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# **HANDBOOK FOR RETURNING OFFICERS**

**FOR ELECTIONS TO THE COUNCIL OF STATES  
AND  
STATE LEGISLATIVE COUNCILS**

**ELECTION COMMISSION OF INDIA  
1992  
(Reprint- 1996)**

**HANDBOOK  
FOR  
RETURNING OFFICERS**

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## FOREWORD

Elections to the council of states and states and State Legislative councils are held under the system of proportional representation by means of the single transferable vote. These elections are different in several material aspects from elections to the House of the People and the state Legislative assemblies held under the system known as 'first past the post' system.

2. The Election Commission had published in 1978 a "Handbook for guidance at biennial elections and bye-elections to the council of states and state Legislative Councils". This handbook has not been revised thereafter. Besides, this handbook is not self-contained and makes repeated references to the "Handbook for returning Officers for elections to the House of the People and state Legislative assemblies," wherever there are certain common features for both types of elections. For such matters, one has to consult the other handbook.

3. The Commission has considered it desirable to bring out a new handbook for Returning Officers for elections to the Councils of states and State Legislative Councils, as a self-contained compendium. Hence the present handbook.

4. This handbook, in a continuous narrative form explains in detail, the powers, duties and functions of the returning Officers during various stages of elections to the Council of states and state Legislative Councils.

5. While every endeavor has been made to cover all salient features, this handbook is no substitute for the relevant provisions of the Constitution of India, the Representation of the people act, 1951 and rules and orders made there under insofar as the same relate to the functions of the returning Officers. They are advised to familiarize themselves thoroughly with these provisions which are contained in the Manual of Election Law.

6. It is hoped that this handbook will serve as a useful guide for the Returning Officers and others connected with elections to the Council of states and State Legislative Councils in the discharge of their functions.

**New Delhi**  
**Dated: July 31, 1992**

**T.N. SESHAN**  
*Chief election Commissioner of India*

CHAPTER I  
**PRELIMINARY**

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

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

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

- (1) The Constitution of India;
- (2) The Representation of the People Acts, 1950

and 1951 and the rules made thereunder, namely: registration of electors Rules, 1960 and conduct of elections rules, 1961;

- (3) The Legislative councils act, 1957;
- (4) The Prohibition of Simultaneous Membership Acts of concerned states and the Prohibition of simultaneous Membership rules made by the President under Articles 101(2) and 190(2) of the constitution;
- (5) The Parliament (Prevention of disqualification) Act, 1959 and Acts of the state Legislatures relating to the removal of disqualifications; and
- (6) The Delimitation of Council Constituencies Orders.

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

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

- (1) Neither the council of states nor the Legislative council of a State is subject to dissolution. As nearly as possible, one third of the members thereof retire, as soon as may be, on the expiration of every second year [Articles 83 and 172(2)]. Biennial elections are held to fill the vacancies of members in the Council of states and Legislative Councils of states retiring on the expiration of their term of office (Sections 2 and 16 of the repre-

sentation of the People Act, 1951). Bye-elections are held to fill casual vacancies (Sections 147 and 151 of the representation of the People Act, 1951).

- (2) (a) The total number of elected representatives of states including Union, territories in the council of states should not exceed 238. The representatives of a state are elected by the elected members of the Legislative assembly of the state [Article 80(4)]. The representatives of the Union territories are chosen in the manner prescribed by Parliament by law [Article 80(5) and Part IV-A-Sections 27A to 27J of the representation of the People Act, 1950]. The President nominates not more than twelve members having special knowledge or practical experience in respect of such matters as literature, science, art and social welfare [Article 80(1) (a) and (3)].
- (2) (b) The allocation of seats in the Council of states to be filled by representatives of States and Union Territories is fixed by the fourth schedule to the constitution (reproduced as anneure I).
- (3) (a) The total number of members of Legislative council of a state shall not exceed one-third of the total number of members in the Legislative assembly of that State. But such total number of members of state Legislative council shall in

no case be less than 40 [Article 171 (1)].

- (3) (b) The members of the Legislative council of a state are elected as provided in Article 171(3) of the constitution. As nearly as may be, (i) one-third of its members are elected from Local authorities' Constituencies, (ii) one-twelfth each from Graduates' and Teachers' constituencies, (iii) one-third by members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly, and (iv) the remainder is filled by nomination by Governor of persons having special knowledge or practical experience in respect of such matters as literature, science, art, co-operative movement and social service.
- (3) (c) the allocation of seats in the state Legislative Councils to be filled by elections from Local authorities, Constituencies, Graduates constituencies and Teacher' constituencies, by election by members of the state Legislative Assembly, and by nomination by Governor are fixed by the Third schedule to the representation of the People Act, 1950 (reproduced as Annexure II). The fourth schedule to the said act (Annexure III hereto) specifies the local Authorities in each State whose members constitute the electorates for the Local Authorities' Constituencies in that State.

- (4) The elections to council of states and the Legislative Council of a State are held in accordance with the system of proportional representation by means of the single transferable vote [Articles 80(4) and 171(4)].
- (5) A member elected to the council of States or State Legislative Council at a biennial election holds office for a period of six years. A member chosen to fill a casual vacancy will serve for the remainder of his predecessor's term of office (Sections 154 to 157 of the representation of the People Act, 1951).
- (6) The Delimitation of Council constituencies Orders issued by the President after consulting the election commission determine in respect of each state having a Legislative Council, the division of council constituencies, the extent thereof and the number of seats allotted to each such constituency (Sections 11 and 12 of the Representation of the People Act, 1950). [These orders are reproduced in the Manual of Election Law (Vol. II, Pages 156-165, 1991 edition)].
- (7) There is no reservation of seats for members of Scheduled Castes or Scheduled Tribes in the council of states or the Legislative Councils.
- (8) Symbols are not allotted to any candidates.

- (9) The provisions relating to the lodging of accounts of election expenses by contesting candidates do not apply to elections to the council of states or the Legislative Council (Section 76 of the representation-of the People Act, 1951).
- (10) The method of voting adopted at these elections is by marking on the ballot papers, the figures 1, 2, 3, etc. in the International form of the Indian numeral or in the roman form or in the form used in any Indian language. Such preferences are not to be indicated in words (Rule 37-A under Rule 70 of the Conduct of Elections Rules, 1961).
- (11) The provisions relating to marking of the voter's left forefinger with indelible ink do not apply to elections to the council of states and to the State Legislative Councils by members of the State Legislative Assembly and from Local Authorities' Constituencies.
- (12) Before any ballot paper is delivered to an elector at an election by Assembly members or in a Local Authorities' Constituency, the serial number of the ballot paper should be effectively concealed in the manner directed by the Commission [Rule 38A(5) under Rule 70 of the Conduct of Elections Rules, 1961].
- (13) The minimum period of eight hours poll

as fixed under section 56 of the representation of the People Act, 1951 for elections in Parliamentary and Assembly Constituencies is not applicable to these elections.

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

CHAPTER II  
**CONSTITUENCIES, ELECTORAL  
ROLLS AND POLLING  
STATIONS**

**I. CONSTITUENCIES**

**Elections by Assembly Members.**

1.1 There are no territorial constituencies for elections to the council of states as these are held by the *elected* members of the Legislative Assemblies of the states. As mentioned in the preceding chapter, elections of, as nearly as may be, one-third members of a State Legislative Council are also held by members (*both elected and nominated*) of the State Legislative Assembly.

1.2 For the sake of brevity, both these elections have been referred to in the conduct of elections Rules, 1961 [see Rule 2(1) (c)] and in this Handbook as elections by Assembly members'.

**Elections in council Constituencies**

2. Elections to the State Legislative Councils may be divided into two broad categories, namely, (1) elections by assembly Member, referred to in the preceding paragraph, and (2) elections in council constituencies. Elections in council constituencies further consist of three types, viz., (1) elections in Local Authorities' constituencies, (2) elections in graduates' constituencies, and (3) elections in teach-

ers' constituencies.

### **Delimitation of Council Constituencies**

3.1 The Council constituencies of the three types mentioned above are territorial constituencies delimited by the orders made by the President, after consulting the Election Commission, under Section 11 of the Representation of the People Act, 1950. These orders determine the extent of each council constituency and the number of seats allotted to each such constituency.

3.2 The Delimitation of Council Constituencies Orders as in force at present are reproduced in Part II of the Manual of Election Law (Volume II) 1991 edition. If you are the Returning Officer for a Council constituency, please study the Delimitation Order relating to your state carefully and ascertain correctly the exact territorial extent of your constituency and the number of seats allotted to it. In several cases, Council constituencies extend over more than one administrative district. Your constituency may be one such constituency and you may have to coordinate with the election authorities of the other districts for the conduct of election in your constituency.

## **II. ELECTORAL ROLLS**

### **Electoral roll for election by Assembly Members**

4.1 For an election by assembly members, the returning Officer is required under Section 152 of the Representation of the People Act, 1951 to main-

tain in his office a list of members of the state Legislative assembly in such form as the Election Commission may direct under rule 96 of the conduct of elections Rules, 1961.

4.2 The direction issued by the Commission under the said rule for the maintenance of the list of assembly members is reproduced in Annexure IV. You should always keep that list corrected up-to-date in the prescribed form. It may again be mentioned here that the said list for election to the Council of States shall consist only of the *elected* members of the State Assembly, whereas for election to the state Legislative Council, the name of nominated member, if any, will also be included in that list.

4.3 Such list of members of State Assembly has been referred to in the conduct of elections Rules, 1961 [see Rule 2(1)(c)] and in this Handbook as the electoral roll for election by assembly members.

### **Electoral Rolls for Council Constituencies**

5.1 For every Council constituency, there shall be a separate electoral roll which shall be prepared or revised by the Electoral Registration Officer of the constituency in accordance with the provisions of the Representation of the People Act, 1950, Registration of Electors Rules, 1960 and the directions and instructions of the Commission issued thereunder.

5.2 You should obtain and keep an authenticated copy of the electoral roll of your constituency from the Electoral Registration Officer. It may be

noted that under the law, no inclusion or deletion of any name or correction of any entry in the electoral roll can be made by the Electoral Registration Officer after 3 P.M. on the last date for making nominations in your constituency.

6. You, as the Returning Officer, are not concerned with the preparation, revision or correction of the electoral roll. However, it may be added for your information that an electoral roll for a Graduates' constituency, shall contain names of persons ordinarily resident in the constituency and who have been a graduate of a University in India or have been in possession of any qualification deemed as equivalent thereto by a notification by the State Govt, issued in consultation with the election commission, at least for three years on the qualifying date with reference to which the electoral roll has been prepared. Electors in a teachers' constituency should be ordinarily resident in the constituency and should have been engaged in teaching in any specified educational institution deemed to be not lower in standard than a secondary school, for a total period of at least three years within the last six years immediately before the qualifying date with reference to which the roll has been prepared. (The qualifying date has been prescribed under the law as the 1st November of the year in which the preparation or revision of the electoral roll is commenced).

7. The electorate for a Local Authorities' constituency consists of members of the specified local authorities exercising jurisdiction within the territorial limits of the constituency. The fourth sched-

ule to the representation of the People Act, 1950 specifies such local authorities for each state having a Legislative Council. Please refer to that Schedule to find out as to which are such local authorities exercising jurisdiction within the territorial limits of your constituency, if you are Returning Officer for a Local Authorities' Constituency.

### **III. PLACE OF AND POLLING STATIONS**

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

8.1 Under Section 29(1) of the Representation of the People Act, 1951, the Returning Officer is required to fix, with the previous approval of the Election Commission, the place at which the poll will be taken for election by assembly members and to notify the place so fixed in the manner directed by the Commission.

8.2 A suitable hall or room in the precincts of the Legislative assembly building is normally fixed as such place of poll. The Commission obtains (through the Chief Electoral Officer) the information with regard to the place of poll while considering the programme for the election and conveys its approval in the matter along with its approval of the election programme. While conveying such approval in respect of the place of poll, the Commission also sends a draft notice to be issued by the Returning Officer.

8.3 Accordingly, you should issue a notice in that form and display it on the notice bard of the Legislative Assembly as per the direction of the

Commission as soon as may be after the notification calling for the election has been issued.

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

### **Polling stations for council constituencies**

9.1 Under Section 25 of the Representation of the People Act, 1951, it is the responsibility of the District Election Officer to provide, with the previous approval of the Election Commission, a sufficient number of polling stations for the council constituency. Accordingly, the rest of this chapter is addressed to the District Election Officer.

9.2 Under the said Section 25, the District Election Officer is to provide polling stations for the constituency the whole or greater part of which lies within his jurisdiction. Where a constituency extends to two districts, the Chief Electoral Officer shall decide as to in which district the greater part of the constituency lies and the District Election Officer of such district shall provide the polling stations for the whole constituency including the areas falling in the other district. Where, however, a constituency, extends over more than two districts of which neither the whole nor the greater part of the constituency lie within the jurisdiction of any one District Election Officer, the District Election Officer of every district will provide polling stations for the areas falling within the territorial jurisdiction of his district.

10 As mentioned above, the polling stations have to be provided with the previous approval of

the Commission. There is no provision for *ex post facto* approval and any change in the approved list of polling stations without the prior approval of the commission to such change would be tantamount to non-compliance with the provisions of Section 25 which may vitiate the election.

11. The draft list of polling stations must be forwarded to the election Commission for scrutiny and approval through the Chief Electoral Officer at least two weeks before the last date for withdrawal of candidatures.

12. The following guidelines should be kept in view while preparing the draft list.

**List of Polling Stations for graduates' and Teachers' constituencies**

13.1 For an area to be eligible for use as a polling station, there should be a minimum of 30 electors (teachers and graduate taken together). It may be necessary to set up a polling station even for a lesser number in a particular area, if these electors have otherwise to travel long distances to reach the polling station. The polling stations should be located, as far as possible, within easy reach of every elector. Ordinarily, the distance to be traveled by a voter to reach his polling station should not exceed 16 kms.

13.2 Separate polling stations shall be provided for elections from graduates' and teachers' constituencies even when held simultaneously. A common polling station may, however, be provided, in exceptional cases if the number of electors is, small or

considered convenient for the electors concerned as many electors may be common for both the elections.

13.3 the assignment of electors to polling stations may be made GroupWise or individually, as may be considered convenient and practicable. It should, however, be ensured that every elector is assigned to the polling station nearest to his place of residence and no elector is left out from being allotted to any polling station.

13.4 As far as possible, polling stations should be located in Government buildings or offices or schools. When this is impossible, these may be located in private buildings. Such private buildings should be properly requisitioned and/or the consent of the owner should be obtained in writing. The private building so requisitioned should be at the disposal of the Returning Officer at least one day before the date of poll and till such further period as may be considered necessary. The building, and the area around it up to a radius of two hundred meters, should be under the control of the Presiding Officer. No watch and ward or other personnel connected with the owner of the building, whether armed or unarmed, should be allowed to remain either at the polling station or within a radius of two hundred metres around it. The security arrangements at the polling station and the area mentioned above will be the responsibility entirely of the Central or State security forces under the control of the Presiding Officer. After nominations are filed, it will be ensured that the owner is not a contesting can-

didate or a known sympathizer or worker of any of the candidates at the election

13.5 No polling station should be located in places of worship such as temples, churches, mosques, gurdwaras, etc. or places having religious significance or in police stations or in buildings which belong to any political party, prominent member of a party, contesting candidates or their know sympathizers.

13.6 In case no suitable buildings available, the polling stations may be located in temporary structures constructed for this purpose. But, as far as possible, this should be avoided as it involves considerable expenditure to Government and is also open to other risks if there are heavy rains, fire, etc.

13.7 Not more than four polling stations in urban areas and not more than two polling stations in rural areas should be located in one building. This is necessary to avoid overcrowding and to facilitate maintenance of peace and order.

13.8 where two polling stations are set up in the same building or compound, it will be better if one is set up for graduates and the other for teachers when these elections are held simultaneously.

13.9 Select the actual site of each polling station carefully, in advance, and arrange for materials, structural fittings, etc., will in time so that it will satisfy the requirements of law and of practical convenience.

13.10 The polling station should have normally

as for as practicable a minimum area of 20 sq. metres to avoid congestion inside the passing station.

13.11 Room/Halls selected should be well-lit and having two openings at least so that one can be used as 'entrance' and the other as 'exit' for the smooth and orderly conduct of poll.

13.12 The draft list of polling stations should be drawing up in the following form:

### List of Polling Stations

For the ..... Graduates'/Teachers' Constituency

in the state of .....

District .....

Sl. No.	Location of polling station	Building in which It will be location	Area of polling station	Whether there is a separate entrance and. If not. reasons therefor	Polling area	Whether comm- on for all voters or for Grad- uates only or teach- ers only	Total nun- bar of vot- ers as sign- ed	Maxi- mum dist- ance the voters have to travel to reach the polling station	Remarks
1	2	3	4	5	6	7	8	9	10

13.13 The polling area should be clearly demarcated. The name of each town, ward, street, block, village or other revenue unit covered by the polling area and the number of voters thereof should

be shown in the respective columns against each polling station only by a clear description of the polling area, will it be possible for an ordinary voter to know to which polling station he should go for casting his vote.

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

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

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

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

Column 4 - The area of the polling station should be indicated in square metres. The reason for locating polling stations in rooms/halls having an area of less than 20 square metres where it is totally unavoidable should be furnished in "Remarks\* Columns of the proforma against the appro-

priate entry.

Column 5 - there is a separate entrance and a separate exit, 'Yes' may be written, otherwise reasons why it has not been possible to locate the polling station in a room/hall with separate entrance and exit may be given.

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

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

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

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

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

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

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

- (i) All the villages and wards or localities in towns with the number of voters in each such village or locality on the map itself, and where this is not convenient or practicable in a statement affixed to the map;
- (ii) The place selected for the location of the polling station;
- (iii) the area served by each polling station; and
- (iv) serial number of the polling stations indicated in a systematic manner, preferably beginning from the north-western corner of the constituency, proceeding zig-zag and ending at the south-eastern corner.

13.17 The use of abbreviations in the list is prohibited.

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

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

14.1 After preparation of the list of polling stations on the lines indicated in preceding paragraphs, the District Election Officer should publish it in draft in the language or languages of the electoral

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

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

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

Notes:-(a) the approval of the Commission will be communicated by the Election Commission direct to the District Election Officer with a copy to the Chief Electoral Officer. After the approval of the Commission is received, the District Election Officer should once again check the list and incorporate the changes, if any, directed by the Commission in the list.

(b) The District Election Officer should send the draft list along with the scrutiny sheet duly filled in and a certificate in the prescribed form (Annexures V and VI)

(c) The list forwarded to the Commission should be accompanied by a translation in English in case it is in any language other than English or Hindi. There is, however, no need to print or cyclostyle the approved list of polling stations in English, unless copies in English are required for official use or by the public.

Final publication of the List of Polling Stations.

15.1 The District Election Officer shall publish, the list of polling stations as approved by the commission. He shall display a copy thereof in the manner prescribed by the commission in its order reproduced in Annexure *VII* at his office by a notice in the form give in annexure *VIII*. On such publication, the list shall be the list of polling stations for that constituency. The entries in columns 4, 5, 8, 9 and 10 and the entries at the bottom of the list relating to the total number of voters, the total number of polling stations and the average number of voters per polling station, should be deleted before the final publication of the list.

15.2 The District Election Officer can correct only printing or clerical mistakes, if any, after such publication

### **Modifications in the List**

16.1 Modifications, if considered necessary, as a result of variation in the number of voters within the polling area allotted to a polling station consequent on the revision of electoral rolls should be reported to the commission for prior approval.

16.2 Changes in the location of polling stations to new buildings or sites may become necessary where the owner of the building or site originally proposed for a polling station has since become a contesting candidate or has strong sympathies for any candidate or a political party or because of any natural calamity that might have destroyed or damaged such building. All such changes should be reported forthwith to the Commission for approval.

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

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

17. After the approval of the list of polling stations for a constituency, if there is any change in

the nomenclature of the building in which the polling station is proposed to be set up, for example, up gradation of a Primary school to a Middle school and the like, but otherwise there is no change in the location of the polling station, cases of such change need not be referred to the commission for its previous approval. However, the Commission should be informed of such a change immediately. The political parties and the contesting candidates etc., should also be informed in writing about such changes.

### **Supplies of copies of the List**

18.1 Each contesting candidate at an election shall be supplied, free of cost, with three copies of the list of polling stations for that constituency, immediately after the last date for withdrawal of candidatures. Copies should also be made available for sale.

18.2 The District Election Officer should also supply the required number of copies to the Director General of Police or Superintendent of Police, as the case may be. Copies should also be supplied to the returning Officer and assistant returning Officer(s) and the chief electoral Officer.

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

19.1 Whenever any bye-election is to be held in the constituency, the District Election Officer should examine whether any addition to or alteration in, the list of polling stations already approved is necessary.

19.2 If at any such bye-election, no change or modification in the approved list is considered nec-

essary and the same is proposed to be adopted *in toto* for that bye-election, the commission should be informed and its approval obtained.

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

### **Facility of Postal Ballot**

20. In rare cases, it may be desirable to allow postal ballot facility for voters in remote and inac-

cessible areas in a Council Constituency for whom no polling station can be set up within a reasonable distance. In such cases, the election commission may, on the recommendation of the Chief Electoral Officer, issue a notification under rule 68 of the conduct of elections Rules, 1961 at any time before the last date for a withdrawal of candidatures at the election directing that the method of voting by postal ballot shall be followed in the whole or specified part of the constituency. Electors subjected to preventive detention and voters on election duty, if any, are also entitled to vote by post in the constituency.

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

21.1 All the members of a local authority should be allotted to a polling station located in the polling area within the local limits of the jurisdiction of the local authority.

21.2 No elector will be assigned by name to a particular polling station and no elector will be allotted to a polling station different from the one in which he is entitled to vote in accordance with the above instruction.

21.3 The list of polling stations for a Local Authorities' Constituency shall be prepared in the following form:

.....LEGISLATIVE COUNCIL

List of Polling Stations

For the Local authorities' Constituency

in the state of.....

District .....

Sl. No.	location of the polling station	Building in which it will be located	Names of Local Authorities of which the voters will be entitled to vote	Total number of voters assigned	Maximum distance the voter has to travel to reach the polling station	Remarks
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1	2	3	4	5	6	7
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21.4 All other instructions in the foregoing paragraphs relating to preparation of draft lists for Graduates' and Teachers' constituencies, publication of such draft lists for inviting suggestions and objections, consultation with political parties, etc., forwarding of such lists through the Chief electoral Officer to the Commission for its approval and publication of finally approved lists shall apply *mutatis mutandis* to the preparation and realization of lists for Local Authorities' Constituencies.

### **Right to Vote**

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

their names in the marked copy of the electoral roll supplied to the other polling station should be made as follows:

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

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

CHAPTER III  
**POLLING PERSONNEL**

**A-Elections to Council of States**

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

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

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

**C. Elections in graduates' and Teachers' Constituencies**

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

constituency will adopt these lists in toto and make the appointments.

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

4. Doubts arise as to whether the District Election Officer, or, as the case may be, the Returning Officers can appoint under section 26 of the Representation of the People Act, 1951, a person as a Presiding Officer or a Polling Officer unilaterally against the consent of that person and, if so, whether the refusal to accept the appointment order by a person so appointed will attract the provisions of Section 134 of the said act. In this connection attention is drawn to the judgment, dated 6th March, 1971 of the Calcutta High Court in *Shri R.P. Roy alias Rampada Roy Vs. Shri D.. Rudra, District Election Officer and District Magistrate, Howrah* (Air 1971 - Calcutta 461) which manifestly answers in the affirmative both the points referred to above. The High court has categorically held that section 26 of the Representation of the People Act, 1951, confers not only the power to appoint unilaterally the Presiding and Polling Officers but also imposes on them all the obligations of such office irrespective of their consent. Refusal to accept appointment will attract the provisions of section 134 of **the** Representation of the People Act, 1951.

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

5.1 As the number of electors assigned to each polling station in a Graduates' or teachers' Constituency is much smaller than that for elections to Lok Sabha and state Legislative assembly, it will

not be necessary to appoint for such polling station the full complement of staff as may be required to be appointed for a polling station for Lok sabha/ Assembly election. It will be sufficient if one Presiding Officer, one Polling Officer for identification of voters and application of indelible ink, one Polling Officer for issue of ballot papers and another Polling Officer for issue for marking instruments are appointed for each polling station. If the number of electors assigned to a polling station is very small, say, 100 or so, only two Polling Officers may be sufficient. There is no need for any reserve Polling Officer or peon for each polling station. A common reserve list of polling personnel for the entire district should, however, be kept by the District Election Officer to enable him to send substitutes in the place of any Presiding or Polling Officer absenting himself on the Polling day owing to any unavoidable circumstances.

5.2 Although the second proviso to sub-section (1) of section 26 permits the appointment of a common Presiding Officer for two or more polling stations, no Presiding Officer should be placed in charge of more than one polling station, unless a common polling station is provided in the same hall/room for Graduates' Constituency and a Teachers' Constituency at a simultaneous election.

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

6.1 As the number of polling stations to be set up in each district is generally small and as the elections are not held simultaneously throughout the state at any time, the selection for appointment

of Polling Personnel should be restricted to employees of Central and State Governments and Local Bodies. The Presiding Officer should generally be of the status of a Tahsildar or Dy. Tahsildar. The Polling Officer should generally be of the status of an Accountant or an Assistant. As far as possible, persons selected for polling duty in a district should be posted for duty in the polling stations set up in that district. Persons who have already done polling duty at a previous election from a Council constituency or a Parliamentary or assembly Constituency should, as far as possible, be selected for polling duty, as they would have acquired the requisite experience and training.

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

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

## **CERTIFICATE**

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

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

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

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

6.4 It may be noted that the facility to vote on the basis of 'Election Duty Certificate' at the polling station on which a voter on election duty is posted, which is available under the provisions of Rules

20(2) and 35A to polling personnel in Assembly and Parliamentary Constituencies, *is not* available in Council Constituencies.

### **Form for the appointment**

7.1 The form for the appointment of Presiding and Polling Officers is given in Annexure DC. The Presiding and Polling Officers should be formally appointed. The order of appointment should also bear clear seal of the District Election Officer.

7.2. The list of Polling Personnel in respect of all polling stations in the Constituency should be displayed on your notice board, but not earlier than two or three days before of the date of poll. There is no need to supply such lists to the political parties and contesting candidates.

### **Polling rehearsals**

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

### **Unavoidable Absence of Presiding Officer**

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

### **Arrival at Polling Station**

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

### **Absence of Polling Officer**

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

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

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

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

13. The Presiding Officer, on his arrival at the place where the polling station is to be set up, will first inspect the building proposed for the purpose and also the polling station itself, if it is already set up. Diagrams of model polling stations are given in annexure X. While it is open to the Presiding Officer to make minor modifications to the actual set up of the polling station taking into account the topography of the place and other local factors, he must make sure that—

- (a) there is enough space for the voters to wait outside the polling station;
- (b) there is separate waiting space for men and women voters as far as practicable;
- (c) there is separate entrance and exit for voters. (In case there is only one door, this can be achieved by tying a rope or fixing bamboos or other partitioning structure to make separate entrance and exit through the same door);
- (d) there is smooth flow of voters from the time they enter the polling station to the time they leave it and there is no criss-cross movement, within the polling station;
- (e) the polling agents are seated in such a way that they can see the face of elector as and when he enters the polling station and is identified by the first polling officer so that they can challenge the identity of the elector, if need be;

- (f) the seating arrangements of the Polling Officers and polling agents are such they are not in a position to see how a voter is marking his ballot paper inside the voting compartment;
- (g) the inside of the voting compartment is sufficiently lighted. If necessary, suitable additional lamps/lights may be provided.

13.2 If more polling stations than one are located in the same building, it should be ensured that necessary arrangements have been made for segregation of voters and making them wait in queues in different parts of the space in front of each polling station without causing confusion.

13.3 If the polling station is located in a private building, the building and the area around it up to a radius of 200 metres should be totally under the control of the Presiding Officer. He should not allow any watch and ward or other personnel connected with the owner, whether armed or unarmed, to remain either at the polling station or within a radius of 200 metres around it. The security arrangements at the polling station and within a radius of 200 metres thereof will be entirely the responsibility of the police under the control of the Presiding Officer.

13.4 No photograph of leaders of political parties or slogans having a bearing on the elections should be exhibited inside the polling station. In case such photographs or slogans are already there, they should be removed till poll is over.

13.5 No cooking or lighting of fire for any purpose should be permitted inside the polling station on the day of poll under any circumstance.

#### **Transport for Polling Parties**

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

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

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

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

16.1 It would be convenient if the Executive Officer of the Panchayat or the Commissioner of the Panchayat Union or Municipality is appointed as the Presiding Officer for the polling station in his area. He should be assisted by two or more Polling Officers depending on the number of electors, who may be drawn from the Panchayat Office or Municipal Office or from the Revenue Department. If it is found that it is not possible to appoint the Executive Officer or the Commissioner of the Panchayat Union or the Municipality as Presiding

Officer, or the commissioner of the Panchayat Union or the Municipality as Presiding Officer, persons of the status of Tehsildars or Deputy Tehsildars in; the Revenue Department who were previously appointed for the polling duty in the Council elections or Assembly elections may be selected for appointment as Presiding Officers. The Polling Officers may be of the status of Head Accountant or Assistant.

16.2 A common reserve list of Polling Personnel for the entire district should be kept by the District Election Officer to enable him to send substitutes in the place of any Presiding Officer or Polling Officer absenting on polling day owing to any unavoidable circumstances.

16.3 The other instructions given in the case of Graduates' and Teachers' Constituencies will apply *mutatis mutandis* in the matter in the matter of polling personnel in respect of this election also.

CHAPTER IV  
**ELECTION MATERIALS**

**A. Elections by Assembly Members**

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

**Ballot Boxes**

2. You must provide at least two ballot boxes for the poll. Normally one should be sufficient, but the extra one will be useful in emergencies.

**Forms**

3. Throughout the election, you will have to use many forms yourself. You should first thoroughly familiarise yourself with all these forms. The candidates, their agents and other members of the public will also have to hand over certain documents in different prescribed forms. Most of the forms will be printed by the state government. At times, it may not be possible to satisfy the public demand in respect of these forms. You must accept

freely all such documents whether they have been drawn up in the officially printed form or in manuscript, type written, cyclostyled or privately printed version of any of these forms so long as texts of the forms have been correctly copied. No document should be rejected merely on the ground that it has not been drawn up in a government printed form

## **B. Elections in council constituencies**

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

### **Ballot Boxes**

5.1 You may provide two ballot boxes for each polling station. Normally one should be sufficient but the extra one will be useful in emergencies. The number of contesting candidates and the consequent size of the ballot papers should also be kept in view while providing ballot boxes to the polling parties. When the number of contesting candidates in an usually large, say, 20 or more, ballot boxes of bigger size should be used. An extra ballot box may be supplied when common polling stations are set up for graduates' and Teachers' Constituencies'.

5.2 The ballot boxes should be individually

checked and necessary .repairs carried out before issue to polling parties. In all cases, oiling and cleaning will be done in advance for the smooth functioning of the locking devices.

5.3 Do not, in any circumstance, issue any •defective ballot box to any polling party. Even one defective ballot box can result in the entire poll being vitiated.

5.4 The Commission has recently directed that each ballot box available in a district shall be serially numbered showing the name of the state (in abbreviated form), code no. of the district and the serial no. of the box, like AP/1/00001. Such serial no. shall be engraved in body figures both inside and outside on each box.

5.5 Only such serially numbered ballot boxes should be supplied to polling parties. The use of any ballot box which is not so serially numbered shall be viewed by the Commission as a grave lapse inviting severe action.

CHAPTER V  
**NOMINATIONS**

**Introductory**

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

**Notifications for Elections to the Council of States**

2.1 In the case of biennial elections to the Council of States, the President of India, under section 12 of the Representation of the People Act, 1951, shall, by one or more notifications published in the gazette of India on such date or dates as may be recommended by the Election Commission, call upon the elected members of the Legislative Assembly of each state or members of the electoral college of each Union Territory concerned to elect members for the purpose of filling seats of members to the Council of States retiring on the expiration of their terms of office.

2.2 Notifications in respect of bye-elections to the Council of States will be issued by the Election Commission under the provisions of section 147 of that act.

3. On the same date on which the above noti-

fication calling the election is issued, the Election Commission will issue a notification in the official gazette under Section 39 of the Act fixing the programme for the various stages of the election.

### **Notifications for Elections to the Legislative Council**

4.1 In the case of biennial elections to the Legislative Councils, the Governor of the State, under section 16 of the Representation of the People Act, 1951 shall, by one or more notifications published in the State gazette on such date or dates as may be recommended by the Election Commission, call upon the members of the Legislative Assembly of the State and the Council constituencies concerned to elect members for the purpose of filling seats of members of the Council retiring on the expiration of their terms of office.

4.2 Notifications in respect of bye-elections will be issued by the Commission under the provisions of section 151 of that Act.

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

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

6.1 Immediately after such notification, you are

required to issue a public notice of the election under section 31 of the Representation of the People Act, 1951 read with rule 3 of the Conduct of Elections rules, 1961. The notice will be issued in Form I appended to the said rules.

6.2 In the public notice, you have to specify, among other thing, the name(s) of the Assistant Returning Officer(s) who will also receive nomination papers, in addition to you, and also the places) at which the nomination papers shall be received by you and the specified Assistant Returning Officer(s). Normally, you should not specify more than one Assistant Returning Officer for the purpose and he should as far as possible be the one stationed at your headquarter.

6.3 The public notice shall be published in the following manner:-

- (i) It shall be in form 1 appended to the Conduct of Elections Rules, 1961 and shall be published on the same date on which the notification of election is published. This public notice can be issued even on a holiday including a public holiday, notified under section 25 of the Negotiable Instruments Act, 1881.
- (ii) At an election by members of the Legislative Assembly, the notice shall be prepared in English and in the regional language of the state; and at elections from the Council Constituencies, it shall be in English and the official language of the state or the

regional language of the particular area of the state in which the constituency is wholly situated.

- (iii) The notice shall be published in each of the languages on the notice board of your office and at such other places as you may consider necessary for giving wide publicity to it including offices of Panchayat Samities, Gram Panchayats, etc.

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

7.1 The public notice under section 31 can be issued on a public holiday. However, a nomination paper will not be received on that date. A candidate may present his nomination paper on the very day of the notice, or any of the seven days following that day unless any of these days is declared a public holiday.

7.2 In case the last date for filing nominations or the date of scrutiny of nominations or the **last** date for withdrawal of candidatures is declared a public holiday under the Negotiable Instruments, Act, 1881, due to some reasons after the issue of notifications, the fact may be brought to the notice of the Chief Electoral Officer and the Election Commission immediately. The last date for filing nominations or the date of scrutiny of nominations or the last date for withdrawal of candidatures and other dates will be amended by the Commission as necessary. If the date fixed for the scrutiny of nominations is declared a public holiday under the Ne-

gotiable Instruments Act, 1881 the scrutiny will be held on the next succeeding day which is not a public holiday.

7.3 Similarly, if the last date for making nominations or the withdrawal of candidatures is declared a public holiday, the nomination papers or, as the case may be, notices of withdrawal of candidatures filed on the next working day should be accepted.

7.4 You will bear in mind that the second or fourth Saturdays of a month or all Saturdays of the month where these are observed as holidays for government offices are not be treated as "public holidays" under the negotiable Instruments Act, 1881, unless the same are specifically declared as such holidays under that Act.

### **Assistant Returning Officers**

8.1 Your Assistant Returning Officers can perform any of your functions subject to your overall control. They are, however, not competent to hold scrutiny of any nomination paper under section 36 unless you are unavoidably prevented from holding such scrutiny yourself.

8.2 The Assistant Returning Officer should sign the papers as "Assistant Returning Officer" and not for Returning Officer".

### **Nomination Papers Form of**

9. The nomination of a candidate for election to the Council of States shall be made in Form 2C appended to the Conduct of Elections Rules, 1961.

Relevant form for making nomination of a candidate at an election to the State Legislative Council by members of the state Legislative assembly is Form 2D and for election in a council constituency is form 2E.

