iii. and the third block for publication shall be done between 19th and 22nd of the Month)**

9. However, timeline for publishing the details of criminal cases on the three occasions, in case of the Rajya Sabha and State Legislative Council elections by Members of Legislative Assembly (MLAs), shall be as under:

- i. within first 2 days of withdrawal
- ii. Between next 3rd – 4th days; and
- iii. From 5th day to 6th day i.e. prior to date of poll.

10. As directed by Hon'ble Supreme Court, such political parties must disclose the reasons of such selection, publicize it, and intimate in the prescribed format to the Commission with 72 hours. Failure to comply with this need to be reported for contempt.

11. All contesting candidates, who have criminal antecedents must publicize the details in the prescribed format as per timeline described at Para 7 above.

12. All those candidates who return uncontested and have criminal antecedents must publicize the details in the prescribed format as per timeline described at Para 7 above.

13. All such candidates must disclose expenditure incurred in this regard in the prescribed format C-4 to the concerned District Election Officer at the time of filing of her/his return, and Abstract statement of Election Expenses of candidates.

14. All such political parties must disclose expenditure incurred in this regard at the time of filing their returns in format C-5 and statement of Election Expenditure of Political Parties.

15. It has been noticed that a number of candidates with criminal antecedents, have not published the declaration in the newspapers even once as prescribed by the Commission vide its two instructions dated 10th October, 2018 and 16th September, 2020, which is in contravention to the directions of the Hon'ble Supreme Court. In view of this, the Commission has decided to serve a Notice to such defaulting candidates by the CEO. The Format of the Notice may be seen in the annexure.

16. In furtherance of the directions issued by the Constitution Bench in *Public Interest Foundation (supra)* and its earlier Order dated 13.02.2020, Hon'ble Supreme Court in contempt petition (civil) No. 656 of 2020 in contempt petition (civil) no. 2192 of 2018 in writ petition (civil) no. 536 of 2011, on 10th August, 2021, directed that:-

“(i) Political parties are to publish information regarding criminal antecedents of candidates on the homepage of their websites, thus making it easier for the voter to get to the information that has to be supplied. It will also become necessary now to have on the homepage a caption which states “candidates with criminal antecedents”;

(ii) The ECI is directed to create a dedicated mobile application containing information published by candidates regarding their criminal antecedents, so that at one stroke, each voter gets such information on his/her mobile phone;

(iii) The ECI is directed to carry out an extensive awareness campaign to make every voter aware about his right to know and the availability of information regarding criminal antecedents of all contesting candidates. This shall be done across various platforms, including social media, websites, TV ads, prime time debates, pamphlets, etc. A fund must be created for this purpose within a period of 4 weeks into which fines for contempt of Court may be directed to be paid;

(iv) For the aforesaid purposes, the ECI is also directed to create a separate cell which will also monitor the required compliances so that this Court can be apprised promptly of non-compliance by any political party of the directions contained in this Court's Orders, as fleshed out by the ECI, in instructions, letters and circulars issued in this behalf;

(v) We clarify that the direction in paragraph 4.4 of our Order dated 13.02.2020 be modified and it is clarified that the details which are required to be published, shall be published within 48 hours of the selection of the candidate and not prior to two weeks before the first date of filing of nominations; and

(vi) We reiterate that if such a political party fails to submit such compliance report with the ECI, the ECI shall bring such non-compliance by the political party to the notice of this Court as being in contempt of this Court's Orders/directions, which shall in future be viewed very seriously.”

17. In pursuance of the Hon'ble Supreme Court's above judgment dated 10.08.2021 the Commission has taken following steps:-

- i) A dedicated mobile application naming 'Know Your Candidate' has been developed which contains information regarding criminal antecedents of the candidates as declared by them. The mobile application is available on Commission's website and can also be downloaded from Google Play Store and Apple App Store.
- ii) A dedicated fund has been created for voter's awareness campaign and to make available the information regarding criminal antecedents of all contesting candidates for general public. Any fine imposed by Hon'ble Supreme Court on political parties regarding non-compliance of its above orders is to be submitted in the above fund. This has been intimated to all political parties vide Commission's letter no. No. 3/4/2021/SDR/VOL.III, dated 26th August, 2021.
- iii) A separate dedicate Cell has been created in the Commission to deal with the matters pertaining to publication of criminal antecedents of the candidates vide Commission's Office Order dated 17.09.2021.

This may be published in Newspapers and TV from the day following the last date for withdrawal of candidature and upto two days before the date of poll

Format C-1

(for candidate to publish in Newspapers, TV)

Declaration about criminal cases

(As per the judgment dated 25th September, 2018, of Hon'ble Supreme Court in WP (Civil) No. 536 of 2011 (Public Interest Foundation & Ors. Vs. Union of India &Anr.)

Name and address of candidate: _____

Name of political party: _____
(Independent candidates should write "Independent" here)

Name of Election : _____

*Name of Constituency: _____

I _____ (name of candidate), a candidate for the abovementioned election, declare for public information the following details about my criminal antecedents:

| (A) Pending criminal cases | | | | |
|--|-------------------------------------|--|-------------------|--|
| Sl. No. | Name of Court | Case No. and dated | Status of case(s) | Section(s) of Acts concerned and brief description of offence(s) |
| | | | | |
| | | | | |
| | | | | |
| (B) Details about cases of conviction for criminal offences | | | | |
| Sl.no. | Name of Court & date(s) of order(s) | Description of offence(s) & punishment imposed | Maximum Imposed | Punishment |
| | | | | |
| | | | | |
| | | | | |

*In the case of election to Council of States or election to Legislative Council by MLAs, mention the election concerned in place of name of constituency.

Note:-

- 1. The particulars regarding criminal cases pending against the candidate shall be in bold letters.**
- 2. The matter in newspapers shall be published in font size of at least 12.**
- 3. Details should be given separately for each case in separate rows.**
- 4. If a candidate is contesting an election on the ticket of a particular party, he/she is required to inform the party about the criminal cases pending against him/her.**
- 5. The candidate shall report about publishing of declaration regarding criminal cases immediately after such publication to the Returning Officer. In addition, he shall submit a report about publishing of the declaration regarding cases in Format C-4 along with the account of election expenses within 30 days of declaration of result of election. (a) In case of elections to the Lok Sabha and the Legislative Assemblies, this shall be submitted to District Election Officer concerned, (b) In case of elections to the Rajya Sabha and the State Legislative Council, this shall be submitted to the Returning Officer concerned**

This may be published in Newspapers and TV from the day following the last date for withdrawal of candidature and upto two days before the date of poll

Format C-2

(For political party to publish in website, newspapers, TV)

Declaration about criminal antecedents of candidates set up by the party

(As per the judgment dated 25th September, 2018 of Hon'ble Supreme Court in WP (Civil) No. 536 of 2011 (Public Interest Foundation & Ors. Vs. Union of India & Anr.)

