

# HANDBOOK FOR CANDIDATES

(At Elections where Electronic Voting Machines are used)



भारत निर्वाचन आयोग  
Election Commission of India

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## **CHAPTER I**

### **PRELIMINARY**

The Constitution of India has established a representative parliamentary democracy under which elections are held from territorial constituencies as determined under the law.

If you are standing as a candidate for election from a parliamentary or an assembly constituency, it is essential that you should know the salient provisions of election law and procedure so that you may not experience any difficulty or inconvenience in connection with your candidature. Perhaps you are already aware of the basic provision of the election law and rules; still for your benefit and guidance, the Election Commission of India has brought out this Handbook, giving in brief the important and relevant provisions of the law and rules in relation to an election to the Lok Sabha or to a Vidhan Sabha (other than the Vidhan Sabha of the State of Jammu & Kashmir).

#### **2. STRENGTH OF LOK SABHA**

- 2.1 Under the Provisions of the Constitution (Article 81), the maximum number of elected members of the Lok Sabha shall not exceed 550. The existing strength of elected members of the Lok Sabha is 543. Of these 543 members, 530 members are chosen direct from the territorial constituencies (called parliamentary constituencies) in the States and the remaining 13 members are likewise chosen from the territorial constituencies in the Union Territories. For this purposes, the country is divided into 543 single member parliamentary constituencies.
- 2.2 Out of the aforesaid 543 seats, 79 and 41 seats respectively are reserved for the Scheduled Castes and the Scheduled Tribes under the provisions of Article 330 of the Constitution. The rest are general seats.
- 2.3 The allocation of seats in the Lok Sabha to the States and Union Territories and the reservation of seats in each State and Union Territory for the Scheduled Castes and the Scheduled Tribes as existing at present, are given for your convenience in Appendix I.
- 2.4 Under the existing provisions of the Constitution, there shall be no readjustment in the allocation of seats to the various States in the House of the People until the relevant figures for the first census taken after the year 2000 have been published.

#### **3. STRENGTH OF LEGISLATIVE ASSEMBLIES**

- 3.1 The Legislative Assembly (Vidhan Sabha) of a State shall normally consist of not more than 500 and not less than 60 members (vide Article 170 of the Constitution). However, there are exceptions in the case of Legislative Assemblies for the States of Goa, Mizoram and Sikkim which consist of 40, 40 and 32 members respectively.

- 3.2 The strength of the Legislative Assembly of the Union Territory of Pondicherry has been fixed as 30 under the provisions of the Government of Union Territories Act, 1963.
- 3.3 The National Capital Territory of Delhi has been provided with a Legislative Assembly under the Constitution (Sixty-Ninth Amendment) Act, 1991. The Legislative Assembly has seventy seats under the provisions of the Government of National Capital Territory of Delhi Act., 1991. The Election Commission has accordingly divided the National Capital Territory of Delhi into seventy single-member territorial Constituencies. Of these seventy constituencies, thirteen constituencies are reserved for the Scheduled Castes.
- 3.4 The total number of seats in the Legislative Assemblies in various States and Union Territories and the number of seats reserved for the Scheduled Castes and the Scheduled Tribes in such Assemblies are given in Appendix II.
- 3.5 Under the existing provisions of the Constitution, such total number of seats in the Legislative Assemblies shall not be readjusted until the relevant figures for the first census taken after the year 2000 have been published. The extent and number of assembly constituencies in the State of Uttaranchal has been reorganized under the Uttaranchal Reorganization Act, 2000.

#### **4. DELIMITATION AND EXTENT OF CONSTITUENCIES**

- 4.1 All the existing parliamentary constituencies for purposes of elections to the Lok Sabha and all the existing Assembly Constituencies for purposes of elections to the Legislative Assemblies of States and Union Territories (except the National Capital Territory of Delhi) have been delimited on the basis of the 1971 census. In the case of the Legislative Assembly for the National Capital Territory of Delhi, the delimitation has been done on the basis of 1991 census as provided in the Govt. of National Capital Territory of Delhi Act, 1991.
- 4.2 The extent of each such Parliamentary and Assembly Constituencies (except the Assembly Constituencies in the States of Arunachal Pradesh, Goa and Mizoram and the National Capital Territory of Delhi) is given in the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 issued by the Election Commission under the provisions of section 9 of the Representation of the People Act, 1950. The constituencies in which seats are reserved for the Scheduled Castes and the Scheduled Tribes are also indicated in that Order.
- 4.3 The extent of Assembly constituencies in the States of Arunachal Pradesh, Goa and Mizoram and the National Capital Territory of Delhi has been determined by the Election Commission by separate orders.
- 4.4 Here again, under the existing provisions of the Constitution there can be no change in the extent of any parliamentary or assembly constituency until the relevant figures for the first census taken after the year 2000 have been published or the re-delimitation of constituencies completed in respect of the parliamentary and assembly constituencies of the State(s) and UT(s) on the basis of the relevant figures for the first census taken after the year 2000 has been notified.

- 4.5 It is very important that you should know the exact extent of the constituency from which you are contesting or intend to contest the election. You should also know the nature of your constituency, i.e., whether it is a general constituency or a reserved constituency. Consult the up-to-date corrected copy of the Delimitation of Parliamentary and Assembly Constituencies Order. The copies of this Order will be available for inspection with the District Election Officer, Returning Officer and Electoral Registration Officer of your constituency.

## **5. ELECTORAL ROLLS**

- 5.1 Elections to the House of the People and to the Legislative Assembly of every State are held on the basis of adult suffrage. Every person who is a citizen of India and who is not less than 18 years of age on the qualifying date (i.e., the 1st January of the year in which the electoral roll has been prepared or revised and finally published) and who is not otherwise disqualified under the Constitution of India or any law made by the appropriate legislature on the ground of non residence, unsoundness of mind, crime or corrupt or illegal practice, is entitled to be registered as a voter at these elections (Article 326). There are certain Constitutional and statutory qualifications and disqualifications. The conditions for registration in an electoral roll are laid down in the Representation of the People Act, 1950. The relevant provisions in this behalf are reproduced in Appendix III.
- 5.2 Section 15 of the Representation of the People Act., 1950 lays down that for every assembly constituency, there shall be an electoral roll which shall be prepared in accordance with the provisions of that Act under the superintendence, direction and control of the Election Commission. In all States and Union Territories, the electoral roll for a Parliamentary constituency shall consist of the electoral rolls for all the Assembly constituencies comprised within that Parliamentary constituency. In the State of Jammu and Kashmir and Union Territories not having a Legislative Assembly (viz. Andaman and Nicobar Islands, Chandigarh, Dadra and Nagar Haveli, Daman and Diu and Lakshadweep), separate electoral rolls are prepared for Parliamentary constituencies in the same manner as the electoral rolls are prepared for Assembly constituencies in other States and Union Territories.

## **6. CANDIDATE MUST BE AN ELECTOR**

One of the basic qualifications for candidature at an election to Parliament or the Legislature of a State is that the person concerned should be an elector. In the next chapter, you will find detailed discussion regarding various qualifications and disqualifications for candidature at elections. However, it is necessary to note here that as a candidate, you must first ensure that your name has been included in the current electoral roll on the basis of which the election will be held. Under the law, the electoral roll of the constituency would have been revised and finally published, well before the election programme is announced. Even after the electoral roll for a constituency has been finally published, a person whose name has not been included in the roll, has a right to apply for the inclusion of his name in the electoral roll if he is qualified for such inclusion. The procedure for such inclusion is provided

for in section 23 of the Representation of the People Act, 1950 and rule 26 of the Registration of Electors Rules, 1960. Under the rule 26, an application in duplicate for inclusion of name will have to be made to the Electoral Registration Officer of the constituency concerned in Form 6. No fee is charged for such application. After observing the procedure laid down in the Registration of Electors Rules, 1960 the Electoral Registration Officer may direct the name of the applicant to be included in the electoral roll if he is satisfied that the applicant is entitled to be registered in the electoral roll.

**7. INCLUSION OF NAME IN ELECTORAL ROLL BEFORE LAST DATE FOR MAKING NOMINATIONS**

In this connection, it is necessary for you to note that no such inclusion is permissible after the last date for making nominations for an election in the constituency and before the completion of such election. Under rule 26 of the Registration of Electors Rules, 1960, any inclusion of name can be ordered only after seven days from the date on which the application for inclusion is exhibited in the office of the Electoral Registration Officer for inviting objections to such application. No inclusion is actually possible unless the application for inclusion is made well before the notification calling the election is issued.

**8. CORRECTION OF ENTRIES IN ELECTORAL ROLL**

A person may also apply under section 22 of the Representation of the People Act, 1950 for the correction of entries in the electoral roll. Application for such correction is also to be made to the Electoral Registration Officer of the constituency. Here again, no order for correction of the electoral roll can be made after the last date for making nominations for an election in the constituency and before the completion of that election.

9. The provisions relating to the above matters and the procedure for the inclusion of names and correction of entries in an electoral roll after the final publication are contained in sections 22 and 23 of the Representation of the People Act, 1950, and rules 26 and 27 of the Registration of Electors Rules, 1960. These provisions are reproduced in Appendix IV.

**CHAPTER II**

**INTRODUCTION OF VOTING MACHINE SYSTEM IN PARLIAMENTARY AND ASSEMBLY ELECTIONS**

## 1. INTRODUCTORY

1.1 Elections to the House of the People and the State Legislative Assemblies from parliamentary and assembly constituencies have hitherto been held under the traditional system of ballot papers and ballot boxes. The Election Commission has been trying to bring improvements in the election procedures taking advantage of the scientific and technological advancements. On a suggestion from the Commission, two Central Government Undertakings, namely, Electronics Corporation of India Limited (ECIL), Hyderabad and Bharat Electronics Limited (BEL), Bangalore have produced electronic voting machines. The electronic voting machine (thereinafter referred to as voting machine) so produced is a very versatile and reliable system for conduct of elections. The voting machine has been designed keeping in view the present system under which ballot papers and ballot boxes are used.

1.2 The Supreme Court observed in the case of *A.C. Jose Vs. Sivan Pillai and others* (AIR 1984 SC 921) that the use of voting machines at elections to the House of the People and State Legislative Assemblies required statutory sanction. Parliament has given the required statutory sanction by inserting Section 61A in the Representation of the People Act, 1951 by the Representation of People (Amendment) Act, 1988 (1 of 1989) w.e.f. 15.3.1989. That section is reproduced below:-

“61A — Voting Machines At elections — Notwithstanding anything contained in this Act or the rules made thereunder, the giving and recording of votes by voting machines in such manner as may be prescribed, may be adopted in such constituency or constituencies as the Election Commission may, having regard to the circumstances of each case, specify.

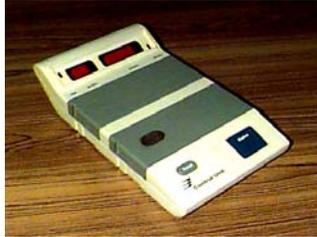
**Explanation** — For the purpose of this section, “voting machine” means any machine or apparatus whether operated electronically or otherwise used for giving or recording of votes and any reference to a ballot box or ballot paper in this Act or the rules made thereunder shall, save as otherwise provided, be construed as including a reference to such voting machine wherever such voting machine is used at any election.”

1.3 The use of the voting machines also required consequential changes in the Conduct of Elections Rules, 1961 which make detailed provisions for conduct of poll at the polling stations and counting of votes. Necessary changes in the said Rules have been made by the Conduct of Elections (Amendment) Rules, 1992 promulgated w.e.f. 24.3.1992 (see Appendix IVA). By these amending Rules, a new Chapter II in Part IV containing rules 49A to 49X has been inserted after rule 49 making detailed provisions for the conduct of poll at the polling stations where electronic voting machines are used. Further, a new rule 66A has been inserted after rule 66, making provisions for the counting of votes recorded by means of voting machines. By these amending Rules, new Forms 17A, 17B and 17C have also been inserted after Form 17 appended to the Conduct of Elections Rules, 1961.

## 2. BRIEF INTRODUCTION TO VOTING MACHINE

2.1 It is absolutely necessary for you to be thoroughly conversant with the operation of the voting machines. A voting machine consists of two units,

namely, 'Control Unit' and 'Balloting Unit'. These two units are interconnected, when the voting machine is put in operation, by means of a 5 metre long cable, one end of which is permanently attached to the balloting unit. The free end is plugged into the control unit when the machine is put to use.



Control Unit



Balloting Unit

- 2.2 One balloting unit caters upto a maximum of sixteen candidates. On the balloting unit, there is provision for display of the ballot paper containing the particulars of the election, serial numbers and names of contesting candidates and the symbols respectively allotted to them. Against the name of each candidate, there is a blue button by pressing which the voter can record his vote for him. Alongside the said button, there is also a lamp for each candidate which will glow red when the vote is recorded for him by pressing the said blue button.
- 2.3 Four balloting units linked together catering upto sixty-four candidates can be used with one control unit. On the top most portion of the control unit, there is provision for displaying the various information and data recorded in the machine, like the number of contesting candidates, total number of votes polled, votes polled by each candidate, etc. This portion is called, for easy reference, 'Display Section' of the control unit. Below the 'Display Section', there is a compartment for fixing the battery on which the machine runs. By the side of this compartment, there is another compartment in which there is a button for setting the machine for the number of candidates contesting the particular election. This button is called the 'Cand Set' button and the whole section of the control unit consisting of these two compartments is called the 'Cand Set Section'. Below the 'Cand Set Section' is the 'Result Section' of the control unit. This section contains (i) 'Close' button used for closing the poll, (ii) two 'Result I' & 'Result II' buttons for ascertaining separately the results of parliamentary and assembly polls, and (iii) 'Clear' button for clearing the data recorded in the machine, when not required. In the bottom most portion of the control unit, there are two buttons — one marked 'Ballot' by pressing which the balloting unit becomes ready to record vote and the other marked 'Total' by pressing which total number of votes recorded upto that stage can be ascertained. It may be noted that on pressing the 'Total' button the display indicates only the total votes and not candidate-wise tally. This section is known as the 'Ballot Section' of the control unit.
- 2.4 The machine uses a modern micro-computer and other large scale integration chips. It operates on a 6 volt alkaline battery and can be used anywhere and under any conditions. It is tamper-proof, error-free and easy to operate. The two Units of the machine are supplied in two separate carrying cases, which

are easily portable. The polling information once recorded in the machine is retained in its memory even when the battery is removed.

- 2.5 The machine, especially balloting unit, is so designed as to keep intact all essential features of the present voting system and the only change is that the voter is required to press the blue button provided opposite the name and symbol of the candidate of his choice as against the use of arrow cross mark rubber stamp which is put on the ballot paper on or near the symbol of his choice. All the safeguards taken against the tamperability of the ballot boxes and violation of secrecy of vote are fully maintained in the voting machine. The process of voting in the voting machine is very simple and quick and the experiments conducted in different parts of the country covering mountainous terrain, backward areas and tribal belts, etc., show that even illiterate voters had no difficulty in using the voting machine to record their votes. The pace of polling is far quicker and correspondingly the time taken for the entire operation of voter exercising his vote is comparatively much less. The counting of votes and declaration of result by using the voting machines will be an absolutely simple affair as there will be no doubts and disputes with regard to the validity or otherwise of any vote, and the result of the poll taken at a polling station will be available on the mere pressing of a button on the control unit.
- 2.6 Various operations on the balloting unit and the control unit to record the votes and count them are explained in more details in Chapters IX to XII.

## CHAPTER III

### QUALIFICATION AND DISQUALIFICATIONS

1. In order that you may stand as a candidate, you must possess certain qualifications and at the same time you must not suffer from certain disqualifications. These qualifications and disqualifications are laid down both in the Constitution and the election statutes.

#### I. QUALIFICATIONS

#### 2. QUALIFICATIONS FOR ELECTION TO THE LOK SABHA

If you want to stand as a candidate for election to the Lok Sabha (House of the People) from a parliamentary constituency, you must possess each of the following qualifications :

- (1) in the first place, you must be a citizen of India [Article 84(a) of the Constitution];
- (2) in the second place, you must make and subscribe before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule to the Constitution [Article 84(a) of the Constitution and Form III/A in the Third Schedule];
- (3) in the third place, you must not be less than twenty-five years of age on the date of scrutiny of nominations [Article 84(b) of the Constitution read with section 36(2) of the Representation of the People Act, 1951];
- (4) in the fourth place :-
  - (a) If you are a candidate for a seat reserved for the Scheduled Castes in any state, you must be a member of any of the Scheduled Castes whether of that State or of any other State, and in addition you must be an elector for any parliamentary constituency;
  - (b) if you are a candidate for a seat reserved for the Scheduled Tribes in any State, (other than those in the autonomous districts of Assam), then you must be a member of any of the Scheduled Tribes, whether of that State, or of any other State (excluding the tribal areas of Assam) and in addition you must be an elector *for any parliamentary constituency*.
  - (c) if you are a candidate for a seat reserved for the Scheduled Tribes in the autonomous districts of Assam, you must be a member of any of these Scheduled Tribes and in addition you must be an elector *for the parliamentary constituency in which such seat is reserved or for any other parliamentary constituency comprising any such autonomous district*;
  - (d) if you are a candidate for the seat reserved for the Scheduled Tribes in the Union Territory of Lakshadweep, then you must be a *member of any of those Scheduled Tribes*, and in addition you must be an elector for the parliamentary constituency of that Union Territory;

**N.B.**— In case you are a candidate under this category, you must carefully note the words in *italic* letters.

- (e) if you are a candidate for the seat allotted to the State of Sikkim, you must be an elector for the parliamentary constituency for Sikkim;
- (f) if you are a candidate for a general seat, that is to say, for a seat not reserved for the Scheduled Castes or Scheduled Tribes as mentioned in the preceding sub-clauses, then you must be an elector for any parliamentary constituency (vide section 4 of the Representation of the People Act, 1951).

### **3. QUALIFICATIONS FOR ELECTION TO A LEGISLATIVE ASSEMBLY**

If you want to stand as candidate for election to the Vidhan Sabha (Legislative Assembly) of a State (other than the State of Jammu and Kashmir) or of a Union Territory (including the National Capital Territory of Delhi), you must possess each of the following qualifications:

- (1) in the first place, you must be citizen of India [Article 173(a) of the Constitution, section 4(a) of the Govt. of Union Territories Act, 1963 and section 4 (a) of the Govt. of National Capital Territory of Delhi Act, 1991];
- (2) in the second place, you must make and subscribe before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule to the Constitution or, as the case may be in the First Schedule to the Government of Union Territories Act, 1963 or the Schedule to the Government of National Capital Territory of Delhi Act, 1991 [Article 173 (a) and Form VII/A in the Third Schedule to the Constitution, Section 4(a) and Form 1 in the First Schedule to the Government of Union Territories Act, 1963 and section 4(a) and Form 1 in the Schedule to the Government of National Capital Territory of Delhi Act, 1991];
- (3) in the third place, you must not be less than twenty five years of age on the date of scrutiny of nominations [Article 173(b) of the Constitution, section 4(b) of the Government of Union Territories Act, 1963 and section 4(b) of the Government of National Capital Territory of Delhi Act, 1991 read with section 36(2) (a) of the Representation of the People Act, 1951];
- (4) in the fourth place –
  - (a) if you are a candidate for a seat in the Legislative Assembly of a State or Union Territory reserved for the Scheduled Castes or for the Scheduled Tribes of that State, or that Union Territory, then you must be a member of any of those Castes or, as the case may be, of those Tribes, and in addition you must also be an elector for any Assembly Constituency in that State or that Union Territory;

- (b) if you are a candidate for a seat reserved for the Scheduled Tribes of an autonomous district of Assam, then you must be member of a Scheduled Tribe of any autonomous district and in addition you must be an elector for the Assembly Constituency in which such seat or any other seat is reserved for that district;
  - (c) if you are a candidate for a seat reserved for Sikkimese of Bhutia Lepcha origin in the Legislative Assembly of Sikkim, then you must be a person either of Bhutia or Lepcha origin, and in addition you must also be an elector for any assembly constituency in that State;
  - (d) if you are a candidate for the seat reserved for the Sanghas in the Legislative Assembly of Sikkim, then you must be an elector *for the* Sangha Constituency in that State;
  - (e) if you are a candidate for a general seat, that is to say, for a seat not reserved as aforesaid, then you must be an elector for any constituency in the State or Union Territory concerned.
4. All the relevant provisions of the Constitution and the law, referred to above, are reproduced in Appendix V
  5. The above are the various qualifications, which you must possess if you want to stand as a candidate for election to Lok Sabha or a Vidhan Sabha. You must be very careful about this. You are advised to take special care in respect of the following two matters.

## **6. CORRECTION OF NAME, ETC., IN ELECTORAL ROLL**

In the first place, you must see that your name has been correctly registered in the electoral roll. If there is any mistake in the spelling or in the description of your name or your father's/mother's/husband's name or in your address or in any other respect (including your age & sex), you must take immediate steps to get the mistake corrected. Your attention in this connection is invited to paragraph 8 of chapter I. If you do not get the mistake rectified in time, then at the time of scrutiny of nomination papers, other contestants may raise objections, which may even go against you. To be on the safe side, you may even consult your lawyer.

## **7. OATH OR AFFIRMATION BY CANDIDATES**

- 7.1 In the second place, you must not forget to make and subscribe the oath or affirmation to which a reference has already been made. The Election Commission has authorised a number of persons before whom the oath or affirmation can be made and subscribed. Relevant notifications of the Election Commission are reproduced in Appendix VI.
- 7.2 For any particular election, the authorised persons are principally the Returning Officer and the Assistant Returning Officers for the constituency. In the case of a candidate confined in a prison or under preventive detention, the superintendent of the prison or commandant of the detention camp in which he is so confined or is under such detention is authorised to administer the

oath. And in the case of a candidate confined to bed in a hospital or elsewhere owing to illness or any other cause, the Medical Superintendent in-charge of the hospital or the medical practitioner attending on him is similarly authorised.

7.3 In the case of a candidate who is out of India, the oath or affirmation may be made and subscribed before the diplomatic or consular representative of India in the country where the candidate happens to be, or before any person authorised by such diplomatic or consular representative. Where the candidate is for any other reason unable to appear or prevented from appearing before the Returning Officer concerned or the Assistant Returning Officer, the oath or affirmation may be made and subscribed before any other person specially nominated by the Election Commission on an application made to it in this behalf. The Commission has also authorised all stipendiary Presidency Magistrates, all Stipendiary Magistrates of the first class, all district judges and all persons belonging to the judicial service of a State other than district judge as officers before anyone of whom, the candidate can make and subscribe the oath or affirmation.

**7.4 IN ORDER TO MAKE AND SUBSCRIBE A VALID OATH OR AFFIRMATION, THE FOLLOWING POINTS MUST BE CAREFULLY BORNE IN MIND**

- (i) The oath or affirmation should be made and subscribed before the date fixed by the Election Commission for scrutiny of nomination papers at that election. In the case of Pashupati Nath Singh versus Harihar Prasad Singh (1968) 2 SCR 812-AIR 1968 SC 1064, the Supreme Court has placed two limitations in the matter of making and subscribing the oath or solemn affirmation. In the first place, the Court has held that words “having been nominated” in the form of the oath or affirmation in the Third Schedule to the Constitution of India clearly show that the oath or affirmation cannot be taken or made by a candidate, before he has been nominated as a candidate. That means, according to this finding of the court, that having regard to the relevant provisions contained in sections 30, 31, 32 and 33 of the Representation of the People Act, 1951 the oath or solemn affirmation can be made and subscribed by a candidate only after his nomination papers has been delivered under section 33 to the Returning Officer. In the second place, the Court has held that the expression “on the date fixed for scrutiny” in section 36(2) (a) of the Representation of the People Act, 1951 means on the whole of the day on which the scrutiny of nomination has to take place. In other words, the qualification according to this finding of the court must exist at the earliest moment on the day of scrutiny. This means that the oath or solemn affirmation must have been made before the commencement of the day of scrutiny of nominations. Such oath or affirmation cannot be made by you at any time on the date of scrutiny before the Returning Officer takes up nomination papers for such scrutiny. The Supreme Court has confirmed this view in the subsequent case of Khader Khan Hussain Khan and others versus S. Nijalingappa (1970) 1 SCA 548. You are, therefore, well advised to take the oath immediately after presenting your nomination papers and in any case not later than the day previous to the date of scrutiny.
- (ii) The oath or affirmation is to be made in person before the authorised officer.

- (iii) It is not necessary that the oath or affirmation should be taken more than once even if you are nominated from more than one constituency at a general election. This view has been expressed by the Supreme Court in its judgement in the case of K.K. Khader Khan Hussain Khan and others versus S. Nijalingappa and another (1970) 1 SCA 548. The language of article 173(a) makes this clear; all that it requires is one oath or affirmation in accordance with the form set out in the Third Schedule to the Constitution so as to remove the disqualification from being a candidate for election. The article does not mention that the making of the oath or affirmation is to be preliminary to the validity of candidature in each constituency, and recognises the fact that once the necessary qualification is obtained that qualification removes the bar laid down by that article. If you contest election from more than one constituency, it is desirable that you make and subscribe the oath in each constituency or you should have a satisfactory proof with you of having taken the oath at any of the places so as to avoid unnecessary objections at the time of scrutiny. The onus of proving that you had made and subscribed the oath or affirmation before some other competent authority rests on yourself. It is sufficient if you or your representative satisfies the Returning Officer at the time of scrutiny that you had earlier made and subscribed the oath or affirmation before an authorised officer for that particular election.
- (iv) The oath or affirmation has first to be made and then signed, by you before the authorised person. It should be borne in mind that mere signing on the paper on which the form of oath is written out is not sufficient. You must make the oath before the authorised person. He will ask you to read out the oath and then to sign and give the date on the paper on which it is written. If you are illiterate or unable to read the form, the authorised person should read out the oath and ask you to repeat the same and thereafter take your thumb impression on the form. The authorised person should endorse on the form that the oath or affirmation has been made and subscribed by you on that day and hour.
- (v) The authorised person will forthwith give you a certificate to the effect that you have made and subscribed the oath before him on that day at a particular hour. If the certificate is not given to you, you can demand the same from him and get it.
- (vi) If the authorised person is the superintendent or commandant of the prison or detention camp, he should issue forthwith to you a certified copy of the oath for producing it as evidence before the Returning Officer at the time of scrutiny of nominations. The superintendent of the prison or commandant of the detention camp will simultaneously send an express telegram to the Returning Officer indicating the date and time at which you made and subscribed the oath or affirmation. He will also send the original of the oath or affirmation made and signed by you to the Returning Officer.
- (vii) If the authorised person is a medical superintendent of a hospital or a medical practitioner or a diplomatic or consular representative of India in the country where you happen to be or the district judge or person belonging to the judicial service of State other than District Judge or Stipendiary Presidency Magistrate or Stipendiary Magistrate of the first class or any other person nominated by the Election Commission, as soon as you have made and

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

- (viii) The forms for making oath or affirmation can be obtained from the Returning Officer or Assistant Returning Officer of the constituency.
- (ix) You should be careful to keep with you sufficient evidence which you should be in a position to produce before the Returning Officer at the time of scrutiny about your making and subscribing the oath or affirmation: otherwise, you may be in difficulty if somebody challenges that you have not made and subscribed the requisite oath or affirmation and, therefore, you are not qualified to stand as a candidate.

## **II DISQUALIFICATIONS**

### **8. DISQUALIFICATIONS FOR ELECTION TO LOK SABHA**

If you want to stand as a candidate for election to the Lok Sabha (House of the People) from a Parliamentary Constituency, you must not suffer from any of the following disqualifications, Constitutional and Statutory:

#### **a) *Constitutional Disqualifications***

- (1) In the first place, you must not hold any office of profit under the Government of India or the Government of any State [Article 102(1) (a) of the Constitution]. To this general rule, there are some exceptions. The first exception is mentioned in Article 102(2) itself, according to which the office of a Minister, either for the Union or for any State is not regarded as an office of profit under the Government of India or the Government of any State. The other exceptions are mentioned in the Parliament (Prevention of Disqualification) Act, 1959 (10 of 1959).

**N.B.** (1) For your convenience, this Act (10 of 1959) has been reproduced in the Manual of Election Law published by the Government of India in the Ministry of Law, Justice and Company Affairs.

- (2) In the second place, you must not be a person of unsound mind and must not stand so declared by a competent court [Article 102 (1) (b) of the Constitution].
- (3) In the third place, you must not be an undischarged insolvent [Article 102(1) (c) of the Constitution].
- (4) In the fourth place, you will be disqualified if you are not a citizen of India or if you have voluntarily acquired the citizenship of a foreign State or if you are under any acknowledgment of allegiance or adherence to a foreign State. In simple words, you must not be an alien and a foreigner [Article 102(1) (d) of the Constitution].
- (5) Lastly, you must not be disqualified by or under any law made by Parliament [Article 102 (1) (e) of the Constitution].

**(b) *Statutory Disqualifications***

The law made by Parliament as envisaged in Article 102 (1) (e) of the Constitution mentioned above is the Representation of the People Act, 1951. In addition to the above constitutional disqualifications, the Representation of the People Act, 1951 has laid down a number of disqualifications for being chosen as, or for being, a member of Parliament. These disqualifications are mentioned in section 8, section 8-A, section 9, section 9-A, section 10 and section 10-A of the Representation of the People Act, 1951. These disqualifications may, therefore, be called statutory disqualifications to distinguish them from constitutional disqualifications described above. The total number of the statutory disqualifications is six.

- (i) The first statutory disqualification is contained in section 8 of the Representation of the People Act, 1951. Under this section a person convicted of an offence punishable under:–
  - (a) Section 153A (offence of promotion of enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony) or section 171E (offence of bribery) or section 171F (offence of under influence or personation at an election) or sub-section (1) or sub-section (2) of section 376 or section 376A or section 376B or section 376C or section 376D (offences relating to rape) or section 498A (offences of cruelty towards a woman by husband or relative of a husband) or sub-section (2) or sub-section (3) of section 505 (offence of making statement creating or promoting enmity, hatred or ill will between classes or offence relating to such statement in any assembly engaged in the performance of religious worship or religious ceremonies) of the Indian Penal Code (45 of 1860) or
  - (b) The protection of Civil Rights Act, 1955 (22 of 1955), which provides for punishment for the preaching and practice of “untouchability”, and for the enforcement of any disability arising therefrom; or
  - (c) section 11 (offence of importing or exporting prohibited goods) of the Customs Act, 1962 (52 of 1962); or
  - (d) sections 10 to 12 (offence of being a member of an association declared unlawful, offence relating to dealing with funds of an unlawful association or offence relating to contravention of an order made in respect of a notified place) of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967); or
  - (e) the Foreign Exchange (Regulation) Act, 1973 (46 of 1973) ; or
  - (f) the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985); or
  - (g) section 3 (offence of committing terrorist acts) or section 4 (offence of committing disruptive activities) of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987) or

- (h) section 7 (offence of contravention of the provisions of sections 3 to 6) of the religious institutions (Prevention of Misuse) Act, 1988 (41 of 1988); or
- (i) section 125 (offence of promoting enmity between classes in connection with the election) or section 135 (offence of removal of ballot papers from polling stations) or section 135A (offence of booth capturing) or clause (a) of sub-section (2) of section 136 (offence of fraudulently defacing or fraudulently destroying any nomination paper) of the Representation of the People Act, 1951; or
- (j) section 6 (offence of conversion of a place of worship) of the Places of Worship (Special Provisions) Act, 1991; or
- (k) Section 2 (offence of insulting the Indian National Flag or the Constitution of India) or section 3 (offence of preventing singing of National Anthem) of the Prevention of Insults to National Honour Act, 1971; or
- (l) The Commission of Sati (Prevention) Act, 1987; or
- (m) The Prevention of Corruption Act, 1988; or
- (n) The Prevention of Terrorism Act, 2002,

shall be disqualified for a period of six years from the date of such conviction, if the convicted person is sentenced to only fine. In case of imprisonment, the disqualification shall continue for a further period of six years since his release.

- (ii) If a person has been convicted by a Court for the contravention of any law providing for the prevention of hoarding or profiteering or of adulteration of food or drugs or any provision of the Dowry Prohibition Act, 1961, and sentenced to imprisonment for not less than six months, he shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of 6 years since his release from imprisonment.

It may be noted that in case of conviction of a person for more than one offence, in a common trial and with the sentences of imprisonment to run consecutively, for the purposes of Section 8(3) of the Representation of the People Act, 1951, the period of sentences of imprisonment of each offence should be added and if the total length of time for which a person has been ordered to remain in prison consequent upon such conviction and sentences is two years or more, the convicted person shall be disqualified under the said Section 8(3) of the Representation of the People Act, 1951.

- (iii) A person convicted by a Court in India for any offence other than those mentioned in (i) and (ii) above and sentenced to imprisonment for not less than two years is disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release from prison.

This statutory disqualification under sub-section (1) to (3) of section 8 shall not, however, take effect under section 8 (4) in the case of a person who on

the date of such conviction is a member of Parliament or the Legislature of a State, until a period of three months has elapsed from the date of conviction or if within that period of three months an appeal or application for revision is filed in respect to the conviction or sentence, until the appeal or application for revision is disposed of by the Court. However, it has to be noted that the protection under Sub-section (4) of Section 8 is applicable only in relation to the membership of the House in which the person concerned is a member at the time of conviction. In other words, the protection of Section 8(4) will not be available for contesting any future elections. This was clarified by the Supreme Court in C.A. No. 8213/2001 and C.A. No, 6691/2002 [K. Prabhakaran Vs. P. Jayarajan]

The Commission has clarified that the disqualification under the said section would commence from the date of conviction, regardless of whether the person intending to be a candidate is out on bail or not (except, of course, those candidates who are covered under section 8 (4) of the said Act).

- (iv) The second statutory disqualification is contained in section 8-A of the Representation of the People Act, 1951. It provides for disqualification for a corrupt practice at an election. A person found guilty of a corrupt practice at an election by a High Court in an election petition or by the Supreme Court in an election appeal may be disqualified for such period, not exceeding six years, as may be determined by the President in accordance with the opinion of the Election Commission.
- (v) The third statutory disqualification is contained in section 9 of the Representation of the People Act, 1951. It provides for disqualification for dismissal for corruption or disloyalty to the State. A person who having held an office under the Government of India or under the Government of any State has been dismissed for corruption or for disloyalty to the State shall be disqualified for a period of five years from the date of such dismissal.

A certificate, issued by the Election Commission to the effect that a person having held office under the Government of India or the Government of any State has or has not been dismissed for corruptions or for disloyalty to the State shall be conclusive proof of that fact. No certificate, however, shall be issued by the Election Commission to the effect that a person has been dismissed for corruption or disloyalty to the state without giving that person an opportunity of being heard.

- (vi) The fourth statutory disqualification is contained in section 9-A of the Representation of the People Act, 1951. Under this section, a person is disqualified for being chosen as or for being a member of Parliament if, and for so as long as, there subsists a contract entered into by him in the course of his trade or business with the Government of India for the supply of goods to, or for the execution of any works undertaken by, that Government. If, however, you have entered into a contract with the Government of India in the course of your trade or business either for the supply of any goods to the Government or for the execution of any works undertaken by the Government and have fully performed your part of contract, then the contract shall be deemed not to subsist by reason only of the fact that the Government has not performed its part of the contract either wholly or in part.

- (v) The fifth statutory disqualification is the holding of an office under a Government company. This is contained in section 10 of the Representation of the People Act, 1951. A person is disqualified for membership of Parliament if, and for so long as he is a managing agent, manager or secretary of any corporation or company in the capital of which the Government of India has not less than 25 percent share. A co-operative society, however, is excluded from the purview of this rule.
- (vi) The last statutory disqualification is contained in section 10-A of the Representation of the People Act, 1951. It is a disqualification for failure to lodge account of election expenses within the time and in the manner required by and under the Representation of the People Act, 1951. It is hoped that if you had stood as a candidate on any previous occasion you did not incur any such disqualification on that occasion. If you have been disqualified for failure to lodge account of election expenses within the time and in the manner required by and under the Representation of the People Act, 1951 then, as the period of disqualification is three years from the date of the order of the Election Commission disqualifying you, you may see whether the period of three years has elapsed or not.

These are all the disqualifications constitutional and statutory from which you must not suffer if you want to stand as a candidate for election to the House of the People (Lok Sabha).

## **9. DISQUALIFICATIONS FOR ELECTION TO VIDHAN SABHA**

If you want to stand as a candidate for election to the Legislative Assembly of a State (other than the State of Jammu and Kashmir) or of a Union Territory from an assembly constituency, you must not suffer from any of the following disqualifications, constitutional and statutory:

- (a) Constitutional Disqualifications for Membership of the Legislative Assembly of a State (other than Jammu and Kashmir and the Legislative Assembly of a Union Territory).

These are contained in Article 191 of the Constitution of India.

- (1) In the first place, you must not hold any office of profit under the Government of India or the Government of any State other than an office declared by the Legislature of the State by law not to disqualify its holder. The various State Legislatures have made laws declaring different offices of profit which will not disqualify a holder of any such office for being chosen as and for being a member of the Legislative Assembly of a State.
- (2) In the second place, you must not be of unsound mind and must not stand so declared by a competent court.
- (3) In the third place, you must not be an undischarged insolvent.
- (4) In the fourth place, you will be disqualified if you are not a citizen of India or you have voluntarily acquired the citizenship of a foreign State or if you are under any acknowledgement of allegiance or adherence to a foreign State. In simple words, you must not be an alien and a foreigner.

- (5) And lastly, you must not be disqualified by or under any law made by Parliament.
- (b) Constitutional Disqualifications for Membership of the Legislative Assembly of a Union Territory (other than the National Capital Territory of Delhi).

These disqualifications are contained in section 14 of the Government of Union Territories Act, 1963.

- (i) In the first place, you must not hold any office of profit under the Government of India or the Government of any State or the Government of any Union Territory other than an office declared by law made by Parliament or by the Legislative Assembly of the Union Territory not to disqualify its holder. The Pondicherry Legislative Assembly has passed the Pondicherry members of the Legislative Assembly (Prevention of Disqualification) Act, 1994. That Act should be studied carefully, if you are a candidate for election of that Assembly.
- (ii) In the second place, you must not suffer from any of the disqualifications for being chosen as or for being a member of either House of Parliament as laid down in the provisions of sub-clause (b), sub-clause (c), or sub-clause (d) of Article 102(1) of the Constitution of India mentioned in para above, or any law made in pursuance of that Article. From the expression "any law made in pursuance of that Article" used in section 14(1) (b), it seems safer to assume that the Parliament (Prevention of Disqualification) Act, 1959 may apply if you want to stand as a candidate for election to the Legislative Assembly of Union Territory because in addition to the relevant provision relating to disqualifications contained in the Representation of the People Act, 1951 to which reference will be made just now the Parliament (Prevention of Disqualification) Act, 1959 has also been made in pursuance of article 102. In this view of the matter you should consider carefully whether you should resign any office of profit in so far as it is an office of profit under the Government, if falls at all within the prohibitive purview of clause (h) and clause (i) of section 3 of the Parliament (Prevention of Disqualification) Act, 1959 before you file your nomination paper. In any case it will be safer for you to consult your lawyer in this matter so that after your election it may not be challenged.
- (c) Statutory Disqualifications for Membership of the Legislative Assembly of a State (other than Jammu and Kashmir) or of a Union Territory (other than National Capital territory of Delhi).

The statutory disqualifications for membership of the Legislative Assembly of a State or of a Union Territory are the same as the statutory disqualifications for membership of Parliament contained in section 8, section 8-A, section 9, section 9-A, section 10 and section 10-A of the Representation of the People Act, 1951, with this difference that the reference "to the appropriate government" in any of the section, such as section 9-A or section 10 shall mean, in relation to the disqualification for membership of the Legislative Assembly of a State, the Government of that State and shall, in relation to the disqualification for membership of the Legislative Assembly of a Union Territory, mean not only the Government of that Union Territory but it means, also the Central Government so that if you have any subsisting contract

entered into by you in the course of your trade or business with the administrator of a Union territory you will be disqualified and if you have any such contract with the Central Government for the purpose of that Union territory, then also you will be disqualified. The same position will hold good in relation to section 10 also of the Representation of the People Act, 1951. This view is taken in view of the definition of "State Government" given in the Representation of the People Act, 1950 which applies to the Representation of the People Act, 1951 also by virtue of section 2(1) (a) of the latter Act and section 55 of the Government of Union Territories Act, 1963. In a serious matter like election, the advice which the Commission gives you is that you should always play for safety and should not take any risk. In any case, it will be better for you to consult your lawyer on this point.

#### **10. DISQUALIFICATIONS FOR MEMBERSHIP OF LEGISLATIVE ASSEMBLY OF THE NATIONAL CAPITAL TERRITORY OF DELHI**

- (i) For being chosen as, and for being, a member of the Legislative Assembly of the National Capital Territory of Delhi, a person must not be holding any office of profit under the Government of India or the Government of any State or the Government of any Union Territory other than an office declared by law made by Parliament or by the Legislature of any State or by the Legislative Assembly of the National Capital Territory of Delhi or by any other Union Territory not to disqualify its holder. A person shall, however, not be deemed to hold any such office of profit by reason only that he is a Minister either for the Union or for a State or Union Territory [section 15(1) (a) and section 15 (2) of the Government of National Capital Territory of Delhi Act, 1991].
- (ii) A person shall also be disqualified if he is for the time being disqualified for being chosen as, and for being, a member of either House of Parliament under the provisions of article 102(1) of the Constitution [section 15(1) (b) and section 40(3) of the said Act].
- (iii) In other words, the disqualifications for election to Parliament which have been discussed earlier in para above, will apply for election to the Legislative Assembly of the National Capital Territory of Delhi.

#### **III. DISQUALIFICATIONS FOR MEMBERSHIP**

##### **11. CONSEQUENT ON DISQUALIFICATIONS FOR VOTING**

11.1 In this connection you may refer to section 11-A of the Representation of the People Act, 1951. The section provides for disqualifications for voting arising out of conviction and corrupt practice.

11.1.1 Any person convicted of an offence punishable under 171E or 171F of the Indian Penal Code or under section 125 or section 135 or clause (a) of sub-section (2) of section 136 of the Representation of the People Act, 1951 shall be disqualified for voting at any election.

The period of such disqualification for voting is six years from the date of conviction.

11.1.2 In the case of a person found guilty of a corrupt practice by an Order under section 99 of the Representation of the People Act, 1951, he will be disqualified for voting for the same period as determined by the President under sub-section (1) of section 8-A for disqualification for standing for election.

11.1.3 You know that if a person is, for the time being, disqualified for voting under the provisions of any law relating to corrupt practice or other offences in connection with elections, then he becomes disqualified for registration in an electoral roll and the name of any person who becomes so disqualified after registration as required to be forthwith struck off the electoral roll. These provisions are contained in section 16 of the Representation of the People Act, 1950. And you know, one of the qualifications for standing for election is that you must be an elector for the appropriate constituency (see section 4 and section 5 of the Representation of the People Act, 1951). But if you are disqualified for voting, then you cannot be an elector and, therefore, because of the disqualification for voting, you are not qualified for standing for election either from a parliamentary constituency or from an assembly constituency.

All the important points relating to qualifications and disqualifications have been mentioned and you should carefully read the provisions mentioned above because a perusal of this handbook will help you, it is hoped, to understand the provisions of the Constitution and the law.

## CHAPTER IV

### NOMINATIONS AND ALLOTMENT OF SYMBOLS

- 1.1 You have perhaps found that you possess all the requisite qualifications for standing as a candidate and for being elected as a member of the House of the People (Lok Sabha) or as the case may be, of the Legislative Assembly (Vidhan Sabha) and do not suffer from any of the disqualifications for such membership and, therefore, you want to stand as a candidate for an election to the Lok Sabha or Vidhan Sabha. This you can do on two occasions. You can stand as a candidate either at a general election which is necessary for constituting a new Lok Sabha or a new Vidhan Sabha or you may stand as a candidate at a bye-election which will be held for the purpose of filling any casual vacancy.
- 1.2 However, you cannot be nominated as a candidate for an election:-
  - (a) in the case of general election to the House of the People (whether or not held simultaneously from all Parliamentary constituencies), from more than two Parliamentary constituencies;
  - (b) in the case of general election to the Legislative Assembly of a State (whether or not held simultaneously from all Assembly constituencies), from more than two Assembly constituencies in the State;
  - (c) in the case of bye-elections to the House of the People from two or more Parliamentary constituencies which are held simultaneously, from more than two such Parliamentary constituencies;
  - (d) in the case of bye-elections to the Legislative Assembly of a State from two or more Assembly constituencies which are held simultaneously, from more than two such Assembly constituencies.

Explanation:- Two or more bye-elections shall be deemed to be held simultaneously where the notifications calling such bye-elections are issued by the Election Commission under Section 149 or 150 on the same date.

2. The steps for a general election are set in motion by the issue of one or more notifications (called in common parlance as writ notifications) by the President of India in the case of Lok Sabha and by the Governor of the State in the case of general election to the Legislative Assembly of that State. In the case of all bye-elections, such notifications are issued by the Election Commission.
3. As soon as the notifications, that is, the writs for a general election or a bye-election are issued as aforesaid, the Election Commission by notification in the Official Gazette fixes the time-table of the election under section 30 of the Representation of the People Act, 1951. This notification fixing the time-table is issued on the same date on which the writs for the general election or bye-election are issued. The notification fixing the time table under section 30 is published in the gazette of India in the case of an election to the House of the People (Lok Sabha) and in the Official gazette of the State in the case of an election to the Legislative Assembly of the State concerned (Vidhan Sabha).

This notification fixing the time table appoints (a) the last date for making nominations which shall be the seventh day after that date of publication of the notification or writ calling the election, or if the seventh day is a public holiday, the next succeeding day which is not a public holiday; (Thus suppose the notification or writ for the election is issued on the 1st of March, then the last date for making nominations will be the 8th of March (that is the seventh day), that being the seventh day after the publication of the notification or writ calling the election. But if the 8th of March is a public holiday, then the last date for making nominations will be the 9th of March. If the 9th March is also a public holiday, then the last date of making nominations will be the 10th of March, if again the 10th of March is a public holiday, then the 11th March and so on);

- (b) the date for scrutiny of nominations which shall be the day immediately following the last date for making nominations, or if that day is a public holiday, the next succeeding day which is not a public holiday (thus if the last date for making nominations is the 8th of March, then the date for scrutiny of nominations will be 9th of March on the assumption that the 9th of March is not a public holiday);
- (c) the last date for the withdrawal of candidatures which shall be the second day after the date for scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday (thus suppose the date for scrutiny is the 9th of March, then the last date for the withdrawal of candidatures will be the 11th of March on the assumption that the 11th of March is not a public holiday); and
- (d) the date on which a poll shall, if necessary, be taken which shall be a date not earlier than the fourteenth day after the last date for the withdrawal of candidatures. Thus if the last date for withdrawal of candidatures is the 11th of March, then the poll cannot be held before the 25th of March because the date of the poll cannot be earlier than the fourteenth day after the last date for the withdrawal of candidatures. The poll can be taken on more than one day also in a constituency. In such case, the first date of poll cannot be earlier than the 25th March in the above example.

4.1 You will thus notice that neither the last date for making nominations nor the date for scrutiny of nominations and nor the last date for the withdrawal of candidatures can be a day which is a public holiday. But this prohibition is not applicable to the date of poll. There is no bar to the holding of a poll on a public holiday. On the contrary, unless there be any objection on religious, customary or other grounds from any section of the people it may be better to take the poll on a Sunday or any other public holiday because the voter then gets an opportunity to appear in large number at the polling station.

**Note :** 'Public holiday' mentioned above means the public holiday declared as such under section 25 of the Negotiable Instruments Act, 1881 and not any other holiday.

4.2 On the issue of the notification by the Election Commission fixing the time-table of election under section 30 of the Representation of the People Act, 1951, a public notice of the intended election is issued by the Returning

Officer under section 31 of the Representation of the People Act, 1951. By this public notice, the Returning Officer invites nominations of candidates for the election and specifies the place at which nomination papers are to be delivered.

This public notice under section 31 is in Form 1 appended to the Conduct of Elections Rules, 1961. Generally, the public notice in Form 1 is published on the notice board of the Returning Officer and at such other places as he considers necessary for giving wide publicity to the notice including the offices of Gram Panchayat, Panchayat Samitis, etc.

4.3 Period of Nomination : It has already been mentioned above that only eight days (including the day on which the notification is issued) are available for the making of nominations.

4.4. Form of Nomination Paper: The nomination paper must be in the prescribed form. For election to the House of the People (Lok Sabha), the nomination paper must be in Form 2-A. For election to a Legislative Assembly (Vidhan Sabha), the nomination paper must be in Form 2-B (Those Forms are reproduced in Appendix VII and VIII). Printed copies of the form of nomination paper can be purchased from the Returning Officer at a very nominal price. If the officially printed forms are not available or cannot be obtained you may use a privately printed, type-written, cyclostyled or even manuscript form; but you must take care to see that the form used by you exactly corresponds to the appropriate form as appended to the Conduct of Elections Rules, 1961. You are again cautioned that you must be very particular about every entry in the nomination form.

#### **4.5 YOU MUST READ CAREFULLY THE FOLLOWING POINTS IN RELATION TO YOUR NOMINATION**

##### **(1) QUALIFICATIONS AND DISQUALIFICATIONS**

You must possess all the requisite qualifications and must not suffer from any of the disqualifications. You have been given elaborate guidance in this direction in the earlier chapter.

##### **(2) NOMINATION PAPER**

As there cannot be any oral nomination under the law, your nomination must be in writing and must be in one of the appropriate forms - Form 2-A (for House of the People or Lok Sabha), Form 2-B (for Legislative Assembly or Vidhan Sabha).

##### **(3) INFORMATION ABOUT CONVICTIONS IF ANY**

As already instructed in the previous chapter, you must furnish along with your nomination paper the particulars relating to convictions, if any, under section 8 of the Representation of the People Act, 1951, in the prescribed format together with the required affidavit [See Appendix-VI(A)]. If for any reason this information is not furnished alongwith the nomination paper, it must be forwarded in any case, latest by 03.00 p.m. on the last date of filing nominations, failing which your nomination paper is liable to be rejected by the Returning Officer.

#### **(4) CANDIDATE'S NAME IN THE NOMINATION PAPER**

You should give your name in the nomination paper as it is entered in the electoral roll. However, if you consider that your name is incorrectly spelt or is otherwise incorrectly shown in the electoral roll, you should give your correct name in the nomination paper. The Returning Officer will overlook such mistake in the electoral roll. In such a case it would be advisable for you to submit also an application to the Returning Officer stating the above fact about the mistake of your name in the electoral roll along with your nomination paper.

#### **(5) THE DATE ON WHICH THE NOMINATION PAPER IN THE APPROPRIATE FORM SHOULD BE FILED**

The nomination paper in the appropriate Form may be filed as soon as may be after the notification fixing the time table of election under section 30 is published in the Official gazette or any day thereafter including the last date for making nomination.

**N.B.:** But no nomination paper can be filed on any such date if it is public holiday. About this, detailed explanation has already been given.

#### **5. TIME FOR FILING NOMINATION**

Nomination paper can be filed only between 11 O'clock in the forenoon and 3 O'clock in the afternoon on any of the above mentioned days.

#### **6. BY WHOM A NOMINATION PAPER CAN BE PRESENTED**

Your nomination paper may be presented either by you personally or by any of your proposers and by no one else. You may note this very particularly. Wherever possible, it is advisable that you should personally present the nomination paper so that no unforeseen hitch or difficulty may arise and endanger your candidature. You or your proposer cannot send the nomination paper by post.

#### **7. TO WHOM A NOMINATION PAPER SHOULD BE PRESENTED**

Your nomination paper must be delivered to the Returning Officer of the constituency or to such Assistant Returning Officer as is authorised by the Returning Officer in this behalf. This authorised Assistant Returning Officer is specified in the public notice of election issued under section 31 in Form 1 appended to the Conduct of Elections Rules, 1961.

#### **8. WHERE A NOMINATION PAPER SHOULD BE DELIVERED**

The nomination paper must be delivered at the place specified in Form-I aforesaid and at no other place. The nomination paper cannot be delivered at the residence of the officer specified or outside the place mentioned in the notice in Form - 1. If it is delivered at any other place, it will be rejected.

#### **9(A) BY WHOM YOUR NOMINATION PAPER SHOULD BE SIGNED**

If you look at the Form of nomination paper, you will find that it must bear the signature of your proposer(s) as well as your own signature. The signature of your proposer(s) and your own signature must be in the proper places shown

in the Form of nomination paper for such signature. Be careful not to put your signature in the space indicated for the signature of the proposers or to put the signature of the proposers in the space indicated for the signature of the candidate. Always remember that a nomination paper is a very important document and meticulous care should be taken to fill it as accurately as possible.

A proposer can sign more than one nomination paper of the same candidate or of different candidates.

### **9(B). NUMBER OF PROPOSERS**

Under the amended section 33 of the Representation of the People Act, 1951, the nomination of a candidate at the election to the House of the People or a State Legislative Assembly shall be required to be subscribed by-

- (i) One elector of the constituency as proposer, if the candidate has been set up either by a recognised National party or by a recognised State party in the State or States in which it is recognised as a State party (see Part-I of the revised Forms 2A and 2B).
- (ii) Ten (10) electors of the constituency as proposers, if the candidate has been set up by a registered un-recognised political party or if he is an independent candidate (see Part-II of the revised Forms 2A and 2B).

9(c). If a State party recognised in one State is granted concession for using its reserved 'Symbol" under para 10 of the Election Symbols (Reservation and Allotment) Order, 1968, in another State in which it is not so recognised, the nomination of candidate(s) set up by that party in such other State will also be required to be subscribed by ten (10) electors of the constituency as proposers.

### **10. YOUR PROPOSER MUST BE AN ELECTOR OF THE CONSTITUENCY**

It has already been pointed out that if you are a candidate for election to the House of the People (Lok Sabha) your name must appear in the electoral roll of any parliamentary constituency in the country. You need not be an elector of the parliamentary constituency from which you are seeking election. Similarly if you seek election to a state Legislative Assembly from an assembly constituency you must be an elector for any assembly constituency within the State and it is not necessary that you should be an elector for the assembly constituency from which you are seeking election. (This general rule is, however, subject to certain exceptions mentioned in sections 4, 5 and 5(a) of the Representation of the People Act, 1951, in the case of certain seats reserved in the autonomous districts of Assam, in the State of Sikkim and in the Union Territory of Lakshadweep. These provisions have already been explained in the previous chapter. If you are a candidate from any such constituency take care to see that you fulfil those additional requirements). But this is not so in the case of your proposer(s). Your proposer(s) must be an elector for the parliamentary constituency or for the assembly constituency from which you are seeking election. Make sure that the name of your proposer(s) is registered in the electoral roll of the constituency from which you are seeking election. If his name is not there, then another person whose

name appears in the electoral roll should be your proposer and sign your nomination paper as proposer. If you want a person whose name does not appear in the electoral roll of the constituency from which you are seeking election to be your proposer, then before filing your nomination paper you must take steps to get his name included in the electoral roll if that is possible at that stage. About inclusion of names in electoral rolls mention has already been made in the previous chapter. You should note particularly that no direction for the inclusion of a name in the electoral roll of a constituency can be given after the last date for making nominations.

## **11. WHAT YOU SHOULD DO IF YOU OR YOUR PROPOSER ARE BOTH UNABLE TO SIGN THEIR NAMES**

Under the law [vide rule 2(2) of the Conduct of Elections Rules, 1961] if your proposer or you are unable to sign, then your proposer or you shall be deemed to have signed the nomination paper if your proposer or you have placed a mark on the nomination paper in the presence of the Returning Officer or the Assistant Returning Officer or such other officer as may be authorised in this behalf by the Election Commission and the Returning Officer or the Assistant Returning Officer or such other officer, on being satisfied as to the identity of your proposer or your identity, has attested the mark as being the mark of your proposer or of yours. [See also para. 1 of chapter XIV]

## **12. DECLARATIONS TO BE MADE BY YOU IN THE NOMINATION PAPER**

12.1 While assenting to your nomination made by your proposer you are required to make a declaration in the nomination paper itself.

- (a) Firstly, as to your age, it has already been pointed out that for election to the House of the People (Lok Sabha) or a State Legislative Assembly (Vidhan Sabha) you must not be less than twenty five years of age.

You should give your correct age in the nomination paper. If you find that your age is not correctly mentioned in the electoral roll, you should give only your present age in the nomination paper and not the wrong age as shown in the electoral roll;

**N.B.** If your age is near the legal minimum, that is to say, if you are just twenty five years of age or a little more than that and there is an apprehension that an objection may be raised by a rival candidate regarding your age, arm yourself with sufficient proof of your age.

- (b) Secondly, as to your political party, in case you are set up by any political party;

**N.B.** But declaration as to your being set up by a political party will not arise if you stand as an independent candidate.

- (c) Thirdly, as to the choice of the three symbols in order of your preference. About symbols, more will be said hereafter;

- (d) Fourthly, as to the correct spelling of your name and the name of your father/mother/husband as given in the nomination paper;
- (e) Fifthly, as to the fact that you are qualified and not also disqualified for being chosen to fill the seat for which you are contesting the election, and
- (f) Sixthly, as to the fact that you have not been, and shall not be nominated as a candidate at the present general election/bye-elections being held simultaneously to the House of the People or Legislative Assembly of a State from more than two Parliamentary/Assembly constituencies, as the case may be.

12.2. Apart from the declaration in respect of the matters mentioned above, you are to make a further declaration in the nomination paper if you stand as a candidate for election from a constituency reserved for the Scheduled Castes or Scheduled Tribes. If you belong to a Scheduled Caste or a Scheduled Tribe, you should make a declaration to that effect in your nomination paper even if you contest an election from a general constituency as this will entitle you to the concessional amount of security deposit even in that general constituency. Be very particular in making the declaration as accurately as possible. It is not necessary to furnish, alongwith the nomination paper, any certificate (original or otherwise) in proof of the fact that you belong to a Scheduled Caste or Scheduled Tribe.

**13. WHAT YOU SHOULD DO IF THE PERIOD OF DISQUALIFICATION FOR DISMISSAL FOR CORRUPTION OR DISLOYALTY HAS NOT ELAPSED**

If you, having held any office under the Government of India or under the Government of a State, have been dismissed and the period of disqualification, referred to in section 9 of The Representation of the People Act, 1951 namely, the period of five years since the dismissal has not elapsed, then you shall not be deemed to be duly nominated as a candidate unless your nomination paper is accompanied by a certificate issued in the prescribed manner by the Election Commission to the effect that you have not been dismissed for corruption or disloyalty to the State.

**14. PRODUCTION OF COPY OF ELECTORAL ROLL IF YOU ARE AN ELECTOR OF A DIFFERENT CONSTITUENCY**

If your name has been registered as an elector in the electoral roll of a constituency different from the constituency from which you stand as a candidate, then you must file along with your nomination paper either a copy of the entire electoral roll of the former constituency or, if that is not possible, a copy of the relevant part of that electoral roll (relevant part means the part of the electoral roll in which your name appears) or, if even that is not possible, then a certified copy of the relevant entries relating to your name in such roll. If for any reason it is not possible to file any of these documents along with your nomination paper, then you must produce any of these documents before the Returning Officer at the time of the scrutiny of nomination; otherwise your nomination paper will be rejected.

**15. HOW MANY NOMINATION PAPERS CAN BE FILED BY YOU FOR STANDING AS A CANDIDATE FROM THE SAME CONSTITUENCY**

You can file as many as four nomination papers for standing as a candidate in the same constituency; in other words, you cannot file more than four nomination papers in respect of the same constituency.

**16.1 Security deposits and when such deposits should be made**

The law requires that a candidate at an election must make the prescribed security deposit. The failure to make the deposit will invalidate your nomination. If you want to stand as a candidate for election from a parliamentary constituency, the sum required to be deposited by you is ten thousand rupees (Rs.10,000/-). But a concession is given to a candidate who is member of a Scheduled Caste or a Scheduled Tribe. If a person who is member of a Scheduled Caste or Scheduled Tribe wants to stand as a candidate from a parliamentary constituency, he will have to make a deposit of five thousand rupees (Rs.5,000/-);

If you are a candidate from an assembly constituency, you are to make a deposit of Rupees five thousand (Rs.5,000/-) and if you are a member of a Scheduled Caste or Scheduled Tribe you shall have to make a deposit of two thousand and five hundred rupees (Rs.2,500/-).

Please note that a Scheduled Caste or a Scheduled Tribe Candidate need deposit only the lesser amount even if he contests the election for a seat not reserved for Scheduled Castes or Scheduled Tribes, i.e., a general seat.

**16.2** It has already been pointed out that from the same constituency you can file as many as four nomination papers but in such a case you shall not have to make four different deposits. It will be enough if you make only one deposit in respect of the first nomination paper. In the case of other nomination papers no deposit is necessary. You are only to attach to the first nomination paper that you file, the original treasury receipt or challan for the deposit. A true copy of the original receipt or challan for the deposit may be attached to every subsequent nomination paper, which may be filed by you. Always retain the official duplicate of the treasury receipt of challan, which you receive from the

Reserve Bank of India or the government treasury with you for your future reference and use.

16.3. You should note particularly that the deposit may be made in two ways. Either the amount may be deposited with the Returning Officer in cash at the time of filing your nomination paper or you deposit the amount in the Reserve Bank of India or in a Government treasury. You must do so before you file your nomination paper with the Returning Officer and you must, as already pointed out, attach the treasury receipt or challan which you will receive in duplicate from the Reserve Bank of India or the Govt. treasury to your nomination paper. If you do not deposit the amount in cash with the Returning Officer at the time of filing your nomination paper or if you do not attach to your nomination paper the treasury receipt or challan, then your nomination paper will be rejected.

16.4 The deposit should be made under the following Head of Account for election to Parliament :

“8443-Civil Deposits-121-deposits in connection with elections-2-Deposits made by candidates for Parliament”

The deposit should be made under the following Head of account for deposits made by candidates for State Legislatures:

“8443-Civil Deposits-121-deposits in connection with elections-1-Deposits made by candidates for State/Union Territories Legislatures”.