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

10. It may be noted that each nomination of a candidate for election to the council of states or State Legislative Council shall be subscribed by at least ten per cent of the electors at that election or ten such electors, whichever is less, as proposes.

### **Dates and time of filing Nominations**

11. Nomination papers may be presented either before you or before any of your Assistant Returning Officers specified by you in the public notice, on any of the days, other than a public holiday, during the period fixed in the Commission's programme notification. These nomination papers shall be presented only at the place or places specified by you in the public notice at any time between 11 a.m. and 3 p.m. and not at any other hour or at any other place. If a candidate or his proposer seeks to present a nomination paper either before 11 a.m. or after 3 p.m., you should not accept the nomination paper saying that under the provisions of the law, neither the candidate has the right to deliver, nor the Returning Officer has the right accept, a nomination paper outside the hours prescribed for the purpose. Likewise, you should not accept any nomination paper at any place other than the place specified in the public notice.

### **Who can file Nomination Paper and where**

12. All nomination papers must be presented personally either by the candidate or his proposer, and by no one else, to the Returning Officer or the specified Assistant Returning Officer at the place or places specified in the public notice between 11 a.m. and 3 p.m. on any day, other than a public holiday, fixed for the purpose.

### **Number of Nomination Papers**

13. Under sub-section (6) of section 33 of the Representation of the People Act, 1951, a maximum

*of four* nomination papers only can be presented by or on behalf of any candidate or accepted for election in the same constituency. You must ensure that

no candidate files nomination papers for the same constituency in excess of this number. If a candidate seeks to present any nomination paper or papers in excess of this number, you must not accept such nomination paper or papers saying that under the provisions of the law neither has the candidate the right to present, nor the Returning Officer the right to accept, any nomination paper or papers in excess of four.

### **Serial Number of Nomination Papers**

14.1 Each nomination paper must be serially numbered, as soon as it is presented, by the officer receiving it who must also note on the body of the nomination paper the date and exact time at which it was received by him. In view of the limitation on the number of nomination papers that can be delivered by a candidate, you should ask the Assistant

Returning Officer specified by you to receive nomination papers to work in close collaboration with you.

14.2 When a number of nomination papers are delivered to you in a bunch, you must assign serial numbers to them in the order in which you deal with them one after the other.

### **Deposits**

15.1 Every candidate at an election the Council of States or a State Legislative Council is required to make a deposit of Rs. 250.00 (Section 34 read with section 39 (2) of the Representation of the People Act, 1951). The amount of deposit shall be Rs. 125.00 only, if he is a member of a Scheduled Castes or Scheduled Tribes.

15.2 The Deposits may be made either in cash with the Returning Officer or in the Reserve Bank of India or in a Government Treasury. Where the deposit is made in the Reserve Bank or in a Government Treasury, the receipt making the deposit should be enclosed by the candidate with his nomination paper.

15.3 The deposit should be made under the following head of account:—

" 885 Suspense. Pay & Accounts Officer.

Suspense items adjustable by Pay & Accounts Officer Election Commission (under sub-Account 63-A)".

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

16. Only one deposit is required from each can-

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

### **Preliminary Examination of Nomination Papers**

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

### **Documentary Evidence of Registration of Candidate as an Elector**

18.1 For an election to the Council of States, a candidate must be an elector for any *Parliamentary* constituency in the state or Union Territory from where the election is being held. (Section 3 of the Representation of the People Act, 1951).

18.2 For an election to a State Legislative Coun-

cil, a candidate must be an elector in any *Assembly* constituency in that state, (section 6 *ibid*)

18.3 Every candidate must produce documentary evidence to show that he is an elector for a Parliamentary constituency or, as the case may be, Assembly constituency. Such evidence has to be produced in the form of the electoral roll of the ' constituency in which the candidate's name is registered or a relevant part thereof or a certified copy of the relevant entries in such roll.

18.4 In the case of an election to the Council of States or a State Legislative council by members of the state Legislative assembly, such documentary evidence has to be produced by the candidate at the time of presentation of his nomination paper. If he has not done so, you may require him to produce such evidence.

18.5 In the case of an election in a council constituency, such evidence may be produced by the candidate at the time of presenting his nomination paper and if he has not done so, he must do that at the time of the scrutiny of nominations. Strictly speaking, the responsibility for producing such documentary evidence vests entirely with the candidate. However, the commission considers that in order to reduce the scope of rejection of nomination papers on this ground, the attention of the candidate should be drawn to the aforesaid requirement when his nomination paper is presented and examined from the technical standpoint. This is best done by means of a written memo as in annexure XII.

## **Oath or Affirmation by Candidates**

19.1A a candidate at an election to the council of States or State Legislative Council is required under Article 84 (a) or, as the cases may be, act 173(a) of the Constitution to make and subscribe an oath or affirmation in the prescribed form before' any of the persons authorised in that behalf by the Election Commission. The forms of oath or affirmation are given in Annexure XIII.

19.2 The Election Commission's notifications authorising certain persons in this behalf are reproduced as Annexure XTV.

19.3 For any particular election, the authorised persons are mainly the Returning Officer and the Assistant Returning Officer for the election. In the case of a candidate confined in a prison or under preventive detention, the Superintendent of the Prison or Commandant of the Detention Camp in which he is so confined or is under "such detention is authorised to administer the oath. In the case of a candidate confined to bed in a hospital or elsewhere owing to illness or any other cause, the Medical Superintendent, in-charge of the hospital or the medical practitioner attending on him is similarly authorised. In the case of a candidate who is out of India, the oath or affirmation may be made and subscribed before the diplomatic or Consular Representative of India in the country where the candidate happens to be or any person authorised by such diplomatic or consular representative. Where the candidate is for any other reasons unable to appear or present before the Returning Officer con-

cerned or the Assistant Returning Officer, the oath or affirmation may be made and subscribed before another person specially nominated by the Election Commission on an application made to it in this behalf. The Commission has also authorised all stipendiary Presidency Magistrates, all stipendiary magistrates of 1st class, all District Judges and all the persons belong to the Judicial services of the states other than a district Judge as officers before any one of whom a candidate can make and subscribe the oath or affirmation.

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

19.5 The onus of proving that the candidate

had made or subscribed the oath or affirmation before an authorised person lies on the candidate himself. It is not necessary that every nomination paper of a candidate must be accompanied by the form of oath signed by the candidate. It is sufficient if the candidate or his representative satisfies you at the time of scrutiny that the candidate had made • and subscribed the oath or affirmation before an authorised person for that election.

19.6 Section 36(2) (a) of the Representation of the People Act, 1951 requires that on the date of scrutiny of nominations, the nominated candidate should have the requisite qualifications including the qualification of having made and subscribed the oath or affirmation. If the oath or affirmation, is not made and subscribed before the date appointed for the scrutiny of nomination papers, the candidate will be held by you as not qualified to stand for the election.

19.7 The oath or affirmation is first to be made and then signed by the candidate before the authorised person. It should be borne in mind that mere signing on the paper on which the form of oath is written is not sufficient. The candidate must make the oath before the authorised person. The latter should ask the candidate to read aloud the oath and then to sign and given the date on the paper on which it is written. If the candidate is illiterate or unable to read the form, the authorised person should read out the oath and ask the candidate to repeat the same and thereafter take his thumb impression on the form. The authorised per-

son should endorse on the form that the oath or affirmation has been made and subscribed by the candidate before him on that day and hour.

19.8 The authorised person will for with give a certificate to the candidate that he has made and subscribed the oath or affirmation before him on that day and that particular hours. This certificate will be given to the candidate without his applying for it. This will avoid all controversy later on as to whether the candidate has taken the oath or not.

19.9 If the authorised person is the Superintendent or Commandant of the Prison or Detention Camp, he should issue forthwith to the candidate a certified copy of the oath for producing it as evidence before you at the time of scrutiny of nominations. The Superintendent of the Prison or Commandant of the detention camp will simultaneously send an express telegram to you indicating the date and time at which the particular candidate made and subscribed the oath or affirmation. He will also send to you the original of the oath or affirmation made and signed by the candidate.

19.10 If the authorised person is a Medical Superintendent of a Hospital or medical practitioner or a diplomatic or Consular representation of India in the country where the candidate happens to be or the District Judge or person belonging to the Judicial service of a state (Other than a district Judge) or stipendiary Magistrate of stipendiary Magistrate of the 1st class or any other persons

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

19.11 It is for the candidate himself to ensure that he makes and subscribes the requisite oath or affirmation so as to become qualified in terms of article 84(a) or, as the case may be, Article 173 (a) of the Constitution. In order, however, to see that he does not lose sight of this mandatory requirement which would result in his nomination being rejected, the Commission desires that his attention may be drawn thereto by means of a written memo as in Annexure XII-A when his nomination paper is presented an examined from technical standpoints.

20. Copies of annexures XII and XII-A should be got cyclostyled and kept with you at the time of receipt of nomination papers. The name of the candidate or his proposers whoever prevents the nomination paper should be entered in the appropriate Memo, which you should sign, and it should be handed over to him and a receipt obtained from him in the form provided for it at the foot of the main form. The receipt should be detached and kept with the nomination form.

## **Notice of Nominations**

21.1 After 3.00 p.m. on each day between the date of notification and the last date for making nominations, both days inclusive, publish on your notice board, a notice of the nomination papers presented before you on that day.

21.2 The notice shall be prepared in Form 3B appendix to the Conduct of Elections Rules, 1961, in the case of an election to the Council of States or State Legislative Council by members of the State Legislative Assembly. It shall be prepared in Form 3C in the case of an election to the State Legislative Council from a Council Constituency.

21.3 Your Assistant Returning Officer should also do the same in respect of the nomination papers represented before him at the end of each day. If more nomination papers than one have been presented before you in respect of the same candidate, notice must be given of each of them separately. A copy of this daily notice should be forwarded to you by the Assistant Returning Officer from day to day so that you may be aware of the latest position about the election as a whole.

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

22.1 Immediately after 3.00 p.m. on the last date for filing nomination papers, prepare a consolidated list of all the nomination papers presented before you or the specified Assistant Returning Of-

fleers during the period fixed for the purpose, in the following form:—

Sl. No.	Name of the candidate	Address of the candidate	Name of the political party, National/State or Registered, by which the candidate claims to have been set up/Independent candidate
1	2	3	4
1			*
2			
A			
4			
5			

RETURNING OFFICER

PLAC

Date

22.2 The names of candidates shall be arranged alphabetical according to the script of the language first specified in the second column of SOS.' 39/67 and 2/78 (Annexure XV) as explained in chapter VII.

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

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

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

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

## CHAPTER VI

# SCRUTINY

### **Scrutiny of Nominations by Returning Officer**

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

### **Persons to be admitted.**

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

### **Examination of Nomination Papers by candidate, etc.**

3. If any candidate, his election agent, his proposer or the person authorised by him desires to examine any of the nomination papers, allow him all reasonable facilities for doing so. In fact, an

adequate period at the beginning of the day may be conveniently set apart for this purpose.

### **All Nomination Papers to be scrutinized**

4. You should then take up nomination papers one after another and scrutinize them. If more than one nomination paper have been presented by or on behalf of one candidate, you should take them up together and scrutinize them one after another. In case there is any minor error in any one of the nomination papers of a candidate in regard to particulars, such as part number, name, serial number, etc. of the electoral roll, it can be made up with correct particulars given in another nomination paper of the same candidate. All the nomination papers presented to you and the Assistant Returning Officer must be scrutinized by you. Merely, because one or more nomination papers of a candidate have been already found valid by you, it would not be correct or legal to pass over other nomination papers of that candidate without scrutiny.

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

5. Even if no objection has been raised to a nomination paper, you have to satisfy yourself that the nomination paper is valid in law. If any objection is raised to any nomination paper, you will have to hold a summary inquiry to decide the same and to treat the nomination paper to be either valid or invalid. Record your decision in each case giving brief reasons particularly where an objection has

been raised or where you reject the nomination paper. The objector may be supplied with a certified copy of your decision accepting the nomination paper of a candidate after overruling the objections raised by him, if he applies for it. Your decision may be challenged later in an election petition and so your brief statement of reasons should be recorded at this time.

### **Presumption of validity**

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

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

7. While holding the scrutiny of nomination paper, you are performing an important quasi-judi-

cial function. You have, therefore, to discharge this duty with complete judicial detachment and in accordance with highest judicial standards. You must not allow any personal or political predilections to interfere with the procedure that you follow or- the decisions you take in any case, fairness, impartiality and equal dealing with all candidates are expected of you by law. You must also depart yourself in such a manner that it would appear to all concerned that you are following this high code of conduct. Even if a candidate or his agent is difficult or cantankerous, you must exercise courtesy and patience. But at the same time you have to be firm so that your task may be accomplished in a prompt, orderly and business like manner.

### **Crucial date for determining qualifications disqualification**

8.1 You will notice that sub-section (2)(a) of section 36 of the Representation of the People Act, 1951 clarifies that the qualification or a disqualification of a candidate should be related to the date fixed for scrutiny of nominations. This is sometimes material e.g. in regard to the age of a candidate or in regard to being an elector in a constituency in regard to the subsistence of a contract with government, etc., in deciding whether a person is disqualified to contest the election. You should, therefore, see whether the disqualification subsists on the date fixed for scrutiny.

8.2 Chapter III of Part II of the Representation of the People Act, 1951 deals with disqualifications for membership of Parliament and State Legislatures.

You should carefully study these provisions.

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

9.1 Do not reject any nomination paper on the ground of any defect which is not of a substantial character [Section 36(4)]. Any mistake or error of a technical or clerical nature should, therefore, be ignored by you.

9.2 Also, a nomination paper should not be rejected for the reason only that none of the persons referred to in section 36(1) was present at the time of scrutiny of nomination; it should be accepted or rejected on merits, taking all the available material into account.

9.3 In the past there were instances where nomination papers were rejected on flimsy grounds e.g. for mistakes made in the nomination paper regarding: (a) the year of election or (b) the exact name of the House of the Legislature or the constituency, (c) the description of an electoral **roll** number or (d) some discrepancy between the age, name, or other particulars of the candidate or his proposer as given in the nomination paper and in the electoral roll and so on. Such unjustifiable and improper order of rejection on technical grounds had led to a large number of election petitions and the eventual setting aside of several elections with consequent avoidable waste of time, money and labor for all concerned. Similar instances of improper rejections should not recur and it is up to you to interpret the provisions of the law intelligently and

with common sense. Do not, therefore, reject any nomination paper for such technical or clerical error<sup>^</sup> or discrepancies. Most of them can and should be directed by you to be set right at the time of the presentation of the nominations paper [Section 33(4) proviso]. It would, therefore, be very improper if you fail at the proper stage to help a candidate by exercising your powers and discretion under the proviso to section 33(4) and later at the time of scrutiny you reject his nomination paper on the ground of those very defects which could have been set right under that section. You should examine meticulously the receipts for payments made as deposit either in the Reserve Bank of India or in a government treasury with reference to the seals of the treasury or bank, etc. and make sure that the deposit has actually been made in the Bank or Treasury. It may be ensured that were a Treasury is a 'banking treasury' the payment receipt of the Bank is endorsed on the challan. doubts, if any, should be got clarified then and there.

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

10. You must reject a nomination paper, if—

(i) the candidate is clearly not qualified in law to be a member of the Legislature concerned, or

(ii) the candidate is clearly disqualified in law to be such member, or

**N.B** The Commission will supply to you through the Chief Electoral Officer consolidated list of persons who have incurred disqualification under Sections 8-A and II -A(b) for corrupt practices) and 1(>-A (for failure to lodge account of election expenses) of the R.P. Act, 1951. In other cases you may, if necessary, consult the Chief Electoral Officer of the State/Union territory.

- (iii) the nomination paper has been delivered before 11 A.M. or after 3 P.M. any of the days notified for making nominations, or
- (iv) The nomination paper has been delivered to you or to your specified Assistant Returning Officer by a person other than the candidate himself or his proposer, or
- (v) the nomination paper has been delivered at a place other than that specified in the public notice, or
- (vi) the nomination paper has been delivered to a person other than yourself or your Assistant Returning Officer, specified by you in this behalf, or
- (vii) the nomination paper is not substantially in the prescribed form, or
- (viii) the nomination paper has not been signed by the candidate and requisite no. of proposer, or
- (ix) the proposer was not an elector of the constituency or was not eligible to be a proposer at the time of presentation of the nomination paper, or
- (x) the proper deposit has not been made in accordance with section 34, or
- (xi) the oath or affirmation is not made by the candidate as required under the constitution of India, or
- (xii) the candidate has omitted to specify his

- age in the nomination paper, or
- (xiii) the nomination paper has not been signed either by candidate or his pros posers in the places meant for such signatures in the nomination paper, or
  - (xiv) if the candidate has neither filed the electoral roll of the constituency in which his name is registered or the relevant part thereof or a certified copy of the relevant part of the electoral roll along with the nomination paper nor produced the same at the time of scrutiny, the nomination paper must be rejected even if you are in possession of the electoral roll of that different constituency.
11. It should be noted that under the law it is not necessary that a candidate for election from a Graduates' constituency or a Teachers' Constituency should be a graduate or teacher. Therefore, a nomination paper in such a constituency should not be rejected on the ground of the candidate not being a graduate or, as the case may be, a teacher.
  12. You should invariably record the reasons for rejecting a nomination paper on the spot and supply certified copies of the orders immediately in cases where all the nomination papers filed by a candidate have been rejected by you. This shall be done even in the absence of an applica-

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

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

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

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

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

### Correction in the Name of a Candidate

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

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

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

the letter "r" and not "T". If two candidates have the same name but different initials, for example, P.S Reddy and T.K. Reddy, then the two names should be arranged with reference to the first letter of the initials, further, if two or more candidates have the same names but different surnames, then their names should be arranged in alphabetical order . with reference to the surnames.

- 16.2 Rules 22(3) and 30(3) of the Conduct of Elections Rules, 1961 provide that if two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner. In such cases, the arrangement of names in the list of contesting candidates and in the ballot papers will be with reference to the distinguishing names of the candidates.
- 16.3 There will also be no objection to the addition of any honorific, academic, hereditary, professional or any other title to the name of a candidate, but such title should on no account be taken into consideration, in the arrangement of names in alphabetical order in the list of validly nominated candidates and in ballot papers.
17. Arrange in this list the names of the candidates alphabetically according to the script of the language first specified in

S.O. No. 39/67, dated 30-5-1967 (relating to election to State Legislative Councils)

Or, S.O.No. 2/78 dated 24-2-1978 (relating to election to the council of states) as may be applicable. These S.Os are reproduced in Annexure XV & XV-A.

18. Send two copies of the list to the Chief Electoral Officer by the next available post or by special messenger, also forward one copy of the list along with an English translation to the Election Commission. The list of validly nominated candidates should be sent by you on the very day on which scrutiny of all nomination papers is completed and dispatched immediately so that it reaches the Commission before the last date for the withdrawal of candidatures.

CHAPTER VII

**WITHDRAWAL OF  
CANDIDATURES**

**Notice of Withdrawal**

1.1 Any candidate may withdraw his candidature by giving you a notice in Form 5 signed by him and delivered before 3 O'clock in the after noon of the last date fixed for such withdrawal. Any withdrawal after that hour is invalid and has no legal effect. Every notice of withdrawal must be delivered to you by (i) the candidate, or (ii) his proposer, or (iii) his election agent. The proposer or the election agent must, however, have been authorised in writing by the candidate to deliver the notice of withdrawal on his behalf. If there is no such authority or if the person so authorised by the candidate is neither his proposer nor his election agent, the **withdrawal is of no effect and must** be ignored. As each candidate has more proposes than one in respect of different valid nomination papers, he may authorize any one of them to de liver his notice of withdrawal to you and it will be valid and must be given effect to if it has been delivered to you in time.

1.2 The scheme of section 30, 33 and 39 (1) of the Representation of the People Act, 1951, is such that the public holiday should be ignored for election purposes, accordingly, the notice of with drawl should neither be delivered, to nor be re-

ceived by you. on a day which is a public holiday under the Negotiable Instruments Act, 1881.

1.3 A candidate may give notice of withdrawal only after the scrutiny of nomination is over, such notice can be given on the date of scrutiny after the scrutiny is over or on the next day, if it is not a public holiday, or, on the second day after the day of scrutiny in terms of section 37 and if the second day is a public holiday, then on the next succeeding day which is not a public holiday.

### **Receipt for withdrawal**

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

### **Valid withdrawal not be Cancelled**

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

### **Publication of Notice of Withdrawal**

4. As soon as any valid notice of withdrawal is received by you, publish a notice thereof in Form 6 on you notice board.

### **List of Contesting Candidates- Preparation of**

5.1 Immediately after 3 p.m. on the last day

fixed for withdrawal of candidatures, draw up a list in form 7B of contesting candidates that is to say, the candidates whose names were included in the list of validly nominated candidates prepared by you in form 4 and who have not withdrawn their candidatures.

5.2 The list of contesting candidates should be prepared alphabetically in ten language or languages as specified in the commission's S.O. No. 39/ 67, dated 30-5-1967 (relating to elections to State Legislative Councils) or S.O.No. 2/78, dated 24.2.78 relating to Council of States), as may be applicable. These S.Os. are reproduced in Annexure XV.

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

6.1 In the list of contesting candidates, you have also to mention the party affiliation of the candidate if he has been set up by any recognized National or state or registered unrecognized political party. The candidate may have made a declaration in his nomination paper that he has been set up by a particular political party. But such declaration by the candidate alone is not sufficient. The political party concerned must also intimate you the name of that candidate as having been set up by it. Such intimation by the party must reach you not later than 3.00 p.m. on the last date for withdrawal of candidatures, any intimation received after the aforesaid date and time shall not be entertained by you in any case.

6.2 For giving the aforesaid intimation of the

name of the candidate set up by a political party for an election to the Council of States or State Legislative Council, the Commission has prescribed the same procedure as is prescribed in Para 13 of the Election Symbols (Reservation and Allotment) Order, 1968 for intimation of name of candidates for elections to the House of the People and State Legislative Assemblies, though the said order does not apply in terms in relation to former elections. Under the said Para 13 of the Symbols Order, a candidate shall be deemed to have been set up by a political party, if and only if,-

- (a) the candidate has made a declaration to that effect in his nomination paper,
- (b) a notice in writing to that effect has, not later than 3 p.m. on the last day of withdrawal of candidature, been delivered to the returning officer of the constituency;
- (c) the said notice is signed by the President, the Secretary or any other office bearer of the party and the President, secretary or such other office bearer is authorised by the party to send such notice; and
- (d) the name and specimen signature of such authorised person are communicated to the Returning Officer of the constituency and to the Chief Electoral Officer of the State not later than, 3 p.m. on the last date for the withdrawal of candidature..

6.3 For the convenience of all concerned, the commission has devised forms AA & BB in

which the party should intimate the names of their authorised office bearers and the candidates set up by them. A copy each of these Forms is given in annexure **XVI & XVI-A**.

- 6.4 Political parties have been instructed that these forms must reach to the Returning Officer and Chief Electoral Officer of the state not later than 3 p.m. on the last date for the withdrawal of candidatures.
- 6.5 Accordingly, in the list of contesting candidates you will show the party affiliation of only such of the candidates in respect of whom all the above mentioned procedural formalities have been completed by the political parties concerned before the stipulated date and time.

#### **Publication of list of Contesting Candidates**

- 7.1 Immediately after the preparation of the list of contesting candidates, cause a copy of the list to be affixed in some conspicuous place in your office. You shall also supply a copy of the list to each contesting candidate or his election agent.
- 7.2 Sub-rule (1) of rule 31 requires a copy of the list of contesting candidates to be displayed outside each polling station on the day of poll.
- 7.3 Inform the Chief Electoral Officer immediately by telegram or special messenger the

names of the contesting candidates, any delay may seriously affect the programmes for printing of ballot papers. Also send forthwith a copy of the list along with its English version to the election commission.

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

8.1 Rule 11(2) of the Conduct of Elections Rules, 1961, requires that you shall publish the list of contesting candidates in the Official Gazette. The responsibility for getting the list published in the Gazette is thus laid on you. But as the press may not accept notifications direct from you for publication in the gazette, the Commission has directed that the publication of these lists should be arranged through the Chief Electoral Officer in the case of elections to the state Legislatures and the Election Commission of India in the case of elections to Parliament, as, however, all these elections, are held under the superintendence, direction and control of the Election Commission, these notifications should indicate at the top that they are notifications of the Election Commission of India. The specimen forms of notification for publishing the list of contesting candidates in the Official Gazette at biennial elections as well as bye elections, are given at annexure XVII.

8.2 It is necessary to prepare a list of contesting candidates even in the case of uncontested election. It is, however, not necessary to publisher it in the Official Gazette.

**Safe Deposit of Papers relating to Nominations, scrutiny and withdrawal of Candidatures.**

9.1 All election papers and proceedings relating to nominations, scrutiny and withdrawal of candidatures for an election should be put together in a packed or envelope when should be sealed with your seal. The particulars of the election and a brief description of its contents should be noted on the packed or envelope for ready reference.

9.2 In the case of an election to the Council of States or State Legislative Council by the members of state Legislative Assembly, these papers are required to be kept in the safe custody of the returning officer.

9.3 In the case of election to a State Legislative Council from a council Constituency, these papers should be transferred to the district Election Officer for safe custody, like all other election papers after the declaration of result of the election.

**Issue of Identity Cards to Contesting Candidates**

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

**CANDIDATE'S IDENTITY CARD**

Shri.....is a contesting candidate for election to the .....  
.....from.....and is set up by the ..... party.

Place .....  
 (Signature of the candidate)  
 Date ..... Attested by  
 .....  
 (Returning Officer)  
 (Seal)

*N.B.*— If the candidate is set up by a National Party or a State Party or a registered unrecognized Party you should enter the name of the Party, otherwise last line in the form should be scored out.

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

**Appointment of election agents**

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

11.2 Any person who is for the time being disqualified under the constitution or under the repre-

resentation 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 elections, shall so long as the disqualification subsists, also be disqualified for being an election agent at any election.

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

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

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

13. For the sake of purity of elections and for the guidance of the contesting candidate, you should

draw attention of the contesting candidates by a notice in writing to the provisions relating to the corrupt practices and electoral offences in the Representation of the People Act, 1951 and offences relating to elections contained in Chapter DC-A in the Indian Penal code. The candidates should be clearly informed in the said notice that the list contained in the notice should not be taken as exhaustive. For the purpose of giving such notice, a model form is given in Annexure XVIII. The above

notice may be issued to the contesting candidates immediately after the last date fixed for the withdrawal of candidatures.

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

14.1 Section 127A of the Representation of the People Act, 1951 requires that every election pamphlet or poster should have on its face the names and addresses of the printer and publisher thereof, and that within a reasonable time after the printing of the document, one copy of the declaration as to the identity of the publisher together with a copy of the document should be sent to the Chief Electoral Officer of the State, if printed at the state Capital, or to the District Magistrate of the district in which it is printed. Any contravention of this provisions shall be punishable with imprisonment for a term which may extend to six months, or with fine, which may extend to two thousand rupees, or with both.

14.2 In order that there is a strict observance of, and compliance, with the requirements of the above mentioned provisions of law on the subject, the commission has issued the following directives:—

1. The District Magistrates and other concerned authorities shall be instructed that they should write to all printing presses in their districts—
  - (i) pointing out to them the requirement of the above mentioned section 127A and instructing them to indicate clearly in print line the names and addresses of printer and publisher;

- (ii) asking them to send four copies of the printed material and the declaration of the publisher within ten days of its printing, the failure of which would be treated as a violation of the above provisions;
- (iii) impressing upon them in clear terms that any violation of provisions of Section 127A would be very seriously viewed and stern action, which may in appropriate cases include even the revocation of the license under the relevant law, would be taken.

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

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

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

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

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

14.3 The Commission's note on the subject and the preformed prescribed for furnishing of information by printing presses are reproduced in Annexure XVIII-A and XVIII-B.

14.4 On the last date fixed for the withdrawal of candidatures, you should supply to each contesting candidate an extract in full of the provisions of section 127A of the Act and also a copy of the Commission's note and the prescribed Performa referred to above (annexure XVIII & XVIII-A). You should also inform the contesting candidates of the provisions of law and the Commission's above directives in this regard and request them to bring any instance of the violation of the law to the notice of the Chief Electoral Officer when the election pamphlet or poster is printed in the capital of the state

and in any other case, to the District Magistrate of the district in which it is printed. On receipt of such information, the Chief Electoral Officer or the district printed. On receipt of such information, the Chief Electoral Officer or the District Magistrate will cause the matter to be investigated immediately and take appropriate action under the law.

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

## CHAPTER VIII

# UNCONTESTED ELECTION

### **Declaration of result of Uncontested Election**

1.1 If in any election the number of contesting candidates is equal to the number of seats to be filled, declare all such candidates to be elected to fill those seats, immediately after the last hour fixed for withdrawal of candidatures [Section 53(2) of the Representation of the People Act, 1951]. In that event a poll is not necessary.

1.2 If the number of contesting candidates is less than the number of seats to be filled, then also declare all such candidates to be elected and report the matter to the election Commission for issuing further notification under Section 53(3) of the representation of the People Act, 1951 for filling the remaining seats.

2. You shall declare the result of election in Form 21A or 2 IB as may be appropriate.

### **Completion of Return of Election**

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

### **Report of result of Uncontested Election**

4.1 Report the result of such uncontested election by sending a copy of your declaration in form

21A/21B to—

- (i) the Election Commission;
- (ii) the Government of India in the Ministry of Law and Justice, in the case of an election to the Council of States; *or*  
the State Government, in the case of election to the State Legislative Council;
- (Hi) the Secretary General of the Council of States; or -  
the Secretary of the State Legislative Council, in the case of election to that Council;
- (iv) the Chief Electoral Officer of the State/ Union Territory.

N.B.—It is only after this report is received from you that the appropriate authority will be able to publish the declaration in the Official Gazette as laid down in Section 67. In a bye-election any delay on your part in forwarding the report to the Secretary of the House concerned may also entail delay in that Secretariat taking further action to administer oath to the elected member and admit him into the House.

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

### **Certificate of Election**

5.1 As soon as may be after a candidate has

been declare elected, you should grant to such candidate a certificate of election in form 24 and obtain from him an acknowledgement of its receipt duly signed by him. It is essential that this acknowledgement is signed by the candidate himself and his signature is attested by you personally before dispatch. The acknowledgement Form is given in Chapter XIII. Immediately thereafter, send the acknowledgement by registered post the Secretary General of the Rajya Sabha or, as the case may be, the Secretary of the State Legislative Council. This is very important as otherwise the elected candidate will not be able to take his seat in the House promptly. This acknowledgement is required by the authorities concerned for verifying the identity of the elected candidate at the time of making and subscribing oath or affirmation by him as member of the House.

- 5.2 If the elected candidate is not present at the time of declaration of result and also does not visit the locality shortly thereafter, the certificate may be handed over to a person duly authorised by him in this behalf and personally known to you. The acknowledgement (duly signed by the candidate) shall also be obtained through the same person.

CHAPTER IX  
**BALLOT PAPERS AND BALLOT  
BOXES**

**General**

1.1 With the withdrawal of candidatures and the preparation of the lists of contesting candidates, the first stage of election process comes to an end. Then begins the second stage of preparation for the actual conduct of election. This stage is very crucial. Great care and planning for adherence to the time schedule are essential.

1.2 The interval between the last date for withdrawal of candidatures and the first day of poll normally is 7 days in the case of elections to the council of states and State Legislative Councils by assembly members and 20 days in the case of elections to the state Legislative Councils from council Constituencies. The time available is very short and during this short period the ballot papers are to be printed and distributed.

**Ballot Papers—Form and Language**

2. The postal and ordinary ballot papers for elections to the Council of states and state Legislative Council are to be printed in such form and language (s) as may be directed by the commission under rules 22 and 30(1) read with rule 70 of the Conduct of Elections Rules, 1961. the directions issued by the Commission in this behalf and as

amended from time to time are reproduced below. These directions should be strictly followed while getting the ballot papers printed:—

**Form and Language of Ballot Papers for Election by Assembly Members**

S.O. No. 3/71—In pursuance of sub-rule (1) of rule 22 and sub-rule (1) of rule 30, read with rule 70 of the Conduct of elections Rules, 1961 and in super session of its directions contained in E.1 (1) No. 109 of 1967 dated 31st March, 1967 as subsequently amended, the Election Commission hereby directs that the ballot papers for an election by assembly Members shall be prepared as indicated below:

- (i) Every ballot paper shall have a counterfoil attached to it. the counterfoil shall be at the top of ballot paper and its depth shall not ordinarily exceed 15cms. the counterfoil shall contain the following:
  - (1) Space for stitching at the top of the counterfoil;
  - (2) a block border of 1 cm at the top of the counterfoil;
  - (3) The particulars of the election shall be printed immediately below item (2) above or on the back of the counterfoil as may be convenient;
  - (4) "serial No. of elector" on the left hand or right hand, as may be convenient;

- (5) Serial number of the ballot paper on the left hand side either on the front or on the back as may be convenient;
  - (6) Place for signature or thumb impression of elector just above the words "Signature/Thumb impression" on the right hand side; and
  - (7) One block of lines of 1 cm with a perforated rule/disjointed straight line below separating the ballot paper from counterfoil.
- (ii) There shall be one block of lines of 1 cm below the perforated rule/disjointed line on the ballot paper.
- (iii) The width of the ballot paper including its counterfoil and heading shall always be the same throughout namely 4" irrespective of the number of candidates. The length of the ballot paper excluding the counterfoil and the heading shall be 3" where the number of candidates is 2 or 3 or 4. When the number of candidates is five or more, but does not exceed 8, the length of the ballot paper shall be determined at the rate of  $\frac{3}{4}$ " for the panel of each candidate. Where the number of candidates exceeds 8, the length of the ballot paper shall be determined at the rate of  $\frac{5}{8}$ " for the panel of each candidate. The panel of each candidate shall be uniform in all cases. Just below the

heading of the ballot paper a vertical line shall be drawn from its top to bottom dividing the width of the ballot paper into two columns. The column on the left hand side of the vertical line shall be 3" in width and the name of each candidate ' shall be printed in this column in the panel reserved for him. The column on the right hand side of the vertical line shall be 1" in width. This column will be used by voters for making their preference.

- (iv) The heading—  
"Name of candidate Mark order of preference" should be printed on the top of the ballot paper in small type with a thick line below.
- (v) The space between the names of any two candidates shall be divide by means of a single thick horizontal line.
- (vi) On the back of the ballot paper, the particulars of the election shall be printed at the bottom.
- (vii) The serial number of the ballot paper shall be printed on the left hand side either on the front or on the back as may be convenient.
- (viii) the particulars on the ballot paper in respect of an election in a State/Union territory specified in column 1 of the table

below shall be printed in the language or languages specified in the corresponding entry in column 2.

TABLE

Name of State/.Union territory	Language or Languages
1	2
Andhra Pradesh	Telegu and English
Arunachal Praesh	English
Assam	Assamese and English
Bihar	Hindi
Gujarat	Gujarati
Goa	Konkani in Devnagri Script, Marathi and English
Haryana	Hindi
Himachal Pradesh	Hindi
Jammu and Kashmir	Urdu and English
Karnataka	Kannada and English
Kerala	Malayalam
Madhya Pradesh	Hindi
Maharashtra	Marathi
Manipur	Manipuri and English
Meghalaya	English
Mizoram	English
Nagaland	English
Orissa	Oriya
Punjab	Punjabi
Rajasthan	Hindi
Sikkim	English, Nepali and Tibetan

Tamil Nadu	Tamil
Tripura	Bengali and English
Uttar Pradesh	Hindi
West Bengal	Bengali and English
Delhi	Hindi and English
Pondicherry	Tamil and English

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(ix) The postal ballot paper will be of the same design as the one to be used at the place of poll except that the words ~ Postal Ballot Paper will be stamped on the back of the ballot paper.

(x) The ballot papers will be stitched into convenient bundles with consecutive serial numbers. It will be ensured that the serial numbers on each ballot paper and its counterfoil are identical.