Name of Political Party: _____

* Name of Election : _____

Name of State/ UT : _____

| 1. | 2 | 3 | 4 | | 5. | | |
|---------|----------------------|-------------------|---|--|---|--|-----------------------------|
| Sl. No. | Name of constituency | Name of candidate | (A) Pending criminal cases | | (B) Details about cases of conviction for criminal offences | | |
| | | | Name of Court, case No. & status of the case(s) | Sections of the Acts concerned & brief description of offence(s) | Name of Court & date(s) of order(s) | Description of offence(s) & punishment imposed | Maximum Punishment Imposed. |
| | | | | | | | |
| | | | | | | | |

*In the case of election to Council of States or election to Legislative Council by MLAs, mention the election concerned in place of name of constituency.

Note:-

- 1. The particulars regarding criminal cases pending against the candidate shall be in bold letters.**
2. The matter in newspapers shall be published in font size of at least 12.
3. The above information shall be published State wise for each State/UT.
- 4. If a candidate is contesting an election on the ticket of a particular party, he/she is required to inform the party about the criminal cases pending against him/her.**
- 5. The political party shall be obligated to put up on its website the information pertaining to candidates having criminal antecedents.**
- 6. The Political Party shall submit a report about publishing of declaration regarding criminal cases in Format C5 to the Chief Electoral Officer of the State within 30 days of declaration of result of the election concerned.**

Format C-3

(Reminder to the Candidate)

Office of Returning Officer

Name of Constituency: _____

Name of State : _____

Name of Election : _____

It is informed that as per the judgment dated 25th September, 2018, of Hon'ble Supreme Court, in WP (Civil) No. 536 of 2011 (Public Interest Foundation & Ors. Vs. Union of India & Anr., and the directions in the Commission's letter No. 3/ER/2018/SDR , dated 10-10-2018 and letter No. 3/4/2019/SDR/Vol.IV dated 16/09/2020, all candidates with criminal cases – either pending cases or cases of conviction in the past, are required to publish declaration regarding such criminal cases in newspapers and TV channels on three occasions during the campaign period for the purposes of publishing of such details. The Commission has prescribed following timeline for publicity of criminal antecedents during the period starting from the day following the last date of withdrawal and upto 48 hours before ending with the hour fixed for conclusion of poll.

- i) Within first 4 days of withdrawal of nominations.
- ii) Between next 5th -8th days
- iii) From 9th day till the last day of campaign(the second day prior to date of poll)

Since you, Sh./Smt./Ms. _____(mention the name of the candidate), a candidate nominated for the abovementioned election, have declared information about criminal cases in Items 5/6 of Form-26, you are required to publish information in newspapers having wide circulation in the constituency area and on TV channels on at least three occasions each as mentioned above. The Format C-1 for publishing the information is enclosed herewith. **You shall report about publishing of declaration regarding criminal cases immediately after such publication to the Returning Officer. In addition, you shall submit a report about publishing of the declaration regarding cases in Format C-4 with copies of the newspapers publishing the information about criminal cases along with the account of election expenses within 30 days of declaration of result of election. (a) In case of elections to the Lok Sabha and the Legislative Assemblies, this shall be submitted to District Election**

Officer concerned, (b) In case of elections to the Rajya Sabha and the State Legislative Council, this shall be submitted to the Returning Officer concerned

Date:

Signature _____

Name of the RO/ARO _____

Signature of Candidate _____

Note: One copy of this should be given to candidate and one copy retained with RO.

Format C-4

Report by Candidate about publishing of declaration regarding criminal cases

Name and address of candidate: _____

Name of political party: _____
(Independent candidates should write 'Independent' here)

Name of Election : _____

*Name of Constituency: _____

I _____ (name of candidate), a candidate for the abovementioned election, certify that I have published the declaration about my criminal antecedents in newspapers and TV channels as per the directions of the Election Commission in pursuance of the judgment dated 25th September, 2018, of Hon'ble Supreme Court in WP (Civil) No. 536 of 2011 (Public Interest Foundation &Ors. Vs. Union of India &Anr.). Details are as follows:

| Sl. No. | Newspaper | | | Television | | | Mode of Payment (electronic/cheque/DD/Cash) (Pl. specify) |
|---------|-------------------|--------------------|---|-----------------|-----------------------------------|---|---|
| | Name of Newspaper | Date of publishing | Expenses that may have been incurred (in Rs.) | Name of channel | Date & time of insertion/telecast | Expenses that may have been incurred (in Rs.) | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

Copies of newspapers in which declaration was published are enclosed.

Date:-

Name & Signature of Candidate

Note: - (i) In case of elections to the Lok Sabha and the Legislative Assemblies, this shall be submitted along with the account of election expenses.

(ii) In case of elections to the Rajya Sabha and the State Legislative Council, this shall be submitted to the Returning Officer concerned within 30 days of declaration of result of election.

Report by Political Party about publishing of declaration regarding criminal cases

Name of political party: _____

Name of Election : _____

It is certified that _____ (name of political party) has published the declaration about the candidates with criminal antecedents on the website of the party, in newspapers and TV channels as per the directions of the Election Commission in pursuance of the judgment dated 25th September, 2018, of Hon'ble Supreme Court in WP(Civil) No. 536 of 2011 (Public Interest foundation & Ors. Vs. Union of India & Anr.). Details are as follows:-

| Sl. No | Website | Newspaper | | | Television | | | Mode of Payment (electronic/ cheque/ DD/Cash) (Pl. specify) |
|--------|-------------------------------|----------------------|-----------------------|----------------------------|--------------------|---------------------------------------|----------------------------|---|
| | | Name(s) of Newspaper | Date(s) of publishing | Expenses incurred (in Rs.) | Name(s) of channel | Date(s) & time of insertion/t elecast | Expenses incurred (in Rs.) | |
| | Period during which displayed | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

Copies of newspapers in which declaration was published are enclosed.