## **17 ELECTION SYMBOLS**

17.1 On looking at the form of the nomination paper you will find that you are to make a choice, in order of preference, of three symbols out of a specified list of symbols. The Conduct of Elections Rules, 1961 require the Election Commission to specify by notification in the Gazette of India and the Official gazette of each State the symbols that may be chosen by candidates at elections in parliamentary or assembly constituencies and the restrictions to which their choice shall be subject.

17.2 These rules also require that if you have filed more nomination papers than one then the declaration as to symbols made in the nomination paper first filed, and no other declaration as to symbols, shall be taken into consideration at the time of allotment of symbols by the Returning Officer to the contesting candidates even if the nomination paper which has been first filed has been rejected by the Returning Officer. In other words, even if your first nomination paper is rejected but your second or third or fourth nomination paper is accepted by the Returning Officer as valid even then the choice of symbols made by you in your first nomination paper will be taken into consideration at the time of allotment of symbols.

17.3 These rules also require that after the time of withdrawal of candidatures is over and there are more candidates in the field than one whose nominations have been found to be valid, then the Returning Officer shall immediately after the expiry of the time of withdrawal prepare the list of contesting candidates and allot, subject to any direction issued by the Election Commission, a

different symbol to each contesting candidate in conformity, as far as practicable, with his choice as shown in the nomination paper first filed.

17.4. In pursuance of these rules, the Election Commission issued on 31st August, 1968 an Order providing for specification, reservation, choice and allotment of symbols at elections in parliamentary and assembly constituencies in all States (other than assembly constituencies in the State of Jammu and Kashmir) and Union territories, and for the recognition of political parties in relation thereto and for matters connected therewith. This order is called the Election Symbols (Reservation and Allotment) Order, 1968 (An updated copy is appended at Appendix IX Part - I). From this order you will find that :-

- (a) In the first place, there are two categories of symbols, namely, (i) reserved symbols, and (ii) free symbols.
- (b) In the second place, a reserved symbol means a symbol reserved for a recognised political party and a free symbol is a symbol other than a reserved symbol.
- (c) In the third place, free symbols and reserved symbols vary from State to State.
- (d) In the fourth place, there are three category of political parties, namely,
  - (i) Recognised National Parties (which are recognised in all States and Union Territories)
  - (ii) Recognised State Parties (which are recognised only in the specified States or Union Territories)
  - (iii) Registered-unrecognised parties.

**N.B.-** The Election Commission issues a consolidated notification from time to time specifying the list of recognised National and State parties and the symbols respectively reserved for them, the list of registered unrecognised parties and lists of free symbols for each State and Union Territory. You should consult the latest notification as amended up to date, before making a declaration in your nomination paper as to the name of the party which has set you up at the election and in regard to the symbol or symbols which you have chosen in the order of your preference. The above said notification will be available for reference purposes with the Returning Officer and also with the Chief Electoral Officer of the State.

- (e) In the fifth place, a candidate set up by a State party in which it is so recognised shall choose in his nomination paper and shall be allotted by the Returning Officer only the reserved symbol of that party and no other symbol. This means that if you have been set up by a State Party, then, in your nomination paper, you can choose only the symbol reserved for that party and no other symbol. This also implies that from any constituency only one candidate can be set up by a State Party.
- (f) In the sixth place, a candidate set up by a National Party from any constituency in any State or Union territory shall choose and shall be allotted the symbol reserved for that National Party.

- (g) In the seventh place, a reserved symbol shall not be chosen by, or allotted to, any candidate in any constituency other than a candidate set up by a National Party for whom such symbol has been reserved for a candidate set up by a State *Party* in the State in which it is a State Party, even if no candidate has been set up by such National or State party in that Constituency.
- (h) In the eighth place, if a political party, which is recognised as a State Party in some State or States, sets up a candidate at an election in a constituency in any other State, in which it is not a recognised State Party, then such candidate may, to the exclusion of all other candidates in the constituency, be allotted the symbol reserved for that party in the State or States in which it is a recognised State Party, notwithstanding that such symbol is not specified in the list of symbols for such other State, on the fulfillment of each of the following conditions, namely:-
  - (a) that an application is made to the Commission by the said party for exclusive allotment of that symbol to the candidate set up by it, not later than the third day after the publication in the Official Gazette of the notification calling the election;
  - (b) that the said candidate has made a declaration in his nomination paper that he has been set up by that party at the election and that the party has also fulfilled the requirements of clauses(b), (c) and (d) of paragraph 13 of the Election Symbols (Reservation and Allotment Order) 1968, in respect of such candidate; and
  - (c) that in the opinion of the Commission there is no reasonable ground for refusing the application for such allotment;

Provided that nothing contained above shall apply to a candidate set up by State Party at an election in any constituency in a State in which that party is not a State party and where the same symbol is already reserved for some other State Party in that State;

- (i) In the ninth place, where elections are held simultaneously in a parliamentary constituency and in the assembly constituencies comprised in such parliamentary constituency, then-
  - (i) If a symbol has been exclusively allotted under paragraph (h) to a candidate set up by a State Party in another State at the election in the parliamentary constituency, that symbol shall not be allotted to any candidate at any election in any of the said component assembly constituencies unless such candidate is a candidate set up by that political party; and
  - (ii) If a symbol has been exclusively allotted under paragraph (h) to a candidate set up by the said party at any election in any of the said component assembly constituencies that symbol shall not be allotted to any candidate at the election in the said parliamentary constituency unless such candidate is a candidate set up by that political party.
- (j) In the tenth place, any association or body of individual citizens of India calling itself a political party and intending to avail itself of the provisions of the

Representation of the People Act, 1951 may apply to the Election Commission for registration as a political party by furnishing such information as is required under section 29A of that Act and the Registration of Political Parties (Furnishing of Additional Particulars) Order, 1992 issued by the Commission on 23.3.92. The Commission may on the satisfaction of the said requirements register it as a political party. The party so registered under section 29A of the Representation of the People Act, 1951 shall be deemed to be a registered political party for the purposes of the election symbols (Reservation and Allotment) Order, 1968 such registered party may then be a recognised National or State Party or a registered unrecognised party depending upon the poll performance at a general election.

- (k) In the eleventh place, candidates not set up by a National or State Party, i.e., candidates set up by registered unrecognised political parties and independent candidates can make a choice of symbols in their nomination papers only out of the free symbols shown against the State from where they are seeking election and no other symbol. Where any free symbol has been chosen by only one candidate at such election, the Returning Officer shall allot that symbol to that candidate and to no one else.

17.5 Where the same free symbol has been chosen by several candidates at such election, then—

- (a) If of those several candidates, only one is a candidate set up by a registered-unrecognised political party and all the rest are independent candidates, the Returning Officer shall allot that free symbol to the candidate set up such unrecognised political party and to no one else and if of those several candidates, two or more are set up by different unrecognised political parties and the rest are independent candidates, the Returning Officer shall decide by lot to which of the two or more candidates set up by the different unrecognised political parties that free symbol shall be allotted and allot that free symbol to the candidate on whom the lot falls and to no one else;
- (b) If two or more such candidates set up by such different unrecognised political parties, only one is, or was immediately before such election, a sitting member of the House of the People, or, as the case may be, of the Legislative Assembly (irrespective of the fact as to whether he was allotted that free symbol or any other symbol at the previous election when he was chosen as such member), the Returning Officer shall allot that free symbol to that candidate and to no one else;
- (c) If of those several candidates, no one is set up by any unrecognised political party but all are independent candidates and one of the independent candidates is, or was immediately before such election a sitting member of the House of the People, or as the case may be, of the Legislative Assembly, and was allotted that free symbol at the previous election when he was chosen as such member, the Returning Officer shall allot that free symbol to that candidate and to no one else; and

- (d) if of those several candidates, being all independent candidates, no one is or was a sitting member as aforesaid, the Returning Officer shall decide by lot to which of those independent candidates that free symbol shall be allotted and allot the free symbol to the candidate on whom the lot falls and to no one else;
- 17.6 From the form of nomination paper, you will find that if you are a party candidate, you are required to make a declaration to that effect in the nomination paper itself. Now, you may be set up by a recognised party, that is to say, a National Party or State Party, or you may be set up by a registered-unrecognised party, that is to say, by a party for which no symbol has been reserved at all. The order of the Commission lays down clearly that you shall be deemed to be set up by a particular party if, and only if; the conditions mentioned below are fulfilled:
- (a) In the first place, you must have made a declaration to that effect in your nomination paper, that is to say, in your declaration in the nomination paper you shall have to say that you are a candidate set up by such and such party.
  - (b) In the second place, a notice in writing in the form prescribed by the Commission (which is commonly known now as Form 'B' Appendix IX, Part II) to the above effect by the party which has set you up as a candidate must be delivered to the Returning Officer of the constituency and the Chief Electoral Officer of the State before 3 p.m. on the last date for making nominations and
  - (c) In the third place, the said notice in Form B must be signed by the president, secretary or other office bearer of the party who is authorised by the party to send such notices and whose specimen signatures have been communicated by the party in the Form prescribed by the Commission which is commonly known now as Form 'A' (Appendix IX, Part II) to the said Returning Officer and also to the Chief Electoral Officer of the State by 3 p.m. on the last date for making nominations.
- 17.7. If any of these three conditions is not fulfilled strictly in the manner and within the time prescribed then you shall not be deemed to be set up by the party. Therefore, be very particular about these three conditions.
- 17.8 You are well-advised to submit the said Forms 'A' and 'B' (duly signed in ink) to the Returning Officer alongwith your nomination paper itself to avoid any last minute complication. Any Form A or B not signed in ink or received by fax will be rejected by the Returning Officer.
- 17.9 It must also be noted by you that the Symbols order does not recognise electoral alliances which are sometimes entered into by political parties. Therefore, a symbol reserved for a National or State Party shall not be allotted to any candidate other than the candidate set up by such National or State Party itself.
- 17.10 Political parties are, however, permitted to either cancel the authorisation in Form B given in favour of one candidate or change such authorisation by

substituting the name of their candidates subject to following conditions, namely:–

- (1) Subsequent authorisation cancelling or substituting the earlier authorisation in Form B is received by the Chief Electoral Officer and the Returning Officer of the constituency concerned not later than 3.00 p.m. on the last date for making nominations.
- (2) Such subsequent authorisation in Form B is signed by the same authorised office bearer and is unambiguous and clearly shows that it either cancels or substitutes the earlier authorisation, as the case may be;
- (3) The Returning Officer is satisfied about the genuineness of subsequent authorisation; and
- (4) The candidate in whose favour subsequent authorisation has been given has already made a declaration in his nomination paper that he has been set up by the said political party.

**18. PRELIMINARY SCRUTINY**

On the presentation of a nomination paper, the Returning Officer will satisfy himself that the name and the electoral roll number of the candidate and his proposer as entered in the nomination paper are the same as those entered in the electoral rolls.

**19. MISTAKES, PRINTING ERRORS, ETC., IN ELECTORAL ROLL OR IN NOMINATION PAPER**

The law says that no misnomer or inaccurate description or clerical, technical or printing error in regard to the name of the candidate or his proposer or any other person, or in regard to any place mentioned either in the electoral roll or in the nomination paper and no clerical, technical or printing error in regard to the electoral roll numbers of the candidate or his proposer or any other person in the electoral roll or in the nomination paper shall affect the full operation of the electoral roll or the nomination paper. The law also requires the Returning Officer to permit any such misnomer, inaccurate description or error to be corrected or to overlook, where necessary, such misnomer, inaccurate description or error in the electoral roll or the nomination paper. Still you are well-advised to take particular care that no such misnomer or inaccurate description or clerical, technical or printing error in regard to your name or the name of your proposer or any other person or in regard to any place remains in the electoral roll or in the nomination paper. You are well-advised to look into the electoral rolls in which your name and the name of your proposer appear well in advance before the writ for election is issued because it is presumed that you must have decided well in time to stand as a candidate. And if after looking into the electoral roll well in advance of the issue of the writ for election you find that there is any misnomer, inaccurate description or any error in the electoral roll either in relation to you or your proposer or any other person (e.g. your father's name) or any other matter, then you must take immediate steps for the correction of the error, etc. under section 22 and for

the inclusion of your name and or the name of your proposer, etc., under section 23 of the Representation of the People Act, 1950.

## **20. RECEIPT FOR NOMINATION PAPER AND NOTICE FOR SCRUTINY AND ALLOTMENT OF SYMBOLS**

- 20.1 You will find from the form of nomination paper that a part of it requires the Returning Officer or the Assistant Returning Officer before whom it is filed to fill in and sign a certificate of delivery. While filing the nomination paper make sure that the Returning Officer or the Assistant Returning Officer before whom the nomination paper is filed enters in your presence its serial number and properly fills in and signs the form of certificate of delivery of nomination paper.
- 20.2 You will also find from the nomination paper that the Returning Officer or the Assistant Returning Officer before whom the nomination paper is filed, is required to hand over to you or your proposer presenting the nomination paper a receipt for the same which also contains a written notice of the date, time and place fixed for the scrutiny of nomination papers. Do not forget or overlook to obtain the receipt for nomination paper containing also the notice of the time, date and place fixed for the scrutiny. All these are statutory requirements contained in section 35 of the Representation of the People Act, 1951. Therefore do see that the certificate of delivery in the form given on the nomination paper is duly made in your presence by the Returning Officer or the Assistant Returning Officer to whom you have delivered the nomination paper and do not hesitate to ask from him for the receipt of nomination paper which he is bound to give to you or your proposer before leaving the place where the nomination paper is filed.
- 20.3 The Commission has directed that Returning Officer should also give you along with the above notice about the scrutiny of nominations, another notice about the date, time and place of allotment of symbol to contesting candidates. You should take that notice so that you may be present at the time of allotment of symbols, if your name is included in the list of contesting candidates.

## **21. EXAMINATION OF THE NOTICES OF NOMINATIONS**

The Returning Officer under section 35 is required to cause to be fixed in some conspicuous place in his office a notice of the nominations received by him on each of the dates fixed for making of nominations. This notice is in Form 3-A appended to the Conduct of Elections Rules, 1961. You are well advised to study and examine the notices of the nominations in respect of the various candidates who have filed such nomination papers, affixed by the Returning Officer or the Assistant Returning Officer in some conspicuous place of his office under the law as aforesaid to find out if there is any defect in the nomination papers of your rival candidates. If you find such defects, then you may take objection, if you like, against any of your rival candidates at the time of scrutiny of nominations.



## CHAPTER V

### SCRUTINY OF NOMINATIONS

1. You have filed the nomination paper and other candidates would have also done so. The next stage in the election process is the scrutiny of nomination papers by the Returning Officer. The Returning Officer is required by law to hold the scrutiny of all nomination papers received by him on the date fixed for scrutiny in the election time table issued under section 30 of the Representation of the People Act, 1951.
2. The scrutiny of nomination papers takes place on the day immediately following the last date for filing nominations. Thus, if today is the last date for filing nominations then tomorrow will be the date for scrutiny of nominations. But if tomorrow is a public holiday then the scrutiny of nominations will take place day after tomorrow provided it again is not a public holiday. In other words, scrutiny of nomination papers cannot be held as pointed out already on a public holiday.

#### **3. BY WHOM SCRUTINY OF NOMINATION PAPERS IS HELD**

The scrutiny of nomination papers can be held only by the Returning Officer. This function cannot be delegated by the Returning Officer even to an Assistant Returning Officer. There is only one exception, that is to say, an Assistant Returning Officer may be authorised by the Returning Officer to hold the scrutiny of nominations if, and only if, the Returning Officer is unavoidably prevented from performing the function relating to the scrutiny of nominations (see the proviso to section 22 (2) of the Representation of the People Act, 1951)].

#### **4. WHO MAY ATTEND SCRUTINY OF NOMINATIONS**

According to law only four persons in the case of each candidate may attend the place of scrutiny. These four persons are: (1) the candidate himself, (2) the candidate's election agent, (3) one proposer of the candidate and (4) one other person authorised in writing by the candidate. Even if you have filed the maximum number of nomination papers from the same constituency, namely, four nomination papers and there are different proposers, even then only one proposer can be present at the scrutiny. Thus only four persons for each candidate can be present, and if there are, say, for example, ten candidates who have filed nomination papers from a particular constituency then in all forty persons can be present at the scrutiny. It will be better for you if the fourth person to be authorised by you in writing at the time of scrutiny is a lawyer conversant with election law, so that he may adequately protect your interests at the time of scrutiny. It will also be to your interest if you yourself can be present at the scrutiny.

**5. REASONABLE FACILITIES FOR EXAMINATION OF NOMINATION PAPERS**

The four persons (including yourself) who can be present on your behalf at the time of scrutiny have a right to have all reasonable facilities for examining the nomination papers of all the candidates which are taken up for scrutiny by the Returning Officer. This is a valuable right for you and the three other persons, who may be present along with you, namely, your election agent, one of your proposers and the person authorised by you.

**6. OBJECTIONS WHICH MAY BE RAISED**

You should not raise any flimsy or technical objections in regard to any nomination paper. Similarly you or the person representing you should oppose any objection raised against your nomination on flimsy or technical ground. Section 36(4) of the Representation of the People act, 1951 clearly lays down that the Returning Officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character. Rule 4 of the Conduct of Elections Rules 1961 lays down that the failure to complete or defect in completing a declaration regarding symbols in the nomination paper is not a defect of a substantial character. Therefore, if any of your opposing candidates raises any objection regarding a defect, which is not of a substantial character, you or any of the persons who may be present on your behalf may oppose it. It has already been pointed out that on the presentation of a nomination paper the Returning Officer will satisfy himself that the names and the electoral roll numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the electoral rolls. The Returning Officer may not therefore reject your nomination paper on the ground of any misnomer or any inaccurate description or clerical or technical or printing error in regard to your name or the name of your proposer or any other person or in regard to any place mentioned in the electoral roll or nomination paper, etc., provided that such description in regard to any name and place is such as to be commonly understood. If at the time of scrutiny any objection is raised regarding such misnomer or inaccurate description etc., you may draw immediate attention to the proviso to section 33(4) of the Representation of the People act, 1951.

7. In one word, when any objection is raised against your nomination paper you should try to impress upon the Returning Officer that he should not reject the nomination paper on any flimsy or technical ground. If he is satisfied as to the identity of the candidate and of the proposer then he should not reject the nomination paper only on ground of any technical defect or inaccurate description in the name of candidate or the proposer or the inaccurate description of any place.

8. Tell the Returning Officer that if he rejects any nomination paper on any such technical unsubstantial or flimsy ground then that may be regarded as an improper rejection of a nomination paper which may have the effect of voiding the entire election thus involving a huge waste of public money, public time and public energy.

9. **Omission of age of the candidate in the nomination paper is a defect of a substantial character**

Remember that the omission to specify your age in the nomination paper is a defect of a substantial character and is sure to lead to the rejection of your nomination paper.

**10. GROUND FOR REJECTION OF NOMINATION PAPER**

Remember that the Returning Officer will be justified in rejecting your nomination paper on any one of the following grounds namely :

- (a) If you are clearly not qualified to be a member of the House of the People or of State Legislative Assembly, or
  - (b) If you are clearly disqualified in law to be such member; or
  - (c) If you have not taken the oath or affirmation as required by the Constitution; or
  - (d) If your nomination paper has not been delivered in time; or
  - (e) If your nomination paper has been delivered to the Returning Officer or to an authorised Assistant Returning Officer by a person other than yourself or your proposer; or
  - (f) If your nomination paper has not been delivered at the place specified in the public notice issued by the Returning Officer; or
  - (g) If your nomination paper has been delivered to a person other than the Returning Officer or any of his authorised Assistant Returning Officer; or
  - (h) If your nomination paper is not substantially in the prescribed form; or
  - (i) If your nomination paper has not been subscribed by the required number of proposers or has not been signed either by you or by your proposer(s) or by both in the places meant for such signatures in the nomination paper; or
  - (j) If the proper security deposit has not been made by you in accordance with the law already explained; or
  - (k) If your signature or the signature(s) of your proposer(s) on the nomination paper is/are not genuine; or
  - (l) If you do not belong to that class of persons for whom the seat in your constituency is reserved, e.g. if you do not belong to Scheduled Caste and you file nomination paper to contest a seat reserved for the Scheduled Castes; or
  - (m) If the proposer is not an elector of the constituency or is not eligible to be proposer.
  - (n) If you fail to make declaration that, you have not been, and shall not be nominated as a candidate at the present general election/bye-elections being held simultaneously, to the House of the People or Legislative Assembly of a State, from more than two Parliamentary/Assembly constituencies, as the case may be.
  - (o) If you fail to furnish alongwith your nomination papers the particulars relating to convictions, if any, in the prescribed format together with required affidavit in Appendix VI(A).
  - (p) If you fail to specify your age in the nomination paper.
11. If your nomination paper is rejected for any reason you must get a certified copy of the order of the Returning Officer containing reasons for such

rejection. According to the Commission's instruction, you are entitled to get a copy immediately after the Returning Officer has passed an order rejecting your nomination paper for which you need not pay any fee or charges.

- 12.** You may apply for time to rebut any objection, if you find that any objection has been raised against your nomination as a candidate and to rebut that objection you require some time you may immediately apply to Returning Officer for time. In such a case the Returning Officer may allow adjournment up to two days because the law says that if the candidate wants time to rebut any objection then he “may be allowed time to rebut it not later than the next day but one following the date fixed for scrutiny.” Thus if today has been the date fixed for scrutiny, then the Returning Officer has the power to grant you time till day after tomorrow.

**13. OATH OR AFFIRMATION BY THE CANDIDATE**

In this connection, your attention may again be drawn to the Supreme Court decision in the case of Pashupati Nath Singh vs. Hari Har Prasad Singh (AIR 1968 SC 1064). According to that decision, the oath or affirmation by a candidate must be made after he has been nominated and before the date fixed for scrutiny. The detailed instructions in this regard have already been given in chapter II.

**14. REJECTION OF ONE NOMINATION PAPER NOT TO AFFECT YOUR NOMINATION IF ANY OTHER NOMINATION PAPER IS FOUND VALID**

It has already been mentioned that from the same constituency you can file as many as four nomination papers. If any of these four nomination papers is found to be valid, then that itself will be enough for your valid nomination even though the other three are rejected. It is, therefore, advisable for you to file maximum number of nomination papers, namely, four.

**15. DOCUMENTS AND OTHER MATERIALS WITH WHICH YOU SHOULD BE PRESENT AT THE TIME OF SCRUTINY**

To meet possible objections against your nomination, take with you to the place of scrutiny the following documents, namely:

- (a) A copy of the current electoral roll or a copy of the relevant part of the electoral roll or a certified copy of the entry in that electoral roll bearing your name the name of your proposer;
- (b) Satisfactory evidence regarding your age;
- (c) Where deposit has been made in cash, the receipt given to you by Returning Officer or an authorised Assistant Returning Officer and, where deposit has been made in a Government treasury or in the Reserve Bank of India, the duplicate copy of the treasury receipt or challan;
- (d) The receipt for nomination paper and notice of scrutiny which was handed over to you by the Returning Officer or the authorised Assistant Returning Officer on your presenting the nomination paper; and
- (e) A copy of the affidavit filed by you in prescribed format regarding particulars of conviction; and

- (f) Any other evidence or material, which may be necessary to repeal and rebut any objection which has been or may be raised against your nomination.

**16. LIST OF VALIDLY NOMINATED CANDIDATES**

Immediately after all the nomination papers have been scrutinized, the Returning Officer will prepare a list of candidates whose nominations have been found valid. The names of the candidates will be shown in this list as they appear in the nomination papers. If however, a candidate considers that his name is incorrectly spelt or is otherwise incorrectly shown in his nomination paper or is different from the name by which he is popularly known, he may at any time before the list of contesting candidates is prepared, furnish in writing to the Returning Officer the proper form and spelling of his name. The Returning Officer on being satisfied as to the genuineness of the request shall make the necessary correction in the list of validly nominated candidates and adopt that form and spelling in the list of contesting candidates.

**17. DO'S AND DON'T'S FOR GUIDANCE OF CANDIDATES**

The election law of our country is quite comprehensive and the procedure quite elaborate. It is upon their due observance that the purity of the elections depends. Some of the Do's/Don'ts are suggested for your guidance in Appendix-XA. It should be noted that these are not exhaustive but are only illustrative.

**18. DO'S AND DON'T'S FOR GUIDANCE OF POLITICAL PARTIES AND CANDIDATES**

Apart from the Model Code of Conduct (See Appendix XV), the Commission has recently issued another set of do's and don'ts for guidance of political parties and candidates to be observed from the announcement of an election and until the completion of the process of election. A copy a these do's and don'ts is also given in Appendix-X-B.

It is your responsibility to ensure that neither you nor the political party which has set you up, your agents, workers, supporters and sympathizers indulge in any acts of commission or omission which may amount to violation of the said Code or of these Do's and Don'ts.

**CHAPTER VI**

**WITHDRAWAL OF CANDIDATURES**

**1. WITHDRAWAL OF CANDIDATURE**

If your nomination paper is accepted, you become a validly nominated candidate. But even then, you may like to withdraw from the contest for several reasons. Such reasons may be personal or political. It is neither

necessary nor possible to go into them. You may kindly note that the withdrawal of your candidature can be done only after the scrutiny of nominations is over and not at any stage before.

## **2. NOTICE OF WITHDRAWAL**

If you have decided to withdraw your candidature even after your nomination paper has stood the test of scrutiny by the Returning Officer, then you must do so by a notice in writing and such notice shall be in form 5 appended to the Conduct of Elections Rules, 1961 (Appendix-XI). You will fill in this form very carefully and after you have signed, it must be delivered to the Returning Officer not later than 3 p.m. on the last date fixed under section 30 (C) for the withdrawal of candidatures by you in person or by any of your proposers or your election agent (duly appointed by you in the manner explained in chapter VII). Such proposer or election agent presenting your notice of withdrawal should be authorized by you in this behalf in writing; otherwise, such notice will not be accepted by the Returning Officer. The notice of withdrawal should not, in any case, be sent by post.

## **3. REQUIREMENTS FOR VALID WITHDRAWAL**

The points to be noted in this connection are repeated for your convenience;

- (a) the notice of withdrawal shall be in the prescribed form (Form 5);
- (b) it must be signed by you only and by no one else on your behalf;
- (c) it must be delivered to the Returning Officer not later than 3'O clock *in the afternoon* on the last date for withdrawal of candidatures; and
- (d) such delivery must be made either by you in person or by one of your proposers who signed your nomination paper as proposer or by your duly appointed election agent, but if it is delivered by your proposer or your election agent then such proposer or election agent must be authorised by your in writing in this behalf.

## **4. NOTICE OF WITHDRAWAL TO BE FINAL**

You must also note very carefully that once you have given a notice of withdrawal of your candidature to Returning Officer, it becomes final under section 37 (2) of the Representation of the People Act, 1951 and you will not be allowed under any circumstances to cancel the notice. Therefore be very careful and circumspect before the notice of withdrawal is actually delivered to the Returning Officer.

5. But if you have decided to withdraw from the contest you have to take a particular care that all the conditions mentioned above are fulfilled. Otherwise, the withdrawal of your candidature will not be regarded as withdrawal in the eye of law and your name will be included by the Returning Officer in the list of contesting candidates prepared by him under section 38 of the Representation of the People Act, 1951 with the result that even if you do not actually contest, you cannot get a refund of the money which you deposited along with your nomination paper and you will be required to file your account of election expenses. But if the notice of withdrawal is a good and valid one and accepted by the Returning Officer, then you will be entitled to get back the money you deposited along with your nomination paper and you need not file your account of election expenses.

## **6. RECEIPT OF NOTICE OF WITHDRAWAL**

- .
- After the notice of withdrawal has been delivered by you or on your behalf by your proposer or election agent as authorised by you in writing, please wait there for some time to have the receipt for the notice of withdrawal. This receipt will be handed over to you by the Returning Officer. Do not leave the Office of the Returning Officer without getting this receipt because this receipt will help you in getting back your deposit money.
7. In this connection it may be pointed out that any corrupt withdrawal of candidature is a corrupt practice under the election law. In this connection your attention is drawn to section 123 (1) of the Representation of the People act, 1951.

## **8. LIST OF CONTESTING CANDIDATES**

If you decided to contest the election and do not withdraw your candidature, you will be regarded as a contesting candidate. Immediately after 3 p.m. on the last date for the withdrawal of candidatures, the Returning Officer will proceed to allot different symbols to each contesting candidate in the manner explained in detail in paragraph 17 of Chapter IV. The Returning Officer will then draw a list of the contesting candidates, in form 7A which will show the names of contesting candidates, their addresses as given in the nomination papers and the symbols allotted to them. The Returning Officer will give a copy of such list to each contesting candidate or his election agent and will also cause a copy thereof to be published in a conspicuous place in his office. The list will also be published in the Gazette of India in the case of a parliamentary election, and in the State gazette concerned in the case of an assembly election.

## **9. ARRANGEMENT OF NAMES IN THE LIST OF CONTESTING CANDIDATES**

- 9.1 As per the amended section 38 of the Representation of the People Act, 1951 and revised Form 4 (List of validly nominated candidates) and Form 7A (List of contesting candidates), names of candidates in the said lists are required to be arranged under three categories, i.e. (i) candidates of recognised National parties and State political parties in the State concerned, (ii) candidates of registered unrecognised political parties and (iii) other (independent) candidates. Therefore, names of candidates will be arranged in the said lists and also on the ballot papers in the said order under these categories. It may be noted that names will be arranged alphabetically in each of the above mentioned three categories separately. (However, the headings of the above mentioned three categories as given in the revised Form 7A shall not appear on the ballot papers). The serial numbering will however be continuous for all three categories.
- 9.2 The Returning Officer will determine the arrangement of the names of candidates in alphabetical order in each of the three categories in the list of validly nominated candidates, the list of contesting candidates and also in ballot papers on the basis of the first letter of name irrespective of whether the name given is the proper name or surname. The initials, if any, prefixed to the

name of a candidate shall be ignored for the aforesaid purpose. Thus in the case of a candidate giving his name as "T.K. Reddy", the place of that candidate according to alphabetical order shall be determined with reference to the letter "R" and not "T". However, if two candidates in the same category have the same names but different initials, for example P.S. Reddy and T.K. Reddy then the two names will be arranged inter-se with reference to the first letter of the initials. Further, if two or more such candidates have the same names but different surnames, then their names shall be arranged inter-se in alphabetical order with reference to the surnames.

- 9.3 Rules 22(3) and 30(3) of the Conduct of Elections Rules, 1961 provide that if two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner. In such cases, the arrangement of names of those candidates if falling under the same category in the list of validly nominated candidates and contesting candidates and in the ballot paper will be with reference to the distinguishing names of the candidates.
- 9.4 There will also be no objection to the addition of any honorific, academic, hereditary, professional or any other title to the name of a candidate, but such title shall on no account be taken into consideration, in the arrangement of names in alphabetical order in the list of validly nominated candidates or contesting candidates and in ballot paper.
- 9.5 The Returning Officer will arrange the names of the candidates in the list of validly nominated candidates alphabetically according to the script of the language as specified or first specified in the third column of S.Os.1/87 and 2/87, both dated the 17<sup>th</sup> July, 1987 as amended (Appendix XXXVIII)
10. **ISSUE OF IDENTITY CARDS TO CONTESTING CANDIDATES**
- 10.1 After the finalisation of the list of contesting candidates, the Returning Officer will issue an identity card to each contesting candidates in the form given below:

## CANDIDATE'S IDENTITY CARD

Shri.....is a contesting candidate for election of the .....  
from the constituency [and is set up by the .....party].

Place.....

Date.....

Photograph

.....  
Signature of the Candidate

Attested by

.....  
(Returning Officer)

- N.B.** If the candidate is set up by a State party or a National Party or a registered unrecognised party registered with the Commission, the Returning Officer will enter the name of the party, otherwise the bracketed portion in the form will be scored out.
- 10.2 The Commission has decided that in all elections, the identity cards issued to contesting candidates shall bear their photographs. For this purpose, you should furnish two copies of your recent photographs to Returning Officer as soon as after the list of contesting candidates is finalised on the last date for withdrawal of candidatures. The identity cards will be prepared in duplicate so that the duplicate copy is kept as office copy for the purposes of record by the Returning Officer one copy of the same duly attested will be supplied to you.
- 10.3 The Commission has decided that Identity Cards shall also be issued to election agents. The letter of appointment of election agent in Form 8 itself will serve the purpose of such identity card. You should, therefore, affix the photographs also of your election agent on the right top portion of both the copies of his appointment letter in Form 8. These photographs will be attested by the Returning Officer in the same manner as has been instructed in the case of attestation of photographs of your in para 10.2
- 10.4 You should not fail to collect your identity card from the Returning Officer and you should always keep it with you. During the election campaign, on the day of the poll and on the date of counting, there will arise various occasions, on which your identification as a candidate will be necessary and this identity card will readily establish your identity as a candidate.

## **CHAPTER VII**

### **ELECTION AGENTS**

1. As a candidate, you may appoint any person other than yourself to be your election agent. It is not however incumbent on you to appoint an election agent. Such appointment may, if you so desire, be made at any time you like after you have been nominated as a candidate or not at all. Every such appointment has to be made by a formal communication in form 8 (Appendix XII) in duplicate by you and forwarded to the Returning Officer. The Returning Officer will retain one copy thereof and return the second copy to the election agent after affixing thereon his signature in token of his approval of the appointment.
- 2.1 Any person who is for the time being disqualified under the Constitution or under the Representation of the People Act, 1951 for being a member of either House of Parliament or either House of the Legislature of a state or for voting at election shall so long as the disqualification subsists, also be disqualified for being an election agent at any election.
- 2.2 Further, a Minister shall not be appointed as an election agent, as his personal security shall be jeopardised with such appointment, because his security personnel will not under any circumstances be permitted to accompany him into the polling stations, counting hall, etc.
3. You may revoke the appointment of your election agent in writing in form 9 (Appendix XIII) under your signature by lodging the revocation with the Returning Officer. It shall operate from the date on which it is lodged with the Returning Officer. In the event of such revocation or the death of an election agent, you may appoint another election agent in his place. You should give notice of such appointment in writing in Form 8 to the Returning Officer and state the facts therein.
4. An election agent may perform such functions in connection with your election as are authorised by the Representation of the People Act, 1951 and the rules made thereunder. In particular, you or your election agent must keep a full day to day account of your election expenses incurred on each item duly supported by vouchers which should be lodged along with the account of election expenses. It is also pointed out that any corrupt practice (mentioned in section 123 of the R.P. Act, 1951) committed by your election agent will be regarded in law as having been committed by you and that will vitiate your election. Therefore, take proper care in selecting your election agent. Ask your election agent to carefully go through the provisions of section 123 of the act regarding corrupt practices. You are responsible for the actions done by him on your behalf.
5. The Commission has decided that Identity Cards shall also be issued to election agents. The letter of appointment of election agent in Form 8 itself will serve the purpose of such identity card. You should affix the photographs also of your election agent on the right top portion of both the copies of his appointment letter in Form 8. These photographs will be attested by the Returning Officer in the same manner as has been instructed in the case of attestation of photographs of yours in Para 10.2 of Chapter VI.



## **CHAPTER-VIII**

### **CAMPAIGN PERIOD**

#### **1. INTRODUCTORY**

1. The election law provides for an interval of not less than thirteen clear days between the last date fixed for the withdrawal of candidatures and the poll. This period should be properly utilized for canvassing and educating the voters and for training the large number of workers and agents that you will have to employ.
- 1.2 As you are a contesting candidate in a constituency where voting machines are going to be used for conducting the poll, you should utilise this period fully for educating the voters as to how they have to record their votes by means of these machines. Similarly, the persons proposed to be appointed by you as your polling and counting agents should also be asked to thoroughly acquaint themselves with the voting and counting procedure to be followed while using these machines. For their guidance, the Commission has brought out separate handbooks for them which they should study carefully.

#### **CORRUPT PRACTICES AND ELECTORAL OFFENCES**

- 2.1 While undertaking your electioneering campaign, you should ensure that the highest standard of morality and purity are maintained, as that would in turn ensure free and fair election. The most potent cause which tends to mar the smooth conduct of an election and disturb the atmosphere of friendly contest that should prevail during the elections, is the violation of the statutory provisions of election law relating to corrupt practices and electoral offences. The election law has enumerated various corrupt practices and electoral offences in sections 123 to 136 of the Representation of the People Act, 1951 and chapter IX-A of IPC. For your convenience, the above-mentioned provisions are reproduced in Appendix XIV. The commission of any such corrupt practices and offences by your agents and workers may vitiate your election. You should, therefore keep in check your overenthusiastic agents and workers from indulging in any objectionable activities. Even a single proved instance of corrupt practice may be enough to unseat you, if you are successful in the election.
  - 2.2 In particular, do not permit, on your behalf:
    - (i) Any bribery or undue influence by way of coercion or intimidation of voters or otherwise or personation;
    - (ii) Any arrangement, direct or indirect, to carry any voter to or from polling station by any kind of vehicle used for transport (this is also a criminal offence);
- N.B.** Even your party cannot arrange for such conveyance.
- (iii) Any act to promote or attempt to promote on grounds of religion, caste, community or language, feeling of enmity or hatred between different classes of citizens of India is a corrupt practice and which may render your election void and entail disqualification for membership and which is also an electoral

offence punishable with imprisonment for a term which may extend to three years, or with fine or both;

- (iv) Any assistance from any government servant to help your prospects in the election, except that a government servant may, if he so desires, cast his vote for you;

**N.B.** Such assistance on the part of a Government servant is a corrupt practice as well as an offence. If you instigate him to do so, you will be liable criminally for abetment. Provided that where any person in the service of the Government and belonging to any of the specified classes in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities, or does any other act or thing, for or in relation to any candidate, or his election agent, or any other person, acting with the consent of the candidate, or his election agent (whether by reason of the office held by the candidate or for any other reason), such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidate's election.

- (v) your election expenses to exceed the legal maximum;
- (vi) any removal of ballot paper or voting machine from the polling station or tampering with the ballot boxes or voting machines by use of force or otherwise (these are criminal offences);
- (vii) any appeal by you or by your agent or any other person with your consent or with the consent of your election agent to vote or refrain from voting for any person on grounds of his religion, race, caste, community or language or the use of or appeal to religious symbols or the use of or appeal to National Symbols such as National flag or the National emblem which is a corrupt practice under the law. (However, no symbol allotted to a candidate shall be deemed to be a religious symbol or a National symbol);
- (viii) the publication of any statement of fact which is false in relation to the personal character or conduct of any candidate;
- (ix) booth capturing as defined in section 135A of the Representation of the People Act, 1951. Booth capturing is both a corrupt practice and an electoral offence punishable with imprisonment of not less than six months and upto two years and with fine.

### **3. MODEL CODE OF CONDUCT FOR GUIDANCE OF POLITICAL PARTIES AND CANDIDATES**

- 3.1 Apart from the abovementioned corrupt practices and electoral offences, the election campaigns may take different forms, which may create feelings of bitterness, irritation, confrontation and resentment among the various political parties and candidates and vitiate the atmosphere. For maintaining a healthy and peaceful atmosphere conducive to the conduct of smooth election, the Commission has devised a Model Code of Conduct for the guidance of political parties and candidates.

3.2 The model code of conduct comes into operation from the day the Commission announces the programme for election in your constituency. The code is reproduced in Appendix XV.

3.3 If this code is scrupulously followed by political parties and contesting candidates and also by their workers, there will be hardly any cause for ill-will or friction among them and the election can be conducted by the Officers charged with the task smoothly and fairly. These officers would thus require your co-operation in this noble task.

#### **4. COMMITTEES FOR OBSERVANCE OF MODEL CODE OF CONDUCT**

4.1 For the due observance of the above said Model Code of Conduct, the Commission has instructed that there should be standing committee in each district under the chairmanship of the head of the district administration i.e., Deputy Commissioner, District Magistrate, etc., and besides the senior police Officers of the district, the representatives of all National and State parties functioning in the district should be associated with such committees.

4.2 The Commission has also instructed that in addition to the aforesaid district Committees there should be constituted a similar committee in each constituency. This committee will function under the Returning Officer and will consist of all contesting candidates or their authorised representatives, beside the senior police officers. The committee will meet quite frequently, if possible from day to day. It will act as a watchdog to see that the Model Code of Conduct is followed. Any instances of violation of such code, which have come to your notice, should be reported by you to the committee for such remedial or punitive action as is considered necessary.

#### **5. PROCESSIONS AND MEETINGS**

5.1 You or your party should obtain well in time the required permission from the proper authority for the holding of a meeting at any public or private place. The Commission has issued instruction that all public maidans, meeting halls, etc. should be made available to all candidates equally and no undue favour or preference should be shown in this regard to the candidates of any particular political party. Temples, mosques, churches or other places of worship should not be used as forum for such meeting or for any election propaganda. Similarly, permission should also be obtained for conducting processions. The application should be made in time to enable the local police authorities to make necessary traffic and security arrangements. Taking out processions on the same roads or routes on which some other candidate is also taking out a procession on the same day should be avoided. Pictorial representations should be sober and moderate and of real educative value to voters. A high standard of decency and decorum should be maintained while making speeches or raising slogans.

5.2 No Loudspeakers should be used for any such meetings or processions or for general propaganda without prior written permission of the authorities concerned and beyond the hours fixed by the Commission in this behalf.

- 5.3 No Loudspeaker fitted on vehicles of any kind or in any other manner whatsoever should be used during the period of 48 hours ending with the hour fixed for the conclusion of the poll in any polling area.

## **6. DEFAACEMENT OF PUBLIC OR PRIVATE PROPERTY**

6. Many of the State/Union territories have laws to prevent the defacement of property, which term includes any building, structure, hut, wall, tree, fence, post, pole or any other erection. Defacement includes impairing or interfering with the appearance of beauty, damaging, disfiguring, spoiling or injuring in any other way whatsoever. The offence is cognizable and punishable with imprisonment or with or with both. You must ensure that you or your agents, etc. do not violate the provisions of this law and/on the general law relating to defacement of private or public property.

## **7. PROHIBITION OF PUBLIC MEETINGS AND PROCESSIONS DURING 48 HOURS IMMEDIATELY BEFORE THE CLOSE OF THE POLL**

- 7.1 The law provides that no person shall –

(a) Convene, hold, attend, join or address any public meeting or procession in connection with an election; or

(b) Display to the public any election matter by means of cinematograph, television or other similar apparatus; or

(c) propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto,

in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

- 7.2 Any person who contravenes the above provisions shall be punishable with imprisonment for a term, which may extend to two years or with fine, or with both.

- 7.3 The expression "election matter" means any matter intended or calculated to influence or affect the result of an election.

- 7.4 You should keep these provisions in view while holding public meetings, or taking on any processions, etc.

## **8. DISTURBANCE IN THE PUBLIC MEETINGS**

If any supporter of a rival candidate or any one opposed to you or your party creates disturbance in any of your election meetings, the chairman of the meeting may request any police officer who may be present to ascertain the name and address of the person who disturbs the meeting. The police will take action to prosecute the offender under section 127 of the Representation of the People Act, 1951 which has been reproduced at Appendix XIV. The offence under section 127 is cognizable

Similarly, your workers, agents and supporters should also be told not to disturb public meeting of rival candidates.

## **9. STRICT OBSERVANCE OF DO'S AND DONT'S**

As already mentioned in chapter IV, the Commission has given two sets of Do's and Don't's for guidance of political parties and candidates for ensuring free, fair and peaceful elections (vide Appendices X-A and X-B). Ensure that not only you but the political party, if any, which has set you up, your agents, workers, supporters and sympathisers also observe those Do's and Don'ts strictly from the time the elections are announced and till their completion.

## **10. RESTRICTIONS ON PRINTING AND PUBLISHING OF ELECTION PAMPHLETS**

10.1 Your attention is also invited to section 127-A of the Representation of the People Act, 1951 which imposes restrictions on the printing and publishing of election pamphlets and posters. This section provides that—

- (a) Every election pamphlet, hand-bill, placard or poster, which is printed or multigraphed by any process (except copying by hand), must bear on the front the name and address of the printer and the name and address of the publishers:
- (b) the printer of any such document must obtain from the intending publisher a declaration (in duplicate) regarding his identity signed by him and attested by two persons to whom he is personally known.(Annexure-A of Appendix XVI)
- (c) As soon as the document is printed the printer must send one copy of the declaration and one copy of the document to the Chief Electoral Officer, if the document is printed at the capital of the State, and to the District Magistrate of the district in which it is printed in any other case;
- (d) Contravention of any of the provisions of the section is punishable with imprisonment up to six months or fine up to two thousand rupees or with both;
- (e) These restrictions however do not apply to any hand-bill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.

10.2 In order that there is strict observance of and compliance with, the requirements of the abovementioned provisions of law the Commission has issued detailed order on 2.9.94 (Appendix XVI). The order mainly provides as follows:-

- (a) The printer should send four copies of the printed material, instead of one as mentioned in sub-para (c) above and one copy of the declaration of the publisher to the chief electoral Officer/District Magistrate within 3 days of its printing, the failure of which should be treated as a violation of the above provisions.

- (b) The printer should furnish along with the declaration and copies of the printed material, full particulars regarding number of copies of the pamphlets, etc., printed and the price charged for such job in the proforma prescribed by the Commission, duly signed and authenticated by such printer. A copy of the proforma prescribed for the purpose is reproduced in Annexure-B of Appendix XVI.
- (c) The District Magistrates shall exhibit at some conspicuous place in their office all the election posters, pamphlets, etc., received by them from the printing press so that the candidates and other interested persons may be able to check in respect of which documents the requirements of law have been complied with so as to enable them to bring to the notice of the authorities concerned the cases of other election posters, pamphlets etc., in respect of which the above requirement of law have been violated.
- (d) The Chief Electoral Officers shall also do like-wise in respect of such documents received by them.
- (e) The District Magistrates and other authorities charged with the detection and investigation of offences have been instructed that they should initiate prompt action and investigation, if any case of publication of election poster, pamphlet, etc. in violation of the abovementioned provisions of section 127-A of the Representation of the People Act, 1951 either comes, or is brought, to their notice. In all such cases, prosecutions should be launched against the offenders expeditiously.

10.3 You must see that all the above requirements of law and the Commission's directives are invariably complied with in respect of the election pamphlets and posters printed and published by you or on your behalf. This is essential for ensuring healthy election campaigns and maintaining purity of elections. Also, don't hesitate to report to the authorities concerned any instances, which come to your notice or knowledge about the publication of any election posters or pamphlets in contravention of the above provisions of law.

## **11. UNOFFICIAL IDENTITY SLIPS**

11.1 The political parties/candidates may issue unofficial identity slips containing the following information to the voters-

- (i) the name and serial number of the voter in the electoral roll;
- (ii) the number of the part of the electoral roll;
- (iii) the serial number and name of the polling station; and
- (iv) date of poll.

11.2 The identity slips should be on white paper and should not contain the name of the candidate and/or the name of his party and/or the election symbol of the candidate or his party. The slips should not also contain any slogans or any exhortation to vote for a party or for a candidate since these slips if carried by the voters to the polling stations would amount to canvassing within the polling

station, which is not permissible. The circulation of any slips within 100 meters of the polling station would also amount to canvassing which is not permissible under the law. Two samples of identity slips are given below for your guidance:

Samples of unofficial identity slips issued to voters for political parties for bye election in Perundurai Assembly Constituency in Tamil Nadu State

---

Perundurai	Polling station	School
Assembly Constituency	Part No. 14	Voter's No. 1653
	Name .....	
	Father's/Husband's name.....	
	Address: .....	

Date of Poll:.....

Serial No.: 2284

House No.: 19

Name:.....

Father's Name:.....

Women-25

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Age:.....

Date of Poll:

Women .....22

**12. POLLING REHEARSALS**

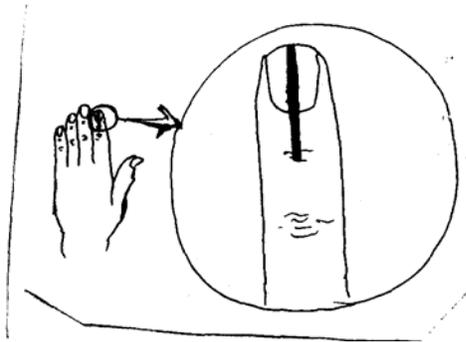
You may arrange for your polling agent to attend polling rehearsals in their respective areas so that they may get familiar with the polling procedure and the operation of voting machines.

**13. EDUCATING THE ELECTORS ABOUT THE VOTING PROCEDURE:**

13.1 Your workers should educate the electors about the voting procedure and, in particular, the manner of recording of votes by means of voting machines. The electors should be advised to use the voting machines and to give their signatures or thumb impressions without any fear. They should be informed that this will not in any way violate the secrecy of their vote or disclose their identity, as the packets of registers of voters containing the signatures/thumb impressions of electors will be sealed, immediately after the close of the poll, with the seals of the Presiding Officers and polling agents of the candidates and such sealed packets shall not thereafter be opened or inspected by any person except under the order of a competent court.

13.2 Your workers should also familiarize the electors about the other details of voting procedure followed at the polling station. The elector should be informed that after an elector's name is located in the electoral roll and his identity established, his left forefinger will be marked with indelible ink. The Commission has now changed the manner of application of indelible ink on

the elector's finger. Now the indelible ink will be applied on voter's left hand forefinger as a line from the top end of the nail to the bottom of the first joint of the left forefinger as shown in the diagram below:-



He will then be required to give his signature or thumb impression on the register of voters. If he puts his thumb impression on the register, he should clean his thumb with the help of a piece of wet cloth or rag provided on the table of the polling officer. This will be necessary to avoid any possible smudge on the voting machine. The electors must be informed about the new manner of marking of the left hand forefinger, so that they may not raise any objection to it at the polling station. The Polling Officer in charge of the control unit of the voting machine will then allow the elector to record his vote on balloting unit kept in the screened voting compartment on the basis of this voter's slip. For this purpose, the polling officer will press the Ballot button on the control unit which will activate the balloting unit to record the vote. The elector will record his vote by simply pressing the 'Candidate' button on the balloting unit against the name and symbol of the candidate of his choice. On pressing the said button, the voter will see a red lamp glowing against the name and symbol of the candidate whose button he has pressed and will also hear a beep sound emitting from the control unit. These audio and visual indications are confirmation of the fact that his vote has been duly recorded for the candidate of his choice.

#### **14. DUMMY BALLOT PAPER**

You may print dummy ballot papers using your own name and symbol and indicating the place where it would appear on the actual ballot paper, which will be displayed on the balloting unit. The dummy ballot paper should not, however, contain the actual names and symbols of the other contesting candidates in the constituency. They can be printed on any colour other than pink and white, such as, brown, yellow or grey. You must make sure that dummy ballot papers do not resemble the genuine ballot papers in size and colour.

#### **15. DUMMY BALLOTING UNITS**

There is also no objection to your preparing dummy balloting units for the purpose of educating the voters. The dummy balloting units may be made of wooden, plastic or ply board boxes, half the size of the official balloting units and may be painted brown, yellow or grey. These dummy balloting units may have provision for showing your serial no., name and symbol as in dummy

ballot paper. It may also have a battery operated button and a lamp which may burn on the button being pressed.

## **16. SYMBOL**

For the convenience of the voters, you may print copies of your symbol and distribute them, but the voters cannot carry with them the paper containing the symbol to the polling station.

## **17. LIST OF DEAD, ABSENT AND BOGUS VOTERS**

17.1 In the course of canvassing for votes on your behalf, your workers and agents may find that some of the voters whose names appear in the electoral roll are dead, that some voters may have more or less permanently left the locality and yet others are not real persons. Your workers may be asked to prepare a list of such dead, absent or bogus voters for each polling station separately. If possible get a list of such voters agreed to by all the contesting candidates and arrange to deliver the agreed list to the Returning Officer at least 7 days before the first day of the poll in the constituency. Even if the list cannot be agreed to by all the contesting candidates, get as many of them to agree as possible, or, failing even that, supply the Returning Officer with your own list.

17.2 The list should be correctly prepared. Care should be taken that the name of no real voter is included therein. It will cause annoyance if any real voter is wrongly included in the list of dead, absent or bogus voters and his right to vote is questioned at the polling station.

17.3 Hand over to your polling agent for each polling station a copy of the list of such dead, absent or bogus voters for that polling station so that he may watch for any person coming to vote in the name of any such voter on the polling day and may draw the attention of the Presiding Officer to the fact.

17.4 By following the above instructions diligently, you will not only help yourself but also assist the election authorities materially in preventing bogus voting.

## **18. DEATH OF A CANDIDATE BEFORE POLL**

18.1 The law (Section 52 of R.P. Act, 1951), which earlier provided for countermanding of election on the death of any candidate has recently undergone a significant change by the Representation of the People (Amendment) Act, 1996. As per the amended Section 52 only in the event of death of a candidate set up by a recognised political party in the following circumstances the poll shall be adjourned:-

(a) The said candidate dies at any time after 11.00 a.m. on the last date for making nomination and his nomination is found valid on scrutiny under section 36; or

(b) his nomination has been found valid on scrutiny under section 36 and he has not withdrawn his candidature under section 37, and he dies,

and in either case a report of his death is received at any time before the publication of the list of contesting candidates under section 38; or

(c) he dies as a contesting candidate and a report of his death is received before the commencement of the poll.

- 18.2 The Returning Officer on being satisfied about the fact of the death of the candidate, will order the adjournment of the poll to a date to be notified later by the Election Commission.
- 18.3 In the case of death of a candidate as mentioned at (a) above, the order of adjournment of poll will be made only after the scrutiny of all nominations including the nomination of the deceased candidate. In such case, it should be noted that the candidate shall be deemed to have been set up by recognised political party only if all the requirements mentioned in para 13 of the Election Symbols (Reservation and Allotment) Order, 1968 have been fulfilled by the time of death of the candidate. If the party has not given intimation regarding setting up of the candidate in the prescribed forms 'A; and 'B' by the time of the death of the candidate, the candidate shall not be deemed to have been set up by a recognised political party for the purpose of adjournment of poll. In such a case, contention of any party that it would have furnished the required intimation by 3.00 p.m. of the day (as required under para 13 of the Symbols Order) cannot be accepted.
- 18.4 Another important point to note in this connection is that recognised political party, for the purpose of section 52 of Representation of the People Act, 1951, means a recognised National party or a party recognised as a State Party in the State concerned. A party recognised as a State Party in a particular State will be treated only as a registered un-recognised party in other State where it is not recognised as State Party, even if that party has been granted concession to use its symbol in other States. Therefore, poll will not be adjourned on the death of a candidate set up by such a party.
- 18.5 On receipt of the report from the Returning Officer about the death of the candidate set up by a recognised political party, the Election Commission will call upon the concerned political party to nominate another candidate for the said election in place of the deceased candidate. The political party will have to make the nomination within seven days of the issue of notice to that effect by the Election Commission. Nomination of such candidate will also be done in the prescribed form (i.e., Form 2A or 2B, as the case may be) and he will also have to make a fresh security deposit. The nomination in the prescribed form should also be accompanied by the required intimation from the party in Form A and Form B prescribed under paragraph 13 of the Election Symbols (Reservation & Allotment) Order, 1968. All other requirements of law relating to nomination, scrutiny of nomination, withdrawal of candidature in respect of such candidate have also to be followed.
- 18.6 A person who had given a notice of withdrawal of his candidature under sub-section (1) of section 37 before the adjournment of poll is eligible to be nominated as a candidate in place of the deceased candidate.
- 18.7 If the list of contesting candidates had already been published under section 38, before the adjournment of poll the Returning Officer will prepare and publish a fresh list of contesting candidates including the name of the candidate nominated in place of the deceased candidate.
- 18.8 Further stages of the election will continue as per the revised schedule notified by the Commission.

**CHAPTER-IX**  
**PREPARATION FOR THE POLL**  
**COMMISSIONING OF ELECTRONIC VOTING MACHINES**

**PRELIMINARY**

1. While you are busy in your election campaign, the Returning Officer will be equally busy in making arrangements and preparations for the conduct of poll. The Returning Officer must have already procured the requisite number of voting machines for use in the constituency. Immediately after the list of contesting candidates is prepared, the Returning Officer will know the exact number of balloting units which he will have to supply to each polling station as one balloting unit can cater upto sixteen candidates only. He will make an immediate reassessment of the balloting units required for use in the constituency and obtain immediately the additional balloting units, if necessary, on such reassessment.

He will keep sufficient number of machines in reserve stock to meet any unforeseen or emergent situation.



**Control Unit**



**Balloting Unit**

**2. THOROUGH TESTING OF MACHINES**

Each and every machine has been thoroughly tested by the manufacturing companies for its 100% error free functioning at the time of poll. However, these machines will be again got tested before the election so that if any repair/replacement is needed, the needful may be done in time.

**3. COMMISSIONING OF THE MACHINES**

Before a voting machine is supplied to a Presiding Officer for use at a polling station, some preparations are to be made in it at the Returning Officer's level. The details of such preparations on the balloting units and the control units are explained in the following paragraphs. These preparations will be made in the presence of the candidates and/or their agents.

**4. NOTICE TO THE CANDIDATES ABOUT DATE AND TIME OF PREPARATION OF VOTING MACHINES**

- 4.1 The Returning Officer will at least one week before the date on which the preparation of the voting machines is to be taken up, give notice of the same in writing to each candidate or his election agent intimating him the place or

places where the machines will be so prepared and the date and time at which such preparation will commence. He will also intimate the number of representatives that every candidate will be permitted to bring with him at the aforesaid place or places.

- 4.2 If for any reason whatever, none of the candidates or their agents is present on the date and time given in the notice sent to them, the Returning Officer has instruction not to postpone the operation of preparing the voting machines. He will go ahead even if no candidate or agent is present.

## **5. PREPARATION OF THE BALLOTING UNIT**

Each balloting unit has to be prepared at the Returning Officer's level by:-

- (a) Inserting and fixing ballot paper in the space meant for the purpose;
- (b) Masking the candidates buttons which are not required to be used, depending on the number of contesting candidates;
- (c) Setting the slide switch at the appropriate position i.e., 1, 2, 3 or 4, as the case may be, according to the number of such units which are to be used depending upon the number of contesting candidates and the sequence in which each unit is to be used; and
- (d) Sealing the unit.

## **6. FIXING THE BALLOT PAPER**

- 6.1 On every balloting unit, a printed ballot paper shall be displayed in the space specially provided for the purpose under a transparent acrylic sheet (ballot paper screen). The ballot paper shall contain the serial number of each candidate, his name and the election symbol allotted to him as per the list of contesting candidates. Where the number of contesting candidates exceeds sixteen the ballot paper shall be printed on more sheets than one as each balloting unit will cater upto sixteen candidates only. Where the number of candidates exceeds sixteen but is equal to or less than thirty two, the ballot paper shall be printed on two sheets – the first sheet containing the names, etc., of candidates from Sl. Nos. 1 to 16 and the second sheet containing the names, etc., of candidates from Sl. Nos.17 onwards. Likewise, where the number of candidates exceeds thirty-two and is upto forty eight, the third sheet will contain the names, etc., of candidates from Sl. Nos.33 onwards and upto 48, and where the number of candidates exceeds forty-eight, the fourth sheet will contain the names etc., of candidates from Sl. Nos. 49 onwards. In such cases, each sheet of the ballot paper will be displayed on a separate balloting units.

- 6.2 Every ballot paper shall have a serial number and sheet number where printed on more than one sheet. The sheet number will be indicated as  $\frac{1}{2}$ , if it is the first sheet and two sheets are used,  $\frac{3}{4}$ , if it is the third sheet and four sheets are used and so on. Before it is inserted and fixed on a balloting unit, it shall be either signed on its back by the Returning Officer or stamped on its back with a rubber stamp bearing the facsimile signature of the Returning Officer.

6.3 For fixing the ballot paper under the ballot paper screen, first the top cover of the balloting unit has to be opened. This can be done by pressing simultaneously, towards right, the latches at the top and bottom on the right edge of the unit and swinging the cover up. The top cover and the lower portion of the balloting unit will then open like a book. Thereafter, the ballot paper screen, which is hinged to the top cover on the extreme left side will be opened. The release latches of the screen are inside the top cover. By pressing the latches simultaneously, first slightly towards right and then pushing them downwards the ballot paper screen will become free for opening on the upper side of the top cover. After so opening the ballot paper screen, the ballot paper will be placed in the space provided for the purpose on the upper side of the top cover of the balloting unit. The ballot paper will be properly aligned so that each candidate's name and his symbol are in line with the corresponding lamp and button and the thick lines dividing the panels of candidates on the ballot paper are in line with the corresponding grooves on the balloting units.

6.4 After ballot paper has been firmly fixed and the ballot paper screen has been closed and pressed-fit on the upper side of the top cover, the screen will be sealed on the inner side of the top cover, by passing a thread through the two holes on the screen specially provided for the purpose on the inner side. The two ends of the thread will be placed on an address tag and the Returning Officer will put his seal on the thread and the address tag. The address tag will contain the following particulars:-

"Election to the ..... From ..... Constituency  
Serial No. of balloting unit .....  
Date of poll....."

This address tag may be hanging loosely and may drop on the candidate's button while closing the top cover. Hence it will be pasted to the upper cover with cello-tape.

**7. MASKING OF CANDIDATES' BUTTONS, WHICH ARE NOT TO BE USED**

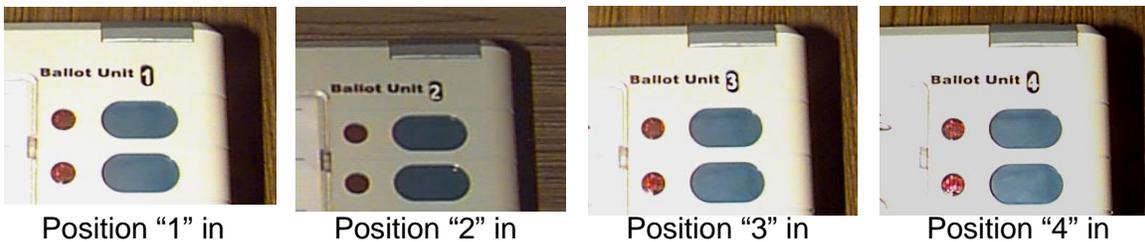
On the balloting unit, only those candidates' buttons should be visible which are to be used by voters. In other wards, the number of candidates' buttons, which should be visible will be equal to the number of contesting candidates. For example, if the number of candidates is nine, only the nine buttons from the top (i.e., 1 to 9) should be visible and the remaining seven buttons (i.e., 10 to 16) should be masked. The masking of the unwanted buttons will be done by moving the white masking tabs on to the candidates' button, when the balloting unit is still open like a book as explained above. The unmasked buttons will look blue and masked buttons will look white.