### **Form and Language of Ballot Papers for council Constituencies**

S.O. No. 5/72—In pursuance of sub-rule (1) of rule 22 and sub rule (1) of rule 30, read with rule 70 of the conduct of Elections rules 1961, and in suppression of its direction contained in EI (D) No. 110/67 dated the 31st March, 1967, as subsequently amended, the election Commission hereby directs that the ballot papers for an election to a Legislative Council from a Council constituency shall be prepared as indicated below:—

- (i) every ballot paper shall have a counter foil attached to it. The counterfoil shall be at the top of ballot paper and its depth shall not ordinarily exceed 15cms. The • counterfoils shall contain the following:—

- (1) space for stitching at the top centre of the counterfoil;
  - (2) A black border of 1 cm at the top of the counterfoil;
  - (3) the particulars of the election shall be printed immediately below item (2)""  
above or on the back of the counterfoil as may be convenient;
  - (4) "Electoral Roll Part No." and "Serial No. of Elector'-' on the left hand or right hand, as may be convenient;
  - (5) Serial number of the ballot paper on the left hand side either on the front or on the back as may be convenient;
  - (6) Place for signature or thumb impression of elector just above the words "Signature/Thumb impression" on the right hand side; and
  - (7) One block of lines of 1 cm with a perforated rule/disjointed straight line below separating the ballot paper from counterfoil.
- (ii) There shall be one block of lines of 1 cm below the perforated rule/disjointed line on the ballot paper.
- (iii) The width of the ballot paper including its counterfoil and heading shall always be the same throughout namely 4" irrespective of the number of candidates. The

length of the ballot paper excluding the counterfoil and the heading shall be 3" where the number of candidates is 4 or less. When the number of candidates is more than 4, but does not exceed 8, the length of the ballot paper shall be determined at the rate of  $\frac{3}{T}$  for the panel of each candidate. Where the number of candidates exceeds 8, the length of the ballot paper shall be determined at the rate of  $\frac{5}{8}$ " for the panel of each candidate. The panel of each candidate shall be uniform in all cases. Just below the heading of the ballot paper, a vertical line shall be drawn from its top to bottom dividing the width of the ballot paper into two columns. The column on the left hand side of the vertical line shall be 3" in width and the name of each candidate shall be printed in the column on the panel reserved for him. The column on the right hand side of the vertical line shall be 1" in width.

This column will be used by voters for making their preference.

- (iv) The space between any two candidates should be divided by means of a single thick horizontal line.
- (v) The heading—  
"Name of Candidate Mark order of preference" should be printed at the top of

the ballot paper in small letters with a thick line below.

- (vi) On the back of the ballot paper should be printed the name of the Legislative Council and the name of the constituency at the bottom and the serial number of the ballot paper should be printed either on the front or on the back, as ' may be convenient.
- (viii) The particulars on the ballot paper, other than any number, shall be—
- (a) (i) in the case of Local Authorities Constituency, in the language or languages in which the electoral roll or any part of the electoral roll for the constituency has been prepared;
- Hi*) in the case of Graduates 'or Teachers' constituency in the language or languages indicated below:

State	Language or Languages
1	2
Bihar	Hindi
Maharashtra	English and Marathi
Kamataka	Kannada and English
Uttar Pradesh	Hindi

- (b) all numbers including serial number on any ballot paper shall be in the international form of Indian numerals.
- (viii) The postal ballot papers will be of the same design as the one to be used at the polling station except that the words "Postal Ballot Paper" will be stamped on the back of the ballot paper.
- (ix) Where elections to the Graduates' and Teachers Constituencies are held simultaneously and a common polling station is set up for both the elections, the ballot papers for the Graduates Constituency election shall be printed on paper of white colors and for "Teachers' Constituency election on pink colors.
- (x) The ballot papers will be stitched into convenient bundles with consecutive serial numbers. It will be ensured that the serial numbers on each ballot paper and its counterfoil are identical.

**Particulars of Election Printed on Ballot Papers**

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

Biennial election to the Council of states by the elected members of the Legislative assembly of .....(State) 199....

Bye - Election to the Council of States by the

elected members of the Legislative assembly of  
....(State) 199...

Biennial election to the council of states by the  
members of the electoral college of  
.....(Union territory) 199...

Bye-election to the council of States by the  
members of the electoral college of  
.....(Union Territory) 199...

Biennial election to the ..... (State)  
Legislative Council by the members of the Leg-  
islative Assembly, 199... .

Bye-election to the..... (State) Leg-  
islative council by the members of the Legisla-  
tive Assembly, 199...

Biennial election to the..... (State)  
Legislative Council from..... coun-  
cil constituency 199...

Bye-election to the..... (State) Legisla-  
tive Council from ..... Council Con-  
stituency 199... .

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

4. The number of ballot papers to be printed for  
an election to the council of states or a State Leg-  
islative council by assembly Members is to be cal-  
culated on the basis of the number of electors  
rounded off to the next ten. 10% ballot papers,  
subject to a minimum of ten and maximum of  
twenty five, should be allowed to be printed extra  
for issue

as postal ballot papers and for meeting contingencies like defective ballot papers or ballot papers spoiled inadvertently by any elector, etc.

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

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

**Colour of Paper for Printing Ballot Papers**

5A.1 The ballot papers for elections to the council of states shall be printed on paper of white colour.

5A.2 The ballot papers for all elections to the state Legislative Council shall be printed on pink colour paper. Where, however, elections to the graduates and teachers constituencies are held si-

multaneously and some common polling stations are set up for both the elections, the ballot papers for the Graduates constituency shall be printed on paper of white colour and for Teachers constituency on pink colour paper, as already mentioned in item (ix) of the directions relating to form and language of ballot papers for council constituencies under Para 2 above.

### **Special Paper for Printing Ballot Papers for elections by assembly Members**

6. The ballot papers for elections to the council of states and State Legislative Councils by assembly Members should be printed on paper on which the legend 'Election Commission of India' is printed all over in light shade on one side. The side on which the legend is so printed will form the reverse side of the ballot paper. The legend 'Election Commission of India' should be printed in light shade so that the particulars which have to appear on the reverse side of the ballot paper and the distinguishing mark which is to be put on the back of ballot paper are clearly visible. For saving time, sufficient quantity of paper with the legend 'Election Commission of India' printed on one side in light shade should be kept in readiness so that printing of ballot papers starts as soon as the list of contesting candidates is ready.

### **Concealment of serial Numbers of Ballot Papers for use at elections by Assembly Members and in Local Authorities Constituencies**

7.1 rule 23(3) and 38A(5) read with rule 70 of

the conduct of elections rules, 1961, provide that before any ballot paper is issued or delivered to an elector at an election by Assembly Members or in a Local authorities constituency, its serial Number shall be effectively concealed in such manner as the Election Commission may direct.

7.2 The directions issued by the Commission in pursuance of the above referred rules provide that the serial number of every ballot paper should be effectively concealed by placing a thick black paper of suitable size gummed at the four corners over each such serial number. Before doing so, however, it shall be checked and verified that the serial numbers on the ballot paper and its counterfoil are identical.

7.3 If the serial number of the ballot paper is visible on the reverse of the ballot paper on account of the thinness of the paper used or the percolation of ink, such impression on the reverse side should also be effectively covered by wholly pasting thereon a piece of thick black paper.

7.4 It should be noted that such concealment is to be done only of the serial number printed on the ballot paper and not on its counterfoil. In other words, the serial number printed on the counterfoil of the ballot paper shall not be concealed.

7.5 The concealment of the serial numbers on the ballot papers before they are issued to electors may be very inconvenient if done at the polling station. Therefore, this work of concealment of serial numbers of the ballot papers, both postal ballot

papers and ordinary ballot papers, should be done either in the press itself or in your office immediately after the ballot papers have been printed.

**Distinguishing Mark on the Ballot Papers for use at elections by assembly Members**

8.1 Every ballot paper before it is issued to an elector and its counterfoil, are required under the Rules [Rule 38A(1) read with rule 70] to be stamped on the back with such distinguishing mark as the Election Commission may direct.

8.2 In pursuance of above referred rule, the Commission has directed that the distinguishing mark to be put on the back of the ballot paper and its counterfoil for use at an election by assembly members shall be the mark made by means of a special brass seal with specific number which shall be specially supplied by the commission to the returning Officer at each such election.

8.3.1 The said brass seal shall be prepared and kept by the Commission and shall be supplied to the returning Officer only on the eve of the poll.

8.3.2 The said brass seal must be returned by the Returning Officer to the Commission within twenty four hours of completion of poll by registered insured post and securely placed inside the container box in which it is supplied so that the brass seal is not damaged in transit.

8.4 The above mentioned distinguishing mark may be stamped in the middle or at any appropriate place on the back of the ballot paper in such a

manner that in whatever manner the elector folds the ballot paper, some portion of the distinguishing mark is visible to the Presiding Officer or the Polling Officer in whose presence the ballot paper is inserted into the ballot box. If in view of the large number of candidates and consequent increase in size of the ballot paper this is not possible, the ballot paper may be refolded in advance before issue to an elector in such a way that some portion of the distinguishing mark is clearly visible when it is inserted in the ballot box.

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

9.1 In pursuance of the above referred rule 38A(1) read with rule 70, the Commission has prescribed that the distinguishing mark to be put on the back of a ballot paper and its counterfoil which is to be used at an election in a Council Constituency, shall be the serial number of the polling station at which that particular ballot paper is used. Thus, on the back of every such ballot paper and its counterfoil, the serial number of the polling station where it is used shall be rubber-stamped. For instance, all ballot papers issued to electors at polling station No. 53 in a council constituency shall be stamped as : (53).

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

not be necessary to enclose that number within a circle.

**Instructions Regarding verification of Ballot Papers — time of Issue to Presiding Officers in Council Constituencies**

10. The ballot papers for elections to the Council of States/State Legislative Councils will be supplied in convenient bundles. Each bundle will have consecutive serial numbers. On receipt of the ballot papers you should check all of them to ensure the following:

- (a) The names of all the contesting candidates have been printed properly and correctly.
- (b) The serial number of the ballot paper corresponds with that on the counterfoil. Where serial numbering is done by means of hand numbering machine, the serial numbers will appear at the back of the ballot paper and counterfoil.
- (c) There is no discrepancy in the number of ballot papers as sent by the Press and the number found on actual counting at your end.
- (d) Clear instruction should be given that ballot papers with duplicate numbers and the number of ballot papers with missing numbers are clearly noted in a register and published on the notice board at the distributing centre. A copy of the notice should be sent to each of contesting candidates.

- (e) The ballot papers should be distributed only on the day before the poll, in respect of polling stations which can be reached by the polling parties in one day. In cases in which it will take more than one day for the polling parties to reach the polling stations, the ballot papers should not be issued a day earlier than absolutely necessary. In either case, from the moment the ballot papers are delivered to the Presiding Officers, they should be provided with security guards and they should proceed straight from the place of distribution to the polling stations.

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

- (f) The defective ballot paper, if any, in the stitched bundle of ballot papers should be first removed from the bundle by the re-

turning Officer or by some other responsible officer nominated by the Returning Officer and then that bundle has to be re-stitched immediately by bostich machine or with thread. If, in spite of the above procedure, any ballot paper is found defective at the polling station, it will be cancelled by the Presiding Officer.

- (g) The ballot papers should be allotted to each polling station having regard to the number of voters (rounded off to the next ten) and for this purpose if need arises, the required number of ballot papers should be taken out from the last stitched bundle intended for that polling station and rest itched. In that case the supply of ballot papers to the next polling station will start from the first serial no. of the re-stitched bundle and not from a new separate bundle.

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

11. Immediately after the issue of ballot papers to the Presiding Officers for the poll is completed, the bundles of undistributed ballot papers should be put inside a steel trunk or receptacle and that steel trunk or receptacle shall be deposited in treasury/ sub treasury or strong room till the election is completed. These un-distributed ballot papers may be used for fresh polls or adjourned polls, if necessary. Proper safeguards must however be taken to ensure that undistributed ballot papers remain

either under your personal custody or the personal custody of any of your Assistant Returning Officers nominated by you, and are not entrusted to mobile officers. After completion of the election, this steel trunk or receptacle should be either sent to the Chief Electoral Officer or kept in the treasury/sub-treasury under the orders of the Chief Electoral Officer until the undistributed ballot papers therein are destroyed in the manner required by the Rules and Orders. (See Chapter xv)

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

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

- (a) at an election by assembly member-
  - i) electors subjected to preventive detention; and
  - (ii) all electors if directed by the Election Commission in this behalf under clause (a) of rule 68;
- (b) at an election in a council constituency-
  - (i) voters on election duty;
  - (ii) electors subjected to preventive detention; and;
  - (hi) electors in the whole or any specified parts of the constituency if directed by the elec-

tion Commission in this behalf under clause (b) of rule 68

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

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

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

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

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

### **Form of Postal Ballot Paper**

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

### **Papers to be Sent with Postal Ballot Paper**

15.1 You will have to send to each voter a form of declaration (Form 13-A), a smaller cover containing the postal ballot paper (Form 13-B), a larger cover addressed to yourself in Form 13-C (no postage to be affixed on this cover) and a copy of the printed instructions to voters in Form 13-D. These will be placed inside an outer cover and sent to each voter by ordinary post under certificate of posting. Before you send these documents to any elector, remember to fill up in ink correctly in Forms 13-A and 13-B the serial number of the connected postal ballot paper. This is very important as at the time of counting of votes you will have to compare these number on Forms 13-A and 13-B and see that they tally. If they do not tally in the case of any voter, his postal ballot paper will have to be rejected.

15.2 Also remember to fill up correctly the hour and date before which the postal ballot paper must reach you, in Form 13-D.

15.3 The statistics of men and women voters who cast their votes by postal ballot paper should be ascertained by boldly noting the letter "W" on the inner envelope in Form 13-C, i.e., the envelope

addressed to the Returning Officer, in the case of every woman voter while sending the ballot paper to her.

### **Voters on Election Duty**

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

16.2 Many of the officers appointed for duty at polling stations (including police personnel) may be on duty on the polling day at polling stations other than the ones where they are respectively entitled to vote. So far as the officers you have yourself appointed for polling duty are concerned, you should supply them copies of application forms (Form 12) along with the order appointing them for polling

duty. If two elections are being held simultaneously, two copies of the form will have to be supplied. The officer will apply to you or to the Returning Officer of the constituency where he is enrolled, for permission to vote by postal ballot.

16.3 Officers appointed for polling duty by other Returning Officers/District Election Officers may also apply to you for permission to vote by post if they are voters in your Constituency. If you are satisfied of any such officer's claim to vote by post you will send him a postal ballot paper. To obviate any delay or difficulty in issuing postal ballot papers to voters drafted for election duty, the Commission has directed that you or as the case may be, the District Election Officer should issue to such voters the order of appointment in duplicate so that the voter on election duty may enclose one copy of that order of appointment to the Returning Officer along with his application form for supply of postal ballot paper thereby facilitating the easy identification of the applicant and decision regarding his entitlement to the issue of postal ballot paper.

16.4 The order of appointment in duplicate should also bear the clear seal of the Returning Officer or the District Election Officer.

16.5 In order to enable the voters on election duty to submit their applications in the prescribed form (Form 12) for the postal ballot papers without much difficulty, you should make available for their inspection a copy of the electoral roll at the centre(s) for rehearsal and training classes, so that polling personnel attending such classes can note down the

particulars of their electoral roll numbers which, they have to furnish in their applications for postal ballot papers. Also make available for supply to them the application forms (Form 12) at the said centre(s)

### **Polling Agents**

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

17.2 For this purpose you may lay down your own procedure for satisfying yourself about the genuineness of the claim for a postal ballot. For example, you may insist upon the countersignature of the concerned candidate or his election agent on Form 12 or a certificate from the candidate or his election agent or you may get a duly certified list giving details of polling agents from the candidate or his election agent.

17.3 If the appointment of any polling agent has been revoked after the issue of ballot paper to him, he can vote by post only.

### **Persons in Preventive Detention**

18. The appropriate Governments should com-

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

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

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

has been issued will not be allowed by the Presiding Officer to vote in person. He can only vote by post.

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

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

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

**Postal Ballot Papers Returned in Time**

21.1 Keep in safe custody all the postal ballot papers which are received back by you in time. Postal ballot papers should be returned to you at

the latest by the hour fixed for the commencement of counting of votes for the election.

21.2 For keeping correct account of the postal ballot papers received back in time and ensuring that no such ballot paper is lost or misplaced, you should open a register in which the number of postal ballot papers received should be duly entered. The entries in this register should be made from day ' to day and should be countersigned by you or Assistant Returning Officer at the end of each day.

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

22. You should not decline to receive any cover containing postal ballot paper delivered after expiry of the hour fixed for its return. Postal ballot papers received by you too late (i.e. after the hour fixed for the commencement of the counting of votes or on any subsequent date) cannot be counted and must be rejected. Note the date and time of its receipt on each such cover received too late. These covers are not to be opened and should be kept together for future reference, if any. The ballot papers contained in those covers need not be included in the total number of rejected votes for the purposes of the Return of Election in Form 23B.

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

23.1 Sub-rule (2) of rule 24 of the Conduct of Elections Rules, 1961 requires that the elector voting by postal ballot shall sign the declaration in Form 13A in the presence of, and have the signature attested by, a stipendiary Magistrate or such

other officer as is specified in the rule for this purpose.

23.2 The officers so specified for the purpose of elections to the Council of States and State Legislative Councils are: any Gazetted Officer or the Presiding Officer of the polling station, in the case of a voter on election duty; the Superintendent of the Jail or the Commandant of the Detention Camp, in the case of an elector under preventing detention; and such other officer as may be notified by the Election Commission, in any other case.

23.3 The Commission has notified under the above referred rule the following officers any one of whom may attest the declaration of an elector in respect of an election in a Council Constituency:

1. Any Gazetted Officer of the State or the Central Government and Heads of Offices in the State or in the Central Government;
2. Vice-Chancellor, Registrar or any member of the Senate or of the Academic Council of any Statutory University of India;
3. The Chairman or President of any local authority specified in the Fourth Schedule to the Representation of the People Act, 1950;
4. The Commissioner or the Chief Executive Officer of a Corporation;
5. The Chief Executive Officer of any local authority specified in the Fourth Sched-

ule to he Representation of the People Act, 1950;

6. The head of any educational institution within the State notified by the State Government under clause (b) of sub-section (3) of section 27 of the Representation of the People Act, 1950, as being not lower in standard than that of a secondary school.

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

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

24.1 The Director-General of posts and Tele-

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

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

### **Ballot Boxes**

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

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

the boxes to be used at the current election has been obtained.

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

#### **GODREJ TYPE**

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

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

475mm high x 280mm long x 335mm wide.

25.4 You must assess the requirement of ballot boxes well in advance and take step for getting the supply.

25.5 The ballot boxes should be thoroughly checked to ensure that they are in perfect working condition. They should be oiled and cleaned and, if necessary, painted.

25.6 Each ballot box must be checked for its proper working before issuing to a Presiding Officer.

25.7 As has been mentioned in Para 5.4 of Chapter IV, the Commission has directed that each ballot box available in the district shall be engraved with a serial number in the manner described in that Para. Only such serially numbered ballot boxes should alone be supplied to the polling parties for use at the polling stations. No ballot box which does not have a serial number engraved shall be used at any polling station in any circumstance.

## CHAPTER X

# ARRANGEMENTS FOR THE POLL

### **A-Elections by Assembly Members**

1. As soon as the list of contesting candidates has been published, you should arrange for the ballot boxes and other polling materials and also arrange for the printing of the ballot papers. You will get only seven days for all these and you should ensure that everything is ready before conducting the poll. Here is a sample list (illustrative not exhaustive) of your tasks during this period:

- (1) Selecting the Polling Officers to assist you in the poll;
- (2) Ensuring that you are having adequate stock of the polling materials required;
- (3) Supplying the contesting candidates with forms for appointment of polling and counting agents;
- (4) Preparing the up-to-date list of members to be used as marked copy of the **electoral roll**;
- (5) Fixing up of the place of poll and setting up of the polling station;
- (6) Informing the electors by a notice of the date, time and place of poll as required under rule 69;
- (7) Sending the postal ballot papers to the electors entitled to vote by post.

## **B-Elections in Council Constituencies**

2.1 The period between the withdrawal of candidatures and the date of poll which will ordinarily be 20 days will be the busiest time for you. During this period, you have to make your arrangements final and check that everything is ready for conducting the poll.

2.2 Maintain a forward diary of the different items of work that you have to attend to from time to time and keep it up-to-date by adding remarks to show the progress made in respect of each item. Here is a sample list (not exhaustive but illustrative) of your tasks during this period:

- (1) Ensuring that formal appointment orders for the Presiding Officers and Polling Officers for each polling station in your constituency have been issued by the District Election Officer;
- (2) Issuing of forms of application (Form 12) for postal ballot papers to the polling personnel including the police;
- (3) Requisitioning of vehicles required for the poll including the vehicles required **for** transport arrangements of polling personnel and polling materials;
- (4) Checking up the deployment of police forces;
- (5) Despatch of postal ballot papers along with connected papers to voters entitled to vote by post;

- (6) Review of your requirement of polling materials including forms, etc., in the light of actual number of contesting candidates and the total number of polling stations;
- (7) Meeting with contesting candidates with a view to seeking their cooperation and removing their misapprehensions, if any;
- (8) Supplying the contesting candidates with (i) lists of polling stations and the areas covered by each polling station and (ii) forms for appointment of polling and counting agents;
- (9) Preparing three working copies of the relevant parts of the electoral roll for use in each polling station;
- (10) Provision of one or more voting compartments at each polling station in any one of which a voter can mark his vote on the ballot paper in secrecy;
- (11) Training classes for your polling personnel;
- (12) Publicity about the location of polling stations;
- (13) distribution of polling materials to the polling parties;
- (14) Supply of copies of Instructions to Electors for marking Ballot Papers' to political parties/candidates for distribution among electors.

- (15) Arrangements for the return of the polling parties after the poll and the receipt of the ballot boxes and other materials \* and papers from them;
- (16) Arrangements for the safe custody of these polled ballot boxes and other election papers.

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

### **Contacts with Candidates**

3. Meet the contesting candidates as often as you can. Keep them informed of the arrangements you have made. Request them to supply you at an early date a list of dead, absent and bogus voters in the electoral roll polling station wise. These lists should be supplied to you at least 12 days before commencement of the poll. You should tell them that unless they cooperate with you in this matter and supply the lists in time, it will be difficult for the Presiding Officers to check impersonation and that any complaint that the candidates may make later regarding impersonation of voters can hardly carry weight and would be useless. Also request the

candidates to ensure that their lists are correctly and carefully prepared so that genuine voters are not put to any harassment in the course of verification by the Presiding Officers of their identity. You should also warn them that if considerable number of entries in any of these lists are found to be incorrect, the Presiding Officers would be directed not to attach any importance to them thereafter.

### **Cooperation for Law and Order**

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

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

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

for the guidance of political parties and candidates". A copy of the Model Code of Conduct is reproduced as Annexure XDC

5.2 For ensuring compliance with the Model Code of Conduct by all political parties and contesting candidates and for considering specific cases of violation of that code, the commission had issued instructions in the past that Standing Committees should be constituted in each district under the Chairmanship of head of the district administration and representatives of all recognized and registered political parties at the district level as its members. This Committee may meet as often as may be convenient and necessary. In such meetings, you should address a special appeal to the members to cooperate in the observance of Model Code of Conduct and to take effective steps to ensure that no one in any excess of zeal and excitement oversteps the limits laid down by law and renders himself liable to penalties prescribed by law. It should be impressed upon the members that any violation of the Code committed on behalf of any party or member cannot but create a feeling of bitterness and resentment in the minds of other parties and candidates and their supporters. In case of violation of the Code, you may seek the cooperation of the local magistracy and the police.

5.3 The Committee may also consider apart from the Model Code any other matter which is of common interest to the members and is intended to further the object of holding free and fair election.

5.4 Proper minutes of all meetings of the Com-

mittee should be maintained.

### **Dummy Ballot Papers**

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

### **Unofficial Identity Slips**

7.1 The political parties and candidates may issue unofficial identity slips containing the following information to the voters:

- (i) The name and SI. No. of the voter in the electoral roll;
- (ii) Part number of the electoral roll;
- (iii) SI. No. and name of the polling station.

7.2 The identity slips should be on white paper and should not contain the name of the candidate and/or the name of his party or its symbol. The slips should not contain slogans or any exhortation to vote for a party or for a candidate since these would amount to canvassing within the polling station. The circulation of any slip containing any such slogan or exhortation within 100 meters of the poll-

ing station would amount to canvassing which is an electoral offence.

7.3 A sample of the slip which can be issued by the candidate is given below:

Kanpur Graduates' Constituency	Polling Station : Part No : Elector's SI. No : Name of Elector ; Father's/Husband's
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Name:

Date of poll :

Age :

Address

## CHAPTER XI

# THE POLL

### **The Poll**

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

### **Legal Provisions**

2.1 The legal provisions for the conduct of poll at an election to the Council of States or to a State Legislative Council are contained in sections 56 to 62 of the Representation of the People Act, 1951 and rules 67 to 70 of the Conduct of Elections Rules, 1961. By rule 70, the provisions of rules 28 to 35 and 36 to 48 of the said Rules and Forms 14 to 16 appended to the said rules making provisions **for** the conduct of poll in parliamentary and assembly constituencies have been made applicable to elections to the Council **of** States and the State Legislative Councils, subject to the modifications as specified in rule 70. You should fully familiarize yourself with these legal provisions.

2.2 As elections to the Council of States and State Legislative Council have certain distinguishing features, various matters relating to the con-

duct of poll at these two types of elections have been discussed hereunder separately.

## **ELECTIONS TO THE COUNCIL OF STATES**

### **Place of Poll**

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

3.2 The place of poll should normally be fixed in the precincts of the Legislative Assembly building. The room or hall selected for the purpose should be adequately big so that there is sufficient accommodation for making the seating arrangements of the polling agents and the polling personnel and the setting up of the voting compartments. The room or the hall selected for the purpose should have two doors-one for the entry of electors and the other for their exit.

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

4. The Returning Officer also acts as the Presiding Officer at such polling station i.e. the place fixed for poll [*vide* section 29(2)]. You should, there-

fore, be fully conversant with the procedure for the conduct of poll and the relevant instructions and directions of the Commission in this regard.

### **Polling Officers**

5.1 You may appoint such number of persons to act as polling officers to assist you in the conduct of poll as you think necessary. Normally, two polling officers will be enough for the purpose. In case you feel that the number of electors is quite large, you may appoint three polling officers.

5.2 Those polling officers should normally be drawn from the Secretariat of the Legislature. They should be formally appointed by you as such polling officers under the provisions of section 29(2).

### **Duties of Polling Officers**

6.1 The details of duties to be performed by each polling officer, when two polling officers are appointed, are indicated in Annexure XX. Likewise, the details of duties to be performed by them when three polling officers are appointed are indicated in Annexure XX-A.

6.2 Intensive training should be given to the polling officers so that they are fully conversant with their duties.

### **Notice to Electors**

7.1 At an election by Assembly members where poll becomes necessary, you are required to send, as soon as may be after the last date for withdraw-

al of candidatures, a notice to each elector informing him of the date, time and place fixed for polling [*vide* rule 69].

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

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

8.1 Under rule 31(1)(b) as applied by rule 70, you are required to display prominently outside the polling station, a copy of the list of contesting candidates.

8.2 In order that the electors are properly informed about the system and the procedure followed at elections to Council of States, and to minimize

the rejection of ballot papers the Commission has decided that suitable instructions should be issued to the electors. For this purpose, individual letters must be issued to electors on the procedure of voting. In addition, a notice containing important instructions should be displayed prominently outside the polling station. A form of such model notice is given in Annexure XXI.

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

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

### **Seating Arrangement for Polling Agents**

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

ing their identity whenever necessary.

### **Voting Compartments**

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

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

12.1 At an election to the Council of States, only the elected members of the State Assembly are entitled to vote [*Article 80(4) of the Constitution*].

12.2 The list of members entitled to vote shall be maintained by you under section 152 of the Representation of the People Act, 1951 in the manner prescribed by the Commission under rule 96 of the Conduct of Elections Rules, 1961. The Commission's directions in this behalf have already been reproduced for facility of your reference in Chapter-II.

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

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

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

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

- 14.1 You should admit inside the polling station only the following persons:
- (a) Polling officers;
  - (b) each candidate, his election agent and one polling agent of each candidate at a time;
  - (c) persons authorized by the Commission;
  - (d) public servants on duty specifically authorised;
  - (e) a child in arms accompanying an elector;

- (f) a person accompanying an illiterate voter who cannot vote without help or a blind or an infirm voter who cannot move without help; and
- (g) such other persons as you may from time to time specifically admit for the purpose of identifying voters or otherwise assisting you in taking the poll.

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

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

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

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

15.1 Subject to any special direction of the Elec-

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

15.2 A separate room or place adjacent to the place of poll shall be arranged and facilities provided for sitting, etc., so that the voters can conveniently await their turn for voting.

15.3 No voter having security guards should be permitted to take his security guards inside the place of poll under any circumstance.

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

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

### **Attendance of Polling Agents**

17. The polling agents of the candidates should

be asked to reach the polling station at least 15 minutes before commencement of poll in order to be present when you are going through the preliminaries. If any part of these preliminaries has already been gone through, the proceedings need not be commenced *de novo* to accommodate any late-comer. The law does not specify any time limit for the appointment of polling agents and even if a polling agent turns up late at a polling station he should be allowed to participate in the further proceeding at the polling station.

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

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

### **Passes for Polling Agents**

18. Each candidate can appoint one polling agent and two relief polling agents at each polling station. However, only one polling agent of a candidate should be allowed inside the polling station at any given time. Give to every polling agent who is

admitted into the polling station a permit or pass on the authority of which he can come in and go out of the polling station, as may be necessary.

#### Preparation of Ballot **Box**

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

#### Fixing of Paper Seal

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

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

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

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

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

22.2 In order to ensure that these requirements

have been complied with, the Commission has prescribed a declaration to be made by you as the Presiding Officer and to be signed by the polling agents before the commencement of the poll. The said declaration is contained in Part I of Annexure XXIII. Read out and complete that declaration without fail before the commencement of poll.

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

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

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

23.1 Under rule 38A(1) read with rule 70, every ballot paper, before it is issued to an elector, and the counterfoil attached to the ballot paper, shall be stamped on the back with such distinguishing mark as Election Commission may direct. Further, every ballot paper, before it is issued, shall be signed in full on its back by the Presiding Officer. The details of such distinguishing mark prescribed by the Commission have already been given in

Chapter IX. It should be ensured that every ballot paper issued at your polling station carries such distinguishing mark both on its back and the back of its counterfoil. To ensure this, you should get all the ballot papers marked with the distinguishing mark 10 or 15 minutes before the commencement of poll.

23.2 As mentioned above, you are also required to put your signature in full on the back of each ballot paper before it is issued to an elector. You should put your signatures uniformly at the same space on the back of each ballot paper as that would facilitate easy verification when the ballot paper is being dropped by the elector in the ballot box after marking his vote thereon. The space in the bottom half of the distinguishing mark as prescribed by the Commission can be conveniently used by you for your signature.

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

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

24. At an election by Assembly members, the serial numbers of the ballot papers are effectively concealed by placing strips of black paper in the manner described in Chapter IX, but the serial numbers of the counterfoils of the ballot papers are not so concealed. Therefore, in order to remove any

possibility of any polling agent, etc, noting the serial number of a ballot paper issued to a particular voter, the Commission has directed that the ballot papers should not be issued in consecutive serial order but at random. However, as the ballot papers are supplied not in loose sheets but in bundles, you should therefore, shuffle the first three or four bundles of ballot papers and use the bundles at random. This process should not, however, be repeated towards the close of the poll so that on the conclusion of **the** poll, the numbers of ballot papers issued to the voters will, as far as possible, be in continuous and unbroken series. The unused ballot papers with their counterfoils are to be kept in a separate sealed cover at the close of the polling. The counterfoils of used ballot papers shall be kept in a separate sealed cover.

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

25. Under rule 38A(2)(a) read with- rule 70, before a ballot paper is issued to an elector, the polling officer shall record on its counterfoils the electoral roll number of the elector as entered in the marked copy of the electoral roll. Therefore, the polling officer in charge of ballot papers must note down the electoral roll number of the elector in the space provided for the purpose on the counterfoil of the ballot paper. The first polling officer, in charge of the marked copy of the electoral roll, should also underline the entry relating to the name of that elector in the marked copy of the electoral roll, and should also put a tick mark (v) on the left hand side

of the name of the elector if she is a *female* elector, to indicate that the ballot paper has been issued to the elector. He should, however, not record the serial no. of the ballot paper issued to the elector in the marked copy of the electoral roll.

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

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

### **Meaning of Signature**

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

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

### **Meaning of Thumb Impression**

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

### **Voting by Illiterate, Blind and Infirm Voters**

29.1 As the system of proportional representation by means of the single transferable vote is adopted' in these elections, and as the symbol system is not followed, not only blind and infirm electors, but also illiterate electors are permitted to take the help of a companion for the purpose of recording the vote on the ballot paper. If you are satisfied that owing to illiteracy, blindness or other physical infirmity, a voter is unable to read the names of

candidates on the ballot paper or to record his vote without assistance, you should permit the voter to take with him a companion of not less than 18 years of age into the voting compartment for recording his vote on the ballot paper on his behalf. *But at an election by Assembly members, no elector at the election can act as such companion of another elector.* You should also ensure that no person is permitted to act as the companion of more than one elector at any polling station on the same day and that he makes a declaration to the effect that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any polling station on that day. The declaration will be taken in the Form given in Annexure XXIV.

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

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

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

30. Thumb impression of an illiterate, blind or infirm voter should be obtained on the counterfoil

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

### **Challenged and Tendered Votes**

31.1 At an election by Assembly members, the voters will be normally known to you and it is expected that there will be no impersonation at the election.

However, if the identity of any voter is challenged by a polling agent, you are required to enquire into the matter and to proceed according to the provisions made in this behalf in rule 36. A separate account of such challenged votes should be maintained by you in Form 14.

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

### **Method of Voting**

32.1 The elections to the Council of States are held under the system of proportional representation by means of the single transferable vote. A

voter has to record his vote by marking his preference or preferences for the candidate(s) of his choice against his/her/their names on the ballot paper.

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

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

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

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

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

### **Secrecy of Voting**

34. It is of paramount importance that com-

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

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

35. The polling agents should not be permitted to take notes of the serial number of any ballot paper issued to any voter. Nor should they take any other notes which may enable them to work out these serial numbers, as this would violate the secrecy of vote. You have the authority to prevent any one from taking any such notes, as this amounts to misconduct as being an attempt to violate the secrecy of the vote. You are competent to seize and forfeit any document on which a polling agent may have taken any such note. If any polling agent persists in taking such notes, in spite of warning, you should not allow him to remain in the polling station.

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

36.1 It should be ensured that every voter follows scrupulously the voting procedure laid down under rule 39A(2) read with rule 70. He must record his vote on the ballot paper only inside the fully screened voting compartment in complete secrecy and at no other place. No voter or any other person inside the polling station should be permitted in any case to violate the secrecy of voting. The elector

after marking his ballot paper inside the voting compartment should fold it on the refolded lines before coming out of the voting compartment. If he violates the secrecy of voting by displaying his marked ballot paper to anyone inside the polling station or in any other manner or refuses after being warned by you, to observe the prescribed voting procedure, the ballot paper should be taken back from him whether he has recorded his vote thereon or not. The ballot paper so taken back should be cancelled by you and you should record on its back the words "Cancelled: voting procedure violated" and put your signature below these words. Such cancelled ballot paper shall be kept by you in a separate cover which shall bear on its face the words "Ballot Papers - voting procedure violated".