Date:- _____ Signature of office bearer

Name & designation

Note:- This report shall be submitted to the Chief Electoral Officer of the State within 30 days of declaration of result of the election concerned.

Format C-6

Statement regarding publishing of criminal cases against candidates set up by political parties as per directions in the Commission's letter No. 3/4/2017/SDR/Vol.II dated 10th October, 2018- Report regarding compliance by Political Parties

Name of State/UT-

Name of the Election-..... (General/Bye-election, Lok Sabha/Rajya Sabha/Legislative Assembly/Legislative Council)

Date (s) of Poll-

| No. & Name of Assembly/Parliamentary Constituency | Name of the Political Party | Whether submitted Report in Format C-5 by the party (Yes/No). If yes, then date of submission. | Whether declaration has been published on the website of the party as per direction (Yes/No). | Publishing in Newspaper by the party | | Publishing on Television by the party | |
|---|-----------------------------|---|---|--------------------------------------|-----------------------|---------------------------------------|--------------------------------------|
| | | | | Name(s) of Newspaper | Date(s) of publishing | Name(s) of Channel | Date(s) & time of insertion/telecast |
| 01-abc | ABC | | | | | | |
| | ... | | | | | | |
| | ... | | | | | | |
| | ... | | | | | | |
| 02-def | DEF | | | | | | |
| | ... | | | | | | |
| | ... | | | | | | |
| and so on | | | | | | | |

Note 1- Only such Political Parties which set up candidates with criminal cases, either pending cases or cases of past conviction, are required to submit Report in this regard to the CEO concerned.

Chief Electoral Officer
Name of the State.....

Format C-7

(for political parties to publish in the newspapers, social media platforms & website of the party)

Information regarding individuals with pending criminal cases, who have been selected as candidates, along with the reasons for such selection, as also as to why other individuals without criminal antecedents could not be selected as candidates

(As per the Commission's directions issued in pursuance of the Order dated 13.02.2020 of the Hon'ble Supreme Court in contempt petition(C) no. 2192 of 2018 in WP(C) no. 536 of 2011)

Name of Political Party: _____

***Name of the Election:** _____

Name of State/UT: _____

(1) Name of the Constituency-.....

Name of the candidate-.....

| Sl.no. | |
|--------|---|
| 1. | Criminal antecedents |
| a. | Nature of the offences |
| b. | Case no. |
| c. | Name of the Court |
| d. | Whether charges have been framed or not (Yes/No) |
| e. | Date of conviction, if any |
| f. | Details of punishment undergone, if any |
| g. | Any other information required to be given |
| 2. | The reasons for the selection of the candidate. Selection shall be with reference to the qualifications, achievements and merit of the candidate, and not mere "winnability" at the polls (not more than 100 words) |
| 3. | Reasons as to why other individuals without criminal antecedents could not be selected as candidates (not more than 100 words) |

(2) Name of the Constituency-.....

Name of the candidate-.....

.....and so on

* In the case of election to Council of States or States or election to Legislative Council by MLAs, mention the election concerned in place of name of Constituency.

Signature of office bearer of the Political Party
Name and designation.....

Note:-

- (1) Political parties (at the Central and State election level) shall upload on their website detailed information regarding individuals with pending criminal cases (including the nature of the offences, and relevant particulars such as whether charges have been framed, the concerned Court, the case number etc.) who have been selected as candidates, along with the reasons for such selection, as also as to why other individuals without criminal antecedents could not be selected as candidates.
- (2) The reasons as to selection shall be with reference to the qualifications, achievements and merit of the candidate concerned, and not mere “winnability” at the polls.
- (3) This information shall also be published in:
 - (a) One local vernacular newspaper and one national newspaper;
 - (b) On the officials social media platforms of the political party, including Facebook & Twitter.
- (4) The matter in newspapers shall be published in font size of at least 12.
- (5) The above information shall be published State wise for each State/UT.
- (6) These details shall be published within 48 hours of the selection of the candidate and not prior to two weeks before the first date of filing of nominations.**
- (7) The political party concerned shall then submit a report of compliance in Format C-8 with the Election Commission within 72 hours of the selection of the said candidate.**

Format C-8

Report of political party as required under the Commission's directions issued in pursuance of the Order dated 13-02-2020 of Hon'ble Supreme Court in Contempt Petition(C) No. 2192 of 2018 in WP (C) No. 536 of 2011.

Name of political party : _____

Details of Social Media Accounts of the party: (i)

(Facebook, Twitter etc.) (ii)

(iii)

Name of Election: _____

Gen Election/ Bye –election to Lok Sabha / Leg. Assembly/Biennial election/ Bye election to Council of States/Leg Council

(Write the appropriate alternative)

Name of State: _____

It is certified that _____ (name of political party) has published detailed information regarding the persons with pending criminal cases in the Format prescribed by the Commission (Format C-7) as per the directions in the Commission's letter No. _____, dated _____ in the following media:

| Sl.no. | | Date of publication & cost of publication to be mentioned in column below | |
|--------|---|---|------|
| | | Date | Cost |
| 1. | One National Newspaper (copy to be furnished) | | |
| 2. | One Local Vernacular Newspaper (copy to be furnished) | | |
| 3. | Social Media Platforms of the party (print to be furnished) | | |
| 4. | Website of the party (printout of the material enclosed) | | |

Declaration

It is declared that full information, explanation and details have been published in respect of each of the persons with pending cases who have been selected to be the candidates of the party in the abovementioned election, as per the directions in the Order dated 13-02-2020 of the Hon'ble Supreme Court referred to above, and nothing has been concealed.

Place:

Signature of office bearer of the Political Party

Name and designation.....

Date:

(seal of the Party)

Note:-This report shall be furnished at least two weeks before the date on which nomination is proposed to be filed or within 72 hours of selection of the candidate, whichever is earlier.