## Masking and unmasking of Candidates' buttons

### 8. SETTING OF SLIDE SWITCH

- 8.1 Inside the balloting unit, on the top right side, there is a slide switch, which has four positions 1, 2, 3 and 4. The positioning of this slide switch determines the serial order in which a particular balloting unit is to be linked with the control unit and kept inside the voting compartment for use at a polling station.
- 8.2 Where the number of contesting candidates is upto sixteen only one balloting unit will be used. In such case, the slide switch shall be set to the position marked '1'. Where the number of contesting candidates is more than sixteen and upto thirty two, two balloting units will be used. In the first balloting unit, the ballot paper containing the names of candidates at serial nos. 1 to 16 will be fixed, and its slide switch shall be set to the position marked '1' and in the second balloting unit where the ballot paper containing the names of candidates from 17 onwards is fixed its slide switch shall be set to the position marked '2'.
- 8.3 Likewise, if three balloting units are to be used in a constituency where the number of contesting candidates exceeds 32 and is upto 48, the slide switch will be set to the position marked '3' in the third balloting unit. Similarly, if the fourth balloting unit is also to be used in case the number of contesting candidates exceeds 48, then the slide switch will be set to the position marked '4' in the last balloting unit.



Position "1" in

Position "2" in

Position "3" in

Position "4" in

Balloting Unit No.1

Balloting Unit No.2

Balloting Unit No.3

Balloting Unit No.4

Any wrong setting of a slide switch will render the whole voting machine non-functional. (After setting the slide switch to the correct position and before sealing the balloting unit, the Returning Officer has to ensure that the slide switch is held in position with the help of transparent cello tape.

### 9. SEALING OF THE BALLOTING UNIT

- 9.1 After the ballot paper has been inserted, fixed and sealed under the ballot paper screen, the candidates' buttons which are not required for use have been masked and the slide switch has been set to the required position and held tight in place with the help of transparent cello tape, the balloting unit will be closed by bringing the top cover back to its original position. The balloting

unit will then be sealed by the Returning Officer with his own seal, by passing two threads, one through the three holes at the top and the other through the three holes at the bottom specifically provided for the purpose, and attaching an address tag containing the following particulars:-

"Election to the ..... from .....Constituency

Balloting Unit No. ....

Serial No. and name of polling station where used .....

Date of poll ....."



### Sealing of the balloting unit

- 9.2 The candidates or their agents will be allowed, if they so desire to affix their seals on these address tags, in addition to the Returning Officers' seal.
- 9.3 After the balloting unit has been so prepared and sealed, it will be kept back in its carrying case. An address tag containing the above particulars will be attached to the handle of the carrying case.

## 10. INTER-LINKING OF BALLOTING UNITS AND CONTROL UNIT

- 10.1 Where the number of contesting candidates exceeds sixteen, balloting units more than one, depending upon the actual number of contesting candidates, will be used. All such balloting units to be used at a polling station are to be inter-linked and only the first balloting unit will be linked with the control unit.
- 10.2 The balloting units shall be so inter-linked that the second balloting unit, i.e., the balloting unit in which the slide switch is set at position 2, is linked with the first balloting unit in which the slide switch is set at position 1. Where three balloting units are to be used, the third balloting unit will be linked with the Second balloting unit and the second with the first, and where all the four balloting units are to be used, the fourth unit will be linked with the third unit, the third with the second and so on.
- 10.3 For linking one balloting unit with another, there is a socket provided in a compartment at the back in the middle of the balloting unit. The connector of the interconnecting cable of the second balloting unit will be plugged into the abovementioned socket of the first balloting unit. Likewise, the connector of

the third balloting unit's interconnecting cable will be plugged into the second unit and that of the fourth unit into the third unit.



Socket for linking one Balloting Unit with the other Balloting Unit at the Back of Balloting Unit

- 10.4 As mentioned above, the first balloting unit alone will be plugged into the control unit. The socket for plugging the interconnecting cable of the balloting unit into the control unit is provided in the rear compartment of the control unit.
- 10.5 That rear compartment in the control unit also contains the 'Power' switch and this switch when put to 'ON' position makes the battery of the voting machine operational and supplies the power both to the control unit as well as to all the balloting units when linked to the control unit in the manner described above.



Power Switch Control Unit

- 10.6 any wrong linking of the balloting units will render the machine non-functional and on pressing any button on the control unit the letters 'LE' indicating linking error will appear on the display panel of the control unit. The linking error can be set right by re-interlinking the balloting units in the proper sequential order.

## 11. PREPARATION OF CONTROL UNIT

Like the balloting unit, some preparations are also to be made in the control unit of the voting machine at the Returning Officer's level. These preparations are:-

- (1) Installation of the battery;
- (2) Setting the number of contesting candidates; and
- (3) Sealing that election of the Control unit which is called 'Candidate Set Section' and which contains the battery and the button to set the number of candidates.

## 12. BATTERY INSTALLATION

The Electronic Voting Machine operates on a special 6 volts alkaline battery, which is supplied by the manufacturing company. A new battery will be used whenever a machine is used at any election. There is provision for installation of the battery in compartment on the top left side in the 'Candidate Set Section' of the control unit.



**Battery Installation**

## 13. SETTING THE NUMBER OF CONTESTING CANDIDATES

13.1 A control unit of the voting machine can cater upto sixty four candidates. Therefore, at every election where the voting machine is used, the control unit has to be set according to the number of contesting candidates at that election. For setting the number of contesting candidates, the following operations shall be performed:-

- (i) The number of contesting candidates can be set in the control unit only by linking this unit with the balloting unit or with all the balloting units where more than one balloting units are to be used.
- (ii) After the control unit and the balloting unit(s) have been linked, the 'Power' switch will be put to 'ON' position so that both the units get the necessary power to make them operational.
- (iii) The button marked 'Cand Set' in the 'Candidate Set Section' of the control unit will then be pressed. Thereupon, the two-digit Display Panel on the left side of the Display Section of the control unit will flash the letters 'Cd' and the four digit Display Panel on the right side will flash.

- (iv) When the letters 'Cd' start flashing on the Display Panels on the control unit, the Candidate's button against the last contesting candidate in the balloting unit(s) will be pressed. For example, if there are nine contesting candidates and the machine is to be set for nine candidates, candidate's button of the ninth candidate on the balloting unit will be pressed. If the number of contesting candidates is more than 16, say, 23 the candidates button against the name of the contesting candidate at serial No.23 in the second balloting unit will be pressed. On that button being pressed, the Display Panels will stop flashing the letters 'Cd' and instead the full Panel will display the number of candidates for which the machine has been so set, like Cd 9' or, as the case may be 'Cd 23'.
- 13.2 If by mistake, a wrong button on the balloting unit has been pressed which will set either less or more number of contesting candidates, such wrong setting can be corrected by pressing the 'Cand Set' button again. The machine will again flash the letters 'Cd ' and the correct button on the balloting unit can be pressed so as to set the correct number of contesting candidates.
- 13.3 The number of contesting candidates can be set in any number of Control Units by using only one balloting unit or one set of balloting units (where more than one balloting units are to be used depending upon the number of contesting candidates).

**Note—The above operation will be applicable in the case of BEL make of Electronic Voting Machine. In the case of ECIL make of Electronic Voting Machine, the operation will start with the pressing of the 'CLEAR' button and then pressing the 'Cand Set' button.**

#### **14. CLEARING THE MACHINE**

- 14.1 After the number of contesting candidates has been set in the control unit in the manner described above, all the data recorded in the machine relating to a previous election, if any, will have to be cleared. For this purpose, the button marked 'Clear' in the Result section of the control unit will be pressed. On the 'Clear' button being pressed, all the counts in the machine shall be automatically set to ZERO and the display panels on the control unit will start displaying that the number of votes recorded in the machine for each contesting candidate is '0' (ZERO).
- 14.2 After the control unit has been set according to the number of contesting candidates at the election and the previous data cleared, the power will be switched off and the control unit and the balloting unit(s) will be delinked by removing the inter-connecting cable from the control unit.

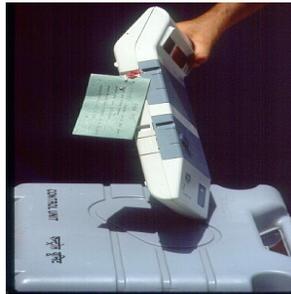
#### **15. SEALING THE 'CANDIDATE SET SECTION'**

- 15.1 After the battery has been installed in the 'Candidate Set Section' and the control unit has been set according to the number of contesting candidates, the compartment on the right side containing the 'Cand Set' button will be closed by bringing down inner door and sealing it after passing a twine thread through the holes of the inner door and the compartment, tying a knot and sealing the knot with molten sealing wax stick. Then the 'Candidate Set

Section' will be closed and sealed so that nobody can have access to the battery and the 'Cand Set' button in the 'Candidate Set Section' thereafter.

- 15.2 The 'Candidate Set Section' will be closed by replacing the cover and pressing it tight. It will be sealed by passing a thread through the two holes provided for the purpose on the left side giving a tight knot to the thread and placing the two ends of the thread on an address tag which will be sealed with the Returning Officer's seal. The address tag will contain the following particulars:-

Election to the .....From ..... Constituency  
Control Unit No. ....  
Serial No. and name of polling station where used .....  
Date of Poll .....



**Sealing the 'Candidate Set Section'**

- 15.3 The candidates and their agents shall be allowed to put their seals, if they so desire, on the address tag alongwith the seal of the Returning Officer. The Control unit will then be put in its carrying case, which will now be ready for transportation to the polling station. On the handle of the carrying case of control unit also, an address tag will be attached containing the above particulars.

## **16. RANDOM CHECKING OF VOTING MACHINE**

- 16.1 Though each and every voting machine has already been fully tested, the Returning Officer will again get 5% of the machines to be used at the election, subject to a minimum of 10 machines, tested and checked at random for their 100% error free performance after the machines have been prepared in the manner described in the foregoing paragraphs. For this purpose, he may ask the candidates and their agents present to choose the machines, which may be tested for such random check.
- 16.2 For conducting the above random test and check, the Returning Officer will hold a mock poll on those machines by casting a few votes at random for each of the contesting candidates. Detailed instructions as to how the machines should be operated upon for holding the mock poll are given in para 22 of Chapter X.
- 16.3 After the conduct of the mock poll, the machines will be cleared of the data recorded at the mock poll and all counts will again be put to ZERO in all in the machines used for the mock poll.

## **17. SAFE PRESERVATION OF PREPARED VOTING MACHINES**

- 17.1 All the voting machines which have been prepared for use at the election, including the reserve machines, will be kept and preserved in safe custody in a strong room under double lock which will be sealed with the seal of the Returning Officer. The candidates and their agents will also be permitted to put their seals on the lock, if they so desire.
- 17.2 The strong room will be opened only on the appointed date and time when the machines are to be supplied to polling parties before they leave for their polling stations. All contesting candidates or their election agents will be given prior notice in writing of such date and time of opening of the strong room. A proper log book will be maintained giving details of such closing and opening of the strong room.
- 17.3 The strong room will be kept fully guarded of all times under the charge of a Senior Police Officer.

## **18. MAINTENANCE OF RECORDS OF VOTING MACHINES**

The Returning Officer will maintain complete record of all the control units and balloting units used at the election. That record will show clearly the number of control unit and balloting unit(s) used at each polling station alongwith the serial numbers of each such unit. The record will also show the number of control units and balloting units alongwith their serial numbers, which have been prepared for use and kept in reserve. If any of such control units or balloting units is put to use, a complete record as to where each such unit was used will be properly maintained which will also show the reasons for which the use of such reserve unit became necessary.

## **19. SUPPLY OF VOTING MACHINES TO POLLING PARTIES**

- 19.1 The voting machines will be supplied only to the Presiding Officers or in their unavoidable absence, to the first polling officers of the polling stations against a proper receipt to be obtained from each Presiding Officer in a register to be kept separately for the purpose.
- 19.2 That register will have further provision for keeping proper account of the machines received back from the Presiding Officers.
- 19.3 The reserve machines will be kept at a central place or places in the constituency on the day of poll so that the same may be supplied with least possible delay to any polling station where an emergent need arises for replacement of any control unit or balloting unit(s). These machines will be kept under the charge of one of the Assistant Returning Officers or some other senior officer specifically nominated for the purpose by the Returning Officer.

## **CHAPTER-X**

### **POLLING DAY**

#### **1. INTRODUCTORY**

Poll is the most important event in the election process. It is through the poll that the electors express their choice of the candidate to represent them in Parliament or State Legislature.

#### **2. DECLARATION OF HOLIDAY ON POLLING DAYS**

The election law provides that every person employed in any business, trade, industrial undertaking or any other establishment and entitled to vote at election to the House of the People or Legislative Assembly of a State, shall, on the day of poll, be granted a holiday. No deduction or abatement of wages of any such person shall be made on account of such paid holiday.

#### **3. PROHIBITION OF CANVASSING**

The election law prohibits canvassing in or near polling stations on polling day. No person shall commit any of the following acts within a polling station or in any public or private place within a distance of 100 meters of a polling station, namely:

- (a) canvassing for votes;
- (b) soliciting the vote for any elector.
- (c) persuading any elector not to vote for any particular candidates;
- (d) persuading any elector not to vote at the election;
- (e) exhibiting any notice or sign (other than an official notice) relating to the election;
- (f) using or operating within or at the entrance of the polling station or in any public or private place in its neighbourhood any apparatus for amplifying or reproducing the human voice, such as megaphone or a loudspeaker; and
- (g) shouting or otherwise acting in a disorderly manner within or at the entrance of a polling station or in any public or private place in the neighbourhood.

N.B.- The distance from which a loudspeaker, etc, is used is immaterial. The offence will be committed even if it is used from a distance of more than 100 meters if it causes annoyance to any person visiting the polling station for the poll or interference with the work of officers and other person on duty at the polling station.

#### **4. CANDIDATE'S ELECTION BOOTHS**

According to the instructions issued by the Commission, no election booths of the candidates should be allowed to be set up near the polling station on the day of poll, as such booths pose many difficulties in the way of holding free, fair and smooth elections by creating obstructions to voters, confrontation among various party workers and law and order problems. However, the

candidates may provide one table and two chairs for the use of their agents and workers for the distribution of unofficial identity slips to voters beyond a distance of 200 meters from the polling station with an umbrella or a piece of tarpaulin over their head to protect from the sun/rain. No crowd should be allowed to collect around such tables.

## **5. PREVENTION OF VOTERS FROM VOTING**

It is cognizable offence to detain any voters in a camp or any other place whether with or without his consent or obstruct his way to polling station or to prevent him from voting in any manner. If you receive information that any person is so detained or obstructed or prevented you should report the matter to the Presiding Officer, or to the nearest police station or to the Returning Officer, who will take effective action to enable the person who are wrongly detained or obstructed or prevented to exercise their franchise even if the detention or obstruction is done in a private place.

## **6. ILLEGAL HIRING OR VEHICLES FOR THE CONVEYANCE OF VOTERS**

Do not allow anyone on your behalf to provide conveyance for voters on the polling day. It is both a corrupt practice and an electoral offence. If you find any other candidate or his agents, supporters or workers providing such conveyance for voters you should make a complaint in this regard then and there and take action to prosecute the offender, under section 133 of the Representation of the People Act, 1951. If you do not do so and merely send a complaint to the election authorities, much valuable evidence against the offenders would be lost. You may also use this as ground for filling an election petition against the offending candidate in due course as free conveyance of voters from or to polling station is also a corrupt practice. Your polling agent can also make a written complaint in this regard to the Presiding Officer who will forward the same to the Magistrate concerned who has jurisdiction to deal with such cases. You may also ask the Presiding Officer to record his remarks on the complaint from his own observations.

## **7. REGULATION OF TRAFFIC ON THE DAY OF POLL**

7.1 In order to check the corrupt practice and electoral offence of providing free conveyance for voters on the day of the poll, the Commission has devised a scheme. The main guidelines of the scheme are as under:

- (1) The objective is that the polling areas should be cordoned off from all vehicular traffic on the polling day in order to prevent the voters from being carried to and from polling booths in contravention of the election law.
- (2) Public transport vehicles like buses, minibuses are allowed to ply but it should be ensured that they are not used clandestinely for the conveyance of voters.
- (3) Private cars, taxis carrying passengers to places other than polling booths like hospitals, airports, railway stations, bus stands, friends and relations houses, clubs, restaurants will, however, be allowed on the road. But they should not be allowed to come clandestinely near the

polling areas for the conveyance of voters. The traffic of these vehicles will be so diverted as to effectively control their misuse.

- (4) The plying of lorries, trucks will also be similarly regulated.
- (5) The district magistrate, Regional Transport Authorities etc., will be instructed to enforce effectively and fully the regulation, both in letter and spirit, and a certificate shall be obtained from the concerned authorities.
- (6) The political parties and contesting candidates and amongst them, their agents and workers shall be warned that any contravention of the regulation would receive serious notice and may provide sufficient materials for challenging the election in an election petition and also invite penal action under the law.
- (7) The candidates, their election agents, their workers and leaders of political parties will be permitted to use only two vehicle each on the polling day on issue of permits as follows for all Assembly Constituency:
  - (a) one vehicle for the candidate,
  - (b) one vehicle for election agent of the candidate or his workers or leaders and workers of political party which has set up that candidate.
- (8) In the case of an election from a parliamentary Constituency, the number of vehicles which may be likewise used by a candidate and his agents, workers and leaders of his political party will be:-
  - (a) one vehicle for the candidate's – use in the entire Parliamentary Constituency, and
  - (b) one vehicle in respect of each Assembly segment comprised in the Parliamentary Constituency for use of his agents, workers and leaders of his political party.
- (9) The permits printed in bold letters with the legend "Election Permit" with the super inscription of the seal and signature of the authority issuing the permit shall be displayed prominently on the windscreen of the vehicle.

7.2 You should follow the above guidelines of the Commission's scheme meticulously and should obtain permits for the vehicles to be used by you and your party workers on the day of the poll well in advance.

7.3 It should be further noted that no Cars/vehicles shall, under any circumstances be allowed to move in convoys of more than three vehicles. All bigger convoys shall be broken up even if they are carrying Ministers of Central or State Govt., or any other person, subject, however to any security instructions issued in respect of any such individual.

## **8. REMOVAL OF BALLOT PAPERS ON VOTING MACHINE FROM POLLING STATION TO BE AN OFFENCE**

If you or your agents honestly suspect that any voter is illegally taking any ballot paper or a voting machine out of polling station or unauthorisedly or fraudulently tampering with the same, draw the attention of the Presiding Officer to the matter immediately for necessary action on his part.

## **9. REMOVAL OF DISORDERLY PERSONS**

Any person, who misconducts himself or fails to obey lawful directions of the Presiding Officer during the poll, may be removed from the polling station under his order by any police officer or other persons authorised by him.

## **10. POLLING AGENTS**

- 10.1 It will be physically impossible for you or your election agent to be present during poll at every polling station in your constituency. Someone should, therefore, be present to watch your interests at every polling station. The law permits you to appoint a polling agent and two relief agents at each polling station. They are all known as polling agents. It is, however, not obligatory on your part to appoint polling agents to any or all the polling stations yourself. Your election agent may also make any of these appointments on your behalf. However, only one of three polling agents for a polling station is entitled to be present at a time inside the polling station. They can relieve one another from time to time. It should be noted that a Minister shall not be appointed as polling agent under any circumstances, as his personal security shall be jeopardised with such appointment because his security personnel will not be permitted to accompany him into the polling station.
- 10.2 The appointment of polling agents is made in writing in Form 10 (Appendix XVII). You are not required to send a copy of the appointment order to the Returning Officer. The polling agent should produce the appointment order in original at the polling station so that the Presiding Officer may admit him into the polling station. A polling agent should sign the letter of appointment in Form 10 in token of his agreement to act as your polling agent. It is advisable that his signature is placed in your presence or in the presence of your election agent, if the latter makes the appointment, the polling agent will also have to sign again in the presence of the Presiding Officer at the polling station. He should be asked to sign before the Presiding Officer in the same manner as he signed before you or your election agent so that there will no discrepancy in his signature. This will help in his identity being readily accepted.
- 10.3 To enable the Presiding officer of a polling station to verify the signature of the candidate or his election agent as given in appointment letter in Form 10, your specimen signature or that of your election agent shall be obtained by the Returning Officer on the format (Appendix XVIII) and copies thereof in sufficient number shall be supplied to each Presiding Officer, Observers of the Commission, Zonal Magistrate and Sector Magistrate etc., in the constituency. If you have not appointed any election agent, then in the column meant for the signature of the election agent the words "No Election agent appointed" shall be recorded in the said Format. You are at liberty to revoke the appointment of an election agent and to appoint another person in his place. If such a change in the appointment is made at the last moment when the Presiding Officer has already been supplied with the copy of the Format (Appendix

XVIII) containing the specimen signatures as originally furnished by you, then it shall be your responsibility to supply a copy of Form 9 revoking the appointment of the election agent and to supply a copy of Form 8 appointing the new election agent to the Presiding Officer.

- 10.4 You or your Election agent may revoke the appointment of any of your polling agents in writing in Form 11 (Appendix XIX) and lodge the revocation order with the Presiding Officer of the polling station. If a polling agent happens to die before the poll, you or your election agent should inform the Presiding Officer. In the case of revocation or death, you or your election agent may appoint another polling agent by a fresh letter of appointment in Form 10 in the same manner as before, but in such a case, state in the letter the facts leading to such appointment.

**11. WHEN POLLING AGENT CAN VOTE BY POST**

Polling Agents should be appointed at least seven days before the date of the poll to enable them to apply for postal ballot paper. It is permissible for a polling agent who is on duty at the polling station away from his place of residence and who cannot personally vote at the polling station where he is entitled to vote, to apply to the Returning Officer for permission to vote by post. This application should be made at least seven days before the first day of the poll in his constituency or at such shorter period as the Returning Officer may allow. If the application is allowed, he will be supplied with the postal ballot paper along with necessary form of declaration, instruction, covers, etc., by the Returning Officer. The polling agent will then vote by postal ballot only and will not be allowed to vote personally. The application for postal ballot should be made in form 12 (Appendix XX) copies of this form can be obtained from the Returning Officer.

**12. When polling Agent should reach the polling station**

The polling agent should reach the polling station at least one hour before the commencement of the poll. This will enable him to be present when the Presiding Officer prepares the Voting Machines for taking the poll and goes through the other preliminary/arrangements before the commencement of the poll. If any part of these preliminaries has already been gone through, the proceedings will not be commenced de-novo to accommodate any latecomer. Each polling agent will be supplied by the Presiding Officer with a pass on the authority of which the polling agent can go in and out of the polling station as may be necessary.

**13. DUTIES OF POLLING AGENT**

- 13.1 The main duty of your polling agent is to see that your interests are safeguarded at the polling station, for which he has been appointed as your polling agent. His other duties are-
- (a) to help the Presiding Officer to detect and prevent impersonation of voters by challenging persons who try to impersonate voters;
  - (b) to help in having the Voting Machines properly secured and sealed according to the rules before and after the poll;

- (c) to take a copy of the account of votes recorded and paper seal account in Form 17-C from the Presiding Officer after the close of the poll; and
- (d) to see that the documents relating to the poll are also secured and sealed properly as required by law.

13.2 The Commission has brought out a separate “Handbook for polling Agents” which you may purchase in sufficient numbers for distribution among the polling agents, if considered necessary. These are available with the Chief Electoral Officer of your State/Union Territory.

#### **14.1 THINGS TO BE BROUGHT BY POLLING AGENT**

The polling agent should provide himself with the following items which he comes to the polling station:-

- (a) his letter of appointment;
- (b) a copy of the electoral roll for the polling station;
- (c) a list of the names of the dead, absent or bogus voters included in the list;
- (d) a small brass seal, which he can use for putting his seal on the carrying case(s) of the balloting units(s) before they are transported to the counting/collection center.; and
- (e) pen, paper and pencil.

#### **14.2 WEARING OF BADGE BY THE POLLING AGENTS**

The polling agent is prohibited from wearing any badge containing the photograph of the candidate or any other political leader and also displaying any slogan or exhortation to vote within the polling station or one hundred meters thereof. If he does so, his act will amount to a cognizable offence punishable with fine, which may extend to Rs.250. He should, however, display on his person the identity pass issued to him by the Presiding Officer.

#### **15. ARRANGEMENT AT POLLING STATIONS**

Outside each polling station there will be displayed prominently a notice specifying the polling area, the electors who are entitled to vote at the polling station and the list of the contesting candidates.

#### **16. ADMISSION TO POLLING STATIONS**

Apart from the electors, only the following persons can be admitted into the polling station by the Presiding Officer:

- (a) Polling Officers;
- (b) each candidate, his election agent and one polling agent of each candidate at a time;
- (c) persons authorised by the Election Commission;
- (d) public servants on duty in connection with the election;

**N.B:** The expression "public servants on election duty" would not include police officers (unless called for by the Presiding Officer for maintenance of law and order in the polling station or any other purpose), Ministers, Ministers of State and Deputy Ministers of the Union or the State/Union Territories.

- (e) Observers appointed by the Commission;
- (f) a child in arms accompanying an elector;
- (g) a person accompanying a blind or an infirm voter who cannot move without help; and
- (h) such other persons as the Presiding Officer may from time to time admit for the purpose of identifying voters or otherwise assisting the Presiding Officer in taking the poll.

**NB:** No security personnel accompanying, if any, an elector, candidate or his election agent or polling agent shall be allowed to enter the polling station.

## **17. SEATING OF POLLING AGENTS**

17.1 The Presiding Officer will make arrangements to provide seats to the polling agents at such place from where they will have adequate opportunity of identifying electors, seeing the entire operation at the Presiding Officer's table or the table of the third Polling Officer (where the control unit of the voting machine will be kept), and also seeing the movement of the elector from the Presiding Officer's table or the table of the third Polling Officer (where the control unit of the voting machine will be kept) to the voting compartment (where the balloting unit(s) of the voting machine will be kept) and the elector leaving the polling station after he has recorded his vote in the voting compartment.

17.2 According to the latest instructions of the Commission, the seating arrangement at the polling station for the polling agents of candidates shall be guided by the following categories of priorities, namely,

- (i) candidates of recognised national parties,
- (ii) candidates of recognised state parties,
- (iii) candidates of recognised state parties who have been permitted to use their reserved symbols in the constituency,
- (iv) candidates of registered unrecognised parties, and
- (v) independent candidates.

## **18. PRELIMINARIES BEFORE THE COMMENCEMENT OF POLL**

About one hour before the time fixed for the commencement of poll, the Presiding Officer will start going through the preliminary preparations for the conduct of poll. The Presiding Officer will—

- (a) demonstrate to the polling agents and other persons present that the voting machine to be used for the poll is clear and no vote is already record therein;
- (b) conduct a mock poll to satisfy the polling agents that the voting machine is functioning properly;
- (c) clear the machine again after the conduct of mock poll;
- (d) fix green paper seal in frame provided for fixing the green paper seal on the inner door of the door of the inner compartment of Result Section of the Control Unit;
- (e) close the inner door of the Result Section of the Control Unit with thread and seal it with special Tag;
- (f) close the outer cover of that (Result) Section of the Control Unit with thread and seal it with Address Tag for Control Unit;
- (g) Secure and seal the Result Section from outside with Strip Seal;
- (h) demonstrate to the polling agents and other persons present that the marked copy of the electoral roll (copy of the electoral roll to be used for marking the names of electors who are allowed to vote) does not contain any remarks other than those made for issuing postal ballot papers and election duty certificates; and
- (i) demonstrate to the polling agents and other persons present that the Register of Voters (Form 17A) does not already contain any entry in respect of any elector.

**19. PREPARATIONS ON THE VOTING MACHINE BY THE PRESIDING OFFICER BEFORE COMMENCEMENT OF POLL**

Before a voting machine is put in actual use at the polling station some preparations, in addition to the preparations made at the Returning Officer's level as explained in Chapter IX, are necessary. The Presiding Officer shall start the preparations about an hour before the time fixed for the commencement of the poll. If any polling agent is not present, the preparations by the Presiding Officer will not be postponed so as to wait the arrival of the polling agent. Nor will he start the preparations again if any polling agent turns up late.

**20. Preparations on the balloting unit**

- 20.1 The balloting unit is already duly prepared in all respects at the Returning Officer's level and no further preparation of this unit is required at the polling station on the day of poll, except that its interconnecting cable has to be plugged into the control unit or in the other balloting units as explained below.

- 20.2 Where more balloting units than one are to be use at a polling station, these balloting units have to be inter-connected in the correct sequential order. In such a case, only the first balloting unit will be connected with the control unit. The polling agents may satisfy themselves that the Presiding Officer has correctly linked the control unit with the balloting units. If there is any defect in such inter-linking, it will immediately become known as the display panels in the control unit will flash the, letters 'LE', i.e. linking error.
- 20.3 The Polling Agents should also check that –
- (i) the ballot paper is properly fixed in the ballot display panel under the ballot paper screen; and
  - (ii) the two seals put by the Returning Officer at the top and bottom portion on the right hand side of the balloting unit are intact.

## **21. PREPARATION ON THE CONTROL UNIT**

- 21.1 The polling agents will first be allowed to check the seal put by the Returning Officer on the 'Candidate Set Section' on the left side of the control unit is intact. This seal has been put by the Returning Officer after the setting the number of candidates in the control unit according to the number of the contesting candidates in the concerned parliamentary/assembly constituency.
- 21.2 The following preparations will then be made by the Presiding Officer on the control unit:-
- (i) Interlinking the control unit with the balloting unit or the first balloting unit where more balloting units than one are used;
  - (ii) switching the power switch to 'ON' position;
  - (iii) closing the rear compartment after performing the functions at (i) and (ii) above;
  - (iv) conducting the mock poll (as explained in para 22.2);
  - (v) clearing the machine after the mock poll and setting all counts to ZERO (as explained in para 22.1);
  - (vi) Switching the Power switch to 'OFF' position;
- N.B:** The expression "public servants on election duty" would not include police officers (unless called for by the Presiding Officer for maintenance of law and order in the polling station or any other purpose), Ministers, Ministers of State and Deputy Ministers of the Union or the State/Union Territories.
- (viii) closing and sealing the inner door of the Result Compartment by fixing the special tag (as explained in paras 24.1 to 24.4.) and
  - (ix) closing and sealing the outer cover of the Result Section with Address Tag and Strip Seal (as explained in paras 24.5. to 26)

- 21.3 When the 'Power' switch in the control unit is put to 'ON' position, there will be a 'beep' sound and the 'ON' lamp on the display section of the control unit will glow green.
- 21.4 The Presiding Officer will then close the rear compartment. To keep it firmly closed, a thick thread may be run through the two holes provided for the purpose and the ends of the thread may be tied into a knot. You should note that the rear compartment is not to be sealed as it will require to be opened again after the close of poll for switching 'OFF' the power and disconnecting the balloting unit

**22. CONDUCTING THE MOCK POLL**

22.1 Before commencing the poll, the Presiding Officer has to satisfy not only himself but all the polling agents present that the voting machine is in perfect working order and that no votes have already been recorded in the machine. For such satisfaction, he shall first show to all present that all counts have been set to ZERO by pressing the 'Clear' button. The 'Clear' button is provided in the right most compartment in the Result Section of the control unit. This compartment is covered by an inner door and an outer cover. The inner door covers the compartments containing 'Clear' button, 'Result I' button and 'Result II' button, and the outer cover is provided above the inner door and covers also the compartment containing the 'Close' button. For reaching the 'Clear' button, he will first open the outer cover by pressing slightly inwards the latch provided on the left side. Thereafter, the inner door can be opened by inserting the thumb and a finger through the two apertures above the 'Result I' and 'Result II' buttons and then pressing the latches inside simultaneously slightly inwards. In no case, this inner door should be forced open without releasing the latches in the manner described above as otherwise this most vital compartment will get damaged.

When the 'Clear' button is pressed, the Display Panels on the control unit will start displaying the following information sequentially:–

Cd	9
to	0
01	0
02	0
03	0
04	0
05	0
06	0
07	0
08	0
09	0

End

(if the machine is set for 9 candidates.)

(every indication is followed by a beep sound)

**Note:** If on pressing 'Clear' button, the Display Panels do not display the information as indicated above, it means that some of the earlier operations needed for clearing the machine have not been performed. To clear the machine, the Presiding Officer should ensure that balloting units and control unit have been properly linked. He should then press 'Close' button and thereafter press 'Result I' button. Now when he presses the 'Clear' button, the Display Panels will start displaying the information as indicated above.

The display of the above information on the Display Panels shall satisfy the polling agents present at the polling station that no votes are already recorded in the machine.

22.2 After demonstrating as above that no votes are already recorded in the machine, he shall conduct a mock poll by recording a few votes at random for each of the contesting candidates. These votes will be recorded in the manner explained in more detail in para 31 below and by asking the polling agents to press any of the candidates' buttons on the balloting unit according to their own choice. A careful note will be kept of the votes so recorded so that the votes so recorded can be tallied with the votes recorded by the machine when the result is ascertained at the completion of the mock poll. The result of the mock poll will be ascertain by pressing the button marked 'Result I' in the Result Section of the control unit. On that button being pressed, the display panels will show the number of votes recorded for each candidate sequentially beginning with the contesting candidate number 1. After the result has been ascertained and tallied, the machine shall again be cleared by the Presiding Officer and all counts shall be set to ZERO by pressing the 'Clear' button.

### **23. FIXING GREEN PAPER SEAL IN THE CONTROL UNIT**

23.1 In the conventional system of voting where balloting papers and ballot boxes are used the ballot boxes are sealed and secured by fixing a green paper seal specially got printed by the Commission. Once the green paper seal is fixed in a ballot box and the lid of the box is closed, the box cannot be opened and the ballot papers contained therein cannot be tampered with or taken out for counting unless the green paper seal is torn. Similar safeguard has been provided in the voting machine so that once the poll commences, nobody should be able to tamper with the voting machine. To achieve and ensure this, provision has been made for fixing the same green paper seal which is used for securing a ballot box, in the control unit of the voting machine.

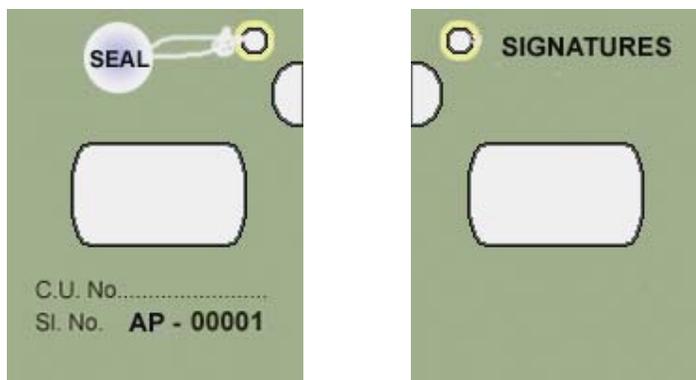
23.2 There is a frame in ECIL make voting machine provided for fixing the paper seal on the inner side of the door of the inner compartment of the Result Section of the control unit. (In the case of voting machines manufactured by Bharat Electronics Limited, Bangalore, the said frame provides for fixing two paper seals and accordingly two paper seals are to be used in the control units of the voting machine manufactured by that company). The seal(s) will



## CLOSING AND SEALING OF RESULT SECTION OF CONTROL

### 24. SPECIAL TAG

It looks as under:-



24.1 After the green paper seal has been fixed and secured and signed by the Presiding Officer and Polling Agents and fixed and secured, the door of the inner compartment over the “Clear” button and “Result” buttons will be pressed fit and closed in such a manner that the two open ends of the paper seal continue projecting outwards from the sides of the inner door. Then this inner door will be sealed with a Special Tag. For this, the Presiding Officer will pass the high quality twine thread specially supplied for this purpose by the Returning Officer through the two holes provided in the inner door and through the hole provided in the Special Tag and tie the thread into a knot and seal the thread on the Special Tag with sealing wax. Thereafter without breaking the seal, the Presiding Officer will adjust the Special Tag in the compartment of “CLOSE” button ensuring that the “CLOSE” button protrudes through the hole cut in the middle of the special Tag.

### 24.2 CONTROL UNIT NUMBER

Before the Special Tag is used, the Presiding Officer shall write the serial number of the Control Unit on the Special Tag.

### 24.3 SIGNATURE

After writing the serial number of the Control Unit on the Special Tag, the Presiding Officer shall put his signature on the BACK SIDE of the Special Tag. He will also ask the candidates/polling agents present in the polling station before the commencement of the poll to put their signatures on the back, if they so desire. He will also read out the pre-printed serial number on the Special Tag and ask the candidates/polling agents present to note down that serial number. If, by any chance, the Special Tag is spoiled or torn, he will use another one. For this purpose, like Green Paper Seals, the Returning Officer supplies him with 3 or 4 “Special Tags”.

After doing all this the Presiding Officer will tie the thread into a knot and seal the thread on the Special Tag with sealing wax. Thereafter without breaking the seal, he will adjust the Special Tag in the compartment of “CLOSE” button

ensuring that the “CLOSE” button protrudes through the hole cut in the middle of the special Tag.



Closing the inner door with thread  
BEL Machine



Sealing the inner door with Special Tag  
BEL Machine



Closing the inner door with thread  
ECIL Machine



Sealing the inner door with Special Tag  
ECIL Machine

### CLOSING AND SEALING OF OUTER COVER OF RESULT SECTION

- 24.5 After the inner compartment of Result Section of the control unit has been closed and sealed, the outer cover of the Result Section will be pressed fit for closing that Section. Before pressing that outer cover, the Presiding Officer will ensure that the two open ends of the paper seal project outwards from the either sides of the outer cover.
- 24.6 After the outer cover of Result Section has been closed, the Presiding Officer will seal that cover by (i) passing a thread through the two holes provided for the purpose on the left side of the outer cover, (ii) tying thread into a knot (iii) attaching a label (address tag) similar to the one which is attached to the 'Cand Set Section' at the Returning Officer's level and (iv) sealing the thread on the Address Tag with wax and his seal. The candidates or their polling agents shall also be permitted to affix their seals, if they so desire, on the outer cover.



24.7 The address tag will contain the following particulars:

“Election to the .....from .....constituency  
Control unit No.....  
Sl. No. and Name of Polling Station.....  
Date of Poll”

24.8 The Returning Officer will provide sufficient number of blank printed address tags as part of polling materials. The Presiding Officer will carefully fill the particulars in the address tag. The serial number of each control unit is inscribed on its bottom portion.

24.9 The candidates or their Polling Agents present will also be permitted to affix their seals, if they so desire, on the outer cover address tag alongwith the seal of the Presiding Officer.

24.10 By so closing and sealing the inner compartment and the outer cover, the whole Result Section gets sealed and secured and the votes which will be recorded by the Control Unit cannot be tampered with.

## **25. STRIP SEAL**

25.1 To further improve the sealing arrangements for Electronic Voting Machines, the Election Commission of India has approved a system of printing an additional outer seal for sealing the “Result Section” of the Control Unit completely with an Outer Paper Strip Seal (hereafter referred to as “Strip Seal) so that this portion of the Control Unit cannot be opened once the polling has started and till the counting is taken up. This will ensure that from the time the first vote is cast in the machine at the polling station and till it is brought to the counting table, no person could have opened the Result Section without damaging the Strip Seal.

25.2 The Commission, therefore, directed that at every polling station where the election is held with the use of EVM, the Control Unit shall be secured and sealed with the Strip Seal as detailed below from outside completely with the Strip Seal so that this section cannot be opened without damaging the Strip Seal. The Strip Seal shall be positioned on the outer door of “Result Section” just below the rubber cap covering the “CLOSE” button in such a way that the covering the “CLOSE” button is not covered by the Strip Seal.

### **STRIP SEAL – PHYSICAL FEATURES**

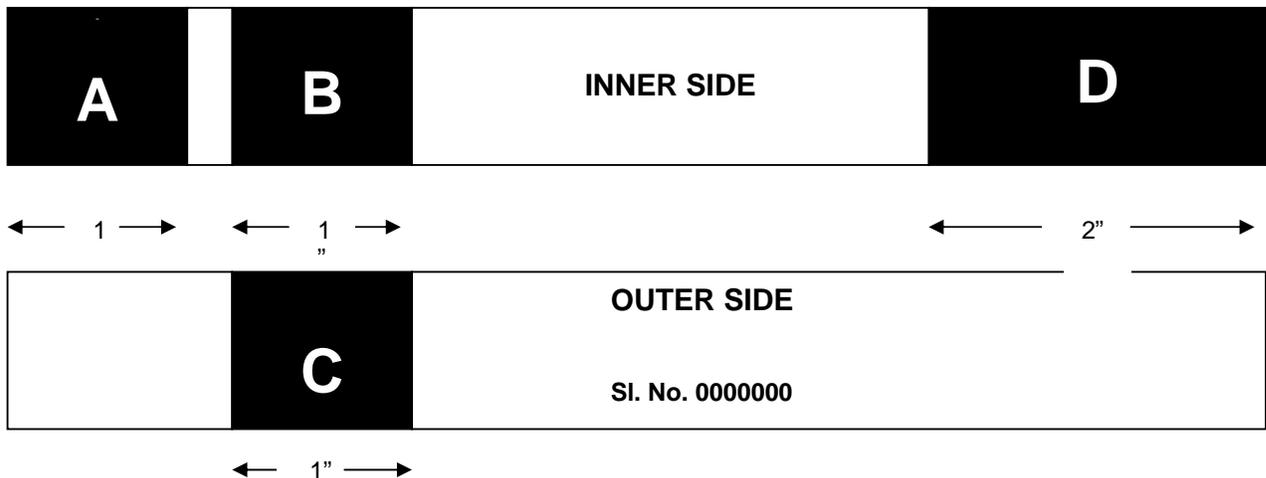
- (i) Strip Seal is a paper seal with a measurement of 23.5” (twenty-three point five inches) in length and 1” (one inch) in width. The length of the strip is such that it can easily be **draped round the breadth of the Control Unit** to provide an extra outer seal of the Control Unit before

the commencement of the poll and after the other standard seals have been affixed in the Control Unit.

- (ii) Each Strip Seal has a Unique Identity Number.
- (iii) These Strip Seals will be supplied by a firm duly approved by the Commission, and the Chief Electoral Officers will centrally procure them for each State.
- (iv) At both the ends of the Strip Seal, there are **FOUR (4)** pre-gummed portions. Of these three are about one square inch area (identified by letter 'A', 'B' & 'C') and one is about two square inch area (identified by letter 'D'). Each gummed portion is covered by a strip of wax paper.
- (v) The Strip Seal has an inner side and an outer side. On the inner side of the strip, at one end there are two adjacent pre-gummed portions marked by letter 'A' & 'B'. At the other end of the inner side of the strip, there is about 2" (two inches) pre-gummed portion marked 'D'. On the outer side of the strip, there is only one pre-gummed portion marked 'C'. A drawing of the Strip Seal showing the outer side and inner side is given below. The dark portions are the gummed portions on inner side and outer side of the strip.

#### DRAWING OF STRIP SEAL

(Pre-gummed portions are shown in dark shade)



#### IMPORTANT CHANGE INFIXING THE GREEN PAPER SEAL

25.3 Now, there is an important change in the method of folding the Green Paper Seals. After fixing the Green Paper Seals in the slot provided in the windows of the Inner Door covering the Result Buttons, the inner door as well as outer door above the Result Section shall be closed. While doing so, the loose ends of the Green Paper Seals should be allowed to protrude outside from both the sides of the outer door above the Result Section.

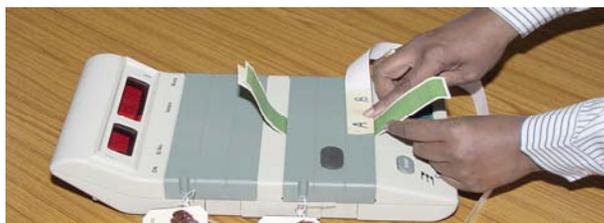
## **COMPLETE METHOD OF SEALING CONTROL UNIT INCLUDING USE OF STRIP SEAL**

25.4. For the sake of easy understanding, the complete sequential order of the steps to be taken by the Presiding Officer at the polling station until and including fixing the Strip Seal are given below:

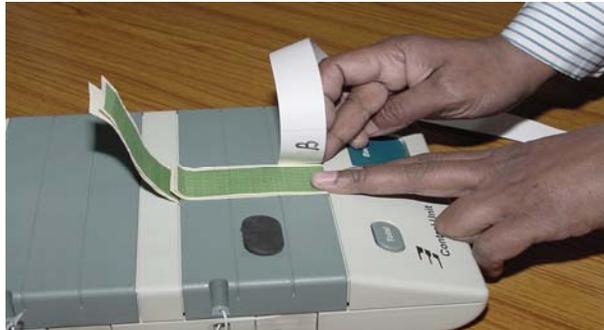
- (i) Before the commencement of the actual poll, the Presiding Officer conducts mock poll.
- (ii) After conducting mock poll and showing the result, the Presiding Officer shall clear the Control Unit of the data relating to mock poll by operating "Clear" button.
- (iii) After clearing the data he shall insert the Green Paper Seal (two seals in the case of BEL machines and only one in case of ECIL machine) to cover the windows of the inner door of the Result Section. While inserting the Green Paper Seals, he shall take care to ensure that the Green portion of the seal is visible through the windows of the inner door after it is closed.
- (iv) After inserting the Green Paper Seals, the inner door above the result buttons will be closed.
- (v) Then the inner door of the result section will be sealed off with the special tag.
- (vi) After fixing the Special Tag, the Presiding Officer will close the outer door of the Result Section ensuring that the loose ends of the Green Paper Seal(s) protrude out from both the sides of the closed outer door [See Photo-1 (BEL Machine) / Photo-2 (ECIL Machine)].
- (vii) Then the Presiding Officer shall seal the outer door with thread and address tag.
- (viii) Next he shall proceed to fix the Strip Seal around the Control Unit to seal the Result Section from outside completely so that this section cannot be opened without damaging the Strip Seal after the poll commences. He will position the Strip Seal just below the "CLOSE" button. The detailed procedure to fix the Strip Seal is given below. There is a slight difference in the method of fixing the Strip Seal for BEL make machines and ECIL make machines. The Presiding Officer will follow the instructions below depending on the make of the EVM available in your State.

### **26. METHOD OF SEALING BEL MAKE MACHINES WITH STRIP SEAL:**

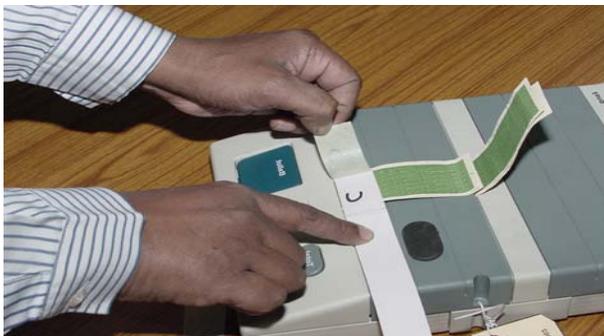
**Step-1:** The Presiding Officer will keep the Strip Seal with the pre-gummed portion 'A' positioned near the base of the Green Paper Seal protruding from the inner end of the door. He will then remove the wax paper covering 'A' and press the inner layer of the Green Paper Seal over the gummed portion 'A'. He will also keep the outer layer of the Green Paper Seal over the inner layer.



**Step-2:** He will then remove the wax paper over the pre-gummed portion 'B' and press this pre-gummed portion 'B' over the outer layer of Green Paper Seal.



After pasting 'B' over the Green Paper Seal, the pre-gummed portion 'C' will come to the top position.



**Step-3:** The Presiding Officer will then remove the wax paper over the pre-gummed portion 'C' and press both the ends of Green Paper Seal protruding from the upper portion of the outer door so that the inner layer of that Green Paper Seal is firmly gummed to 'C'.



**Step-4:** He will then take the remaining portion of the Strip Seal round the Control Unit from left side taking care that the strip passes below the “CLOSE” Button and bring the other end of the Strip Seal from right side of the Control Unit on top of the Outer Door where the pre-gummed portions ‘A’, ‘B’ and ‘C’ have been pasted.



**Step-5:** Thereafter the Presiding Officer will remove the wax paper covering the pre-gummed portion ‘D’ and press it firmly over the outer layer of the Green Paper Seal protruding from the top portion of the door (See *Photo 9 & 10*). The pre-gummed portion ‘D’ spills over the Strip Seal below the “CLOSE” Button. He will then press this spilled-over portion of ‘D’ firmly over the Strip Seal.



By the above process all the four loose ends of the Green Paper Seals protruding from both sides of the door get firmly pasted and held by the Strip Seal. At the same time, the outer door over the Result Section is also sealed with this Strip Seal from all sides and this section cannot be opened without damaging this seal.

#### **AFTER FIXING THE STRIP SEAL**

After sealing the Control Unit with the Strip Seal, the Presiding Officer shall take care that the seal is not damaged or tampered with during the poll and this seal shall NOT be removed during or after the poll in the polling station.

At the end of the poll at prescribed hour, the Presiding Officer shall remove the cap over “CLOSE” Button without disturbing the Strip Seal and press the “Close”

Button to close the poll and replace the cap. After completing other formalities at the end of the poll, the Presiding Officer shall carefully pack the Control Unit in its carrying case and seal the carrying case with address tag. This sealed carrying case shall be delivered to the Counting Centre.

On the day of the counting, the Control Unit with the Strip Seal intact shall be allowed to be examined by the candidates/counting agents present at the Counting Table. Only thereafter, the seal shall be removed taking care that the Green Paper Seals are not damaged. After examining the Green Paper Seals protruding outside, the thread seal on the outer door of the Control Unit shall be opened.

**IMPORTANT PRECAUTIONS:**

- (i) The Strip Seal shall be positioned to cover the portion below the “CLOSE” Button cap on the outer door of the Result Section. While fixing this strip, the Presiding Officer has to ensure that the “CLOSE” Button is left clear and not covered even partially by this strip so that there is no difficulty to operate that button.
- (ii) The Strip Seal shall be fixed taut and shall not be loose.
- (iii) DO NOT USE DAMAGED STRIPS.
- (iv) Each polling station will be supplied with four (4) Strip Seals like Green Paper Seals.
- (v) Presiding Officers shall account for each Strip Seal supplied to the polling station for the conduct of poll.
- (vi) They should return every Strip Seal that is not used (including the strips (or pieces thereof) damaged accidentally to the Returning Officers who will be held responsible if any Strip Seal is found in the hands of any unauthorized person at any time.
- (vii) The Chief Electoral Officer and the District Election Officers shall keep a record of the serial numbers of the Strip Seals supplied to each Returning Officer. Similarly, each Returning Officer shall keep a record of the Strip Seals supplied to each polling station.
- (viii) Commission will issue samples of Strip Seals to your State for the purpose of demonstration as well as training. These sample strips also

shall be kept in safe custody. After using the Strips for Training or demonstration, as the case may be, the used Strips should be destroyed by shredding them.

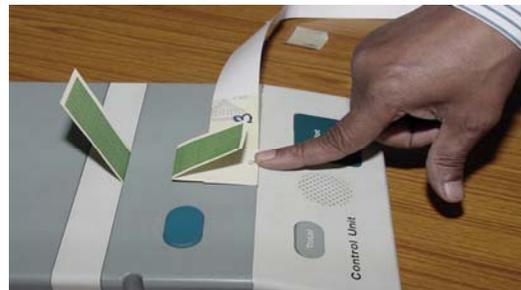
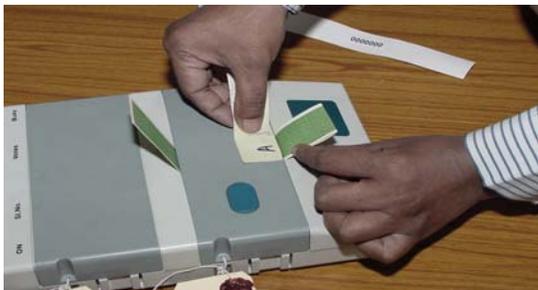
### **METHOD OF SEALING ECIL MAKE MACHINES WITH STRIP SEAL:**

In ECIL machine only one Green Paper Seal is used. Therefore, the loose ends of the same Green Paper Seal protrude from either ends of the outer door over Result Section. Following are the steps to seal ECIL MAKE MACHINES with Strip Seal:-

**Step 1:** The Presiding Officer first double fold the inner end of the a Green Paper Seal in the middle ensuring that the green portion of the seal remains outside



**Step 2:** He will keep the Strip Seal with the pre-gummed portion 'A' positioned near the base of the inner fold of the Green Paper Seal protruding from the inner side of the outer door of the Result Section. He will then remove the wax paper over 'A' and press the inner fold of the Green Paper Seal over this gummed portion and paste.



**Step 3:** The Presiding Officer will then remove the wax paper over the pre-gummed portion 'B' and press this gummed portion over the outer fold of the Green Paper Seal.



**Step 4:** After pasting 'B' over the Green Paper Seal the pre-gummed portion 'C' will come to the top position. The Presiding Officer will remove the wax paper over 'C', press the Green Paper Seal protruding from the top portion of outer door so that the Green Paper Seal is firmly pasted over 'C'.



**Step 5:** He will then take the remaining portion of the Strip Seal round the Control Unit from left side taking care that the strip passes below the "CLOSE" Button and bring the other end of the Strip Seal from right side of the Control Unit on top of the outer door where the pre-gummed portions 'A', 'B' and 'C' have been pasted.



**Step 6 :** He will remove the wax paper covering the pre-gummed portion 'D' and press it firmly over the Green Paper Seal protruding from the top portion of the door. The pre-gummed portion 'D' spills over the Strip Seal below the "CLOSE" Button. The Presiding Officer will press this spilled over portion of 'D' firmly over the Strip Seal.



By the above process, both the loose ends of the Green Paper Seal protruding from both the sides of the outer door get firmly pasted and held by the Strip Seal. At the same time the outer door over the Result Section is also sealed with this Strip Seal from all sides and this section cannot be opened without damaging this seal.

## **27. ACCOUNT OF PAPER SEALS**

- 27.1 The Presiding Officer will keep a correct account of the paper seals supplied to him and actually used by him for sealing and securing the control unit. Such account shall be maintained by him in the form specifically prescribed for the purpose vide Item 9 of Part 1 of Form 17C appended to the Conduct of Election Rules, 1961
- 27.2 The Presiding Officer shall allow the candidates and/or their polling agents present to note down the serial numbers of paper seals so supplied for use and actually used.

## **28. VOTING MACHINE READY FOR ACTUAL POLL**

- 28.1 The voting machine is now ready in all respects for use for actual poll.
- 28.2 Before commencing the poll, the Presiding Officer shall place the balloting unit(s) inside the voting compartment. The voting compartment shall be located at sufficient distance from the table of the Presiding Officer/Third Polling Officer where the control unit shall be kept and operated.

## **29. MAINTENANCE OF SECRECY OF VOTING**

- 29.1 Every polling agent is required by section 128 of the Representation of the People Act, 1951 to maintain and aid in maintaining, the secrecy of voting and should not communicate to any person any information calculated to violate such secrecy. Any person contravening the above provisions of law is punishable with imprisonment for a term which may extend to 3 months or with fine or with both.
- 29.2 Before commencing the poll, the Presiding Officer will bring to the notice of all present the provisions of aforesaid section 128 regarding their duty to maintain the secrecy of the vote and the penalty for any breach thereof.

## **30. DECLARATION BY THE PRESIDING OFFICER BEFORE THE COMMENCEMENT OF POLL**

30. After the Presiding Officer has gone through the preliminaries, as stated above he will make a declaration in the prescribed form (Appendix XXI) Part I to the effect that he has completed those preliminaries. He will read out the declaration aloud to the hearing of all persons present in the polling station and sign the declaration and will also obtain thereon the signatures of such of the polling agents as are present and willing to affix the same. The polling agents should sign that declaration as it would satisfy all that the poll had commenced in free and fair manner. If any polling agent refuses to sign that declaration the Presiding Officer will make a note of his name in the paragraph provided for that purpose in the form of said declaration.

## **31. COMMENCEMENT OF POLL**

- 31.1 The poll will be commenced at the stroke of the hour fixed for the purpose. By that time the preliminaries would have been completed by the Presiding Officer. If for any unforeseen reasons the preliminaries are not over, the Presiding Officer may admit about three or four voters at the hour fixed for the commencement of the poll and let the Polling Officers deal with them so as to enable them to go through the process of voting.
- 31.2 In any event, the Presiding Officer cannot extend the appointed closing time, except for allowing such of the voters to vote who have already reached the polling station before the appointed closing time and taken their place in the queue for voting. For this purpose the Presiding Officer should distribute slips duly signed by him to the electors, who were present at the polling station at the hour appointed for the close of poll starting from the tail of the queue towards the head

## **32. ENTRY OF VOTERS INTO POLLING STATION**

- 32.1 Normally there will be separate queues for men and women voters. The persons who arrange the queues will allow 3 or 4 voters into the polling station at a time as the Presiding Officer may direct. Other voters waiting to come in will be made to stand in queue outside. Men and women voters will be admitted into the polling station in alternate batches. The Presiding Officer may, however, give precedence, if he thinks fit, to infirm voters and women

voters with babies in arms over others. The polling agents should not object to it.

### **32.2 FACILITIES TO PRESS REPRESENTATIVES AND PHOTOGRAPHERS**

Subject to the maintenance of peace and order, there is no objection to any photographer taking photographs of a crowd of voters lining up outside the polling station. However, no one including the publicity officials of the State Government shall be allowed inside a polling station without a letter of authority from the Election Commission. In no circumstances, will any photograph be allowed to be taken of a voter recording his vote.

### **33.1 METHOD OF RECORDING OF VOTES BY VOTING MACHINES**

After the procedural requirements relating to identification of an elector, application of indelible ink on his left forefinger and obtaining his signature/thumb impression on the Register of Voters (as explained in detail in the succeeding paragraphs) have been completed and the elector allowed to record his vote in the voting machine, the Presiding Officer/Polling Officer in-charge of the Control Unit of the voting machine shall press the 'Ballot' button on the control unit. This would make the balloting unit(s) ready for recording the vote of the elector. When the 'Ballot' button is pressed, the lamp marked 'Busy' on the Control Unit will glow red. Simultaneously, the lamp marked 'Ready' on each balloting unit kept in the voting compartment will start glowing green.

33.2 For recording his vote, the elector will press the button (called the candidate's button) provided against the name and symbol of the candidate of his choice on the balloting unit. (For each candidate, a separate button is provided against his name and symbol). When the candidate's button is pressed by the elector, the 'Ready' lamp will go off and the candidate's lamp provided near his button on the balloting unit will start glowing red. Also, a 'beep' sound will be heard by all present, emitting out from the control unit. After a few second, the red light in the candidate's lamp on the balloting unit, the red light in the Busy lamp on the Control Unit and the beep sound will go off. These visual and audio signs will be the indication that the vote for the candidate whose button has been pressed by the voter has been recorded in the Control Unit. The balloting unit will then get automatically locked and the next vote can be recorded only when the 'Ballot' button on the Control Unit is again pressed by the Presiding Officer/Polling Officer in-charge for allowing the next voter to record his vote.

### **34.1 VOTING PROCEDURE AT THE POLLING STATION**

Briefly the voting procedure is as follows:-

When an elector enters a polling station he will proceed direct to the first Polling Officer who will be in-charge of the identification of electors and of the marked copy of the electoral roll. After his identity has been established and there is no challenge to his identity by any of the polling agents, the elector's left forefinger will be marked with indelible ink. The second polling officer will do this. The second polling officer will also be in-charge of the Register of Voters (Form 17A). That polling officer will note down the electoral roll number

of the elector in column 2 of that Register after noting down his serial number as per Register in Column 1 thereof. He will then obtain the signature of thumb impression of the elector in column 3 of the said Register against the entry relating to him. The second Polling Officer will also prepare a voter's slip for the elector in the following form:-

"Voter's slip  
Sl. No. of elector as per column 1 of Register of voters.....  
Sl. No. of elector in the marked copy of electoral roll .....

Initials of Polling Officer"

34.2 The elector will then go with this voter's slip to the Presiding Officer or the third Polling Officer whoever is in-charge of the control unit of the voting machine. The Presiding Officer/Third Polling Officer will inspect the indelible ink mark on elector's left forefinger and allow him to record his vote in the voting machine on the basis of the aforesaid voter's slip. The procedure for recording the vote by means of the voting machine has been explained in the preceding paragraph.

34.3 The electors will be allowed to record their votes in the voting machine exactly in the same order in which they have been registered in the Register of Voters. If for any unavoidable reason, it has not been possible to strictly maintain the above order in respect of any electors, the Presiding Officer shall indicate the exact serial numbers at which the affected electors have recorded their votes, in the remark column of the register of voters

34.4 The checking of the left forefinger of the voter before he leaves the polling station, in order to ensure that there is a clear indelible ink mark may be entrusted by the Presiding Officer to some other member of his party. If he finds that such mark is not clearly visible or the indelible ink has been wiped off, he shall again mark the voter's left forefinger with indelible ink.

**35. CHALLENGE TO THE IDENTITY OF A VOTER**

As stated above, one of the main duties of the polling agent is to help the Presiding Officer to detect and prevent impersonation of voters. The polling agent is therefore, entitled to challenge the identity of a person who comes as a voter if he has personal knowledge that the person claiming to be that voter is not the same person. The polling agents should not, however, make indiscriminate challenges as this would hamper the smooth process of the poll leading to delay in which case some voters, including the supporters of his own candidate, might get tired and leave the queue without voting.