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

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

<sup>i</sup>37.1 Reports have been received by the Commission that attempts are sometimes made to smuggle the ballot papers out of the polling station for misuse. One way of doing this is to put some spurious paper resembling a ballot paper into the ballot box and to take the genuine ballot paper out of the polling station. In order to check this malpractice, the Commission has directed that a sufficiently large distinguishing mark (as specified in Chap-

ter IX) should be put on the back of each ballot paper so that it becomes visible even after the ballot paper is folded. Additionally, the Commission has desired that a special quality paper on which the legend "Election Commission of India" is printed or micro tinted all over on the reverse may be used for the purpose of printing ballot papers for the elections by Assembly members. Further, you are also required by law to put your signature on the back of each ballot paper. If these safeguards are taken, it can be generally ensured that no spurious ballot paper is inserted by any elector into the ballot box. A strict vigil on the part of the polling officer in charge of the ballot box is nevertheless required to ensure that an elector inserts only the genuine ballot paper into the box. In any doubtful case, you can ask the elector to show the distinguishing mark on the back of the ballot paper before its insertion into the ballot box.

37.2 It may also be noted that putting fraudulently anything into the ballot box other than the ballot paper which an elector is authorized by law to put in, is an electoral offence under section 116. This offence is cognizable. Therefore, if any elector is found to be indulging in such electoral offence, you should not hesitate to proceed forthwith against him under the law. \

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

37.3 In case any complaint is received from a candidate or his election agent or polling agent that

a ballot paper is being illegally taken out of the place of poll by a voter and you are *prima-facie* satisfied about the genuineness of such complaint, you should arrange for a search being carried out on the person of such voter with full regard to the status of the voter.

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

### **Close of Poll**

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

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

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

a true *attested* copy of the ballot paper account prepared by him after obtaining a receipt from those polling agents. A sample ballot paper account prepared in Part I of Form 16 is given for your guidance at Annexure XXV.

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

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

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

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

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

42.1 As soon as may be after close of poll and the sealing of the ballot box(es), you should send a complete report to the Election Commission about the poll proceedings by the fastest means of com-

munication available, i.e.. Fax, Telex, Wireless, etc.

42.2 The counting of votes shall not be taken up until the Commission has given its clearance in writing after the receipt of your said report. You should, therefore, always give a minimum gap of one hour between the hour fixed for the close of the poll and the hour fixed for the commencement of the counting of votes.

### **Sealing of Election Papers**

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

### **Arrangements for Safe Custody of Election Records**

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

## **ELECTIONS TO THE STATE LEGISLATIVE COUNCIL**

### **A. Election by Assembly Members**

#### **General**

44. Election to the State Legislative Council by members of the State Legislative Assembly is also known under the Conduct of Elections Rules, 1961 as an "election by Assembly members" [see rule 2(1)(c)]. Therefore, the poll at an election to the State Legislative Council by members of the State Legislative Assembly is taken in the same manner as the poll at an election to the Council of States. The only notable distinction is that the *nominated* members, if any, of the State Assembly also vote at an election to the State Legislative Council, where as only the *elected* members vote at an election to the Council of States. Therefore, all the instructions contained in the foregoing paragraphs 3 to 43 of this chapter and the polling procedure explained therein shall apply to the poll taken at an election to the State Legislative Council by members of the State Legislative Assembly as they apply in relation to poll at an election to the Council of States.

#### **Simultaneous Elections to the Council of States and State Legislative Council by Assembly Members - ballot' Papers and Ballot Boxes**

45. Sometimes elections may be held simultaneously to the Council of States and State Legislative Council by Assembly members. At such simultaneous elections, each elector (except nominated

members; will be supplied with two ballot papers—one for election to the Council of States and the other for election to the State Legislative Council. These two ballot papers will be of different colour as has been explained earlier in Chapter DC. However, the Commission has directed that a common ballot box should be used for receiving the ballot papers for both the elections.

#### No. of Polling Officers and their Duties at Simultaneous Elections

46. You will observe from paragraph 5 above that two polling officers will normally be enough for a single election to the Council of States. At a simultaneous election, an additional polling officer should be appointed who should be in-charge of the marked copy of the electoral roll and the ballot papers for election to the State Legislative Council. The details of duties to be performed by each polling officer, when three polling officers are appointed at a simultaneous election are indicated at Annexure XXVII. Where, however, you decide to appoint four polling offices, the duties to be performed by them shall be as indicated in Annexure XXVIA.

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

47. Under the law, the elections to the Council of States and the State Legislative Council even when held simultaneously are different elections. Therefore, all election records pertaining to each election, like marked copies of electoral rolls, ballot

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

## **B. Elections in Council Constituencies**

48.1 The poll in Council constituencies is taken at polling stations located at different places spread over the constituency. For this purpose, the polling stations must have already been set up by the District Election Officer with the previous approval of the Election Commission and in accordance with its instructions contained in Chapter II. The District Election Officer also must have appointed the Presiding Officers, Polling Officers and other personnel required for the conduct of poll at these polling stations. You should ensure well in advance of the date of poll that all arrangements for provision of polling stations and polling personnel **have been** made by the District Election Officer. It shall be your responsibility to provide each polling party with the polling materials required for the setting up of the polling stations and the conduct of poll. The details of these polling materials have been given in Chapter IV and Annexure XI.

48.2 You should also ensure, in consultation with the authorities concerned, that proper law and order is maintained in and around the polling stations so that a free and fair poll takes place. Adequate measures should be taken to provide full

security to the polling personnel and the polled ballot boxes and other election materials till the polling parties with the polled boxes and other election materials reach the collection/counting centers after the close of poll.

### **Procedure for Conduct of Poll**

49. The procedure for conduct of poll at polling stations in Council constituencies is the same in all essential aspects (except in the matter of application of indelible ink in Graduates' and Teachers' constituencies as explained below) as the procedure for the conduct of poll at an election to the Council of States or State Legislative Council by Assembly members. Therefore, the instructions in the foregoing paragraphs Nos. 3 to 43 shall *mutatis mutandis* apply in the conduct of poll at polling stations in Council constituencies.

### **Ballot Papers**

50. The serial numbers printed on the ballot papers for use at elections by Assembly members are concealed by putting black paper strips there on. Serial numbers of the ballot papers for use at elections in *local authorities'* constituencies are also required to be concealed in the same manner as at elections by Assembly members. However, the serial numbers of the ballot papers used at elections in the *graduates'* and *teachers'* constituencies are *not* so concealed.

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

51.1 It is significant to note that the provision

of rule 37 relating to application of indelible ink on the left forefinger of the voter before issue of a ballot paper to him have been made applicable in case of election from Graduates' and Teachers' constituencies.

Under the instructions of the Commission, the left forefinger of the voter should be marked with indelible ink soon after the identity of the elector is verified by the first Polling Officer in charge of the marked copy of electoral roll and *before* his signature or thumb impression is obtained on the counterfoil of the ballot paper by the polling officer in charge of ballot papers. The underlying purpose of this instruction is that there should be a sufficient time gap for the indelible ink to dry and leave a proper indelible mark on the elector's left forefinger before he leaves the polling station. The Commission has also instructed that the last polling officer in charge of the ballot boxes and marking instruments should again check the voter's left forefinger before he leaves the polling station in order to verify that there is a clear indelible ink mark on the finger. If the elector has wiped off the ink or if there is no proper ink mark visible, the voter's forefinger should again be marked with indelible ink.

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

51.2 If an elector has no left forefinger, then indelible ink should be applied on any such finger which he has on his left hand starting with his left forefinger. If he does not have any fingers on his left hand, the ink should be applied on his right

forefinger and if he has no right forefinger, on any other finger which he has on his right hand starting with his right forefinger. If he has no fingers on either hand, ink should be applied on such extremity (stump) of his left or right hand as he possesses.

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

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

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

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

53.1 At an election in a Graduates' or Teachers' constituency, normally three polling officers should be appointed. The duties to be performed by each polling officer are indicated in Annexure XXVIII.

53.2 Where the number of electors assigned to a polling station is not large, even two polling officers may be sufficient at such polling station. In that case, duties of the first and the second polling officers as indicated in Annexure XXVIII can be conveniently performed by one polling officer.

53.3 At an election in a *local authorities'* constituency, the number of electors assigned to a polling station is usually not very large. Therefore, two polling officers will normally be sufficient for such polling station. In such cases also, the duties of the first and second polling officer can be conveniently performed by one polling officer.

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

54. At a simultaneous election to the Graduates' and Teachers' constituencies sometimes common polling stations are provided where the number of electors for these two elections is not very large. In such cases, a common presiding officer is appointed for both the elections. Normally, four polling officers should be appointed to assist him in the conduct of poll at such common polling stations. The first polling officer will be in charge of the marked copy of the electoral roll and ballot papers for graduates' constituency and responsible for identification of electors of that constituency. He will verify the signature of the voter as obtained on the counterfoil of the ballot paper with that on his claim application for enrolment in the electoral roll (Form 18), and also apply indelible ink on the elector's left

forefinger. Similar responsibilities in respect of the Teachers' constituency will be entrusted to the third polling officer. The second polling officer will be in charge of the bundles containing original claim applications of the electors in Forms 18 and 19 and will make available the relevant Form of the elector concerned to the first or the third polling officer, as the case may be, to enable him to verify the signature of the elector. The fourth polling officer will be in charge of ballot box which will be common for both the elections and the articles for marking ballot papers. The details of duties of each such polling officer are given in Annexure XXIX. In case it is felt necessary by you for the appointment of any additional polling officer at such a polling station, you may make such adjustment in the duties of the polling officers as you deem appropriate.

#### Maintenance of Diary by Presiding Officer

55.1 The Presiding Officer of every polling station should be asked to maintain a diary in which he should draw the proceedings connected with the poll in the polling station. The Performa of the diary to be maintained by the Presiding Officer is given at Annexure XXX. He should be asked to go on recording the relevant events in the diary as and when they occur.

55.2 It has been observed in some cases that the Presiding Officers do not make the entries in the relevant columns of the diary at regular intervals or from time to time as envisaged, and fill in all entries and complete the diary at the end of the poll. This is highly objectionable and it may be

impressed upon all Presiding Officers that any lapse on their part in the proper maintenance of diary at all points of time during the process of poll will be seriously viewed.

55.3 The Commission has recently directed that all Presiding Officers' diaries supplied to the polling parties should be serially numbered by means of numbering machines. Only such serial numbered Presiding Officers' diaries should be supplied to the Presiding Officers. A proper account should be maintained of such diaries showing the precise number of the diary issued to each Presiding Officer.

55.4 The Presiding Officers should maintain their diaries only in such serially numbered diaries. No un-numbered diary should be supplied to, or used by, any Providing Officer in any circumstances.

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

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

(a) It will be desirable to take the sealed ballot boxes and other election materials after the completion of the poll direct to the place fixed for counting of votes. This arrangement would ensure that the

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

(b) You should inform the candidates or their election agents sufficiently in advance about the programme of the collecting parties being sent by you, if any, and the route chart for the collection of the polled ballot boxes and other election materials from the polling station after the conclusion of the poll, so that the candidates may make arrangements, if they so desire, for sending their agents to accompany such collecting parties. The agents of the candidates should, however, make their own arrangements for their transport and they, in no case, should be allowed to travel in the same vehicles in which the ballot boxes and other election materials and polling parties are transported.

(c) You may earmark inside the storage room or building, specified parts of the floor space in the form of squares in advance for stacking the ballot boxes received from particular polling stations. The arrangement for this should follow the serial number of polling stations.

(d) All ballot boxes received from one polling station must invariably be kept together at one place on the same square. The ballot paper account and the paper seal account, if any, of each polling station should be kept on top of the box or boxes from the polling station.

(c) Sufficient space should be left between row

of boxes as they are being stacked so that other boxes received subsequently out of turn (from the point of view of serial numbers of the polling stations) may be kept at their appropriate allotted space without the necessity of having to shift any of the ballot boxes received and stacked earlier in point of time.

(f) All Presiding Officers or Collecting parties should deposit the ballot boxes in the buildings selected for deposit of ballot boxes after the poll pending counting without any avoidable delay. Any officer who defaults in this respect will make him self liable to disciplinary action.

(g) If any of the contesting candidates so desires, he may be permitted to post an agent to keep watch at the place where the ballot boxes are stored and also allow him to affix his own seals to the doors and windows of the buildings in which ballot boxes have been stored in addition to the seals that may be affixed by you. It should also be ensured that after all the ballot boxes have been received and stored and the room has been locked, no one is allowed to go in until the morning of the day fixed for counting. If during this interval, for some un avoidable reason, the room has to be opened you should send for the candidates or their authorized representatives and open the room in their presence and immediately after the purpose for which the room is opened is over, the candidates or their representatives should again be allowed to seal the door and windows. Whenever it is necessary to open the room where the ballot boxes are stored, proper

entries should be made in the log book giving details of the persons entering the room, the purpose of such entry, time of entry, time of exit, signature of the guards, etc. The form in which the log book should be maintained is given in Annexure XXXI. These instructions will also apply with appropriate modifications to the storage of the ballot boxes during the interval between the original count and the recount, if any.

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

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

**Allegations Against Polling Staff**

58. Whenever specific allegations of a serious

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

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

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

### **GENERAL PROVISIONS RELATING TO COUNTERMAND OF POLL, ADJOURNED POLL AND FRESH POLL**

#### **Death of a Candidate Before Poll - Countermand of Poll**

60.1 The law (section 52) relating to countermanding of poll on the death of a candidate has recently undergone a significant change by the Representation of the People (Amendment) Act, 1992. Hereafter, the poll shall be countermanded only on the death of a candidate set up by a recognized political party and *not* on the death of any independent candidate or a candidate set up by a registered un-recognized political party.

60.2 The poll shall now be countermanded in the following situations on the death of a candidate set up by a recognized political party, viz.

- (i) if he dies at any time after 11 A.M. on the last date for making nominations and if his nomination is found valid on scrutiny;
- (ii) if he dies after his nomination has been found valid on scrutiny and he has not withdrawn his candidature,  
and in either case a report of his death is received by you at any time before the publication of the list of contesting candidates; or
- (iii) if he dies as a contesting candidate and a report of his death is received before the commencement of the poll.

60.3 In the case of death of a candidate mentioned at (i) above, the order for countermanding a poll should be made only after the scrutiny has been made of all the nominations including the nomination of the deceased candidate on the date fixed for scrutiny of nominations.

60.4 If you countermand poll in any of the above situations report the fact to the Election Commission and to the appropriate authority, i.e., the Government of India in the Ministry of Law, Justice and Company Affairs in the case of election to the Council of State, and the Government of the State in the case of election to Legislative Council of the State.

60.5 Fresh notifications will have to be issued in due course for the election which will be held *de novo*. However, no further nomination shall be necessary in the case of a person who was a contesting candidate at the time of countermanding of the poll. Any person who has withdrawn his candidature before the countermanding of the poll, will be eligible for being nominated as a candidate for the election after such countermanding. If a person who was a contesting candidate files fresh nomination with changed party affiliation that nomination will be considered. In such case, the maximum limit of four nomination papers including the number of nomination papers field before the countermand will not apply.

#### Adjournment of **Poll**

61.1 Under section 57(1) of the Representation of the People Act, 1951, the Returning Officer (acting as Presiding Officer at the place fixed for poll at an election to the Council of States or State Legislative Council by Assembly members) and the Presiding Officer of a polling station in a Council constituency are empowered to adjourn the poll on account of-

- (i) a natural calamity like flood, heavy snowfall, a severe storm and the like, or
- (ii) non-receipt or loss of or damage to essential polling materials like ballot boxes, ballot papers and the like, or
- (iii) disturbance of peace at the polling station making it impossible to take the poll,

or

- (iv) non-arrival of the polling party at the polling station due to obstruction on the way or any other serious difficulty, or
- (v) any other sufficient cause.

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

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

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

- (i) report the circumstance immediately- to the Election Commission, the Chief Electoral Officer and the appropriate authority (The 'appropriate authority' has been defined in section 2 of the Representation of the People Act, 1951, to mean, in relation to an election to either House of Parliament, the Central Government, and in relation to an election to the Legislative Assembly or Legislative Council of a State, the State Government. It is an obligation cast by law upon you to report the circumstances of the case to the appropriate authority and the Election Commission.);
- (ii) seek the approval of the Election Commission for the date, hours and place

which you propose for holding the adjourned poll;

- (iii) formally fix the date, hours and the polling station as approved by the Election Commission;
- (iv) inform the contesting candidates or their election agents accordingly but only after the receipt of the Commission's formal approval;
- (v) affix a notice on your notice board notifying the date, hours and the polling station so fixed; and;
- (vi) announce by beat of drum or otherwise in the polling area concerned about the date, hours, and the polling station so fixed.

62.2 For the sake of convenience, uniformity and completeness of the report to be sent to the Commission under the said section 57(2), the Commission has prescribed a format of such report (Annexure XXXII). You should send a consolidated report in that format in respect of all the polling stations where the poll has been adjourned. The Commission will not accept any piece-meal reports in this behalf.

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

62.3 Where the poll has been adjourned at a polling station under the provisions of sub-section (1) of section 57, the adjourned poll will recommence from the stage at which it was left immediately before the adjournment, i.e., the electors who have not already voted before the poll was adjourned will alone be permitted to vote at the adjourned poll. You should provide the Presiding Officer of the polling station, at which such adjourned poll is taken, with the sealed packet containing the marked copy of the electoral roll and the sealed packet containing the stitched bundles of ballot papers with their counterfoils received from the Presiding Officer of the polling station at which the poll was adjourned, and also a new ballot box. Before the commencement of the poll, the sealed packets should be reopened by the Presiding Officer in the presence of the candidates or their agents who may be present at the polling station and the marked copy of the electoral roll contained in the sealed packet and stitched bundles of ballot papers with their counterfoils contained in another sealed packet should be used for adjourned poll. If a bundle is used only partly that bundle need not be opened for use but fresh unused bundles only should be used.

The provisions of rules 28 to 35 and 36 to 47 as modified by rule 70 will apply to the conduct of an adjourned poll as they apply to the poll before it was so adjourned.

62.4 Where the poll could not be commenced due to non-arrival of the polling party or other reasons, the provisions of above mentioned rules will apply to every such adjourned poll as they apply to

the original poll.

### **Procedure for Holding Fresh Poll**

63.1 Under Section 58 of the Act in the case of destruction, etc., of ballot boxes the Election Commission is competent to declare the poll at a polling station to be void, if at that polling station -

- (i) any ballot box has been unlawfully taken away by an unauthorized person, or
- (ii) any ballot box has been accidentally or intentionally destroyed or lost or damaged or tampered with and you are satisfied that the result of the poll at that polling station cannot be ascertained for that reason, or
- (iii) any error or irregularity in procedure as is likely to vitiate the poll has been committed.

You should report the fact forthwith to the Election Commission and the Chief Electoral Officer. For the sake of convenience, uniformity and completeness of the report to be sent to the Commission under the said Section 58(1), the Commission has prescribed a format of such report (Annexure XXXII-A). You should send a consolidated report in that format in respect of all the polling stations where the poll has been vitiated.

The Commission will not accept any piecemeal reports in this behalf.

63.2 After considering all the material circum-

stances, the Commission will, if necessary-

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

63.3 On receiving intimation from the Commission, you should inform in writing the contesting candidates or their election agents of the date, time and place fixed for the fresh poll and affix a notice on your notice board, notifying the date and hours so fixed. Also you should announce by beat of drum or otherwise in the polling area concerned the place, the date and hours so fixed.

63.4 Every effort should be made to take the fresh poll as soon as possible after the original poll is declared void. All electors entitled to vote at the polling station or stations in question will be entitled to vote at the fresh poll. The stitched bundles of ballot papers with their counterfoils unused in the original poll shall be used but, if necessary, fresh ballot papers with counterfoils may be printed with the next serial numbers for the constituency. Subject to the above modification the provisions of the Act and the Rules and Orders made thereunder, will apply to the fresh poll in exactly the same way as they apply to the original poll. All the ballot boxes used at the original poll should be preserved carefully, unopened and with the seals intact.

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

64.1 Under Section 58A, if booth capturing (as

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

64.2 In order to enable the Commission to take appropriate decision in case booth capturing has taken place at any polling station or place of poll, the Commission has prescribed a format in which the Returning Officer should send his report to the Commission in the matter. The said format has been reproduced in Annexure XXXII-B for facility of reference.

64.3 In case any polling station or place of poll for the election for which you are the Returning Officer is involved in booth capturing, you should send your report to the Commission forthwith in the prescribed format. It should be a consolidated report in respect of all polling stations or places of poll involved in booth capturing. The Commission will not accept any report piece-meal.

64.4 If the Commission directs fresh poll to be

taken at any polling station you should proceed for taking such fresh poll in accordance with the instructions contained in the preceding paragraph.

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

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

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

## CHAPTER XII

# COUNTING OF VOTES

### General

1.1 Counting of votes, is one of the most important aspects of the election procedure. The result of the entire election may be nullified by wrong, irregular or careless counting. Being entrusted with this important work, you should exercise great vigilance on the work of the counting staff and also in maintenance of discipline. If counting is done properly and carefully, there will be no request for recounting.

1.2 Instances have come to the notice of the Commission where valid ballot papers have been rejected by the Returning Officers and during the trial of election petitions, the courts have ordered counting of such valid ballot papers in favor of the candidates to whom they are marked. In some cases valid ballot papers in favour of candidate X have been counted in favour of Y. On scrutiny by the courts, this mistake has been detected. Such incidents will undermine the confidence of the political parties and the general public in the electoral system and should be avoided at all costs. Therefore, as a Returning Officer, a heavy responsibility lies on your shoulders to ensure proper, systematic and accurate counting. To ensure this, you must follow the instructions given in the following paragraphs to the minutest detail and also see that the counting supervisors and counting assistants are imparted proper training and they carry out their duties properly.

## **Legal Provisions**

2.1 The Counting of votes at elections to the Council of States and the State Legislative Councils (i.e., elections by Assembly members and in Council Constituencies) is regulated by the provisions of Sections 64 to 67A of the Representation of the People Act, 1951 and Rules 71 to 83 of the Conduct of Elections Rules, 1961. Rule 72 also makes the provisions of Rules 51 to 54 relating to the appointment of date, time and place of counting and counting agents, etc., at elections in Parliamentary and Assembly constituencies applicable to the counting of votes at elections to Council of States and State Legislative Councils. Further, Rule 73(1)(a) provides that the covers containing the postal ballot papers shall be dealt with in the manner prescribed in sub-rules (2) to (7) of Rule 54A.

2.2 The elections may be held either to fill only one seat or more than one seat. Procedure of counting of votes for filling one seat is different from the procedure when more seats than one are to be filled.

2.3 The provisions of Rules 71 to 74 providing for some definitions, scrutiny and opening of ballot boxes, scrutiny of ballot papers and postal ballot papers and arrangement of valid ballot papers in parcels are common to both the above mentioned procedures. Where only one seat is to be filled, the counting is to proceed under the provisions of Rule 75 and when more than one seat is to be filled, counting is to be done in accordance with the procedure laid down under Rules 76 to 83. You should study these provisions very carefully so that the

various aspects of counting are properly understood. In this connection, the detailed illustration given in the schedule to the Conduct of Elections Rules, 1961, is very useful. But the illustration does not deal with various contingencies which may arise in the course of counting. A more detailed and exhaustive illustration has been prepared by the Commission and reproduced in Annexure XXXIII. These illustrations should be referred to whenever doubts arise.

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

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

3.1 Under the instructions of the Commission, you have to send a report to the Election Commission as soon as may be after the close of poll about the poll proceedings. The counting of votes shall be taken up only when you receive the clearance in writing from the Commission after it has considered your said report. You should, therefore, always leave a minimum gap of one hour between the hour fixed for the close of poll and the hour fixed for the commencement of counting of votes so that meanwhile you may complete all required formalities. The place of poll itself should be fixed as the place of counting.

3.2 Give notice of the date, place and time to each candidate or his election agent at least one week before the date of poll. Such notice may be given in the form prescribed by the Commission for the purpose *vide* Annexure XXXIV.

3.3 If, for any unavoidable reason, you are

Unable to proceed with the counting at the place and time and on the date so fixed and communicated to the candidates, you can postpone the counting and fix another date and time and, if necessary, another place for the counting of votes. You should give notice of every change in writing to each candidate or his election agent.

### **Appointment of Counting Personnel**

4.1 Clause (a) of sub-rule (1) of Rule 53 allows you to appoint such persons (to be known as Counting Supervisors and Counting Assistants) as you may require for assisting you in the counting. It is advisable to make an order of appointment in writing for this purpose. For the sake of convenience, a form in which such appointments may be made is given in Annexure XXXV.

4.2 The counting personnel should normally be drawn from the legislative Assembly Secretariat. They should be given intensive training in counting.

### **No. and Arrangement of Counting Tables**

5.1 The counting of votes under the proportional representation system by means of single transferable vote followed at election\* o the Council of States will be mainly done at y c table. In order that the Assistant Returning officer, Counting Supervisors and Counting Assistants appointed to assist you are properly seated by your side, a sufficiently long table should be used.

5.2 For keeping a watch over the counting proceedings, the candidates may not require a large

number of counting agents. Therefore, each candidate may be permitted to appoint not more than *two* counting agents in addition to his election agent.

5.3 The candidates, their election agents and counting agents may be provided seats opposite to you on the other side of your table from where they can watch the counting proceedings.

5.4 Inform the candidates about the number of counting agents they can appoint and ask them to send their letters of appointment not later than one hour before the time fixed for counting. A candidate may appoint all his counting agents by a single letter in Form 18 appended to the Conduct of Elections Rules, 1961 suitably modified. In that case, all the agents should also have signed the letter in token of their acceptance of the appointment and should sign the declaration thereon later in your presence. After necessary verification, you may give them identity cards in advance for production at the time of entry into the counting hall.

5.5 Each counting agent may be given a badge indicating whose agent he is.

### **Persons Allowed in Counting Hall**

6.1 Only the following persons can be allowed inside the counting hall-

- (i) Counting Supervisors and Counting Assistants;
- (ii) persons authorised by the Election Commission;
- (iii) public servants on duty in connection

with the election; and

(iv) Candidates, their Election Agents and Counting Agents.

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

6.2 Before counting begins see that no one else is present in the room.

6.3 You should note that term public servant on duty in connection with election' does not normally include police officers; such officers whether in uniform or in plain clothes should not, as a general rule, be allowed to enter inside the counting hall, unless you decide to call them in for the maintenance of law and order or some similar purpose. Their presence in the counting hall without any compelling reason has on occasions given rise to complaints by some candidates or parties who have alleged that their agents had been overawed by an unnecessary show of force.

6.4 You should also note that the above expression public servant on duty in connection with election' does not include the Ministers, State Ministers and Dy. Ministers of the Union or the States.

6.5 You should note that no counting agent is to be admitted into the place fixed for counting unless he has delivered to you the second copy of his appointment letter after duly completing and signing the declaration contained therein and has been issued by you an authority for such entry. Similarly the election agents of the candidates may

also be asked to produce the attested duplicate copy of their appointment letters.

6.6 Entry of persons should be strictly regulated as detailed above as otherwise the counting process may be vitiated by the presence of unauthorised persons. There will be overcrowding and attendant confusion and law and order problem. The smooth progress and accuracy of the counting will also be affected.

6.7 If you or the Assistant Returning Officer or other Officers have a reasonable doubt about the presence of any person in the counting hall, you can have him searched, if necessary, even though the person concerned may be in possession of a valid authority letter to enter the place of counting.

6.8 In the performance of your duties, you are only bound by the instructions of the Election Commission. You are not to take orders from or show any favour to your official superiors or political leaders including Ministers. Even in the matter of requests for entry into the counting hall from these, you need allow them only if they are in possession of a valid authority letter issued by the Commission.

### **Warning About the Secrecy of Vote**

7. Read out and explain, as necessary, the provisions of Section 128 of the Representation of the People Act, 1951, to those present and also explain the procedure for counting to the Counting Supervisors and Assistants. Thereafter, you should commence the counting.

## **Counting of Votes Received by Post**

8.1 Under the law [Rule 73(1)(a)], the covers containing the postal ballot papers are to be dealt with first. Such covers are to be dealt with in the manner as prescribed in sub-rules (2) to (7) of Rule 54A. It should be noted that after a postal ballot paper has been taken out of the cover containing it, the same should not be taken forthwith for detailed scrutiny to determine its validity or otherwise. All postal ballot papers should be taken up for such detailed scrutiny along with the ballot papers taken out of the ballot boxes [Rule 73(1)(c)].

8.2 Covers in Form 13C containing postal ballot papers received after the hour fixed for the commencement of the counting of votes should not be opened. They should be rejected and kept in a separate packet and sealed, noting thereon the appropriate particulars.

8.3 The covers in Form 13C received in time should be opened one after another. As each cover is opened, you should take out the declaration in form 13A and the cover in Form 13B and scrutinizes the declaration. If the declaration in Form 13A is not found in the cover or the declaration has not been duly signed and attested or attested by an officer not competent to do so or is otherwise substantially defective or if the serial number of ballot paper appearing in the declaration is different from the serial-number on the cover in Form 13B the cover containing the postal ballot paper should not be opened but the ballot paper should be rejected. Each such rejected cover should be endorsed suit-

ably and the declaration and cover should be replaced in the cover in Form 13C. All such covers in Form 13C should be kept together in a separate packet and sealed and full particulars such as the name of the constituency, the date of counting and a brief description of contents should be noted thereon for easy identification. All the declarations in Form 13A which have been found to be in order, should then be kept in a separate packet in order to ensure that the secrecy of the postal ballot is kept inviolate. The packet should then be sealed noting thereon the particulars regarding the name of the constituency, the date of counting and brief description of contents. This should be done before the covers containing the ballot papers in Form 13B are opened. Thereafter the covers in Form 13B should be opened one after another and the ballot papers contained therein taken out.

8.4 As already clarified above, the postal ballot papers taken out of the covers should not be taken up for detailed scrutiny separately but along with the ballot papers taken out of the ballot boxes.

### **Opening of ballot Box(es)**

9. While you are engaged in dealing with the covers containing postal ballot papers, the Assistant Returning Officer can have the ballot box(es) used at the election opened. The ballot papers contained therein should be taken out ensuring that no ballot paper is left inside the box(es). The ballot papers so taken out of the box(es) should be *counted for numbers*. The number so ascertained should

be tallied with the number of ballot papers which should have been found in the ballot box(es) as indicated in Item 5 of the ballot paper account in Part I of Form 16. Though Part II of Form 16 is in terms not applicable to the counting of votes at elections to the Council of States, the number of ballot papers taken out of the ballot box(es) may be noted in Item III of said Part II.

### **Scrutiny of ballot Papers**

10.1 After all the ballot papers have been taken out of the ballot box(es), they should be mixed with the postal ballot papers taken out of the covers as mentioned in paragraph 8.4 above. Thereafter, all these ballot papers should be taken up for detailed scrutiny one by one.

10.2 In order that a proper account of the ballot papers taken out of the ballot box(es) and the postal ballot papers which are taken up for detailed scrutiny is maintained, the number of such ballot papers should be noted in a statement. The form of that statement is given in Annexure XXXVI.

### **Valid Ballot Papers**

11. Under the system of proportional representation by means of single transferable vote, every elector has one vote only as the expression "single transferable vote" implies. The voter is, however, required to indicate his preferences for the different candidates. An elector in giving his vote has to place on his ballot paper the figure '1' in the place opposite the name of the candidate for whom he

wishes to vote in the first instance. He may, in addition, place on his ballot paper the figure '2' or the figures '2' and '3' or the figure '2', '3' and '4' and so on in the space opposite the names of other candidates in the order of his choice. In other words, the marking of figure '1' is obligatory and the marking of figures '2', '3', '4', etc., is optional. Therefore, a ballot paper will be valid if the figure '1' is properly marked by the elector indicating his first preference. Thus, in order to determine whether a ballot paper is valid or invalid, you have to see whether the first preference has been validly indicated by placing figure '1' on the ballot paper by the elector. A ballot paper on which figure '1' has been validly marked is a valid ballot paper, if it is not invalid for some other reason under the law.

### **Grounds for Rejection of Ballot Paper**

12.1 A ballot paper shall be invalid on which -

- (a) the figure '1' is not marked; or
- (b) the figure '1' is set opposite the name of more than one candidate; or
- (c) the figure '1' is so placed as to render it doubtful to which candidate it is intended to apply; or
- (d) the figure '1' and some other figure like 2, 3, etc., are set opposite the name of the *same* candidate; or
- (e) there is any mark or writing by which the elector can be identified; or

- (f) there is any figure marked on the ballot paper otherwise than with the article (i.e., sketch pen or violet colour ink) supplied by you for the purpose.

12.2 The ballot papers are required to be marked by the electors with the article supplied by you for the purpose. This requirement, however, cannot obviously apply in the case of postal ballot papers. Therefore, a postal ballot paper should not be rejected on the ground that it is marked with some article other than the article which was supplied by you for the marking of ballot papers at your polling station. You should also not reject a ballot paper used at your polling station on the ground that it is marked otherwise than with the article supplied for the purpose, if you are satisfied that any such defect has been caused by any mistake or failure on the part of a Polling Officer.

**Ballot Paper on Which First Preference has been Indicated in Words**

13. Under the *Explanation* to Rule 37A(2) read with Rule 70 and the *Explanation* to rule 73(2), the electors are required to indicate their preferences by marking the figures 1, 2, etc., and *such preferences cannot be indicated in words*. Therefore, if the first preference on any ballot paper has been indicated in contravention of the above provisions by writing the word or words 'one' or 'first preference' instead of figure '1' or such words have been written in addition to the figure '1', such ballot paper shall be rejected.

### **Ballot Paper Marked Partly in Figures and Partly in Words**

14. Under the rules, it is obligatory for an elector only to mark figure '1' in the in the ballot paper. The placing of figure '2' or subsequent preferences is only optional. For the above reasons, a ballot paper should be treated as valid if the first preference has been indicated correctly thereon by marking it with figure T. If the other preferences are not indicated at all or, are indicated not in figures but in words, then those preferences should be treated as having been not made at all. In other words, the elector will be regarded as having indicated only his first preference. The correct indication of the first preference is enough to make it a valid vote and such a ballot paper should not be rejected *in toto*. It shall be counted and taken into account for further transfers up to that subsequent preference which has been validly indicated in figures. (Such a ballot paper would become exhausted only at that stage at which it is sought to be transferred further with reference to such preferences as have been indicated not in figures but in words.

### **Mark or Writing by which Elector can be Identified**

15. Under Rule 73(2) (d), a ballot paper shall be rejected if it bears any mark or writing by which an elector can be identified. The Supreme Court has held in *Shradha Devi Vs. Krishna Chandra pant* (AIR 1982 SC 1592) that the mark or writing which would invalidate the ballot paper must be such as to itself unerringly point in the direction of

or reasonably give indication of the identity of the voter. There must be some causal connection between the mark and the identity of the voter that looking at one, the other becomes revealed. In the absence of such suggested mark or writing the ballot paper cannot be rejected merely because there is some mark or writing. Any mark or writing of an innocuous nature cannot be raised to the level of such suggestive mark or writing as to reveal the identity of the voter.

**Other Grounds on which ballot Paper not to be Rejected**

16. A ballot paper should also not be rejected simply because-

- (a) the figure '1' has been marked more than once in the column of the same candidate;
- (b) the figure '1' has been marked not in the column meant for marking the order of preferences but at some other place in the panel of candidate;
- (c) the original mark is patently in the column of one candidate but an impression or smudge thereof appears against the name of some other candidate due to wrong folding;
- (d) the mark indicating the vote is indistinct or made more than once, if the intention that the vote is for a particular candidate clearly appears from the way the paper is marked; or

- (e) there is a faint un-decipherable thumb impression or smudge impression left inadvertently by the elector on the ballot paper while handling it because of the presence of some ink on his thumb which was put thereon for the purpose of obtaining his thumb impression on the counterfoil of the ballot paper.

### **Reasonable Facilities to Candidates for Inspection of Invalid ballot paper**

17.1 Before rejecting any ballot paper, you should give a reasonable opportunity to the candidates or their agents present at your table to inspect it. *You shall not, however, permit the serial no. of any ballot paper to be noted down by anyone because the rules provide that the serial nos. of ballot papers used at elections to the Council of States should be concealed effectively.*

17.2 While allowing the candidates or their agents to inspect the ballot papers proposed to be rejected by you, do not allow them to handle any ballot paper physically.