Format-CA

Statement showing details of Candidates with criminal antecedents, sponsored by the political parties in election to House of People/Legislative Assembly/Council of States/Legislative Councils to be held in _____20

(As per the Commission's directions issued in pursuance of the Order dated 13.02.2020 of the Hon'ble Supreme court in contempt petition (C) no. 2192 of 2018 in WP(C) no. 536 of 2011)

| S.No. | Name of State | No. & Name of Constituency | No. of seats | Party affiliation | Name of Candidates | Whether the candidate has declared anything about pending criminal case(s) against him/her in item 5 of Form 26 (Yes/No) | Whether the candidate has declared anything about cases(s) of conviction(s) for criminal offence(s) in item 6 of Form 26 (Yes/No) | If the information given in column no. 7 & 8 is yes, whether the political party has sent report in Format C8 (Yes/No) |
|--------------|----------------------|---------------------------------------|---------------------|--------------------------|---------------------------|---|--|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |

Signed by RO of the Constituency _____

Date:

Countersigned by CEO _____ State

Annexure

| Sl.No. | Commission's Instruction | Date | Page No. |
|--------|--------------------------|----------------------------------|----------|
| 1. | No. 3/4/2017/SDR/Vol.II | 10 th October, 2018 | 25-28 |
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ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 3/4/2017/SDR/Vol.II

Dated: 10th October, 2018

To,

The Chief Electoral Officers of
All States and Union Territories.

**Sub:- (i) Supreme Court's Judgment on the petition regarding people
with criminal antecedents contesting elections;**

(ii) Amendments in Form-26 (Format of affidavit by candidates).

Sir/Madam,

The candidates at all elections are required to file affidavit in Form-26, along with nomination paper, declaring information about criminal cases, assets, liabilities and educational qualifications. Form-26 has now been amended vide Ministry of Law & Justice Notification No. H.11019(4)/2018-Leg.II, dated 10th October, 2018. The amendments made in Form-26 are in pursuance of the directions in the judgements of the Hon'ble Supreme Court in Writ Petition(C) No. 784 of 2015 (Lok Prahari Vs. Union of India & Others) and Writ Petition (Civil) No. 536 of 2011 (Public Interest Foundation & Ors. Vs. Union of India & Anr.). A copy of the said notification along with a copy of the updated Form-26 is enclosed herewith. The candidates are now required to file the affidavit in the amended Form-26.

2. In the judgement in Writ Petition (Civil) No. 536 of 2011, the Hon'ble Supreme Court has, inter alia, given the following directions:-

- " (i) Each contesting candidate shall fill up the form as provided by the Election Commission and the form must contain all the particulars as required therein.
- (ii) It shall state, in bold letters, with regard to the criminal cases pending against the candidate.
- (iii) If a candidate is contesting an election on the ticket of a particular party, he/she is required to inform the party about the criminal cases pending against him/her.

- (iv) The concerned political party shall be obligated to put up on its website the aforesaid information pertaining to candidates having criminal antecedents.
- (v) The candidate as well as the concerned political party shall issue a declaration in the widely circulated newspapers in the locality about the antecedents of the candidate and also give wide publicity in the electronic media. When we say wide publicity, we mean that the same shall be done at least thrice after filing of the nomination papers."

3. In pursuance of the abovementioned judgement, the Commission, after due consideration, has given the following directions to be followed by candidates at elections to the Houses of Parliament and Houses of State Legislatures who have criminal cases against them, either pending cases or cases of conviction in the past, and to the political parties that set up such candidates :-

(a) Candidates at elections to the House of the People, Council of States, Legislative Assembly or Legislative Council who have criminal cases against them – either pending cases or cases in which candidate has been convicted, shall publish a declaration about such cases, for wide publicity, in newspapers with wide circulation in the constituency area. This declaration is to be published in **Format C-1** attached hereto, at least on three different dates from the day following the last date for withdrawal of candidatures and upto two days before the date of poll. The matter should be published in font size of at least 12 and should be placed suitably in the newspapers so that the directions for wide publicity are complied with in letter and spirit.

(Illustration: If the last date for withdrawal is 10th of the Month and poll is on 24th of the Month, the publishing of declaration shall be done between 11th and 22nd of that Month).

(b) All such candidates with criminal cases are also required to publish the above declaration on TV channels on three different dates during the abovementioned period. But, in the case of the declaration in TV Channels, the same should be completed before the period of 48 hours ending with the hour fixed for conclusion of poll.

(c) In the case of all candidates who have criminal cases as per the declarations in Items 5 and 6 of Form-26, the Returning Officer shall give a written reminder about the directions herein for publishing declaration about the criminal cases in newspapers and TV channels for wide publicity. A standard format for such reminder to the candidates is annexed as **Format C-3**. The candidates shall submit the copies of newspapers in which their declaration in this regard was published to the District Election Officer, along with their account of election expenses.

(c) In the case of candidates with criminal cases set up by political parties, whether recognized parties or registered un-recognized parties, such candidates are required to declare before the Returning Officer concerned that they have informed their political party about the criminal cases against them. Provision for such declaration has been made in Form-26 in the newly inserted Item (6A).

4. The Political Parties – recognized parties and registered un-recognised parties, which set up candidates with criminal cases, either pending cases or cases of past conviction, are required to publish declaration giving details in this regard on their website as well as in TV channels and newspapers having wide circulation in the State concerned. This declaration by political parties is to be published in **Format C-2**, annexed hereto. Publishing of the declaration in newspapers and TV channels is required to be done atleast on three different dates during the period mentioned in Para-2(a) above. In the case of TV channels, it shall be ensured that the publishing should be completed before the period of 48 hours ending with the hour fixed for conclusion of poll for the election. All such political parties shall submit a report to the Chief Electoral Officer of the State concerned stating that they have fulfilled the requirements of these directions, and enclosing therewith the paper cuttings containing the declarations published by the party in respect of the State/UT concerned. This shall be done within 30 days of completion of

election. Thereafter, within the next 15 days, the Chief Electoral Officer should submit a report to the Commission confirming compliance by the parties concerned, and pointing out cases of defaulters, if any.

5. It may also be noted that the provisions for the additional affidavit in respect of dues against Govt. accommodation, if any, that may have been allotted to the candidates, have now been incorporated in Form-26 itself under Item (8) relating to liabilities to Public Financial Institutions and Govt. Therefore, the candidates shall give the requisite declaration/particulars in this regard in Item (8) of Form-26. Accordingly, the candidates are now not required to file the additional affidavit prescribed under the Commission's Order No. 509/11/2004-JS-I, dated 3rd February, 2016, as the provisions are now part of Form-26 itself.

6. This letter may be circulated to all DEOs, ROs in the State/Union Territory for necessary action on their part. This shall also be circulated to all the political parties based in the State, i.e. the State Units of the recognized Parties and recognized State parties of other States and all registered un-recognized political parties with headquarters based in your State/Union Territory, with instructions to take note of the above directions and the amendments in Form-26.