**36. LIST OF DEAD, ABSENT AND ALLEGEDLY SUSPICIOUS VOTERS**

It is expected that a polling agent will have with him a copy of the electoral roll and also a list of the names of the dead, absent and allegedly suspicious voters which might have been prepared by the candidate or his party. A copy of this list should be supplied to the Presiding Officer also. If any person claims to be a voter whose name is mentioned in that list, the polling agent

should draw the Presiding Officers attention to that fact. This will not amount to a format challenge. The Presiding Officer will check that person's identity.

### **37. FORMAL CHALLENGE TO VOTER'S IDENTITY**

- 37.1 If the Presiding Officer disregards the list, the polling agent may formally challenge the identity of the person provided he is satisfied that the person concerned is impersonating a voter.
- 37.2 Even if the name of a voter is not mentioned in the above list of dead, absent or allegedly suspicious voters, but a polling agent has personal knowledge that the person claiming to be the voter is not the real voter, the polling agent may formally challenge that person's identity.
- 37.3 Every person whose name is entered in the electoral roll is entitled to vote at the election and a person claiming to be a voter and giving out the name and other details correctly is normally presumed to be that voter. Therefore, the polling agents are advised to challenge the identity of a voter only when they are sure about their identity of the person challenged.

### **38. CHALLENGE FEE**

The Presiding Officer will not entertain any challenge by a polling agent, until the challenger pays him Rs.2/- (Rupees two only) in cash. After the amount has been paid, the Presiding Officer will furnish a receipt therefore to the challenger in the form prescribed by the Election Commission.

### **39. SUMMARY INQUIRY INTO A CHALLENGE**

- 39.1 When the identity of an elector is formally challenged by a polling agent, the Presiding Officer will warn the person challenged about the penalty for personation, read out the relevant entry in the electoral roll in full and ask him whether he is the person referred to in that entry, enter his name and address in the list of challenged votes (Appendix-XXII) and ask him to sign or affix his thumb impression thereon. If the person challenged refuses to do so, the Presiding Officer will not allow him to vote.
- 39.2 After the Presiding Officer has completed the entries in the list of challenged votes and obtained the signature or thumb impression of the person challenged in the relevant column in the said list, he will ask the challenger to produce evidence to show that the person challenged is not the voter that he claims to be. If the challenger fails to adduce prima facie evidence in support of his challenge, the Presiding Officer will disallow the challenge and allow the person challenged to vote. If the challenger succeeds in making out a prima facie case that the person challenged is not the voter in question, the Presiding Officer will call upon the latter to produce evidence to rebut the challenge, i.e., to prove that he is the voter he claims to be. In the course of the inquiry the Presiding Officer is free to ascertain the true facts by putting to the person challenged any questions necessary for the purpose of establishing his identity and require him to answer him on oath. He may also take evidence of any person whom he thinks to be helpful in his inquiry like the village officer, the neighbours of the voter in question or any other person present. While taking such evidence he may administer oath to the person challenged or any other person offering to give evidence.

39.3 After the completion of the inquiry, if the Presiding Officer considers that the challenge has not been established, he should allow the person challenged to vote. Where, however, he considers that the challenge has been established, the Presiding Officer shall debar the person challenged from voting. In that case the Presiding Officer has also been instructed to hand over the person concerned to the police man on duty together with a complaint addressed to the SHO of Police Station in the jurisdiction of which the polling station falls for prosecution of the person concerned for committing the offence of personation.

#### **40. RETURN OF FORFEITURE OF CHALLENGE FEE**

40.1 After the inquiry is over and the challenge is established, the Presiding Officer will return the challenge fee of Rs.2/- to the challenger after taking his receipt in the appropriate column (column 10) in the list of challenged votes, referred to above (Appendix-XXII) and on the counterfoil of the relevant receipt in the receipt book.

40.2 Where, however, the Presiding Officer is of the opinion that the challenge was frivolous or was not made in good faith, he will forfeit the challenge fee to Government and will not return it to the challenger.

#### **41. CLERICAL AND PRINTING ERRORS IN THE ELECTORAL ROLLS TO BE OVERLOOKED**

The particulars in respect of a voter as entered in the electoral roll are sometimes incorrectly printed or have become out of date, for example, the age of the voter. The polling agent should overlook mere clerical or printing errors in any entry relation to a voter and should not raise objection about such voter, if he is otherwise satisfied about the identify of that voter. When the electoral roll has been prepared in more than one language and the name of a person has not been included in the marked copy of the electoral roll, the Presiding Officer has been instructed to allow such voter to vote if his name appears in the version of the electoral roll in the other language. You should advise your polling agents not to raise any objection in respect of such an elector.

#### **42. ELIGIBILITY OF VOTER NOT TO BE QUESTIONED**

Every person whose name is entered in the marked copy of the electoral roll is entitled to vote at the election. So long as there is no doubt the identity of such person, no question can be raised by a polling agent at the polling station before the Presiding Officer about the eligibility of such a person to be registered as a voter.

#### **43. PRECAUTIONS AGAINST VOTING BY UNDER AGE VOTERS**

43.1 As stated above, the eligibility of a person to be a voter whose name is included in the electoral roll cannot be questioned or enquired into by the Presiding Officer at the polling station. However, if the Presiding Officer is prima facie satisfied about the identity of a voter and also about the fact of inclusion of his name in the electoral roll, but considers such person to be below the minimum voting age, has been instructed by the Commission to obtain a declaration in a prescribed form from such an elector about his age.

Before obtaining the declaration from such elector the Presiding Officer will inform him of the penal provisions in section 31 of the Representation of the People Act, 1950 for making a false declaration relating to the inclusion of his name in electoral roll.

43.2 The polling agents may bring to the notice of the Presiding Officer such cases of voters whose names are included in the electoral roll but who seem to be much below the voting age so that the Presiding Officer may taken action in respect of such voters as mentioned above.

43.3 **Application of indelible Ink** - Under Rule 37(1), the left forefinger of every elector, about whose identity the Presiding Officer or the Polling Officer, as the case may be, is satisfied, shall be marked with indelible ink in the manner as explained in para 13.2 of Chapter VIII. This will be done by the Second Polling Officer, who is also in-charge of the Register of Voters.

43.4 The application of indelible ink is a vital safeguard against personation and to ensure that the same voter does not vote more than once. If any elector refuses to allow his left forefinger to be inspected or marked with indelible ink or he has already such a mark on his left forefinger, or he does any act with a view to removing the ink mark, he shall not be allowed to vote.

43.5 Under the instructions of the Commission, the left forefinger of the voter should be marked with indelible ink soon after his identity is verified by the First Polling Officer and before his signature of thumb impression is obtained on the Register of voters by the Second Polling Officer. The underlying purpose of this instruction is that there should be a sufficient time gap for the indelible ink to dry and leave a proper indelible mark on the voter's forefinger before he leaves the polling station. The Commission has also instructed that his forefinger should again be checked before he leaves the polling station in order to verify that there is a clear indelible ink mark on the finger. If the voter has wiped off the ink or there is no proper ink mark visible, his left forefinger should again be marked with indelible ink. The group 'D' official who is normally attached to a polling party as attendant can be given this duty of checking the voter's left forefinger before his exit from the polling station.

#### **44. VOTING THROUGH PROXY**

##### **CLASSIFIED SERVICE VOTERS: PROXY VOTING**

44.1 As an alternative option to postal ballot, service voters belonging to the Armed Forces and members belonging to a Force to which provisions of the Army Act applies, have been provided with the facility to opt to vote either through proxy or through postal ballot papers. Such service voters, who opt to vote through proxy, have been categorized as "Classified Service Voters" (CSVs). The CSVs are required to appoint a person who is resident of the area covered by the constituency concerned, as his proxy. The proxy should be of at least 18 years of age and shall not be disqualified for registration as an elector. The appointment will be made in Form 13F,. An appointment once made will be valid for all future elections so long as the person making the appointment continues to be a service voter or till the appointment is revoked or the proxy dies. The CSV has the option to revoke the appointment and appoint a new proxy on the death of the earlier proxy or for other reasons.

Such revocation of appointment is to be done in the newly inserted Form 13G.

- 44.2 On receipt of intimation of appointment of proxy by a CSV, the Returning Officer will mark the letters 'CSV' against the name of the service voter in the last part of the electoral roll to indicate that the elector has appointed a proxy to cast vote on his behalf. For using the facility of proxy voting at the next earliest election, intimation of appointment of proxy should reach the Returning Officer by the last date for making nomination at that election. The Returning Officer will also maintain a separate list of CSVs and their proxies with their complete addresses in the form and manner specified by the Commission. After the last date for making nominations, the Returning Officer will prepare polling station-wise sub-lists of all CSVs and their proxies. The format prescribed by the Commission for maintaining polling station-wise sub-list is enclosed as **Annexure VII**. These sub-lists will be added at the end of the part of the electoral roll pertaining to the polling station concerned and the part of the electoral roll alongwith the sub-list will be the marked copy of the electoral roll for that polling station.
- 44.3 The proxy will record the vote on behalf of the CSVs at the polling station to which the CSV is assigned, in the same manner as any other elector assigned to that polling station. It may be noted that in the case of proxy, marking of the indelible ink under rule 37 will be done on the middle finger of the left hand of the proxy. The proxy will be entitled to vote on behalf of the CSV in addition to the vote that he may cast in his own name if he is a registered elector in the Constituency, at the polling station to which he has been normally assigned.
- 44.4 A CSV who has appointed a proxy will not be issued a postal ballot paper.

#### **45. VOTING BY BLIND OR INFIRM VOTERS**

- 45.1 If the Presiding Officer is satisfied that owing to blindness or any affixed on the balloting unit of the voting machines physical infirmity a voter is unable to recognise the symbols on the ballot paper or to record his vote on it without assistance, he will permit the voter to take with him and adult companion of not less than 18 years into the voting compartment for recording the vote on his behalf and in accordance with his wishes. But the illiteracy of voter is not a sufficient cause forgiving him assistance of a companion to record vote on his behalf.
- 45.2 A candidate, his election agent or polling agent (provided he is not less than 18 years of age) can also act as such companion to a blind or infirm voters. But he can act as such companion of only one elector on that day. The person acting as such companion is required to make a declaration in a prescribed form to the effect that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as a companion of any other elector at any polling station on that day.
- 45.3 None of the polling staff shall act as a companion to the blind elector to record vote on his behalf under any circumstances.

#### **46. TENDERED VOTES**

It may happen that a person representing himself to be a particular elector comes forward to vote after some other person has already voted as such elector. In that case if the Presiding Officer is satisfied about the identity of such persons to be the real voter after necessary questioning, he will permit him to vote by means of a tendered ballot papers, but not by means of the voting machine. For that purpose the Presiding Officer will make necessary entry in the list of tendered votes (form 17B appended to the Conduct of Elections Rules, 1961) and obtain the signature or thumb impression of the voter therein. The voter will be supplied with a ballot paper which shall be similar to the ballot paper affixed on the balloting unit of the voting machine and the words 'Tendered Ballot Paper' will be stamped or written on its back. The elector will record his vote on the tendered ballot paper by placing a mark by means of the arrow cross mark rubber stamp which is used for marking ballot papers under the traditional marking system of voting. Such tendered ballot paper, after it is marked by the voter in the voting compartment and folded, shall be placed by the Presiding Officer separately in a cover specially kept for the purpose.

#### **47. ELECTORS DECIDING NOT TO VOTE**

- 47.1. If an elector, after his electoral roll number has been duly entered in the Register of Voters (Form 17A) and he has put his signature/thumb impression on that register, decides not to record his vote, he shall not be forced or compelled to record his vote. A remark to the effect that he has decided not to record his vote – “Refused to Vote” - shall be made in the remarks column against the entry relating to him in the Register of Voters by the Presiding Officer and the signature or thumb impression of the elector shall be obtained against such remark under rule 49-O. It shall not be necessary to make any change in the serial number of the elector or of any succeeding elector, in column 1 of the Register of voters.
- 47.2 If the “Ballot” button on the control unit has been pressed to release voting on the balloting unit by a voter and he refuses to vote, either the Presiding Officer/third Polling Officer, whoever is in-charge of the control unit, should direct the next voter straightaway to proceed to the voting compartment to record his vote or put the ‘Power’ switch in the rear compartment of the control unit to ‘OFF’ position, then to ‘ON’ position, press the ‘Ballot’ button and direct the next voter to proceed to the voting compartment to record his vote. If the “Ballot” button on the control unit has been pressed to release voting on the balloting unit and the last voter refuses to vote, the Presiding Officer/third Polling Officer, whoever is in-charge of the control unit shall put the ‘Power’ switch in the rear compartment of the control unit to ‘OFF’ position and disconnect the balloting unit(s) from the control unit. After disconnecting the balloting unit(s) from the control unit the ‘Power’ switch should again be put ‘ON’. Now the ‘Busy’ lamp will go off and the ‘Close’ button will become functional to close the poll.

#### **48. VIOLATION OF SECRECY OF VOTING**

Every elector, who has been allowed to record his vote, is required to maintain secrecy of voting within the polling station and to observe the prescribed voting procedure. If any elector refuses, after warning given to him

by the Presiding Officer to maintain the secrecy of voting and observe the voting procedure, he will not be allowed to vote by the Presiding Officer or by a polling officer under his direction. The voter's slip issued to such elector shall be taken back from him. The Presiding Officer will make a remark to that effect – “Not allowed to vote – Voting procedure violated” in the Register of Voters under his signature. It shall however not be necessary to make any change in the serial number of that elector or of any succeeding electors in column 1 of that Register.

**49. PRESIDING OFFICER'S ENTRY IN THE VOTING COMPARTMENT DURING POLL**

49.1 Sometimes, the Presiding Officer may have a suspicion or reason to suspect that the balloting unit kept in the screened voting compartment is not functioning properly or that an elector who has entered the voting compartment is tampering or otherwise interfering with the balloting unit or has remained inside the voting compartment for unduly long period. The Presiding Officer has a right under rule 49-Q to enter the voting compartment in such cases and to take such steps as may be considered necessary by him to ensure that the balloting unit is not tampered or interfered with in any way and that the poll progresses smoothly and orderly.

49.2 Whenever the Presiding Officer enters the voting compartment, he shall permit the polling agents present to accompany him, if they so desire.

**50. VOTING BY PERSONS PRESENT AT CLOSING HOUR**

The Presiding Officer will close the polling station at the hour fixed in that behalf and will not thereafter admit any elector into the polling station. But all electors present at the polling station before it is closed will be allowed to cast their votes, even if for that purpose the polling is to be continued beyond the specified closing hour. For the above purpose, the Presiding Officer will distribute to all voters, who are standing in the queue and waiting to vote at the specified closing hour, slips signed by him in full and serially numbered form S.No.1 onwards. He will not thereafter allow any person to join the queue and for ensuring this he will start distribution of the above slips to such voters from the tail and of the queue and proceeding backward toward its head.

**51. CLOSE OF POLL**

51.1 The Presiding Officer shall close the poll after the last voter has recorded his vote. So that no further recording of votes in the machine is possible. The Presiding Officer shall disconnect the balloting unit(s) from the control unit and press the 'Close' button on the control unit. When the close button is pressed, display panels on the control unit will show the total number of votes recorded in the voting machine till the end of the poll (but not the candidate-wise tally). The voting machine will not accept any further votes now.

51.2 The total number of votes recorded in the machine shall be immediately noted by the Presiding Officer in the "Account of votes recorded" in Form 17C.

**52. FURNISHING OF COPY OF ACCOUNT OF VOTES RECORDED (FORM 17C) BY THE PRESIDING OFFICER**

Rule 49S of the Conduct of Election Rules, 1961 provides that the Presiding Officer should at the close of the poll prepare an account of votes recorded in the voting machine in the prescribed Form 17C. A sample Form 17C is given in Appendix XXIII. He is also required by the above rule to furnish to every polling agent present at the close of the poll an attested copy of the account after obtaining a receipt therefore from the Polling Agent. The Polling Agents should, therefore ensure that they receive a copy of the said account from the Presiding Officer as such account will be greatly needed by their candidates at the time of the counting of votes. Every polling agent who receive a copy of the said account from the Presiding Officer should affix his signature on the form of declaration (Appendix XXI – Part - III) prescribed by the Commission which the Presiding Officer has to make at the close of the poll. If any polling agent refuses to accept a copy of the above account the Presiding Officer will note down the name of such polling agent in the above-mentioned declaration.

### **53. SEALING OF THE VOTING MACHINE AFTER THE CLOSE OF POLL**

- 53.1 After the poll has been closed and the account of votes recorded in the voting machine has been prepared in Form 17C and copies thereof furnished to the polling agents present, the voting machine shall be sealed and secured by the Presiding Officer for transportation to the counting/collection centre.
- 53.2 For sealing and securing the voting machine, the balloting unit(s) and the control unit will be disconnected and the power switch in the control unit put to 'OFF' position. The balloting unit(s) and the control unit will be put back in their respective carrying cases. The carrying cases will then be sealed on both sides of the carrying cases with the Presiding Officer's seal on an address tag showing the particulars of the election and the polling station.
- 53.3 The candidates or their polling agents as are present and desirous of putting their seals on the carrying cases shall be allowed to do so.
- 53.4 The names of the candidates/polling agents who have affixed their seals on the carrying cases of the balloting unit(s) and control unit will be noted by the Presiding Officer in the declaration, which he makes at the close of the poll vide Part IV of Appendix XXI.

#### **54. SEALING OF ELECTION PAPERS-AFFIXATION OF SEALS THEREON BY POLLING AGENTS**

54.1 After the close of poll the Presiding Officer will also seal all the election papers in separate packets in accordance with the rules and instructions of the Election Commission. The polling agents present at polling station are also permitted to affix their seals, in addition to the seal of the Presiding Officer, on the envelopes and packet containing the following documents -

- (i) the marked copy of the electoral roll;
- (ii) Register of Voters;
- (iii) Voter's slip'
- (iv) the tendered ballot papers and the list of tendered votes in Form 178;
- (v) the unused tendered ballot papers;
- (vi) the list of challenged votes;
- (vii) the unused and damaged paper seals, if any;
- (viii) appointment letters of polling agents; and
- (ix) any other papers that the Returning Officer has directed to be kept in a sealed packet.

54.2 The polling agents are advised in the interest of their candidates to affix their seals on the above packets of election papers.

#### **55. TRANSMISSION OF VOTING MACHINE AND ELECTION PAPERS TO THE COLLECTION/STORAGE CENTRE**

55.1 After the voting machine and all election papers have been sealed and secured by the Presiding Officer, he will deliver them or cause them to be delivered at the collection/storage centre.

#### **ACCOMPANYING VEHICLES CARRYING VOTING MACHINES**

55.2 The polling agents are permitted to accompany the vehicle in which the voting machine and election papers are carried to the collection/storage centre. But they will have to make their own transport arrangements and will not be permitted to travel in the vehicle carrying the voting machine and election papers.

#### **56. CUSTODY OF VOTING MACHINES WHERE COUNTING IS NOT DONE ON THE POLLING DAY ITSELF**

After the completion of poll in a constituency the voting machines will be taken to the place of storage and kept in safe custody under proper guard till they are taken to the counting place. You will be informed in advance by the Returning Officer about the programme and route of the collection parties that will be sent by him for the collection of the polled voting machines from the polling stations and for bringing them to place of storage. If you want, you may

ask your agents to accompany those collection parties. You will, however, have to make your own arrangement for their transport as they would not be allowed to travel in the official vehicle. If you like you may also post an agent to keep watch at the place where the voting machines are kept, and the agent will be allowed to affix his seal on the doors and windows of the building in which the machines are stored in addition to the seal that may be affixed by the Returning Officer. In case you yourself or your election agent himself is not putting up such seals, you should give full particulars of the agent who would put such seals, to enable the verification of his identity. After all the voting machines have been received and stored and the room has been locked, no one will be allowed to go in until the morning of the day fixed for counting. If during the interval, the room is to be opened for some reason, the Returning Officer will inform the candidates and open the room in their presence and immediately after the purpose for which the room is opened has been served, the candidate or their representatives will again be allowed to seal the doors and windows. A log book will also be maintained in order that a full record is available of persons entering the room, the purpose of the visit, time of entry, time of exit etc.

## **57. ADJOURNED POLL**

- 57.1 If there is a riot or open violence at the polling station or a natural calamity like severe storm, heavy snowfall or the like or some other sufficient cause, the Presiding Officer will adjourn the poll under the provisions of sub-section(1) of section 57. A passing shower of rain or strong wind would not be sufficient cause for adjournment of poll. The Commission has, however, decided that an adjourned poll may be ordered at all those polling stations where polling fails to start for two hours. The adjourned poll will be held on a date and at the time and place to be fixed by the Returning Officer with the prior approval of the Election Commission. The counting of the votes in the constituency will not commence until the adjourned poll has been completed.
- 57.2 Where the poll has been adjourned at a polling station the adjourned poll will recommence from the stage at which it was left immediately before the adjournment. i.e., only those electors, who had not already voted before the poll was adjourned, will be permitted to vote at the adjourned poll. The Presiding Officer of the polling station, at which such adjourned poll is taken, will be provided with the sealed packets containing (i) the marked copy of the electoral roll, and (ii) Register of Voters received earlier from the presiding officer of the polling station concerned at which the poll was adjourned, and also a new voting machine.
- 57.3 Before the commencement of the poll, the sealed packets containing the marked copy of the electoral roll and Register of Voters will be reopened by the Presiding Officer in the presence of the candidates or their agents who may be present at the polling station and this very marked copy for the electoral roll and Register of voters will be used for adjourned poll.
- 57.4 The provisions of rules 28 and 49-A to 49V will apply to the conduct of an adjourned poll as they apply to the poll before it was so adjourned.

## **58. Fresh poll**

- 58.1 If any voting machine used at a polling station–
- (i) has been unlawfully taken away by unauthorised person; or
  - (ii) has been accidentally or intentionally destroyed or lost or damaged or tampered with and the Returning Officer is satisfied that the result of the poll at that polling station cannot be ascertained for that reason; or
  - (iii) any error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station;

The Returning Officer will report the facts of the Election Commission and the Chief Electoral Officer of the State.

- 58.2 After considering all the material circumstances the commission will, if necessary

- (i) declare the poll at that polling station to be void; and
- (ii) formally fix the date and hours for fresh poll and notify it.

- 58.3 On receiving intimation from the Commission, the Returning Officer will inform the contesting candidates or their election agent of the date, time and place fixed for the fresh poll and affix a notice or his notice board notifying the date and hours so fixed. Also he would announce by beat of drum or otherwise in the polling area concerned the place, the date and hours so fixed.

- 58.4 The fresh poll will be taken in the same manner as is prescribed for the original poll.

- 58.5 There is no legal bar against the counting of votes in respect of the rest of the constituency. The Returning Officer will not, however declare the result of the election until the fresh poll has been completed and the vote recorded in such fresh poll counted and incorporated in the result sheet.

## **59. Fresh poll or countermanding of election in case of booth capturing**

- 59.1 Under section 58A, if booth capturing (as defined in section 135A) has taken place at a polling station in such a manner that the result of the poll of that polling station cannot be ascertained, the Returning Officer shall forthwith report the matter to the Election Commission. On receipt of that report from the Returning Officer, the Election Commission shall, after taking all material circumstances into account, either (i) declare the poll at that polling station to be void and direct; fresh poll to be taken on a date to be appointed by it, or (ii) countermand the election if it is satisfied that in view of the large number of polling station involved in booth capturing the result of the election is likely to be affected.

- 59.2 If the Commission directs fresh poll to be taken at any polling station, the Returning Officer will proceed for taking such fresh poll in accordance with the instructions contained in the preceding paragraph.

- 59.3 If the election is countermanded by the Commission on account of booth capturing, all proceedings for that election will commence anew and a fresh notification calling for the election will be issued in due course.



## **COUNTING OF VOTES**

### **1. INTRODUCTORY**

- 1.1 Counting of votes is the last major step towards the culmination of the election process. It is on the correct and proper counting of votes that the true choice of the electorate finds expression and it is on the basis of such ascertainment of their true choice that their chosen representative is declared elected. Therefore, the importance of the process of counting of votes hardly needs to be emphasized.
- 1.2 Under the law, counting of votes is to be done by, or under the supervision and direction of, the Returning Officer of the constituency in the presence of the candidates and their agents. The law authorizes the Assistant Returning Officer also to undertake the counting of votes. The counting of votes may be simultaneously done at places more than one and at tables more than one at the same place. As the candidate or his election agent cannot be expected to be physically present at each of such counting places and tables, the law permits you to appoint your counting agents who may be present at each of the said counting places and counting tables and watch your interests.

### **2. DATE, PLACE AND TIME OF COUNTING**

- 2.1 The Returning Officer will give notice to you or to your election agent, at least one week before the date or the first of the dates fixed for the poll, of the place, date and time fixed for the counting of the votes, in the forms prescribed by the Commission for the purpose, vide Appendix XXIV or XXIV-A as may be applicable. For a General Election throughout the country, the date for the counting of votes will generally be the date following the last of the dates of poll in the election. There is, however, no objection to counting being done on the last date of poll in all the States, but the Commission will ensure that the result would not be announced before 5 P.M. on that day. When a General Election is held in a single State/Union Territory, the date for the counting of votes will generally be the date following the last date of poll in that State/Union Territory. For a bye-election, the date of counting of votes would normally be the day following the date or the last of the dates of poll or the second day in case where the constituency is far flung and it is physically impossible for the boxes or, as the case may be, the voting machines to reach the place fixed for counting by the day following the date of the poll.
- 2.2 If for any unavoidable reason the Returning Officer is unable to proceed with the counting at the place and at the time and on the date fixed and communicated to you, he will postpone the counting and fix another date and time and if necessary another place for the counting of votes. You or your election agent will be given notice of every such change in writing.

### **3. COUNTING TO COMMENCE ONLY AFTER CLEARANCE FROM ELECTION COMMISSION**

- 3.1 According to the instructions of the Commission, the Returning Officer is required to send certain comprehensive reports on the poll, which are statutory, to the Commission. Based on these reports the Commission decides as to whether repoll at a particular polling station/constituency has to be taken or not. In case there is no order from the Commission for repoll, the Returning officer will commence the counting without waiting for any clearance from the Commission.
- 3.2 Under the newly inserted section 20B of the Representation of the People Act, 1951, the Observers appointed by the Election Commission to watch the conduct of elections shall have the powers to direct the Returning Officers to stop the counting of votes at any time before the declaration of result or not to declare the result, if in their opinion booth-capturing has taken place at a large number of polling stations or at places fixed for the poll or counting of votes or the ballot papers or the voting machines used at a polling station or place fixed for poll are unlawfully taken out of the custody of the Returning Officer or are accidentally or intentionally destroyed or lost or damaged or tampered with to such an extent that the result of the poll at that polling station or place cannot be ascertained. The election proceedings in such cases shall proceed further in accordance with such directions of the Commission as it may issue on the reports of the Observers and after taking all material circumstances into account.

#### **4. COUNTING AT DIFFERENT PLACES**

- 4.1 The counting for an entire Assembly Constituency will be done at one place and every effort will be made to complete the counting on the same day. For this purpose, the counting will commence early in the morning.
- 4.2 While the counting of votes for an Assembly Constituency will be done at one place, the counting of votes for election to the House of the People may be done in more than one place, i.e. in all the places fixed for the counting of votes of the Assembly Constituencies comprised within that Parliamentary Constituency.
- 4.3 If the votes for a Parliamentary Constituency are counted at more places than one, the Returning Officer will inform you or your election agent sufficiently in advance so that you may appoint a separate set of counting agents for each such place.
- 4.4 In the simultaneous elections to the Lok Sabha and the State Legislative Assembly, the counting of votes will be done simultaneously, assembly segment-wise. In such event, the candidates for parliamentary and the assembly elections will be permitted to appoint their counting agents separately.

#### **5. PERSONS ALLOWED IN COUNTING HALL**

Only the following persons will be allowed inside the counting hall:-

- (i) counting supervisors and counting assistants;

- (ii) persons authorised by the Election Commission;
- (iii) public servants on duty in connection with the election;
- (iv) yourself, your election agents and counting agents.

N.B. (1) The 'public servants on duty' will not include the Police Officers, whether in uniform or without uniform (unless called for by the Returning Officer for maintenance of law and order or other duty), Ministers, State Ministers and Deputy Ministers of the Union and States and the Speaker/Chairman of the Lok Sabha/Rajya Sabha/State Legislative Assemblies/Legislative Councils.

- (2) No security personnel accompanying, if any, a candidate or his election agent or counting agent shall be permitted to enter the counting hall.

## **6. NUMBER OF COUNTING AGENTS THAT MAY BE APPOINTED**

6.1 Each candidate has been allowed to appoint as many counting agents as there are counting tables and one more to watch the counting at the Returning Officer's table. Under the instructions of the Election Commission, not more than fourteen tables in addition to one table for the Returning Officer can be provided for counting in one counting hall. The number of counting agents that may be appointed by a candidate may not ordinarily exceed fifteen, as the number of counting tables may also not ordinarily exceed fifteen, including the table of the Returning Officer.

6.2 The Commission may, however, by a general or special direction permit the Returning Officer to provide tables more than fifteen. In that event, you will also be permitted to appoint counting agents more than fifteen and equal to the number of counting tables provided by the Returning Officer.

6.3 As mentioned above, the Returning Officer will intimate in writing to each candidate or his election agent, at least one week before the date fixed for the poll, the place or places where the counting of votes will be done and date and time at which the counting will commence. He will also inform them sufficiently in advance about the number of counting tables that will be provided in the counting hall, so that they may appoint their counting agents accordingly.

6.4 The above mentioned limit in regard to the maximum number of counting agents will apply separately in respect of each counting place when counting is done at more places than one.

## **7. QUALIFICATION FOR COUNTING AGENTS**

7.1 The law does not prescribe any specific qualifications for persons to be appointed as counting agents. However, the candidates are advised to appoint mature and major persons as their counting agents so that their interests are properly watched.

- 7.2 However a Minister shall not be appointed as a counting agent as his personal security shall be jeopardised with such appointment, because his security personnel will not be permitted to accompany him into the counting hall.
- 7.3 A Government servant also cannot act as counting agent of a candidate and if he so acts, he is punishable with imprisonment for a term, which may extend to 3 months or with five or with both.

## **8. APPOINTMENT OF COUNTING AGENTS**

- 8.1 Appointment of a counting agent is to be made either by you yourself or your election agent. Such appointment is made in Form 18 appended to the Conduct of Elections Rules, 1961 (Appendix XXV). The name and address of the counting agent will be filled in that form and you or your election agent will personally sign that form. The counting agent will also sign that form in token of his acceptance of the appointment. Two copies of such forms will be prepared and signed, in all cases. One copy of that form is to be forwarded by you/your election agent to the Returning Officer while the other copy is given to the counting agent for production before the Returning Officer.
- 8.2 You may appoint all your counting agents by a single letter of appointment in Form 18. In that case, all the counting agents are required to sign that letter of appointment in token of having accepted the appointment.
- 8.3 Your facsimile signature in the form of appointment is also accepted if there is no doubt about the signature.

## **9. TIME LIMIT FOR MAKING APPOINTMENT OF COUNTING AGENT**

- 9.1 The Election Commission has directed that in all constituencies irrespective of the number of contesting candidates in the constituency, the candidates should submit the list of their counting agents with photographs of such agents to the Returning Officer latest by 1700 hours on the day three days before the date of counting. The Returning Officer will prepare identity cards for such agents and issue the same to the candidate.
- 9.2 The counting agent must produce those identity cards alongwith their letter of appointment when they come to attend the counting.
- 9.3 The letter of appointment alongwith the identity card of counting agent must be produced before the Returning Officer at least one hour before the time fixed for counting of votes. The Returning Officer will not accept any appointment letter which is received after the aforesaid time.

## **10. REVOCATION OF APPOINTMENT OF COUNTING AGENT**

- 10.1 You or your election agent are authorised to revoke the appointment of a counting agent.
- 10.2 Such revocation of appointment is made in Form 19 appended to the Conduct of Elections Rules, 1961 (Appendix XXVI) and becomes operative from the time at which it is lodged with the Returning Officer. In such a case, you are authorised to appoint another counting agent in place of the one whose appointment has been revoked, at any time before the commencement of counting. Once the counting has commenced no appointment of fresh counting agent can be made.
- 10.3 Appointment of such fresh counting agent is to be made in the same manner as explained in para 8 above.

## **11. ADMISSION OF COUNTING AGENTS TO THE COUNTING HALL**

- 11.1 On production of his letter of appointment and the identity card before the Returning Officer, the counting agent will be required to sign before the Returning Officer the declaration contained in his letter of appointment regarding maintenance of secrecy of voting. After verification of the letter of appointment, identity card and declaration, the Returning Officer will permit the counting agent to enter the counting hall.
- 11.2 The Returning Officer is empowered to subject any counting agent to search of his person before entry into the counting hall.

## **12. BADGES FOR COUNTING AGENTS**

Each counting agent will be given a badge by the Returning Officer indicating whose agent he is and showing the serial number of the table at which he will watch the counting. He should keep sitting at the table allotted to him and will not be allowed to move about all over the hall. However, you, your election agent and in their absence, your polling agent at the Returning Officer's table will be allowed to go around all counting tables.

## **13. MAINTENANCE OF DISCIPLINE AND ORDER IN THE COUNTING HALL**

- 13.1 Every one should cooperate with the Returning Officer in maintaining discipline and order inside the counting hall. They should not leave the counting hall without the permission of the Returning Officer. They should carry out all directions given by the Returning Officer. They should note that the Returning Officer may send out of the counting hall any person who persists in disobeying his directions.
- 13.2 No counting agents and others will be allowed to go outside the counting hall during counting process. In other words, when once counting agents and others are inside the counting hall, they will ordinarily not be allowed to go outside until after the declaration of result.
- 13.3 All the reasonable facilities for drinking water, refreshment, toilet, etc., will be provided adjacent to the counting hall.

#### **14. SMOKING INSIDE THE COUNTING HALL IS PROHIBITED**

If any person desires to smoke, he should go out of the counting hall (but not outside the premises of the counting centre) for that purpose, with the permission of the Returning Officer and without, however causing any dislocation in the counting process.

#### **15. SEATING ARRANGEMENT FOR COUNTING AGENTS**

15.1 The counting will be done on the table arranged in rows. The tables in each row will be serially numbered.

15.2 On each counting table the control unit of the voting machine will be kept at its centre. There will be a counting Supervisor and one counting Assistant seated on one side. The counting agents may be seated in front of the table facing the control unit so that they can watch all operations being carried out by the counting supervisor on the control unit.

15.3 On each counting table, the seating arrangement for the counting agents shall be made having regard to the following categories or priority, namely:-

- (i) candidates of recognised National parties;
- (ii) candidates of recognised State parties;
- (iii) candidates of recognised State parties of other States who have been permitted to use their reserved symbols in the Constituency;
- (iv) candidates of registered-unrecognised parties;
- (v) independent candidates.

#### **16. ARRANGEMENTS FOR BARRICADING OF COUNTING TABLES**

In each counting hall, barricades will be provided for each counting table so that the voting machines are not handled by the counting agents. However, counting agents will be provided all reasonable facilities to see the whole counting process at the counting table. The Returning Officer will ensure that the barricades are transparent or that the space in between or above the bamboos or other material used for purpose of erecting barricades is adequate to permit full viewing of the counting process. The exact manner in which barricades may be erected is left to the discretion of the Returning Officer who has to adopt such approach as he may deem fit for attaining the objective of ensuring that the voting machines are not handled by unauthorised persons or tampered with in any manner in process of counting

#### **17. MAINTENANCE OF SECRECY**

17.1 Every person inside the counting hall is required by law to maintain, and aid in maintaining, the secrecy of voting and should not communicate to any person any information calculated to violate such secrecy. They should note that any person contravening the provisions of law in this respect is liable to be punished with imprisonment for a term which may extend to 3 months or with fine or with both (Section 128 of the R.P. Act, 1951)

17.2 Before the commencement of the counting of votes, the Returning Officer will read out and explain the provisions of the above mentioned section 128 for the information of all present and for compliance on their part.

**18. COUNTING TO BE CONTINUOUS**

The counting of votes will, as far as practicable, be proceeded with continuously till it is over.

**19. COUNTING OF POSTAL BALLOT PAPERS FIRST**

19.1 The counting of postal ballot papers will be taken up first. This will be done by the Returning Officer himself at the place of counting of votes in the case of election from an Assembly Constituency, and at the place where the results of the various assembly segments of a Parliamentary Constituency are consolidated in the case of election to the House of the People.

19.2 Each postal ballot paper received from a voter will be contained in an inner cover in Form 13-B. This cover along with the declaration of the elector in Form 13-A will be contained in larger cover in Form 13-C addressed to the Returning Officer.

19.3 The Returning Officer will not open any cover in Form 13-C containing a postal ballot paper which he may have received late, that is, after the time fixed for the commencement of counting. He will make a suitable endorsement to that effect on the cover in Form 13-C. The votes contained in these covers will not be counted. He will make a packet of all such covers and seal the packet.

19.4 All covers in Form 13-C containing postal ballot papers which were received in time by the Returning Officer will be opened by him one after another. The declaration by the voter in Form 13-A will be found inside each cover (Form 13-C). Before opening any of the inner covers (Form 13-B) containing the postal ballot papers proper, the Returning Officer will check the declaration (Form 13-A). He will reject a ballot paper without opening its inner cover (Form 13-B) in any of the following cases:

- (a) if the declaration in Form 13-A is not found in the cover in Form 13-C;
- (b) if the declaration has not been duly signed by the elector or has not been duly attested by an officer competent to do so or is otherwise substantially defective;

**N.B.:** It may be noted that it is not necessary under the rules that the officer attesting the declaration should affix his seal and the objection should not, therefore, be raised on this ground if the identity of the attesting officer is otherwise known from the particulars about his designation, address, etc., furnished in the form.

- (c) if the serial number of the ballot paper appearing on the declaration is different from the serial number as endorsed on the inner cover in Form 13-B.

19.5 All such rejected covers in Form 13-B will be suitably endorsed by the Returning Officer, and will be replaced with the respective declaration in the

larger covers in Form 13-C. All such larger covers will be kept in a separate packet which will be sealed by the Returning Officer and full particulars such as the name of the constituency, the date of counting and a brief description of the content will be noted thereon for identifying the packet.

19.6 Thereafter, the Returning Officer will proceed to deal with the remaining covers in Form 13-B, i.e., other than those rejected as aforesaid. In order that there may be no risk of the secrecy of the postal votes being violated, all the declarations in Form 13-A which are found by the Returning Officer on scrutiny to be in order will first be placed in a separate packet and sealed. Identifying particulars will be noted on the packet. It is necessary to put these declarations away in a sealed packet before any ballot papers proper are brought out of their covers in Form 13-B, as the declarations contain the names of the voters along with the respective serial numbers of their postal ballot papers.

19.7 After the above procedure has been completed, the Returning Officer will proceed to open the covers in Form 13-B one after another and the postal ballot papers contained in them will be brought out. The Returning Officer will scrutinise every such ballot paper and decide its validity.

A postal ballot paper will be rejected:-

- (a) if no vote is recorded thereon; or
- (b) if votes are given on it in favour of more than one candidate; or
- (c) if it is a spurious ballot paper; or
- (d) if it has been so damaged or mutilated that its identity as genuine ballot paper cannot be established; or
- (e) if it is not returned in the cover sent along with it to the elector by the Returning Officer; or
- (f) if the mark indicating the vote is made in such a way that it is doubtful to make out to candidate to whom the vote has been given; or
- (g) if it bears any mark or writing by which the voter can be identified.

19.8 There is no particular mark required by law to be made by a voter to indicate his vote on a postal ballot paper. Any mark can be accepted as valid so long as it has been so made and so placed on the ballot paper that the intention of the voter to vote for a particular candidate is clear beyond any reasonable doubt. Thus a mark made anywhere in the space allotted to a candidate will be taken as a valid vote in favour of the candidate concerned. Again, a vote recorded on a postal ballot paper will not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once for the same candidate, if the intention that the vote should be for a particular candidate clearly appears from the way the paper is marked.

19.9 The valid votes will then be counted and each candidate credited with the votes given to him. The total number of postal votes received by each

candidate so counted, will be entered in the result sheet in Form 20 and announced for the information of the candidates/election agents/counting agents.

- 19.10 Thereafter all the valid postal ballot papers and all the rejected postal ballot papers will be separately bundled and kept together in a packet and sealed with the seal of the Returning Officer and the seals of such of the candidates, their election agents or counting agents (not exceeding two in respect of any one candidate) as may desire to affix their seals thereon.

## **20. COUNTING OF VOTES POLLED AT POLLING STATIONS**

- 20.1 While the postal ballot papers are being counted by the Returning Officer at his table, the counting of votes recorded at polling stations by means of voting machines will also be taken up by the Assistant Returning Officer(s) at the other tables provided in the counting hall. For that purpose, the control units of voting machines received from the polling stations will be distributed to the various counting tables, beginning with the control unit of voting machine of polling station No. 1 being distributed to table No. 1, the control unit of voting machine of polling station No.2 being distributed to table No.2 and so on. At each counting table, votes cast at one polling station shall be taken up at a time. Thus, the counting of votes of as many polling stations as there are the number of counting tables will be simultaneously taken up in the first round of counting. The counting will be done and completed in as many rounds as are necessary having regard to the number of counting tables and number of polling stations. The control units for the next round will not be brought on the counting tables, unless the counting of the previous round is over. In case of simultaneous elections the total number of counting tables should be divided into two groups of equal number of tables. The first group should be for Assembly election and the other group for the Parliamentary election. For example, if the total number of counting tables is 14 (fourteen), in the first round of counting, control unit for Assembly election used at polling station No.1 should be given to table number 1 and the control unit used for Lok Sabha election at polling station number 1 should be given to table number 8 , i.e. the first table for the counting of votes for Lok Sabha election and control unit for Assembly election used at polling station number 2 should be given to table number 2 and the control unit used for Lok Sabha election at polling station number 2 should be given to table number 9, i.e., the second table for the counting of votes for Lok Sabha election and so on . You or your counting agent should keep an account of such distribution with you for your/his information. It is to be noted that in the case of counting for simultaneous elections, the next round of counting shall be taken up only after the counting in the previous round, in respect of both assembly and parliamentary elections is completed and control units used in the polling stations covered by round completed are removed from the counting tables.
- 20.2 At the time counting, only the control unit of the voting machine is required for ascertaining the result of poll at the polling station at which the control unit has been used. The balloting unit is not required.

20.3 Along with the control unit used at a polling station, the relevant account of votes recorded in Form 17C pertaining to that polling station will also be supplied to the counting table.

**21. CHECKING SEALS ON CONTROL UNITS**

Before the votes recorded in any control unit of a voting machine are counted, the counting agents present at the counting table shall be allowed to inspect the outer strip seal, the special tag, the paper seals and such other vital seals as may have been affixed on the carrying case and the control unit and to satisfy themselves that the seals are intact and control unit has not been tampered with. If any control unit is found to have been tampered with, the votes recorded in that machine shall not be counted and the matter shall be reported to the Commission for its directions.

**22. OPENING OF CARRYING CASES OF CONTROL UNITS**

As each carrying case of control unit is brought to the counting table, the seals put thereon by the Presiding Officer at the polling station will be examined. Even if the seal of a carrying case is not intact in any case, the control unit kept therein could not have been tampered with, if the seals thereon and particularly the green paper seals on that unit are intact. The carrying case will then be opened and the control unit taken out.

**23. CHECKING OF SEALS AND IDENTITY MARKS ON THE CONTROL UNIT**

As each control unit is taken out of the carrying case, its serial number will be checked so as to ensure that it is the same control unit which was supplied for use at that polling station. Then, the seal on the 'Candidate Set Section' which is put by the Returning Officer before the supply of the machine to the polling station and the seal on the outer cover of Result Section which is put by the Presiding Officer at the polling station will be checked. Even if any of these seals is not intact the control unit could not have been tampered with, if the green paper seals put on the inner cover of the Result Section are intact.

**24. COMPARISON OF THE SERIAL NUMBER OF THE PAPER SEAL**

24.1 On opening the outer cover of the Result Section, the inner cover sealed with the seal of the Presiding Officer will be seen. Even if this seal is also not intact, the control unit could not have been tampered with if the green paper seal is intact and has not been tampered with. In the inner cover of the Result Section, there will be a green paper seal (two green paper seals in the case of machines manufactured by Bharat Electronics Limited, Bangalore). The green paper seal will have been so fixed that the two open ends of the seal project outwards from the sides of the inner compartment in which the result buttons are located. On one such open end of the paper seal will be the printed serial number of that seal. That serial number on the paper seal will be compared with the serial number as given in the paper seal account prepared by the Presiding Officer in item 9 of Part 1 of Form 17C. The counting agents present at the counting table will be allowed to compare such serial number of the paper seal and satisfy themselves that the paper seal is the same which had been fixed by the Presiding Officer at the polling station before the commencement of poll.

24.2 If the serial number of the paper seal actually used in the control unit does not tally with the serial number as shown by the Presiding Officer in the paper seal account, it may be that the paper seal account contains a clerical mistake or there would be a prima-facie suspicion that the voting machine has been tampered with. The Returning Officer will decide the question by checking the serial numbers of the unused paper seals returned by the Presiding Officer. If he finds it to be the case of clerical mistake, he will ignore the discrepancy.

**25. CONTROL UNITS TO BE KEPT APART IF FOUND TAMPERED WITH**

On the other hand, if the Returning Officer is satisfied that the voting machine has been tampered with, or is not the same which was supplied for use at that polling station, the machine will be kept apart and the votes recorded therein shall not be counted.. He will report the matter to the Commission for its directions. Under the law, it is not necessary to adjourn the entire counting if any voting machine has been found to have been tampered with. The Returning Officer will proceed with the counting in respect of the other polling stations.

**26. ASCERTAINING THE RESULT**

26.1 After satisfying that the paper seal is intact and that the control unit is the same as was supplied at the polling station and that there is no tampering with the same, the votes recorded therein shall be counted. For this purpose, the following procedure will be followed by the counting supervisor:-

- (i) Power switch provided in the rear compartment of the control unit will be put to 'ON' position. The 'ON' lamp in the 'Display Section' of the control unit will then glow green.
- (ii) The paper seal over the 'Result I' button provided beneath the upper aperture of the inner cover of Result Section will be pierced through.
- (iii) The 'Result I' button will then be pressed.
- (iv) At the 'Result I' button being so pressed, the total number of votes recorded for each candidate at the polling station shall be displayed automatically in the Display Panels of the control unit. Supposing, there are nine contesting candidates and the total number of votes polled at the polling station is 758, the votes secured by each candidate will be displayed in the Display Panels in the following sequence :-

B.E.L. Machines		E.C.I.L. Machines	
np	0001	cd	9
cd	0009	to	758
to	0758	01	109
01	0109	02	59
02	0059	03	77

03	0077	04	263
06	0002	05	51
07	0051	08	94
08	0094	09	65
09	0065		End
	End		

(This is only an example)

**N.B.** 'Result II' button will be used for ascertaining the result of the second poll, if and when the machine has been used for simultaneous poll. (At present only separate machines are being used for assembly and parliamentary elections even during simultaneous election to both State Assembly and House of the People)

(v) The above result as displayed sequentially candidate-wise shall be noted by the counting supervisor in Part II - Result of Counting of Form 17C.

- 26.2 If required, the 'Result I' button can be pressed again to enable the candidates and/or their agents to note down the above result.
- 26.3 After the result has been noted, the cover of Result Section will be closed and the control unit switched off.

## **27. COMPLETION OF "PART II-RESULT OF COUNTING" OF FORM 17C**

27.1 As the votes secured by each candidate are displayed on the Display Panels of the control unit, the counting supervisor shall, as mentioned above, record the number of such votes separately in respect of each candidate in 'Part II – Result of Counting' of Form 17C. He shall also note down in the said Part II of Form 17C whether the total number of votes as shown in that part tallies with the total number of votes shown against Item 5 of Part 1 of that Form or any discrepancy has been noticed between these two totals. After completing that Form in all respects, the counting supervisor shall sign it. He shall also get it signed by the candidates or their agents present at the counting table.

A sample of Form 17C is given at Appendix XXIII.

27.2 After the counting supervisor has duly filled in Part II of Form 17C, signed it and got it signed by the candidates or their agents, he shall handover that Form to the Returning Officer. The Returning Officer shall countersign the form after satisfying himself that the same has been properly filled and

completed in all respects. The Form so countersigned by the Returning Officer shall be sent to the officer who is compiling the final result and preparing the Final Result Sheet in Form 20.

## **28. PREPARATION OF FINAL RESULT SHEET**

- 28.1 The officer in-charge of compiling the final result and preparing the Final Result Sheet in Form 20 (Appendix-XXVII) shall make entries in that Form showing the votes polled by each candidate polling station-wise, strictly in accordance with the entries made in Part II – 'Result of Counting' of Form 17C in respect of each polling station. The number of tendered votes polled, if any, at a polling station shall also be noted in the appropriate column in Form 20 (Appendix-XXVII) against the polling station concerned.
- 28.2 The entries so made in Form 20 in respect of each polling station shall be announced so that the candidates and their agents may take note of the result of counting in respect of each polling station. Alternatively, the Returning Officer may cause the entries made in Form 20 to be written on a blackboard. This will enable the counting agent to proceed uninterruptedly with the counting of votes at other polling stations.

## **29. RECOUNT**

- 29.1 Normally, there will be no question of recount of votes recorded in the voting machines. Every vote recorded by the voting machines is a valid vote and no dispute will arise as to its validity or otherwise. At the most, some candidates or their agents may not have noted down properly the result of voting at any particular polling station when the control unit displayed that information. If necessity arises for re-verification, the same can be done by pressing the 'Result I' button whereupon the result of voting at that polling station will again be displayed in the Display Panels of that control unit.
- 29.2 Despite the necessity for recount being totally eliminated by the use of voting machines, the provisions relating to recount contained in rule 63 of the Conduct of Elections Rules, 1961 still apply in relation to all constituencies.
- 29.3 Accordingly, after the entire counting is over, the Returning Officer will announce the result giving the total number of votes polled by each candidate as recorded in the Final Result Sheet (Form 20). After the announcement is made, you, or in your absence your election agent or any of your counting agents, may apply in writing for a recount of recorded at all or any of polling stations stating the grounds on which he demands such recount. For this purpose, the Returning Officer will announce the exact hour and minute, upto which he will wait for receiving the written application for recount. When such an application for recount is made, the grounds urged for the recount will be considered and a decision taken by the Returning Officer. He may allow the application in whole or in part if it is reasonable or he may reject it in toto if it appears to be frivolous or unreasonable. The decision of the Returning Officer will be final. If, in any case, an application for recount either wholly or in part is allowed, the Returning Officer will direct counting of the votes over again. The postal ballot papers may also be recounted if a request is made for their recount and such a request is allowed by the Returning Officer. After such recount has been completed, the result sheet will be amended to the extent

necessary and the amendments so made announced. After the total number of votes polled by each candidate has been announced, the result sheet will be completed and signed.

- 29.4 It should be noted that you or your election agent or any of your counting agents has no right to demand a recount after the Returning Officer has completed and signed the result sheet. Any demand for a recount of votes made after the result sheet has been completed and signed will be rejected.
- 29.5 If votes of a Parliamentary Constituency are counted at more places than one, then, according to rule 65 of the Conduct of Elections Rules, 1961, demand for recount of votes can be made only at the end of counting at the last place fixed for the purpose. Such last place would generally be the Headquarters of the Returning Officer where he would be collating and consolidating the results of the various Assembly segments comprised within that Parliamentary Constituency.

### **30. ADJOURNMENT OF COUNTING IN CASE OF FRESH POLL**

30. Before taking any of the steps mentioned in the foregoing para, the Returning Officer will wait for the direction of the Election Commission if he has made any report to it about any voting machine having been found tampered with as mentioned earlier in para 25 above. Where the Commission directs a fresh poll to be taken at the affected polling stations the counting will be adjourned after the counting process in respect of all other polling stations has been completed. In such case all the voting machines and also all other papers relating to elections will be sealed by the Returning Officer. Every candidate or his agent, if he desires to place his seal on every voting machine and packet etc., in which the election papers are kept, will be allowed to do so. The counting so adjourned shall be recommenced after the fresh poll has been held, on such date and hour as the Returning Officer may fix in this behalf and completed in accordance with the procedure prescribed above.

### **31. RESEALING OF VOTING MACHINES AFTER COUNTING**

- 31.1 After the result of voting recorded in a control unit has been ascertained candidate-wise and entered in 'Part II – Result of Counting' of Form 17C and in the Final Result Sheet in Form 20, the control unit shall be resealed with the seal of the Returning Officer and the secret seal of the Commission.
- 31.2 The resealing will be done in such a manner that the result of voting recorded in the control unit is not cleared or obliterated and the unit retains the memory of such result.
- 31.3 The aforesaid resealing of control units shall be done in the following manner:-
- (i) The battery from the 'Candidate Set Section' of the control unit shall be removed. After the removal of the battery, the cover of the 'Candidate Set Section' shall be resealed.
- 31.2 In any event, the Presiding Officer cannot extend the appointed closing time, except for allowing such of the voters to vote who have already reached the polling station before the appointed closing time and taken their place in the queue for voting. For this purpose the Presiding Officer should distribute slips

duly signed by him to the electors, who were present at the polling station at the hour appointed for the close of poll starting from the tail of the queue towards the head

**N.B.** Removal of the battery is necessary so that it does not bloat with the passage of time and damage the machine. Removal of the battery will not, however, obliterate the result of voting recorded in the unit, as the unit will retain its memory even without the battery.

- (ii) The outer cover of the Result Section shall be closed and resealed.
- (iii) The control unit so resealed shall be kept back in its carrying case.
- (iv) The carrying case shall be resealed.
- (v) An address tag shall be firmly attached to the handle of the carrying case containing the particulars of the election, name of the constituency, the particulars of polling station where the control unit was used, serial number of the control unit, date of poll, and date of counting.

31. 4 The candidates/their election agents or counting agents are also permitted to affix their seals on the voting machines, if they so desire. The candidates are advised in their interest to ensure that they affix their seals on these machines. It will satisfy their candidates that there is no possibility of the votes recorded therein being tampered with. Where, however, the candidate himself or his election agent has affixed such seal, the counting agents need not affix their separate seals.

### **32. EQUALITY OF VOTES**

If two or more candidates contesting for any seat happen to secure the highest number of votes and their votes are equal in number, the result will be decided by lot.

**Example-** If in a constituency A, B, C and D are the contesting candidates and the total number of votes they have secured is as follows-

A - 12,703

B - 17,567

C - 17,567

D - 16,394.

A lot will be draw between B and C, who have each polled the highest number of votes (which are equal) and the person whose name is drawn will be deemed to have polled one additional vote.

The Returning Officer will then complete and sign the result sheet.

### **33. DECLARATION OF RESULT OF ELECTION**

- 33.1 After the counting is complete in all respects and the Returning Officer has completed and signed the Final Result Sheet, he will proceed to formally declare the result of election, if there is no direction of the Commission to the contrary. He will make the declaration of result in Form 21C in the case of general election, and in Form 21-D in the case of bye-election.
- 33.2 In case the Commission has issued any direction withholding the declaration of result in any Constituency until its further direction, any declaration of result by the Returning Officer in contravention of any such direction shall be null and void ab initio.

#### **34. CERTIFICATION OF ELECTION**

Soon after the declaration of result, the Returning Officer will grant to the returned (elected) candidate a certificate of election in Form 22 and obtain from him an acknowledgement of its receipt duly signed by him. In case he is not present at the time of declaration of result, he should immediately contact the Returning Officer and obtain the certificate of election.

In this connection the Commission has decided that-

- (1) the certificate of election, in respect of both Parliament and the State Legislatures, should be issued in English or in Hindi but it should be open to the elected candidate to sign the acknowledgement in any language he likes;
- (2) where the elected candidate is not present at the counting nor visits the locality shortly thereafter, the certificate may be handed over to a person duly authorised by the candidate in this behalf and personally known to the Returning Officer, the acknowledgment (duly signed by the candidate) being also obtained through the same person.

The acknowledgment shall be in the form shown below :

I.....acknowledge receipt of the certificate of election in Form 22 in respect of my election to.....from.....constituency, declared on .....

Signature of the returned candidate  
Attested and forwarded to the secretary

.....  
Returning Officer

The acknowledgement is required by the authorities concerned for verifying the identity of the elected candidate at the time of his making and subscribing oath or affirmation before taking his seat in the House.

**CHAPTER XII**  
**MULTIPLE ELECTIONS**

**1. ELECTION TO BOTH HOUSES OF PARLIAMENT**

- 1.1 You cannot be a member of both Houses of Parliament [Article 101(1) of the Constitution]. \*
- 1.2 If you are elected to both Houses of Parliament, but have not taken your seat in either House, you should by notice in writing signed by you and delivered to the Secretary to the Election Commission within ten days from the date or the later of the dates of such election intimate in which of the House you wish to serve. Your seat in the other House will then become vacant.
- 1.3 If you fail to send such intimation within that time-limit, your seat in the Council of States will become vacant automatically.
- 1.4 Any such intimation given by you will be final and irrevocable. [Section 68 of the Representation of the People Act, 1951.]
- 1.5 For this purpose, the date of your election to either House of Parliament will be the date, on which you were declared elected by the Returning Officer [Section 67-A of the Representation of the People Act, 1951.]

**Vacation of seats** (1) No person shall be a member of both Houses of Parliament and provision shall be made by Parliament by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

Section 68 of the R.P. Act, 1951-

**68. Vacation of seats when elected to both Houses of Parliament.**

- (1) Any person who is chosen a member of both the House of the People and the Council of States and who has not taken his seat in either House may by notice in writing signed by him and delivered to the secretary to the Election Commission within ten days from the date or the later of the dates on which he is so chosen intimate in which of the Houses he wishes to serve and thereupon his seat in the House in which he does not wish to serve shall become vacant.
- (2) In default of such intimation within the aforesaid period his seat in the Council of States shall at the expiration of that period become vacant.
- (3) Any intimation given under sub-section (1) shall be final and irrevocable.

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\*Article 101(1) of the Constitution.....

- (4) For the purpose of this section and of section 69, the date on which a person is chosen to be a member of either House of parliament shall be in the case of an elected member the date of his election and in the case of a nominated member, the date of first publication in the Gazette of India of his nomination.

**2. MEMBER OF THE HOUSE OF THE PEOPLE ELECTED TO THE COUNCIL OF STATES**

If you are already a member of the House of the People and have taken your seat in that House, but are subsequently elected to the Council of States, your seat in the House of the People will become vacant on the date of your election to the Council of States, as defined in section 67-A of the Representation of the People Act, 1951. [Section 69(1) of the Representation of the People Act, 1951.]\*

**3. MEMBER OF THE COUNCIL OF STATES ELECTED TO THE HOUSE OF THE PEOPLE**

If you are already a member of the Council of States and have taken your seat in that Council but are subsequently elected to the House of the People, your seat in the Council of States will become vacant of the date of your election to the House of the People as defined in section 67-A of the Representation of the People Act, 1951. [Section 69(2) of the Representation of the People Act, 1951.]

**4. ELECTION TO MORE THAN ONE SEAT IN EITHER HOUSE OF PARLIAMENT OR IN THE HOUSE OR EITHER HOUSE OF A STATE LEGISLATURE**

You may be elected to more than one seat in the House of the People or the Council of States or in the House or either House of the Legislature of a State. In such a case you have to resign all but one of such seats within fourteen days from the date of such election or where the dates of your election are different in respect of different seats, fourteen days from the last of those dates. Such resignation is to be intimated by you in writing and signed by you. The communication should be addressed to the Speaker or Chairman of the House concerned or if necessary to the deputy Speaker or the Deputy Chairman of the House or failing that to the Election Commission. If you fail to do so, all your seats will become vacant. [Section 70 of the Representation of the People Act, 1951 and rule 91 of the Conduct of Elections Rules, 1961].

**67-A. Date of election of candidate.** ---For the purposes of this Act, the date on which a candidate is declared by the Returning Officer under the provisions of section 53 or section 66 to be elected to a House of Parliament or of the Legislature of a State shall be the date of election of that candidate.

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Sections 67-A and 69 of the Representation of the People Act, 1951-----

**69. Vacation of seats by persons already members of one House on election to other House of Parliament**

(1) If a person who is already a member of the House of the People and has taken his seat in such House is chosen a member of the Council of States his seat in the House of the People shall on the date on which he is so chosen become vacant.

(2) If a person who is already a member of the Council of States and has taken his seat in such Council is chosen a member of the House of the People his seat in the Council of State shall on the date on which he is so chosen become vacant.

- 70.** Election to more than one seat in either House of Parliament or in the House or either House of the Legislature of a State. If a person is elected to more than one seat in either House of Parliament or in the House or either House of the Legislature of a State then unless within the prescribed time he resigns all but one of the seats by writing under his hand address to the Speaker or Chairman, as the case may be or to such other authority or officer as may be prescribed all the seats shall become vacant.

**Election to more than one seat in either House of Parliament or in the House or either House of a State Legislature**

4. You may be elected to more than one seat in the House of the People or the Council of States or in the House or either House of the Legislature of a State. In such a case you have to resign all but one of such seats within fourteen days from the date of such election or where the dates of your election are different in respect of different seats, fourteen days from the last of those dates. Such resignation is to be intimated by you in writing and signed by you. The communication should be addressed to the Speaker or Chairman of the House concerned or if necessary to the deputy Speaker or the Deputy Chairman of the House or failing that to the Election Commission. If you fail to do so all your seats will become vacant. [Section 70 of the Representation of the People Act, 1951 and rule 91 of the Conduct of Elections Rules, 1961].

**5. ELECTION TO BOTH PARLIAMENT AND STATE LEGISLATURE**

You cannot be a member both of Parliament and of a House of the Legislature of a State. If you have been elected both to Parliament and to the Legislature of a States, you should resign one of your seats within fourteen days from the date of publication in the Gazette of India or in the Official Gazette of the state, whichever is later, of the declaration that you have been so elected. If you fail to do so, your seat in Parliament will become vacant. [Article 101(2) of the Constitution and rule 2 of the prohibition of simultaneous Membership Rules 1950.