### **Rejected Ballot Papers to be Suitably Endorsed/Signed by Returning Officer**

18.1 You should endorse on every ballot paper which you reject the word 'Rejected' and the ground(s) for such rejection in abbreviated form either in your own hand or by means of a rubber stamp. You should also initial each such endorsement but you need not give the date.

18.2 A rubber stamp in the following from spec-

ifying the various reasons for rejecting a ballot paper may be used. In that case what you are required to do is to affix this stamp which mentions all the reasons and make a tick mark (√) against the particular reason for which the ballot paper is to be rejected and then affix your initial.

### **Rejected**

- (i) No marking
- (ii) Mark on blank area
- (iii) Multiple voting
- (iv) Voter identifiable
- (v) First preference indicated in words
- (vii) Marked with un-official article

### **Separation of Valid Ballot Paper from Rejected Ballot Papers**

19. After each ballot paper has been scrutinized in the manner indicated above, the ballot papers accepted as valid votes should be separated from the ballot papers which have been rejected by you. The total number of rejected ballot papers and valid ballot papers should be carefully noted in the statement at Annexure XXXVI.

### **Arrangement of Valid ballot Papers in Parcels**

20. After the valid ballot papers have been separated from the rejected ballot papers, the next step will be to distribute the valid ballot papers among the contesting candidates according to the

*first* preference recorded on each such ballot paper. After these ballot papers have been distributed candidate wise, the ballot papers of each candidate should be made into a separate parcel. The number of ballot papers in each such parcel of every candidate should be counted and recorded in a separate sheet.

### **Value of Votes**

21.1 At an election where only one seat is to be filled, every valid ballot paper shall be deemed to be of the value of 1 at *each* count. Therefore, at an election where, say, 401 valid votes are cast, the total value of votes to be taken for the purpose of ascertainment of quota and other subsequent stages of counting will be 401. The number of votes secured by each candidate shall be equal to the number of ballot papers placed in his parcel on which the first preferences have been recorded for him. Thus, the value of votes secured by a candidate A at the first count shall be 45 if there are 45 valid ballot papers in his parcel.

21.2 At any election where more than one seat is to be filled, every valid ballot paper shall be deemed to be of the value of 100 at the *first* count and is called the original vote. Therefore, in the above example of an election where 401 valid ballot papers have been cast, the total value of votes shall be  $401 \times 100 = 40,100$  and the value of original votes obtained by candidate A shall be  $45 \times 100 = 4500$ .

21.3 The total value of all valid votes and the value of original votes secured by each candidate as

worked out in the manner indicated above, should then be noted in the relevant columns provided for the purpose in the return of election in Form 23B appended to the Conduct of Elections Rules 1961.

### **Ascertainment of Quota**

22.1 *Where only one seat is to be filled.* - The quota sufficient to secure the return of a candidate at an election where only one seat is to be filled shall be determined by (i) dividing by 2(two) the total value of valid votes as determined in the preceding paragraph, and (ii) adding one to the quotient, ignoring the remainder, if any. Thus, in the above mentioned example where 401 valid votes are cast, the quota sufficient to secure the return of a candidate will be  $401/2+1=201$ .

22.2 *Where more than one seat is to be filled.* - The quota sufficient to secure then return of a candidate at an election where more than one seat is to be filled shall be determined by (i) dividing the total value of votes as determined in the preceding paragraph by a number which exceeds by one the number of vacancies to be filled, and (ii) adding one to the quotient, ignoring the remainder, if any. Thus, in the above example of election where 401 valid votes are cast, the quota sufficient to secure the return of a candidate, supposing further that 10 candidate are to be elected, shall be

$$\frac{40,100}{11} + 1 = 3646$$

11

### **Candidates with Quota Elected at First Count**

23.1 If any candidate has secured votes the

value of which is equal to or greater than the quota sufficient to secure the return of a candidate as determined above, such candidate shall be declared elected by you at the first count.

23.2 If only one seat is to be filled at the election, the counting of votes will come to an end if a candidate is declared elected at the first count as mentioned above.

23.3 At an election where more than one seat is to be filled, if the number of candidates, who are declared elected at the first count in the manner indicated above, is equal to the number of seats to be filled then also the counting of votes would come to an end and the election would be complete.

#### **Procedure for Counting when all Seats are not Filled at First Count**

24. If all the seats which are required to be filled at an election are not filled at the first count, the counting of votes will proceed further in the manner explained in the following paragraphs.

#### **Detailed Process of Counting**

25. When only one seat is to be filled. - If no candidate is declared elected at the first count for the reason that no candidate has secured the quota, the further counting shall then proceed in the following manner:-

- (i) as a first step, the candidate who has been credited with the lowest value of votes at the first count shall be excluded from the poll;

- (ii) all the ballot papers in the parcel of the excluded candidate shall be scrutinized again with reference to the second preference marked on each such ballot papers;
- (iii) all ballot papers on which the second preference has not been marked at all or has not been validly marked in the prescribed manner as discussed earlier, shall be treated as *exhausted* papers and shall not be counted further;
- (iv) a ballot paper shall also be deemed to have become exhausted wherever (a) the names of two or more candidates, whether continuing or not, are marked with the same figure and are next in order of preference; or (b) the name of the candidate next in order of preference, whether continuing or not, is marked by a figure not following consecutively after some other figure on the ballot paper or marked by two or more figures;
- (v) all unexhausted ballot papers (i.e. ballot papers which are not treated as exhausted) shall then be distributed and transferred among the continuing candidates according to the second preference recorded on each ballot paper,
- (vi) all ballot papers thus distributed to each continuing candidate shall be arranged in a separate sub-parcel for each candidate;

- (vii) the value of votes in each sub-parcels of continuing candidates shall be credited to the candidate concerned;
- (viii) if by so adding the value of the additional votes credited to each continuing candidate, any candidate secures the quota., then he shall be declared elected;
- (ix) if no candidate secures the quota at the end of this second count also, the process of exclusion of candidate lowest on the poll at that stage and the distribution and transfer of his *unexhausted* ballot papers in his parcel and sub-parcel, if any, according to the next available preference recorded on each ballot paper will be repeated. If this also does not help any candidate in securing the requisite quota, the above process will be further repeated until a candidate secures the required quota and is declared elected;
- (x) if in the above process of exclusion of candidates lowest on the poll, all candidates but one get excluded and there is only one continuing candidate at the end of any count, then such one continuing candidate shall be declared elected even if he has not secured the quota sufficient to secure the return of the candidate.

**Meaning of next reference or Next Available Preference**

26. In carrying out the above operations of

transfer of unexhausted ballot papers to the different continuing candidates on the basis of next preference or next available preference recorded on each ballot paper, all preferences recorded for candidates who are already excluded' from the poll shall be ignored. Take, for example, a ballot paper on which preferences 1, 2, 3, 4 & 5 are marked in favor of candidates A, B, C, D and E respectively. When such ballot paper is sought to be transferred at the exclusion of A, it shall be transferred to B, if he is a continuing candidate. It shall be transferred straight from A to C if B is already excluded from the poll. Likewise, it will go to D, if both B and C are excluded from the poll and will go to E, if D also stands excluded from the poll before A's exclusion.

**Note :** At an election where more than one seat is to be filled, the preference marked in favor of a candidate already elected shall also be ignored like the preference marked in favor of an excluded candidate, while transferring the ballot paper with- reference to the next available preference marked thereon.

### **Maintenance of Transfer Sheets**

27. In order that a proper record of transfer of ballot papers of the excluded candidates is maintained, the Commission has devised a Performa of transfer sheet which should be carefully and properly filled at the end of each count. A copy of such transfer sheet filled in for your guidance is given at Annexure XXXVII.

### **Detailed Process for Counting when more than one Seat is to be Filled**

28. At an election where more than one seat is

to be filled, if the number of candidates declared elected at the first count is less than the number of seats to be filled or if no candidate is declared elected at all at the first count for the reason that no candidate has secured the quota, further counting shall proceed in the manner described in the following paragraphs.

### **Distribution of Surplus of Elected Candidate**

29.1 If some candidate(s) is/are declared elected at the first count, first of all the surplus votes of such elected candidate(s) shall be distributed among the remaining continuing candidates. The surplus votes mean the difference between the value of votes obtained by an elected candidate and the quota sufficient to secure the return of a candidate. Thus, if the value of votes of a candidate is 5000 and the required quota is 4651, then the surplus votes of such elected candidate will be 349. If more candidates than one have surpluses, the largest surplus shall be dealt with first and the other surpluses shall be dealt with in descending order of their magnitude.

29.2 The surplus votes of all the candidates elected at the first count will be distributed first, before distributing the surplus votes of the candidates elected at the second count and so on.

29.3 Where there are more surpluses than one to distribute as a result of first count and two or more surpluses are equal, the Returning Officer shall decide by lot which candidate shall have his surplus first distributed. However, if such equal

surpluses are to be distributed after the second or subsequent counts, regard shall be had to the original votes of each candidate and the candidate for whom most original votes are recorded shall have his surplus first distributed.

29.4 When the surplus of any candidate declared elected at the first count is distributed, you shall *re-examine all* the ballot papers in the parcel belonging to that candidate, with reference to the next preference or next available preference recorded thereon. All the *exhausted* ballot papers shall be separated and shall be placed in a *separate sub-parcel*.

**Note:** The Meaning of 'next preference' and 'next available preference' has been explained in paragraph 26 above. The meaning of 'exhausted ballot paper' has also been explained in paragraphs 25(iii) & (iv) above and in Rule 71(3).

29.5 All the *unexhausted* ballot papers shall be divided among the continuing candidates with reference to the next available preference recorded on each such ballot paper. All the ballot papers so divided and transferred to any one continuing candidate shall be placed in a separate sub-parcel for that candidate.

### **New Value of Transferred Ballot Paper**

30.1 The value of such transferred ballot papers shall not remain the original value and the new value of each such ballot paper shall be ascertained by dividing the surplus by the total number of unexhausted papers. If there is any remainder by so dividing the surplus by the total of unexhausted ballot papers, it shall be ignored. Thus,

if the surplus value of votes to be distributed is 349 and the number of unexhausted ballot paper is 40, the new value of each such transferred ballot paper will be 8 [349/40, remainder 29 being ignored].

30.2 However, if the new value of a transferred ballot paper as ascertained in the above manner comes to more than the value of the ballot paper at which that ballot paper was received by the elected candidate, the new value of such ballot paper shall also then remain at its previous value. In other words, the new value of a transferred ballot paper shall in no case exceed the value at which it was received by the candidate whose surplus is being distributed. Thus, in the above example where surplus to be distributed is 349, if the number of unexhausted papers is, say, three, the new value of the transferred papers shall also be 100 each, i.e., the value of the original vote sought to be transferred.

30.3 The total value of the ballot papers in each sub-parcel transferred to a continuing candidate shall be credited to that candidate and the result of election ascertained after the transfer of surplus votes of each elected candidate.

### **Election of a Candidate During Transfer of Vote**

31. If the value of votes of any candidate as a result of the above transfer of surplus exceeds the required quota, he shall be declared elected and no further votes shall be given to him.

### **Counting to Proceed if Required No. of Candidates not Elected**

32. If the number of candidates declared elected at the first count and at the second and subsequent counts (where the surplus votes of the candidates declared elected at the first count are distributed) is still less than the number of seats to be filled and some seats still remain to be filled, the counting will proceed further.

### **Distribution of Surplus of a Candidate Elected at Second or Subsequent count**

33.1 If any candidate has been declared elected at the second or the subsequent counts, his surplus votes will again be further divided among the remaining continuing candidates. In such a case, the quota will be secured on account of the original votes received by the candidate concerned at the first count and the ballot papers received by him by way of transfers at the subsequent counts. Thus, the surplus will arise out of the transferred ballot papers received last by him and contained in *last sub-parcel*. Therefore, while distributing the surplus votes of such elected candidate only the ballot papers in the *last sub-parcel* received by him shall be re-examined by you for the purpose of their further distribution among the remaining continuing candidates. In other words, the original votes received by him and contained in the main parcel and transferred ballot papers in other sub-parcels (except the last sub-parcel) shall not be re-examined.

33.2 The transfer of surplus votes among the remaining continuing candidates will again be done in the manner indicated above. The new value of such transferred ballot papers will be further worked out by dividing the surplus with the number of unexhausted ballot papers so that the new value shall in no case exceed the value at which these ballot papers were previously transferred to the elected candidate.

### **Exclusion of candidate Lowest on the Poll**

34.1 If as a result of transfer of surpluses of elected candidates the required number of seats is still not filled, the counting of votes will then proceed by the exclusion of the candidate lowest on the poll at that stage.

34.2 If two or more candidates have the same value of votes and are the lowest on the poll, the candidate for whom fewest original votes are recorded shall be first excluded. If the values of their original votes are also equal, then the candidate with the smallest value at the earliest count at which these candidates had unequal values shall be first excluded.

34.3 If two or more candidates are lowest on the poll and each has the same value of votes at all counts, you shall decide by lot which candidate shall be excluded first.

34.4 When a candidate is excluded from the poll in the manner indicated above, *all* his ballot papers shall be distributed among the remaining continuing candidates according to the next avail-

able preferences recorded thereon.

34.5 First of all, his original ballot papers shall be re-examined and the exhausted ballot papers shall be separated from the unexhausted ballot papers. The exhausted ballot papers shall be placed in a separate packet.

34.6 All the unexhausted ballot papers will be divided among the remaining continuing candidates according to the next available preference recorded on each such ballot paper.

34.7 All the ballot papers received by a continuing candidate as a result of such transfer shall be kept in a separate sub-parcel. The value of each ballot paper in this sub-parcel will remain 100.

34.8 After the original votes of an excluded candidate have been distributed, the votes obtained by him by way of transfers at the second or the subsequent counts shall be distributed further. *For this purpose, each sub-parcel will be taken up one after the other separately in the same order in which these sub-parcels were received.* The unexhausted ballot papers in each sub-parcel will be transferred further to the remaining continuing candidates according to the next available preferences recorded thereon.

34.9 These ballot papers will be transferred at the same value at which they were received by the excluded candidate.

34.10 If at any stage during the transfer of ballot papers contained in a parcel or sub-parcel of

an excluded candidate, the value of votes of any continuing candidate exceeds the required quota and he thus gets elected, he shall continue to get further papers from the same parcel or sub-parcel if any such ballot paper is otherwise liable to be transferred to him. However, no further ballot paper shall be transferred to him from the next succeeding sub-parcels of that excluded candidate. The transfer of ballot papers contained in these succeeding sub-parcels will never the less continue till the last sub-parcel of the said excluded candidate has been dealt with. In other words, the transfer of these sub-parcels shall not be interrupted for the distribution of the surplus of the elected candidate.

34.11 If any candidate gets elected by transfer of votes of an excluded candidate, his surplus shall be distributed in the manner described above. Such surplus will arise out of the ballot papers contained in his last sub-parcel.

### **Continuing the Process Till all Seats are Filled**

35.1 If any seat still remains to be filled, the candidate now lowest on the poll will be excluded and his votes transferred in the manner described above.

35.2 The above process of transfer of surplus votes of the elected candidates and the total votes of the excluded candidates will be repeated until all the seats required to be filled at the election have been filled by the candidates who secure the required quota.

### **Filling the last Vacancy(ies)**

36.1 When at the end of any count, the **number** of the continuing candidates is reduced (by the above process of election of candidates who secure the required quota and the exclusion of the candidates lowest on the poll) equal to the number of vacancies remaining to be filled, all such continuing candidates shall be declared elected even if they have not secured the required quota [rule 81(1)].

36.2 When at the end of any count, only one vacancy remains unfilled and the value of the ballot papers of someone candidate exceeds the total value of the ballot papers of all the other continuing candidates together with any surplus of an elected candidate not transferred up to that stage, that candidate. shall be declared elected [rule 81(2)].

### **Filling the last Vacancy when there is Equality of Votes**

37. When at the end of any count, only one vacancy remains unfilled and there are only two continuing candidates, each of whom has the same value of votes and no surplus remains capable of transfer, you shall decide by lot which of those two candidates shall be excluded. After excluding one candidate by draw of lot, the other candidate should be declared elected [section 65 and rule 81(3)].

### **Proper Maintenance of Parcels and Sub-Parcels of Candidates**

38.1 As you must have observed from the foregoing paragraphs, the counting of votes under the

proportional representation system by means of single transferable vote is extremely complex. The operation of the distribution of surplus votes of the elected candidates and transfer of all votes of the excluded candidates among the remaining continuing candidates involves re-examination and transfer of the same ballot papers over and over again from one candidate to another. These transfers have to be made in a very systematic manner and the ballot papers contained in parcels and sub-parcels of the candidates have to be re-scrutinised and transferred in a definite order, i.e., in the same order in which they were received by the candidate concerned. You will have, therefore, to be cautious to ensure that the ballot papers contained in the parcel or any of the sub-parcels of a candidate do not get mixed up. This precaution is also necessary for the reason that the value of the ballot papers contained in parcels and different sub-parcels might be different. Therefore, the ballot papers, should be kept carefully in the parcels and different sub-parcels. For this purpose, envelopes of suitable size should be used for keeping the ballot papers in the parcels and sub-parcels. On each parcel and sub-parcels, endorsements should be made showing the number of ballot papers and the value of each ballot paper contained therein. All sub-parcels should be serially numbered starting with sub-parcel No.1.

38.2 It will be advisable for you to have one separate Counting Assistant for dealing with the ballot papers of each candidate. He should be responsible for the preparation and maintenance of parcels and sub-parcels in the consecutive order.

For this purpose, a tray of suitable size should be provided to him for keeping parcel and sub-parcels of the candidate under his charge.

### **Maintenance of Proper Account of Votes Received by Each Candidate**

39.1 Each Counting Assistant in charge of ballot papers of a candidate should maintain a correct account of the votes received by the candidate concerned at each transfer when he prepares the different sub-parcels. For the accurate preparation of such account, the Commission has prescribed a statement from which should be carefully filled by the Counting Assistant. A sample form, filled in for your guidance, is given at Annexure XXXVIII.

39.2 An accurate and up-to-date preparation of the account of votes received by a candidate stage by stage will also help you in keeping a watch over the progress of the different continuing candidates who are about to reach the required quota or are lowest on the poll and on the verge of exclusion.

### **Maintenance of Transfer Sheets**

40.1 In carrying out the operations of distribution and transfer of surplus votes of elected candidates or of the total votes of the excluded candidates, you are required to transfer the unexhausted ballot papers from one candidate to another. Many ballot papers become exhausted in that process. In order that a proper and accurate account of such transfers is maintained at each stage, the Commission has devised the forms of Transfer Sheets for showing-

(1) the distribution of surplus votes of an elected candidate, and

(2) the transfer of all votes of an excluded candidate.

You should get these Transfer Sheets prepared and completed accurately immediately after the transfer of ballot papers in each parcel and sub-parcel of candidate.

40.2 A sample form each of these two Transfer Sheets, filled in for your guidance, is given at Annexure XXXIX and Annexure XL.

### **Completion of Return of Election**

41. On the completion of counting of votes, you are required to prepare a return of election in Form 23B. In order that this return is prepared carefully and accurately, the entries should be made therein after each count, i.e., after the distribution of surplus of each elected candidate and the transfer of votes of each excluded candidate. The result should be ascertained by you at the end of each count so that the counting proceeds smoothly and you know at each stage how many candidates have been declared elected and how many vacancies remain to be filled. This timely completion of the return of election after each count will also enable you to keep a watch over the progress of those continuing candidates who are about to reach the required quota. This will also help you in ascertaining correctly as to which of the candidates is lowest on the poll after the end of any count whose name may have to be excluded from the poll. The completion

of this return of election will ultimately enable you to make the formal declaration of result in the appropriate form. (The form in which the formal declaration of result shall be made by you is discussed in the next chapter.)

### **Recount**

42.1 At an election in a parliamentary or Assembly constituency, the application for recount can be entertained by the Returning Officer only after the completion of counting and before the formal declaration of result. However, at an election to the Council of States, the request for recount is *not* to be postponed till the completion of counting. Such request can be made at any time during the counting of votes either before the commencement of any transfer of votes contained in a parcel or sub-parcel or after the completion of any such transfer. Such request can be made for the re-examination or recount of the ballot papers of all or any candidates. However, such request cannot be made for the re-examination or recount of any ballot papers which have been set aside at any previous transfer as finally dealt with. Whenever any valid request for the re-examination or recount of the ballot papers is made, you shall forthwith re-examine or recount the same accordingly.

42.2 You have discretion to recount the votes either once or more than once, if you are not satisfied as to the accuracy of any previous count. It is not, however, obligatory by law on your part to recount the same votes more than once.

42.3 The request for recount can be made by

any candidate or in his absence by his election agent or counting agent. Such request can be made either orally or in writing. Law does not insist for a written application for recount at elections to the Council of States.

## **COUNTING OF VOTES AT ELECTIONS TO THE STATE LEGISLATIVE COUNCIL**

### **A - Counting at Election by Members of State Legislative Assembly**

43.1 The counting of votes at an election to the State Legislative Council by members of the State Legislative Assembly shall be conducted in the same manner as has been explained in paragraphs 3 to 42 above in relation to the counting of votes at an election to the Council of States.

43.2 At a simultaneous election to the Council of States and the State Legislative Council by members of the State Legislative Assembly, the counting should preferably be done in the same counting hall but on different counting tables. At such election, a common ballot box will be used for receiving the ballot papers of both the elections. For counting the votes cast at these two elections, you will first have to separate the ballot papers for each election. The counting tables should be so arranged that the actual movement of ballot papers for these two elections from the table where they are sorted out election wise to the tables where they are to be counted separately is visible to the counting agents sitting at both the counting tables.

## **B-Counting at Elections in Council Constituencies**

44.1 The system of elections in Council constituencies is also the same as in the case of elections to the Council of States and the State Legislative Council by members of the State Legislative Assembly. Therefore, the actual process of counting of votes at elections in Council constituencies is also similar in all essential aspects to the process of counting of votes at elections by Assembly members as explained in the foregoing paragraphs.

44.2 However, as the poll in Council constituencies is taken at different polling stations spread over the constituency, you will have to keep in view different considerations in regard to the fixing of date, time and place of counting, the number of counting tables to be provided in the counting hall, opening of ballot boxes after their inspection by the counting agents of the candidates and the like. In this context, the instructions given in the following paragraphs, should be taken note of and meticulously followed by you.

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

45.1 Fix sufficiently in advance and in any case at least one week before the date fixed for the poll, the date for the counting of votes. Also fix the place and time at which the votes will be counted on the date so fixed.

45.2 The date of counting of votes should normally be the date following the date of poll or the second date in case the constituency is far flung

and it is physically impossible for the ballot boxes to reach the place fixed for counting by the morning of the date following the date of the poll.

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

45.4 As far as possible, counting of votes of two constituencies may not be held together in one building as such an arrangement would attract larger crowds outside the counting centre posing serious problems regarding the maintenance of law and order.

45.5 Give notice of the place, date and time to each candidate or his election agent as may be appropriate in the form prescribed by the Commission for the purpose, vide Annexure XXXIV. If, for any unavoidable reason, you are unable to proceed with the counting at the place and/or at the time and/or on the date so fixed and communicated to the candidates, you can postpone the counting and fix another date and time and, if necessary, another place for the counting of votes. You should give notice of every such change in writing to each candidate and his election agent.

45.6 Verify as early as possible that all the ballot boxes from all the polling stations within your constituency have been received. Counting should not commence unless all the ballot boxes from all

the polling stations have reached you.

45.7 The room or the hall must be spacious enough to accommodate you, the counting assistants, the candidates and their agents.

45.8 There should be proper lighting arrangements. Stand-by arrangements like generator or gas lights should be provided to tide over emergencies created by power failure.

45.9 As far as practicable, the counting of votes in temporary structures should be avoided as seasonal conditions like rains, etc., would affect the process of counting in such places. However, if it becomes unavoidable to arrange the counting in temporary structures made of inflammable material, care should be taken to post security guards and fire brigade (or other arrangements for extinguishing fire) against emergency.

### **Counting to be Done at One Place**

46.1 The counting should be done at *one* place only under your direct supervision. Under the system of proportional representation by means of single transferable vote followed at elections in Council constituencies, all the ballot papers after they have been taken out of the ballot boxes have to be counted together. Therefore, the counting of votes at these elections at more than one place is not possible.

46.2 The law enables your Assistant Returning Officer also to count the votes. Therefore, if you are the Returning Officer for simultaneous election from

more than one Council constituency, the votes of these constituencies can be counted under the direct supervision of your Assistant Returning Officers subject to your overall control. In such cases, the counting should be arranged as far as possible in adjacent halls in the same building so that you can have an effective control over the counting of votes at all such places.

46.3 At such simultaneous election from Graduates' and Teachers' constituencies, it is quite possible that some common polling stations may have been provided for taking the poll for both the elections. At such polling stations, a common ballot box will be used for receiving the ballot papers of both the elections. However, these ballot papers will be of different colours. These ballot papers may be sorted out and separated election wise at the counting hall for the graduates' constituency. The ballot papers for the Graduates' constituency should then be retained in that counting hall and the ballot papers meant for the Teachers' constituency should be passed on to the counting hall where the counting for Teachers' constituency is taken up. This should be done in the presence of the candidates and/or their agents.

### **Number and Arrangement of Counting Tables**

47.1 As already mentioned in the preceding Para 46.1. at an election from a Council Constituency, the counting of votes shall be done only at one place. After opening the ballot boxes pertaining to different polling stations, the ballot papers contained therein should be taken out and counted for num-

bers. Such counting for numbers can be done at different tables. The number so ascertained should be tallied with the ballot paper account of each polling station. Thereafter, the ballot papers of all the polling stations should be mixed together and then scrutinised with reference to the first preference marked thereon and sorted out candidate wise. In other words SORTING OUT OF BALLOT PAPERS Candidate wise SHALL NOT BE DONE POLLING STATIONS WISE. This process of sorting out ballot papers candidate wise with reference to the first preference marked thereon, after all the ballot papers have been mixed together, may be done at different counting tables, if you consider it more convenient where the number of votes polled is large. But further process of distribution of surplus votes of elected candidates and the distribution of total votes of candidates excluded from the poll cannot be done at different tables. For these subsequent stages of counting, all ballot papers of individual candidates have to be kept at, one place arranged in parcels and sub-parcels. Therefore, after all the ballot papers of each candidate have been collected and kept together and arranged in different parcels for each candidate, the further process of counting will-be mainly conducted at your table.

47.2 Keeping in view the above, you should decide in advance how many counting tables you are going to have for the preliminary work mentioned in Para 47.1 above. On that depends the number of counting assistants you will have to appoint and the number of counting agents which each candidate will be entitled to appoint.

47.3 The total number of counting tables mentioned in Para above should not normally be more than 15, apart from your own table. If the hall available at the place is not commodious enough, the number of tables may be reduced to any figure which you may consider suitable after taking into account the size of the hall, number of counting personnel to be deployed and also the total number of candidates whose agents will have to be accommodated.

47.4 While fixing the number of counting tables, you should also keep in view the fact that after the preliminary work mentioned in Para 47.1 has been completed at the different counting tables, the candidates may not require a large number of counting agents to keep watch over the proceedings which will be mainly done at your table. Therefore, you may try to reduce, as far as possible, the number of counting tables for the preliminary work so that there is no unnecessary overcrowding in the counting hall after the preliminary work is over at the different counting tables.

### **Stationery Required at the Counting Tables**

48. Provide every counting table with the following articles of stationery:

- (i) a knife or razor blade,
- (ii) pencils,
- (iii) sheets of paper,
- (iv) wet sponge or water in a small cup,

- (v) twine or rubber bands,
- (vi) one or two paper weights,
- (vii) sufficient envelopes of suitable size for preparation of parcels and sub-parcels of ballot papers of each candidate,
- (viii) wooden or metal trays to keep the envelopes.

### **Number of Counting Agents**

49. Each candidate should be allowed to appoint as many counting agents as there are counting tables for counting of votes polled at the election that he contests and one more to watch the counting at the Returning Officer's table.

### **Letters of Appointment of Counting Agents**

50.1 Inform the candidates about the number of counting agents they can appoint and ask them to send their letters of appointment not later than one hour before the time fixed for counting. A candidate may appoint all his counting agents by a single letter in Form 18 suitably modified. In that case all the agents should also have signed the letter in token of their acceptance of the appointment and should sign the declaration later in your presence. After necessary verification, you may give them identity cards in advance for production at the time of entry into the counting hall.

50.2 In all cases, where the number of contesting candidates is five or more, the candidates should be asked to submit the lists of their counting agents at least two days before the date of counting, to-

gether with the photographs of such agents, so that they are issued with identity cards bearing their photographs.

### **Badges of Counting Agents**

51.1 Each counting agent may have a badge indicating whose agent he is and the serial number of the table at which he will watch the counting. Each counting agent should affix his signature in full on the badge immediately after it has been issued to him. He should keep seated near the table allotted to him and should not be allowed to move about all over the hall. The extra counting agent may sit and watch the proceedings at your table. However, as far as possible, in order to avoid overcrowding at your table, only one person whether the candidate himself or his election agent or his counting agent should be present at a time at that table on behalf of a contesting candidate.

51.2 The candidates and their election agents will be free to go round to any part of the hall. In the absence of both the candidate and his election agent his extra counting agent at your table may be allowed to go round to any part of the hall.

### **Appointment of Counting Assistants**

52.1 You may appoint such staff as you may require for assisting you in the counting. Such appointments may be made in the form given in Annexure XXXV.

52.2 You should appoint as counting supervisors only gazetted officers of the Central or State

Government or officers of comparable status from Central/State Government undertakings. The counting assistants also should similarly be drawn from officers of a comparatively higher level. They should be given intensive training in counting.

52.3 You should not appoint as counting supervisor or as counting assistant any one who has been employed by or on behalf of, or has otherwise been working for a candidate in or about an election.

52.4 At each table there should be one counting supervisor and two or more counting assistants.

52.5 In addition, appoint a sufficient number of Group D Government employees also as counting assistants to carry the ballot boxes to and from the counting tables.

### **Maintenance of Discipline and Order at Counting**

53.1 You should not permit any person, other than those mentioned in paragraph 6.1 above, to enter or remain inside the counting hall.

53.2 Post police constables on duty at the door or doors of the counting hall. Do not allow any person to enter or leave the room without your permission. You must ensure that complete order and discipline prevail and counting takes place in a business-like manner. You may send out of the counting hall any person who persists in disobeying your directions. You should not allow smoking inside the counting hall. The persons required to sit inside the counting hall may go out, if they desire to smoke, with-

out, however, causing any dislocation in the counting process.

### **Commencement of Counting**

54. Commence the counting at the hour fixed for the purpose. Everyone present in the counting hall should be instructed to maintain secrecy of vote.

For that purpose, the provisions of section 128 of the Representation of the People Act, 1951 should be brought to the notice of everyone.

### **Counting of Votes Received by Post**

55. As has been explained in paragraph 8 above, the covers containing the postal ballot papers are to be dealt with first. Therefore, you should first deal with covers containing the postal ballot papers in the manner explained in that paragraph.

### **Opening of Ballot Boxes**

56.1 While you are engaged in dealing with the covers containing postal ballot papers, the work of distribution of ballot boxes on the various tables can be done. Keep an account of such distribution with you for your information.

56.2 All the ballot boxes used at one polling station should be brought in one lot and given to one table for initial counting. Along with the ballot box or boxes of each polling station, the counting table should also be supplied with the relative Ballot Paper Account in Form 16 and the Paper Seal Account in the appropriate form received from the polling station. All the boxes should not, however,

be opened simultaneously. Only one box should be opened and counted at a time.

### **Checking Seals on Ballot Boxes**

57.1 As soon as a ballot box has been placed on the counting table, allow the counting agents for the table to satisfy themselves that the seals on the ballot box are intact and have not been tampered with. Where a paper seal is used for closing a ballot box, the outer seals of the ballot box are not vital and even if these outer seals are damaged, but the inner paper seal is intact, the contents of the ballot box could not have been tampered with. Similarly, where such paper seal is not used but metal seals are used, the outer seals are not vital in such a box and even if those outer seals are damaged, but the inner seals are intact, the contents of the ballot box could not have been tampered with. If any candidate or his counting agent raises any objection in respect of these outer seals, reject such objections and proceed with the counting.

*57.2 Candidates and agents are entitled to check identity marks and paper seals -* As each ballot box is opened, allow every candidate or his counting agent to check the identity of the box with reference to -

- (i) the identity marks on the paper seal or the label or address tag as the case may be, and
- (ii) the serial number of the paper seal (where one is used for sealing a ballot box).

*57.3 Comparison of serial numbers of paper seals*

- Where paper seals are used, the serial number on the paper seal of each box should be compared with their numbers as given in the paper seal account sent to you by the Presiding Officer. Allow the counting agents of the candidates to note the serial numbers of the unused paper seals returned by the Presiding Officer and of paper seals used as shown in the paper seal account and the paper seal actually found on a box. If the numbers do not tally in respect of any particular box, there would be a prima facie suspicion that the ballot box has been tampered with or that paper seal account contains a mistake. Decide the question after checking the serial numbers of the unused paper seals returned by the Presiding Officer and other relevant circumstances, including notes, if any, made by the candidates' polling agents at polling stations, if available. If you find it to be a case of mistake, ignore the discrepancy. If you are satisfied that the ballot box has in fact been tampered with, follow the procedure given in paragraphs 57.4 and 60 to 62 below.

57.4 If the paper seals (for Godrej-type ballot boxes) or the inner seal (for Bungo-type ballot boxes) are found to have been tampered with in any box in such a way that the box is no longer secure and its contents could have been interfered with, and if you are further satisfied that the box has, in fact, been tampered with, you should not open the box or bring out its contents. Reseal the box without counting, wrap it up in cloth or gunny bag and keep it separate. Report the facts to the Election

Commission and the Chief Electoral Officer and arrange, with the prior approval of the Commission, for a repoll in the polling station concerned. In such a situation, the counting shall remain suspended till the completion of the repoll.

57.5 After the seals and the identity of the ballot boxes from a polling station have been checked in the manner detailed above and found to be in order, their contents should be taken out on the respective counting tables.

57.6 Allow the counting agents to satisfy themselves that all ballot papers have been taken out from the boxes and that they are empty.

57.7 The counting assistants should be careful to see that no ballot paper goes astray while being handled by them.

### **Taking out Ballot Papers from ballot Boxes and Tallying their Numbers**

58.1 After each ballot box used at a polling station has been opened, the ballot papers contained therein should be taken out ensuring that no ballot paper is left inside the ballot box. The ballot papers so taken out of the ballot box(es) used at a polling station should be *counted for numbers* separately for each polling station. The number so ascertained should be tallied with the number of ballot papers which should have been found in the ballot box(es) used at that polling station as indicated in item 5 of the Ballot Paper Account in Part I of Form 16.

58.2 Though Part II of Form 16 is in terms not

applicable to the counting of votes at elections in Council constituencies, Item III of said Part II may be filled by noting down the total number of ballot papers taken out of the ballot box(es) used at the polling station for purpose of tallying that number with the total number of ballot papers which should have been found in the ballot box(es) as shown in Item 5 of Part I of that Form. A model Form 16 duly filled in is given for your guidance at Annexure XLI.

58.3 The number of ballot papers taken out of ballot box(es) used at each polling station should then be noted polling station wise in a statement [rule 73(1)(b)]. The form of such statement as devised by the Commission is given at Annexure XLII.

58.4 After all ballot papers have been taken out of the ballot boxes and their numbers noted polling station wise in the statement at Annexure XLII, the number of postal ballot papers, if any, should also be noted in the said statement. These postal ballot papers should then be kept along with the ballot papers taken out of the ballot boxes. All these ballot papers should then be taken up for detailed scrutiny one by one.