7. Please acknowledge receipt and confirm action taken.

Yours faithfully,



(K.F. WILFRED)

Sr. PRINCIPAL SECRETARY

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi -110 001

No. 3/4/2019/SDR/Vol-I

Dated: 19th March, 2019

To,

The Chief Electoral Officers of
All States and UTs

Subject: - FAQs on Criminal Antecedents, if any, of a candidate and its publicity in pursuance of Hon'ble Supreme Court Judgment dated 25/09/2018 in W.P.(C) No. 536 of 2011-regarding.


Sir/Madam,

I am directed to invite your reference to the Commission's directions in letter of even No. dated 10/10/2018 issued in pursuance of Hon'ble Supreme Court Judgment dated 25/09/2018 in W.P.(C) No. 536 of 2011. In view of the various queries raised in this regard, a set of FAQs and clarifications in this regard is enclosed.

2. The FAQs may be circulated to all DEOs, Returning Officers, officers connected to elections and the Political Parties based in your State. for their information.

3. In the Commission's abovementioned letter, it has been inter alia, directed that after the election the candidates shall submit a report about publishing of declaration to the DEO and the Political parties to the CEO of the State. The Commission has provided formats C-4 and C-5 for this purpose. The formats are also enclosed. These shall also be circulated to the DEOs, ROs and all political parties based in the State.

Yours faithfully,


(N.T. Bhutia)
Secretary

Copy to: All Recognized National and State Political Parties

FAQs : Criminal Antecedents, if any, of a candidate and its publicity in pursuance of Hon'ble Supreme Court judgement dated 25-09-2018 in WP (Civil) No. 536 of 2011.

Q.1 Which newspapers are to be chosen for publicity by such candidates?

Ans. As per direction in the judgement of the Hon'ble Supreme Court, the declaration is required to be published in newspapers with wide circulation in the area concerned. The CEO may get an indicative list of various newspapers which have wide circulation in the various district/different constituency areas in the State prepared by the State DIP. This indicative list should be shared with the political parties and the candidates.

Q.2 When has it to be publicised?

Ans. It has already been clearly mentioned in the Commission's letter dated 10-10-2018 that the publishing has to be during the period starting from the day following the last date for withdrawal of candidature and up to two days before the date of poll.

Q.3 There is no column for signature. Who will authenticate it?

Ans. The format contains column for mentioning the name and address of the candidate and the name of the political party on the top portion of the format. Thus, the name of the publisher will be clear from the declaration. There is no need for publishing the information with the signature of the publisher.

Q.4 What if someone publishes false information about criminal cases of another candidate?

Ans. There are already provisions to deal with any case of publication of false statement in relation to a candidate [Section 123 (4) of the RP Act, 51 and Section 171G of IPC].

Q.5 Which TV channel the declaration has to be publicised?

Ans. Please refer to the answer against Q.1 above. It has to be done in TV channels which are available/popular in the areas concerned.

Q.6 What will be the font size and duration of publicity in TV?

Ans. Font size should be the standard size used for displaying printed material on TV. Its duration may not be less than 7 seconds.

Q.7 If a candidate does not have any criminal record, whether he/she is required to publicise?

Ans. No. Only those candidates who have either pending criminal cases or who have been convicted in the past are required to publish the declaration.

Q.8 Whether FIR cases have to be published by the concerned candidates and political parties?

Ans. Yes. Under the heading 'Case No. and status of case', details regarding FIRs, mentioned in Item-5 of Form-26, are required to be mentioned.

Q.9 If after filing nomination, status of criminal case changes, whether candidate can revise the details?

Ans. It will be open to the candidate concerned to notify the revised status to the Returning Officer and to publish that revised status only. If it is NIL, the candidate is not required to publish it.

Q. 10 Who will bear the expenses for publishing?

Ans. Expenses, if any, will be borne by the candidate and the political parties in respective cases.

Q. 11 Whether expenditure on this account will be accounted for?

Ans. Yes. This being an expenditure in connection with the election, if **expense is incurred in this regard**, the same will be counted for the purposes of election.

Q.12 Can RO act on any discrepancy in such details if pointed out?

Ans. No. RO is not supposed to enquire into correctness of declarations published by candidate/political parties.

Q.13 In what manner, such candidates will submit the information about publicity of cases to the DEO?

Ans. Separate formats have been specified by the Commission for the candidates and the political parties to submit report about publishing of the declaration. These are Format-C-4 for candidates and Format-C-5 for political parties.

Q.14 What happens if such candidates or such political parties do not publicise in the manner prescribed?

Ans. Such failure may be a ground for post-election action like election petition or contempt of Hon'ble Supreme Court.

Q.15 What are the Hours during which the information on TV channels is to be displayed?

Ans. Information should be published on TV channels during the period between 8AM and 10PM.

Q.16 What will be the language in which the information is to be published on TV channels?

Ans. The information should be published in vernacular language or in English.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.3/4/2019/SDR-Vol.III

Dated: 30th August, 2019

To,

The Chief Electoral Officers of
all States and Union Territories.


**Sub: (i) Supreme Court's Judgment on the petition regarding people with criminal antecedents contesting elections;
(ii) Amendments in Form-26 (Format of Affidavit to be filed by candidates).**

Sir/Madam,

I am directed to invite your attention to the Commission's letter No. 3/4/2017/SDR/Vol.II dated 10.10.2018 and letter dated 19.03.2019 whereby in pursuance of the decision of the Hon'ble Supreme Court in the judgment in WP(c) No. 784 of 2015 (Lok Prahari Vs. UoI&Ors) and WP(C) No. 536 of 2011 (Public Interest Foundation &Ors. Vs. UoI and Anr.), the Commission had issued a direction that the candidates who have criminal cases against them, either pending cases or cases of conviction in the past, and the political parties that set up such candidates shall publish a declaration in newspapers and TV Channels in the manner prescribed in the letters referred to above. Further, as per Para 4 of the above mentioned letter, all CEOs are requested to submit a report to the Commission confirming compliance by parties concerned, and pointing out cases of defaulters, if any.

In this context, it is to inform that the Commission has devised a Format C-6 for sending the compliance report. You are, therefore requested to send the abovementioned report regarding compliance by the political parties to the Commission in the Format C-6 in respect of the Lok Sabha general election. The report may be submitted latest by 30.09.2019.

Yours faithfully,


(N.T. Bhutia)
Secretary

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 3/4/2020/SDR/Vol.III

Dated: 6th March, 2020

To

The President/General Secretary/Chairperson/Convener,
of all recognized National and State Political Parties.