**Rule 91 of the Conduct of Elections Rules, 1961**

91. Resignation of seats in case of election to more seats than one in a House.  
(1) The time within which a person may resign all but one of the seats in either House of Parliament or in the House or either House of the Legislature of State to which he has been elected shall be--  
(a) fourteen days from the date of his election under section 67-A; or

- (b) where the dates of his election are different in respect of different seats fourteen days from the last of those dates.
- 2. Such resignation shall be addressed -
  - (a) to the Speaker or the Chairman of the House concerned; or
  - (b) Where the office of the Speaker or Chairman is for the time being vacant or is or is deemed to be in abeyance to the Deputy Speaker or the Deputy Chairman of the House concerned; or
  - (c) where the post of the Deputy Speaker or Deputy Chairman is also for the time being vacant or is deemed to be in abeyance to the Election Commission.
- 3. Where the resignation has been addressed to the Election Commission under sub-rule (2) the Election Commission shall, as soon as may be after the receipt of the resignation send a copy thereof to the Secretary of the House concerned.

**Article 101 (2) of the constitution--**

- (2) No person shall be a member both of Parliament and of a House of the Legislature of a State and if a person is chosen a member both of Parliament and of a House of the Legislature of a State then at the expiration of such period as may be specified in rules made by the President that person's seat in Parliament shall become vacant unless he has previously resigned his seat in the Legislature of the State.

**6. ELECTION TO BOTH HOUSES OF A STATE LEGISLATURE**

You cannot be a member of both Houses of the Legislature of a State. If you are elected to both the Houses, you should immediately consult the Secretaries of the Houses in order to ascertain how you should vacate your seat in one House or the other. You will have to resign your seat in one of the Houses according to the provisions made in this behalf under Article 190(1) of the Constitution

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**Rule 2 of the Prohibition of Simultaneous Membership Rules, 1950.**

The period at the expiration of which the seat in Parliament of a person who is chosen a member both of Parliament and of a House of the Legislature of a State, specified in the First Schedule to the Constitution of India (hereinafter referred to as "the Constitution") shall become vacant unless he has previously resigned his seat in the Legislature of such State, shall be fourteen days from the date of Publication in the Gazette of India or in the official Gazette of the State whichever is later of the declaration that he has been so chosen.

**Article 190 of the Constitution--**

**Vacation of Seats.**

- (1) No person shall be a member of both House of the Legislature of a State and provision shall be made by the Legislature of a State by law for the vacation

by a person who is chosen a member of both houses of his seat in one House or the other.

- (2) No person shall be a member of the Legislatures of two or more States specified in the First Schedule and if a person is chosen a member of the Legislatures of two or more such States then at the expiration of such period as may be specified in rules made by the President that person's seat in the Legislature of all such States shall become vacant unless he has previously resigned his seat in the Legislatures of all but one of the States.

The Prohibition of Simultaneous Membership Rules, 1950 published vide M/Law Notification No. F46/50-C dated 26.1.1950.

This period shall be ten days from the later or as the case may be the latest of the dates of publication in the Official Gazettes of such States of the declarations that he has been so chosen.

## CHAPTER XIII

### ACCOUNTS OF ELECTION EXPENSES

#### 1. INTRODUCTORY

- 1.1 Under Section 77 of the Representation of the People Act, 1951, every candidate at an election to the House of the People or State Legislative Assembly is required to keep, either by himself or by his election agent, a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent between the date on which he has been nominated and the date of declaration of result of the election, both dates inclusive.
- 1.2 Further, under section 78 of the said Act, every contesting candidate has to lodge a true copy of the said account within 30 days from the date of declaration of result of the election, with the District Election Officer in all states and Union Territories).
- 1.3 In order to ensure that all candidates comply with the requirements of law relating to maintenance of accounts of election expenses and filling of their returns of election expenses in the manner and within the time required by law, the Returning Officer has been instructed in Hand Book for Returning Officers to invite the attention of each candidate to the above provisions of law in writing. This is done by him by addressing a letter to each candidate as in Appendix XXXVII as soon as he files his nomination paper.
- 1.4 From 1993 onwards, the Commission has been modifying the format in which the candidates are to file their accounts of election expenses. THE CURRENT FORMAT WAS CIRCULATED WITH THE COMMISSION'S LETTER NO. 76/2003/J.S.-II, DATED 24.10.2003. COPY OF THE PRESCRIBED FORMAT IS GIVEN AT Appendix XXXII-A
- 1.5 A candidate is required to maintain the day to day account of election expenses in a register giving the details of the expenditure incurred/authorized by (i) political party which has set him up, and (ii) any other political party supporting him, (iii) any other association/organisation/body supporting him, and (iv) any other individual supporting him. The standard format of the register for maintenance of day to day accounts and the format for furnishing abstract statement of details of expenditure by political parties, other associations, etc. are given at Appendix XXXII-A.
- 1.6 You should note that the law relating to expenditure incurred by a candidate in an election has been amended vide the "Election and Other Related Laws (Amendment) Act, 2003. As per the new Explanations 1 and 2 inserted under Section 77(1) only the expenses on account of travel of 'leaders' of political parties covered under Explanation 2 will be exempted from being included in the account of election expenses of a candidate. All other expenses – incurred/authorized by the political parties, other associations, body of persons, individuals – are required to be included in the account of the candidate. The Chief Electoral Officer and the Commission will communicate to you the names of such political leaders whose expenses on travel are to be

excluded from the accounts of a candidate. You are not to entertain any such list directly from any political party.

- 1.7 The Commission has directed that as soon as a candidate files his nomination paper, a register in the standard proforma as given in Appendix XXXII-A shall be issued by the Returning Officer to the candidate or his duly authorised agent against a proper receipt thereof. Each register will be duly numbered and authenticated by the District Election Officer. The candidate shall maintain his day-to-day account of election expenses in that register itself and in no other document. That register containing his account shall itself be filed by the candidate with the District Election Officer as his account of election expenses within 30 days from the date of declaration of result of election as required under the law. The day-to-day account in the Register shall also be accompanied by the abstract statement showing the details of expenditure.
- 1.8 The account filed by a contesting candidate is also required to be accompanied by an affidavit from the candidate in the prescribed proforma in Appendix XXXII-B, which is also part of the model proforma given in Appendix XXXII-A mentioned above.
- 1.9 A copy each of the said order dated 24<sup>th</sup> October 2003 is furnished by the Returning Officer to each candidate as soon as he files his nomination paper, along with the register, Parts I to VI of the model proforma for furnishing the abstract statement of election expenses and the form of the affidavit and the letter mentioned in para 1.3 above.
- 1.10 You will be asked to acknowledge the receipt of the said letter and its enclosures including the abovementioned register then and there.
- 1.11 All the acknowledgements obtained from the candidates will be sent by the Returning Officer to the District Election Officer for his record within one week from the expiry of the last date for the withdrawal of candidatures.

### **Only contesting candidates to lodge accounts**

- 1.12 Though under Section 77 every candidate is required to keep an account of his election expenses as aforesaid, under section 78 it is only the contesting candidates who are required to lodge their accounts of election expenses.
- 1.13 If a candidate contests election for more than one constituency, he is required to keep, and also lodge, a separate account of his election expenses in respect of each such constituency.

### **2. AUTHORITY WITH WHOM ACCOUNT SHOULD BE LODGED**

- 2.1 In every State and Union Territory, the account of election expenses shall be lodged by a contesting candidate with the District Election Officer of the district in which the constituency from which he contested election lies.
- 2.2 As some of the assembly and parliamentary constituencies in some State extend over more than one district, the question may arise which District Election Officer should receive the accounts submitted by the candidates in such cases. It is clarified that the accounts of election expenses should be

lodged with the District Election Officer of the District, who had provided the polling stations for the constituency. For the information of the candidates the name and designation of the District Election Officer concerned should be published locally indicating the names of constituencies in respect of which he would receive the accounts.

- 2.3 For the convenience of the contesting candidates, the District Election Officer should also issue a letter to all contesting candidates in every constituency within three days of the date of election of the returned candidate intimating the name designation and address of the District Election Officer with whom the account has to be lodged and also the last date before which the account should reach him.

### **Election in more than one constituency**

- 2.4 If a candidate contests election from more than one constituency he has to lodge a separate return of election expenses for every election, which he contests. The election for each constituency is a separate election.

### **3. MAINTENANCE OF ACCOUNT AND PARTICULARS TO BE ENTERED IN ACCOUNT**

- 3.1 The account should contain the following particulars:-

- (a) the date on which the expenditure was incurred or authorized;
- (b) the nature of the expenditure (as for example, travelling, postage or printing and so on);
- (c) the amount of the expenditure, i.e.-
  - (i) the amount paid;
  - (ii) the amount outstanding;
- (d) the date of payment;
- (e) name and address of the payee;
- (f) the serial number of vouchers in case of amount paid;
- (g) the serial number of bills, if any, in case of amount outstanding;
- (h) the name and address of the person to whom the amount outstanding is payable.

**N.B.** The particulars mentioned in items (e) to (h) above need not be given in regard to any item of expenditure for which it is unnecessary to obtain voucher under paragraph 5.

- 3.2 All documents such as vouchers, receipts, acknowledgements, etc., in support of the expenditures incurred or authorised shall be obtained from day to day as the expenditure is incurred or authorised and shall be maintained in

the correct chronological order along with the abovementioned Register showing day-to-day account.

**4. ACCOUNT TO BE MADE AVAILABLE BY CANDIDATE FOR INSPECTION AND DISPLAY**

- 4.1 THE COMMISSION HAS DIRECTED THAT THE DAY-TO-DAY ACCOUNT AS MAINTAINED BY A CANDIDATE IN THE AFORESAID REGISTER TOGETHER WITH THE SUPPORTING DOCUMENTS SHALL BE MADE AVAILABLE BY THE CANDIDATE FOR INSPECTION ONCE IN THREE DAYS DURING THE PROCESS OF ELECTION TO THE DISTRICT ELECTION OFFICER, RETURNING OFFICER, ELECTION OBSERVER APPOINTED BY THE COMMISSION OR ANY OTHER SUCH AUTHORITY NOMINATED BY THE COMMISSION IN THIS BEHALF. THE DISTRICT ELECTION OFFICER AND THE ELECTION OBSERVER SHALL PREPARE A SCHEDULE OF INSPECTION WHEREBY A THREE-DAY CYCLE OF FURNISHING ACCOUNTS WILL BE SET FOR EVERY CANDIDATE IN SUCH MANNER THAT ON EACH DAY, ACCOUNTS OF ONE OR MORE CONTESTING CANDIDATES ARE MADE AVAILABLE FOR SCRUTINY TO THE CONCERNED OFFICERS. IN OTHER WORDS, THE TURN OF EVERY CANDIDATE TO FURNISH HIS ACCOUNTS FOR SCRUTINY WILL FALL EVERY THIRD DAY THROUGHOUT THE PERIOD BETWEEN THE FILING OF HIS NOMINATION AND DECLARATION OF RESULTS.
- 4.2 FAILURE ON THE PART OF A CANDIDATE TO PRODUCE THE REGISTER AND THE SUPPORTING DOCUMENTS FOR INSPECTION ON DEMAND SHALL BE TREATED AS MAJOR DEFAULT ON HIS PART AND HE WOULD BE PROCEEDED AGAINST UNDER SECTION 171-1 OF THE INDIAN PENAL CODE.
- 4.3 While inspecting the accounts of the candidates as per the schedule of inspection fixed, the Returning Officer will ensure that two photocopies of the relevant pages of the register are retained by the inspecting officer. One copy of the relevant pages will be displayed on Returning Officer's notice board and the other copy will be retained in a separate file for each candidate constituency-wise as proof of record with him and furnished to the District Election Officer on conclusion of the poll process. In this exercise the Returning Officer shall ensure that the inspection does not become a source of harassment/oppression to the detriment of the electioneering of the candidate which is his legal right.
- 4.4 The Commission has also directed that a copy of the day-to-day accounts retained by the Returning Officer may be provided to any person desiring a copy on payment of usual copying charges. He will make this known to the candidates and the general public for their information as soon as the process of nomination begins.

**Arrangements for scrutinizing accounts**

- 4.5 To facilitate the scrutiny of accounts the Returning Officer will appoint adequate number of designated officers, who have some experience in

handling accounts. The locations where these officers will be available should be made known to the candidates at the time they are handed the Register. He will ensure that the designated officers are available at their locations on the appointed days. The Election Observers will also scrutinize the accounts from time to time. Either they will visit the designated officers or call for the records from the designated officers at some central location. The Returning Officer will coordinate the interaction between the Election Observers and his designated officers and it will be ensured by him that all proper records are made available to the Election Observers and the designated officers furnish the requisite information to them.

4.6 It has been the experience in previous elections that the candidates do not disclose the correct value of the different items of expenditure. To preclude the chances of concealment of information it has been found useful to obtain and make available rates of standard items to the designated officers and the Election Observers in advance. The Commission has directed all District Election Officers to make available the rates of the under-mentioned items to all Election Observers immediately on their arrival in the constituency. The list of these items, not exhaustive but illustrative, are as follows:-

1. Hiring charges of Loudspeaker with amplifier and microphone
2. Construction of podium / pandal (standard size to seat 4-5 persons)
3. Cloth Banner
4. Cloth Flags
5. Plastic Flags
6. Hand Bills (cost to be calculated and print order ascertained from printer – refer 127A of R.P. Act, 1951)
7. Posters
8. Hoardings
9. Cut outs (wooden)
10. Cut outs (Cloth/Plastic)
11. Video Cassettes
12. Audio Cassettes
13. Erection of gates
14. Erection of arches
15. Daily hiring charges of vehicles:

- (i) Jeep / Tempo / Trucker, etc.
  - (ii) Sumo / Qualis
  - (iii) Cars
  - (iv) Three-Wheelers
  - (v) Cycle-Rickshaw
- 16. Hiring charges of hotel rooms / guest houses
  - 17. Charges of drivers' salary
  - 18. Hiring charges of furniture (chairs, sofa, etc.) and fixtures
  - 19. Hiring charges of hoarding sites from municipal authorities
  - 20. Other items commonly used in a District (DEO to prepare a rate list of such items)

## **5. MANNER OF LODGING THE ACCOUNT**

- 5.1 The Register supplied by the Returning Officer to each candidate in which the candidate has kept his account of election expenses shall itself be filed by the candidate with the District Election Officer as his account of election expenses within 30 days from the date of declaration of result of election as required under the law.
- 5.2 Further, the candidate is also required to furnish the abstract statement in Parts I to VI of the proforma (Appendix XXXII-A) given to him by the Returning Officer along with the said register. No column in the register or in the abstract statement of the proforma is to be left blank. If no expenditure has been incurred or authorised on any item listed therein, a 'Nil' entry should be made in the appropriate column.
- 5.3 Furthermore, each candidate while lodging return of his election expenditure in the prescribed proforma shall also file an affidavit on oath in support of his account of election expenses. The proforma of the affidavit to be filed by each candidate is a part of the model proforma (Appendix XXXII-A) mentioned above.
- 5.4 The account, which is filed should be a true and complete account kept by the candidate or his election agent and should be certified as such as by the candidate himself. A certificate by his election agent is not sufficient and, therefore, even if the account is certified by the election agent, it should again be certified by the candidate himself.

### **Vouchers to be filed with accounts**

- 5.5 Every candidate should lodge along with the account a voucher for every item or expenditure unless the nature of the case is such that it is not practicable to obtain voucher, e.g., postage, travel by railway and the likes. All vouchers should be serially numbered by the candidate or his election agent.

## **Vouchers to be signed**

- 5.6 Each of the supporting vouchers lodged with the account shall be signed by the candidate or by the election agent, in full.

## **6. LAST DATE FOR FILING ACCOUNTS**

The account should be lodged by the candidate within 30 days from the date of election of the returned candidate vide Section 78 of the Representation of the People Act, 1951.

- N.B.** (i) In computing the period of 30 days, the date on which the Returning Officer declared the returned candidate elected should be excluded.
- (ii) If the 30th day so computed is a Sunday or other holiday and his office is closed on that day, the account of election expenses may be lodged on the next day on which his office opens. The account will be deemed to have been lodged in time in such a case.

## **7. MEANING OF DATE OF ELECTION**

The "date of election" of a returned candidate is the date on which the Returning Officer declared him to have been elected whether it was a contested or an uncontested election.

## **8. ISSUE OF ACKNOWLEDGEMENT IN TOKEN OF RECEIPT OF ACCOUNT**

As soon as the account of election expenses is filed by a candidate with the DEO, he should acknowledge its receipt in the proforma prescribed in Appendix XXXVI. If the account is received by him through post, such acknowledgement should be sent by him forthwith by post.

## **9. NOTICE OF FILING ACCOUNTS**

Within two days from the date on which the candidate lodges his account of election expenses, the DEO should affix a notice to his notice board specifying:-

- (i) the date on which the account has been lodged;
- (ii) the name of the candidate; and
- (iii) the time and place at which the account can be inspected.

## **10. INSPECTION AND COPIES**

- 10.1 Any person can, on payment of a fee of rupee one, inspect the account lodged with the DEO by a candidate. According to rule 88, the Commission has fixed the fee of Rs.1 per folio or part of a folio chargeable for the supply of attested copies of the account of election expenses or of any part thereof.
- 10.2 If inspection of an account of election expenses has been applied for at any time during the period that the account is with the Election Commission, the application should be kept pending until the account is received back from the Commission after which the inspection will be allowed to the applicant.

## **11. REPORT TO THE COMMISSION**

- 11.1 Immediately after the last date for filing accounts of election expenses has expired, and in any case not later than the seventh day after such expiry date, the DEO shall report to the Commission under rule 89 of the Conduct of Elections Rules, 1961, in the Form in Appendix XXXV.
- (i) the name of each candidate whose name was included in the list of contesting candidates;
  - (ii) name of each contesting candidate who failed to lodge the account of election expenses in the manner specified by the Commission in terms of its instructions dated 24.10.2003.
  - (iii) whether the candidate has lodged his account of election expenses in time and the date of filing the account and the dates on which the accounts were furnished by such candidates for periodical inspection during the course of the elections, and if not furnished, whether notices for non-compliance of the instructions of the Commission were issued to them and further follow-up action taken, if any.
  - (iv) whether in his opinion the account has been lodged within the time and the manner required by the Act and the Rules and Commission's directions.
- 11.2 If any candidate has not submitted his account by the time the DEO sends his report, his name should also be included with the remarks that the account has not been lodged.
- 11.3 Whenever the DEO reports that an account lodged by a contesting candidate is not in the manner required by the act and the rules and the Commission's directions, he should, along with his report, forward to the Commission that account and the documents accompanying it. His report must include the discrepancies noticed by him/Returning Officers/Designated Officers in the accounts submitted every third day by the candidate with the actual expenditure noted/assessed by him/Returning Officer/Election Observer/Designated Officer and specifically mention the items of expenditure which in the opinion of District Election Officer/ Returning Officer /Observer, have been suppressed.

11.4 Further, the comments of the District Election Officer shall be given in his report to the Commission on the overall final accounts furnished by the candidates in terms of actual expenditure incurred by each candidate. In giving his final comments, the District Election Officer shall take into account the observations made by the Election Observers and any other candidate or by any other organizations or member of the general public on the daily accounts exhibited on the notice board of the Returning Officer. These shall be submitted as enclosures to the report that is submitted by the District Election Officer in the proforma (Annexure XXXVIII) prescribed in para 11.1 above. In the 'Remarks' column pertaining to a candidate in the proforma, the enclosure number of the comments of the DEO pertaining to that candidate shall be mentioned.

11.5 The DEO is not required to send with his report those accounts which he considers to have been lodged in the manner required by the law, unless specifically asked for by the Commission in any case.

**12. SEPARATE REPORT FOR EACH CONSTITUENCY**

The DEO has to send a separate report in respect of each constituency. Each such report would cover all the contesting candidates in the constituency whether they have been elected or defeated at the poll.

**13. ACCOUNTS FILED LATE**

If a contesting candidate has lodged his account of election expenses after the DEO has sent his report to the Commission, the DEO is required to send a supplementary report in the same Form in respect of him. In every such case also, he will examine the account and record in column 7 any material defects which he may notice therein as elaborated in paras 11.3 and 11.4 above.

**14. NATURE OF EXAMINATION**

Since the return of election expenditure filed by a candidate has to reflect the "correct" account of "all" election expenses, the District Election Officer, before accepting the account of the candidate as being in accordance with the manner prescribed shall conduct such enquiry as he deems necessary, and at the time of communication of his report vide (Appendix XXXV) to the Commission as required under Rule 89 of the Conduct of Elections Rules, 1961, certify to the Commission with reference to the documents filed before him and as verified by him through an appropriate enquiry, that the statement of account in the manner prescribed.

**15. PUBLICATION OF REPORT**

The DEO will publish a copy of every report sent to the Commission by affixing a copy thereof to your notice board.

**16. COMMISSION'S DECISION ON REPORT**

The Commission will consider the report and decide whether any contesting candidate has failed to lodge his account of election expenses within the time and in the manner required by law. In such a case the Commission will call upon the candidate to show cause why he should not be disqualified.

## **17. DELIVERY OF COMMISSION'S NOTICE TO CANDIDATES**

17.1 In order to ensure that the notices issued by the Commission are served on the defaulting candidates expeditiously and their cases settled with the least delay, the Commission now forwards these notice to the District Election Officer to cause the same delivered to the candidates concerned. Every effort would be made to by the DEO to effect the delivery of the notice to the candidate concerned within three days of receipt of the same from the Commission in his office.

17.2 The notice shall be delivered to the candidate concerned against a proper acknowledgement from him in token of having received the same.

17.3 If the candidate is not available at the address and the members of his family refuse to take delivery of the notice, the same will be pasted on the wall/door of the residence of the candidate in the presence of two witnesses preferably of the locality. A note to this effect will be recorded on the spot and the signatures of the witnesses along with their addresses obtained thereon.

## **18. REPRESENTATION BY DEFAULTING CANDIDATE**

Any contesting candidate who has been called upon to show cause may within twenty days of the receipt of such notice represent in writing to the Election Commission, and shall, at the same time, send to the DEO a copy of his representation together with a complete account of his election expenses if he had not already furnished such an account.

## **19. SUPPLEMENTARY REPORT BY DISTRICT ELECTION OFFICER**

19.1 The DEO would send his supplementary report along with the acknowledgement obtained from the candidate in token of his having received the Commission's notice to the Commission immediately, and in any case within one week, after the expiry of the period within which the candidate has been directed by the Commission to submit his representation with his account, if any.

19.2 The supplementary report would be sent even where the candidate has not filed any representation.

## **20. FINAL ORDER BY COMMISSION**

If, after considering the representation submitted by the candidate and the comments made by the DEO and after such enquiry it thinks fit, the Election Commission is satisfied that the candidate has no good reason or justification for the failure to lodge his account in the time and in the manner required by law, it shall declare him to be disqualified under Section 10-A of the

Representation of the People Act, 1951 for a period of three years from the date of the order and cause the order to be published in the official gazette.

## 21. REMOVAL OF DISQUALIFICATION

Under Section 11 of the Representation of the People Act, 1951 the Election Commission may, for reasons to be recorded, remove any such disqualification or reduce the period thereof.

## 22. TIME LIMITS TO BE STRICTLY ADHERED

In the foregoing paragraphs, various time limits have been specified for submission of reports to the Commission, service of notice on the defaulting candidates, forwarding of their representation with your comments to the Commission, etc. All such time limits should be strictly adhered to failing which the Commission will take serious exception to any such lapses.

## 23. MAXIMUM ELECTION EXPENSES

23.1 Under sub-section (3) of the said section 77, the total of the expenditure of a candidate shall not exceed such amount as may be prescribed. Rule 90 of the Conduct of Election Rules, 1961 prescribes such limits for maximum election expenses in parliamentary and assembly constituencies in each State/Union Territory.

23.2 The existing limits [as on 24.10.2003 vide Ministry of Law & Justice, (Legislative Department) Notification No.H-11-19(6)/2003 dated 24<sup>th</sup> October, 2003] are shown in the table below. The candidates must, however, check up whether there has been any revision in these limits subsequently:-

**Table**

Name of State or Union Territory	Maximum limit of election expenses in any one of	
	Parliamentary Constituency	Assembly Constituency
1	2	3
<b>1 State</b>		
1. Andhra Pradesh	25,00,000	10,00,000
2. Arunachal Pradesh	17,00,000	6,00,000
3. Assam	25,00,000	10,00,000
4. Bihar	25,00,000	10,00,000
5. Goa	14,00,000	5,00,000
6. Gujarat	25,00,000	10,00,000
7. Haryana	25,00,000	10,00,000
8. Himachal Pradesh	25,00,000	7,00,000

Name of State or Union Territory	Maximum limit of election expenses in any one of	
	Parliamentary	Assembly

			Constituency	Constituency
	1		2	3
9.	Jammu & Kashmir	...	25,00,000	*5,00,000
10.	Karnataka	...	25,00,000	10,00,000
11.	Kerala	...	25,00,000	10,00,000
12.	Madhya Pradesh	...	25,00,000	10,00,000
13.	Maharashtra	...	25,00,000	10,00,000
14.	Manipur	...	22,00,000	5,00,000
15.	Meghalaya	...	22,00,000	5,00,000
16.	Mizoram	...	20,00,000	5,00,000
17.	Nagaland	...	25,00,000	5,00,000
18.	Orissa	...	25,00,000	10,00,000
19.	Punjab	...	25,00,000	10,00,000
20.	Rajasthan	...	25,00,000	10,00,000
21.	Sikkim	...	17,00,000	5,00,000
22.	Tamil Nadu	...	25,00,000	10,00,000
23.	Tripura	...	25,00,000	5,00,000
24.	Uttar Pradesh	...	25,00,000	10,00,000
25.	West Bengal	...	25,00,000	10,00,000
26.	Chhattisgarh	...	25,00,000	10,00,000
27.	Uttaranchal	...	25,00,000	7,00,000
28.	Jharkhand	...	25,00,000	10,00,000
<b>II Union Territories</b>				
1.	Andaman and Nicobar Islands	...	10,00,000	-
2.	Chandigarh	...	8,00,000	-
3.	Dadra and Nagar Haveli	...	6,00,000	-
4.	National Capital Territory of Delhi	...	15,00,000	9,00,000
5.	Daman & Diu	...	6,00,000	-
6.	Lakshadweep	...	6,00,000	-
7.	Pondicherry	...	12,00,000	5,00,000

\* Vide SRO No.185, dated 16.06.1998.

## **24. MEASURE TO CHECK CORRUPTING INFLUENCE OF MONEY POWER**

24.1 The increasing role of money power in elections is too well known and is one of the maladies which sometimes reduces the process of election into a mere farce by placing some privileged candidates with financial resources in a distinctly advantageous position as compared to other candidates. The result of such an election cannot reflect the true choice of the people. The system also sometimes deprives qualified and able persons of the prerogative to represent masses.

24.2 It is commonly perceived that the above-quoted provisions of law have become utterly inadequate to check the corrupting influence of money power.

24.3 It is relevant to cite from a recent judgement of the Supreme Court in this context (Gadakh Yashwantrao Kankarrao Vs. E.V. alias Balasaheb Vikhe Patil & Others- AIR 1994 SC 678):

“The existing law does not measure upto the existing realities. The ceiling on expenditure incurred or authorised by the candidate himself but the expenditure incurred by the party or anyone else in his election campaign is safely outside the net of legal function. The spirit of the provision suffers violation through the escape route. The prescription of ceiling on expenditure by a candidate is a mere eye-wash and no practical check on election expenses for which it was enacted to attain a meaningful democracy. This lacuna in the law is, however, for the Parliament to fill lest the impression is reinforced that its retention is deliberate for the convenience of everyone. If this be not feasible, it may be advisable to omit the provision to prevent the resort to indirect methods for its circumvention and subversion of the law, accepting without any qualm the role of money power in the elections. This provision has ceased to be even a fig leaf to hide the reality.”

24.4 The Hon’ble Court has further expressed the fond wish in the above quoted judgement that the “duty of the top echelons of leadership at the State and national level of all political parties is to set the trend for giving the needed information to the electorate by adopting desirable standards so that it percolates to the lower levels and provides a congenial atmosphere for a free and fair poll.”

24.5 The Commission has recommended to the Government of India several amendments to the aforesaid provisions of law relating to election expenses to make them really effective and meaningful. The law has, however, not been amended on the lines recommended by the Commission so far.

24.6 In the meanwhile, the Commission has carefully considered ways and means to render the account of election expenditure submitted by the candidates as little incorrect and as close to the truth as possible, within the bounds of law as it stands at present.

## **25. APPOINTMENT OF ELECTION EXPENDITURE OBSERVERS**

As one such measure, the Commission has decided that in all future general elections and bye-elections, the Commission will appoint Election Expenditure Observers in addition to Observers being appointed to oversee the conduct of elections as at present. They will closely watch, analyse and report to the Commission instances of misuse of money power for manipulating the will of the electors. The Commission will also determine the magnitude of election expenditure in the light of the report of these observers.

## **26. NO EXEMPTION FROM FILING OF ACCOUNT FOR ANY CONTESTING CANDIDATE**

Even if a contesting candidate has not taken the election contest seriously for any reason whatsoever and has incurred or authorised only some nominal amount on his security deposit, etc., he must lodge his account of election expenses. There is no exemption under the law for any contesting candidate from lodging the account of his election expenses. Only a candidate whose nomination paper has been rejected at the time of scrutiny of nominations or who has validly withdrawn his candidature and whose name was not included in the list of contesting candidates is not required by law to lodge an account of his election expenses.

**27. Relevant Legal Provisions**

For convenience of reference, relevant provisions relation to account of election expenses contained in Representation of the People Act, 1951 and the Conduct of Elections Rules, 1961 are reproduced in Appendix XXXIII.

## CHAPTER XIV

### MISCELLANEOUS

#### 1. **SIGNING BY ILLITERATE PERSONS**

Sub-rule (2) (a) of rule 2 of the Conduct of Elections Rules, 1961 lays down that a person who is unable to write his name shall, unless otherwise expressly provided in these rules, be deemed to have signed an instrument or a paper if he has placed a mark on such instrument or other paper in the presence of the Returning Officer or the Presiding Officer or such other officer as may be specified in this behalf by the Election Commission. The Commission has accordingly specified every officer belonging to an administrative service not below the rank of a Sub Divisional Officer as an officer in whose presence such mark may be placed.

#### 2. **MANUSCRIPT, TYPE-WRITTEN, CYCLOSTYLED OR PRIVATELY PRINTED FORMS**

Rule 2(1) (g) defines "form". A form appended to the Conduct of Elections Rules, 1961 in respect of any election in a State includes a translation thereof in any of the languages used for official purposes of that State. When you have to use a form which has been prescribed under the rules, you must adopt that form. If the State Government has printed the forms, you should get a copy of such printed form. If that is not available, you may use a privately printed, cyclostyled, typed or even manuscript form. That will be accepted. You should, however, be careful to ensure that the text of the prescribed form has been correctly copied and that there is no discrepancy whatsoever in the form used by you.

#### 3. **PRODUCTION AND INSPECTION OF ELECTION PAPERS**

3.1 Rule 92 of the Conduct of Elections Rules, 1961 provides that it is the duty of the District Election Officer within whose jurisdiction the constituency falls (in the case of the Union Territory, the concerned Returning Officer) to keep in safe custody all papers relating to the election.

3.2 Under rule 93(1) of the said rules, the sealed voting machines, sealed packets of registers of voters, sealed packets of unused ballot papers with counterfoils attached thereto, used ballot papers (whether valid, tendered or rejected) the packets of counterfoils of used ballot papers, marked copies of the electoral roll, declarations made by the electors entitled to postal ballot and the attestations of their signature, shall not be opened and their contents shall not be inspected by or produced before any person or authority except under the order of a competent Court.

3.3 The Commission has directed that the sealed packets of voters slips which will be issued to voters inside the polling station under the Commission's instructions shall also likewise be not open to public inspection, except under the order or a competent Court.

3.4 All other election papers can be inspected, and certified copies obtained by any person applying for it and paying requisite fee.

#### 4. **PRODUCTION AND INSPECTION OF OTHER ELECTION PAPERS**

4.1 Sub-rule (2) of rule 93 of the Conduct of Elections Rules, 1961 provides that all papers relating to an election other than those referred to in sub-rule(1) thereof, shall be open to public inspection subject to such conditions and to the payment of such fee, if any, as the Election Commission may direct.

4.2 In pursuance of the said sub-rule read with section 76 of the Indian Evidence Act, 1872, the Commission has issued the following directions:

**(1) Inspection**

(a) Every application for inspection of the said documents (other than an account of election expenses) shall be made in writing and should contain the particulars concerning the record of which inspection is required.

(b) An inspection of the documents shall be allowed to any person applying for the same on payment of a fee of Rs 1/- per hour of inspection or part thereof, unless inspection is required to be made urgently in which case fee shall be Rs 2/- per hour or fraction thereof.

(c) Inspection on an ordinary application shall be allowed on the day following the date on which the application is made or on a subsequent day and inspection on an urgent application shall be allowed on the same day.

(2) **Certified copy-** A certified copy of any of the said documents (other than an account of election expenses) shall be given to any person applying for the same, on payment of fees at the same rate as is charged in the State for a copy of an order by a Revenue Office. The procedure to be followed in respect of an application shall be the same as for a similar application made in respect of a case dealt with by a Revenue Officer.

(3) The application should establish the right of the applicant for inspection or for supply of certified copies of documents and for that purpose should clearly disclose that the applicant has a direct and tangible interest in such document or documents and the nature of such interest.

(4) No fee shall be charged when inspection or certified copy of a documents is required for official purpose.

**5. SUPPLY OF COPIES OF RESULT SHEETS AND ELECTION RETURNS**

5.1 You may get copies of result sheet in Form 20, if you so desire, on payment of fee as charged for supply of certified copies of other election records.

5.2 You may also obtain copies of election return in Form 21-E from the Returning Officer, District Election Officer, Chief Electoral Officer or Election Commission on a payment of Rs.2/- (Rupees two only) for each copy.

## **6. REFUND OF DEPOSIT**

Forms for application for the convenience of candidates and Returning Officers: Forms of applications for refund of security deposits are given in Appendix XXXIV. Every application for a refund should be made by you or by the person who made the deposit on your behalf in the forms as may be appropriate. When a person other than the candidate has made the deposit the candidate should verify the application. If the candidate has died, his legal representative may make the application for refund in the appropriate form.

## **7. RETURN WHEN TO BE MADE**

If the candidate is not shown in the list of contesting candidates, or if he dies before the commencement of the poll, the deposit made by him or on his behalf will be returned as soon as practicable after the publication of the list of contesting candidates or after his death as the case may be. In all other cases, the deposit will be returned as soon as practicable after the result of the election is declared.

## **8. DEPOSIT RETURNABLE IN ONE CONSTITUENCY ONLY**

- (i) It may be noted that if a candidate was a contesting candidate at General Election in more than one constituency for the same House of the Legislature, he cannot get a refund of more than one deposit made by him or on his behalf. The other deposits made by him or on his behalf will be forfeited to Government.
- (ii) A candidate who has been duly nominated in an assembly constituency as also in a parliamentary constituency when General Elections are held simultaneously for the Assembly and the House of the People, is entitled to a refund of the deposits made in both such constituencies, if he is otherwise entitled to such refund, as the two elections are different.

## **9. CONDITIONS FOR REFUND**

- (i) If a contesting candidate dies before the commencement of the poll, the deposit will be returned as soon as practicable after his death, subject to preceding paragraph.
- (ii) The Returning Officer will also order a refund, subject to preceding paragraph, in the case of every candidate. (a) who was elected or (b) who was defeated but secured more than one-sixth of the total number of valid votes polled in the constituency including the valid postal votes.

- N.B.**
- (i) The candidate must have polled more than one-sixth of the total valid votes polled in the constituency as a whole in order to be entitled to the refund.
  - (ii) If the candidate has polled exactly one-sixth of the number of valid votes polled, the deposit will not be refunded.
  - (iii) If the candidate was elected, the deposit will be refunded even if he did not poll more than one-sixth of the valid votes.

10. If you are a candidate belonging to a Scheduled Caste or a Scheduled Tribe and contest an election from a general constituency, you are required to make a deposit of only Rs.5000/- instead of Rs.10,000/- in the case of an election from a parliamentary constituency and Rs.2,500/- instead of Rs.5,000/- in the case of an election from an assembly or council constituency under amended section 34 of the Representation of the People Act, 1951. If, by mistake or otherwise, you deposit the full amount of Rs.10,000/- or Rs.5,000/-, as the case may be, instead of what is actually required to be deposited as mentioned above, you are always entitled to get the refund of the excess amount actually deposited subject to your satisfying the Returning Officer that you are a member of a Scheduled Caste or a Scheduled Tribe.

**11. FACILITIES ALLOWED BY POST AND TELEGRAPHS DEPARTMENT**

The Director General of Posts and Telegraphs Department has issued instructions asking his Heads of Circles to provide certain facilities to candidates regarding post, telegraph, and display of posters at post offices. You may contact postal authorities of your area for such facilities. You may mark your election literature as "Election Matter" to ensure expeditious delivery to addressees.

**12. BAR TO INTERFERENCE BY COURTS IN ELECTORAL MATTERS**

- 12.1 For your convenience, relevant provisions relating to bar to interference by Courts in electoral matters contained in the Constitution of India are reproduced below:

"329. Bar to interference by Courts in electoral matters

Notwithstanding anything in this Constitution,

- (a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 327 or article 328, shall not be called in question in any Court;
- (b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature."

- 12.2 The Supreme Court has held in a catena of decisions that the term 'election' used in the above quoted Article 329 (b) of the Constitution connotes the entire electoral process commencing with the issue of the notification calling the election and culminating in the declaration of result of election (See N.P. Ponnuswami Vs. Returning Officer, Namakkal and others (AIR 1952 SC 64), Mohinder Singh Gill Vs. Chief Election Commissioner and others (AIR 1978 SC 851). Lakshmi Charan Sen and others Vs. Union of India and others (AIR 1985 SC 1233) Election Commission Vs. Shivaji (AIR 1988 SC 61), etc. All Courts are peremptorily barred under Article 329 (b) of the Constitution to interfere with, or interdict, the electoral process at any intermediary stage.

- 12.3 All doubts and disputes relating to an election can be raised only in an election petition presented to the High Court of the State/Union Territory

concerned after the election is over in accordance with the provisions of Part VI of the Representation of the People Act, 1951 and in no other manner.

APPENDIX I  
(CHAPTER I, PARA 2.3)

**NUMBER OF SEATS IN LOK SABHA**

Serial Number and Name of State/Union Territory	Number of Seats	Reserved for Scheduled Castes	Reserved for Scheduled Tribes
1	2	3	4
<b>States</b>			
1. Andhra Pradesh	42	6	2
2. Arunachal Pradesh	2	-	-
3. Assam	14	1	2
4. Bihar	40	7	-
5. Chhattisgarh	11	2	4
6. Goa	2	-	-
7. Gujarat	26	2	4
8. Haryana	10	2	-
9. Himachal Pradesh	4	1	-
10. Jharkhand	14	1	5
11. Jammu and Kashmir	6	-	-
12. Karnataka	28	4	-
13. Kerala	20	2	-
14. Madhya Pradesh	29	4	5
15. Maharashtra	48	3	4
16. Manipur	2	-	1
17. Meghalaya	2	-	-
18. Mizoram	1	-	1
19. Nagaland	1	-	-
20. Orissa	21	3	5
21. Punjab	13	3	-
22. Rajasthan	25	4	3
23. Sikkim	1	-	-
24. Tamil Nadu	39	7	-
25. Tripura	2	-	1
26. Uttar Pradesh	80	17	-
27. Uttaranchal	5	1	-
28. West Bengal	42	8	2
<b>Total</b>	<b>530</b>	<b>78</b>	<b>39</b>
<b>Union Territories</b>			
1. Andaman & Nicobar Islands	1	-	-
2. Chandigarh	1	-	-
3. Dadra & Nagar Haveli	1	-	1
4. Delhi	7	1	-
5. Daman and Diu	1	-	-
6. Lakshadweep	1	-	-
7. Pondicherry	1	-	-
<b>Total</b>	<b>13</b>	<b>1</b>	<b>2</b>
<b>Grand Total</b>	<b>543</b>	<b>79</b>	<b>41</b>

APPENDIX II  
(CHAPTER I, PARA 3.4)

**Number of seats in State Legislative Assemblies**

Serial Number and Name of State/ Union Territory	Number of Seats	Reserved for Scheduled Castes	Reserved for Scheduled Tribes
1	2	3	4
<b>States</b>			
1. Andhra Pradesh	294	39	15
2. Arunachal Pradesh	60	-	59
3. Assam	126	8	16
4. Bihar	243	39	-
5. Chhattisgarh	90	8	36
6. Goa	40	1	1
7. Gujarat	182	13	26
8. Haryana	90	17	-
9. Himachal Pradesh	68	16	3
10. Jammu and Kashmir <sup>@</sup>	87	7	-
11. Jharkhand	81	9	28
12. Karnataka	224	33	2
13. Kerala	140	13	1
14. Madhya Pradesh	230	36	39
15. Maharashtra	288	18	22
16. Manipur	60	1	19
17. Meghalaya	60	-	55
18. Mizoram	40	-	39
19. Nagaland	60	-	59
20. Orissa	147	22	34
21. Punjab	117	29	-
22. Rajasthan	200	33	24
23. Sikkim <sup>#</sup>	32	2	12**
24. Tamil Nadu	234	42	3
25. Tripura	60	7	17
26. Uttaranchal	70	3	1
27. Uttar Pradesh	403	89	-
28. West Bengal	294	59	17
<b>Total</b>	<b>4020</b>	<b>544</b>	<b>528</b>

**Union Territories**

1. National Capital Territory of Delhi	70	13	-
2. Pondicherry	30	5	1
Total	100	18	-
<b>Grand Total</b>	<b>4120</b>	<b>562</b>	<b>529</b>

**Notes:**

@ Excludes 24 seats for the Pakistan occupied territory.

# Includes 1 seat reserved for Sangha Constituency.

\*\* Includes 12 seats reserved for Sikkimese of Bhutia-Lepcha origin.

APPENDIX III  
(CHAPTER 1, PARA 5.1)  
EXTRACT FROM CONSTITUTION OF INDIA

326 **ELECTIONS TO THE HOUSE OF THE PEOPLE AND TO THE LEGISLATIVE ASSEMBLIES OF STATES TO BE ON THE BASIS OF ADULT SUFFRAGE**

The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage ;that is to say every person who is a citizen of India and who is not less than eighteen years of age on such date as may be fixed in that behalf by of under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice shall be entitled to be registered as a voter at any such election.

**EXTRACTS FROM THE REPRESENTATION OF THE PEOPLE ACT, 1950**

14. (b) “qualifying date”, in relation to the preparation or revision of every electoral roll under this part, means (the 1st day of January) of the year in which it is so prepared or revised;)

(Provided that “qualifying date”, in relation to the preparation or revision of every electoral roll under this part in the year 1989, shall be the 1<sup>st</sup> day of April,1989).

15. **Electoral roll for every constituency**

For every constituency there shall be an electoral roll which shall be prepared in accordance with the provisions of this Act under the superintendence, direction and control of the Election Commission.

16. **DISQUALIFICATION FOR REGISTRATION IN AN ELECTORAL ROLL**

- (1) A person shall be disqualified for registration in an electoral roll if he,-
- (a) is not a citizen of India; or
  - (b) is of unsound mind and stands so declared by a competent Court; or
  - (c) is for the time being disqualified from voting under the provisions of any law relating to corrupt practices and other offences in connection with election .
- (2) The name of any person who becomes so disqualified after registration shall forthwith be struck off the electoral roll in which it is included:

Provided that the name of any person struck off the electoral roll of a constituency by reason of disqualification under clause (c) of sub section (1) shall forthwith be re-instated in that roll if such disqualification is, during the period such roll is in force, removed under any law authorizing such removal.

**17. NO PERSON TO BE REGISTERED IN MORE THAN ONE CONSTITUENCY**

No person shall be entitled to be registered in the electoral roll for more than one constituency.

**18. NO PERSON TO BE REGISTERED MORE THAN ONCE IN ANY CONSTITUENCY**

No person shall be entitled to be registered in the electoral roll for any constituency more than once.

**19. CONDITIONS OF REGISTRATIONS**

Subject to the foregoing provisions of this part, every person who-

- (a) is not less than eighteen years of age on the qualifying date; and
- (b) is ordinarily resident in a constituency;

shall be entitled to be registered in the electoral roll for that constituency.

**EXTRACTS FROM THE REPRESENTATION OF THE PEOPLE ACT, 1951**

**11-A DISQUALIFICATION ARISING OUT OF CONVICTION AND CORRUPT PRACTICES**

- (1) If any person, after the commencement of this act is convicted of an offence punishable under section 171-E or section 171-F of the Indian Penal Code (45of 1860), or under section 125 or section 135 or clause (a) of Sub-Section (2) of Section 136 of this Act, he shall for a period of six years from the date of the conviction or from the date on which the order takes effects is disqualified for voting at any election .
- (2) Any person disqualified by a decision of the president under sub-section(I) of section 8-A for any period shall be disqualified for the same period for voting at any election.
- (3) The decision of the President on a petition submitted by any person under sub-section (2) of section 8-A in respect of any disqualification for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State shall, so far as may be apply in respect of the disqualification for voting at any election incurred by him under clause (b) of subsection (1) of section 11-A of this Act as is stood immediately before the commencement of the Election Laws (Amendment) Act, 1975, as if such decision were a decision in respect of the said disqualification for voting also.

**62 RIGHT TO VOTE**

- (1) No person who is not, and except as expressly provided by this Act, every person who is, for the time being entered in the electoral roll of any constituency shall be entitled to vote in that constituency.
- (2) No person shall vote at an election in any constituency if he is, subject to any of the disqualifications referred to in section 16 of the Representation of the People Act, 1950 (43 of 1950)

- (3) No person shall vote at a General Election in more than one constituency of the same class and if a person votes in more than one such constituency, his votes in all such constituencies shall be void.
- (4) No person shall at any election vote in the same constituency more than once, notwithstanding that his name may have been registered in the electoral roll for that constituency more than once, and if he does so vote, all his votes in that constituency shall be void.
- (5) No person shall vote at any election if he is confined in a prison whether under a sentence of imprisonment or transportation or otherwise or is in the lawful custody of the police:  
Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

APPENDIX IV  
(CHAPTER I, PARA 9)  
EXTRACTS FROM THE REPRESENTATION  
OF THE PEOPLE ACT, 1950

**22. CORRECTION OF ENTRIES IN ELECTORAL ROLLS**

If the Electoral Registration Officer for a constituency on application made to him or on his own motion, is satisfied after such inquiry as he thinks fit that any entry in the electoral roll of the constituency:-

- (a) is erroneous or defective in any particular.
- (b) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within the constituency, or
- (c) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident in the constituency or is otherwise not entitled to be registered in that roll the Electoral Registration Officer shall, subject to such general or special directions, if any as may be given by the Election Commission in this behalf, amend, transpose or delete the entry.

Provided that before taking any action on any ground under clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident in the constituency or that he is otherwise not entitled to be registered in the electoral roll of that constituency the electoral roll of that constituency the Electoral Registration Office shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.

**23. INCLUSION OF NAMES IN ELECTORAL ROLLS**

- (1) Any person whose name is not included in the electoral roll of a constituency may apply to the elected registration officer for the inclusion of his name in that roll.
- (2) The Electoral Registration Officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein;

Provided that if the applicant is registered in the electoral roll of any constituency the Electoral Registration Officer shall inform the Electoral Registration Officer of that other constituency and that officer shall, on receipt of the information strike off the applicant's name from that roll.

- (3) No amendment, transposition or deletion of any entry shall be made under section 22 and no direction for the inclusion of a name in the electoral roll of a constituency shall be given under this section, after the last date for, making nominations for an election in that constituency or in the parliamentary

constituency within which that constituency is comprised and before the completion of that election

#### **EXTRACTS FROM THE REGISTRATION OF THE ELECTORS RULES, 1960**

**26.** Correction of entries and inclusion of names in electoral rolls:- (1) Every application under section 22 or sub-section (1) of section 23 shall be made in duplicate in such one of the Forms 6, 8, 8-A and 8-B as may be appropriate.

“Provided that the statement in Form 2, 2-A and 3 from persons having service qualifications, received after the final publication of the electoral roll shall be deemed to be the application under sections 22 and 23 and that no fee shall be deemed to have been prescribed for such applications under section 25”.

(1A) Every such application as is referred to in sub-rule (1) shall be presented to the Electoral Registration Officer in such manner as the Election Commission may direct.

(3) The Electoral Registration Officer shall immediately on receipt of such application, direct that one copy thereof be posted in some conspicuous place in his office together with a notice inviting objections to such application within a period of seven days from the date of such posting.

(4) “The Electoral Registration Officer shall as soon as may be after the expiry of the period specified in sub-rule (3) consider the application and objections thereof if any received by him and shall if satisfied direct the inclusion deletion correction or transposition of entries in the roll, as may be necessary; Provided that when an application is rejected by the Electoral Registration Officer he shall record in writing a brief statement of his reasons for such rejection.”

#### **27. APPEALS FROM ORDERS UNDER RULE 26**

(1) Every appeal under section 24 shall be:-

- (a) in the form of a memorandum signed by the appellant;
- (b) accompanied by a copy of the order appealed from and a fee of five rupees to be:-
  - (i) paid by means of non-judicial stamps, or
  - (ii) deposited in a Government treasury or the Reserve Bank of India in favour of the Chief Electoral Officer; or
  - (iii) paid in such other manner as may be directed by the Election Commission; and
- (c) presented to the Chief Electoral Officer within a period of fifteen days from the date of the order appealed from or sent by registered post so as to reach him within that period. “Provided that the Chief Electoral Officer may condone the delay in the presentation of the appeal to him, if he is satisfied that the

appellant had sufficient cause for not presenting it within the time prescribed.”

- (1-A) Where the fee is deposited under clause (b) (ii) of sub-rule (1) the appellant shall enclose with the memorandum of appeal a Government treasury receipt in proof of the fee having been deposited.”
- (2) For the purpose of sub-rule (1) an appeal shall be deemed to have presented to the Chief Electoral Officer when the memorandum of appeal is delivered by or on behalf of the appellant to the Chief Electoral Officer himself or to any other Officer appointed by him in this behalf.

**APPENDIX-IVA**  
**CHAPTER-II (PARA 1.3)**  
**MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS**  
(LEGISLATIVE DEPARTMENT)

**NOTIFICATION**

NEW DELHI, THE 24TH MARCH, 1992

S.O. 230(E). — In exercise of the powers conferred by Section 169 of the Representation of the People Act, 1951 (43 of 1951), the Central Government after consulting the Election Commission, hereby makes the following rules further to amend the Conduct of Elections Rules, 1961, namely:-

1. (i) These rules may be called the Conduct of Election (Amendment) Rules, 1992.  
(ii) They shall come into force on the date of their publication in the Official Gazette.
2. In the Conduct of Elections Rules, 1961 (hereinafter referred to as the principal rules).  
(a) after the heading to Part IV, the following shall be inserted, namely:-

**"CHAPTER 1**  
**VOTING BY BALLOT"**

- (b) in rule 28, for the words "In this Part", the words "In this Chapter and Chapter II" shall be substituted;
- (c) after rule 49, the following shall be inserted namely:-

**CHAPTER II**  
**VOTING BY ELECTRONIC VOTING MACHINES**

**49A. DESIGN OF ELECTRONIC VOTING MACHINES**

Every electronic voting machine (hereinafter referred to as the voting machine) shall have a control unit and a balloting unit and shall be of such designs as may be approved by the Election Commission.

**49B. PREPARATION OF VOTING MACHINE BY THE RETURNING OFFICER**

- (1) The balloting unit of the voting machine shall contain such particulars and in such language or languages as the Election Commission may specify.
- (2) The names of the candidates shall be arranged on the balloting unit in the same order in which they appear in the list of the contesting candidates.
- (3) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.
- (4) Subject to the foregoing provisions of this rule, the returning officer shall,—
  - (a) Fix the Label containing the names and symbol of the contesting candidates in the balloting unit and secure that unit with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same;
  - (b) set the number of contesting candidates and close the candidate set section in the control unit and secure it with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same.

**49C. ARRANGEMENTS AT THE POLLING STATIONS**

- (1) Outside each polling station there shall be displayed prominently —
  - (a) notice specifying the polling area, the electors of which are entitled to vote at the polling station and, when the polling area has more than one polling station, the particulars of the electors so entitled; and
  - (b) a copy of the list of contesting candidates.
- (2) At each polling station there shall be set one or more voting compartments in which the electors can record their votes free from observation.

- (3) The returning officer shall provide at each polling station one voting machine and copies of relevant part of the electoral roll and such other election material as may be necessary for taking the poll.
- (4) Without prejudice to the provisions of sub-rule (3), the returning officer may, with the previous approval of the Election Commission, provide one common voting machine for two or more polling stations located in the same premises.

**49D. ADMISSION TO POLLING STATIONS**

The Presiding Officer shall regulate the number of electors, to be admitted at any one time inside the polling station and shall exclude there from all persons other than,

- (a) polling officers;
- (b) public servants on duty in connection with the election;
- (c) persons authorised by the Election Commission;
- (d) candidates, their election agents and subject to the provisions of rule 13, one polling agent of each candidate;
- (e) a child in arms accompanying as elector;
- (f) a person accompanying a blind or infirm elector who cannot move without help; and
- (g) such other persons as the returning officer or the Presiding Officer may employ under sub-rule (2) of rule 49-G or sub-rule (1) of rule 49-H.

**49E. PREPARATION OF VOTING MACHINE FOR POLL**

- (1) The control unit and balloting unit of every voting machine used at polling station shall bear a label marked with —
  - (a) the serial number, if any, and the name of the constituency;
  - (b) the serial number and name of the polling station or stations as the case may be;
  - (c) the serial number of the unit; and
  - (d) the date or poll.
- (2) Immediately before the commencement of the poll, the presiding officer shall demonstrate to the polling agents and other persons present that no vote has been already recorded in the voting machine and it bears the label referred to in sub-rule (1)
- (3) A paper seal shall be used for securing the control unit of the voting machine, and the presiding officer shall affix his own signature on the paper seal and obtain thereon the signature so such of the polling agents present as are desirous of affixing the same.
- (4) The presiding officer shall thereafter fix the paper seal so signed in the space meant therefore in the control unit of the voting machine and shall secure and seal the same.
- (5) The seal used for securing the control unit shall be fixed in such manner that after the unit has been sealed, it is not possible to press the "Result" button without breaking the seal.
- (6) The control unit shall be closed and secured and placed in full view of the presiding officer and the polling agents and the balloting unit placed in the voting compartment.

**49F. MARKED COPY OF ELECTORAL ROLL**

Immediately before the commencement of the poll, the presiding officer shall also demonstrate to the Polling agents and others present that the marked copy of the electoral roll to be used during the poll does not contain—

- (a) any entry other than that made in pursuance of clause (b) of sub-rule (2) of rule 20; and
- (b) any mark other than the mark made in pursuance of clause (b) of sub-rule (2) of rule 23.

#### **49G. FACILITIES FOR WOMEN ELECTORS**

- (1) Where a polling station is for both men and women electors, the Presiding Officer may direct that they shall be admitted into the polling station alternately in separate batches.
- (2) The returning officer or the presiding officer may appoint a women to serve as an attendant at any polling stations to assist women electors and also to assist the presiding officer generally in taking the poll in respect of women electors, and, in particular, to help in frisking any woman elector in case it become necessary.

#### **49H. IDENTIFICATION OF ELECTORS**

- (1) The presiding officer may employ at the polling stations such persons as he thinks fit to help in the identification of the electors or to assist him otherwise in taking the poll.
- (2) As each elector enters the polling station, the presiding officer or the polling officer authorised by him in this behalf shall check the elector's name and other particulars with the relevant entry in the electoral roll and then call out the serial number, name and other particulars of the elector.
- (3) Where the polling station is situated in a constituency electors of which have been supplied with identity cards under the provisions of the Registration of Electors Rules, 1960, the elector shall produce his identity card before the presiding officer or the polling officer authorised by him in this behalf.
- (4) In deciding the right of a person to cast his vote, the presiding officer or the polling officer, as the case may be, shall overlook the clerical or printing errors in an entry in the electoral roll if he is satisfied that such person is identical with the elector to whom such entry relates.

#### **49I. FACILITIES FOR PUBLIC SERVANTS ON ELECTION DUTY—**

- (1) The provisions of rule 49-H shall not apply to any person who produces at the polling station an election duty certificate in Form-12B and seeks permission to cast his vote at that polling station although it is different from the one where he is entitled to vote.
- (2) On production of such certificate, the Presiding Officer shall —
  - (a) obtain thereon the signature of the person producing it;
  - (b) have the person's name and electoral roll number as mentioned in the certificate entered at the end of the marked copy of the electoral roll: and
  - (c) permit him to cast his vote in the same manner as for an elector entitled to vote at that polling station.

#### **49J. CHALLENGING OF IDENTITY**

- (1) Any polling agent may challenge the identity of a person claiming to be a particular elector by first depositing a sum of two rupees in cash with the presiding officer for each such challenge.
- (2) On such deposit being made, the presiding officer shall—
  - (a) warn the person challenged of the penalty for personation;
  - (b) read the relevant entry in the electoral roll in full and ask him whether he is the person referred to in that entry;
  - (c) enter his name and address in the list of challenged votes in Form 14; and
  - (d) require him to affix his signature in the said list.
- (3) The presiding officer shall thereafter hold a summary inquiry into the challenge and may for that purpose —
  - (a) require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identity;
  - (b) put to the person challenged any questions necessary for the purpose of establishing his identity and require him to answer them on oath; and
  - (c) administer an oath to the person challenged and any other person offering to give evidence.

- (4) If, after the inquiry, the presiding officer considers that the challenge has not been established he shall allow the person challenged to vote; and if he considers that the challenge has been established, he shall debar the person challenged from voting.
- (5) If the presiding officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit made under sub-rule (1) be forfeited to Government, and in any other case, returned to the challenger at the conclusion of the inquiry.

**49K. SAFEGUARDS AGAINST PERSONATION**

- (1) Every elector about whose identity the presiding officer or the polling officer, as the case may be, is satisfied, shall allow his left forefinger to be inspected by the presiding officer or polling officer and an indelible ink mark to be put on it.
- (2) If any elector —
  - (a) refuses to allow his left forefinger to be inspected or marked in accordance with sub-rule (1) or has already such a mark on his left forefinger or does any act with a view to removing the ink mark, or
  - (b) fails or refuses to produce his identity card as required by sub-rule (3) of rule 49-H he shall not be allowed to vote.
- (3) Where a poll is taken simultaneously in a Parliamentary constituency and an assembly constituency, an elector whose left forefinger has been marked with indelible ink or who has produced his identity card at one such election, shall notwithstanding anything contained in sub-rule (1) and (2) be permitted to cast his vote for the other election.
- (4) Any reference in this rule to the left forefinger of an elector shall in the case where the elector has his left forefinger missing, be construed as a reference to any other finger of his left hand, and shall, in the case where all the fingers of his left hand are missing, be construed as a reference to the forefinger or any other finger of his right hand, and shall, in the case where all the fingers of his left hand are missing be construed as a reference to such of extremely his left or right arm as he possesses.

**49L PROCEDURE FOR VOTING BY VOTING MACHINES**

- (1) Before permitting an elector to vote, the polling officer shall —
  - (a) record the electoral roll number of the elector as entered in the marked copy of the electoral roll in a register of voters in Form 17-A.
  - (b) obtain the signature or the thumb impression of the elector on the said register of voters; and
  - (c) mark the name of elector in the marked copy of the electoral roll to indicate that he has been allowed to vote.

Provided that no elector shall be allowed to vote unless he has put his signature or thumb impression on the register of voters.

- (2) Notwithstanding anything contained in sub-rule (2) of rule 2. It shall not be necessary for any presiding officer or polling officer or any other officer to attest the thumb impression of the elector on the register of voters.

**49M. MAINTENANCE OF SECRECY OF VOTING BY ELECTORS WITHIN THE POLLING STATION AND VOTING PROCEDURES**

- (1) Every elector who has been permitted to vote under rule 49-L shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.
- (2) Immediately on being permitted to vote the elector shall proceed to the presiding officer or the polling officer in-charge of the control unit of the voting machine who shall, by pressing the appropriate button on the control unit, activate the balloting unit; for recording of elector's vote.
- (3) The elector shall thereafter forthwith—

- (a) proceed to the voting compartment;
  - (b) record his vote by pressing the button on the balloting unit against the name and symbol of the candidate for whom he intends to vote; and
  - (c) come out of the voting compartment and leave the polling station.
- (4) Every elector shall vote without undue delay.
  - (5) No elector shall be allowed to enter the voting compartment when another elector is inside it.
  - (6) If an elector who has been permitted to vote under rule 49-L or rule 49-P refuses after warning given by the presiding officer to observe the procedure laid down in sub-rule (3) of the said rules, the presiding officer or a polling officer under the direction of the presiding officer shall not allow such elector to vote.
  - (7) Where an elector is not allowed to vote under sub-rule (6), a remark to the effect that voting procedure has been violated shall be made against the elector's name in the register of voters in Form-17A by the presiding officer under his signature.

**49N. RECORDING OF VOTES OF BLIND OR INFIRM ELECTORS**

- (1) If the presiding officer is satisfied that owing to blindness or other physical infirmities an elector is unable to recognise the symbol on the balloting unit of the voting machine or unable to record his vote by pressing the appropriate button thereon without assistance the presiding officer shall permit the elector to take with him a companion of not less than eighteen years of age to the voting compartment for recording the vote on his behalf and in accordance with his wishes;

Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day;

Provided further that before any person is permitted to act as the companion of an elector on any day under this rule that person shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any other polling station on that day.