### **Scrutiny of ballot Papers and Further Procedure of Counting**

59.1 From this stage onwards, the counting of votes shall proceed in the same manner as has been explained in paragraphs 10 to 42 in relation to the counting of votes for election to the Council of States. Therefore, you should proceed accordingly to scru-

tinies the ballot papers so as to determine their validity or otherwise, ascertain the quota sufficient to secure the return of a candidate, declare the candidate(s) elected at the first count who secure(s) the required quota, distribute the surplus votes of the elected candidate(s), transfer the votes of the excluded candidates, if necessary, for filling the remaining vacancies in the manner explained above. A proper record of the distribution of surplus votes of elected candidates and the transfer of votes of excluded candidates should be kept by you in the Transfer Sheets prescribed *vide* Annexure XXXIX & XL.

59.2 Here, it may be noted that there will be no objection in allowing the candidates and their agents to note the serial numbers of the rejected ballot papers, if they so desire, in the Graduates' and Teachers' constituencies. However, in the local authorities' constituencies, the serial numbers of the rejected ballot papers shall not be permitted to be noted down as the serial numbers on the ballot papers for elections in local authorities' constituencies are also concealed in the same manner as in the case of elections in the Council of States and the State Legislative Council by members of the State Legislative Assembly.

### **Counting not to Proceed in case any Ballot Box Found Tampered with**

60. Under the law, it is not necessary to adjourn the entire counting if a ballot box has been found by you to have been tampered with. However, under the system of proportional representation

by means of single transferable vote followed at elections to Council of States and the State Legislative Councils, the counting cannot proceed unless all the valid ballot papers have first been determined and sorted out because the quota sufficient to secure the return of a candidate depends upon the number of valid ballot papers. Therefore, under this system, the counting cannot proceed if any ballot box has been found tampered with and unless decision is taken by the Election Commission under section 58 or 58A or 64A as may be applicable whether the ballot papers contained therein should be counted or not. Thus, if any ballot box is found by you to have been tampered with, report the matter forthwith to the Election Commission for necessary direction under section 58 or 58A or 64A. If the Commission directs that a repoll shall be taken in the affected polling stations(s), arrange for such repoll and the votes should be counted after the repoll has been taken.

**Procedure to be Followed in case of Destruction, Loss, etc. of Ballot Papers before Completion of Counting**

61. Under the law (section 64A) the Commission is competent to direct, after taking all material circumstances into account, the counting of votes to be stopped and, if necessary, order fresh poll if it is reported by the Returning Officer before completion of the counting of votes that ballot papers used at a polling station have been-

- (i) Unlawfully taken out of his custody, or

- (ii) Accidentally or intentionally destroyed or lost, or
- (iii) Damaged or tampered with,

to such an extent that the result of the poll at that polling station cannot be ascertained. If any such occasion arises, you should forthwith report full facts of the case to the Commission and await its directions in regard to the counting of votes.

### **Procedure to be Followed in the case of Booth Capturing at the Counting Centre**

62.1 Under section 58A of the Representation of the People Act, 1951 as inserted w.e.f. 15.03.1989, if booth capturing takes place in any place of counting in such a manner that result of the counting at that counting centre cannot be ascertained, the Returning Officer shall forthwith report the matter to the Election Commission.

62.2 On receipt of the report of the Returning Officer, the Commission shall, after taking all material circumstances into account, either direct a repoll at the affected polling stations or countermand the election. Therefore, once you have reported the matter to the Commission under section 58A, await its directions in this regard and proceed further according to its directions when received.

### **Adjournment of Counting**

63. In other cases, you should proceed with the counting continuously. In case you have to suspend or adjourn the counting before its completion for any unavoidable reason, seal up all the ballot pa-

pers in packets as also all other papers relating to the election. Allow every candidate or his agent, if • he desires to do so, to place his seal on every packet, etc., in which these papers are kept.

**N.B.** - It is preferable to keep all the sealed packets, etc., in a steel or other strong admiral or in a separate room and have the admiral or the room sealed and secured with your seal and the seals of the candidates or their agents. Alternatively, the candidates may put their own locks in addition to yours on such admiral or room.

### **Counting after Repoll**

64. If any repoll has been held at a polling station, you should fix the date, time and place for counting the votes after such repoll and give notice of the same to every candidate or his election agent. You should follow the same procedure as detailed above for such further counting as far as it applies.

### **Sealing of Ballot Papers etc., after Counting for Ensuring Safe Custody**

65.1 Under rule 93(1) of the Conduct of Elections Rules, 1961, the packets of election papers specified therein shall not be opened and their contents shall not be inspected by or produced before, any person or authority except under the order of a competent Court. Special care has thus to be taken for the safe custody of these papers.

65.2 These papers are:

- (1) the packets of unused ballot papers with counterfoils attached thereto;
- (2). the packets of used ballot papers whether valid, tendered, or rejected (This also

includes, the packets in which covers containing postal ballot papers received late are kept);

- (3) the packets of the counterfoils of used ballot papers;
- (4) the packets of the marked copy of the electoral roll; and
- (5) the packets of the declarations by electors and the attestation of their signatures.

65.3 In view of the important nature of these election papers, the Commission has directed that these papers should be sealed with the secret seal of the Commission.

65.4 The papers mentioned at item (2) [*except packets of tendered ballot papers*] and item (5) above shall be made into packets at the time of counting. Such packets shall be sealed by you with your own seal immediately after the counting of the votes is over and with a special secret seal which will be supplied by the Commission for the election for each constituency. The secret seal will be in addition to the seals, if any, put on these packets by such of the candidates, their election agents or counting agents, as may desire to affix their seals thereon. You should point out to the candidates or their agents present that it is in their own interest to affix their seals on these packets to avoid any possibility of tampering with these packets. They may also be permitted to note the number of the Commission's secret seal used. These two kinds of pack-

ets should be separated from the rest of the papers relating to the election and kept in separate sealed steel trunk(s).

65.5 After the sealing of the above packets at the counting place after the counting of votes, you should draw up proceedings mentioning therein:

- (1) the full particulars of the candidates/agents present in the counting hall;
- (2) the fact that they were asked to affix their signatures and seals on the packets of used ballot papers, etc., if they so desired; and
- (3) the particulars of persons who had signed and sealed the packets and the particulars of those persons who had refused to do so.

Then, you should sign the proceedings and obtain on it the signatures of such of the Candidates/agents who are present and willing to sign. The proceedings should be put inside an envelope which should be sealed and the sealed envelope should be kept along with the packets of used ballot papers.

65.6 In the case of elections in Council constituencies, all the packets of papers mentioned at items

(1), (3) and (4) in Para 65.2 above and the packets of tendered votes will be received from the Presiding Officers of polling stations in duly sealed packets. As these packets are not required for any purpose at the time of counting of votes, each of them

should be immediately sealed with the secret seal of the Commission as soon as they are received at the receiving centre and placed in steel trunk(s).

65.7 You should put a responsible Officer-in-charge for the supervision of the actual sealing of these packets. Otherwise, there is possibility of important election papers going astray which would create complications and confusion if and when a competent Court orders the production of these papers.

65.8 Each steel trunk shall be locked with two locks and each lock shall be sealed. You should ensure that the secret seal of the Commission is put on packets only and not on any of the locks of the steel trunk or trunks.

#### **Safe Custody of Election Records by District Election Officer**

66.1 Immediately after the declaration of the result of the election, on the same day and, in any case, not later than the noon of the following day, the sealed-trunk(s) containing the above packets should be dispatched to the District Election Officer at his headquarters and on receipt of the sealed trunk(s) the District Election Officer should forthwith arrange to deposit them in safe custody in the Treasury/Sub-treasury under double lock. *In the case of election by assembly members, the steel trunk(s) referred to in sub-paragraphs 65.2 to 65.4 should be deposited by you in safe custody in the Treasury under double lock either on the same day or in any case not later than the noon of the following day.*

The key of one of the locks of each trunk will be entrusted to the Treasury Officer or an Officer in the Treasury/Sub-treasury authorized under the Treasury Code and the key of the other lock of each trunk should be kept by the District Election Officer himself or by you (in the case of an election by Assembly members) or a senior officer nominated for the purpose by the District Election Officer/you.

66.2 The armed police guard posted at the room where the ballot boxes are stored before the counting of votes, should not be removed after the counting is over, but should continue to keep guard of the room till the transport of the election records to the District Headquarters. As far as possible, the same guard should be used for protection during the transport also, and this fact should be mentioned in the log book maintained by the guard.

#### **Return of Secret Seal of the Commission**

67. After the packets required to be sealed with the secret seal of the Commission are sealed, the secret seal or seals should be put into a separate packet which should be sealed with the seals of such of the candidates, their election agents or counting agents, as may desire to affix their seals thereon. Thereafter, the packet containing the secret seal of the Commission should be returned immediately to the Commission by registered insured post and in any case not later than 24 hours after the counting of votes is completed. Any non-compliance with these instructions will be taken serious note of. If more than one seal had been supplied, the name of the constituency and the number of the seal that was used should be indicated.

## CHAPTER XIII

# **DECLARATION AND PUBLICATION OF RESULT OF ELECTION**

1.1 Elections to the Council of States and State Legislative Councils can be held either for filling one seat for or for filling more than one seat. The counting procedures to be followed when only one seat is to be filled and when more than one seat is to be filled are different and have been explained in detail in the previous Chapter. You must have observed from those procedures that at an election where only one seat is to be filled, the counting is complete as soon as a candidate reaches the quota sufficient to secure the return of a candidate at that election. At an election where more than one seat is to be filled, the candidates may get elected on reaching the requisite quota in different rounds as different times when the process of counting is going on. In order that you know at each stage of , counting as to how many candidates have been declared elected and how many seats remain to be filled, you have been instructed in the previous Chapter to get the return of election in Form 23B prepared and completed as each count proceeds. When all the seats at the election have "been filled up by electing the required number of candidates during the process of counting, the counting will be complete in all respects and return of election will also be prepared fully.

1.2 After completion of counting, you shall make a formal declaration of the result of election in favour of the candidates who have got elected.

### **Form of Declaration of Result**

2.1 The formal declaration of result should be made by you either in Form 23 or Form 23A of the Conduct of Elections Rules, 1961 as may be appropriate. The declaration shall be made in Form 23 in the case of *biennial election*. In the case of a *bye-election* to fill a casual vacancy, the declaration shall be made in Form 23A.

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

### **Authorities to whom Copies of Declaration should be Sent**

3. Send copies of the declaration of result in Form 23 or 23A, as the case may be, to :

- (i) the Election Commission;
- (ii) the Chief Electoral Officer of the State;
- (iii) (a) Union Ministry of Law and Justice  
(Legislative Department), New  
Delhi;
- (b) The Secretary General to the Rajya

Sabha, New Delhi, in the case of election to the Council of States;

Or,

- (a) The State Government;
- (b) The Secretary to State Legislative Council,  
in the case of election to the State Legislative Council.

**Authorities to whom Return of Election should be Sent**

4.1 When you have declared the result in the manner indicated above, you should complete and certify the return of election in Form 23B of the Conduct of Elections Rules, 1961. Forward copies of the return to:

- (i) the Election Commission
- (ii) the Chief Electoral Officer of the State.

4.2 If any candidate or his agent wants to take a copy or an extract from this return, he should be permitted to do so. You may supply a copy of such return to an applicant on payment of fee of Rs.2/- (Rule 93(3)).

**Report of Result of Election**

5.1 You should intimate by an immediate Fax/ Telex message or Telegram the result of every election as soon as the counting of votes is over to-

- (i) the Election Commission of India, 237

New Delhi (Fax No. 3713412, Telex No. ND 31-61312, Telegraphic address: ELECOM, NEW DELHI or NIRVAYOG for telegrams in Hindi),

- (ii) the Director of News Services, All-India Radio, New Delhi (Telegraphic address; AIRNEWS, NEW DELHI);
- (iii) A.I.R. Station in the headquarters of the State;  
Telegraphic address of the Station is as under  
Srinagar : KASHNEWS SRINAGAR.  
All remaining stations-  
'AKASHVANI' concerned i.e.  
'AKASHVANI; AHMEDABAD' etc.
- (iv) the Director, Doordarshan Kendra, Parliament Street, New Delhi-110 001;
- (v) Doordarshan Kendras concerned, if any, in the headquarters of the State;
- (vi) The Information Officer, P.I.B., New Delhi (Telegraphic address: INFORMA, NEW DELHI);
- (vii) The Ministry of Law, Justice and Company Affairs (Legislative Department), New Delhi (in respect of election to the Council of States) (Telegraphic address : LAW, NEW DELHI);

Or,

the State Government (in respect of

elections to the State Legislative Council);

- (viii) the Secretary General, Rajya Sabha, New Delhi (in respect of election to the Council of States) (Telegraphic address: RAJYASABHA, NEW DELHI);

Or,

the Secretary of the State Legislative Council (in respect of election to the State Legislative Council);

- (ix) the Chief Electoral Officer of the State.

5.2 The telegrams may be addressed to the Commission and repeated to the other addressees at (ii), (iv), (vi) and (vii). This will save telegraph charges.

5.3 A telegram communicating the result of the election by *Assembly members* should indicate the following particulars:

- (i) Name of the State;
- (ii) Name of election;
- (iii) No. of seats to be filled;
- (iv) Total number of valid votes polled;
- (v) No. of votes rejected;
- (vi) Names of the *elected* candidates with their party affiliation.

5.4 A telegram communicating the result of the

election in a *Council* constituency should indicate the following particulars:

- (i) Name of the State;
- (ii) SI. No. and name of the constituency (as given in the Delimitation of Council Constituencies Order);
- (hi) Total No. of electors in the constituency;
- (iv) Total number of valid votes;
- (v) No. of votes rejected;
- (vi) No. of seats to be filled;
- (vii) Names of *elected* candidates with their party affiliation.

5.5 You should further ensure that whenever you refer to a woman candidate in a Fax/Telex message or telegram communicating the result you should prefix her name with "Kumari" or "Shrimati", as the case may be, so that it is definitely understood that the candidate is a woman.

5.6 You should also ensure that figures of votes which are mentioned while reporting the result are given in words and not in numerals as the latter are likely to be mutilated during transmission.

### **Sample Telegrams**

6. To secure uniformity in communicating the result of election and ensure economy in expenditure you should adopt the specimen forms of Fax/

Telex message/telegrams given in Annexure XLIII & XLIII-A or adapt them suitably.

### **Certificate of Election**

7.1 As soon as may be after a candidate has been declared elected, you should grant to such candidate a certificate of election in Form 24 and obtain from the candidate an acknowledgement of its receipt duly signed by him. It is essential that this acknowledgement is signed by the candidate himself and his signature is attested by the Returning Officer personally before dispatch. There after immediately send this acknowledgement by registered post to the Secretary General to the Council of States or, as the case may be, the Secretary of the Legislative Council. The acknowledgement shall be in the form shown below:

"I .....acknowledge receipt of the certificate of election in Form 24 in respect of my election to ..... from ..... constituency, declared on ...

*Signature of the  
returned candidate*

Date .....

Attested and forwarded to the Secretary

.....

*Returning Officer."*

7.2 The certificate of election should be handed over to the candidate, and its acknowledgement obtained immediately after declaration of result, if he happens to be present at the counting. Where he

is not so present he should be contacted as quickly as possible and the dispatch of the acknowledgement completed within a day or two. These acknowledgements are required by the authorities concerned for verifying the identity of the elected candidates at the time of making or subscribing the oath or affirmation by them before taking their seat in the House concerned.

7.3 The certificate of election, in respect of both Parliament and the State Legislatures, should be issued in English or in Hindi but it should be open to the elected candidate to sign the acknowledgement in any language he likes.

7.4 Where the elected candidate is not present at the counting nor visits the locality shortly thereafter, the certificate may be handed over to a person duly authorized by the candidate in his behalf and personally known to the Returning Officer, the acknowledgement (duly signed by the candidate) being also obtained through the same person.

### **Publication of Results of Elections and of Names of Nominated Persons**

8.1 After the completion of biennial election to the Council of States and the Legislative Council in any year, the appropriate authority, namely, the Central Government in the case of biennial election to the Council of States, or the State Government in the case of biennial election to the Legislative Council is required to issue a notification containing the names of elected candidates under section 71 or 74, as the case may be, of the Representation

of the People Act, 1951.

8.2 In relation to the biennial election to the Council of States, the names of members elected by the elected members of the Legislative Assemblies of the States and by the members of the electoral colleges for the various Union Territories at the said election together with the names of any persons nominated by the President to the Council of States under article 80(1)(a) or under any other provision, are notified in the *Gazette of India* under section 71.

8.3 In the case of biennial elections to the State Legislative Council, the names of the members elected from the various Council constituencies and by the members of the Legislative Assembly of the State at the said elections together with the names of any persons nominated by the Governor under article 171(3)(e) are notified in the *Official Gazette* of the State under section 74 of the Representation of the People Act, 1951.

8.4 The notification under section 71 of the Representation of the People Act, 1951 mentioned above is issued by the Ministry of Law and Justice, Legislative Department, Government of India immediately after the expiry of term of office of the retiring members. The representatives of most of the States in the Council of States generally retire on 2nd April of the year in which the biennial election is held and the notification under section 71 is therefore required to be issued on 3rd April. The list of names of all the members elected from each State at the biennial election should therefore reach

the Ministry of Law and Justice well before the due date. The gap between the dates of declarations of the results in respect of election to the Council of States and the date on which the notification under section 71 of the Act is to be issued very often happens to be narrow. In case where there is only a gap of two or three days, the complete list of elected members should be brought to Delhi by a special messenger by the quickest mode of travel, after the declaration of results by the Returning Officers concerned. The Chief Electoral Officer should also ensure that the complete list of such names are transmitted through Fax/Telex or Telegram whichever *is* available.

### **Term of Office of Members**

9. The statutory provisions governing the term of office of members are contained in section 154 (Term of office of members of the Council of States), 155 (Commencement of the term of office of members of the Council of States), 156 (Term of office of members of the State Legislative Council), 157 (Commencement of the term of office of members of the Legislative Councils). The provisions contained in sections 67, 71 and 74 of the Representation of the People Act, 1951 should also be carefully studied.

### **Council of States**

10.1 A member of the Council of States chosen at a *biennial* election serves for the full term of six years. However, a person chosen to fill a casual vacancy will serve only for the remainder of his

predecessor's term of office [Section 154(3)].

10.2 The term of office of a member of the Council of States whose name is required to be notified in the *Official Gazette* under section 71, i.e., members elected at a *biennial* election under - section 12 of the Act, and the nominated member shall begin on the date of notification [Section 155(1)].

10.3 The term of office of a member of the Council of States whose name is not required to be notified under section 71, i.e., members elected at bye-election, shall begin on the date of publication in the *Official Gazette* of the declaration containing the names of such person as elected under section 67 or of the notification issued under article 80(I)(a) or under any other provision announcing the nomination of such person to the Council of States, as the case may be.

### **Legislative Councils**

11. The provisions are the same, but sections applicable are sections 74, 156 and 157.

## CHAPTER XIV

# **RETURN AND FORFEITURE OF DEPOSITS ELECTIONS TO THE COUNCIL OF STATES**

1. Every candidate whose nomination papers were found valid must have made the requisite deposit of Rs. 250 (Rs. 125 in the case of a candidate belonging to a Scheduled Caste or Scheduled Tribe). Some of the candidates, if not all, whose nomination papers were found invalid and were rejected by you, must also have made the deposit. There would also be some validly nominated candidates who have withdrawn their candidatures according to law before the expiry of the time limit for such withdrawals. Lastly, some candidates would be defeated at the polls while some candidate(s) will have been duly elected to fill the seat(s) at the election. Deposits made by them have either to be returned to candidates or forfeited to Government.

### **Legal provisions**

2. Section 158 lays down the method of disposal of the deposits made by the candidates. Follow its provisions carefully when you dispose of applications for the return of the deposit by the candidates or by the persons who made the deposits on their behalf.

N.B.— A deposit can be refunded only to the whose name it was made in the treasury, or his legal representative if he is dead.

### Conditions for return

3. The deposit made by a candidate shall be returned if the following conditions are satisfied:

- (i) the candidate is not shown in the list of contesting candidates, that is to say, either his nomination was rejected or after his nomination was accepted, he withdrew his candidature; or
- (ii) he dies before the commencement of the poll; or
- (iii) he is elected; or
- (iv) he is not elected but gets *more than* 1/6th of the number of votes sufficient to secure the return of a candidate, i.e., the requisite quota as worked out for the return of the candidate at the election.

**N.B.**—(1) For the purposes of clause (iv) above, the votes got by a candidate shall be deemed to be—

- (i) the votes obtained by him at the end of the final count, if he was a continuing candidate till the end, and
  - (ii) the votes obtained by him at the end of the count immediately preceding his exclusion, if he was a candidate excluded from the poll [rule 97(a)].
- (2) If the candidate has polled exactly 1/6th of the number of votes sufficient to secure the return of a candidate, the deposit will not be refunded.

- (3) If the candidate was elected, the deposit will be refunded even if he did not poll more than 1/6th of the votes sufficient to secure the return of a candidate (which will, however, be quite improbable).

**Return: When to be made**

4. If the candidate is not shown in the list of contesting candidates or if he dies before the commencement of the poll, the deposit should be returned as soon as practicable after the publication of the list or after his death, as the case may be. Some candidates may have made along with their second and subsequent nominations further security deposits. The second. and subsequent deposits should be returned, as far as practicable, after the publication of the list of contesting candidates. In other cases, the deposit should be returned as soon as practicable after the result of the election is declared.

**Form of application for return**

5.1 The law does not prescribe any form in which a candidate may apply to you for the return of his security deposit. However, in order to facilitate the candidate in making the application and to enable you to verify easily the claim for the return, he may be asked to make an application in the form given in Annexure XLIV.

5.2 If the deposit was made by someone else on behalf of the candidate, the application may be obtained in the form given in Annexure XLIV-A.

5.3 If the candidate has died, his legal repre-

sentative may make the application in the form given in Annexure XLIV-B.

### **Prompt settlement of applications for refund**

6. In the past, complaints of considerable delay in refunding the deposit, possibly because the candidates did not comply with some formality or the other, reached the Commission. The Commission impresses upon you that all such cases should be promptly settled. Any discrepancy found in the application for return of deposit should be immediately brought to the notice of the candidate who should be given all help in the matter.

### **Forfeiture of deposit**

7.1 Forfeit to Government every deposit which is not refundable under any of the above paragraphs in this Chapter.

7.2 The forfeited amount of the deposit shall be credited to revenues under the following head:

"065-Other Administrative Services/B. Elections/ Sale proceeds of election forms and documents/Fees, fines and forfeiture. Other receipts".

### **Elections to the State Legislative Councils**

8.1 The candidates at an election to the State Legislative Council either by Assembly members or in a Council constituency are also required to make a deposit of Rs.250/- (Rs. 125/- in the case of a candidate belonging to a Scheduled Caste or Scheduled Tribe). The return of deposits made by them is also governed by the above mentioned provisions of section 158 of the Representation of the People Act,

1951. Therefore, the instructions contained in the foregoing paragraphs 1 to 7 shall be applicable in relation to the return of deposits made at elections to the State Legislative Councils.

8.2 However, while allowing the return of a deposit made for an election to the State Legislative Council, the instructions contained in the following paragraph 9 shall also be kept in view, apart from the conditions for return mentioned in paragraph 3 above.

**Deposit Returnable in One Constituency only at Elections to State Legislative Council**

9.1 Note that if a candidate was a contesting candidate at a biennial election to the State Legislative Council in more than one Council constituency, he cannot get a return of more than one deposit made by him or on his behalf. Likewise, if he was a contesting candidate at an election in a council constituency and also at the election by members of the State Legislative Assembly to fill seats in the Legislative Council in the same biennial election, he shall be entitled to the refund of only one deposit. Other deposits made by him or on his behalf will be forfeited to Government.

9.2 A contesting candidate at an election to the Council of States and also at an election to the State Legislative Council, when simultaneously held, is entitled to the return of deposits made in both the elections, if he is otherwise entitled to such return, as the two elections are different.

## **Form of Application for Refund**

10.1 In order that you may be in a better position to decide whether the candidate was a contesting candidate from more Council constituencies than one or whether he was a contesting candidate both from a Council constituency and at the election by Assembly members to the State Legislative Council at the same biennial election, obtain a declaration from the candidate whether he did so or not. For this purpose, every application for a return of deposit should be required to be made by candidate (or by the person who made the deposit in his behalf) in the form in Annexure XLV or Annexure XLV-A as may be appropriate. When a person other than the candidate has made the deposit, the candidate should be required to verify the application.

10.2 Even if a declaration is made by the candidate to the effect that he was not a contesting candidate from more than one Council constituency or that he was not a contesting candidate both from the Council constituency and at the election by Assembly members to the State Legislative Council at the same biennial election, you are entitled to satisfy yourself from such other materials and information as may be available to you that he did not in fact do so.

10.3 If the candidate has died, his legal representative may make the application for return of deposit in the form in Annexure XLV-B.

## **Refund to a Candidate Belonging to Scheduled Caste or Scheduled Tribe**

11.1 Where a candidate belonging to a Sched-

uled Caste or a Scheduled Tribe contests an election he is required under section 34(1) (read with section 39(2) to make a deposit of only Rs. 125/- instead of Rs. 250/- for any election to the Council of States or State Legislative Council. If he deposits by mistake or otherwise the full amount Rs. 250/- instead of what he is required to deposit as above, he is always entitled to the refund of the excess amount actually deposited by him. You should satisfy yourself of his being a member of a Scheduled Caste or a Scheduled Tribe before allowing such a refund.

11.2 As all the papers relating to nominations, scrutiny and withdrawal in a Council constituency would have been sent by you to the District Election Officer after the declaration of the result, you may, before ordering refund, get the application and other details required for the purpose verified by the District Election Officer concerned.

## CHAPTER XV

### MISCELLANEOUS

#### **Signing by illiterate persons**

1. Sub-rule (2)(a) of rule 2 of Conduct of Elections Rules, 1961 lays down that a persons who is unable to write this name shall be deemed to have signed an instrument or a paper if he has placed a mark on such instrument or other paper in the presence of the Returning Officer or the Presiding Officer or such other officer as may be specified in this behalf by the Election Commission. The Commission has, accordingly, specified every officer belonging to an administrative service not below the rank of a Sub divisional Officer as an officer in whose presence such mark may be placed.

#### **Manuscript, typewritten, cyclostyled or privately printed forms to be accepted**

2. Rule 2(I)(g) defines "form" as a form appended to the said Rules including a translation thereof in any of the languages used for official purposes of the State. As sufficient number of any particular form printed officially by Government may not always be available to satisfy public demand, the public would be put to a lot of inconvenience if officially printed forms are insisted upon by election officers. In order to avoid any such inconvenience, the Election Commission has specified that although forms may have been printed by the Government, Returning Officers, Electoral Registration Officers, Presiding Officers and other election offic-

ers shall freely accept manuscript, typewritten, cyclostyled or privately printed copies of every form so long as they have been correctly copied and such officers shall not reject any document merely because it has not been drawn up on a form printed by the Government.

### **Submission of Report by the Returning Officer**

3. If you are a Returning Officer for a Council constituency, immediately after the declaration of the result in the constituency, you should, through the Chief Electoral Officer of the State, forward to the Election Commission two copies of your report on the various items as shown in Annexure XLVT for preparation of the Report on the Elections by the Commission. You should advise the Presiding Officers working under you to give in their Diary detailed information on the various items with which they are concerned namely, items 12, 14, 15, 16, 21, 22, 24, 29, 31, 32, 33, 36, 37, 38, 40 and 42 of the said Annexure. Please ensure that this information is furnished by you to the Chief Electoral Officer within a fortnight from the declaration of the result. If you are a Returning Officer for more than one constituency, you should submit within time a separate report for each constituency. You should not, however, delay the submission of the report on the ground that any particular information is not readily available. Any information which could not be included in the report before the due date for submission should be sent by a supplementary report.

### **Safe Custody of Election Papers**

#### 4.1 The District Election Officer of the District

in the case of a Council constituency or you, if you happen to be Returning Officer for an election by Assembly members, shall be responsible for the safe custody of the packets containing election papers referred to in sub-rule (2) of rule 92 of the Conduct of Elections Rules, 1961.

These are-

- (1) the packets of unused ballot papers with counterfoils attached thereto;
- (2) the packets of used ballot papers, whether valid, tendered or rejected (this also includes packet in which covers containing postal ballot papers received late are kept);
- (3) the packets of the counterfoils of used ballot papers;
- (4) the packets of the marked copy of the electoral roll;
- (5) the packets of the declaration by electors and the attestation of their signatures; and
- (6) all other papers relating to the election which include the packets containing all papers and proceeding relating to nomination, scrutiny and withdrawal of candidatures.

4.2 Under the rule when a Council constituency extends over more districts than one, the election papers of that constituency will be kept in the

custody of such one of the District Election Officers having jurisdiction over the constituency as the Election Commission may direct. Under this arrangement, normally, the District Election Officer who had under the law provided the polling stations for the constituency will be responsible for the safe custody of these papers.

### **Arrangement for safe custody of election records**

5.1 According to Commission's direction, you or, as the case may be, the District Election Officer will have to keep the above mentioned steel trunks containing papers referred to at items (1) to (5) under double lock in the District Treasury or Sub-Treasury, as may be convenient.

5.2 One set of keys of the sealed steel trunks kept in the Treasury/Sub-Treasury will be entrusted to the Treasury Officer or an officer in the Treasury authorized in the Treasury Code. The other set of keys will be kept by you/District Election Officer himself or by a senior officer nominated by you/him.

5.3 A date wise log book about the movement or disposal of the election records from the Treasury should be maintained. All these security arrangements are necessary because these election papers may be summoned at any time during the trial of an election petition by High Court or by the Supreme Court or other competent Court.

5.4 The box(es) containing election records

mentioned at item (6) in Para 4.1 above should be kept by you/District Election Officer in your/his own safe custody.

5.5 For proper maintenance and safe custody of these records, the Commission feels that the election records should be kept in separate and properly secured store rooms. A suitable register should be introduced to ensure that whenever an official is required to carry out his official duties in the record room in question he makes an entry showing the purpose for which a particular record was required and signs his name. Where separate store rooms for election records are not available, the State Governments may provide them. If separate rooms cannot be provided, arrangements should be made to store the records in steel almirahs in charge of a responsible officer.

5.6 Special care is necessary with regard to the safe custody of the election records in respect of an election called in question by an election petition which is pending. In order to guard against any tampering with or theft of such election records, they should be kept in a Government Treasury till the final disposal of the election petition.

### **Production and Inspection of Election Papers**

6.1 Sub-rule (2) of rule 93 of the Conduct of Elections Rules, 1961 provides that all papers relating to an election other than those referred to in sub-rule (1) thereof shall be open to public inspection subject to such conditions and to the payment

of such fee, if any, as the Election Commission may direct.

6.2 In pursuance of the said sub-rule read with section 76 of the Indian Evidence Act, 1872, the Commission has issued the following directions in its S.O. No. 51/69, dated the 6th February, 1969.

(1) *Inspection.*—(a) Every application for inspection of the said documents (other than an account of election expenses) shall be made in writing and should contain the particulars concerning the record of which inspection is required;

(b) An inspection of the documents shall be allowed to any person applying for the same on payment of fee of Re. 1 per hour of inspection or part thereof, unless inspection is required to be made urgently in which case the fee shall be Rs. 2 per hour or fraction thereof;

(c) Inspection on an ordinary application shall be allowed on the day following the date on which the application is made or on a subsequent day and inspection on an urgent application, shall be allowed on the same day.

(2) *Certified copy.*—A certified copy of any of the said documents (other than an account of election expenses) shall be given to any person applying for the same, on payment of fees at the same rate as is charged in the State for a copy of an order by a Revenue Officer. The procedure to be followed

in respect of an application for it shall be the same as for a similar application made in respect of a case dealt with by a Revenue Officer.

(3) The application should establish the right of the applicant for inspection or for supply of certified copies of documents and for that purpose should clearly disclose that the applicant has a direct and tangible interest in such document or documents and the nature of such interest.

(4) No fee shall be charged when inspection or certified copy of a document is required for official purposes.

7. When election records are inspected by interested persons soon after the completion of the election, effective supervision by officials is necessary. To avoid removal of any paper from the records simultaneous inspection by a large number of persons should not be allowed.

#### **Supply of Copies of Election Returns**

8. Under sub-rule (3) of rule 93, the copies of election return in Form 23B may be supplied by the Returning Officer, District Election Officer, Chief Electoral Officer, or the Election Commission on a payment of Rs. 2 for each copy.

#### **Disposal of Election Papers**

9. The Commission has made the following directions under rule 94 of the Conduct of Elections Rules, 1961. Subject to any direction to the contrary given by the Commission or by a competent Court and subject to the instructions contained in Para 10 below the election papers may be disposed of as indicated below :-

(a) *Direction under rule 94(a)-(i)* The packets

of unused ballot papers with counterfoils returned by Presiding Officers after the poll is over and referred to in clause (a) of sub-rule (1) of rule 93 and clause (a) of rule 94 and kept in separate steel trunk or trunks under double lock shall be retained in the Treasury for a period of six months after the completion of the election and then destroyed.

(ii) The stock of undistributed ballot papers with counterfoils left with the Returning Officers after issue to Presiding Officers for use at a polling station should be returned to the Chief Electoral Officer immediately after the poll and the Chief Electoral Officer should retain such ballot papers for six months to be computed—

- (1) where no election petition has been filed, from the date of declaration of result of the election;
- (2) where an election petition has been filed, from the date of the judgment of the High Court or the Supreme Court.

Where the Chief Electoral Officer has not got sufficient accommodation to store the undistributed ballot papers, these ballot papers may be kept in Treasuries/Sub-Treasuries under the orders of the Chief Electoral Officer and destroyed at the appropriate time either under his supervision or under the supervision of officers specifically authorized by the Chief Electoral Officer of the State in the manner specified above.

(b) *Direction under rule 94(b).*—(i) The sealed

packets of used ballot papers (except the packets containing the counterfoils of used ballot papers) whether valid, tendered or rejected, the packets of the marked copies of the electoral roll and the packets of declarations by electors and the attestation of their signatures, which are contained in the sealed steel trunks under the double lock and kept in the Treasury should be retained for a period of one year after the completion of the election and then destroyed.

The packets containing counterfoils of used ballot papers shall be retained for a period of one year after the completion of the election and shall thereafter be destroyed in all cases except those in respect of which election petitions or election appeals or prosecutions for impersonation are pending.

(c) *Direction under rule 94(c).*—Papers specified in Appendix XLVII should be destroyed at the expiry of six months from the date of the declaration of the result.

9.2 The list of challenged votes (Form 14) and the receipt book used for collection of challenge fee, the dispatch register of postal ballot papers and forms of nomination papers should not be destroyed before the expiry of 5 years from the date of declaration of the result or till they are audited and audit objections, if any, settled whoever is earlier.

9.3 Every order appointing a person as a Presiding Officer or Polling Officer should not be destroyed before the expiry, of three years from the

date of the election to which the appointment relates.

9.4 Declaration of Result of Election (Forms 21A, 21B, 23 and 23A) and Return of Election (Form 23B) should be kept as permanent records of election.

9.5 The register of deposits may be destroyed in the same manner as revenue registers, provided that in no case shall the register be destroyed before ten years.

### **Retention of Papers Where Petition is Pending**

10. Where an election petition is pending for trial by a High Court, or any other matter in respect of an election is pending adjudication by a Court, the papers relating thereto should not be destroyed until the expiry of six months from the date of disposal of such petition or matter finally.

### **Mode of Disposal of Election Papers**

11.1 All election papers including restricted or confidential papers like used and unused ballot papers and their counterfoils, copies of electoral rolls, etc., should be shredded and thereafter made into pulp which can be recycled for manufacture of paper, etc., in the case of restricted category of papers, such shredding shall be done in the presence of a Gazetted Officer. A certificate should also be recorded by the concerned officer.

11.2 All District Election Officers should see that the election papers are shredded under their

direct supervision, in their office, by borrowing, if necessary, shredding machines so that these can be converted into pulp and recycled. The District Election Officers should ensure that under no circumstances the unthreaded papers leave their office.