Sub: Order dated 13th February, 2020 of Hon'ble Supreme Court in Contempt Petition (C) No. 2192 of 2018 in WP(C) No. 536 of 2011 - Requirement of publishing details regarding candidates with pending criminal cases- regarding.

Sir/Madam,

I am directed to bring to your notice of the Hon'ble Supreme Court's Order dated 13.02.2020 in Contempt Petition (C) No. 2192 of 2018 in WP(C) No. 536 of 2011.

2. In this connection your attention is drawn to the Commission's instructions contained in letters no. 3/4/2017/SDR/Vol.II & 3/4/2019/SDR/Vol.I dated 10th October, 2018 and 19th March, 2019 respectively in compliance of the Hon'ble Supreme Court's judgement dated 25th September, 2018, in *Public Interest Foundation & Ors. V. Union of India &Anr.* [WP (Civil) No. 536 of 2011].

3. The Hon'ble Supreme Court in its Order dated 13.02.2020 in Contempt Petition (C) No. 2192 of 2018 in WP(C) No. 536 of 2011, referred to above, has given the following directions: -

"4. We have also noted that the political parties offer no explanation as to why candidates with pending criminal cases are selected as candidates in the first place. We therefore issue the following directions in exercise of our constitutional powers under Articles 129 and 142 of the Constitution of India:

(1) It shall be mandatory for political parties (at the Central and State election level) to upload on their website detailed information regarding individuals with pending criminal cases (including the nature of the offences, and relevant particulars such as whether charges have been framed, the concerned Court, the case number etc.) who have been selected as candidates, along with the reasons for such selection, as also as to why other individuals without criminal antecedents could not be selected as candidates.

(2) The reasons as to selection shall be with reference to the qualifications, achievements and merit of the candidate concerned, and not mere “winnability” at the polls.

(3) This information shall also be published in :

(a) One local vernacular newspaper and one national newspaper;

(b) On the officials social media platforms of the political party, including Facebook & Twitter.

(4) These details shall be published within 48 hours of the selection of the candidate or not less than two weeks before the first date for filing of nominations, whichever is earlier.

(5) The political party concerned shall then submit a report of compliance with these directions with the Election Commission within 72 hours of the selection of the said candidate.

(6) If a political party fails to submit such compliances report with the Election Commission, the Election Commission shall bring such non-compliance by the political party concerned to the notice of the Supreme Court as being in contempt of this Court’s orders/directions.”

4. In pursuance of the directions given by the Hon’ble Supreme Court in its Order dated 13.02.2020 and in addition to the Commission’s earlier instructions dated 10th October, 2018 and 19th March, 2019, the Commission, after due consideration has directed that all political parties, that set up candidates with criminal antecedents, either pending cases or cases of past conviction shall scrupulously follow each of the above directions in all future elections to the Houses of Parliament and State Legislatures. Information regarding individuals with criminal cases, who have been selected as candidates, along with the reasons for such selection, as also as to why other individuals without criminal antecedents could not be selected as candidates shall be published by the political party in the newspapers, social media platform and website of the party in the enclosed **Format C-7 within 48 hours of the selection of the candidate or not less than two weeks before the first date for filing of nominations, whichever is earlier.**

5. A compliance report in the enclosed **Format C-8 shall be sent to the Commission within 72 hours of the selection of the candidate.**
6. The party may note that failure to abide by the abovementioned directions will render the party liable to contempt proceedings before the Hon'ble Supreme Court.
7. It is clarified that failure to abide by the above directions will also be treated as failure to follow a lawful direction of the Commission for the purposes of Paragraph-16A of the Elections Symbols (Reservation & Allotment) Order, 1968.

Yours faithfully,


(NARENDRA N. BUTOLIA)
PRINCIPAL SECRETARY

Copy to: -The Chief Electoral Officers of all States and UTs with the request that a copy of this letter may be sent to all registered political parties with headquarters in the State/UT including the State Units of the recognized National and State Parties.

ELECTION COMMISSION OF INDIA

NirvachanSadan, Ashoka Road, New Delhi-110001

No.3/4/2020/SDR – Vol.III

Dated: 19th March, 2020

To

The Chief Electoral Officers of
All States and UTs


Subject: - Order dated 13th February, 2020 of Hon'ble Supreme Court in Contempt Petition (C) No. 2192 of 2018 in WP (C) No. 536 of 2011- Requirement of publishing details regarding candidates with pending criminal cases- regarding.

Sir,

I am directed to refer to the Commission's letter of even No. dated 06.03.2020, on the above subject and addressed to recognized political parties, a copy of the letter endorsed to CEOs and to say that in pursuance of the directions given by the Hon'ble Supreme Court in its Order dated 13.02.2020, if a political party fails to submit compliance report with the Election Commission, the Election Commission shall bring such non compliance by the political party concerned to the notice of the Supreme Court as being in contempt of the court's order. Accordingly, the political parties shall publish information regarding candidates with criminal antecedents with the reason for selection of such individuals in Format C-7 within the given time and a compliance report shall be sent in Format C-8 to the Commission within 72 hours of the selection of the candidates.

The CEOs are requested to obtain information with regard to the individuals with criminal antecedents, selected as candidates by the political parties, in the elections being held in their states, from the ROs concerned and furnish the same in compiled form, in the enclosed Format CA. The information shall be sent to the Principal Secretary/Secretary of the concerned Territorial Zone/Biennial Election Division in the Commission by the last date of making nominations for the said election so that information of non-compliance by the political parties may be submitted to the Supreme Court, in time.

Yours faithfully


(N. T. Bhutia)
Secretary

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 3/4/2019/SDR/Vol.IV

Dated: 16th September, 2020

To,

The Chief Electoral Officers of
all States and Union Territories.

Sub: Supreme Court's Judgment on the petition regarding requirement of publishing details regarding people with criminal antecedents contesting elections;

Sir/Madam,

I am directed to invite your attention to the Commission's letter No. 3/4/2017/SDR/Vol. II dated 10.10.2018, and letter dated 19.03.2019, issued in pursuance of the Judgment of Hon'ble Supreme Court in WP(C) No. 784 of 2015 (Lok Prahari Vs. UoI & Ors) and WP(C) NO. 536 of 2011 (Public Interest Foundation & Ors. Vs. UoI and Anr.). In the said letters the Commission has directed that the candidates who have criminal cases against them, either pending cases or cases of conviction in the past, and the political parties that set up such candidates, shall publish declaration in newspapers and TV Channels in the manner prescribed in the letters referred to above.