- (2) The presiding officer shall keep a record in Form-14A of all cases under this rule.

**49O. ELECTOR DECIDING NOT TO VOTE**

If an elector after his electoral roll number has been duly entered in the register of voters in Form-17A and has put his signature or thumb impression thereon as required under sub-rule (1) of rule 49I., deciding not to record his vote, a remark to this effect shall be made against the said entry in Form-17A by the presiding officer and the signature or thumb impression of the elector shall be obtained against such remark.

**49P. TENDERED VOTES**

- (1) If a person representing himself to be a particular elector seeks to vote after another person has already voted as such elector, he shall, on satisfactorily answering such questions relating to his identity as the presiding officer may ask, be instead of being allowed to vote through the balloting unit supplied with a tendered ballot paper which shall be of such design, and the particulars of which shall be in such language or languages as the Election Commission may specify.
- (2) Every such elector shall before being supplied with a tendered ballot paper write his name against the entry relating to him in Form-17B.
- (3) On receiving the ballot paper he shall forthwith—
  - (a) proceed to the voting compartment;
  - (b) record there his vote on the ballot paper by placing a cross mark 'X' with the instrument or article supplied for the purpose on or near the symbol of the candidate for whom he intends to vote.
  - (c) fold the ballot paper so as to conceal his vote.
  - (d) show to the presiding officer, if required, the distinguishing mark on the ballot paper;
  - (e) give it to the presiding officer who shall place it in a cover specially kept for the purpose; and

- (f) leave the polling station.
- (4) If owing blindness or physical infirmities, such elector is unable to record his vote without assistance; the presiding officer shall permit him to take with him a companion, subject to the same conditions and after following the same procedure as laid down in rule 49N for recording the vote in accordance with his wishes.

**49Q. PRESIDING OFFICER'S ENTRY IN THE VOTING COMPARTMENT DURING POLL**

- (1) the presiding officer may whenever he considers it necessary so to do, enter the voting compartment during poll and take such steps as may be necessary to ensure that the balloting unit is not tampered or interfered with in any way.
- (2) If the presiding officer has reason to suspect that an elector who has entered the voting compartment is tampering or otherwise interfering with the balloting unit or has remained inside the voting compartment for unduly long period, he shall enter the voting compartment and take such steps, as may be necessary to ensure the smooth and orderly progress of the poll.
- (3) Whenever the presiding officer enters the voting compartment under this rule, he shall permit the polling agents present to accompany him if they so desire.

**49R. CLOSING OF POLL**

- (1) The presiding officer shall close a polling station at the hour fixed in that behalf under section 56 and shall not thereafter admit any elector into the polling station :  
Provided that all electors present at the polling station before it is closed shall be allowed to cast their votes.
- (2) If any question arises whether an elector was present at the polling station before it was closed it shall be decided by the presiding officer and his decision shall be final.

**49S. ACCOUNT OF VOTES RECORDED**

- (1) The presiding officer shall at the close of the poll prepare an account of votes recorded in Form-17C and enclose it in a separate cover with the words 'Account of Votes Recorded' superscribed thereon.
- (2) The presiding officer shall furnish to every polling agent present at the close of the poll a true copy of the entries made in Form-17C after obtaining a receipt from the said polling agent therefore and shall attest it as a true copy.

**49T. SEALING OF VOTING MACHINE AFTER POLL**

- (1) As soon as practicable after the closing of the poll, the presiding officer shall close the control unit to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit.
- (2) The control unit and the balloting unit shall thereafter be sealed and secured separately in such manner as the Election Commission may direct and the seal used for securing them shall be so affixed that it will not be possible to open the units without breaking the seals.
- (3) The polling agents present at the polling station, who desire to affix their seals, shall also be permitted to do so.

**49U. SEALING OF OTHER PACKETS**

- (1) The presiding officer shall then make into separate packets—
  - (a) the marked copy of the electoral roll;
  - (b) the register of voters in Form 17A;
  - (c) the cover containing the tendered ballot papers and the list in Form-17B;
  - (d) the list of challenged votes; and
  - (e) any other papers directed by the Election Commission to be kept in a sealed packet.
- (2) Each packet shall be sealed with the seal of the presiding officer and with the seal either of the candidate or of his election agent or of his polling agent who may be present at the polling station and may desire to affix his seal thereon.

#### **49V. TRANSMISSION OF VOTING MACHINES, ETC. TO THE RETURNING OFFICER**

- (1) The presiding officer shall then deliver or cause to be delivered to the returning officer at such place as the returning officer may direct.—
  - (a) the voting machine;
  - (b) the account of votes recorded in Form-17C;
  - (c) the sealed packets referred to in rule 49 U; and
  - (d) all other papers used at the poll.
- (2) The returning officer shall make adequate arrangements for the safe transport of the voting machine, packets and other papers for their safe custody until the commencement of the counting of votes.

#### **49W. PROCEDURE ON ADJOURNMENT OF POLL**

- (1) If the poll at any polling station is adjourned under sub-section (1) of section 57, the provision of rules 49S to 49V shall, as far as practicable, apply as if the poll was closed at the hour fixed in that behalf under section 56.
- (2) When an adjourned poll is recommenced under sub-section (2) of section 57, the electors who have already voted at the poll so adjourned shall not be allowed to vote again.
- (3) The returning officer shall provide the presiding officer of the polling station at which such adjourned poll is held, with the sealed packet containing the marked copy of the electoral roll, register of voters in Form 17A and a new voting machine.
- (4) The presiding officer shall open the sealed packet in the presence of the polling agents present and use the marked copy of the electoral roll for marking the names of the electors who are allowed to vote at the adjourned poll.
- (5) The provisions of rule 28 and rules 49A to 49V shall apply in relation to the conduct of an adjourned poll before it was so adjourned.

#### **49X. CLOSING OF VOTING MACHINE IN CASE OF BOOTH CAPTURING**

Where the presiding officer is of opinion that booth capturing is taking place at a polling station or at a place fixed for the poll, he shall immediately close the control unit of the voting machine to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit;

- (d) after rule 66, the following shall be inserted, namely. —'66A. Counting of votes where electronic voting machines have been used.—In relation to the counting of votes cast at a polling station, where voting machine has been used,—
  - (i) the provisions of rules 50 to 54 and in lieu of rules 55, 56 and 57, the following rules shall respectively apply, namely:-

#### **"55C. SCRUTINY AND INSPECTION OF VOTING MACHINES:**

- (1) the returning officer may have the control units of the voting machines used at more than one polling station taken up for scrutiny and inspection and votes recorded in such units counted simultaneously.
- (2) Before the votes recorded in any control unit of a voting machine are counted under sub-rule (1), the candidate or his election agent or his counting agent present at the counting table shall be allowed to inspect the paper seal and such other vital seals as might have been affixed on the unit and to satisfy themselves that the seals are intact
- (3) the returning officer shall satisfy himself that none of the voting machines has in fact been tampered with.
- (4) If the returning officer is satisfied that any voting machines has in fact been tampered with he shall not count the votes recorded in that machine and shall follow the procedure laid down in section 58, or section 58A or section 64A, as may be applicable in respect of the polling station or stations where that machine was used.

#### **56C. COUNTING OF VOTES**

- (1) After the returning officer is satisfied that a voting machine has in fact not been tampered with, he shall have the votes recorded therein counted by pressing the appropriate button marked "Result" provided in the control unit whereby the total votes polled and votes polled by each

candidate shall be displayed in respect of each such candidate on the display panel provided for the purpose in the unit.

- (2) As the votes polled by each candidate are displayed on the control unit, the returning officer shall have,—
- (a) the number of such votes recorded separately in respect of each candidate in Part-II of Form-17C;
  - (b) part-II of Form-17C completed in other respects and signed by the counting supervisor and also by the candidates or their election agents or their counting agents present; and
  - (c) corresponding entries made in a result sheet in Form-20 and the particulars so entered in the result sheet announced.

**57C. SEALING OF VOTING MACHINES**

- (1) After the result of voting recorded in a control unit has been ascertained candidate-wise and entered in Part-II of form 17C and Form 20 under rule 56C, the returning officer shall reseal the unit with his seal and the seals of such of the candidates or their election agents present who may desire to affix their seals thereon so however that the result of voting recorded in the unit is not obliterated and the unit retains the memory of such result.
- (2) The control unit so sealed shall be kept in specially prepared boxes on which the returning officer shall record the following particulars, namely :-
- (a) the name of the constituency;
  - (b) the particulars of polling station or stations where the control unit has been used;
  - (c) serial number of the control unit;
  - (d) date of poll; and
  - (e) date of counting";
  - (ii) the provisions of rules 60 to 66 shall, so far as may be, apply in relation to voting by voting machines and any reference in those rules to,—
    - (a) ballot paper shall be construed as including a reference to such voting machine;
    - (b) any rule shall be construed as a reference to the corresponding rule in Chapter II of Part IV or, as the case may be, to rule 55C or 56C or 57C.
    - (e) in rule 92 of the principal rules,—
      - (i) after sub-rule (1), the following sub-rule shall be inserted, namely :-  
"(1A) All voting machines used at an election shall be kept in the custody of the concerned district election officer";
      - (ii) in sub-rule (2), after clause (d), the following clause shall be inserted, namely :—  
"(dd) the packets containing registers of voters in Form-17A;
      - (f) in rule 93 of the principal rule,—
        - (i) in sub-rule (1), after clause (d), the following clause shall be inserted, namely :—  
"(dd) the packets containing registers of voters in Form-17A".

**FORM-17A**  
**(See Rule 49L)**  
**REGISTER OF VOTERS**

Election to the House of the People/Legislative Assembly of the State/Union Territory  
 ..... from  
 .....Constituency No. and Name of Polling Station  
 ..... Part No. of Electoral Roll  
 Castes.....

Sl. No.	Sl. No. of elector in the electoral roll	Signature/Thumb impression of elector	Remarks
1.			
2.			
3.			
4.			
etc.			

Signature of the Presiding Officer

**FORM-17B**  
**(See Rule 49P)**  
**LIST OF TENDERED VOTES**

Election to the House of the People/Legislative Assembly of the State/Union Territory..... from .....  
 .....Constituency No. and Name of Polling Station  
 ..... Part No. of Electoral Roll  
 .....

Sl. No.	Name of elector	Sl. No. of elector in electoral roll	Sl.No.in Register of voters (Form 17A) of the person who has already voted in place of elector	Signature/Thumb impression of elector
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

Date.

Signature of Presiding Officer

**THE GAZETTE OF INDIA EXTRAORDINARY**

**FORM-17C**

**[See Rule 49S and 56C (2)]**

**PART-ACCOUNT OF VOTES RECORDED**

Election to the House of the People/Legislative Assembly of the State Union territory from..... from Constituency.

No. and Name of Polling Station ..... Identification No. of Voting Machine used at the Polling Station

Balloting Unit..... Control Unit .....

1. Total No. of electors assigned to the Polling Station.
2. Total No. of voters as entered in the Register for Voters (Form 17A)
3. No. of voters deciding not to record votes under rule 49-0.
4. No. of voters not allowed to vote under rule 49M
5. Total No. of votes recorded as per voting machine.
6. Whether the total No. of votes as shown against item 5 tallies with the total No. of voters as shown against item 2 minus Nos. of voters deciding not to record votes as against item 3 minus No. of voters as against item 4 (2-3-4) or any discrepancy noticed.
7. No of voters to whom tendered ballot papers were issued under rule 49P.
8. No. of tendered ballot papers.

Sl. No.

From

To

- (a) received for use .....
- (b) issued to electors .....
- (c) not used and returned .....

9. Account of paper seals

Sl. Nos.

From

To

1. Serial Numbers of paper seals supplied  
From .....to .....
2. Total numbers supplied .....
3. Number of paper seals used .....
4. Number of unused paper seals returned to Returning Officer (Deduct item 3 form item 2)
5. Serial number of damaged paper seal, if any

Signature of Polling Agents.

1. ....
2. ....
3. ....
4. ....
5. ....
6. ....

Date  
Place

Signature of Presiding Officer  
Polling Station No. ....

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**PART II - RESULT OF COUNTING**

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Sl. No.	Name of Candidate	No. of Votes recorded
1.		
2.		
3.		
4.		
5.		
6.		
<hr/>		
Total		

Whether the total nos. of votes shown above tallies with the total No. of votes shown against item 5 of Part I or any discrepancy noticed between the two totals.

---

Place .....

Date .....

Signature of Counting Supervisor

Name of candidate/ election agent/counting agent

Full signature

1.

2.

3.

4.

5.

6.

7.

8.

Place .....

Date .....

Signature of Returning Officer

APPENDIX V  
(CHAPTER III, PARA 4)  
EXTRACTS FROM THE CONSTITUTION OF INDIA

**84. QUALIFICATIONS FOR MEMBERSHIP OF PARLIAMENT**

A Person shall not be qualified to be chosen to fill and seat in Parliament unless he:-

- (a) is a citizen of India, and makes and subscribes before some person authorized in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;
- (b) is in the case of a seat in the Council of States not less than thirty years of age and in the case of a seat in the House of the People, not less than twenty-five years of age; and
- (c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

**173. QUALIFICATIONS FOR MEMBERSHIP OF THE STATE LEGISLATURE**

A person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he:-

- (a) is a citizen of India and makes and subscribes before some person authorized in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;
- (b) is in the case of a seat in the legislative Assembly not less than twenty-five years of age and in the case of a seat in the Legislative Council not less than thirty years of age; and
- (c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

**FORM OF OATH OR AFFIRMATION**  
**[ARTICLE 84(A) OF THE CONSTITUTION OF INDIA]**  
**(TO BE MADE BY A CANDIDATE FOR ELECTION TO PARLIAMENT)**

I ..... having been nominated as a candidate to fill a seat in the Council of States (\*House of the People) do swear in the name of the God /Solemnly affirm that I will bear true faith and allegiance to the constitution of India as by law established and that I will uphold the sovereignty and integrity of India.

(Signature and name in block letters  
of the candidate)

Sworn in the name of God/Solemnly affirmed by ..... Shri/Shrimati  
..... at ..... (Place) at  
.....(hour) this the .....day of .....  
200.....before me.

(Signature of authorised person)  
(Name Designation and Seal)

---

**(CERTIFICATE FOR RECEIPT OF OATH)**  
**(TO BE HANDED OVER TO THE CANDIDATE BY THE AUTHORISED PERSON)**

Certified that .....(name) a candidate for election to the Council of States (\*or the House of the People) has made and subscribed the oath / affirmation as required by the Constitution of India before me at my office at .....(hour) on ..... (date).

Date .....

(Signature of authorised person)  
Name, Designation and Seal.

\*Score out which is not applicable.

N.B: This Form should be supplied to the candidates both in English and in the Official Language of the State/Union Territory.

**FORM OF OATH OR AFFIRMATION**

[Article 173 (a) of the constitution of India]

(To be made by a candidate for election to the Legislature of a State)

I ..... having been nominated as a candidate to fill a seat in the ..... Legislative Assembly (\*or Legislative Council) do swear in the name of the God /Solemnly affirm that I will bear true faith and allegiance to the constitution of India as by law established and that I will uphold the sovereignty and integrity of India.

(Signature and name in block letters of the candidate)

Sworn in the name of God/Solemnly affirmed by ..... Shri/Shrimati ..... at ..... (Place) at .....(hour) this the .....day of ..... 200.....before me.

(Signature of authorised person)  
(Name Designation and Seal)

(Certificate for receipt of Oath)

(To be handed over to the candidate by the authorised person)

Certified that .....(name) a candidate for election to the ..... Legislative Assembly (\*or Legislative Council) has made and subscribed the oath / affirmation as required by the Constitution of India before me at my office at .....(hour) on ..... (date).

Date .....

(Signature of authorised person)  
Name, Designation and Seal.

\*Score out which is not applicable.

N.B: This Form should be supplied to the candidates both in English and in the Official Language of the State.

**FORM OF OATH OR AFFIRMATION**

[SECTION 4 (A) OF THE GOVERNMENT OF

NATIONAL CAPITAL TERRITORY OF DELHI ACT, 1991 (NO.1 OF 1992)]

*(To be made by a candidate for election to the Legislative Assembly of the National Capital Territory of Delhi)*

I ..... having been nominated as a candidate to fill a seat in the Legislative Assembly do swear in the name of the God /Solemnly affirm that I will bear true faith and allegiance to the constitution of India as by law established and that I will uphold the sovereignty and integrity of India.

(Signature and name in block letters  
of the candidate)

Sworn in the name of God/Solemnly affirmed by ..... Shri/Shrimati  
..... at ..... (Place) at  
.....(hour) this the .....day of .....  
200.....before me.

(Signature of authorised person)  
(Name Designation and Seal)

---

(Certificate for receipt of Oath)

(To be handed over to the candidate by the authorised person)

Certified that .....(name) a candidate for election to the Legislative Assembly of the National Capital Territory of Delhi has made and subscribed the oath / affirmation as required by the Government of National Capital Territory of Delhi Act, 1991 before me at my office at .....(hour) on ..... (date).

Date .....

(Signature of authorised person)  
Name, Designation and Seal.

N.B: This Form should be supplied to the candidates both in English and in the Official Language of the National Capital Territory of Delhi.

**FORM OF OATH OR AFFIRMATION**

[Section 4 (a) of the Government of  
Union Territories Act, 1963 (No.20 of 1963)]

(To be made by a candidate for election to the Legislative Assembly of the Union Territory of  
Pondicherry)

I ..... having been nominated as a candidate to fill a seat in the  
Legislative Assembly of Pondicherry do swear in the name of the God /Solemnly affirm that I will bear  
true faith and allegiance to the constitution of India as by law established and that I will uphold the  
sovereignty and integrity of India.

(Signature and name in block letters  
of the candidate)

Sworn in the name of God/Solemnly affirmed by ..... Shri/Shrimati  
..... at ..... (Place) at  
.....(hour) this the .....day of .....  
200.....before me.

(Signature of authorised person)  
(Name Designation and Seal)

(Certificate for receipt of Oath)

(To be handed over to the candidate by the authorised person)

Certified that .....(name) a candidate for election to the Legislative  
Assembly of Pondicherry has made and subscribed the oath / affirmation as required by the  
Government of Union Territories Act, 1963 before me at my office at .....(hour) on  
..... (date).

Date .....

(Signature of authorised person)  
Name, Designation and Seal.

N.B: This Form should be supplied to the candidates both in English and in the Official Language  
of the Union Territory.

## **EXTRACT FROM THE GOVERNMENT OF UNION TERRITORIES ACT, 1963**

### **4. QUALIFICATIONS FOR MEMBERSHIP OF LEGISLATIVE ASSEMBLY**

A person shall not be qualified to be chosen to fill a seat in the Legislative assembly of a Union Territory unless he:-

- (a) is a citizen of India and makes and subscribes before some person authorized in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the First Schedule;
- (b) is not less than twenty-five years of age; and
- (c) possesses such other qualifications as may be prescribed in that behalf by or  
under any law.

### **FORM OF OATH OR AFFIRMATION TO BE MADE BY A CANDIDATE FOR ELECTION THE LEGISLATIVE ASSEMBLY**

I. A.B., having been nominated as a candidate to fill a seat in the Legislative Assembly of..... do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India.

## **EXTRACT FROM THE REPRESENTATION OF THE PEOPLE ACT, 1951**

### **4. QUALIFICATIONS FOR MEMBERSHIP OF THE HOUSE OF THE PEOPLE**

A person shall not be qualified to be chosen to fill a seat in the House of People unless:-

- (a) In the case of a seat reserved for the Scheduled castes in any State he is a member of any of the Scheduled Castes, whether of that State or of any other State and is an elector for any parliamentary constituency;
- (b) in the case of a seat reserved for the Scheduled Tribes in any State (other than those in the autonomous districts of Assam) he is a member of any of the Scheduled Tribes whether of that State or of any other State (excluding the tribal areas of Assam) and is an elector for any parliamentary constituency;
- (c) in the case of a seat reserved for the Scheduled Tribes in the autonomous district of Assam he is a member of any of those Scheduled Tribes and is an elector for the parliamentary constituency in which such seat is reserved or for any other parliamentary constituency comprising any such autonomous district.
- (cc) in the case of the seat reserved for the Scheduled Tribes in the Union Territory of the Lakshadweep he is a member of any of those Scheduled Tribes and is an elector for the parliamentary constituency of that Union Territory;
- (ccc) in the case of the seat allotted to the State of Sikkim he is an elector for the parliamentary constituency of Sikkim; and

(d) in the case of any other seat he is an elector for any parliamentary constituency.

## **5. QUALIFICATIONS FOR MEMBERSHIP OF A LEGISLATE ASSEMBLY**

A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly of a State unless:-

(a) in the case of seat reserved for the Scheduled Castes or for the Scheduled Tribes of that State he is a member of any of those Castes, or of those tribes as the case may be and is an elector for any assembly constituency in that State;

(b) in the case of a seat reserved for an autonomous district of Assam he is a member of a Scheduled Tribes of any autonomous district and is an elector for the assembly constituency in which such seat or any other seat is reserved for that district; and

(c) in the case of any other seat he is an elector for any assembly constituency in that State;

(Provided that for the period referred to in clause (2) of Article 371-A, a person shall not be qualifying to be chosen to fill any seat allocated to the Tuensang district in the Legislative Assembly of Nagaland unless he is a member of the regional council referred to in that article.

## **7. DEFINITIONS**

In this Chapter –

(a) "appropriate Government" means in relation to any disqualification for being chosen as or for being a member of either House of Parliament, the Central Government, and in relation to any disqualification for being chosen as or for being a member of the Legislative Assembly or Legislative Council of a State, the State Government;

(b) "Disqualified" means disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State.

## **8. DISQUALIFICATION ON CONVICTION FOR CERTAIN OFFENCES**

(1) A person convicted of an offence punishable under –

(a) section 153 A (offence of promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony) or section 171E (offence of bribery) or section 171F (offence of undue influence or personation at an election) or sub-section (1) or sub-section (2) of section 376 or section 376A or section 376B or section 376C or section 376D (offences relating to rape) or section 498A (offence of cruelty toward a woman by husband or relative of a husband) or sub-section(2) or sub-section (3) or section 505 (offence of making statement creating or promoting enmity, hatred or ill-will between

classes or offence relating to such statement in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies) of the Indian Penal Code (45 of 1860), or

- (b) the Protection of Civil Rights Act, 1955 (22 of 1955), which provides for punishment for the preaching and practice of "untouchability", and for the enforcement of any disability arising therefrom; or
- (c) Section 11 (offence of importing or exporting prohibited goods) of the Customs Act, 1962 (52 of 1962); or
- (d) Sections 10 to 12 (offence of being a member of an association declared unlawful, offence relating to dealing with funds of an unlawful association or offence relating to contravention of an order made in respect of a notified place) of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967); or
- (e) the Foreign Exchange (Regulation) Act, 1973 (46 of 1973); or
- (f) the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985); or
- (g) section 3 (offence of committing terrorist acts) or section 4 (offence of committing disruptive activities) of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or
- (h) section 7 (offence of contravention of the provisions of sections 3 to 6) of the Religious Institutions (Prevention of Misuse) Act, 1988 (41 of 1988), or
- (i) Section 125 (offence of promoting enmity between classes in connection with the election) or section 135 (offence of removal of ballot papers from polling stations) or section 135 A (offence of booth capturing) or clause (a) of sub-section (2) of section 136 (offence of fraudulently defacing or fraudulently destroying any nomination paper) of this Act, (or)
- (j) section 6 (offence of conversion of a Place of worship) of the Places of Worship (Special Provisions) Act, 1991 or
- (k) section 2 (offence of insulting the Indian National Flag or the Constitution of India) or section 3 (offence of preventing singing of National Anthem) of the Prevention of Insults to National Honour Act, 1971;

shall be disqualified for a period of six years from the date of such conviction.

- (2) A person convicted for the contravention of –
  - (a) any law providing for the prevention of hoarding or profiteering; or
  - (b) any law relating to the adulteration of food or drugs; or
  - (c) any provisions of the Dowry Prohibition Act, 1961 (28 of 1961) or

- (d) any provisions of the Commission of Sati (Prevention) Act, 1987 (3 of 1988)

and sentenced to imprisonment for not less than six months, shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

- (3) A person convicted of any offence and sentenced to imprisonment for not less than two years other than any offence referred to in sub-section (1) or sub-section (2) shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.
- (4) Notwithstanding anything in sub-section (1), sub section (2) or sub-section (3) a disqualification under either sub-section shall not, in the case of a person who on the date of the conviction is a member of Parliament or the Legislature of a State, take effect until three months have elapsed from that date or, if within that period an appeal or application for revision is brought in respect of the conviction or the sentence, until that appeal or application is disposed of by the court.

Explanation – In this section –

- (a) "law providing for the prevention of hoarding or profiteering" means any law, or any order, rule or notification having the force of law, providing for–
- (i) the regulation of production or manufacture of any essential commodity;
- (ii) the control of price at which any essential commodity may be bought or sold;
- (iii) the regulation of acquisition, possession, storage, transport, distribution, disposal, use or consumption of any essential commodity.
- (iv) the prohibition of the withholding from sale of any essential commodity ordinarily kept for sale,
- (b) "drug" has the meaning assigned to it in the Drugs and Cosmetics Act, 1940 (23 of 1940);
- (c) "essential commodity" has the meaning assigned to it in the Essential Commodities Act, 1955 (10 of 1955).
- (d) "food" has the meaning assigned to it in the Prevention of Food Adulteration Act, 1954 (37 of 1954).

#### **8A. DISQUALIFICATION ON GROUND OF CORRUPT PRACTICES**

- (1) The case of every person found guilty of a corrupt practice by an order under section 99 shall be submitted as soon as may be, after such order takes effect by such authority as the Central Government may specify in this behalf, to the President for determination of the question as to whether such person shall be disqualified and if so, for what period.

Provided that the period for which any person may be disqualified under this sub-section shall in no case exceed six years from the date on which the order made in relation to him under section 99 takes effect.

- (2) Any person who stands disqualified under section 8A of this Act as it stood immediately before the commencement of the Election Laws (Amendment) Act, 1975 (40 of 1975), may, if the period of such disqualification has not expired, submit a petition to the President for the removal of such disqualification for the unexpired portion of the said period.
- (3) before giving his decision on any question mentioned in sub-section (1) or on any petition submitted under sub-section (2), the President shall obtain the opinion of the Election Commission on such question or petition and shall act according to such opinion.

**9. DISQUALIFICATION FOR DISMISSAL FOR CORRUPTION OR DISLOYALTY**

- (1) A person who having held an office under the Government of India or under the Government of any State has been dismissed for corruption or for disloyalty of the State shall be disqualified for a period of five years from the date of such dismissal.
- (2) For the purposes of sub-section (1), a certificate issued by the Election Commission to the effect that a person having held office under the Government of India or under the Government of a State, has or has not been dismissed for corruption or for disloyalty to the State shall be conclusive proof of that fact.

Provided that no certificate to the effect that a person has been dismissed for corruption or for disloyalty to the State shall be issued unless an opportunity of being heard has been given to the said person.

**9A. DISQUALIFICATION FOR GOVERNMENT CONTRACTS, ETC.**

A person shall be disqualified if, and for so long as, there subsists a contract entered into by him in the course of his trade or business with the appropriate Government for the supply of goods to, or for the execution of any works undertaken by that Government.

Explanation— For the purposes of this section where a contract has been fully performed by the person by whom it has been entered into with the appropriate Government, the contract shall be deemed not to subsist by reason only of the fact that the Government has not performed its part of the contract either wholly or in part.

**10. DISQUALIFICATION FOR OFFICE UNDER GOVERNMENT COMPANY**

A person shall be disqualified if and for so long as, he is a managing agent, manager or secretary of any company or corporation (other than a co-operative society) in the capital of which the appropriate Government has not less than twenty-five percent share.

**10A. DISQUALIFICATION FOR FAILURE TO LODGE ACCOUNT OF ELECTION EXPENSES**

If the Election Commission is satisfied that a person—

- (a) has failed to lodge an account of election expenses within the time and in the manner required by or under this Act, and
- (b) has no good reason or justification for the failure,

the Election Commission shall, by order published in the Official Gazette, declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order.

**EXTRACT FROM THE GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI ACT, 1991 (NO. 1 OF 1991)**

- 4. A person shall not be qualified to be chosen to fill a seat in the Legislative assembly unless he:-
  - (a) is a citizen of India and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Schedule;
  - (b) is not less than twenty-five years of age; and
  - (c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.
- 15. (1) A person shall be disqualified for being chosen as, and for being, a member of, the Legislative Assembly:-
  - (a) If he holds any office of profit under the Government of India or the Government of any State or the Government of any Union Territory other than an office declared by law made by Parliament or by the Legislature of any State or by the Legislative Assembly of the Capital or of any other Union Territory not to disqualify its holder; or
  - (b) if he is for the time being disqualified for being chosen as, and for being, a member of either House of Parliament under the provisions of Sub-clause (b), sub-clause (c) or sub-clause (d) of Clause (1) of article 102 or of any law made in pursuance of that article.
- (2) For the purposes of this section, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State or the Government of any Union Territory by reason only that he is a Minister either for the Union or for such State or Union Territory.
- (3) If any question arises as to whether a member of the Legislative Assembly has become disqualified for being such a member under the provision of sub-section (1), the question shall be referred for the decision of the President and his decision shall be final.
- (4) Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion.

**APPENDIX VI**  
**(CHAPTER III, PARA 7.1)**  
**ELECTION COMMISSION OF INDIA**

**New Delhi**  
**Dated the 18th March 1968**

**Notification**

No. 3/6/68 (1). - In pursuance of clause (a) of Article 84 and clause (a) of Article 84 and clause (a) of Article 173 of the Constitution of India and in supersession of its Notification No. 3/3/666 dated the 25th April 1967 The Election Commission hereby authorises (i) the Returning Officer concerned and all the Assistant Returning Officers subordinate to him (ii) all stipendiary Presidency Magistrates and all stipendiary Magistrates of the first class and (iii) all District Judges and all persons belonging to the judicial service of a State other than District Judges as the persons before any one of whom a person having been nominated as a candidate (hereinafter referred to as the candidate) for election to fill a seat in the Council of States or in the House of the People or in the Legislative Assembly of a State (other than Jammu and Kashmir) or in the Legislative Council of a State (other than Jammu and Kashmir) having a Legislative Council shall make and subscribe the oath of affirmation in the form set out for the purpose in the Third Schedule to the said Constitution.

2. Notwithstanding anything contained in Paragraph 1 in pursuance of clause (a) of the said Article 84 and clause (a) of the said Article 173 the Election Commission hereby also authorises as the person before whom the candidate may make and subscribe the said oath or affirmation.
- (a) where the candidate is confined in a prison, the superintendent of the prison
  - (b) where the candidate is under preventive detention, the commandant of the detention camp.
  - (c) where the candidate is confined to bed in a hospital or elsewhere owing to illness or any other cause the Medical superintendent in-charge of the hospital or the medical practitioner attending on him
  - (d) where the candidate is out of India, the diplomatic or consular representative of India in the country where the candidate happens to be or any person authorised by such diplomatic or consular representative.
  - (e) where the candidate is for any other reason unable to appear or prevented from appearing before the Returning Officer concerned or any Assistant Returning Officer as aforesaid any other person nominated by the Election Commission on applications made to it in this behalf.

Explanation. - In this notification

- (1) the expression "the Returning Officer concerned" means-

- (a) where a person has been nominated as a candidate for election to fill a seat in the House of the People from a parliamentary constituency or a seat in the Legislative Assembly of a State from an assembly constituency or a seat in the Legislative Council of a State from a council constituency the Returning Officer for that constituency.
- (b) where a person has been nominated as a candidate for election to fill a seat in the Council of State by the elected members of the legislative Assembly of a State the Returning Officer for that election.
- (c) where a person has been nominated as a candidate for election to fill a seat in the Legislative Council of a State by the members of the Legislative Assembly of a State the Returning Officer for that election;
- (1A) The expression “District Judge” and “Judicial service” shall have the meanings respectively assigned to them in Article 236 of the Constitution of India.
- (2) The expression “Parliamentary Constituency”, “Assembly Constituency” and “Council constituency” shall have the meanings respectively assigned to them in the Representation of the People Act, 1950 (43 of 1950).

By Order  
**Secretary to the  
Election Commission of India**

## ELECTION COMMISSION OF INDIA

Talkatora Road  
New Delhi

Dated the 18th March 1968

### Notification

No. 3/6/68 (2). - In pursuance of clause (a) of section 4 of the Government of Union Territories Act, 1963 (20 of 1963) and in supersession of its notification No 3/3/66 dated the 2nd May 1967 the Election Commission hereby authorises (i) the Returning Officer concerned and all the Assistant Returning Officers subordinate to him (ii) all stipendiary Presidency Magistrates and all stipendiary Magistrates of the first class and (iii) all District Judges and all persons belonging to the judicial service of a State other than District Judges as the persons before any one of whom a person having been nominated as a candidate (hereinafter referred to as the candidate) for election to fill a seat in the Legislative Assembly of a Union territory shall make and subscribe the oath or affirmation in the form set out for the purpose in the First Schedule to the said Act.

2. Notwithstanding anything contained in paragraph 1, in pursuance of clause (a) of the said section 4 the Election Commission hereby also authorises the person before whom the candidate may make and subscribe the said oath or affirmation.-
  - (a) where the candidate is confined in a prison, the superintendent of the prison,
  - (b) where the candidate is under preventive detention, the commandant of the detention camp.
  - (c) where the candidate is confined to bed in a hospital or elsewhere owing to illness or any other cause, the medical superintendent in charge of the hospital or the medical practitioner attending on him.
  - (d) where the candidate is out of India, the diplomatic or consular representative of India in the country where the candidate happens to be or any person authorised by such diplomatic or consular representative,
  - (e) where the candidate is for any other reason unable to appear or prevented from appearing before the Returning Officer concerned or any Assistant Returning Officer as aforesaid any other person nominated by the Election Commission on application made to it in this behalf.

Explanation.-In this notification-

- (1) the expression "the Returning Officer concerned" means the Returning Officer of the assembly constituency from which a person has been nominated as a candidate for election to fill a seat in Legislative Assembly;

- (1A) the expression “District Judge” and “judicial service” shall have the meaning respectively assigned to them in Article 236 of the Constitution of India; and
- (2) the expression “assembly constituency” shall have the meaning assigned to it in clause (c) of sub-section (1) of section 2 of the Government of Union Territories Act, 1963 (20 of 1963).

By order

**Secretary of the  
Election Commission of India**

## ELECTION COMMISSION OF INDIA

New Delhi

Dated the 18th March, 1968.

### Notification

No.3/6/68(3)- In pursuance of clause (a) section 4 of the Govt. of National Capital Territory of Delhi Act 1991 (1 of 1992) and in supersession of its notification No. 3/3/66(1), dated the 2nd May, 1967 the Election Commission hereby authorises (i) the Returning Officer concerned and all the Assistant Returning Officers subordinate to him, (ii) All stipendiary Presidency Magistrate and all stipendiary Magistrates of the first class, and (iii) all District Judges and all persons belonging to the judicial service of a State other than District Judges, as the persons before any one of whom a person having been nominated as a candidate (hereinafter referred to as the candidate) for election to file a seat in the Legislative Assembly of the National Capital Territory of Delhi shall make and subscribe an oath or affirmation in the form set out for the purpose in the Schedule to the said Act.

2. Notwithstanding anything contained in paragraph 1, in pursuance of clause (a) of the said section 4, the Election Commission hereby also authorises as the person before whom the candidate may make and subscribe the said oath or affirmation:—

- (a) Where the candidate is confined in a prison, the Superintendent of the prison.
- (b) Where the candidate is under preventive detention, the Commandant of the detention camp,
- (c) Where the candidate is confined to bed in a hospital or elsewhere owing to illness or any other clause the medical Superintendent in charge of the hospital or the medical practitioner attending on him;
- (d) Where the candidate is out of India the diplomatic or consular representative of India in the country where the candidate happens to be or any person authorised by such diplomatic or consular representative,
- (e) Where the candidate is for any other reason unable to appear or prevented from appearing, before the Returning Officer concerned or any Assistant Returning Officer as aforesaid, any other person nominated by the Election Commission on application made to it in this behalf.

Explanation – In this notification—

- (1) The expression "the Returning Officer concerned" means the Returning Officer for the Assembly Constituency from which a person has been nominated as a candidate for election to fill a seat in the Legislative Assembly of the National Capital Territory of Delhi.

- (1-A) the expression "district judge" and "judicial service" shall have the meaning respectively assigned to them in Article 236 of the Constitution of India; and
- (2) The expression "Assembly Constituency" shall have the meaning assigned to it in clause (b) of section 2 of the Govt. of National Capital Territory of Delhi Act, 1991.

By Order  
Secretary to the  
Election Commission of India

**APPENDIX VII  
(CHAPTER IV, PARA 4.4)  
FORM 2A  
(See rule 4)**

**NOMINATION PAPER**

---

Election to the House of the People.....

*STRIKE OFF PART I OR PART II BELOW WHICHEVER IS NOT APPLICABLE*

**PART I**

*(To be used by candidate set up by recognized political party)*

I nominate as a candidate for election to the House of the People from the  
..... Parliamentary constituency.

Candidate's name .....father's/mother's/husband's  
name .....His postal address .....His  
name is entered at S.No. .... in Part No. ....of the electoral roll for  
..... \*(Assembly constituency comprised within)  
.....Parliamentary constituency.

My name is .....and it is entered at  
S.No.....

In part No. ....of the electoral rolls for .....\*Assembly  
constituency comprised within .....Parliamentary constituency.

Date .....(Signature of proposer)

---

**PART II**

*(To be used by candidate NOT set up by recognized political party)*

We hereby nominate as candidate for election to the House of the People from the  
..... Parliamentary constituency.

Candidate's name .....father's/mother's/husband's  
name .....His postal  
address .....

His name is entered at S.No. .... in Part No. ....of the  
electoral roll for ..... \* (Assembly constituency comprised  
within).....Parliamentary constituency.

We declare that we are electors of the above parliamentary constituency and our  
names are entered in the electoral roll for the Parliamentary Constituency as  
indicated below and we append our signatures below in token of subscribing to this  
nomination:-

**PARTICULARS OF THE PROPOSERS AND THEIR SIGNATURES**

Sl. No	Electoral Roll No. of Proposer			Full Name	Signature	Date
	@Name of component Assembly Constituency	Part No. of Electoral Roll	S. No. in that Part			
1.						
2.						
3						
4						
5						
6						
7						
8						
9						
10						

N.B.:\_There should be ten electors of the constituency as proposers.

**PART III**

I, the candidate mentioned in Part I/Part II (Strike out which is not applicable) assent to this nomination and hereby declare:

(a) that I have completed .....years of age;

*[STRIKE OUT b(i) or b(ii) BELOW WHICHEVER IS NOT APPLILCABLE]*

(b) (i) that I am set up at this election by the ..... party, which is recognized National Party/State Party in this State and that the symbol reserved for the above party be allotted to me;

OR

(ii) that I am set up at this election by the ..... party, which is a registered unrecognized political party/that I am contesting this election as an independent candidate. (Strike out which is not applicable) and that the symbols I have chosen, in order of preference, are:-

(i).....(ii).....(iii).....

- (c) that my name and my father's/mother's/husband's name have been correctly spelt out above in .....(name of the language);
- (d) that to the best of my knowledge and belief, I am qualified and not also disqualified for being chosen to fill the seat in the House of the People.

+ I further declare that I am a member of the ..... \*\*Caste/tribe which is scheduled  
 \*\*\*caste/tribe of the State of .....in relation to .....(area) in that State.

I also declare that I have not been, and shall not be nominated as a candidate at the present \*\*general election/the bye-elections being held simultaneously, to the House of the People from more than two Parliamentary Constituencies.

Date ..... (Signature of Candidate)

\* Score out the words "assembly constituency comprised within" in the case of Jammu and Kashmir, Andaman and Nicobar Islands, Chandigarh, Dadra and Nagar Haveli, Daman and Diu and Lakshdweep.

+ Score out this paragraph, if not applicable

\*\* Score out the words not applicable.

@ Not applicable in the case of Jammu and Kashmir, Andaman and Nicobar Islands, Chandigarh, Dadra and Nagar Haveli, Daman and Diu and Lakshdweep.

**N.B.** A "recognized political party" means a political party recognized by the Election Commission under the Election Symbols (Reservation and Allotment) Order, 1968 in the State concerned.

### PART III A

(To be filled by the candidate)

Whether the Candidate –

- (i) has been convicted - )
  - (a) of any offence(s) under sub-section (1); or )
  - (b) for contravention of any law specified in sub-section (2) of )  
 section 8 of the Representation of the People Act, 1951 ) **YES/NO**  
 (43 of 1951); or )
- (ii) has been convicted for any other offence(s) for which )  
 he has been sentenced to imprisonment for two years or more. )

If the answer is "yes", the candidate shall furnish the following information:

- (i) Case/First information report No./Nos.....
- (ii) Police Station(s) .....District (s) .....State(s).....

- (iii) Section(s) of the concerned Act(s) and brief description of the offence(s) for which he has been convicted.....
- (iv) Date(s) of conviction(s) .....
- (v) Count(s) which convicted the candidate .....
- (vi) Punishment(s) imposed [indicate period of imprisonment(s) and/or quantum of fine(s) .....
- (vii) Date(s) of release from prison .....
- (viii) Was/were any appeal(s) filed against above conviction(s).....Yes/No
- (ix) Date and particulars of appeal(s)/application(s) for revision filed .....
- (x) Name of the court(s) before which the appeal(s)/application(s) for revision filed .....
- (xi) Whether the said appeal(s)/application(s) for revision has/have been disposed of or is/are pending .....
- (xii) If the said appeal(s)/application(s) for revision has/have been disposed of -
  - (a) Date(s) of disposal .....
  - (b) Nature of order(s) passed .....

Place :

Date : \_\_\_\_\_ (Signature of the candidate)

**PART IV**

*(To be filled by the Returning Officer)*

Serial No. of nomination paper .....

This nomination was delivered to me at my office at .....(hour) on ..... (date) by the \*candidate/proposer.

Date .....

Returning Officer

\*Score out the words not applicable.

**PART V**

**DECISION OF RETURNING OFFICER ACCEPTING OR REJECTING THE NOMINATION PAPER**

I have examined this nomination paper in accordance with section 36 of the Representation of the People Act , 1951 and decide as follows:-

Date .....

Returning Officer

.....(Perforation).....

**PART VI**  
**RECEIPT FOR NOMINATION PAPER AND NOTICE OF SCRUTINY**  
*(To be handed over to the person presenting the Nomination Paper)*

Serial No. of nomination paper .....

The nomination paper of .....a candidate for election  
from the .....Parliamentary constituency was  
delivered to me at my office at .....(hour) on  
.....(date) by\* the candidate/proposer.

All nomination papers will be taken up for scrutiny at .....(hour)  
on .....(date) at .....Place.

Date ..... Returning Officer

---

\*Score out the work not applicable.

**APPENDIX - VIII**  
**(Chapter IV, Para 4.4)**  
**FORM 2B**  
**(See rule 4)**

**NOMINATION PAPER**

Election to the Legislative Assembly of.....State.

*STRIKE OFF PART I OR PART II BELOW WHICHEVER IS NOT APPLICABLE*

**PART I**

I nominate as a candidate for Election to the Legislative Assembly from the  
.....Assembly Constituency. Candidate's  
name.....[Father's/mother's/husband's name]

His postal address..... His name is  
entered at S. No..... in Part No. .... of the electoral roll for  
..... Assembly constituency. My name is  
..... and it is entered at S. No..... in Part No. .... of  
the electoral roll for the ..... Assembly constituency.

Date ..... (Signature or  
proposer).  
.....

**PART II**

*(To be used by candidate NOT set up by recognised political party)*

We hereby nominate as candidate for election to the legislative assembly from  
the.....assembly constituency.

Candidate's name..... father's / mother's /  
husband's name.....  
His postal address.....

His name is entered at Sl. No.....in part no.....of the  
electoral roll for..... assembly constituency.

We declare that we are electors of this assembly constituency and our names are  
entered in the electoral roll for this assembly constituency as indicated below and we  
append our signatures below in token of subscribing to this nomination:-

**PARTICULARS OF THE PROPOSERS AND THEIR SIGNATURES.**

Sl. No.	Electoral Roll No. of Proposer			Full Name	Signature	Date
	@Name of Component Assembly Constituency	Part No. of Electoral Roll	S. No. In that Part			
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

N.B.:\_ There should be ten electors of constituency as proposers.

**PART III**

I, the candidate mentioned in part i/part ii (strike out which is not applicable) assent to this nomination and hereby declare-

(a) that I have completed.....years of age;

*[strike out b(i) or b(ii) below whichever is not applicable]*

(b) (i) that I am set up at this election by the.....party, which is recognised national party/state party in this state and that the symbol reserved for the above party be allotted to me.

(ii) that I am set up at this election by the.....party, which is a registered-unrecognised political party/that I am contesting this election as an independent candidate (Strike out which is not applicable) and that the symbols I have chosen, in order of preference, are:-

(c) (i).....(ii).....(iii).....  
that my name and my father's/mother's/husband's name have been correctly spelt out above in..... (name of the language)

(d) that to the best of my knowledge and belief, I am qualified and not also disqualified for being chosen to fill the seat in the Legislative Assembly of this State.

\*I further declare that i am a member of the.....\*\*caste/tribe which is a scheduled \*\*\*caste/tribe of the state of.....in relation to .....(area) in that state.

I also declare that i have not been, and shall not be, \*\*\*\*nominated as a candidate at the present general election /the bye-elections being held simultaneously, to the

legislative assembly of ..... (state) from more than two assembly constituencies.

Date..... (signature of candidate)

\*Score out this paragraph, if not applicable.

\*\*Score out the words not applicable.

**N.B.** A "recognised political party" means a political party recognised by the election commission under the election symbols (reservation and allotment) order, 1968 in the state concerned.

**PART III A**  
(To be filled by the candidate)

**Whether the Candidate –**

- (i) has been convicted –
  - (a) of any offence(s) under sub-section (1); or
  - (b) for contravention of any law specified in sub-section (2), of section 8 of the Representation of the People Act, 1951 (43 of 1951); or
- (ii) has been convicted for any other offence(s) for which he has been sentenced to imprisonment for two years or more.

YES/NO

If the answer is "Yes", the candidate shall furnish the following information:

- (i) Case/First information report No./Nos.....
- (ii) Police station (s) .....District(s) .....State(s) .....
- (iii) Section(s) of the concerned Act(s) and brief description of the offence(s) for which he has been convicted .....
- (iv) Date(s) of conviction(s).....
- (v) Court(s) which convicted the candidate .....
- (vi) Punishment(s) imposed [indicate period of imprisonment(s) and/or quantum of fine(s)].....
- (vii) Date(s) of release from prison.....
- (viii) Was/were any appeal(s)/revision(s) filed against above conviction(s)...Yes/No
- (ix) Date and particulars of appeal(s)/application(s) for revision filed .....
- (x) Name of the court(s) before which the appeal(s) /application (s) for revision filed .....
- (xi) Whether the said appeal(s) / application (s) for revision has/have been disposed of or is/are pending .....
- (xii) If the said appeal(s)/application(s) for revision has/have been disposed of -

- (a) Date(s) of disposal .....
- (b) Nature of order(s) passed .....

Place :  
Date :

(Signature of the candidate);

**PART IV**

*(To be filled by the Returning Officer)*

Serial No. of nomination paper.....

This nomination was delivered to me at my office at.....(hour) on.....(date) by the \*candidate/proposer.

Date..... .Returning Officer  
\_\_\_\_\_

\*Score out the word not applicable.

**PART V**

**DECISION OF RETURNING OFFICER ACCEPTING OR REJECTING THE NOMINATION PAPER**

I have examined this nomination paper in accordance with section 36 of the Representation of the People Act, 1951 and decide as follows:

Date..... Returning Officer  
..... (Perforation).....

**PART VI**

**RECEIPT FOR NOMINATION PAPER AND NOTICE OF SCRUTINY**  
*(To be handed over to the person presenting the Nomination Paper)*

Serial No. of nomination paper.....

The nomination paper of.....a candidate for election from the .....Assembly constancy was delivered to me at my office at.....(hour) on..... (date) by the \*candidate/proposer.

All nomination papers will be taken up for scrutiny at..... (hour) on.....(date) at.....(Place.)

Date..... Returning Officer  
\_\_\_\_\_

\*Score out the word not applicable.

**APPENDIX VIII -A**  
**[CHAPTER IV, PARA 4.5(3)]**  
**FORM 26**  
**(SEE RULE 4A)**

Affidavit to be furnished by the candidate before the returning officer for election to .....  
..... (name of the House) from .....  
..... Constituency (name of the constituency)

I, ....., son/daughter/wife of ..... aged about  
..... years, resident of .....  
candidate at the above election, do hereby solemnly affirm/state on oath as under:-

1. I am/am not accused of any offence(s) punishable with imprisonment for two years or more in a pending case(s) in which a charge(s) has/have been framed by the court(s) of competent jurisdiction.

If the deponent is accused of any such offence(s) he shall furnish the following information:

- (i) Case/First information report No./Nos.....
  - (ii) Police station(s).....District(s) .....  
State(s) .....
  - (iii) Section(s) of the concerned Act(s) and short description of the offence(s) for which the candidate has been charged.....
  - (iv) Court(s) which framed the charge(s) .....
  - (v) Date(s) on which the charge(s) .....
  - (vi) Whether all or any of the proceeding(s) have been stayed by any court(s) of competent jurisdiction .....
2. I have been/have not been convicted of an offence(s) [other than any offence(s) referred to in sub-section(1) or sub-section(2), or covered in sub-section(3), of section 8 of the Representation of the People Act, 1951 (43 of 1951)] and sentenced to imprisonment for one year or more.

If the deponent is convicted and punished as aforesaid, he shall furnish the following information:

- (i) Case/First information report No./Nos.....
- (ii) Court(s) which punished .....
- (iii) Police station(s) ..... District(s) .....  
State(s) .....
- (iv) Section(s) of the concerned Act(s) and short description of the offence(s) for which the candidate has been charged.....
- (vi) Date(s) on which the sentence(s) was/were pronounced .....
- (vii) Whether the sentence(s) has/have been stayed by any court(s) of competent jurisdiction .....

Place .....  
Date .....

Signature of Deponent

---

**VERIFICATION**

I, the above-named deponent, do hereby verify and declare that the contents of this affidavit are true and correct to the best of my knowledge and belief, no part of it is false and nothing material has been concealed therein.

Verified at ..... this ..... day of ....., 20.....

Signature of deponent

**Note:** The columns in this Form which are not applicable to the deponent may be struck off.

**APPENDIX VIII-B**  
**[CHAPTER IV, PARA 4.5(3)]**  
**ELECTION COMMISSION OF INDIA**  
**NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI – 110 001**

No.3/ER/2003/JS-II

Dated the 27<sup>th</sup> March 2003

**ORDER**

1. Whereas, the superintendence, direction and control, inter alia, of all elections to Parliament and to the Legislature of every State are vested in the Election Commission by Article 324 (1) of the Constitution of India;

2. And whereas, the Hon'ble Supreme Court of India had, by its order dated 2nd May, 2002, in Civil Appeal No. 7178 of 2001 - Union of India Vs Association for Democratic Reforms and another, held as follows: -

"(1) The jurisdiction of the Election Commission is wide enough to include all powers necessary for smooth conduct of elections and the word 'elections' is used in a wide sense to include the entire process of election which consists of several stages and embraces many steps.

(2) The limitation on plenary character of power is when the Parliament or state legislature has made a valid law relating to or in connection with elections, the Commission is required to act in conformity with the said provisions. In case where law is silent, art 324 is a reservoir of power to act for the avowed purpose of having free and fair election. Constitution has taken care of leaving scope for exercise of residuary power by the Commission in its own right as a creature of the Constitution in the infinite variety of situations that may emerge from time to time in a large democracy, as every contingency could not be foreseen or anticipated by the enacted laws or the rules. By issuing necessary directions Commission can fill the vacuum till there is legislation on the subject. In Kanhiya Lal Omar's case (AIR 1986 SC 111), the court construed the expressions 'superintendence, direction and control' in art 324(1) and held that a direction may mean an order issued to a particular individual or a precept which may have to follow and it may be a specific or a general order and such phrase should be construed liberally empowering the Election Commission to issue such orders.

(3) The word 'elections' includes the entire process of election which consists of several stages and it embraces many steps, some of which have an important bearing on the process of choosing a candidate. Fair election contemplates disclosure by the candidate of his past including the assets held by him so as to give a proper choice to the candidate (sic) (elector) according to his thinking and opinion. As stated earlier, in Common Cause case [(1996) 2 SCC 752], the court dealt with a contention that elections in the country are fought with the help of money power which is gathered from black sources and once elected to power, it becomes easy to collect tons of black money, which is used for retaining power and for re-election. If on affidavit a candidate is required to disclose the assets held by him at the time of election, voter can decide whether he could be re-elected even in case where he has collected tons of money.

XXX XXX

(4) To maintain the purity of elections and in particular to bring transparency in the process of election, the Commission can ask the candidates about the expenditure incurred by the political parties and this transparency in the process of election would include transparency of a candidate who seeks election or re-election. In a democracy, the electoral process has a strategic role. The little man of this country would have basic elementary right to know full particulars of a candidate who is to represent him in Parliament where laws to bind his liberty and property may be enacted.

(5) The right to get information in democracy is recognized all throughout and it is natural right flowing from the concept of democracy. At this stage, we would refer to art 19(1) and (2) of the International Covenant of Civil and Political Rights which is as under:-

(1) Everyone shall have the right to hold opinions without interference.

(2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

(6) Cumulative reading of plethora of decisions of this court as referred to, it is clear that if the field meant for legislature and executive is left unoccupied detrimental to the public interest, this court would have ample jurisdiction under art 32 read with arts 141 and 142 of the Constitution to issue necessary directions to the executive to subserve public interest.

(7) Under our Constitution, Art 19(1)(a) provides for freedom of speech and expression. Voters' speech or expression in case of election would include casting of votes that is to say, voter speaks out or expresses by casting vote. For this purpose, information about the candidate to be selected is must. Voter's (little man-citizen's) right to know antecedents including criminal past of his candidate contesting election for MP or MLA is much more fundamental and basic for survival of democracy. The little man may think over before making his choice of electing law breakers as law makers.";

3. And whereas, the Hon'ble Supreme Court, by its aforesaid order dated 2nd May, 2002, had directed as follows: -

"The Election Commission is directed to call for information on affidavit by issuing necessary order in exercise of its power under art 324 of the Constitution of India from each candidate seeking election to Parliament or a state legislature as a necessary part of his nomination paper, furnishing therein, information on the following aspects in relation to his/her candidature:-

(1) Whether the candidate is convicted/acquitted/ discharged of any criminal offence in the past-if any, whether he is punished with imprisonment or fine?

(2) Prior to six months of filing of nomination, whether the candidate is accused in any pending case, of any offence punishable with imprisonment for two years or more, and in which charge is framed or cognizance is taken by the court of law. If so, the details thereof.

(3) The assets (immovable, movable, bank balances etc) of a candidate and of his/her spouse and that of dependants.

(4) Liabilities, if any, particularly whether there are any over dues of any public financial institution or government dues.

(5) The educational qualifications of the candidate."

4. And whereas, the Hon'ble Supreme Court, in its aforesaid order dated 2nd May, 2002, further observed that 'the Election Commission has from time to time issued instructions in order to meet with the situation where the field is unoccupied by the legislation' and had further directed that 'the norms and modalities to carry out and give effect to the aforesaid directions should be drawn up properly by the Election Commission as early as possible and in any case within two months';

5. And whereas, the Election Commission had, in pursuance of the above referred Judgement and Order dated 2nd May, 2002 of the Hon'ble Supreme Court and in exercise of the powers, conferred on it by Article 324 of the Constitution, directed by an Order dated 28th June, 2002, inter alia, in para 14 of the said Order as follows:-

"(1) Every candidate at the time of filing his nomination paper for any election to the Council of States, House of the People, Legislative Assembly of a State or the Legislative Council of a State having such a council, shall furnish full and complete information in regard to all the five matters, specified by the Hon'ble Supreme Court and quoted in para 5 above (reproduced in para 3 herein), in an affidavit, the format whereof is annexed hereto as Annexure-1 to this order.

(2) The said affidavit by each candidate shall be duly sworn before a Magistrate of the First Class or a Notary Public or a Commissioner of Oaths appointed by the High Court of the State concerned.

(3) Non-furnishing of the affidavit by any candidate shall be considered to be violation of the order of the Hon'ble Supreme Court and the nomination of the candidate concerned shall be liable to rejection by the returning officer at the time of scrutiny of nominations for such non- furnishing of the affidavit.

(4) Furnishing of any wrong or incomplete information or suppression of any material information by any candidate in or from the said affidavit may also result in the rejection of his nomination paper where such wrong or incomplete information or suppression of material information is considered by the returning officer to be a defect of substantial character, apart from inviting penal consequences under the Indian Penal Code for furnishing wrong information to a public servant or suppression of material facts before him:

Provided that only such information shall be considered to be wrong or incomplete or amounting to suppression of material information as is capable of easy verification by the returning officer by reference to documentary proof adduced before him in the summary inquiry conducted by him at the time of scrutiny of nominations under section 36 (2) of the Representation of the People Act 1951, and only the information so verified shall be taken into account by him for further consideration of the question whether the same is a defect of substantial character.

(5) The information so furnished by each candidate in the aforesaid affidavit shall be disseminated by the respective returning officers by displaying a copy of the affidavit on the notice board of his office and also by making the copies thereof available

freely and liberally to all other candidates and the representatives of the print and electronic media.

(6) If any rival candidate furnishes information to the contrary, by means of a duly sworn affidavit, then such affidavit of the rival candidate shall also be disseminated along with the affidavit of the candidate concerned in the manner directed above.";

6. And whereas, the President of India promulgated the Representation of People (Amendment) Ordinance, 2002 (No.4 of 2002) on the 24th August, 2002 further to amend the Representation of the People Act, 1951 inserting Sections 33A and 33B and 125A and amending Section 169 of the Representation of the People Act, 1951;

7. And whereas, by virtue of Section 33B of the said Ordinance, the Order of the Election Commission dated the 28th June, 2002, was rendered ineffective and the said Section 33B read as under:-

"Section 33B.- Notwithstanding anything contained in any judgement, decree or order of any court or any direction, order or any other instruction issued by the Election Commission, no candidate shall be liable to disclose or furnish any such information, in respect of his election, which is not required to be disclosed or furnished under this Act or the rules made thereunder.";

8. And whereas, the Government of India by notification dated 3rd September, 2002 amended the Conduct of the Elections Rules, 1961 to give effect to the said Ordinance;

9. And whereas, the Association for Democratic Reforms, People's Union for Civil Liberties, and Lok Satta, filed three separate writ petitions before the Hon'ble Supreme Court of India challenging the constitutional validity of the Presidential Ordinance dated 24th August, 2002;

10. And whereas, the by Notification dated the 28th December, 2002, the Representation of the People Act, 1951 was amended by the Representation of the People (Third Amendment) Act, 2002 which substituted the aforesaid Ordinance dated 24th August, 2002;

11. And whereas, the said petitioners filed applications to treat the said writ petitions as challenging the constitutional validity of the Representation of the People (Third Amendment) Act, 2002;

12. And whereas, the Hon'ble Supreme Court in its order/judgement, dated the 13th March, 2003 declared Section 33B of the Amended Act as illegal, null and void;

13. And whereas, the following directions were issued in the Judgement of Hon'ble Mr. Justice RV. Reddi, which was concurred by Mr. Justice D.M. Dharmadhikari:-

"xxxxxxxxxx

"The right to information provided for by the Parliament under Section 33A in regard to the pending criminal cases and past involvement in such cases is reasonably adequate to safeguard the right to information vested in the voter/citizen. However, there is no good reason for excluding the pending cases in which cognizance has been taken by Court from the ambit of disclosure."

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"The Election Commission has to issue revised instructions to ensure implementation of Section 33A subject to what is laid down in this judgement regarding the cases in which cognizance has been taken. The Election Commission's orders related to disclosure of assets and liabilities will still

hold good and continue to be operative. However, direction No.4 of para 14 insofar as verification of assets and liabilities by means of summary enquiry and rejection of nomination paper on the ground of furnishing wrong information or suppressing material information should not be enforced.";

14. And whereas, the Judgement of Hon'ble Mr. Justice M.B. Shah, also held that Section 33B was illegal, null and void and further that the Election Commission would be required to revise its instructions in the light of the directions therein as under:-

"It is true that the aforesaid directions issued by the Election Commission is not under challenge but at the same time Prima facie it appears that the Election Commission is required to revise its instructions in the light of directions issued in Association for Democratic Reforms case (supra) and as provided under the Representation of the People Act and its 3rd Amendment.";

15. And whereas, by virtue of the Judgement dated the 13th March, 2003 of the Supreme Court declaring Section 33B of the Representation of the People Act, 1951 to be illegal, null and void, the earlier instructions of the Election Commission dated 28th June, 2002 would continue to be operative subject to the aforementioned directions of the Supreme Court, and are therefore required to be revised and reissued;

16. Now, therefore, the Election Commission, in pursuance of the above referred order dated 13<sup>th</sup> March, 2003, of the Hon'ble Supreme Court and in exercise of the powers, conferred on it by Article 324 of the Constitution, of superintendence, direction and control, inter alia, of conduct of elections to Parliament and State Legislatures, hereby issues, in supersession of its earlier order dated 28th June, 2002, its revised directions as follows: -

- (1) Every candidate at the time of filing his nomination paper for any election to the Council of States, House of the People, Legislative Assembly of a State or the Legislative Council of a State having such a council, shall furnish full and complete information in regard to the matters specified by the Hon'ble Supreme Court and quoted in paras 13 and 14 above, in an affidavit, the format whereof is annexed hereto as Annexure-1 to this order.
- (2) The said affidavit by each candidate shall be duly sworn before a Magistrate of the First class or a Notary Public or a Commissioner of Oaths appointed by the High Court of the State concerned.
- (3) Non-furnishing of the affidavit by any candidate shall be considered to be violation of the order of the Hon'ble Supreme Court and the nomination of the candidate concerned shall be liable to rejection by the returning officer at the time of scrutiny of nominations for such non-furnishing of the affidavit.
- (4) The information so furnished by each candidate in the aforesaid affidavit shall be disseminated by the respective returning officers by displaying a copy of the affidavit on the notice board of his office and also by making the copies thereof available freely and liberally to all other candidates and the representatives of the print and electronic media.
- (5) If any rival candidate furnishes information to the contrary, by means of a duly sworn affidavit, then such affidavit of the rival candidate shall also be disseminated along with the affidavit of the candidate concerned in the manner directed above.