### **Disposal of Surplus and Waste Ballot Papers**

12. The following instructions should be strictly followed in regard to the manner of disposal of surplus ballot papers:

(1) As soon as the poll in a constituency is over and it is ascertained that there is no need for an adjourned poll or a fresh poll in any polling station in that constituency, the surplus ballot papers which are kept in safe custody in the Government Press should be cut into small pieces and destroyed along with the floor sweeping and other waste ballot papers, by burning in the presence of the Chief Electoral Officer himself, or of a Senior Officer duly authorized in writing by the Chief Electoral Officer for the purpose. If the printing of the ballot papers is done at a Government Press situated at a District headquarters, away from the State Capital, the destruction of the surplus and waste ballot papers by burning should be done in the presence of the District Collector/District Magistrate/Deputy Commissioner or a Senior Officer duly authorized in writing by him for the purpose.

(2) The officer in whose presence the surplus and waste ballot papers are destroyed by burning should record a certificate regarding the number/quantity of such surplus and waste ballot papers

destroyed in his presence and he should also obtain the countersignature of the Superintendent of the Government Press on the certificate.

(3) As soon as practicable after the declaration of the result and in any case within ten days thereof, a report should be sent to the Commission by the Chief Electoral Officer certifying that all surplus and waste ballot papers printed for the election, have been destroyed in the manner indicated above.

### **Facilities Allowed by the Posts and Telegraphs Department for the Conduct of Elections**

13.1 The Posts and Telegraphs Department has been requested to extend special facilities during the period of elections for receipt and delivery of letters and other communications. They will issue their instructions to all the postal authorities in the country.

13.2 The Chief Electoral Officer of the State will be authorized to use the priority "Important" on trunk calls by telephone and for dispatch of inland State telegrams on matters of direct and urgent importance to elections.

13.3 You or the Assistant Returning Officer and Presiding Officers will be authorized to use the priority "Important" to the same extent. Ministry of Home Affairs have issued instructions that Police wireless facilities may be used wherever posts and telegraphs facilities are not available.

13.4 For receipt and issue of urgent communications a Fax machine bearing No. 3713412 and a

Telex machine No. ND 31-61312 have been installed in the office of the Commission. These may be utilized for sending urgent messages to the Commission, if facilities are also available at your end. These are open on all days for all the 24 hours.

### **Two Unused Ballot Papers for Record of the Commission**

14.1 Two un issued ballot papers for each biennial election to Council of States or Legislative Council should be sent to the Commission for its record. The Chief Electoral Officer is to direct concerned Returning Officers in his State/Union Territory to send as soon as possible after election is over two such un issued ballot papers to him with the words "Cancelled for record in the Election Commission" written on the reverse of each ballot paper under the signature of the Returning Officer and thereafter the Chief Electoral Officer should sent the same without delay to the Commission.

14.2 The ballot papers in respect of bye-elections to Council of States/Legislative Council should also be sent to the Commission. The words "Cancelled for record in the Election Commission" should be written on the reverse of each ballot paper:

*ANNEXURE I*

*[Para 4(2)(b), Chapter I]*

**FOURTH SCHEDULE**

[Articles 4(1) and 80(2)]

**Allocation of Seats in the  
Council of States**

To each State or Union Territory specified in the first column of the following table, there shall be allotted the number of seats specified in the second column thereof opposite to that State or that Union Territory, as the case may be :

**TABLE**

(1)	Andhra Pradesh	18
(2)	Assam	7
(3)	Bihar	22
(4)	Goa	1
(5)	Gujarat	11
(6)	Haryana	5
(7)	Kerala	9
(8)	Madhya Pradesh	16
(9)	Tamil Nadu	18
(10)	Maharashtra	19
(11)	Karnataka	12
(12)	Orissa	10
(13)	Punjab	7
(14)	Rajasthan	10

(15)	Uttar Pradesh	34
(16)	West Bengal	16
(17)	Jammu and Kashmir	4
(18)	Nagaland	1
(19)	Himachal Pradesh	3
(20)	Manipur	1
(21)	Tripura	1
(22)	Meghalaya	1
(23)	Sikkim	1
(24)	Mizoram	1
(25)	Arunachal Pradesh	1
(26)	Delhi	3
(27)	Pondicherry	1
Total		233

*ANNEXURE II*

[*Para 4(3)(c), Chapter 7*]

**The Third Schedule to the R.P. Act, 1950**

(See section 10)

**Allocation of Seats in the Legislative Councils**

Name of State	Total number of seats	Number to be elected or nominated under article 171(3)				
		Sub-clause (a)	Sub-clause (b)	Sub-clause (c)	Sub-clause (d)	Sub-clause (e)
1	2	3	4	5	6	7
1. Bihar	96	34	8	8	34	12
2. Madhya Pradesh*	90	31	8	8	31	12
3. Maharashtra	78	22	7	7	30	12
4. Karnataka	75	25	7	7	25	11
5. Uttar Pradesh	108	39	9	9	39	12

\* Provisions relating to constitution of the Madhya Pradesh Legislative Council under the Legislative Councils Act, 1957 have been brought into force. Consequently, there is no Legislative Council in Madhya Pradesh.

*ANNEXURE III*

[Para 4(3)(c), Chapter 7]

The Fourth Schedule to the R. P. Act, 1950

[See section 27(2)]

**LOCAL AUTHORITIES FOR PURPOSES OF  
ELECTIONS TO LEGISLATIVE COUNCILS**

1\* \* \* \* \*

BIHAR

- |                      |                                  |
|----------------------|----------------------------------|
| 1. Municipalities    | 4. Notified Area Committees      |
| 2. District Boards   | <sup>2</sup> [5. Zilla Parishads |
| 3. Cantonment Boards | 6. Panchayat Samities            |
- 3\*

4[MADHYA PRADESH

- |                      |                             |
|----------------------|-----------------------------|
| 5[1. Municipalities  | 4. Cantonment Boards        |
| 2. Janapada Sabhas   | 5. Notified Area Committees |
| 3. Mandal Panchayats | 6. Town Area Committees.]]  |
- 6\*

<sup>7</sup>[MAHARASHTRA }

- 8[1 .Municipalities  
2. Cantonment Boards

1. The heading "Andhra Pradesh" and the entries relating thereto omitted by Act 34 of 1985, s. 5 (w.e.f. 1.6.1985).
2. Ins. by Act 2 of 1963, s. 2. Original item 5 was omitted by Act 2 of 1956, s. 26.
3. The heading "Bombay" (that is, Maharashtra) and the entries relating thereto omitted by Act 40 of 1961, s. 6 (w.e.f. 20.9.1961).
4. Ins. by the Adaptation of Laws (No.2) Order, 1956.
5. Subs, by Act 37 of 1957, s. 12, for the former entries.
6. The heading "Tamil Nadu" and the entries relating thereto omitted by the Tamil Nadu Legislative Council (Abolition) Act, 1986 (41) of 1986), s.5 (w.e.f. 1.11.1986).
7. Ins. by Act 40 of 1961, s. 6 (w.e.f. 20.9.1961).
8. Subs, by Act of 1963, s.2, for the former entries.

4. Zilla Parishad ]

4[10[KARNATAKA]

1. Municipalities <sup>12</sup>[4. Notified Area Committees.]
- 11[2. Mandal Panchayats] 13[5. Zilla Parishads.]]
3. Cantonment Boards

UTTAR PRADESH

1. Municipalities <sup>12</sup>[4. Town Area Committees.
- (2. Zilla Parishads including Antarim Zilla Parishads.) 5. Notified Area Committees.
3. Cantonment Boards. (6. Kshetra Samitis.)

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9. Entry "3. Town Committees." omitted by Act 21 of 1989, s.5.

10. Subs. by the Mysore State (Alteration of Name) (Adaptation of Laws on Union Subject) Order, 1974, s.3 and Sen. for 'Mysore' (w.e.f. 1.11.1973).

11. Subs. by Act 31 of 1987 s.3. for "2. Taluk Development Boards".

12. Ins. by Act 37 of 1957 s. 12.

13. Subs. by Act 31 of 1987, s.3. for "5, Town Panchayats".

*ANNEXURE IV*

*[Para 4.2, Chapter II]*

**Voting at elections by Members of the Legislative Assembly—List of Members of State Assemblies and Electoral Colleges**

S.O.No. 18/62—In exercise of the powers conferred by sub-rule (1) of rule 96 of the Conduct of Elections Rules, 1961, the Election Commission hereby directs that the list of Members of Legislative Assembly to be maintained under the said rule shall be in the form appended.

By Order,

(Signed) K.S. Rajagopalan,  
Under Secretary

NEW DELHI :

*Dated the 5th March, 1962*

[ Forwarded with the Commission's letter No. 52/10/62, dated 4th/5th March. 1962]

**FORM**

Serial no. of Elector	Serial no. and Name of the Constituency	Name of Elector	Address	Remarks
1	2	3	4	5

@ Applicable only to election to the Legislative Council.

**LIST OF MEMBERS OF ELECTORAL COLLEGES OF  
UNION TERRITORIES**

S.O.No. 28/64—In exercise of the powers conferred by sub-rule (2) of rule 96 of the Conduct of Elections Rules, 1961, the Election Commission hereby directs that the list of Members of Electoral College to be maintained under the said rule shall be in the form appended.

By Order,

(Signed) PRAKASH NARATN  
*Secretary to the Election Commission*

NEW DELHI :

*Dated the 13th January, 1964*

[ Forwarded with the Commission's letter No. 23/HP/63, dated 13th January, 1964.]

**FORM**

Serial no. of Elector	Serial no. and Name of the Constituency	Name of Elector	Address	Remarks
1	2	3	4	5

ANNEXURE V

[PARA 14.3(B), Chapter II]

**SCRUTINY SHEET FOR LIST OF  
POLLING STATIONS**

- .....Council
- Constituency of. .... State.
1. Date of poll .....
  2. Total number of voters in the Constituency :
    - (a) Men .....
    - (b) Women .....
    - (c) Service Voters .....
    - Total .....
  3. Number of polling stations required on the basis of an average of 750 voters per polling station.
  4. Total number of polling stations actually provided.
  5. Average number of voters per polling station.
  6. Number of polling stations to each of which more than 750 voters have been assigned, indicating the highest number of voters assigned to a polling station.
  7. The lowest number of voters assigned to a polling station.
  8. Whether the number of voters in respect of

each component village or other unit of the polling area has been shown in the list/map.

9. No. of polling stations for which the maximum distance that a voter will have to travel is more than 16 kilometers.
10. Whether all the polling areas have been clearly demarcated.
11. Whether serial number of polling stations has been done in a systematic manner.
12. (a) Whether there are any areas predominantly inhabited by electors belonging to Harijan and other weaker sections of the society.  
(b) If so, the number of polling stations set up separately for them and the total number of electors assigned to each of them.
13. Whether any polling station has been proposed to be located in any :
  - (a) Private building
  - (b) Temporary structure, and if so, whether the exact site chosen for the location of the polling station has been clearly indicated in the list.
14. Number of polling stations which have less than 20 sq. mt. area.
15. Whether it has been certified that the private buildings do not belong to any of the Candidates, his active workers or known sympathizers.

16. Details of polling stations where more than 4 polling stations in urban areas and more than 2 polling stations in rural areas have been located in the same building.
17. Whether it has been certified that all the polling areas within the constituency are covered by the proposed polling stations.
18. (a) Serial Nos. of separate polling stations provided for women voters.  
(6) In case of (a) above whether polling stations for men and women voters of a particular area have been located in the same building.
19. Serial number of polling stations which have not been situated in the villages having the largest number of voters.
20. Serial number of polling stations which have not been located in any of the villages attached to it.
21. Whether the list has been informally published and discussed with the political parties, etc.
22. When the electoral roll of the constituency was last prepared; and whether there is any proposal of such preparation again during the year.
23. Any other remarks.

*District Election Officer*

---

Note—Please specify the serial numbers in addition to total number of polling stations against items 6, 7, 12(b), 13, 14, 16, 18, 19 and 20.

*ANNEXUREVI*

*[Paras 14.3(b), Chapter II]*

**Certificate to be furnished along with list of polling stations :**

- (i) That the draft list was duly published, objections and suggestions were invited, and discussed with the party representatives and legislators on the lines indicated in the Commission's directions;
- (ii) That all the polling areas within the constituency have been covered in the list;
- (iii) That no building, public or private, which is a temple, church, mosque, gurdwara or has any religious significance or in respect of which any section of the public may have any legitimate objection to enter, has been proposed as a polling station;
- (iv) That no police station, hospital or dispensary is proposed as a polling station;
- (v) That separate polling stations have been set up in areas, electors of which are predominantly Harijan and other weaker sections of the society and that no such area has been either left out or linked with areas where electors predominantly belong to foreword communities;
- (vi) Where the usual limit of 750-1,000 voters per polling station or the limit of two kilometers beyond which a voter should not



*ANNEXURE VII*

*[Para 15, Chapter II]*

**ORDER**

In exercise of the powers conferred by section 25 of the Representation of the People Act, 1951, the Election Commission hereby directs that the concerned District Election Officer shall publish the list of polling stations provided by him for every Council Constituency with the previous approval of the Commission, by making a copy thereof available for inspection and displaying notice in the form appended.

- (a) at his Office; and
- (b) at the Office of the Electoral Registration Officer for the constituency.

The District Election Officer shall, as far as practicable, also make a copy of the relevant parts of the list, together with the notice in the form appended, available for inspection at such of the following places as he may consider necessary :

- (i) In the Office of the Collector/District Magistrate/Sub-divisional Magistrate/Revenue Divisional Officers/Judges and Munsiff Courts/Prant Officer/Tahsildar/Amildar/District Boards/Municipal Committee/Notified Area Committee/Deputy Tahsildar/Sub-registrar/Police Stations/Mauzadars or Sarpanch or Union Panchayat Ghars/Universities;
- (ii) In the case of Teachers' constituencies in

educational institutions in the constituency  
not lower in standard than a secondary  
school; and

- (iii) such other places and in such other manner  
as he may consider necessary and suitable.

*ANNEXURE VIII*

*[Para 15, Chapter IT]*

**NOTICE OF PUBLICATION OF LIST  
OF POLLING STATIONS**

In pursuance of the provisions of section 25 of the Representation of the People Act, 1951,1 .....  
..... District Election Officer in the State of. ....  
.....hereby provide for the ..... con-  
stituency, with the previous approval of the Elec-  
tion Commission, the polling stations specified in  
the appended list for the polling areas or groups of  
voters noted against each.

*District Election Officer*

Date.....

..... *Constituency*

*ANNEXURE DC*

*[Para 7, Chapter III]*

**ORDER OF APPOINTMENT OF  
PRESIDING AND POLLING  
OFFICERS**

**Biennial/Bye-election to the Legislative Council  
of...**

In pursuance of sub-section (1) and sub-section (3) of section 26 of the Representation of the People Act, 1951, (43 of 1951) I hereby appoint the officers specified in columns 2 and 3 of the Table below as Presiding Officer and Polling Officers respectively for the polling station specified in the corresponding entry in column 1 of the Table provided by me\* for..... Graduates\*/Teachers\*/Local Authorities Constituency.

I also authorise the Polling Officer specified in column 4 of the Table against that entry to perform the functions of the Presiding Officer during the unavoidable absence, if any, of the Presiding Officer.

**TABLE**

<b>Polling Station number and name with complete particulars of its location</b>	<b>Name of the Presiding Officer</b>	<b>Name of the Polling Officer</b>	<b>Polling Officer authorised to perform the function of the Presiding Officer in the latter's absence</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>

The Poll will be taken on..... (date)  
during the hours..... to..... The  
Presiding Officer should arrange to collect the poll  
ing materials from. .... (full address  
of the place) and after the poll, these should be  
returned to collecting centre at.....  
(full address of the place).

Place.....

*Signature. ....*  
*District Election Officer/  
Returning Officer*

Date.....

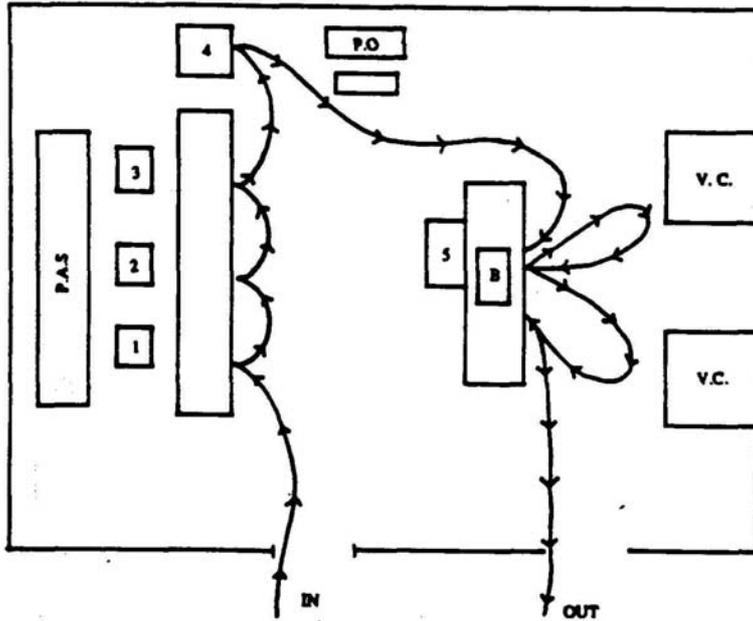
..... *District*

\*Omit if not applicable.

ANNEXURE X

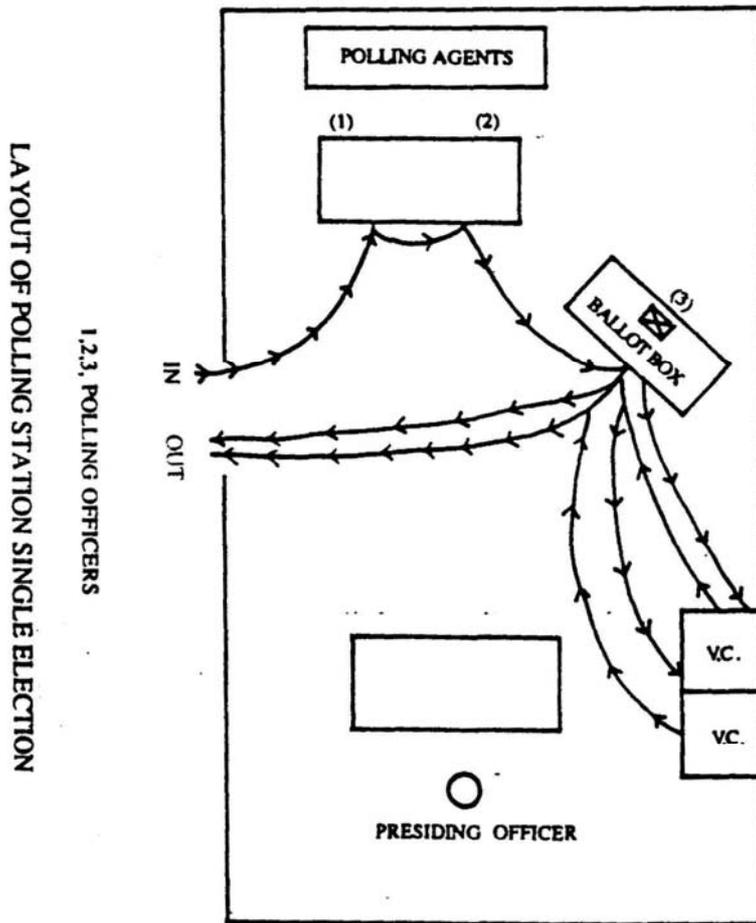
[Para 13.1, Chapter III]

**LAYOUT OF POLLING STATION**  
SIMULTANEOUS ELECTION

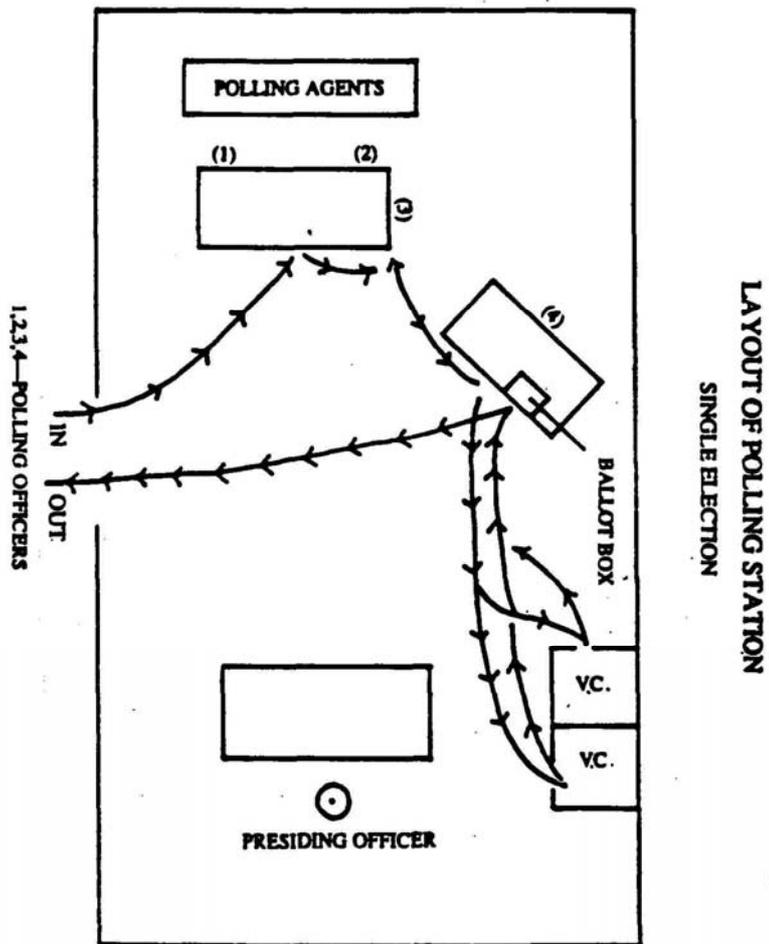


- |             |                    |
|-------------|--------------------|
| P.O.        | PRESIDING OFFICER  |
| 1,2,3,4 & 5 | POLLING OFFICERS   |
| PAS         | POLLING AGENTS     |
| B           | BALLOT BOX         |
| VC          | VOTING COMPARTMENT |

ANNEXURE X  
[Para 13.1, Chapter III]



ANNEXUREX [Para  
13.1, Chapter III]



## **INSTRUCTION FOR LAYOUT OF POLLING STATIONS**

(a) The construction of the voting compartment should be given special attention. Large and heavy curtains which only make these compartments dark and frightening should not be used simply because they are available in stock. A simple and inexpensive arrangement is to tie four poles to the four legs of a small table or a tea-poy and a curtain round the poles covering three sides. The table raised to a high of 5 feet above the ground with the help of bricks and placed at a distance of less than 2 feet from the wall will provide an excellent voting compartment.

(b) The same idea can be carried out more neatly at a slight expense as follows :

A thin wooden board 24" x 18" with a hole in each corner, four wooden rods 18" long to fit into the four holes, and piece of cloth attached to the rods round three sides will be sufficient portable equipment for one voting compartment. This should be set up on a small table raised to a height of 3 feet from the ground with bricks. Where practicable, two such sets may be provided for each polling party. If cheap material is used it should not cost more than Rs. 3.00 per unit and could be readily prepared at tehsil headquarters.

(c) The third alternative method of setting up voting compartments) side by side is by hanging a curtain parallel to the wall at a distance of about 2 feet from it, another curtain hung at right angles to

the first curtain as indicated on the line plan. These curtains need not come right down to the ground. It would be sufficient to have them of 3 or 4 feet width. In places where 'tails' are readily available, the voting compartments can be easily constructed with the help of two 'talis' placed at right angles to each other in one corner of the room.

## ANNEXUREXI

*[Para I, Chapter IV]*

### **List of Polling Materials to be sent to each Polling Station**

Serial number and description of materials	Scale of supply
1	2
1. Ballot boxes ... ..	2
2. Ballot papers with counterfoils	Specified number
3. Electoral rolls for use as marked .. 2 copy and for the use of the Presiding Officer	2
4. Paper Scale ... ..	4
5. Metal seal for Presiding Officer	1
6. Rubber stamp bearing distinguishing mark of polling station	1
7. Self-inking purple pad ... ..	1
8. (i) Form 14—List of challenged votes (ii) Form 14A-List of illiterate, Blind and Infirm Voters (iii) Form 15-List of tendered votes ...	One form.
9. Form 16-Ballot paper account .....	(One + No. of Contesting Candi- dates )-Forms.
10 (i) Presiding Officer's diary	One form.
(ii) Paper seal account	One form.
(iii) Form for declaration by Presiding Officer before commencement of the poll and at the end of poll	1
11 (i) Form for declaration by companion of blind or infirm voters	Five forms.
(ii) Form of receipt for challenge fee One book	One book
(iii) Letter of complaints to Sub- Inspector of Police ... ..	Five forms.
12 Pieces of thin wire ... ..	6
13 Furniture .. ..	Scale as required and available

1	2
14. Posters showing the particulars of .. voters allotted to each polling station	1
15. Poster showing the list of contesting candidates	1
16. List of contesting candidates with .. the name of the election agent of .. each candidate	1
17. Labels for ballot-boxes .. ..	6
18. Address tags .. .. ..	6
19. Badges with safety pin	One badge for each polling personnel printed appropriately.
20. Fools cape white paper .. ..	4
21. Blotting paper	4 bits of 1/4 <b>size</b>
22. (i) Ink bottles, pen-holders and nibs ..	2 sets or a ballpoint pen.
(ii) Carbon Papers .. ... ..	4
(iii) Copying pencils .. ..	1
(iv) Sketch Pens of violet colour ink ..	for marking the vote by voter.
23. Cardboard for use as padding below paper seal .. .. ..	One big piece.
24. Pins .. .. ..	A strip of 10 pins.
25. Gem Clips .. .. ..	Three clips.
26. White Twins .. .. ..	4 meters.
27. Sealing wax .. .. ..	250 grams.
28. Brown sheet for packing .. ..	Three sheets.
29. Sets of covers-	
(i) Cover for unused ballot papers with counterfoils	
(ii) Cover for tendered ballot papers	
(iii) Cover for cancelled returned ballot papers	
(iv) Cover for marked copy of electoral roll	
(v) Cover for tendered votes list	
(vi) Cover for list of challenged votes	One set.
(vii) Cover for record under rule 40	
(viii) Cover for record under rule 4-1	
(ix) Cover for ballot paper account	

1	2
(x) Cover for appointment letter of polling agents	
(xi) Cover for miscellaneous papers.	
(xii) Blank cover	
(xiii) Cover for unused and damaged paper seal	
(xiv) Cover for paper seal account	
(xv) Cover for receipt for challenge fee	One set.
(xvi) Cover for declaration by companion of blind or infirm voters.	
(xvii) Cover for Presiding Officer's diary	
(xviii) Cover for counterfoils of used ballot papers	
(xix) Cover for declaration by the Presiding Officer before commencement of the poll and at the end of poll	
30. Candle .. .. .	1
31. Match-box .. .. .	1
32. Gum and paste .. .. .	Required quantity.
33. Needle .. .. .	1
34. Country twine (sutli - thread) .. .. .	2 bundles.
35. Pusher for pushing ballot papers into ballot box .. .. .	1
36. Gunny bag for transport of polling materials .. .. .	1
37. Materials for voting compartments .. .. .	Required materials.
38. Instructions to Presiding Officers .. .. .	One copy.
39. Papers for polling agents .. .. .	At the rate of three per candidate.
40. Postage stamp .. .. .	Service postage stamp to the value of Rs.5 in suitable Denominations.
41. Metal rule for detaching ballot papers from counterfoils .. .. .	1
42. Canvas bag or new cloth for wrapping ballot-box or boxes.	
43. Sufficient quantity of ribbon or tape for securing the ballot box by passing it on all sides.	

**N.B.-**In Graduates\* or Teacher' constituencies, the original application of the electors (assigned to the polling stations) for enrolment of names in the electoral roll as submitted in Form 18/Form 19 should also be supplied to the Presiding Officer.

*ANNEXURE XII*

*[Para 18.5, Chapter V]*

**OFFICE OF THE RETURNING  
OFFICER**

Election to the Council of States/Legislative  
Council of.....by Members of the Legislative As-  
sembly of. ....from..... Council Con-  
stituency.

Memo No ..... Dated .....

To

.....(Name of the Candidate).

This is to inform you that you have not made  
and subscribed and oath or affirmation as required  
by Article 84(a) Article 173(a) of the Constitution.  
This may be done either before me or any of the  
persons authorised by the Election Commission in  
this behalf on any day before the date appointed for  
security of nominations.

Dated ..... Signature  
Returning Officer

Received Memo. No..... dated .....  
.....from the Returning Office for Election to the  
Council of State/Legislative Council of.....  
.....by Members of the Legislative Assembly of...  
..... from ..... Council  
constituency.

Place .....

Signature of candidate

Dated .....

or Proposer

*ANNEXURE XII-A*

*[Para 19.11, Chapter V]*

**OFFICE OF THE RETURNING  
OFFICER**

Election to the Legislative Council of.....  
from.....Council Constituency.

Memo. No..... Date .....

To

..... (Name of the Candidate).

In your nomination paper, you have mentioned that you are an elector in ..... Assembly constituency : but you have not produced documentary evidence thereof. In this connection, your attention is invited to sub-section (5) of section 33 of the Representation of the People Act, 1951 which reads as follows :

"Where the candidate is an elector of different constituency, a copy of the electoral roll of that constituency or of the relevant part thereof or a certified copy of the relevant entries in such rolls shall, unless it has been filed along with the nomination paper, be produced before the Returning Officer at the time of scrutiny.

Dated.....

Signature  
Returning Officer

Received Memo, No..... dated .....  
..... from the Returning Officer, Election to the  
Legislative Council of.....from.....  
.... Council constituency to-day.

Place.....

Signature of Candidate

Dated.....

or Proposer

*ANNEXUREXIII*

*[Para [19.1, Chapter V]*

**Form of Oath or Affirmation**

[Article 84(a)/173(a) of the Constitution of India]

I..... having been nominated as a candidate to fill a seat in the \*"Council of State/ Legislative Council do swear in the name of God/ solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India.

(Signature and Name in block letters of the candidate)

Sworn in the name of God/Solemnly affirmed by Shri/Shrimati.....at ..... (place) at ..... (hour) this ..... day of ..... 19.....

Before me

Signature of Authorised Person  
(Name, designation and seal)

**Certificate for Receipt of Form of Oath**

(To be handed over to the candidate by the authorised person)

Certified that..... (name) a candidate for election to the.....has made and subscribed the oath/affirmation as re-

quired by the Constitution of India before me at my office at..... (hour) on ..... (date).

Signature of Authorised Person  
(Name and designation)

Date .....

Seal.

\*Score out which is not applicable, Here insert one of the following alternatives as may be appropriate.

Council of States by the elected members of the Legislative Assembly .....(State).

Legislative Council by the members of the Legislative Assembly. Legislative Council from the .....  
..... Constituency.

*ANNEXURE XIV*

*[Para 19.2, Chapter V]*

*New Delhi, the 18th March, 1968*

**Notification**

No. 3/6/68 (1).—In pursuance of clause (a) of article 84 and clause (a) of article 173 of the Constitution of India and in super session of its notification No. 3/3/66, dated the 25th April, 1967, the Election Commission hereby authorises—

- (i) the Returning Officer concerned and all the Assistant Returning Officers subordinate to him.
- (ii) all stipendiary Presidency Magistrates and all stipendiary Magistrates of the first class and
- (iii) all district judges and all persons belonging to the judicial service of a State other than district judges.

as the person before any one of whom a person having been nominated as a candidate (hereinafter referred to as the candidate) for election to fill a seat in the Council of States, or in the House of the People, or in the Legislative Assembly of a State (other than Jammu and Kashmir), or in the Legislative Council of a State (other than Jammu and Kashmir) having a Legislative Council, shall make and subscribe the oath or affirmation in the form set out for the purpose in the Third Schedule to the said Constitution.

2. Notwithstanding anything contained in paragraph 1, in pursuance of clause (a) of the said article 84 and clause (a) of the said article 173, the Election Commission hereby also authorises as the person before whom the candidate may make and subscribe the said oath or affirmation,—

- (a) where the candidate is confined in a prison, the superintendent of the prison;
- (b) where the candidate is under preventive detention, the commandant of the detention camp;
- (c) where the candidate is confined to bed in a hospital or elsewhere owing to illness or any other cause, the medical superintendent in charge of the hospital or the medical practitioner attending on him;
- (d) where the candidate is out of India, the diplomatic or consular representative of India in the country where the candidate happens to be or any person authorised by such diplomatic or consular representative;
- (e) where the candidate is for any other reason unable to appear or prevented from appearing, before the Returning Officer concerned or any Assistant Returning Officer as aforesaid, any other person nominated by the Election Commission on application made to it in this behalf.

Explanation.—In this notification,—

(1) the expression "the Returning Officer concerned" means—

- (a) where a person has been nominated as a candidate for election to fill a seat in the House of the People from a Parliamentary constituency or a seat in the Legislative Assembly of a State from an Assembly constituency, or a seat in the Legislative Council of a state from a Council Constituency the Returning Officer for that constituency;
- (b) where a person has been nominated as a candidate for election to fill a seat in the Council of States by the elected members of the Legislative Assembly of a State, the Returning Officer for that election;
- (c) where a person has been nominated as a candidate for election to fill a seat in the Legislative Council of a State by the members of the Legislative Assembly of that State, the Returning Officer for that election;

(1A) the expression "district judge" and "judicial service" shall have the meanings respectively assigned to them in article 236 of the Constitution of India.

(2) the expressions "Parliamentary constituency", "Assembly constituency" and "Council constituency" shall have the meanings respectively assigned to them in the Representation of the People Act, 1950 (43 of 1950).

ANNEXURE XV

[Para 17, Chapter V7]

**List of contesting Candidates**

*New Delhi, dated the 30th May, 1967*

*Jyaistha 9, 1889 (Saka)*

S.O.No. 39/67.-In pursuance of sub-rules (1) and (5) of rule 10 of the Conduct of Election Rules, 1961, the Election Commission hereby directs that at any election to a Legislative Council, the list of contesting candidates in Form 7B shall, in a State specified in column 1 of the Table below, be prepared in the language or languages specified against that State in column 2 thereof, and where the list is prepared in more than one language the names of candidates shall be arranged alphabetically according to the script of the language first specified in the said column.

**TABLE**

Name of State	Languages or Languages
1	2
Bihar	Hindi
Maharashtra	Marathi and English
Karnataka	Karnnada and English
Uttar Pradesh	Hindi

The Commission's direction contained in S.O. No. 38/67, dated the 20th May, 1967 is hereby superseded.

ANNEXURE XV-A

[Para 17, Chapter VI]

List of contesting Candidates

S.O. No. 2/78 (dt. 24.2.78).-In pursuance of sub-rules (1) and (3) of rule 10 of the Conduct of Election Rules, 1961, and in super session of its S.O. No. 19/67, dated 30th May, 1967, as subsequently amended, the Election Commission hereby directs that, at any election to the Council of States the list of contesting candidates in Form 7B shall, in a State/ Union Territory specified in column 1 of the Table below, be prepared in the language specified against that State/Union territory in column 2 thereof, and where list is to be prepared in more than one language, the names of candidates shall be arranged alphabetically according to the script of the language specified in the said column :-

TABLE

Name of State/ Union territory	Language
1	2
Andhra Pradesh	Telugu and English
Assam	Assamese and English
Bihar	Hindi and English
Gujarat	Gujarati and English
Haryana	Hindi and English
Himachal Pradesh	Hindi and English
Jammu and Kashmir	Urdu and English

1	2
Karnataka	Kannada and English
Kerala	Malayalam and English
Madhya Pradesh	Hindi and English
Maharashtra	Marathi and English
Manipur	Manipuri and English
Meghalaya	English
Nagaland	English
Orissa	Oriya and English
Punjab	Punjabi and English
Rajasthan	Hindi and English
Sikkim	English, Nepali and Tibetan
Tamil Nadu	Tamil and English
Tripura	Bengali and English
Uttar Pradesh	Hindi and English
West Bengal	Bengali and English
Arunachal Pradesh	English
Delhi	Hindi and English
Pondicherry	Tamil and English
Mizoram	English
Goa	Konkani in Devnagri Script Marathi and English

ANNEXURE XVI  
[Para 6.3, Chapter VII]

FORM 'AA'

**COMMUNICATION WITH REGARD TO  
AUTHORISED PERSONS TO INTIMATE  
NAME OF CANDIDATES SET UP BY THE  
POLITICAL PARTY**

FOR USE AT ELECTIONS TO COUNCIL OF  
STATES AND LEGISLATIVE COUNCIL

To

1. The Chief Electoral Officer,  
.....(State/Union Territory).
- \*2. The Returning Officer for the  
biennial/bye-  
election to the Council of States/Legisla-  
tive Council by Assembly members.....