2. Subsequently, in pursuance of the directions given by the Hon'ble Supreme Court in its Order dated 13.02.2020 passed in Contempt Petition(C) No. 2192 of 2018 in WP(C) NO. 536 of 2011 and in addition to the directions in the Commission's above said two letters, the Commission vide letter No. 3/4/2020/SDR/Vol.III dated 6th March 2020, has also directed that all political parties, that set up candidates with criminal antecedents, either pending cases or cases of past conviction, shall scrupulously follow each of the above directions in

all future elections to the Houses of Parliament and State Legislatures. Information regarding individuals with criminal cases, who have been selected as candidates, along with the reasons for selection of such candidates, as also as to why other individuals without criminal antecedents could not be selected as candidates, shall be published by the political party in the newspapers, social media platform and website of the party within 48 hours of the selection of the candidate or not less than two weeks before the first date for filing of nominations, whichever is earlier.

3. The Commission has also considered the issues relating to the publicity by the uncontested returned candidates and directed that in view of above said directions of Hon'ble Supreme court such candidates must also publicize their criminal antecedents in the manner as prescribed for other contesting candidates..

4. As per the Commissions directions, the details regarding criminal cases are to be published on three occasions during the campaign period for the purposes of publishing of such details. Now, Commission has considered the matter and directed that the period specified will be decided with three blocks in following manner, so that electors have sufficient time to know about the background of such candidates:

- a. Within first 4 days of withdrawal.
- b. Between next 5th - 8th days.
- c. From 9th day till the last day of campaign (the second day prior to date of poll)

(Illustration: If the last date for withdrawal is 10th of the month and poll is on 24th of the Month, the first block for publishing of declaration shall be done between 11th and 14th of the Month, second and third blocks shall be between 15th and 18th and 19th and 22nd of that Month, respectively.)

5. The other directions in this regard as given in the Commission's letters referred to in Para 1 & 2 above shall continue to be followed.

6. While filing the a/c of election expenses the details regarding publishing of instruction on criminal antecedents, if any, shall be provided in the prescribed format (Format C-4). In the case of election to Rajya Sabha or State legislative council, these details shall be submitted to the RO for the election.

7. It may again be stated here that **as far as political parties are concerned, they will be bound to disclose details regarding candidates selected by them in terms of the above mentioned Hon'ble Supreme Court's Order dated 13.02.2020, Communicated vide Commission's letter No. 3/4/2020/SDR/Vol.III dated 6th March, 2020, even if their candidature is rejected during scrutiny and/or withdraws his candidature** may be followed in this regard.

8. It may be reiterated that all the expenses incurred by the candidate and the political party in connection with the publication of the aforesaid criminal antecedent will be accounted for the purpose of election. In this regard, the Commission's letter No 3/4/3029/SDR/Vol.-I dated 19th March 2019 may be referred to.


9. In order to streamline the existing Formats as prescribed by the Commission and in compliance of the Order of the Hon'ble Supreme Court, Formats C1, C2, and C3 have been modified by adding suitable guidelines (copies enclosed).

10. This letter may be circulated to all DEOs/ROs in the State/Union Territory for necessary action on their part. This shall also be circulated to all the political parties based in the State i.e. the State Units of the recognized parties and recognized State parties of other States and all registered un-recognized political parties with head quarters based in your State/Union Territory, with instruction to

take note of the above directions for strict compliance both by the parties and their candidates in all future elections.

11. Kindly acknowledge receipt and confirm action taken.

Yours faithfully,


(N.T. Bhutia)
Secretary

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI - 110001

No.3/4/2019/SDR/Vol.IV

Dated: 30th October, 2020

To,

The Chief Electoral Officer,
Bihar,
Patna.

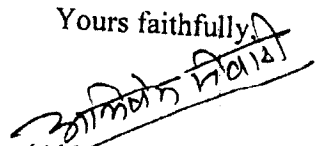
Sub: - Non-Publishing declaration about criminal antecedents by the candidates-Notice-
regarding.

Sir,

I am directed to state that as per the information received from you in the Commission, it has been noticed that a number of candidates with criminal antecedents, have not published the declaration in the newspapers even once as prescribed by the Commission vide its two instructions dated 10th October, 2018 and 16th September, 2020, which is in contravention to the directions of the Hon'ble Supreme Court.

In view of above, the Commission has decided to serve a Notice to such defaulting candidates by the CEO. The format of the Notice is sent herewith.

Yours faithfully,


(Abhishek Tiwari)
Under Secretary

NOTICE

Whereas, in WP (C) No. 784 of 2015 (Lok Prahari Vs. Union of India & Others) and WP (C) No. 536 of 2011 (Public Interest Foundation & Ors. Vs. Union of India & Anr.), the Hon'ble Supreme Court on 25th September, 2018 directed vide Para 4:

- (i) Each contesting candidate shall fill up the form as provided by the Election Commission and the form must contain all the particulars as required therein.*
- (ii) It shall state, in bold letters, with regard to the criminal cases pending against the candidate.*
- (iii) If a candidate is contesting an election on the ticket of a particular party, he/she is required to inform the party about the criminal cases pending against him/her.*
- (iv) The concerned political party shall be obligated to put up on its website the aforesaid information pertaining to candidates having criminal antecedents.*
- (v) The candidate as well as the concerned political party shall issue a declaration in the widely circulated newspapers in the locality about the antecedents of the candidate and also give wide publicity in the electronic media. When we say wide publicity, we mean that the same shall be done at least thrice after filing of the nomination papers."*

Whereas, in pursuance of the above said Judgment of Hon'ble Supreme Court of India, Election Commission issued directions vide letter No. 3/ER/2018/SDR, dated 10-10-2018 and letter No. 3/4/2019/SDR/Vol.IV dated 16-09-2020, that all candidates with criminal cases-either pending cases or cases of conviction in the past, should publish declaration regarding such criminal cases in newspapers and TV channels on three occasions during the campaign period for the purposes of publishing of such details in Format C-1 (copy enclosed). The Commission has prescribed following timeline for publicity of criminal antecedents during the period starting from the day following the last date of withdrawal and upto 48 hours before ending with the hour fixed for conclusion of poll.