17. For the removal of doubt, it is hereby clarified that the earlier direction contained in para 14 (4) of the earlier order dated 28th June, 2002, in so far as verification of assets and liabilities by

means of summary enquiry and rejection of nomination paper on the ground of furnishing wrong information or suppressing material information is not enforceable in pursuance of the order dated 13th March, 2003 of the Apex Court. It is further clarified that apart from the affidavit in Annexure-1 hereto referred to in para 16(1) above, the candidate shall have to comply with all the other requirements as spelt out in the Representation of the People Act, 1951, as amended by the Representation of the People (Third Amendment) Act, 2002, and the Conduct of Elections Rules, 1961, as amended by the Conduct of Elections (Amendment) Rules, 2002.

18. In so far as elections to the Legislative Assembly and Legislative Council of the State of Jammu and Kashmir are concerned, the directions of the Election Commission contained in the preceding para 16 shall be deemed to have been issued under the provisions of section 138 of the Constitution of Jammu and Kashmir which are akin to Article 324 (1) of the Constitution of India and vest the superintendence, direction and control of the conduct of all elections to either House of the Legislature of that State in the Election Commission.

19. All Returning Officers shall ensure that the copies of affidavit prescribed herein by the Commission shall be delivered to the candidates along with the forms of nomination papers as part of the nomination paper.

By order,  
**(A.K. MAJUMDAR)**  
**SECRETARY**  
**ELECTION COMMISSION OF INDIA**

**Annexure-I**  
**AFFIDAVIT TO BE FURNISHED BY CANDIDATE ALONGWITH**  
**NOMINATION PAPER**

**Before the Returning Officer**  
**for election to.....(name of the House)**  
**from.....constituency**  
**( name of the constituency)**

I,....., son/daughter/wife of.....  
aged.....years, resident of....., candidate at the above  
election, do hereby solemnly affirm and state on oath as under:-

*(Strike out whichever not applicable)*

(1) The following case(s) is/are pending against me in which cognizance has been taken by the court:-

- (i) Section of the Act and description of the offence for which cognizance taken :
- (ii) The Court which has taken cognizance:
- (iii) Case No. :
- (iv) Date of order of the Court taking cognizance:
- (v) Details of appeal(s) / application(s) for revision, etc., if any, filed against above order taking cognizance:

(2) That I give herein below the details of the assets (immovable, movable, bank balance, etc.) of myself, my spouse and dependents\*:

**A. Details of movable assets**

(Assets in joint name indicating the extent of joint ownership will also have to be given)

S. No.	Description	Self	Spouse Name(s)	Dependent-1 Name	Dependent-2 Name	Dependent-3 Etc. Name
(i)	Cash					
(ii)	Deposits in Banks, Financial Institutions And Non-Banking Financial Companies					
(iii)	Bonds, Debentures and Shares in /companies					
(iv)	Other financial institutions, NSS, Postal Savings, LIC Policies, etc.					
(v)	Motor Vehicles (details of make, etc.)					
(vi)	Jewellery (give details of weight and value)					
(vii)	Other assets, such as values of claims / interests					

Note: Value of Bonds / Shares / Debentures as per the latest market value in Stock Exchange in respect of listed companies and as per books in the case of non listed companies should be given.

\* *Dependent here means a person substantially depends on the income of the candidate.*

**B. Details of Immovable assets**

[Note: Properties in joint ownership indicating the extent of joint ownership will also have to be indicated]

S. No.	Description	Self	Spouse Name(s)	Dependent-1 Name	Dependent-2 Name	Dependent-3 Etc. Name
(i)	<b>Agricultural Land</b> - Location(s) - Survey number(s) - Extent (Total measurement) - Current market value					
(ii)	<b>Non-Agricultural Land</b> - Location(s) - Survey number(s) - Extent (Total measurement) Current market value					
(iii)	<b>Buildings (commercial and residential)</b> - Location(s) - Survey / door number(s) - Extent (Total measurement) Current market value					
(iv)	<b>Houses / Apartments, etc.</b> - Location(s) - Survey / door number(s) - Extent (Total measurement)					

	Current market value					
(v)	<b>Others</b> (such as interest in property)					

(3) I give herein below the details of my liabilities / over dues to public financial institutions and government dues: -

[Note: Please give separate details for each item]

S. No.	Description	Name & address of Bank/ Financial Institution(s)/ Department(s)	Amount outstanding as on .....
(a)	(i) Loans from Banks		
	(ii) Loans from financial institutions		
	(iii) Government Dues:		
	(a) dues to departments dealing with government accommodation		
	(b) dues to departments dealing with supply of water		
	(c) dues to departments dealing with supply of electricity		
	(d) dues to departments dealing with telephones		
	(e) dues to departments dealing with government transport (including aircrafts and helicopters)		
	(f) Other dues, if any		
(b)	(i) Income Tax including surcharge [Also indicate the assessment year upto which income Tax Return filed. Give also Permanent Account Number 9PAN]		
	(ii) Wealth Tax [Also indicate the assessment year upto which Wealth Tax return filed.]		
	(iii) Sales Tax [Only in case of proprietary business]		
	(iv) Property Tax		

4) My educational qualifications are as under :-  
(GIVE DETAILS OF SCHOOL AND UNIVERSITY EDUCATION)

(Name of School / University and the year in which the course was completed should also be given.)

DEPONENT

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**VERIFICATION**

I, the deponent above named, do hereby verify and declare that the contents of this affidavit are true and correct to the best of my knowledge and belief; no part of it is false and nothing material has been concealed there from.

Verified at ..... this the ..... day of.....,200 .....

DEPONENT

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**APPENDIX IX**  
**THE ELECTION SYMBOLS (RESERVATION AND ALLOTMENT)**  
**ORDER, 1968**  
**AN ORDER**

To provide for specification, reservation choice and allotment of symbols at elections in Parliamentary and Assembly Constituencies, for the recognition of political parties in relation thereto and for matters connected therewith.

**S.O. 2959, dated 31<sup>st</sup> August, 1968** - Whereas, the Superintendence, direction and control of all elections to Parliament and to the Legislature of every State are vested by the Constitution of India in the Election Commission of India:

AND WHEREAS, it is necessary and expedient to provide in the interest of purity of elections to the House of the People and the Legislative Assembly of every State and in the interest of the conduct of such elections in a fair and efficient manner, for the specification, reservation, choice and allotment of symbols for the recognition of political parties in relation thereto and for matters connected therewith:

NOW, THEREFORE in exercise of the powers conferred by Article 324 of the Constitution read with section 29A of the Representation of the People Act, 1951 (43 of 1951) and rules 5 and 10 of the Conduct of Elections Rules, 1961, and all other powers enabling it in this behalf, the Election Commission of India hereby makes the following Order:

**1. SHORT TITLE, EXTENT, APPLICATION AND COMMENCEMENT**

- (1) This order may be called the Election Symbols (Reservation and Allotment) Order, 1968.
- (2) It extends to the whole of India and applies in relation to election in all Parliamentary and Assembly Constituencies other than Assembly Constituencies in the State of Jammu and Kashmir.(3) It shall come into force on the date of its publication in the Gazette of India which date is hereinafter referred to as the commencement of this order.

**2. DEFINITIONS AND INTERPRETATION**

- (1) In this Order, unless the context otherwise requires,
  - (a) "Clause" means a clause of the paragraph or sub-paragraph in which the words occurs;
  - (b) "Commission", means the Election Commission of India constituted under Article 324 of the Constitution;
  - (c) "Constituency" means a Parliamentary Constituency or an Assembly Constituency;
  - (d) "Contested election" means an election in a Parliamentary or an Assembly Constituency where a poll is taken;
  - (e) "Election" means an election to which this Order applies;
  - [(ee) "form" means a form appended to this order.]
  - (f) "general election" means any general election held after the commencement of this Order for the purposes of constituting the House of the People or the Legislative Assembly and includes a general election whereby the House of the People or the Legislative Assembly of a State in existence and functioning at such commencement, has been constituted;
  - (g) "paragraph" means a paragraph of this order;
  - (h) "Political party" means an association or body of individual citizens of India registered with the Commission as a political party under section 29A of the Representation of the People Act, 1951;
  - (i) "State" includes a Union Territory;
  - (j) "Sub-paragraph" means a sub-paragraph of the paragraph in which the word occurs; and
  - (k) Words and expressions used but not defined in this Order but defined in the Representation of the People Act, 1950, or the rules made thereunder or in the Representation of the People Act, 1951, or the rules made thereunder shall have the meanings respectively assigned to them in those Acts and Rules.

- (2) The General Clauses Act, 1897 shall, as far as may be, apply in relation to the interpretation of this Order as it applies in relation to the interpretation of a Central Act.
- (3) .....Omitted vide Registration of Political Parties (furnishing of Additional Particulars Order - (1992).

**4. ALLOTMENT OF SYMBOLS**

In every contested election a symbol shall be allotted to a contesting candidate in accordance with the provisions of this Order and different symbols shall be allotted to different contesting candidates at an election in the same constituency.

**5. CLASSIFICATION OF SYMBOLS**

- (1) For the purpose of this Order symbols are either reserved or free.
- (2) Save as otherwise provided in this order, a reserved symbol is symbol which is reserved for a recognised political party for exclusive allotment to contesting candidates set up by that party.
- (3) A free symbol is a symbol other than a reserved symbol.

**6. CLASSIFICATION OF POLITICAL PARTIES**

- (1) For the purposes of this Order and for such other purposes as the Commission may specify as and when necessity therefore arises, political parties are either recognized political parties or un-recognized political parties.
- (2) A recognized political party shall either be a National party or a State party.

**6.A CONDITIONS FOR RECOGNITION AS A NATIONAL PARTY**

A political party shall be treated as a recognized National party, if, and only if, -

Either (A)(i) the candidates set up by it, in any four or more States, at the last general election to the House of the People, or to the Legislative Assembly of the State concerned, have secured not less than six percent of the total valid votes polled in their respective States at that general election; and (ii) in addition, it has returned at least four members to the House of the People of the aforesaid last general election from any State or States;

Or (B)(i) its candidates have been elected to the House of the People, at the last general election to that House, from at least two percent of the total number of parliamentary constituencies in India, any fraction exceeding one-half being counted one; and (ii) the said candidates have been elected to that House from not less than three States.

**6B. CONDITIONS FOR RECOGNITION AS A STATE PARTY**

A political party, other than a National party, shall be treated as a recognized State party in a State or States, if, and only if, -

Either (A)(i) the candidates set up by it, at the last general election to the House of the People, or to the Legislative Assembly of the State concerned, have secured not less than six percent of the total valid votes polled in that State at that general election; and (ii) in addition, it has returned at least two members to the Legislative Assembly of the State at the last general election to that assembly;

Or (B) it wins at least three percent of the total number of seats in the Legislative Assembly of the State, (any fraction exceeding one-half being counted as one), or at least three seats in the Assembly, whichever is more, at the aforesaid general election.

**6C. CONDITIONS FOR CONTINUED RECOGNITION AS A NATIONAL OR STATE PARTY**

If a political party is recognized as National party under paragraph 6A, or as a State party under paragraph 6B, the question whether it shall continue to be so recognized after any subsequent general election to the House of the People or, as the case may be, to the Legislative Assembly of the State concerned, shall be dependent upon the fulfillment by it of the conditions specified in the said paragraphs on the results of that general election.

**7. SAVINGS AND INTERPRETATION**

- (1) Notwithstanding anything contained in paragraph 6A, 6B or 6C, if any political party stands recognized immediately before the commencement of the Election Symbols (Reservation and Allotment) (Amendment) Order, 2000, either as a National party or as a state party in some State or States, the said party shall continue to have and enjoy the status of such National or State party for the purposes of the next general election, to be held after the commencement of the said Order, to the House of the People or, as the case may be, to the Legislative Assembly of the State concerned, and its continued recognition as such National or State

party shall thereafter be dependent upon the fulfillment by it of the conditions specified in paragraph 6A or , as the case may be, paragraph 6B.

- (2) For the removal of doubt, it is hereby clarified that the conditions in paragraph 6A or paragraph 6B shall not be deemed to have been satisfied by a political party, -
- (i) if it is newly formed, whether as a result of split in a recognized National or State party or otherwise, and registered with the Commission under section 29A of the Representation of the People Act, 1951, after the last general election to the House of the People or, as the case may be, to the Legislative Assembly of the State concerned; or
  - (ii) on the joining or taking the membership of that party, by a member of the House of the People, or the Legislative Assembly of State, after his election to that House or, as the case may be, that Assembly.

#### **8. CHOICE OF SYMBOLS BY CANDIDATES OF NATIONAL AND STATE PARTIES AND ALLOTMENT THEREOF**

- (1) A candidate set up by a National party at any election in any constituency in India shall choose, and shall be allotted, the symbol reserved for that party and no other symbol.
- (2) A candidate set up by a State party at an election in any constituency in a State in which such party is a State Party shall choose, and shall be allotted the symbol reserved for that party in that State and no other symbol.
- (3) A reserved symbol shall not be chosen by, or allotted to, any candidate in any constituency other than a candidate set up by a National Party for whom such symbol has been reserved or a candidate set up by a State Party for whom such symbol has been reserved in the State in which it is a State party even if no candidate has been set up by such National or state party in that constituency.

#### **9. RESTRICTION ON THE ALLOTMENT OF SYMBOLS RESERVED FOR STATE PARTIES IN STATES WHERE SUCH PARTIES ARE NOT RECOGNISED**

A symbol reserved for a State Party in any State—

- (a) shall not be included in the list of free symbols for any other State; and
- (b) shall not be reserved for any other party which subsequently becomes eligible, on fulfilment of the conditions specified in paragraph 6, for recognition as a State Party in any other State:

Provided that nothing contained in clause (b) shall apply in relation to a political party, for which the Commission has, immediately before the commencement of the Election Symbols (Reservation and Allotment) (Amendment) Order, 1997, already reserved the same symbol which it has also reserved for some other State Party or Parties in any other State or States.

#### **10. CONCESSIONS TO CANDIDATES SET UP BY A STATE PARTY AT ELECTIONS IN OTHER STATES**

If a political party, which is recognised as a State Party in some State or States, sets up a candidate at an election in a constituency in any other State, in which it is not a recognised State Party, then such candidate may, to the exclusion of all other candidates in the constituency, be allotted the symbol reserved for that party in the State or States in which it is a recognised State Party, notwithstanding that such symbol is not specified in the list of symbols for such other State, on the fulfilment of each of the following conditions, namely:-

- (a) that an application is made to the Commission by the said party for exclusive allotment of that symbol to the candidate set up by it, not later than the third day after the publication in the Official Gazette of the notification calling the election;
- (b) that the said candidate has made a declaration in his nomination paper that he has been set up by that party at the election and that the party has also fulfilled the requirements of clauses (b), (c) and (d) of paragraph 13 in respect of such candidate; and
- (c) that in the opinion of the Commission there is no reasonable ground for refusing the application for such allotment:

Provided that nothing contained in this paragraph shall apply to a candidate set up by a State Party at an election in any constituency in a State in which that party is not a State party and where the same symbol is already reserved for some other State Party in that State."

**11. RESTRICTIONS ON THE CHOICE AND ALLOTMENT OF SYMBOLS ALLOTTED UNDER PARAGRAPH 10**

Notwithstanding anything contained in any of the foregoing provisions where elections are held simultaneously in a parliamentary constituency and in the assembly constituencies comprised in such parliamentary constituency, then -

- (a) If a symbol has been exclusively allotted under paragraph 10 to a candidate set up by a political party at any election in the parliamentary constituency, that symbol shall not be allotted to any candidate at any election in any of the said Assembly Constituencies unless such candidate is a candidate set up by that political party; and
- (b) If a symbol has been exclusively allotted under paragraph 10 to a candidate set up by a political party at any election in any of the said Assembly Constituencies that symbol shall not be allotted to any candidate at the election in the said Parliamentary Constituency unless such candidate is a candidate set up by that political party.

**12 CHOICE OF SYMBOLS BY OTHER CANDIDATES AND ALLOTMENT THEREOF**

(1) Any candidate at an election in a constituency in a State other than —

- (a) a candidate set up by a National party; or
- (b) a candidate set up by a political party which is a State party in that state; or
- (c) a candidate referred to in paragraph 10;

shall choose and shall be allotted in accordance with the provisions hereafter set out in this paragraph, one of the symbols specified as free symbols for that State by notification under paragraph 17.

(2) Where any free symbol has been chosen by only one candidate at such election, the returning officer shall allot that symbol to that candidate and to no one else.

(3) Where the same free symbol has been chosen by several candidates at such election, then—

- (a) if of those several candidates, only one is a candidate set up by an unrecognized political party and all the rest are independent candidates, the Returning Officer shall allot that free symbol to the candidate set up by the unrecognized political party and to no one else;

and, if of those several candidates, two or more candidates are set up by such different unrecognized political parties and the rest are independent candidates, the Returning Officer shall decide by lot as to which of these two or more candidates set up by the different unrecognized political parties that free symbol shall be allotted and allot that free symbol to the candidate on whom the lot falls and to no one else;

Provided that where of the two or more such candidates set up by such different unrecognized political parties, only one is, or was, immediately before such election, a sitting member of the House of the People, or, as the case may be, of the Legislative Assembly (irrespective of the fact as to whether he was allotted that free symbol or any other symbol at the previous election when he was chosen as such member), the Returning Officer shall allot that free symbol to that candidate, and to no one else;

- (b) if of those several candidates, no one is set up by any unrecognized political party and all are independent candidates, but one of the independent candidates is, or was, immediately before such election a sitting member of the House of the People, or as the case may be, of the Legislative Assembly, and was allotted that free symbol at the previous election when he was chosen as such member, the Returning Officer shall allot that free symbol to that candidate, and to no one else; and
- (c) if of those several candidates, being all independent candidates, no one is, or was, a sitting member as aforesaid, the Returning Officer shall decide by lot to which of those independent candidates that free symbol shall be allotted, and allot that free symbol to the candidates on whom the lot falls, and to no one else

### **13. WHEN A CANDIDATE SHALL BE DEEMED TO BE SET UP BY A POLITICAL PARTY**

For the purposes of an election from any parliamentary or assembly election to which this Order applies, a candidate shall be deemed to be set up by a political party in any such parliamentary or assembly constituency, if, and only if,-

- (a) the candidate has made a declaration to this effect in his nomination paper;
- (aa) the candidate is member of that political party and his name is borne on the rolls of members of the party;
- (b) a notice by the political party in writing, in Form B to that effect has, not later than 3 p.m. on the last date for making nominations, been delivered to the Returning Officer of the constituency;
- (c) the said notice in Form B is signed by the President, the Secretary or any other office bearer of the party, and the President, Secretary or such other office bearer sending the notice has been authorised by the party to send such notice;
- (d) the name and specimen signature of such authorised person are communicated by the party, in Form A, to the Returning Officer of the constituency and to the Chief Electoral Officer of the State or Union Territory concerned, not later than 3 p.m. on the last date for making nominations; and
- (e) Forms A and B are signed, in ink only, by the said office bearer authorised by the party;

Provided that no facsimile signature or signature by means of rubber stamp, etc., of any such office bearer or authorised person shall be accepted and no form transmitted by fax shall be accepted.

### **13A. SUBSTITUTION OF A CANDIDATE BY A POLITICAL PARTY**

For the removal of any doubt, it is hereby clarified that a political party which has given a notice in Form B under paragraph 13 in favour of a candidate may rescind that notice and may give a revised notice in Form B in favour of another candidate for the constituency;

Provided that the revised notice in Form B, clearly indicating therein that the earlier notice in Form B has been rescinded, reaches the Returning Officer of the constituency, not later than 3 p.m. on the last date for making nominations, and the said revised notice in Form B is signed by the authorized person referred to in clause (d) of paragraph 13;

Provided further that in case more than one notice in Form B is received by the Returning Officer in respect of two or more candidates, and the political party fails to indicate in such notices in Form B that the earlier notice or notices in Form B, has or have been rescinded, the Returning Officer shall accept the notice in Form B in respect of the candidate whose nomination paper was first delivered to him, and the remaining candidate or candidates in respect of whom also notice or notices in Form B has or have been received by him, shall not be treated as candidates set up; y such political party.

### **14. POWER OF COMMISSION TO ISSUE INSTRUCTIONS TO UN-RECOGNIZED POLITICAL PARTIES FOR THEIR EXPEDITIOUS RECOGNITION ON FULFILMENT OF CONDITIONS SPECIFIED IN PARAGRAPH 6A OR PARAGRAPH 6B**

The Commission may issue for the benefit of unrecognized political parties such instructions as it may think necessary for their expeditious recognition when they have fulfilled any of the conditions for such recognition specified in sub-paragraph 6A or paragraph 6B.

### **15. POWER OF COMMISSION IN RELATION TO SPLINTER GROUPS OR RIVAL SECTIONS OF A RECOGNIZED POLITICAL PARTY**

When the Commission is satisfied on information in its possession that there are rival sections or groups of a recognized political party each of whom claims to be that party, the Commission may, after taking into account all the available facts and circumstances of the case and hearing such representatives of the sections or groups and other persons as desire to be heard, decide that one such rival section or group or none of such rival sections or groups is that recognized political party and the decision of the Commission shall be binding on all such rival sections or groups.

**16. POWER OF COMMISSION IN CASE OF AMALGAMATION OF TWO OR MORE POLITICAL PARTIES**

- (1) When two or more political parties, one or some or all of whom is a recognized political party or are recognized political parties join together to form a new political party, the Commission may, after taking into account all the facts and circumstances of the case, hearing such representatives of the newly formed party and other persons as desire to be heard and having regard to the provisions of this Order, decide-
  - (a) Whether such newly formed party should be a National party or a State party; and
  - (b) the symbol to be allotted to it.
- (2) The decision of the Commission under sub-paragraph (1) shall be binding on the newly formed political party and all the component units thereof.

**16A. POWER OF COMMISSION TO SUSPEND OR WITHDRAW RECOGNITION OF A RECOGNISED POLITICAL PARTY FOR ITS FAILURE TO OBSERVE MODEL CODE OF CONDUCT OR FOLLOW LAWFUL DIRECTIONS AND INSTRUCTIONS OF THE COMMISSION**

Notwithstanding anything in this Order, if the Commission is satisfied on information in its possession that a political party, recognised either as a National party or as a State party under the provisions of this Order, has failed or has refused or is refusing or has shown or is showing defiance by its conduct or otherwise (a) to observe the provisions of the 'Model Code of Conduct for Guidance of Political Parties and Candidates' as issued by the Commission in January, 1991 or as amended by it from time to time, or (b) to follow or carry out the lawful direction and instructions of the Commission given from time to time with a view to furthering the conduct of free, fair and peaceful elections or safeguarding the interests of the general public and the electorate in particular, the Commission may, after taking into account all the available facts and circumstances of the case and after giving the party a reasonable opportunity of showing cause in relation to the action proposed to be taken against it, either suspend, subject to such terms as the Commission may deem appropriate, or withdraw the recognition of such party as the National Party or, as the case may be, the State Party.

**17. NOTIFICATION CONTAINING LISTS OF POLITICAL PARTIES AND SYMBOLS**

- (1) The Commission shall by one or more notifications in the Gazette of India publish lists specifying -
  - (a) the National parties and the symbols respectively reserved for them;
  - (b) the State parties, the State or States in which they are State parties and the symbols respectively reserved for them in such State or States;
  - (c) the un-recognized political parties and the State or States in which they function; and
  - (d) the free symbols for each State.
- (2) Every such list shall, as far as possible, be kept up-to-date.

**18. POWER OF COMMISSION TO ISSUE INSTRUCTIONS AND DIRECTIONS**

The Commission, may issue instructions and directions -

- (a) For the clarification of any of the provisions of this Order
- (b) for the removal of any difficulty which may arise in relation to the implementation of any such provisions; and
- (c) in relation to any matter with respect to the reservation and allotment of symbols and recognition of political parties, for which this Order makes no provision or makes insufficient provision, and provision is in the opinion of the Commission necessary for the smooth and orderly conduct of elections.

19. \* \* \* \* Omitted

**FORM 'A'**

**COMMUNICATION WITH REGARD TO AUTHORISED PERSONS TO INTIMATE NAME OF CANDIDATES SET UP BY RECOGNISED NATIONAL OR STATE POLITICAL PARTY OR REGISTERED UN-RECOGNISED POLITICAL PARTY.**

(See para 13 (c), (d) and (e), of the Election Symbols (Reservation and Allotment) Order, 1968)

- To
1. The Chief Electoral Officer,  
..... (State/Union Territory)
  2. The Returning Officer for the  
..... Constituency

**Sub:** General Election to..... from ..... (State/Union Territory) - Allotment of Symbols - Authorisation of persons to intimate names of candidates.

Sir,

Pursuance of paragraphs 13 (c) and (d) of the Election symbols (Reservation and Allotment) Order, 1968, I hereby communicate that the following person(s) has/have been authorised by the party, which is \*National party/\*State party in the State of...../ \*Registered un-recognised party to intimate the names of the candidates proposed to be set up by the party at the election cited above.

Name of person Authorized to Send notice	Name of office held in the party	District(s) area(s) constituency/ constituencies in respect of which he has been authorised
1	2	3
1.		
2.		
3.		
.		
.		
.		
.		
.		

2. The specimen signatures of the above mentioned person(s) so authorised are given below:-

1. Specimen signatures of Shri.....
  - (i) .....
  - (ii) .....
  - (iii) .....
  
2. Specimen signatures of Shri .....
  - (i) .....
  - (ii) .....
  - (iii) .....

3. Specimen signatures of Shri .....
- (i) ..... (ii) .....
- (iii) .....

Yours faithfully

President/Secretary  
Name of the party

Place .....

Date .....

(Seal of the Party)

- NB. (1) This must be delivered to the Returning Officer and the Chief Electoral Officer not later than 3 p.m. on the last date for making nominations.
- (2) Form must be signed in ink by the office: bearer (s) mentioned above. No facsimile signature by means of rubber stamp, etc., of any office: bearer shall be accepted.
- (3) No Form transmitted by fax shall be accepted.

**FORM 'B'**

**NOTICE AS TO NAMES OF CANDIDATES SET UP BY THE POLITICAL PARTY**

(See Para 13(b) and (e) of the Election Symbols  
(Reservation and Allotment) Order, 1968)

To

1. The Chief Electoral Officer,  
.....(State/Union Territory)
2. The Returning Officer for the  
..... Constituency

**Sub:** General Elections to ..... from ..... (State/Union Territory) setting up of candidates.

Sir,

In pursuance of paragraph 13(b) of the Election symbols (Reservation and Allotment) Order, 1968, I hereby given notice that the following persons have been set up by ..... party as its candidates at the ensuing General Election from the constituency noted against each.

Name of the Constituency	Name of the approved Candidate	Father's/ Mother's/ Husband's Name of approved candidate	Postal address of approved candidate	Name of the substitute candidate who will step-in on the approved candidate's nomination being rejected on scrutiny or on his withdrawing from the contest if substitute candidate is still a contesting candidate	Father's/ Mother's/ Husband's Name of Substitute candidate	Postal Address of substitute Candidate
1	2	3	4	5	6	7

2. The notice in Form 'B' given earlier in favour of Shri/Smt./Sushri .....as party's approved candidate/Shri/Smt./Sushri .....as party's substitute candidate is hereby rescinded.
3. It is certified that each of the candidates whose name is mentioned above is a member of this political party and his name is duly borne on the rolls of members of this party.

Yours faithfully,

(Name & signature of the  
Authorised person of the party)

Place.....

Date.....

**NB.**

- (1) This must be delivered to the Returning Officer and the Chief Electoral Officer not later than 3 p.m. on the last date for making nominations.
- (2) Form must be signed in ink by the office bearer(s) mentioned above. No facsimile signature or signature by means of rubber stamp, etc., of any office bearer shall be accepted.
- (3) No Form transmitted by fax shall be accepted.
- (4) Para 2 of the Form must be scored off, if not applicable, or must be properly filled, if applicable.

APPENDIX-X-A  
(CHAPTER V, PARA 17)  
**DO'S AND DON'T'S FOR GUIDANCE OF CANDIDATES**

**Do's**

1. Do familiarise yourself with the constitutional and legal provisions relating to elections.
2. Do check up with the latest Delimitation Order relating to your constituency.
3. Do make it a point to obtain the electoral roll of your constituency and have it checked up.
4. Do check up your name and the particulars in the current electoral roll well before deciding to stand for election.
5. Do check up that you are qualified to stand for election.
6. Do check up that you are not disqualified from standing for election.
7. Do check up the nomination form to ensure that it is in the prescribed form (Forms 2-A or 2-B).
8. Do present the nomination form personally or send it through your proposer.
9. Do check up that the proposer(s) is a voter in the constituency from which you are seeking election.
10. Do file a certified copy of the electoral roll containing your name, if you are a candidate from a different constituency.
11. Do collect the receipt for the nomination paper.
12. Do make it a point to attend the scrutiny of nominations personally.
13. Do check up that your name appears in the list of valid nominations, if your nomination has been accepted.
14. Do check up that your name is correctly entered in the list of validly nominated candidates.
15. Do check up that your name and other particulars in the list of contesting candidates, if you have not withdrawn your candidature.
16. Do find out the hours of poll as notified.
17. Do appoint the election agent in proper form and well in time.
18. Do check up that your election agent is not disqualified for voting at elections or for being a Member of Parliament or any State Legislature.
19. Do get a copy of the list of polling stations and check it up.
20. Do appoint polling agents in proper form for each and every polling station well in time.
21. Do provide copies of electoral roll to your polling agents.

22. Do appoint counting agents in proper form for each and every counting table and one extra agent well in time.
23. Do make it a point to attend counting personally.
24. Do report immediately to above authorities or the Returning Officer the instances which have come to your knowledge about the publication of election pamphlets or posters in contravention of the above requirements of law.
25. Do attend the meetings of the Constituency Committee constituted by the Returning Officer for ensuring the observance of Model Code of Conduct for guidance of political parties and candidates as devised by the Election Commission.
26. Do report the instances of violation of the above said Model Code of Conduct that have come to your notice for necessary remedial or punitive action.
27. Do maintain proper accounts about election expenses from the date of your nomination as a candidate to the date of election in the Register specifically provided to you by the Returning officer for the purpose.
28. Do attend with your agents the training rehearsals arranged by the Returning Officer.

#### **DON'T'S**

1. Don't present the nomination paper through any person other than yourself or any one of your proposers.
2. Don't present nomination paper on a public holiday.
3. Don't present the nomination paper before or after the specified hours fixed for the purpose.
4. Don't present more than four nomination papers.
5. Don't present the nomination paper to any person other than the Returning Officer or the Assistant Returning Officer (so authorised in this behalf).
6. Don't forget to make the required deposit in cash in the Reserve Bank of India or in a Government Treasury or with the Returning Officer.
7. Don't forget to make and subscribe the oath or affirmation by the last date for the receipt of nominations and get a receipt in token of having made and subscribed the oath or affirmation.
8. Do not issue identity slips bearing your name or your symbol or the name of your party or containing any exhortation to voters to vote for you or your party.
9. Don't make any gift or offer or promise of gratification to any person to induce another to stand or not to stand as a candidate or to withdraw or not to withdraw his candidature or to vote or refrain from voting at the election or for having so stood or not having stood or for having withdrawn or for not having withdrawn his candidature or for having votes or refrained from voting.

10. Don't interfere directly or indirectly or attempt to interfere with the free exercise of the electoral right of any person.
11. Don't appeal to voters to vote or refrain from voting on grounds of religion, race, caste or community or language.
12. Don't make use of, or appeal to, religious symbols or National symbols.
13. Don't promote or attempt to promote feelings of enmity or hatred between different classes of citizens on grounds of religion, race, caste, community or language.
14. Don't publish false statements in regard to the personal character and conduct of any candidate or in relation to the candidature or withdrawal of any candidate.
15. Don't hire or procure vehicles for the conveyance of voters to and from the polling stations.
16. Don't incur or authorise expenditure in connection with elections beyond the maximum prescribed for your election.
17. Don't procure the support of Government servants.
18. Don't indulge in misconduct at polling stations.
19. Don't induce disorderly conduct in or near the polling stations.
20. Don't hold public meetings in the polling area any time during 48 hours before the time fixed for the conclusion of the poll.
21. Don't create disturbances at election meetings.
22. Don't canvass in or near polling stations on the date or dates of poll.
23. Don't print or publish election pamphlets or poster without giving on their face details of the printer and publisher and without declaring the identity of the printer and publisher and sending copies of the declaration to the Chief Electoral Officer if printing is in the capital of the State, and to the District Magistrate in case the printing is elsewhere.
24. Don't destroy fraudulently any nomination paper or any list, notice or documents affixed by or under the authority of the Returning Officer.
25. Don't destroy any ballot paper or any official remark on the ballot paper or any declaration of identity; don't put into the ballot box anything other than your ballot paper.
26. Don't destroy, take out or otherwise interfere with any ballot box or ballot paper.
27. Don't publish any statement or have it published with your consent or the consent of your election agent which is false or which you believe to be false or do not believe to be true in relation to the personal character and conduct of any candidate or in relation to the candidature or withdrawal of any

candidate, being a statement reasonably calculated to prejudice the prospect of that candidate in the election.

28. Don't threaten any candidate or any elector or any person with any kind of act including social ostracism and ex-communication or expulsion from any caste or community.
29. Don't induce or attempt to induce a candidate or an elector to believe that he or any person in whom he is interested will become or will be rendered the object of divine displeasure or spiritual censure.
30. Don't abet the offence of personation at an election.
31. Don't forget to lodge the election account with the District Election Officer within 30 days of the election, regardless of the fact whether you are elected or not or you contested the election seriously or not.

APPENDIX-X-B  
(CHAPTER V, PARA 18)

**DO'S AND DON'T'S FOR THE GUIDANCE OF THE CANDIDATES  
AND POLITICAL PARTIES TO BE OBSERVED FROM THE  
ANNOUNCEMENT OF AN ELECTION AND UNTIL THE  
COMPLETION OF THE PROCESS OF ELECTION**

**DO'S**

1. Ongoing programmes may continue.
2. The clarification/approval of the Election Commission of India/Chief Electoral Officer of your State should be obtained in case of doubt.
3. Relief and rehabilitation measures to the people in areas affected by floods, drought, pestilence, and other natural calamities, should commence and continue.
4. Grant of cash or medical facilities to terminally or critically ill persons can continue with appropriate approvals.
5. Public places like maidans must be available impartially to all parties/contesting candidates for holding election meetings. So also use of helipads must be available impartially to all parties/contesting candidates.
6. Rest houses, dak bungalows and other Government accommodation should be available to all political parties and contesting candidates on an equitable basis.
7. Criticism of other political parties and candidates should relate to their policies, programmes, past record and work.
8. The right of every individual for peaceful and undisturbed home life should be fully safeguarded.
9. No obstructions shall be created against meetings and processions organised by other parties.
10. The local police authorities should be fully informed of the venue and time of the proposed meetings well in time and all necessary permissions taken.
11. If there are any restrictive or prohibitory orders in force in the place of the proposed meeting, they shall be fully respected. Exemption, if necessary, must be applied for and obtained well in time.
12. Permission must be obtained for the use of loudspeakers or any other such facilities for the proposed meeting.
13. The assistance of the police should be obtained in dealing with persons disturbing meetings or otherwise creating disorder.
14. The time and place of the starting of any procession, the route to be followed and the time and place at which the procession will terminate should be settled in advance and advance permissions obtained from the police authorities.

15. The existence of any restrictive orders in force in the localities through which the procession has to pass should be ascertained and fully complied with. So also all traffic regulations and other restrictions.
16. The passage of the procession must be without hindrance to traffic.
17. Processionists shall not carry any articles which are capable of being misused as missiles or weapons.
18. Cooperation should be extended to all election officials at all times to ensure peaceful and orderly poll.
19. Badges or identity cards must be displaced by workers.
20. Identity slips issued to voters shall be on plain (white) paper and not contain any symbol, name of the candidate or name of the party.
21. Restrictions on plying of vehicles on poll day shall be fully obeyed.
22. No one without a specific valid authority letter from the Election Commission can enter any polling booth at any time. No functionary however highly placed (e.g. Chief Minister, Minister, MP or MLA, etc.) is exempt from this.
23. Complaint or problem regarding the conduct of elections shall be brought to the notice of the observer appointed by the Commission/Returning Officer/Zonal/Sector Magistrate/Election Commission of India.
24. Directions/orders/instructions of the Election Commission, the Returning Officer, the District Election Officer shall be obeyed in all matters relate to various aspects of election.

#### **DON'T'S**

- (1) Please do not make use of official vehicles or personnel or machinery for electioneering work. Official 'vehicles' include (a) trucks, (b) lorries, (c) tempos, (d) jeeps, (e) cars, (f) auto-rickshaws, (g) buses, (h) aircrafts (i) helicopters, (j) ships, (k) boats, (l) hovercraft and all other vehicles belonging to the (1) Central Government, (2) State Government, (3) Public Undertakings of the Central and State Government, (4) Joint Sector Undertakings of Central Government and State Government, (5) Local Bodies, (6) Municipal Corporations, (7) Municipalities, (8) Marketing Boards, (by whatever name known) (9) Cooperative Societies, (10) Autonomous District Councils or (11) any other body in which public funds, howsoever small a portion of the total, are invested and also (12) those belonging to the Ministry of Defence and the Central Police Organisations under the Ministry of Home Affairs and State Governments.
- (2) Please do not issue any advertisement at the cost of the public exchequer regarding achievements of the party/Government in power.
- (3) Announcements of any financial grants, laying of foundation stones, making promise of construction of new roads, etc., shall not be made.
- (4) No ad hoc appointments in Government/Public Undertakings shall be made.

- (5) No Minister shall enter any polling station or the place of counting unless he is a candidate or an authorised agent; or as a voter only for voting.
- (6) Official work should not at all be mixed with campaigning/electioneering.
- (7) No inducement, financial or otherwise, shall be offered to a voter.
- (8) Caste/communal feelings of the electors shall not be appealed to.
- (9) No activity which may aggravate existing differences or create mutual hatred or causes tension between different castes, communities or religious or linguistic groups shall be attempted.
- (10) No aspect of the private life, not connected with the public activities, of the leaders or workers of other parties shall be permitted to be criticized.
- (11) Other parties or their workers shall not be criticised based on unverified allegations or on distortions.
- (12) Temples, mosques, churches, gurudwaras or any place of worship shall not be used as places for election propaganda, including speeches, posters, music, etc., on electioneering.
- (13) Activities which are corrupt practices or electoral offences such as bribery, undue influence, intimidation of voters, personation, canvassing within 100 meters of a polling station, holding of public meetings during the period of 48 hours ending with the hour fixed for the close of the poll and conveyance of voters to and from polling stations are prohibited.
- (14) Demonstrations or picketing before the houses of individuals by way of protesting against their opinion or activities shall not be resorted to.
- (15) No one can make use of any individual's land, building, compound wall etc. without his permission for erecting flag staffs, putting up banners, pasting notices or writing slogans, etc.. This includes private and public premises.
- (16) No disturbances shall be created in public meetings organised by other political parties or candidates.
- (17) Processions along places at which meetings are being held by another party shall not be undertaken.
- (18) Posters issued by other parties and candidates shall not be disturbed.
- (19) Posters, flags, symbols or any other propaganda material shall not be displayed in the place being used on the day of poll for distribution of identity slips or near polling booths.
- (20) Loudspeakers whether static or mounted on moving vehicles shall not be used either before 6 a.m. or after 10 p.m. and without the prior written permission of the authorities concerned.
- (21) Loudspeakers shall also not be used at public meetings and processions without the prior written permission of the authorities concerned. Normally, such meetings/processions will not be allowed to continue beyond 10.00 p.m. in the night and will be further subject to the local laws, local perceptions of

the security requirements of the area and other relevant considerations like weather conditions, festival season, examination period, etc.

(22) No liquor should be distributed during elections.

**Note** The above list of 'Dos' and 'Don'ts' is only illustrative and not exhaustive and is not intended to substitute any other detailed orders, directions/instructions on the above subjects, which must be strictly observed and followed.

**APPENDIX XI  
(CHAPTER VI, PARA 2)  
FORM 5  
NOTICE OF WITHDRAWAL  
[SEE RULE 9 (I)]**

Election to the .....

To

The Returning Officer

I.....a candidate nominated at the above election, do hereby give notice that I withdraw my candidature.

Place.....

Date.....

Signature of Candidate

This notice was delivered to me at my office of..... (hour) on  
.....(date) by.....(name), the  
Date.....

Returning Officer

**RECEIPT FOR NOTICE OF WITHDRAWAL**

*(To be handed over to the person delivering the notice)*

The notice of withdrawal of candidature by.....a candidate at the election to the.....was delivered to me by the .....at my office at.....(hour) on .....(date).

Returning Officer

\* Here insert one of the following alternatives as may be appropriate :

(1) house of the People from the.....constituency.

(2) Legislative Assembly from the.....constituency.

\* Here insert one of the following alternatives as may be appropriate:

(1) Candidate.

(2) Candidate's proposer who has been authorised in writing by the candidate to deliver it.

- (3) Candidate's election agent who has been authorised in writing by the candidate to deliver it.

**APPENDIX XII**  
**(CHAPTER VII, PARA 1)**  
**FORM 8**  
**Appointment of Election agent**  
**[See Rule 12 (1)]**

Election to the .....

To

The Returning Officer,

I,.....of.....a candidate  
at the above election do hereby appoint.....of.....as my election agent from this  
day at the above election.

Place.....

Date.....

Signature of Candidate

I accept the above appointment

Place.....

Date.....

Signature of Election Agent

---

\*Here insert one of the following alternatives as may be appropriate:

(1) House of the People from the.....constituency.

(2) Legislative Assembly from the.....constituency.

**APPENDIX XIII  
(CHAPTER VII-PARA 3)**

**FORM 9.**

**Revocation of Appointment of Election Agent  
[See Rule 12(2)]**

Election to the .....

To

The Returning Officer,

I,.....a candidate at the above election, hereby  
revoke the appointment of.....my election agent.

Place.....

Date.....

Signature of Candidate

---

\* Here insert one of the following alternatives as may be appropriate:

(1) House of the People from the.....constituency.

(2) Legislative Assembly from the.....constituency.

**APPENDIX-XIV**  
**(CHAPTER VIII, PARA 2.1)**  
**(EXTRACT FROM REPRESENTATION OF THE PEOPLE ACT, 1951)**

**Part VII**  
**[Corrupt Practices and electoral Offences]**  
**[Chapter I.-Corrupt Practices]**

**123. CORRUPT PRACTICES**

The following shall be deemed to be corrupt practices for the purposes of this act:-

[(1) "Bribery", that is to say-

(A) Any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing-

(a) a person to stand or not to stand as, or [to withdraw or not to withdraw] from being a candidate at an election, or

(b) an elector to vote or refrain from voting at an election, or as a reward to-

(i) a person for having so stood or not stood, or for [having withdrawn or not having withdrawn] his candidature; or

(ii) An elector for having voted or refrained from voting:

(B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward

(a) by a person for standing or not standing as, or for [withdrawing or not withdrawing] from being, a candidate; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate [to withdraw or not to withdraw] his candidature.

[Explanation - for the purposes of this clause the term "gratification" is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses bonafide incurred at, or for the purpose of, any election and duly entered in the account of election expenses referred to in section 78.]

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person [with the consent of the candidate or his election agent], with the free exercise of any electoral right.

Provided that-

- (a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who-
  - (i) threatens any candidate or any elector, or any person in whom a candidate or an elector interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or
  - (ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(b) a declaration of public policy, or a promise of publication, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

- (3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate:

[Provided that no symbol allotted under this act to a candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this clause.]

- (3A) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.]

- (3B) The propagation of the practice or the commission of *sati* or this glorification by a candidate or his agent or any other person with the consent of the candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

*[Explanation.* - For the purposes of this clause, "*sati*" and "*glorification*" in relation to *sati* shall have the meanings respectively assigned to them in the commission of sati (Prevention) act, 1987.]

- (4) The publication by a candidate or his agent or by any other person [with the consent of a candidate or his election agent], of any statement of fact which is false, and which he either believes to be false, or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal, of any

candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

- (5) The hiring or procuring whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person [with the consent of a candidate or his election agent], [or the use of such vehicle or vessel [for the free conveyance] of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station provided under section 25 or a place fixed under sub-section (1) of section 29 for the poll:

Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

*Explanation.* - In this clause, the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

- (6) The incurring or authorising of expenditure in contravention of section 77.
- (7) The obtaining or procuring or a betting or attempting to obtain or procure by a candidate or his agent or, by any other person [with the consent of a candidate or his election agent] any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the government and belonging to any of the following classes, namely:-
- (a) gazetted officers;
  - (b) stipendiary judges and magistrate;
  - (c) members of the armed forces of the Union;
  - (d) members of the police forces;
  - (e) excise officers;
  - (f) revenue officers other than village revenue officers known as *lambardars, malguzar, patels, dehmukhs* or by any other name, whose duty is to collect land revenue and who are remunerated by a share of, or commission on, the amount of land revenue collected by them but who do not discharge any police functions; and

- (g) such other class of persons in the service of the government as may be prescribed:

[Provided that where any person, in the service of the government and belonging to any of the classes aforesaid, in the discharge of purported discharge of his official duty, makes any arrangement or provides any facilities or does any other act or thing, for, to, or in relation to, any candidate or his agent or any other person acting with the consent of the candidate or his election agent (whether by reason of the office held by the candidate or for any other reason), such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidate's election]

- (8) Booth capturing by a candidate or his agent or other person.)

*Explanation-* (1) In this section the expression "agent" includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate.

- (2) For the purposes of clause (7), a person shall be deemed to assist in the furtherance of the prospects of a candidate's election if he acts as an election agent of that candidate.

- (3) For the purposes of clause (7), notwithstanding anything contained in any other law, the publication in the Official Gazette of the appointment, resignation, termination of service, dismissal or removal from service of a person in the service of the Central Government (including a person serving in connection with the administration of a Union territory) or of a State Government shall be conclusive proof

- (i) of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, and

- (ii) where the date of taking effect of such appointment, resignation, termination of service, dismissals or removal from service, as the case may be, is stated in such publication, also of the fact that such person was appointed with effect from the said date, or in the case of resignation, termination of service, dismissal or removal from service such person ceased to be in such service with effect from the said date.

- (4) For the purposes of clause (8), "booth capturing" shall have the same meaning as in section 135 A.

### **CHAPTER III - ELECTORAL OFFENCES**

#### **125. PROMOTING ENMITY BETWEEN CLASSES IN CONNECTION WITH ELECTION**

Any person who in connection with an election under this act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the

citizens of India shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

**126. PROHIBITION OF PUBLIC MEETINGS DURING PERIOD OF FORTY-EIGHT HOURS ENDING WITH HOUR FIXED FOR CONCLUSION OF THE POLL**

- (1) No person shall—
  - (a) convene, hold, attend, join or address any public meeting or procession in connection with an election; or
  - (b) display to the public any election matter by means of cinematograph, television or other similar apparatus; or
  - (c) propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto, in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.
- (2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to two years or with fine, or with both.
- (3) In this section, the expression “election matter” means any matter intended or calculated to influence or affect the result of an election.

**127. DISTURBANCES AT ELECTION MEETINGS**

- (1) Any person who at a public meeting to which this section applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, [shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, “ (1A) An offence punishable under sub-section (1) shall be cognizable”].
- (2) This section applies to any public meeting of a political character held in any constituency between the date of the issue of a notification under this act calling upon the constituency to elect a member or members and the date on which such election is held.
- (3) If any police officer reasonably suspects any person of committing an offence under sub-section (1), he may, if requested so to do by the chairman of the meeting, require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

**127A. RESTRICTIONS ON THE PRINTING OF PAMPHLETS, POSTERS, ETC**

- (1) No person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and the addresses of the printer and the publisher thereof.
- (2) No person shall print or cause to be printed any election pamphlet or poster:-
  - (a) Unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and
  - (b) Unless, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document,-
    - (i) Where it is printed in the capital of the state, to the Chief Electoral officer; and
    - (ii) in any other case, to the district magistrate of the district in which it is printed.
- (3) For the purposes of this section,-
  - (a) any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression "printer" shall be constructed accordingly; and
  - (b) "election pamphlet or poster" means any printed pamphlet, hand-bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates or any placard or poster having reference to an election, but does not include any hand-bill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.
- (4) Any person who contravenes any of the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both]

## **128. MAINTENANCE OF SECRECY OF VOTING**

- (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.
- (2) Any person who contravenes the provision of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

## **129. OFFICERS, ETC., AT ELECTIONS NOT TO ACT FOR CANDIDATES OR TO INFLUENCE VOTING**

- (1) No person who is (a district election officer or a returning officer), or an assistant returning officer, or a presiding officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.
- (2) No such person as aforesaid, and no member of a police force, shall endeavour.
  - (a) to persuade any person to give his vote at an election, or
  - (b) to dissuade any person from giving his vote at an election, or
  - (c) to influence the voting of any person at an election in any manner.
- (3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment which may extend to six months or with fine or with both.
- (4) An offence punishable under sub-section (3) shall be cognizable.

**130. PROHIBITION OF CANVASSING IN OR NEAR POLLING STATIONS**

- (1) No person shall on the date or dates on which a poll is taken at any polling station commit any of the following acts within the polling station or in any public or private place within a distance of (one hundred meters) of the polling station, namely;-
  - (a) canvassing for votes; or
  - (b) soliciting the vote of any elector; or
  - (c) persuading any elector not to vote for any particular candidate;
  - (d) persuading any elector not to vote at the election;
  - (e) exhibiting any notice or sign (other than an official notice) relating to the election.
- (2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.
- (3) An offence punishable under this section shall be cognizable.

**131. Penalty for disorderly conduct in or near polling station.**

- (1) No person shall, on the date or dates on which a poll is taken at any polling station.
  - (a) Use or operate within or at the entrance of the polling station, or in any public or private place in the neighborhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loudspeaker, or

- (b) shout, or otherwise act in a disorderly manner, within or at the enhanced of the polling station or in any public or private place in the neighborhoods thereof.

so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

- (2) Any person who contravenes, or willfully aids or abets the contravention of, the provisions of sub-section (1) shall be punishable with imprisonment which may extend to three months or with fine or with both.
- (3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and there upon the police officer shall arrest him.
- (4) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1), and may seize any apparatus used for such contravention.

**132. Penalty for misconduct at the polling station**

- (1) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorized in this behalf by such presiding officer.
- (2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.
- (3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.
- (4) An offence punishable under sub-section (3) shall be cognizable.

### **132A. PENALTY FOR FAILURE TO OBSERVE PROCEDURE FOR VOTING**

If any elector to whom a ballot paper has been issued, refuses to observe the procedure prescribed for voting the ballot paper issued to him shall be liable for cancellation.

### **133. PENALTY FOR ILLEGAL HIRING OR PROCURING OF CONVEYANCES AT ELECTIONS**

If any person is guilty of any such corrupt practice as is specified in clause (5) of section 123 at or in connection with an election, he shall be punishable with imprisonment which may extend to three months and with fine.

### **134. BREACHES OF OFFICIAL DUTY IN CONNECTION WITH ELECTIONS**

(1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine which may extend to five hundred rupees.

(1A) An offence punishable under sub-section (1) shall be cognizable.

(2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(3) The persons to whom this section applies are the [district election officers, returning officers], assistant returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with the receipt of nominations or withdrawal of candidatures or the recording or counting of votes at an election; and the expression 'official duty' shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

### **134A. PENALTY FOR GOVERNMENT SERVANTS FOR ACTING AS ELECTION AGENT, POLLING AGENT OR COUNTING AGENT**

If any person in the service of the government acts as an election agent or a polling agent or a counting agent of a candidate at an election, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

### **134B. PROHIBITION OF GOING ARMED TO OR NEAR A POLLING STATION**

(1) No person, other than returning officer, the presiding officer, any police officer and any other person appointed to maintain peace and order at a polling station who is on duty at the polling station, shall, on a polling day, go armed with arms, as defined in the Arms Act, 1959, of any kind within the neighbourhood of a polling station.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to two years or with fine, or with both.

(3) Notwithstanding anything contained in the Arms Act, 1959, where a person is convicted of an offence under this section, the arms as defined in the said Act found in his possession shall be liable to confiscation and the license granted

in relation to such arms shall be deemed to have been revoked under Section 17 of that Act.

4. An offence punishable under sub-section (2) shall be cognizable.

### **135. REMOVAL OF BALLOT PAPERS FROM POLLING STATION TO BE AN OFFENCE**

(1) Any person who at any election unauthorisedly takes, or attempts to take, a ballot paper out of a polling station or willfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

### **135A. OFFENCE OF BOOTH CAPTURING**

1. Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine, and where such offence is committed by a person in the service of the Government, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine.

*Explanation*-for the purposes of this sub-section and section 20B," booth capturing" includes, among other things, all or any of the following activities, namely"-

(a) seizure of a polling station or a place fixed for the poll by any person or persons making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of election:

(b) taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from free exercise of their right to vote;;

- (c) Coercing or intimidating or threatening directly or indirectly any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;
  - (d) seizure of a place for counting of votes by any person or persons making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes;
  - (e) doing by any person in the service of government, of all or any of the aforesaid activities or aiding or conniving at, any such activity in the furtherance of the prospects of the election of a candidate.
- (2) An offence punishable under sub section (1) shall be cognizable.

**135(B)(1) GRANT OF PAID HOLIDAY TO EMPLOYEES ON THE DAY OF POLL**

- (1) Every person employed in any business, trade, industrial undertaking or any of the establishment and entitled to vote at an election to the House of the People or the Legislative Assembly of a State Shall, on the day of poll, be granted a holiday.
- (2) No deduction or abatement of the wages of any such person shall be made on account of a holiday having been granted in accordance with sub-section (1) and if such person is employed on the basis that he would not ordinarily receive wages for such a day, he shall nonetheless be paid for such day the wages he would have drawn had not a holiday been granted to him on that day.
- (3) If an employer contravenes the provision of sub-section (1) or sub-section (2), then such employer shall be punishable with fine which may extend to five hundred rupees.
- (4) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

**135C. LIQUOR NOT TO BE SOLD, GIVEN OR DISTRIBUTED ON POLLING DAY**

- (1) No spirituous, fermented or intoxicating liquors or other substances of a like nature shall be sold, given or distributed at a hotel, catering house, tavern, shop or any other place, public or private, within a polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.
- (2) Any person who contravenes the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, or with both.
- (3) Where a person is convicted of an offence under this section, the spirituous, fermented or intoxicating liquors or other substances of a like nature found in his possession shall be liable to confiscation and the same shall be disposed of in such manner as may be prescribed.

**136. OTHER OFFENCES AND PENALTIES THEREFOR**

- (1) A person shall be guilty of an electoral offence if at any election he-
  - (a) fraudulently defaces or fraudulently destroys any nomination paper; or
  - (b) fraudulently defaces destroys or removes any lost , notice or other document affixed by or under the authority of a Returning Officer.
  - (c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any Ballot paper or any declaration of identity or official envelop used in connection with voting by postal ballot; or
  - (d) Without due authority supplies any Ballot paper to any person [or receives any ballot paper from any person or is in possession of any ballot paper]; or
  - (e) fraudulently puts into any Ballot box anything other than the ballot paper which he is authorised by law to put in; or
  - (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election, or
  - (g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or willfully aids or abets the doing of any such acts.
- (2) Any person guilty of an electoral offence under this section shall:—
  - (a) if he is a returning officer or an assistant returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both;
  - (b) if he is any other person, be punishable with imprisonment for a term which may extend to six months or with fine or with both.
- (3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression “official duty” shall not include any duty imposed otherwise than by or under this act.
- (4) An offence punishable under sub-section (2) shall be cognizable.

**ACTS OF PARLIAMENT**  
**EXTRACTS FROM THE INDIAN PENAL CODE**  
**(Act 45 of 1860)**

**153A. PROMOTING ENMITY BETWEEN DIFFERENT GROUPS ON GROUNDS OF RELIGION RACE, PLACE OF BIRTH, RESIDENCE, LANGUAGE, ETC., AND DOING ACTS PREJUDICIAL TO MAINTENANCE OF HARMONY**

(1) whoever-

- (a) by words, either spoken or written, or by signs or by visible representations or otherwise ,promotes or attempts to promote, on grounds of religion, race , place of birth residence language, caste or community or all any other ground whatsoever, disharmony or feelings of enmity, hatred or will between different religious, racial, language or regional groups or castes or communities, or
- (b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities and which disturbs or is likely to disturb the public tranquility, or
- (c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to be use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to the use criminal force or violence against any religious, racial , language or regional groups or caste or community and such activity for any reason whatever causes for is likely to cause fear or alarm or a feelings of insecurity amongst members of such religious, racial language or regional group or caste or community, shall be punished with imprisonment which may extend to three years , or with fine, or with both.

**OFFENCE COMMITTED IN PLACE OF WORSHIP, ETC.**

(2) Whoever commits an offences specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

**153B IMPUTATIONS, ASSERTIONS PREJUDICIAL NATIONAL INTEGRATION**

(1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise.-

- (a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language of regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law establish or uphold the sovereignty and integrity of India ,or
- (b) asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste of community, be denied or deprived of their rights as citizens of India, or
- (c) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons , by reason of their being members of any religious , racial, language or regional group or caste of community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons.

shall be punished with imprisonment which may extend to three years , or with fine ,or with both.

(2) Whoever commits an offence specified in sub-section(1)in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

## OFFENCE RELATING TO ELECTIONS

### 171A. "CANDIDATE", "ELECTORAL RIGHT" DEFINED

For the purpose of this chapter-

- (a) "candidate" means a person who has been nominated as a candidate at any election;
- (b) "electoral right" means the right of a person to stand or not to stand as, or to withdraw from being a candidate or to vote or refrain from voting at an election.

### 171B. BRIBERY

- (1) Whoever-
  - (i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or
  - (ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right, commits the offence of bribery:

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

- (2) A person who offers or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give gratification.
- (3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

### 171C. UNDUE INFLUENCE AT ELECTIONS

- (1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.
- (2) Without prejudice to the generality of the provisions of sub-section (1) whoever-
  - (a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or
  - (b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual pleasure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1)
- (3) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

### 171D. PERSONATION AT ELECTIONS

Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election.

### 171E. PUNISHMENT FOR BRIBERY

Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both;

Provided that bribery by treating shall be punished with fine only.

*Explanation-* 'Treating' means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

#### **171F. PUNISHMENT FOR UNDUE INFLUENCE OR PERSONATION AT AN ELECTION**

Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

#### **171G. FALSE STATEMENT IN CONNECTION WITH AN ELECTION**

Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

#### **171H. ILLEGAL PAYMENTS, IN CONNECTION WITH AN ELECTION**

Whoever without the general or special authority in writing of a candidate incurs or authorises expenses on account of the holding of any public meetings, or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees;

Provide that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

#### **171-I. FAILURE TO KEEP ELECTION ACCOUNTS**

Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees.

505. Statements conducing to public mischief .-

- 1) Whoever makes, publishes or circulates any statement, rumour or report.-
  - (a) with intent to cause, or which is likely to cause, any officer, soldier, sailor or airman in the Army, Navy or Air force of India to mutiny or (1) otherwise disregard or fail in his duty as such; or
  - (b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the state or against the tranquility; or
  - (c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community, shall be punished with imprisonment which may extend to three years, or with fine, or with both.
- (2) Statements creating or promoting enmity hatred or ill-will between classes.- Whoever makes, publishes or circulates any statement or report containing rumour of alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine or with both.
- (3) Offence under sub-section (2) committed in place of worship, etc.-Whoever commits an offence specified in sub-section (2) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine

*Exception.*-It does not amount to an offence, within the meaning of this section, when the person making ,publishing or circulating any such statement, rumour or report, has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it in good faith and without any such intent as aforesaid.

\*\*\*\*\*

APPENDIX XV  
(Chapter VIII, para 3.2)

**ELECTION COMMISSION OF INDIA**

**MODEL CODE OF CONDUCT FOR THE GUIDANCE OF POLITICAL PARTIES AND CANDIDATES**

**I. GENERAL CONDUCT**

- (1) No party or candidate shall indulge in any activity which may aggravate existing differences or create mutual hatred or cause tension between different castes and communities, religious or linguistic.
- (2) Criticism of other political parties, when made, shall be confined to their policies and programme, past record and work. Parties and candidates shall refrain from criticism of all aspects of private life, not connected with the public activities of the leaders or workers of other parties. Criticism of other parties or their workers based on unverified allegations or on distortion shall be avoided.
- (3) There shall be no appeal to caste or communal feelings for securing votes. Mosques, churches, Temples or other places of worship shall not be used as forum for election propaganda.
- (4) All parties and candidates, shall avoid scrupulously all activities which are "corrupt practices" or offences under the election law such as the bribing of voters, intimidation of voters, personation of voters, canvassing within 100 meters of a polling station, holding public meetings during the period of 48 hours ending with the hour fixed for the close of the poll, and the transport and conveyance of voters to and from polling station.
- (5) The right of every individual for peaceful and undisturbed home life shall be respected, however much the political parties or candidates may resent his political opinions or activities. Organising demonstrations or picketing before the houses of individuals by way of protesting against their opinions or activities shall not be resorted to under any circumstances.
- (6) No political party or candidate shall permit his followers to make use of any individual's land, building, compound wall etc. Without his permission for erecting flag-staffs, suspending banners, pasting notices, writing slogans etc.
- (7) Political parties and candidates shall ensure that their supporters do not create obstructions in or break up meetings and processions organised by the other parties. Workers or sympathisers of one political party shall not create disturbance at public meetings organised by another political party by putting questions orally or in writing or by distributing leaflets of their own party. Processions shall not be taken out by one party along places at which meetings are being held by another party. Posters issued by one party shall not be removed by workers of another party.