- i) Within first 4 days of withdrawal of nominations.
- ii) Between next 5th -8th days
- iii) From 9th day till the last day of campaign (the second day prior to date of poll)

Whereas, as per the information received by the RO/DEO, it has come to the notice that you have not published the declaration in the newspapers even once as prescribed by the Commission vide its above referred two letters dated 10th October, 2018 and 16th September, 2020, which is in contravention to the Directions of the Hon'ble Supreme Court.

Now, therefore, you are being given an opportunity to explain as to why not necessary legal action should be initiated against you for such failure. You may send your explanation by ... AM on ... , 2020 positively, failing which this office shall be constrained to initiate further action including lodging of FIR etc. without any further reference to you.

By Order,
Chief Electoral Officer,
Bihar

To,

.....

.....

.....

ELECTION COMMISSION OF INDIA

NirvachanSadan, Ashoka Road, New Delhi-110001

No. 3/4/2020/SDR/Vol.III

Dated: 11th January, 2021

To

The President/General Secretary/Chairperson/Convener,
of all recognized National and State Political Parties.

Sub: Order dated 13th February, 2020 of Hon'ble Supreme Court in Contempt Petition (C) No. 2192 of 2018 in WP(C) No. 536 of 2011 - Requirement of publishing details regarding candidates with pending criminal cases in Rajya Sabha and State Legislative Council elections- regarding.

Sir/Madam,

I am directed to draw your attention to the Commission's letter no. 3/4/2020/SDR/VOL-III, dated 16th September, 2020, issued in pursuance of the Order dated 13th February, 2020 of Hon'ble Supreme Court in Contempt Petition (C) No. 2192 in WP(C) No. 536 of 2011. As per the Commission's above directions the details of criminal cases are to be published on the following three occasions during the campaign period so that electors have sufficient time to know about the background of such candidates:

- (i) Within first 4 days of withdrawal
- (ii) Between next 5th -8th days.
- (iii) From 9th day till the last day of campaign (the second day prior to date of poll).

2. In this connection, clause (d) of Section 39 of the Representation of the people Act 1951 relating to elections to Council of States and State Legislative Councils, is read as under:-

(1) As soon as the notification calling upon the elected members or the members of the legislative assembly of a State or the members of the electoral college of a Union territory to elect a member or members is issued, the Election Commission shall, by notification in the Official Gazette, appoint-

(d) the date or dates on which a poll shall, if necessary, be taken, which or the first of which shall be a date not earlier than the seventh day after the last date for the withdrawal of candidatures; and

3. In view of the aforesaid provision, date of poll, in case of Rajya Sabha and State Legislative Council elections by Members of Legislative Assembly (MLAs), if required, shall be a date not earlier than the seventh day after the date of withdrawal of candidature. Accordingly, timeline for publishing the details of criminal cases on the three occasions, in

case of the aforesaid two elections i.e. Rajya Sabha and State Legislative Council elections by Members of Legislative Assembly (MLAs), shall be as under:

- (i) Within first 2 days of withdrawal
 - (ii) Between next 3rd -4th days; and
 - (iii) From 5th day to 6th day i.e. prior to date of poll.
4. Kindly acknowledge receipt.

Yours faithfully,



(N.T. Bhutia)
SECRETARY

Copy to: - Chief Electoral Officers of all States and UTs for information.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110 001

No. 3/4/2021/SDR/VOL.III

Dated: 26th August, 2021

To,

The President/General Secretary
of recognized National/State political parties
(As per the list)

Subject: Publication of criminal antecedents by contesting candidates and political parties –
Hon'ble Supreme Court order dated 10.08.2021 in Contempt Petition (C) No. 656 of
2020 titled Brajesh Singh Vs. Sunil Arora & Ors. - regarding.

Sir,

I am directed to refer to the subject cited and to state that the Hon'ble Supreme Court
vide its judgment dated 10.08.2021 in Contempt Petition (C) No. 656 of 2020 titled Brajesh
Singh Vs. Sunil Arora & Ors. has given the following directions:

"73. In furtherance of the directions issued by the Constitution Bench in Public Interest
Foundation (supra) and our Order dated 13.02.2020, in order to make the right of information of
a voter more effective and meaningful, we find it necessary to issue the following further
directions:

- (i) *Political parties are to publish information regarding criminal antecedents of candidates on the homepage of their websites, thus making it easier for the voter to get to the information that has to be supplied. It will also become necessary now to have on the homepage a caption which states "candidates with criminal antecedents";*
- (ii) *The ECI is directed to create a dedicated mobile application containing information published by candidates regarding their criminal antecedents, so that at one stroke, each voter gets such information on his/her mobile phone;*
- (iii) *The ECI is directed to carry out an extensive awareness campaign to make every voter aware about his right to know and the availability of information regarding criminal antecedents of all contesting candidates. This shall be done across various platforms, including social media, websites, TV ads, prime time debates, pamphlets, etc. A fund must be created for this purpose within a period of 4 weeks into which fines for contempt of Court may be directed to be paid;*
- (iv) *For the aforesaid purposes, the ECI is also directed to create a separate cell which will also monitor the required compliances so that this Court can be apprised promptly of non-compliance by any political party of the directions contained in this*

(Conf) - -

Court's Orders, as fleshed out by the ECI, in instructions, letters and circulars issued in this behalf;

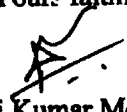
(v) We clarify that the direction in paragraph 4.4 of our Order dated 13.02.2020 be modified and it is clarified that the details which are required to be published, shall be published within 48 hours of the selection of the candidate and not prior to two weeks before the first date of filing of nominations; and

(vi) We reiterate that if such a political party fails to submit such compliance report with the ECI, the ECI shall bring such noncompliance by the political party to the notice of this Court as being in contempt of this Court's Orders/directions, which shall in future be viewed very seriously."

2. In compliance of the Hon'ble Supreme Court directions the Election Commission of India has created a Fund in which fines for contempt of court can be deposited. The fines can be deposited by way of cheque in the name of PAY AND ACCOUNTS OFFICER or through electronic mode in the Punjab National Bank receipt accounts i.e. A/c No. 0153002100000180 (Name of the account "Collection A/c Election Commission of India") IFSC code PUNB0015300. In case the payment is made through electronic mode the details of the transaction namely UTR No., Bank Name, Date of transaction etc. may be intimated to the Commission, immediately.

The above may be noted for future compliance.

Yours faithfully,


(Ashwani Kumar Mohal)
Secretary

Copy to: - The Chief Electoral Officers of all States and UTs.

CODE : 324.B.SDR: BK:001:2022