**II. MEETINGS**

- (1) The party or candidate shall inform the local police authorities of the venue and time of any proposed meeting well in time so as to enable the police to make necessary arrangements for controlling traffic and maintaining peace and order.
- (2) A party or candidate shall ascertain in advance if there are any restrictive or prohibitory orders in force in the place proposed for the meeting. If such order exist, they shall be followed strictly. If any exception is required from such orders it shall be applied for and obtained well in time.
- (3) If permission of licence is to be obtained for the use of loudspeakers or any other facility in connection with any proposed meeting, the party or candidate shall apply to the authority concerned well in advance and obtain such permission or licence.
- (4) Organisers of a meeting shall invariably seek the assistance of the police on duty for dealing with persons disturbing a meeting or otherwise attempting to create a disorder. Organisers themselves shall not take action against such persons.

### **III. PROCESSIONS**

- (1) A party or candidate organising a procession shall decide before hand the time and place of the starting of the procession, the route to be followed and the time and place at which the procession will terminate. There shall ordinarily be no deviation from the programme.
- (2) The organisers shall give advance intimation to the local police authorities of the programmers so as to enable the latter to make necessary arrangements.
- (3) The organisers shall ascertain if any restrictive orders are in force in the localities through which the procession has to pass, and shall comply with the restrictions unless exempted specially by competent authority. Any traffic regulations or restrictions shall also be carefully adhered to.
- (4) The organisers shall take steps in advance to arrange for passage of the procession so that there is no block or hindrance to traffic. If the procession is very long, it shall be organised in segments of suitable lengths, so that at convenient intervals, especially at points where the procession has to pass road junctions, the passage of held up traffic could be allowed by stages thus avoiding heavy traffic congestion.
- (5) Processions shall be so regulated as to keep as much to the right of the road as possible and the direction and advice of the police on duty shall be strictly complied with.
- (6) If two or more political parties or candidates propose to take processions over the same route or parts thereof at about the same time, the organisers shall establish contact well in advance and decide upon the measures to be taken to see that the processions do not clash or cause hindrance to traffic. The assistance of the local police shall be availed of for arriving at a satisfactory arrangement. For this purpose, the parties shall contact the police at the earliest opportunity.
- (7) The political parties or candidates shall exercise control to the maximum extent possible in the matter of processionists carrying article which may be put to misuse by undesirable elements, especially in moments of excitement.
- (8) The carrying of effigies purporting to represent members of other political parties or their leaders, burning such effigies in public and such other forms of demonstration shall not be countenanced by any political party or candidate.

### **IV. POLLING DAY**

All political parties and candidates shall-

- (i) co-operate with the officers on election duty to ensure peaceful and orderly polling and complete freedom to the voters to exercise their franchise without being subjected to any annoyance or obstruction;
- (ii) supply to their authorised workers suitable badges or identity cards;
- (iii) agree that the identity slips supplied by them to voters shall be on plain (white) papers and shall not contain any symbol, name of the candidate or the name of the party;
- (iv) refrain from serving or distributing liquor on polling day and during the twentyfour hours proceeding it;
- (v) not allow unnecessary crowds to be collected near the camps set up by the political parties and candidates near the polling booths so as to avoid confrontation and tension among workers and sympathisers of the parties and candidates;
- (vi) ensure that the candidate's camps shall be simple- They shall not display any posters, flag, symbols or any other propaganda material. No eatables shall be served or crowds allowed at the camps; and
- (vii) co-operate with authorities in complying with the restrictions to be imposed on the plying of vehicles on the polling day and obtain permits for them which should be displayed prominently on those vehicles.

## V. POLLING BOOTH

Excepting the voters no one without a valid pass from the Election Commission shall enter the polling booths.

## VI. OBSERVERS

The Election Commission is appointing observers. If the candidate or their agents have any specific complaint or problem regarding the conduct of the elections they may bring the same to the notice of the observer.

## VII. PARTY IN POWER

The party in power whether at Centre or in the State or States concerned shall ensure that no cause is given for any complaint that it has used its official position for the purposes of its election campaign and in particular-

- (i)(a) the Minister shall not combine their official visit with electioneering work and shall not also make of official machinery or personnel during electioneering work;
- (b) Govt. transport including official aircrafts, vehicles, machinery and personnel shall not be used for furtherance of the interest of the party in power;
- (ii) public places such as maidans etc. for holding election meetings and use of helipads for air flights in connection with elections, shall not be monopolised by itself. Other parties and candidates shall be allowed the use of such places and facilities on the same terms and conditions on which they are used by the party in power.
- (iii) rest houses, dak bungalows or other Government accommodation shall not be monopolised by party in power or its candidates and such accommodation shall be allowed to be used by other parties and candidates in a fair manner but no party or candidate shall use or be allowed to use such accommodation (including premises appertaining thereto) as a campaign office or for holding any public meeting for the purposes of election propaganda;
- (iv) issue of advertisement at the cost of public exchequer in the news papers and other media and the misuse of official mass media during the election period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the Party in Power shall be scrupulously avoided.
- (v) ministers and other authorities shall not sanction grants/payments out of discretionary funds from the time elections are announced by the Commission; and
- (vi) from the time the elections are announced by the Commission, Ministers and other authorities shall not-
  - (a) announce any financial grants in any form or promises thereof; or
  - (b) lay-foundation stones etc. of projects or schemes of any kind; or
  - (c) make any promise of construction of roads, provision of drinking water facilities etc.; or
  - (d) make any ad-hoc appointments in Government, public undertakings etc. which may have the effect of influencing the voters in favour of the party in power.

**Note:** The Commission shall announce the date of any election, which shall be a date ordinarily not more than three weeks prior to the date on which the notification is likely to be issued in respect of such elections.

- (vii) ministers of Central or State Govt. shall not enter any polling station or place of counting except in their capacity as a candidate or voter or authorised agent.

APPENDIX XVI  
(Chapter VIII, Para 10.2)  
**ELECTION COMMISSION OF INDIA**

No. 3/9(ES008)/94-J.S.II

Nirvachan Sadan,  
Ashoka Road,  
New Delhi-110001.  
Dated: 2nd September, 1994

**ORDER**

Subject : **RESTRICTIONS ON THE PRINTING OF PAMPHLETS POSTERS, ETC.**

The printing and publication of election pamphlets, posters etc., is governed by the provisions of Section 127A of the Representation of People Act, 1951. The said Section 127A provides as follows:-

**127A. RESTRICTIONS ON THE PRINTING OF PAMPHLETS POSTERS, ETC.**

- (1) No. person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and addresses of the printer and the publishers thereof.
  - (2) No person shall print or cause to be printed any election pamphlet or poster-
    - (a) unless, a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and
    - (b) unless, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document.
      - (i) where it is printed in the capital of the State, to the Chief Electoral Officer; and
      - (ii) in any other case, to the district magistrate of the district in which it is printed.
  - (3) For the purposes of this section:-
    - (a) any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression "printer" shall be construed accordingly; and
    - (b) "election pamphlet or poster" means any printed pamphlet, hand-bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidate or any placard or poster having reference to an election, but does not include any handbill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.
  - (4) Any person who contravenes any of the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.
2. The above restrictions on the printing of election pamphlets, poster, etc, have been imposed under the law with a view to establishing the identity of publishers and printers of such documents, so that if any such document contains any matter or material which is illegal, offending or objectionable like appeal on ground of religion, race, caste, community or language or character assassination of any opponent, etc., necessary punitive or preventive action may be taken against the persons concerned. These restrictions also sub-serve the purpose of placing a check on the incurring of unauthorised election expenditure by political parties, candidates and their supporters on the printing and publication of election pamphlets, posters, etc.
  3. The Commission has noticed that the above provisions of law relating to printing and publication of election pamphlets, posters, etc., are being followed more in their breach than in their observance. At the time of elections, a large number of such documents are printed, published, circulated and pasted on the walls of private and Government buildings in respect of which the above mentioned requirements of law have not been complied with. The printing presses rarely

send the printed documents to the Chief Electoral Officers or, as the case may be, the District Magistrates concerned along with the declaration obtained from the publisher as required under Section 127A(2). Many a time, the election pamphlets, posters, etc, do not bear on the face the names and addresses of the printer and/or publisher thereof in violation of Section 127A(1).

4. It is further complained to the Commission that no timely action is taken against the offenders with the result that offending material is freely published and circulated with impunity. In this connection, attention is drawn to the following observations made by the Supreme Court in *Rahim Khan Vs. Khurshed Ahmed and others* (AIR 1975 SC 290):

“Even at this stage we may notice that the handbill in question does not contain the name of the printer and publisher although the election law so requires. Unfortunately, when such printed material is circulated, there is no agency of the law which take prompt action after due investigation, with the result that no printer or candidate or propagandist during elections bothers about the law and he is able successfully to spread scandal without a trace of source, knowing that nothing will happen until long after the election, when in a sudden some litigation this question is raised. Timely enforcement is as important as rule of law as the making of legislation.”

5. In order that in future there is strict observance of, and compliance with, the requirements of the above mentioned provisions of law on the subject, the Commission, in exercise of its power under Article 324 of the Constitution and all other powers enabling it in this behalf, and in supersession of all its previous instructions on the subject, hereby directs as follows:-

- (1) As soon as any election from a Parliamentary, Assembly or Council Constituency is announced by the Election Commission, the District Magistrates shall, within three days of such announcement of election, write to all printing presses in their districts.

- (a) pointing out to them the requirements of above mentioned Section 127A and specifically instructing them to indicate clearly in the print line the names and addresses of printer and publisher of any election pamphlets or posters or such other material printed by them;
- (b) asking the printing presses to send the copies of the printed material (alongwith three extra copies of each such printed material) and the declaration obtained from the publisher as required under Section 127A(2) within three days of its printing;
- (c) impressing on them in clear terms that any violation of the provisions of Section 127A and the above directions of the Commission would be very seriously viewed and stern action, which may in appropriate cases include even the revocation of the licence of the printing press under the relevant laws of the State, would be taken.

- (2) The Chief Electoral Officer shall do likewise in respect of the printing presses located at the State capitals.
- (3) Before undertaking the printing of any election pamphlets or posters, etc., the printer shall obtain from the publisher a declaration in terms of Section 127A (2) in the proforma prescribed by the Commission in Annexure-A hereto. This declaration shall be duly signed by the publisher and attested by two persons to whom the publisher is personally known. It should also be authenticated by the printer when it is forwarded to the Chief Electoral Officer or the District Magistrate, as the case may be.
- (4) As directed above, the printer shall furnish four (4) copies of the printed material, along with the declaration of the publisher, within three (3) days of the printing thereof. Alongwith such printed material and the declaration, the printer shall also furnish the information regarding number of copies of the document printed and the price charged for such printing job, in the proforma prescribed by the Commission in Annexure-B hereto. Such information shall be furnished by the printer, not collectively but separately, in respect of each election pamphlets, posters, etc., printed by him within three (3) days of the printing of each such document.
- (5) As soon as a District Magistrate receives any election pamphlets or posters, etc., from a printing press, he shall examine whether the publisher and printer have complied with the requirements of law and the above directions of the Commission. He shall also cause one copy thereof to be exhibited at some conspicuous place in his office so that all political parties, candidates and other interested persons may be able to check whether the requirements of law have been duly complied with in relation to such document and which would also enable them to bring to the

notice of the authorities concerned the cases of other election pamphlets, posters, etc., in respect of which the above requirements of law have been violated.

- (6) The Chief Electoral Officers shall also likewise take further follow up action as mentioned in sub-para (5) above in respect of the pamphlets, posters, etc., received by them.
- (7) The Chief Electoral Officers and the District Magistrates shall initiate prompt action for investigation forthwith if any case of publication of election pamphlets, posters etc. in violation of the above mentioned provisions of said Section 127A and/or the Commission's above directions either comes, or is brought, to their notice. In all such cases prosecutions should be launched against the offenders most expeditiously and these cases should be pursued vigorously in the courts concerned.
6. The Commission hereby cautions all political parties, candidates and others concerned that any violation of the law and the Commission's directions on the above subject will be viewed with utmost concern and the most stringent action possible will be taken against the offenders.
7. If any officer who is responsible for the enforcement of the above provisions of law and the directions of the Commission is found to have failed in the due discharge of his duties in this regard, he will be liable to severe disciplinary action apart from any penal action that may be called for against him for breach of his official duty.

BY ORDER AND IN THE NAME OF  
ELECTION COMMISSION OF INDIA

(S.K. MENDIRATTA)  
SECRETARY

1. The Chief Secretaries of Governments of all States and Union Territories.
2. The Chief Electoral Officers of all States and Union Territories.



**ANNEXURE-B**  
**[SEE CHAPTER VIII, PARA 10.2 (b)]**

**PROFORMA FOR SUBMISSION OF INFORMATION REGARDING PRINTING OF ELECTION  
POSTER, PAMPHLETS, ETC.**

1. Name and address of printer.....  
.....  
.....
2. Name and address of publisher.....  
.....  
.....
3. Date of the printing order of the publisher.....
4. Date of the declaration of the publisher.....
5. Brief particulars of election poster, pamphlet, etc.....
6. Number of copies of the above document printed.....
7. Date of printing.....
8. Printing charges (including cost of paper) being charged from the publisher in respect of the above document .....

Place..... (Signature of Printer)  
Date..... Seal of the Printer

**APPENDIX-XVII  
(CHAPTER X, PARA 10.2)**

**STATUTORY FORMS  
FORM 10**

\* *Appointment of Polling Agent*  
[See Rule 13(2)]

Election to the \*\* .....

I..... + a candidate/the election agent of .....  
who is a candidate at the above election do hereby appoint ..... (name and  
address) ..... as a polling agent to attend +polling station  
No..... at/place fixed for the poll ..... at  
.....

Place.....

Signature of +candidate/  
election agent

Date.....

I agree to act as such polling agent

Place .....

Signature of polling agent

Date.....

**DECLARATION OF POLLING AGENT TO BE SIGNED BEFORE PRESIDING OFFICER**

I hereby declare that at the above election I will not do anything forbidden by section 128++ of the Representation of the People Act, 1951, which+ I have read/had been read over to me.

Date .....

Signature of polling agent

signed before me

Date.....

Presiding Officer

---

\* To be handed over to the polling agent for production at the polling station or at the place fixed for the poll.

\*\* Here insert one of the following alternative as may be appropriate:

- (1) House of the people from the Constituency.
- (2) Legislative Assembly from the Constituency.
- (3) Council of States by the elected members of the Legislative Assembly of (State)
- (4) Council of States by the members of the Electoral College of (Union Territory)
- (5) Legislative Council by the members of the Legislative Assembly.
- (6) Legislative Council from the constituency.

+ Strike off the in appropriate alternative.

++ Section 128 of the Representation of the People Act, 1951.

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**128. MAINTENANCE OF SECRECY OF VOTING**

- (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

**APPENDIX XVIII**  
**(CHAPTER X PARA 10.3)**

**FORMAT FOR SPECIMEN SIGNATURES OF CANDIDATES AND THEIR  
ELECTION AGENTS**

\*General/Biennial/Bye-election.....(Month/Year)

No. & Name of \*Assembly / Lok Sabha Constituency.....

Leg. Council .....

\*Delete whatever is not applicable)

The specimen signatures of contesting candidates and their Election Agents are given below for the purpose of verification of their signatures by the Presiding Officer in the letters of appointment of Polling Agents at the time of poll:-

Name of the contesting candidate	specimen signature	Name of his/ her Election Agent	Specimen signature
1. Shri/Smt./Ms. (Candidate No.1)	.....	Shri/Smt./Ms	.....
2. Shri/Smt./Ms. (Candidate No.1)	.....	Shri/Smt./Ms	.....
3. Shri/Smt./Ms. (Candidate No.1)	.....	Shri/Smt./Ms	.....
etc.			
etc.			

Place:

Signature

Date:

(Seal)  
Returning Officer

**APPENDIX XIX**  
**(CHAPTER X PARA 10.4)**  
**FORM 11**  
**REVOCATION OF APPOINTMENT OF POLLING AGENT**  
*[(See Rule 14(1))*  
*Election to the \*.....*

To

The Presiding Officer

I,..... (the election agent of .....),  
a candidate at the above election, hereby revoke the appointment ..... of my/his Polling  
Agent.

Place .....

Signature of person revoking

Date.....

\* Here insert one of the following alternatives as may be appropriate:

1. House of the People from the ..... Constituency.
2. Legislative Assembly from the ..... Constituency
3. Council of States by the elected members of the Legislative Assembly of ..... (State)
4. Council of States by the members of the Electoral College of ..... (Union Territory)
5. Legislative Council by the members of the Legislative Assembly.
6. Legislative Council from the ..... Constituency

**N.B.:** Omit the words marked (.....) as necessary.

**APPENDIX XX  
(CHAPTER X PARA 11)  
FORM 12**

**Letter of Intimation to Returning Officer**

(See Rules 19 and 20)

To

The Returning Officer .....

Assembly/Parliamentary Constituency

Sir,

I intend to cast my vote by post at the ensuing election to the Legislative Assembly/House of the People from the .....  
.....Assembly/Parliamentary Constituency.

My name is entered at serial number ..... in Part No. .... of the electoral roll for Assembly Constituency comprised within ..... Parliamentary Constituency.

The ballot paper may be sent to me at the following address:

.....  
.....  
.....

Place.....

Date .....

Yours faithfully

.....

APPENDIX - XXI  
(Chapter X, Para 30)

**DECLARATION BY THE PRESIDING OFFICER**

PART-I

Declaration by the Presiding Officer before the commencement of the poll Election from ..... Parliamentary/Assembly Constituency Serial No. and name of polling station.....

Date of Poll.....

I hereby declare :

- (1) that I have demonstrated to the polling agents and other persons present –
  - (a) by holding a mock poll that the voting machine is in perfect working order and that no vote is already recorded therein;
  - b) that the marked copy of the electoral roll to be used during the poll does not contain any marks other than those used for issuing postal ballot papers and election duty certificates;
  - (c) that the Register of Voters (Form 17A) to be used during the poll does not contain any entry in respect of any elector;
- (2) that I have affixed my own signature on the paper seal(s) used for securing the Result Section of control unit of the voting machine and obtained thereon the signatures of such of the polling agents as are present and desirous of affixing the same.
- (3) that I have written the serial number of the Control Unit on the special tag, and I have affixed my signature on the back side of the special tag and also obtained thereon the signatures of such of the candidates/polling agents as are present and desirous of affixing their signature.
- (4) that I have affixed my signature on the strip seal and also obtained thereon the signatures of such of the candidates/polling agents as are present and desirous of affixing their signature.
- (5) that I have read out the pre-printed serial number of the special tag and asked the candidates/polling agents present, to note down the serial number.

Signature .....

Signature of polling agents:

Presiding Officer

- |                             |                             |
|-----------------------------|-----------------------------|
| 1. .... (of candidate.....) | 2.....(of candidate.....)   |
| 3. .... (of candidate.....) | 4. .... (of candidate.....) |
| 5. .... (of candidate.....) | 6. .... (of candidate.....) |

7. .... (of candidate ..... )                      8. .... (of candidate.....)

9. ....(of candidate..... )

The following polling agent(s) declined to affix his/her/their signature(s), on this declaration:

1. .... (of candidate ..... )                      2.....(of candidate.....)

3. .... (of candidate.....)                      4.....(of candidate.....)

Signature.....

Date.....

Presiding Officer

**PART II**

**DECLARATION BY THE PRESIDING OFFICER AT THE TIME OF USE OF  
SUBSEQUENT VOTING MACHINE, IF ANY,**

Election ..... Parliamentary/Assembly Constituency

Serial No. and Name of Polling Station.....

Date of poll .....

I hereby declare :

- (1) that I have demonstrated to the polling agents and other persons present –
  - (a) by holding a mock poll that the voting machine is in perfect working order and that no vote is already recorded therein;
  - b) that the marked copy of the electoral roll to be used during the poll does not contain any marks other than those used for issuing postal ballot papers and election duty certificates;
  - (c) that the Register of Voters (Form 17A) to be used during the poll does not contain any entry in respect of any elector;
- (2) that I have affixed my own signature on the paper seal(s) used for securing the Result Section of control unit of the voting machine and obtained thereon the signatures of such of the polling agents as are present and desirous of affixing the same.
- (3) that I have written the serial number of the Control Unit on the special tag, and I have affixed my signature on the back side of the special tag and also obtained thereon the signatures of such of the candidates/polling agents as are present and desirous of affixing their signature.
- (4) that I have affixed my signature on the strip seal and also obtained thereon the signatures of such of the candidates/polling agents as are present and desirous of affixing their signature.

(5) that I have read out the pre-printed serial number of the special tag and asked the candidates/polling agents present, to note down the serial number.

Signature .....

Signature of polling agents:

Presiding Officer

- |                             |                             |
|-----------------------------|-----------------------------|
| 1. .... (of candidate.....) | 2.....(of candidate.....)   |
| 3. .... (of candidate.....) | 4. .... (of candidate.....) |
| 5. .... (of candidate.....) | 6. .... (of candidate.....) |
| 7. .... (of candidate ..... | 8. .... (of candidate.....) |
| 9. ....(of candidate..... ) |                             |

The following polling agent(s) declined to affix his/her/their signature(s), on this declaration:

- |                             |                           |
|-----------------------------|---------------------------|
| 1. .... (of candidate ..... | 2.....(of candidate.....) |
| 3. .... (of candidate.....) | 4.....(of candidate.....) |

Signature.....

Date.....

Presiding Officer

**PART III**

**DECLARATION AT THE END OF POLL**

I have furnished to the polling agents, who were present at the polling station at the close of the poll and whose signatures are affixed below, an attested copy of each of the entries in 'Part-I-Account of Votes Recorded' of Form 17C as required under rule 49-S (2) of the Conduct of Elections Rules, 1961.

Signature.....

Date.....

Presiding Officer

Time.....

Received an attested copy of the entries in the accounts of votes recorded (Part I of Form 17C)

Signature of polling agents :

- |                             |                            |
|-----------------------------|----------------------------|
| 1. .... (of candidate.....) | 2.....(of candidate.....)  |
| 3. ....(of candidate.....)  | 4.....(of candidate.....)  |
| 5. ....(of candidate.....)  | 6..... (of candidate ..... |

7. .... (of candidate.....)

8.....(of candidate.....)

9. .... (of candidate.....)

The following polling agents who were present at the close of the poll declined to receive an attested copy of Part I of Form 17C and to give a receipt therefor and so an attested copy of that Form was not supplied to them.

1. .... (of candidate.....)

2.....(of candidate .....

3. .... (of candidate .....

4..... (of candidate .....

5. .... (of candidate .....

6.....(of candidate.....)

7. .... (of candidate .....

8.....(of candidate .....

9. .... (of candidate.....)

Signature .....

Date .....

Presiding Officer

Time.....

**PART IV**

**DECLARATION AFTER THE SEALING OF THE VOTING MACHINE**

I have affixed my seals, and I have allowed the polling agents who were present at the polling station at the close of poll to affix their seals, on the carrying cases of the control unit and balloting units of the voting machine.

Date.....

Signature.....

Time.....

Presiding Officer

The following polling agents have affixed their seals.

Signature of polling agents :

1. .... (of candidate.....)

4..... (of candidate.....)

2. .... (of candidate.....)

5..... (of candidate.....)

3. ....(of candidate.....)

6.....(of candidate.....)

The following polling agents refused or did not want to affix their seals.

1. ....(of candidate.....)

3.....(of candidate .....

2. .... (of candidate .....

4.....(of candidate .....

Date .....

Signature .....

Presiding Officer

APPENDIX-XXII  
 (CHAPTER X, PARA 37.1)  
 FORM 14

**LIST OF CHALLENGED VOTES**  
 [SEC RULES 36(2) (C)]

Election .....from the.....Constituency No. and name of Polling Station  
 .....in.....assembly constituency/name of place of poll

Serial No. of Entry	Name of Elector	Serial number of		Signature or Thumb impression of the person challenged	Address or the person of the challenged	Name of identifier if any	Name of challenger	Order of Presiding Officer	Signature of Challenger on receiving refund of deposit
		Part Of Roll	Elector's name in that part						
1	2	3	4	5	6	7	8	9	10

---

---

Date..... 1999

*Signature of Presiding Officers*

---

\* Appropriate particulars of election to be inserted here.



***(This is an example)***

**APPENDIX - XXIII  
(CHAPTER X, PARA 49)**

**FORM 17C**

[See Rules 49-S, and 56C (2)]

**PART I**

**ACCOUNT OF VOTES RECORDED**

Election to the House of the People/Legislative Assembly of the State/Union Territory.....		
From Parliamentary		XYZ
No. and name of Polling Station		75-ABC
Identification No. of Voting Machine used at the Polling Station		Control Unit Balloting Unit
1.	Total No. of electors assigned to the Polling station	995
2.	Total no. of voters as entered in the Register for Voters (Form 17A)	761
3.	No. of voters deciding not to record votes under rule 49-0	2
4.	No. of voters not allowed to vote under rule 49M	1
5.	Total no. of votes recorded as per voting machine.	758
6.	Whether the total no. of votes as shown against item 5 tallies with the total no. of voters as shown against item 2 minus nos. of voters deciding not to record votes as against item 3 minus no. of voters as against item 4(2-3-4) or any discrepancy noticed.	Yes, it tallies
7.	No. of voters to whom tendered ballot papers were issued under rule 49.	3
8.	No. of tendered ballot papers	
		Sl. No.
		From                      To
(a)	received for use (10)	00981                      00990
(b)	issued to electors (3)	00981                      00983
(c)	not used and returned(7)	00984                      00990



Name of candidate/election agent/counting agent

Signature

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

Place.....

Date.....

Signature of the Returning Officer

**APPENDIX-XXIV  
(CHAPTER XI, PARA 2.1)**

**NOTICE TO CANDIDATES OR THEIR ELECTION AGENTS  
REGARDING THE DATE, TIME AND PLACE FOR COUNTING**

ELECTION TO THE HOUSE OF THE PEOPLE

..... Legislative Assembly.

..... Constituency.

*(When counting takes place at one place )*

In pursuance of rule 51 of the Conduct of Election Rules, 1961, I hereby give notice that I have, in accordance with the said rule fixed the.....day of .....(month),19.....a.m./p.m. as the date and time for the counting of votes in the constituency and (place) in ..... as the place for such counting.

Place.....

Date.....

Signature

Returning Officer

To

All candidates or their election agents.

APPENDIX-XXIV-A  
(CHAPTER XI, PARA 2.1)

**NOTICE TO CANDIDATES OR THEIR ELECTION AGENTS  
REGARDING THE DATE, TIME AND PLACE FOR COUNTING**

ELECTION TO THE HOUSE OF THE PEOPLE  
BY THE .....CONSTITUENCY

*(When counting takes place at more places than one )*

In pursuance of rule 51 of the Conduct of Election Rules, 1961, I hereby give notice that I have fixed dates, time and places of counting for the different assembly segments of this parliamentary constituency as specified below :

Name of the assembly Constituency	Date and time	Place of counting
--------------------------------------	---------------	-------------------

The postal ballot papers of the entire parliamentary constituency will be counted, and the result of poll at all the polling stations will be consolidated, at.....(place) on.....(date) at.....(time).

Place.....

Date.....

Signature.....

Returning Officer

To

All candidates or their election agents.

APPENDIX XXV  
(CHAPTER XI-PARA 8.1)  
**FORM 18**  
**APPOINTMENT OF COUNTING AGENTS**  
[See Rule 52(2) ]

Election to the .....from the  
.....constituency.

To The Returning Officer

I.....\*a candidate/the election agent of .....who is a candidate at the  
above election, do hereby  
appoint the following persons as my counting agents to attend the  
counting of votes at .....

Name of the counting Agent	Address of the counting agent
----------------------------	-------------------------------

- 1.
- 2.
- 3.
- etc.

Signature of \*Candidate/Election Agent (We agree to act as such counting agents)

- 1.
- 2.
- 3.
- etc.

Place.....  
Date.....

Signature of Counting Agents

**DECLARATION OF COUNTING AGENTS.  
(TO BE SIGNED BEFORE THE RETURNING OFFICER)**

We hereby declare that at the above election we will not do anything forbidden by section 128 of the Representation of the People Act, 1951, which we have read/has been read over to us.

- 1.
- 2.
- 3.
- etc.

---

Date.....

Signed before me

Signature of Counting Agents

Date.....

Returning Officer

---

\*Strike off the inappropriate alternative

+section 128 of the Representation of the people Act,1951:

**“128, Maintenance of secrecy of voting**

(1) Every Officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain and aid in maintaining , the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a terms which may extend to three months or with fine or with both.”

**APPENDIX-XXVI**  
**(CHAPTER XI-PARA 10.2)**  
**FORM 19**  
**REVOCATION OF APPOINTMENT OF COUNING AGENT**  
[See Rule 52(4)]

Election to the\* .....

To  
The Returning Officer,

I.....[the election agent of .....] a candidate at the above election  
hereby revoke the appointment of .....my/his counting agent.

Place.....

Date.....

Signature of Person Revoking

\* Here insert one of the following alternatives as may be appropriate

- (1) House of the people form the .....constituency.
- (2) Legislative Assembly from the .....constituency.

N.B- Omit the words within( ) as necessary.

APPENDIX-XXVII

**(CHAPTER XI-PARA 28.1)**

(Final Result sheet to be used where system of counting polling station- wise is followed).

**FORM 20**

[See rule 56(7)]

*Final Result Sheet*

(To be used for recording the result of voting at polling station other than notified polling stations )  
Election to the .....from the .....constituency.

**PART I**

*( To be used both for parliamentary and Assembly elections)*

Name of the Assembly segment  
(in the case of election from a  
Parliamentary constituency.....

Total No. of  
electors in  
Assembly  
constituency/  
segment.....

Serial No. of Polling Station	No. of valid votes cast in favour			Total No. of valid votes	Rejected votes	Total No. tendered votes
	A	B	C			

1

2

3

etc.

Total No. of votes recorded at polling Stations

No. of votes recorded on postal ballot papers. (To be filled in the case of election from an Assembly Constituency)

Total votes polled

Place.....

Date.....

*Returning Officer*

**PART II**

*(To be used both for parliamentary and Assembly elections)*

Name of Assembly segment	No. of valid votes cast in favour			Total No. of valid votes	Rejected votes	Total No. tendered votes
	A	B	C			

1

2

3

etc.

Total No. of votes recorded at polling Stations

NO. of votes recorded on postal ballot papers.

Grand total

Place .....

Date .....

*Returning Officer*

**APPENDIX-XXVIII**

**(CHAPTER XII, PARAS.1.1, AND 6)**  
**EXTRACTS FROM THE CONSTITUTION OF INDIA**

**ARTICLE 101(1) OF THE CONSTITUTION**

**VACATION OF SEATS**

(1) No person shall be a member of both House of Parliament and provision shall be made by Parliament by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

**ARTICLE 101(2) OF THE CONSTITUTION**

(2) No person shall be member both of Parliament and of a House of the legislature of a State and if a person is chosen a member both of Parliament and of a House of the Legislature of a State, then at the expiration of such period as may be specified in rules made by the President, that person's seat in Parliament shall become vacant, unless he has previously resigned his seat in the Legislature of the State.

**ARTICLE 190 OF THE CONSTITUTION-**

**VACATION OF SEATS**

(1) No person shall be a member of both Houses of the Legislature of a State, and provision shall be made by the Legislature of the State by law for the vacation by a person who is chosen a member of both Houses of his seat in one Houses or the other.

(2) No person shall be a member of the Legislatures of two or more States specified in the First scheduled and if a person in chosen a member of the Legislature of two or more such States, then, at the expiration of such period as may be specified in rules made by the President, that person's seat in the Legislatures of all such States shall become vacant, unless he has previously resigned his seat in the Legislatures of all but one of the States.

## APPENDIX-XXIX

(Chapter X, Paras 1.4,1.5, 2,3 & 4 )

### EXTRACTS FROM THE REPRESENTATION OF THE PEOPLE ACT,1951

#### 67A. DATE OF ELECTION OF CANDIDATE

For the purposes of this Act, the date on which a candidate is declared by the returning officer under the provisions of section 53, or section 66, to be elected to a House of Parliament or of the Legislature of a State shall be the date of election of that candidate.

#### CHAPTER VI.- MULTIPLE ELECTIONS

#### 68. VACATION OF SEATS WHEN ELECTED TO BOTH HOUSES OF PARLIAMENT

- (1) Any person who is chosen a member of both the House of the people and the Council of States and who has not taken his seat in either House may, by notice in writing signed by him and delivered to the Secretary to the Election Commission within ten days from the date, or the later of the dates, on which he is so chosen, intimate in which of the Houses he wishes to serve, and thereupon, his seat in the House in which he does not wish to serve shall become vacant.
- (2) In default of such intimation within the aforesaid period, his seat in the Council of States shall, at the expiration of that period, become vacant.
- (3) Any intimation given under sub-section (i) shall be final and irrevocable.
- (4) For the purposes of this section and of section 69, the date on which a person is chosen to be member of either House of Parliament shall be in the case of an elected member, the date of his election and in the case of a nominated member, the date of first publication in the Gazette of India of his nomination.

#### 69. VACATION OF SEATS BY PERSONS ALREADY MEMBERS OF ONE HOUSE ON ELECTION TO OTHER HOUSE OF PARLIAMENT

- (1) If a person who is already a member of the House of the People and has taken his seat in such House is chosen a member of the Council of States, his seat in the House of the People shall, on the date on which he is so chosen become vacant (2) If a person who is already a member of the council of states and has taken his seat in such council is chosen a member of the House of the People, his seat in the council of states shall on the date on which he is so chosen, become vacant.

#### 70. ELECTION TO MORE THAN ONE SEAT IN EITHER HOUSE OF PARLIAMENT OR IN THE HOUSE OR EITHER HOUSE OF THE LEGISLATURE OF A STATE

If a person is elected to more than one seat in either House of Parliament or in the House or either House of the Legislature of a State, then, unless within the prescribed time he resigns all but one of the seats by writing under his hand addressed to the speaker or Chairman, as the case may be, or to such other authority or officer as may be prescribed, all the seats shall become vacant.

**APPENDIX-XXX**  
**(CHAPTER XII, PARA 4)**  
**EXTRACTS FROM THE CONDUCT OF ELECTIONS RULES,1961**

**RULE 91 OF THE CONDUCT OF ELECTIONS RULES, 1961**

**9.1 RESIGNATION OF SEATS IN CASE OF ELECTION TO MORE SEATS THAN ONE IN A HOUSE**

- (1) The time within which a person may resign all but one of the seats in either House of Parliament or in the House or either House of the Legislature of state, to which he has been elected shall be.-
  - (a) fourteen days from the date of his election under section 67-A, or
  - (b) where the dates of his election are different in respect of different seats, fourteen days from the last of those dates.
- (2) Such resignation shall be addressed-
  - (a) to the Speaker or the Chairman of the House concerned; or
  - (b) where the office of the Speaker or Chairman is for the time being vacant or is, or deemed to be, in abeyance, to the Deputy Speaker or the Deputy Chairman of the House concerned; or
  - (c) where the post of the Deputy Speaker or Deputy Chairman is also for the time being vacant or is, or is deemed to be, in abeyance, to the Election Commission.
- (3) Where the resignation has been addressed to the Election Commission under sub-rule (2) the Election Commission shall, as soon as may be after the receipt of the resignation, send a copy thereof to the secretary of the House concerned.

**APPENDIX-XXXI**  
**(Chapter XII, Para 5)**  
**EXTRACT FROM THE PROHIBITION OF SIMULTANEOUS**  
**MEMBERSHIP RULES,1950**

**RULE 2 OF THE PROHIBITION OF SIMULTANEOUS MEMBERSHIP RULES, 1950**

The period at the expiration of which the seat in Parliament of a person who is chosen a member both of Parliament and of a House of the Legislature of a State specified in the First Schedule to the Constitution of India (hereinafter referred to as "the Constitution") shall; become vacant unless he has previously resigned his seat in the Legislature of such State, shall be fourteen days from the date of publication in the Gazette of India or in the official Gazette of the State, whichever is later, of the declaration that he has been so chosen.



**APPENDIX-XXXII-A**  
**(Chapter XIII-Para 1.4)**  
**ANNEXURE-I**

**REGISTER FOR MAINTENANCE OF DAY TO DAY ACCOUNTS OF ELECTION EXPENDITURE BY CONTESTING CANDIDATES**

Name of the Candidate :  
 Name of the Political Party, if any :  
 Constituency from which contested :  
 Date of declaration of result :  
 Name and Address of the Election Agent :  
 Total expenditure incurred / authorized :  
 (from the date of nomination to date of  
 Declaration of result of election, both dates inclusive)

Date of Expenditure	Nature of Expenditure	Name of person / Association/body Authorized	Political party/ Who incurred/ Expenditure	Amount of Expenditure		Date of payment	Name and address of payee	S.No. of voucher in case of an amount paid	S.No. of Bill in case of an amount outstanding the amount outstanding is payable	Name & address of person to whom	Remarks
				Paid	Outstanding						
1	2	3	4	5	6	7	8	9	10	11	12
		Candidate/his election agent	Political party/associations/body/ any other individual								

Certified that this is a true account kept by me/my election agent under section 77 of the Representation of the People Act, 1951  
 \*(Certificate to be furnished after the date of declaration of the result)

- N.B. 1. This Register must be accompanied by an abstract Statement of election expenses and an affidavit in the prescribed formats. No return of expenditure will be accepted as complete without the abstract Statement of election expenses and the affidavit.
2. This Register must be lodged in original with the District Election Officer as the return of election expenditure under section 78 of the Representation of the People Act, 1951. It must be accompanied by an Abstract Statement of election expenses and an affidavit, in the prescribed formats. No return of expenditure will be accepted as complete without the Abstract Statement of election expenses and the affidavit.
3. Vouchers may not be attached only in respect of those items which are listed in Rule 86 (2) of the Conduct of Elections Rules, 1961 like postage, travel by rail. For any voucher not attached vide this rule an explanation to the effect that it was not practicable to obtain the required vouchers must be given in the prescribed Register.
4. The account shall be countersigned by the candidate if it is lodged by his election agent and should be certified by the candidate himself to be correct copy of the account kept.
5. Apart from the expenses incurred or authorized by the candidate/election agent directly, all expenditure incurred or authorized by the political party, other associations, bodies of persons, individuals, in connection with the election of the candidate are also required to be included in the account. The only exception is the expenses incurred on travel of 'leaders' of the political party on account of their travel for propagating the programme of the party [See Explanations 1 and 2 of Section 22(1)]
6. If the expenditure on any item shown above in column 2 is incurred / authorized by any political party / association/ body of persons / any individual (other than the candidate or his election agent), its / his name and complete address must be shown in column 4.





## ABSTRACT STATEMENT OF ELECTION EXPENSES

### PART-I

Name of Candidate :  
Number and name of Constituency :  
Name of State / Union Territory :  
Nature of Election : By-Election/General Election  
Date of declaration of result :  
Name and Address of the Election Agent :

### Part-II

- I. Were you a candidate set up by a Political Party : Yes/No  
II. If yes, name of party : .....
- III. Is the Party a recognised Political Party : Yes/No  
IV. If recognized political party, whether National/State Party : National/State Party  
V. Has your party incurred/authorised expenses in your election : Yes/No  
VI. Has any other association/body of persons/individual incurred/authorised expenses in your election : Yes/No
- VII. If yes, give its/his/their name(s) and complete address : (1)-----  
(2)-----  
(3)-----

**PART III**

**ABSTRACT OF EXPENDITURE ON ELECTION BY  
THE CANDIDATE/HIS ELECTION AGENT**

Items of Expenditure	Expenditure incurred/ authorised by			Total Expenses Incurred/ authorised (Total of columns 2,3&4)
	Candidate/ his Election Agent	Political Party which set him up	Any Other Association/ Body of Persons/ Individual	
1	2	3	4	5
Rs.	Rs.	Rs.	Rs.	Rs.

- i. Public meetings, processions, etc.
- ii. Campaign materials, like, handbills, posters, video and audio cassettes, loudspeakers etc.
- iii. Campaign through electronic / print media (including cable network)
- iv. Vehicles used and POL expenditure on such vehicles.
- v. Erection of gates, arches, cutouts, banners, etc.
- vi. Visits of 'leaders' to the constituency {other than the expenditure on the travel of 'Leaders' as defined in Explanation 2 under Section 77(1) for propagating programme of the party}
- vii. Visit of other party functionaries
- viii. Other misc. Expenses

Grand Total .....

Lump-sum grant received, if any, from –

- (i) Political party
- (ii) Any other association / body (with its name and address)
- (iii) Any individual (with name and address)

**PART IV**

**DETAILS OF EXPENDITURE ON VEHICLES USED**

Details of all expenditure on all vehicles used in connection with the election including the vehicles supplied to candidate by his Political Party or any other association/organization/body or by any other individual are required to be shown (the only exception is the expense incurred in connection with travel of 'leaders' of political party for propagating programme of political party covered by Explanations 1 and 2 under Section 77 (1)).

Regn. No. of Vehicle	Type of Vehicle	No. of days for which used	Expenditure incurred on POL, maintenance and drivers' salary etc. /hiring charges		
			Amount spent by the candidate/ election Agent	Amount spent by the Political Party	Amount spent by any Other Association/ body of persons/ individual
1	2	3	4	5	6

Grand total (Col. 4 + 5 + 6) RS.....

**PART V**

**DETAILS OF EXPENDITURE ON PUBLIC MEETINGS**

Public meetings held by the candidate/his election agent/his political party/any other association/organisation/body/any other individual (other than the candidate/his election agent)

Date of Meeting	Venue of Meeting	Name of authority from whom permission obtained	Cost of erecting pandal and hiring of furniture & fixtures	Cost of hiring Loud-Speakers and Micro-phones	Other miscellaneous expenses	Total	Out of the amount shown in col.7, the component of expenditure incurred by		
							Candidate/Election Agent	The Political Party	Any other Association/Body/Individual
1	2	3	4	5	6	7	8	9	10

Grand total (Col. 8 + 9 + 10) Rs. ....





**PART VI**

**DETAILS OF EXPENDITURE ON TRAVEL OF LEADER(S)  
OF THE PARTY NOMINATED IN TERMS OF 'EXPLANATION (2)'  
UNDER SECTION 77(1) OF THE REPRESENTATION OF  
THE PEOPLE ACT, 1951**

1	2	3	4	5	6	7	8	9	10	11	12
S. No.	Name of Leader	ARRIVAL DETAILS			DETAILS OF STAY		DEPARTURE DETAILS			Whether Expenditure on item (5), (7) and (10) incurred by candidate, political party or others specify	Expenditure if any on item (5), (7) and (10) by candidate
		Date of Arrival in Constituency	Mode of Travel	Expenditure on Fare paid (if known)	Duration of halt in constituency	Expenditure on local journeys	Date of departure from constituency	Mode of travel	Expenditure on fare paid (if known)		
1,											
2.											
3. etc.											
Total Expenditure											

PLACE.....  
DATE.....

SIGNATURE OF CONTESTING CANDIDATE .....  
NAME OF CONTESTING CANDIDATE .....



**APPENDIX XXXII-B**

**(CHAPTER – XIII - PARA 1.8)  
FORM OF AFFIDAVIT**

Before the District Election Officer ..... (District, State)/Union Territory

Affidavit of Shri.....(S/o).....

I..... son/wife/daughter of .....aged  
..... years..... r/o.....do hereby solemnly and  
sincerely state and declare as under :-

- (1) That I was a contesting candidate at the general election/bye election to the ..... House of the People/Legislative Assembly of .....form ..... Parliamentary/Assembly constituency, the result of which was declared on.....
- (2) That I/my election agent kept a separate and correct account of all expenditure in connection with the above election incurred or authorised by me or my election agent between.....(the date on which I was nominated) and the date of declaration of the result thereof, both days inclusive.
- (3) That the said account was maintained in the Register furnishes by the Election Commission for the purpose and the said Register itself is annexed hereto with the supporting vouchers/bills mentioned in the said account.
- (4) That the account of my election expenditure as annexed hereto includes all items of election expenditure incurred or authorised by me or by my election agent, the political party which sponsored me, other associations / body of persons and other individuals supporting me, in connection with the election, and nothing has been concealed or withheld/suppressed therefrom (other than the expense on travel of 'Leaders' covered by Explanations 1 and 2 under section 7(1) of the Representation of the People Act, 1951). and nothing has been concealed or withheld/suppressed therefrom.
- (5) That the Abstract Statement of Election Expenses annexed as Annexure II to the said account also includes all expenditure incurred or authorised by me, my election agent, the political party which sponsored me, other associations / body of persons and other individuals supporting me, in connection with the election.
- (6) That the statements in the foregoing paragraphs (1) to (5) are true to the best of my knowledge and belief, that nothing is false and nothing material has been concealed.

Deponent

Solemnly affirmed/sworn by .....at.....thus day of 199 Before me,  
(Signature and seal of the Attesting authority, i.e. Magistrate of the first Class or Oath Commission or Notary Public)

**ACKNOWLEDGEMENT FORM**

To

The Returning Officer for

.....

Sir,

I acknowledge receipt of your letter NO. ....dated .....alongwith its enclosures containing, among other documents, a register bearing serial No. ....to maintaining of my accounts of election expenses.

2. I have noted the requirements of law for maintenance of account of election expenses and lodging of true copy of that account with the District Election Officer/Returning Officer.

Yours faithfully, I

Signature of the Candidate with date

\*Strike Off, whichever is inapplicable.

**ACKNKOWELEDGEMENT**

The account of the election expenses in respect of ..... (Constituency) result of which was declared on .....(Date) has been filed by him on h is behalf on .....(Date) has been received by me today the .....(Date) of .....(Month) .....(Year).

District Election Officer,

District .....

**APPENDIX -XXXIII**  
**(Chapter XIII-Para 27)**  
**REPRESENTATION OF THE PEOPLE**  
**ACT, 1951**  
**PART V**  
**CHAPTER VIII**  
**ELECTION EXPENSES**

**“76 APPLICATION OF CHAPTER**

This chapter shall apply only to election to the House of the People and to the Legislative Assembly of a State .

**“77. ACCOUNTS OF ELECTIONS EXPENSES AND MAXIMUM THEREOF**

- (1) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent between the date on which he has been nominated and the date of declaration of the result thereof, both dates inclusive.

*Explanation 1* – For the removal of doubts, it is hereby declared that -

- (a) the expenditure incurred by leaders of a political party on account of travel by air or by any other means of transport for propagating programme of the political party shall not be deemed to be expenditure in connection with the election incurred or authorized by a candidate of that political party or his election agent for the purposes of this sub-section;
- (b) any expenditure incurred in respect of any arrangements made, facilities provided or any other act or thing done by any person in the service of the Government and belonging to any of the classes mentioned in clause (7) of section 123 in the discharge or purported discharge of his official duty as mentioned in the proviso to that clause shall not be deemed to be expenditure in connection with the election incurred or authorized by a candidate or by his election agent for the purposes of this sub-section.

*Explanation 1* – For the purposes of clause (a) of Explanation 1, the expression “leaders of a political party”, in respect of any election means –

- (i) where such political party is a recognized political party, such persons not exceeding forty in number, and
- (ii) where such political party is other than a recognized political party such persons not exceeding twenty in number.

Whose names have been communicated to the Election Commission and the Chief Electoral Officers of the States by the political party to be leaders for the purposes of such election, within a period of seven days from the date of the notification for such election published in the Gazette of India or Official Gazette of the State as the case may be, under the Act:

Provided that a political party may, in the case where any of the persons referred to in clause (i) or, as the case may be, in clause (ii) dies or ceases to be a member of such political party, by further communication to the election Commission and the Chief Electoral Officer of the States, substitute new name, during the period ending immediately before forty-eight hours ending with the hour fixed for the conclusion of the last poll for such election, for the name of such person died or ceased to be a member, for the purposes of designating the new leader in his place.

- (2) The account shall contain such particulars, as may be prescribed.
- (3) the total of the said expenditure shall not exceed such amount as may be prescribed.

**78 LODGING OF ACCOUNT WITH THE DISTRICT ELECTION OFFICER**

- (1) Every contesting candidate at an election shall within thirty days from the date of election of the returned candidate, or if there are more than one returned candidate at the election and the dates of their election are different the later of those two dates , lodge with the District Election Officer an account of his election expenses which shall be a true copy of the account kept by him or by his election agents under section 77.
- (2) The reference to the District Election Officer in sub-section (1) shall, in relation to a constituency in a Union territory, be construed as a reference to the Returning Officer for that constituency.

# THE CONDUCT OF ELECTIONS RULES, 1961

## PART VIII

### ELECTIONS EXPENSES

#### ELECTION EXPENSES

##### 86. PARTICULARS OF ACCOUNT OF ELECTION EXPENSES

- (1) The amount of election expenses to be kept by a candidate or his election agent under section 77 shall contain the following particulars in respect of each item of expenditure from day-to-day, namely-
  - (a) the date on which the expenditure was incurred or authorised;
  - (b) the nature of the expenditure (as for example, travelling, postage or printing and the like)
  - (c) the amount of the expenditure -
    - (i) the amount paid;
    - (ii) the amount outstanding;
  - (d) the date of payment;
  - (e) the name and address of the payee;
  - (f) the serial number of vouchers, in the case of amount paid
  - (g) the serial number of bills if any, in case of amount outstanding;
  - (h) the name and address of the persons to whom the amount outstanding is payable.
- (2) A voucher shall be obtained for every item of expenditure unless from the nature of the case, such as postage, travel by rail and the like, it is not practicable to obtain a voucher.
- (3) All vouchers shall be lodged along with the account of election expenses, arranged according to the date of payment and serially numbered by the candidate or his election agent and such serial numbers shall be entered in the account under them (f) of the sub-rule(1).
- (4) It shall not be necessary to give the particulars mentioned in item (e) of sub-rule (1) in regard to items of expenditure for which vouchers have not been obtained under sub-rule (2).

##### 87. NOTICE BY DISTRICT ELECTION OFFICER FOR INSPECTION OF ACCOUNTS

The District Election Officer shall, within two days from the date on which the account of election expenses has been lodged by a candidate under section 78, cause a notice to be affixed to his notice board, specifying -

- (a) the date on which the account has been lodged ;
- (b) the name of the candidate; and
- (c) the time and place at which such account can be inspected.

**88. INSPECTION OF ACCOUNT AND THE OBTAINING OF COPIES THEREOF**

Any person shall on payment of a fee of one rupee be entitled to inspect any such account and on payment of such fee as may be fixed by the Election Commission in this behalf be entitled to obtain attested copies of such a count or of any part thereof.

**89. REPORT BY THE DISTRICT ELECTION OFFICER AS TO THE LODGING OF THE ACCOUNT OF ELECTION EXPENSES AND THE DECISION OF THE ELECTION COMMISSION THEREON**

- (1) As soon as may be after the expiration of the time specified in section 78 for the lodging of the account of election expenses at any election, the District Election Officer shall report to the Election Commission-
  - (a) the name of each contesting candidate;
  - (b) whether such candidate has lodged his account of election expenses and if so, the date on which such account has been lodged; and
  - (c) whether in his opinion such account has been lodged within the time and in the manner required by the Act and these rules.
- (2) Where the District Election Officer is of the opinion that the account of election expenses of any candidate has not been lodged in the manner required by the Act and these rules, he shall with every such report forward to the Election Commission the account of election expenses of that candidate and the voucher lodged alongwith it.
- (3) Immediately after submission of the report referred to in sub-rule (1) the District Election Officer shall publish a copy thereof by affixing the same to his notice board.
- (4) As soon as may be after the receipt of the report referred to in sub rule (1) the Election Commission shall consider the same and decide whether any contesting candidate has failed to lodge the account of election expenses within the time and in the manner required by the Act and these rules.
- (5) Where the Election Commission decides that a contesting candidate has failed to lodge his account of election expenses within the time and in the manner required by the Act and these rules, it shall be notice in writing call upon the candidate to show cause why he should not be disqualified under section 10-A for the failure.
- (6) Any contesting candidate who has been called upon to show cause under sub-rule (5) may within twenty days of the receipt of such notice submit in respect of the matter a representation in writing to the Election Commission, and shall at the same time send to the District Election Officer a copy of his representation together with a complete account of his election expenses if he had not already furnished such an account.

- (7) The District Election Officer shall, within five days of the receipt thereof, forward to the Election commission the copy of the representation and the account (if any) with such comments as he wishes to make there on.
- (8) If, after considering the representation submitted by the candidate and the comments made by the District Election Officer and after such inquiry as it thinks fit, the Election commission is satisfied that the candidate has no good reason or justification for the failure to lodge his account, it shall declare him to be disqualified under section 10-A for a period of three years from the date of the order, and cause the order to be published in the Official Gazette.

**APPENDIX XXXIV**  
**(Chapter XIV, Para 6)**  
**APPLICATION FOR REFUND OF DEPOSIT MADE UNDER SECTION 34 OF THE**  
**REPRESENTATION OF THE PEOPLE ACT, 1951**

*By the candidate*

From Name  
Address

To The Returning Officer..... Constituency.

Subject:: Return of deposit under section 158 of the Representation of People Act, 1951.

Sir,

I was a candidate for election to the .....from the ..... constituency.

2. I made a deposit of Rs..... for that election in the..... Treasury under receipt No..... on

3. My nomination paper was \*accepted/\*rejected by Returning Officer.

4. I \*withdrew/\*did not withdraw my candidature in time,

5. I \*was/\* was not elected and \*secured/\* did not secure more than one sixth of the total number of valid votes polled in the election.

6.] I did not stand as a candidate at the General Election from any other constituency,]

[6. (a) I stood as a candidate at the General Election also from the

(i) .....H.P./L.A. constituency

(ii) .....H.P./L.A. constituency.

(iii) .....H.P./L.A. constituency.

(b) I have not applied for the return of my deposit in any of these other constituencies. The deposits made in these other constituency may be forfeited.]

7. I request that the deposit referred to in paragraph 2 may be returned to me.

8. I here by declare that all the statements made in this application are true to my knowledge.

Your faithfully

(Signature of Candidate)

Place.....

Date .....

---

*\*Strike off the words not applicable in your case.*  
*Omit the portion within [ ], as necessary*

**APPLICATION FOR REFUND OF DEPOSIT MADE UNDER SECTION 34 OF THE  
REPRESENTATION OF THE PEOPLE ACT, 1951**

*(By the Legal Representative of the Candidate)*

From

Name .....

Address .....

.....

To

The Returning Officer ..... constituency.

Subject : Return of deposit under section 158 of the Representation of the People Act, 1951.

Sir,

The late Shri..... was a candidate for election to the .....from the ..... constituency. He died on the ..... and I am his legal representative.

2. He made a deposit of Rs..... for that election in the..... Treasury under receipt No..... on
3. His nomination paper was \*accepted/\*rejected by Returning Officer.
4. He \*withdrew/\*did not withdraw my candidature in time,
5. He \*was/\* was not elected and \*secured/\* did not secure more than one sixth of the total number of valid votes polled in the election.
- 6.] He did not stand as a candidate at the General Election from any other constituency,]
- [6. (a) He stood as a candidate at the General Election also from the
  - (i) .....H.P./L.A. constituency
  - (ii) .....H.P./L.A. constituency.
  - (iii) .....H.P./L.A. constituency.
- (b) No application has been made for the return of the deposit made in connection with the elections in any of these other constituencies. The deposits made in these other constituency may be forfeited.]
7. I request that the deposit referred to in paragraph 2 may be returned to me.
8. I here by declare that all the statements made in this application are true to my knowledge.

Your faithfully

(Signature of Candidate)

Place.....

Date .....

I.....the above mentioned candidate at the election to the .....from the ..... constituency hereby certify that the statement contained in paragraphs 2 to 6 of this application are true to my knowledge.

Yours faithfully

(Signature of Candidate)

Place.....

Date.....

---

*\*Strike off the words not applicable in your case.  
Omit the portion within [ ], as necessary*

**APPENDIX XXXV  
(Para 11.1 Chapter XIII)**

**REPORT TO ELECTION COMMISSION OF INDIA**

**LODGING OF ELECTION EXPENSES ACCOUNTS  
ELECTION TO THE HOUSE OF THE PEOPLE**

.....Legislative Assembly Serial number and name of  
constituency.....Date of declaration of  
result..... Last date for lodging of accounts of election  
expenses..... Name of elected  
candidate.....

Serial No.	Name (party Affiliation of candidate) and address of contesting candidates	Whether account have been lodged	Date of lodging of account	Whether lodged in time	Whether lodged in the manner required by law	if not, a brief statement of defects noticed	Total expenses incurred as per account filed	Remarks
1	2	3	4	5	6	7	8	9
							<b>Total</b>	

Place District Election Officer/  
Returning Officer.....

Date.....

- Notes: (1) A separate report should be sent in respect of each constituency.
- (2) The report should cover all contesting candidates, whether they have been elected or defeated at the poll.
- (3) The name of the constituency shall be spelt exactly in the same manner as in the Delimitation Order. The names of the candidates shall be spelt as in the list of contesting candidates.
- (4) In determining the last date by which the accounts of election expenses are to be lodged by the contesting candidates, the date on which the returned candidate has been declared elected shall not be taken into account while calculating the period of 30 days under section 78 of the Representation of the People Act, 1951.

- (5) Returns lodged by candidates after the last date should be examined and material defects, if any, noticed therein, recorded in column 7.

**APPENDIX XVI**

**[Para 8 - Chapter XIII]**

**ACKNOWLEDGEMENT**

The account of the election expenses in respect of ..... (Constituency) result of which was declared on ..... (Date) has been filed by him on his behalf on ..... (Date) has been received by me today the ..... (Date) of ..... (Month) ..... (Year).

District Election Officer

District.....

(Returning Officer in case of Union Territory)

**APPENDIX XXXVII**  
**(Chapter XIII Para 1.4)**

**No. ....**

**To**

**(name and address of candidate)**

**Sub.: Maintenance of account of election Expenses and lodging of true copy thereof.**

Sir/Madam,

Your attention is invited to Section 77 of the Representation of the People Act, 1951 which stipulates that every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent between the date on which he has been nominated and the date of declaration of the result thereof, both dates inclusive.

2. Your attention is also invited to Section 78 of the said Act which further stipulates that every contesting candidate at an election shall, within thirty days from the date of election of the returned condition, lodge with the District Election Officer./\*Returning Officer on account of the election expenses which shall be a true copy of the account kept by him or by his election agent under Section 77.

3. Even if a contesting candidate does not seriously contest the election, for any reason whatsoever, and incurs only a nominal expenditure on his security deposit. etc., he is required by law to lodge his account of election expenses.

4. A contesting candidate who fails to comply with the requirements of law regarding the lodging of account of election expenses is liable to be disqualified by the Election Commission under section 10A or the Representation of the People Act, 1951 for a period of three years.

5. The account of election expenses to be kept by a candidate or his election agent under section 77 of the Representation of the People Act, 1951 shall contain the particulars of expenditure as prescribed under rule 86 of the Conduct of Elections Rules, 1961.

6. A copy each of the order dated 18.1.98 of the Election Commission of India on the maintenance of accounts of election expenses and lodging of true and

complete accounts is enclosed for your information and strict compliance. The format for mandatory the account is annexed to the said letter.

7. In pursuance of the Commission's order, a Register is also being furnished to you herewith. You are required to maintain your day to day account of election expenses in this very Register and in no other document. All supporting vouchers, bills, etc., should also be kept along with the Register arranged in proper chronological order at all times. Abstract statement of expenditure are to be given in Parts – I to VI of the format.

8. All documents such as vouchers, receipts, acknowledgements, etc. in support of the expenditure or authorised shall be obtained on day-to-day basis and shall be maintained in the correct chronological order alongwith the Register showing the day-to-day account.

9. You should make this Register and the supporting documents available for inspection if demanded at any time during the process of election by the District Election Officer, Returning Officer, Election Expenditure Observer appointed by the Election Commission or any other such authority nominated by the Commission in this behalf. Failure to produce this register when demanded will be considered as a major default on your part in maintaining your day to day account and you may render yourself liable to penal action under Section 171-1 of the Indian Penal Code.

10. This very Register in which you are to maintain your day to day account of election expenses should itself be filed by you as your account of election expenses after the election as required under section 78 of the Representation of the People Act mentioned-above. You should keep a copy of the account as maintained in that Register for your record and reference. Alongwith the Register, you should file the abstract statement containing details of expenditure, supported by an affidavit in the format enclosed.

11. Extracts of Sections 77, 78 and 10A of the Representation of the People Act, 1951 and rules 86 of the Conduct of Elections Rules, 1961 are also enclosed for information and guidance.

12. As per Supreme Court Judgement dated 4.4.1996 in writ petition No. 24 of 1995 (Common Cause V/s. Unit of India and others) relating to election expenditure, expenditure incurred by any political party/association/body of persons/individual

(other than the candidate or his election agent) in furtherance of election prospects of a party candidate will be excluded from the expenditure incurred by a candidate if and only if that expenditure has been shown in the account of the said party/associated body/individual concerned and that account has been duly audited and submitted to the Income Tax authorities.

13. If you contest election from more than one constituency, you are required to maintain and lodge a separate account of your election expenditure in respect of each such constituency.

14. Kindly acknowledge receipt of the letter alongwith its enclosures immediately in the enclosed acknowledgment form.

Yours faithfully,

RETURNING OFFICER FOR

\* Strike off whichever is inapplicable

**Enclosures :**

1. Register bearing serial no.... containing pages ..... for maintenance of election expenses.
2. Order dated 18.1.1998 of the Election Commission of India.
3. Extracts of Section 17, 78 and 10A of the Representation of the People Act, 1951, and rule 86 of the Conduct of Elections Rules, 1961.
4. Acknowledge receipt.