*OR*

\*The Returning Officer for the  
biennial/bye-  
election from ..... (Constitu-  
ency)."

*Subject* : Biennial/Bye-election to Council of  
States/

Legislative Council from.....(State/  
Union Territory-Authorization of  
person(s) to intimate name(s) of  
candidate(s).

Sir,

I hereby communicate that the following  
Person has/have been authorised by .....  
..... Party, which is a National Party/State  
Party/Registered Unrecognized Party in the State  
of.....to intimate the name(s) of the

candidate(s) proposed to be set up by the Party at the election cited above :-

Name of person authorised to send notice	Name of Office held in the party	Constituencies in respect of which he has been authorised
1	2	3
1.		
2.		
3.		

2. The specimen signature of the above mentioned person(s) so authorised are given below :

1. Specimen signatures of Shri.....  
(i)..... (ii)..... (iii) .....
2. Specimen signatures of Shri.....  
(i)..... (ii)..... (iii) .....
3. Specimen signatures of Shri.....  
(i)..... (ii).....(iii).....

Yours faithfully

Place..... (name in Capital letters)  
Date ..... President/Secretary  
Name of the Party  
(Seal of the Party)

\* Strike out whichever is not applicable.

\*\*Mention name of Graduates'/Teachers'/Local- Authorities' constituency, as the case may be.

**N.B.-** This must be delivered to the Returning Officer and Chief Electoral Officer not later than 3.00 p.m. on the last date for withdrawal of candidatures.

*ANNEXURE XVI-A*  
*[Para 6.3, Chapter VII]*

FORM 'BB'

**NOTICE AS TO NAMES OF CANDIDATES  
SET UP BY THE POLITICAL PARTY FOR  
USE AT ELECTIONS TO COUNCIL OF  
STATES AND LEGISLATIVE COUNCIL**

To

1. The Chief Electoral Officer,  
..... (State/Union Territory).
- \*2. The Returning Officer for the biennial/bye-election to the Council of States/Legislative Council by Assembly members .....

*OR*

\*The Returning Officer for the biennial/bye-election from..... (Constituency)."" from the State of.....

*Subject* : Election to Council of States/Legislative Council from..... (State/Union Territory)—Setting up of candidates.

Sir,

I hereby give notice that the following person(s) has/have been set up by ..... Party (which is a National Party/State Party/Registered Un-recognized Party; as its candidate(s) at the ensuing Biennial/ Bye-election to the Council of States/State Legislative Council as mentioned below :-

Name of Constituency***	Name of approved candidate	Fathers Husband's name of approved candidate	Postal address of approval candidate	Name of the substitute candidate (who will step-in in the event of approved candidate's nomination being rejected or scrutiny or his withdrawal from the contest)	Father's Husband's name of substitute candidate	Postal address of substitute candidate
-------------------------	----------------------------	--	--------------------------------------	---	---	--

1	2	3	4	5	6	7
1.						
2.						
3.						
4.						
etc.						

Yours faithfully  
 Name (in block letters)  
 and Signature of the authorised  
 Person of the Party  
 (Name of the Party)  
 (Seal of the Party)

- \* Strike out whichever is not applicable.
- \*\* Mention names of Graduates'/Teachers'/Local Authorities' constituency, as the case may be.
- \*\*\* Under this column mention name of the constituency, as 1. By Assembly Member, 2. Graduates' constituency, 3. Teachers' constituency, 4. Local Authorities' constituency, as the case may be.
- \$ If more than one candidate is to be elected from the constituency.

*N.B.*— This must be delivered to the Returning Officer and Chief Electoral Officer not later than 3.00 p.m. on the last date for withdrawal of candidatures.

ANNEXURE XVII

[Para 8.1, Chapter VII]

**ELECTION COMMISSION OF INDIA**

New Delhi, dated..... 19

**NOTIFICATION**

No.—In pursuance of sub-rule (2) of rule 11 of the Conduct of Election Rules, 1961, the following is published for general information :

**FORM 7B**

**List of Contesting Candidates**

[See rule 10 (1)]

Election to the @.....

Sl.No.	Name of candidate	Address of Candidate	Party Affiliatio
1	2	3	4
1.			
2.			
3.			
4.			
etc.			

Place.....

*Returning Officer*

Date .....

*Secretary*

*Election Commission of India*

\* Indicate name in capitals.

\*\* Indicate designation in capitals.

@ Here insert one of the alternatives as may be appropriate—

(1) Council of States by the Elected Members of the Legislative Assembly of.....(State).

(2) Council of States by the Members of the electoral college.....(Union Territory).

**FORM 7B**  
**List of Contesting Candidates**  
*[See rule 10 (1)]*

Election to the @ .....

Sl.No.	Name of candidate	Address of Candidate	Party Affiliation
1	2	3	4
1.			
2.			
3.			
4.			
etc.			

Place .....

*Returning Officer \**

Date .....

*Chief Electoral Officer\*\**

\* Indicate name in capitals.

\*\* Indicate designation in capitals.

@ Here insert one of the alternatives as may be appropriate—

- (1) Legislative Council of.....(State) by the Members of the Legislative Assembly.
- (2) Legislative Council of..... (State) from the ..... Constituency.

*ANNEXURE XVIII*

*[Para 13, Chapter VII]*

**NOTICE TO CONTESTING,  
CANDIDATES REGARDING PENAL  
PROVISIONS IN THE  
ELECTION LAW**

Please take note that following are the provisions relating to the corrupt practices and electoral offences in the Representation of the People Act, 1951, and the offences relating to elections in Chapter IX-A of the Indian Penal Code. The list enumerated below is not to be taken as exhaustive. You are advised to study also relevant provisions in the law. The proof of the commission of these corrupt practices and electoral offences may entail as per law the election being declared void and/or also award of punishments as laid down in the law.

**(I) REPRESENTATION OF THE PEOPLE  
ACT, 1951**

*A. Corrupt Practices*

1. *Section 123.*—(i) Bribery, (ii) undue influence, (iii) appeal on the ground of religion, race, caste, community or language or the use of, or appeal to religious or national symbols, (iv) promotion of feelings of enmity or hatred between different classes of citizens on grounds of religion, race, caste, community or language, (v) publication of false statement in relation to the personal character or conduct of a candidate or his candidature, (vi) the hiring or procuring of vehicles or use of such vehicle

for the free conveyance of voters, (vii) the incurring or authorizing of election expenses in excess of the prescribed limit, and (viii) the obtaining or procuring of assistance from specified categories of Government servants, (ix) booth capturing.

*B. Electoral Offences*

2. *Section 125.*—Promoting enmity between different classes in connection with election.
3. *Section 126.*—Prohibition of public meetings during the prohibited period.
4. *Section 127.*—Disturbance at election meetings.
5. *Section 127-A.*—Restrictions on the printing of pamphlet, posters, etc.
6. *Section 128.*—Maintenance of secrecy of votes.
7. *Section 130.*—Prohibition of canvassing in or near polling stations.
8. *Section 131.*—Disorderly conduct in or near polling stations.
9. *Section 132.*—Misconduct at polling station.
10. *Section 133.*—Illegal hiring or procuring of conveyances at elections.
11. *Section 135.*—Removal of ballot paper from polling stations.
12. *Section 135-A.*—Booth capturing.
13. *Section 136.*—Fraudulent or unauthorized

destruction of election papers, documents, ballot papers, ballot boxes, etc.

(II) INDIAN PENAL CODE

14. *Section 171-B.*—Bribery.
15. *Section 171-C.*—Undue influence at elections.
16. *Section 171-D.*—Personation at elections.
17. *Section 171-G.*—False statement in connection with an election.
18. *Section 171-II.*—Illegal payments in connection with an election.
19. *Section 171-I.*—Failure to keep election accounts.

*ANNEXURE XVIII-A*

*[Para 14.3, Chapter VII]*

**COMMISSION'S NOTE FOR THE GUIDANCE  
OF PRINTING AND PUBLISHING OF  
ELECTION PAMPHLETS AND POSTERS**

The attention of all political parties, contesting candidates and owners of printing presses is invited to the section 127-A of the Representation of the People Act, 1951, and the restrictions it imposes on the printing and publishing of election pamphlets and posters.

This section first lays down that every election pamphlet, hand-bill, placard or poster which is printed or multi graphed by any process (except copying by hand) must bear on the front the name and address of the printer and the name and address of the publisher.

The printer of any such document must obtain from the intending publisher a declaration (in duplicate) as to his identity signed by him and attested by two persons to whom he is personally known.

As soon as the document is printed, the printer must send one copy of the declaration and one copy of the document to the Chief Electoral Officer, if the document is printed at the capital of the State and to the District Magistrate of the District in which it is printed in any other case.

Contravention of any of the provisions of the

section is made punishable with imprisonment up to six months or fine up to two thousand rupees or with both.

These restrictions, however do not apply to any hand-bill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.

In order that there is a strict observance of, and compliance with the requirements of the abovementioned provisions of law on the subject the Commission has issued the following directives:

(I) The District Magistrates and other concerned authorities shall be instructed that they should write to

all printing press in their Districts—

- (i) pointing out to them the requirements of the abovementioned section 127-A and instructing them to indicate clearly in print line the names and addresses of printer and publisher;
- (ii) asking them to send *four* copies of the printed material and the declarations of the publisher *within ten days of its printing*, the failure of which would be treated as a violation of the above provisions;
- (iii) impressing upon them in clear terms that any violation of the provisions of section 127-A would be very seriously viewed and stern action, which may in-appropriate cases in-

elude even the revocation of the license under the relevant law, would be taken.

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

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

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

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

(5) The District Magistrates and other authorities charged with the detection and investigation of offences shall be instructed that they should initiate prompt action and investigation if any case of publication of election poster, pamphlet, etc. in vio-

lation of the abovementioned provisions of section 127-A either comes, or is brought to their notice. In all such cases, prosecutions should be launched against the offenders expeditiously.

*ANNEXURE XVJII-B*  
*[Para 14.3, Chapter VII]*

**PROFORMA FOR SUBMISSION OF  
INFORMATION REGARDING PRINTING OF  
ELECTION POSTERS, PAMPHLETS, ETC.**

1. Name and address of Printer .....
2. Name and address of publisher .....
3. Date of the printing order of the publisher : .....
4. Date of the declaration of the publisher : .....
5. Brief particulars of election posters, pamphlets etc. ....
6. No. of copies printed of the above document : .....
7. Printing charges (include- .....

ing cost of paper) being .....  
charged from the pub- .....  
lisher in respect of the .....  
above document : .....  
.....

Place.....

Date .....

*(Signature of Printer)*  
Seal of the Printer

*ANNEXURE XIX*  
*[Para 5, Chapter X]*

**MODEL CODE OF CONDUCT  
FOR THE GUIDANCE OF  
POLITICAL PARTIES AND  
CANDIDATES**

**Election Commission of India  
1991**

## **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" and offences under the election law, such as the bribing of voters intimidation of voters, presentation 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 opinion or activities. Organizing

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 its or 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 organized by the other parties. Workers or sympathizers of one political party shall not create disturbance at public meetings organized 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 arrangement 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 orders exist, they shall be followed

strictly. If any exemption is required from such order it shall be applied for and obtained well in time.

(3) If permission of license 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 license.

(4) Organizers 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 disorder. Organizers themselves shall not take action against such person.

### **III. Processions**

(1) A party or candidate organizing 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 organizers shall give advance intimation to the local police authorities of the programme so as to enable the latter to make necessary arrangements.

(3) The organizers 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 of 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 a candidates shall exercise control to the maximum extent possible in the matter of process ironists carrying articles 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;
- (hi) 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 twenty-four hours preceding 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 sympathizers of the parties and candidate;
- (vi) ensure that the candidate's camps shall be simple—they shall not display any posters, flags, symbols or any other propaganda material. No stables shall be served or crowds allowed at the camps; and

- (vii) co-operate with the 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 polling booths.

#### **VI. Observers**

The Election Commission is appointing observers. If the candidates 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 the Centre or in the State or State concerned, shall ensure that no cause is given for any complaint that it has used its official position for the purpose of its election campaign, and in particular—

- (i) (a) the Ministers shall not combine their official visit with electioneering work and shall not also make use of official machinery or personnel during electioneering work;
- (b) Government 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 maidan etc, for holding election meetings, and use of helipads for air-flights in connection with elections, shall not be monopolized 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 house, dark bungalows or other Government accommodation shall not be monopolized by the 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 premise appertaining thereto) as a campaign officer or for holding any public meeting for the purpose of election propaganda;
- (iv) issue of advertisement at the cost of public exchequer in the newspapers 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 . n 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 election are announced by

the Commission, Ministers and other authorities shall not—

- (a) announce any financial grants in any form of 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; and

- (vii) Ministers of Central or State Government shall not enter any polling station or place of counting except in their capacity as a candidate or voter or authorised agent.

New Delhi  
January, 1991

T.N. Seshan  
*Chief Election  
Commissioner of India*

*ANNEXUREXX*

*[Para 6, Chapter XI]*

**DUTIES OF POLLING OFFICERS AT A  
SINGLE ELECTION TO THE COUNCIL OF  
STATES/STATE LEGISLATIVE COUNCIL BY  
ASSEMBLY MEMBERS**

**(When polling party consists of one Presiding  
Officer and two Polling Officers)**

**First Polling Officer**

The first Polling Officer will be in charge of the marked copy of the electoral roll (i.e. the list of electors) and responsible for the identification of electors. The voters at this election will normally be known to the Presiding Officer and the Polling Officers and there will not be any difficulty in their identification. A voter may, however, come with an unofficial identity slip which he has received from a candidate. The slip should be on plain white paper and may contain the name of the elector, his serial number in the electoral roll and the number of the electoral roll part. The slip should not contain the name of the candidate and/or the name of his party. If the voter does not have any such identity slip, the Polling Officer will himself ascertain his name, etc., and will then locate his name from the electoral roll kept by him. The elector should not be compelled to bring an identity slip, nor should he be turned away solely because he has not brought such a slip. The Polling Officer should not treat the identity slip brought by an elector as a conclusive proof of his identity.

After locating the name of the elector and checking it with the particulars in the relevant entry in the roll, the first Polling Officer will call out loudly the page number, the part number, the serial number and the name of the elector to the hearing of the polling agents. The identity slip, if any, brought by the elector should then be torn into pieces and put in the waste paper basket supplied. Such torn slips should not be thrown on the floor. If there is no challenge as regards the identity of the voters, the Polling Officer will underline in every case the entry relating to the elector in the marked copy of the electoral roll with him and, where the elector is a female, put a *N*) mark also on the left-hand side of the name of the female elector.

The first Polling Officer will also be in charge of the bundles of ballot papers. He will record on the counterfoil of the ballot paper the electoral roll part number and the serial number of the elector, as entered in the marked copy of the electoral roll.

He will then obtain the signature/thumb impression of the voter on the counterfoil of ballot paper. For the purpose of obtaining the thumb impression the stamp pad of purple colour supplied to your polling station should be used and for obtaining signature the copying pencil/ball-points pen should be used. For the use of voters whose thumb impression has been taken on the counterfoil of the ballot paper, a wet piece of cloth may be kept on the table of this Polling Officer for removing the ink. The ballot paper will then be detached from

the counterfoil with the help of a flat metal rule having a sharp edge on the lengthwise- side. It will thereafter be delivered to the voter and he will be directed to the second Polling Officer sitting near the voting compartment. No ballot paper should be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of the ballot paper. It is *not* necessary to have the thumb impression of the elector on the counterfoil attested by the Presiding Officer or a Polling Officer or by any other officer.

### **Second Polling Officer**

The second Polling Officer will be in charge of the articles to be supplied to the elector for marking the ballot paper. He will take the ballot paper from the elector and fold it twice, first vertically and then horizontally, in such a way that the distinguishing mark is clearly visible at the top right-hand corner on the back of the ballot paper. He will then unfold the ballot paper and hand it over to the elector. He will also give to the voter marking article and if specifically requested by the voter, instruct him by making a mark with it on a piece of plain paper. The voter will then be asked to proceed to a voting compartment. After recording his vote, the elector will refold the ballot paper along the lines on which it was folded before it was issued to him, come out of the voting compartment and insert the ballot paper into the ballot box kept in front of the Polling Officer.

The Polling Officer in charge of the ballot box

will keep a strict vigil to see that no elector inserts anything other than the genuine ballot paper into the ballot box. For this purpose, he may require any elector to show the distinguishing mark and the Presiding Officer's signature on the back of the ballot paper before its insertion into the ballot box.

*ANNEXURE XX-A*

*[Para 6, Chapter XI]*

**DUTIES OF POLLING OFFICERS AT  
A SINGLE ELECTION TO THE  
COUNCIL OF STATES/STATE  
LEGISLATIVE COUNCIL BY  
ASSEMBLY MEMBERS**

**(When polling party consists of one Presiding  
Officer and three Poling Officers)**

**First Polling Officer**

The first Polling Officer will be in charge of the marked copy of the electoral roll (i.e. the list of electors) and responsible for the identification of electors. The voters at this election will normally be known to the Presiding Officer and the Polling Officers and there will not be any difficulty in their identification. A voter may, however, come with an unofficial identity slip which he has received from a candidate. The slip should be on plain white paper and may contain the name of the elector, his serial number in the electoral roll and the number of the electoral roll part. The slip should not contain the name of the candidate and/or the name of his party. If the voter does not have any such identity slip, the Polling Officer will himself ascertain his name, house number, etc., and will then locate his name from the electoral roll kept by him. The elector should not be compelled to bring an identity slip,

nor should he be turned away solely because he has not brought such a slip.

After locating the name of the elector and checking it with the particulars in the relevant entry in the roll, the first Polling Officer will call out loudly the page number, the part number, the serial number and the name of the elector to the hearing of the polling agents. The identity slip, if any, brought by the elector should then be torn and destroyed. If there is no challenge as regards the identity of the voter, the Polling Officer will underline in every case the entry relating to the elector in the marked copy of the electoral roll with him and, where the elector is a female, put a (O) mark also on the left hand side of the neck of the female elector.

The voter will then move to the second Polling Officer.

### **Second Polling Officer**

The second Polling Officer will be in charge of the bundles of ballot papers. As the first Polling Officer reads aloud the part number and serial number of the elector, the second Polling Officer will record on the counterfoil of the ballot paper the electoral roll part number and the serial number of the elector as entered in the marked copy of the electoral roll.

The Polling Officer will then obtain the signature/thumb impression of the voter on the counterfoil of ballot paper. For the purpose of obtaining the thumb impression a stamp pad of

purple colour supplied to your polling station should be used and for obtaining signature a copying pencil/ ball-point pen should be used. For the use of voters whose thumb impression has been taken on the counterfoil of the ballot paper, a wet piece of cloth will be kept on the table of this Polling Officer for removing the ink. the ballot paper will then be detached from the counterfoil with the help of a flat metal rule having a sharp edge on the lengthwise side. It will thereafter be delivered to the voter and he will be directed to the third Polling Officer sitting near the voting compartment. No ballot paper should be delivered to an elector unless, he has put his signature of thumb impression of the counterfoil of the ballot paper. It is not necessary to have the thumb impression of the elector on the counterfoil attested by the Presiding Officer or a Polling Officer or by any other officer.

### **Third Polling Officer**

The third Polling Officer will be in charge of the article to be supplied to the elector for marking the ballot paper. He will take the ballot paper from the elector and fold it twice, first vertically and then horizontally, in such a way that the distinguishing mark is clearly visible at the top right-hand corner on the back of the ballot paper. He will then unfold the ballot paper and hand it over the elector. He will also give to the voter the marking article and, if specifically requested by the voter, instruct him by making mark with it on a piece of plain paper. The voter will then be asked to proceed to voting compartment. After recording his vote, the elector will refold the ballot paper along

the lines on which it was folded before issue to him, come out of the voting compartment and insert the ballot paper into the ballot box kept in front of the Polling Officer.

The Polling Officer in charge of the ballot box will keep a strict vigil to see that no elector inserts anything other than the genuine ballot paper into the ballot box. For this purpose, he may require any elector to show the distinguishing mark and the Presiding Officer's signature on the back of the ballot paper before its insertion into the ballot box.

*ANNEXUREXXI*

*[Para.8, Chapter XI]*

**INSTRUCTIONS FOR RECORDING  
OF VOTES AT ELECTIONS TO THE  
COUNCIL OF STATES AND STATE  
LEGISLATIVE COUNCILS**

**A. Method of Voting**

1. For the purpose of voting, use only the violet sketch pen supplied by the Returning Officer, which will be handed over to you along with the ballot paper. Do not use any other pen, pencil, ballpoint pen or any other marking instrument, as that will invalidate your ballot paper.
2. Vote by placing the figure T in the column marked 'order of preference' provided opposite the name of the candidate whom you choose as your first preference. This figure T shall be placed opposite the name of only one candidate.
3. Even if the number of candidates to be elected is more than one, the figure T shall be put opposite the name of only one candidate.
4. You have as many preference as there are contesting candidates irrespective of the number of candidates to be elected . For

example, if there are five contesting candidates and only two are to be elected, you can mark preferences from 1 to 5 against the candidates of your choice in order of your preference.

5. Indicate your further preferences for the remaining candidates by placing in the column marked 'order of preference' provided opposite the names of such candidates the subsequent figures 2,3,4 etc., in the order of your preference.
6. Make sure that you put only one figure opposite the name of any candidate and also make sure that the same figure is not put opposite the names of more than one candidate.
7. Preference shall be indicated in figures only, i.e. 1,2,3, etc., and shall not be indicated in words, one, two, three, etc.
8. Figures may be marked in the international form of Indian numerals like 1,2,3, etc., or in the Roman form I, II, III, etc., or in Devenagri form 1, 2, 3, or in the form used in any Indian Language, recognized in the Eighth Schedule to the Constitution.
9. Do not write your name or any words and do not put your signature or initials on the ballot paper. Also, do not put your thumb impression. These will make your ballot paper invalid.

10.it is not sufficient to put a mark 'V' or 'X' against the candidates of your choice to indicate your preferences. Such ballot paper will be rejected. Indicate your preferences only in figures 1,2,3, etc., as explained above.

11. To make your ballot paper valid, it is necessary that you should indicate your first preference by placing figure 1 against one of the candidates. The other preferences are optional, i.e., you may or may not indicate the second and subsequent preferences.

### **B. Invalid Ballot Papers**

A ballot paper shall be invalid on which-

1. the figure 1 is not marked;
2. the figure 1 is set up opposite the name of more than one candidate;
3. the figure 1 is so placed as to render it doubtful to which candidate it is intended to apply;
4. the figure 1 and some other figure like 2, 3 etc., are also set opposite the name of the same candidate;
5. the preferences are indicated in words instead of in figures;
6. there is any mark or writing by which the elector can be identified; and

7. there is any figure marked otherwise than with the violet sketch pen supplied by the Returning Officer for the purpose of marking such figures.

*ANNEXURE XXI-A*

*[Para 13, Chapter XI]*

**COPY OF COMMISSION'S LETTER  
NO.318/WB/68, DATED THE 12TH  
FEBRUARY, 1968, ADDRESSED TO  
THE CHIEF ELECTORAL OFFICERS  
OF ALL STATES AND UNION  
TERRITORIES**

*Subject: Biennial elections to the Council of States,  
1968-List of Members of State Legislative Assemblies  
and Electoral Colleges.*

I am directed to enclose a copy of letter No. I.L.A7E., dated the 29th January, 1968 received from the Secretary, west Bangal Legislative Assembly, Calcutta, on the above subject. The Commission made a reference to the Supreme Court in the matter referred to therein. The Honorable Court has ordered that the Petitioner Shri Satyanarayan Mitra cannot be allowed to take part in the elections to the council of States or the Legislative Council of the State. A copy of the Supreme Court's letter No. D-5299/67-S.C.-III, dated the 7th February, 1968, along with a copy of the Court's Order dated the 27th October, 1967 is sent herewith.

**COPY OF LETTER NO. I.L.A7E., DATED THE  
29TH JANUARY, 1968, FROM SHRI P. ROY,  
SECRETARY TO THE WEST BENGAL**

LEGISLATIVE ASSEMBLY, CALCUTTA, TO  
THE SECRETARY, ELECTION COMMISSION  
OF INDIA, NEW DELHI

*Subject: Biennial elections to the Council of States,  
1968-from West Bengal.*

In connection with the ensuing election mentioned above, I am to inform you that Shri Satyanarayana Mitra a member of the West Bengal Legislative Assembly from Bankura Constituency, whose election was set aside by the Calcutta High court, has been debarred by the Supreme Court from taking part in the proceedings of the Assembly, and *from voting and from drawing salaries etc.* [vide orders of the Supreme Court on Civil Miscellaneous Petition No. 2818 of 1967 in the matter of Civil Appeal No. 1408 (NCE) of 1967, a copy of which was forwarded to you by the Assistant Registrar, Supreme Court in his letter No. D-5299/67-S.C.-III, date 30th October 1967] pending the hearing of the appeal.

In view of the above and also in view of the fact that voting in the Assembly is distinct from voting in any election elsewhere, although the power of voting in either is derivable from his membership of the Assembly, I am to request you to let me know whether his name should be included in the list of electors maintained under section 152 of the R.P. Act, 1951 and whether he should be eligible to vote in the ensuing biennial elections to the Council of States in 1968 from this State.

*ANNEXURE XXI-A Contd.*

*[Para 13, Chapter XI]*

**COPY OF LETTER NO.D-5299/67-  
S.C.III, DATED THE 7TH FEBRUARY,  
1968 FROM THE ASSISTANT  
REGISTRAR, SUPREME COURT OF  
INDIA, ADDRESSED TO THE  
SECRETARY, ELECTION  
COMMISSION OF INDIA, NEW DELHI  
Civil Appeal No. 1408 (NCE) of 1967**

Satyanarayan Mitra

Appellant

Versus

Bireswar Ghose and other

Respondents

With reference to your letter No. 318/WB/68/3742, dated the 2nd February, 1968, I am to say that the matter was placed before this Court today for directions when the Court was pleased to pass the following Order:-

"The Court intended by its Stay Order dated the 27th October, 1967 that the petitioner Satyanarayan Mitra will only be permitted to attend the Legislative Assembly in order that he may not lose his seat and that he will get no other advantage by virtue of this order except the Railway Pass. Therefore, he cannot be allowed to vote in the election to the Council of

States or the Legislative Council of the State."  
IN THE SUPREME COURT OF INDIA, CIVIL  
APPELLATE JURISDICTION

*Civil miscellaneous Petition No. 2818 of 1967*

(Application for stay by notice of motion)

In the matter of:

**Civil Appeal No. 1408 (NCE) of 1967**

(Appeal under section 116-A of the Representation of the People Act, 1951 from the Judgment and Order dated the 21st, 22nd August, 1967 of the Calcutta High Court in Election Petition Case No. 1 of 1967.)

The application above mentioned being called on for hearing before this Court on the 27 the October, 1967 UPON hearing Mr. A.K. Sen, Counsel for the Petitioner/Appellant and Mr. Som Nath Chatterjee, Counsel for Respondent No. 1. This court doth order: (1) That the operation of the judgment and order dated 21st/22nd August, 1967 of the Calcutta High Court in Election Petition Case No. 1 of 1967 be and is hereby stayed pending the hearing and final disposal by this Court of the appeal above mentioned but the Petitioner/Appellant herein shall attend the West Bengal Legislative Assembly in order that he may not lose his seat and he shall take no part in its proceedings and shall not vote and draw any salary or allowances subsequent to the date of the Order of the High Court under Appeal in this Court; (2) THAT the parties herein shall file list of documents to be

included in the appeal record within fifteen days of the receipt of the notice under rule 15(1) and (2) of Order XV, supreme Court Rules, 1966; (3) That the Petitioner/Appellant herein shall file his statement of case within 30 days of the receipt of the notice of authentication of record and the Respondents herein shall file their statement of a case within 15 days thereafter; (4) THAT the hearing of the above appeal shall be expedited and date of hearing will be fixed as soon as possible after the record is ready; (5) THAT the Registrar of the Calcutta High Court DO Forthwith transmit to this Court the entire original record including all the ballot papers relating to the above matter; AND THIS COURT DOTH FURTHER ORDER that this ORDER be punctually observed and carried into execution by all concerned.

WITNESS the Honorable Mr. Kailash Nath wanchoo, chief Justice of India, at the Supreme Court, New Delhi, this the 27th day of October, 1967.

M.P Saxena,  
Deputy Registrar

ANNEXURE XXII

[Para 21, Chapter XI]

**ELECTION COMMISSION OF INDIA**

Ashok Road, No.

576I4I88-L.S.II<sup>671/96</sup> NewDelhi-110 001.

Dated 23rd March,  
1988

To

1. Andhra Pradesh 2. Bihar 3. Gujarat 4. Chandigarh 5. Himachal Pradesh 6. Karnataka 7. madhya Pradesh 8. Maharashtra 9. Orissa 10. Rajasthan 11. Uttar Pradesh 12. West Bengal 13. Sikkim.

*Subject: Biennial elections and bye-elections to Rajya Sabha and the Legislative Councils-March, 1988.*

Sir,

From time to time, commission has been receiving reports alleging irregularities in the election to the Council of States/Legislative Councils, both at the time of polling and counting, mainly with reference to the provisions of the law relating to secrecy of voting. A strict observance of the provisions of the law, particularly rule 39A of the Conduct of Election Rules, 1961 (read with section 132A of the Representation of the People Act, 1951), section 128 of the said Act and rules 32 and 53 of the said rules help in preventing such regularities.

2. With a view to preventing scope for such irregularities and securing compliance with the provisions of the law, the Commission has issued the following instructions:

- (i) Only authorised persons should be allowed inside the place of poll and counting hall. The number of polling agents and counting agents is already fixed under the rules and only such number should be allowed. The Presiding Officer/Returning Officer/Assistant Returning Officer should ensure that security guards, if any, of any elector or agent are not allowed to enter the place of poll or counting hall.
- (ii) all authorised persons should be provided with badges, which should be worn by them inside the place of poll and the counting hall.
- (iii) The entry of electors into the place of poll may be regulated as to avoid overcrowding in the place of poll while taking care to see that no inconvenience is caused to the electors. For this purpose, a separate room or enclosure adjacent to the place of polling may be arranged and adequate facilities may be provided to the electors so that they can conveniently sit and wait for their turn for voting.
- (iv) It may be ensured that the voting procedure as provided in rule 39A of the Conduct of Election Rules, 1961, is strictly adhered to. In particular, it may be ensured that, after

recording his vote, the elector folds the ballot paper inside the voting compartment itself so as to conceal his vote and that he does not show his marked ballot paper to anyone present in the place of polling. Attention is invited in particular to sub-rule (5) of the said rule 39A according to which a ballot paper issued to an elector may be taken back if the elector refuses, after warning given by the Presiding Officer, to observe the procedure as laid down in sub-rule (2) of the said rule 39A. Section 132A of the Representation of the People Act, 1951 contains the same provision and, according to this section, if any elector to whom a ballot paper has been issued, refuses to observe the procedure for voting, the ballot paper issued to him shall be liable for cancellation. If any occasion for issuing a warning under sub-rule (5) of rule 39A of the Conduct of Election Rules, 1961 arises, you may in addition to drawing the attention of the elector to that sub-rule, draw his attention also to the said section 132A.

- (v) The emphasis at the time of polling and counting should alike be more on preventing violations of secrecy and, if any activity on the part of any person present in the place of polling/counting hall gives rise to any apprehension as to the same leading to infringement of secrecy of voting, such person should be cautioned against carrying

on such activity. In this connection it may be noted that under section 128 of the Representation of the People Act, 1951 it is duty, inter alia of every agent who performs any duty in connection with the recounting or counting of votes at an election to aid in maintaining the secrecy of voting.

3. To facilitate a review of the law on the subject by the Commission, a report may be sent to the Commission with regard to the observance and working of the provisions of law relating to secrecy of voting at the time of the election, drawing special attention to such instances, if any, in which it became necessary to issue any warning or caution for the purpose of securing secrecy of voting and also to such other matters as may be considered to be of special significance in this behalf.

Yours faithfully,

sd/-

K.P.G. Kutty.

Copy forwarded to Chief Electoral Officers of all States and Union Territories.

*ANNEXURE XXIII*  
*[Para 22, Chapter XI]*

**PART I**

**Declaration by the Presiding Officer before the Commencement of the poll**

Election to... ..

Serial No. and Name of Polling Station.....

Date of Pol .....

I hereby declare-

- (1) that I have demonstrated to the polling agents and other persons present that the ballot box to be used for the poll is empty;
- \* (2) that on the paper seal used for securing the ballot box I have affixed my own signature and obtained thereon the signatures of such of the polling agents as are present and desirous of affixing the same;  
\*[Inapplicable where paper seal is not used.]
- (3) that I have demonstrated to the polling agents and others present that the marked copy of the electoral roll to be used during the poll does not contain any marks other than those used for issuing postal ballot papers; and
- (4) that I have allowed the polling agents to not the first and the last of the serial

numbers of the ballot papers which will be used at the polling station.

Signature!.....)

Presiding Officer

Signature of polling agents:

1 ....(of candidate ..... ) 2 ..... (of candidate .....)

3.....(of candidate ..... ) 4 ..... (of candidate .....)

5.....(of candidate ..... ) 6 ..... (of candidate .....)

7 ....(of candidate ..... ) 8 ..... (of candidate .....)

9.....(of candidate .....)

The following polling agent/s declined to affix his/ their signature/s on this declaration:

1 ....(of candidate ..... ) 2 ..... (of candidate.....)

3 ....(of candidate ..... ) 4 ..... (of candidate.....)

Signature( .....).

Presiding Officer

Date .....

**PART II**

**Declaration by the Presiding Officer at the time of use of subsequent Ballot Boxes)**

Election to.....

Serial No. and Name of Polling Station.....

Date of Pol.....

I hereby declare-

(1) that I have demonstrated to the polling agents and other persons present that the second/third ( ) ballot box to be used for the poll is empty; and

\*(2) that on the paper seal used for securing the ballot box I have affixed my own signature and obtained thereon the signatures of such of the polling agents as are present and desirous of affixing the same;

\*[Inapplicable where paper seal is not used.]

Signature( ..... )

Presiding Officer

Signature of polling agents:

- 1 ....(of candidate.....) 2.....(of candidate .... )
- 3.....(of candidate.....) 4.....(of candidate .... )
- 5.....(of candidate.....) 6.....(of candidate .... )
- 7.....(of candidate.....) 8.....(of candidate .... )
- 9 ....(of candidate .....

The following polling agent/s declined to affix his/  
their signature/s on this declaration:

- 1 ....(of candidate ..... ) 2..... (of candidate .....)  
3.....(of candidate ..... ) 4..... (of candidate .....)

Signature(.....)

Presiding Officer

Date .....

**PART III**

**Declaration at the end of the poll**

I have furnished to the polling agents, who were present at the polling station at the close of the poll and whose signatures are affixed below, an attested copy of each of the entries in the ballot paper account in Form 16 as required under rule 45(2) of the Conduct of Election Rules, 1961.

Signature (.....)

Presiding Officer

Date.....

Received an attested copy of the entries made in the ballot paper account.

Signature of polling agents:

- 1.... (of candidate.....) 2 ..... (of candidate.....)
- 3.... (of candidate.....) 4 ..... (of candidate.....)
- 5.... (of candidate.....) 6 ..... (of candidate.....)
- 7.... (of candidate.....) 8 ..... (of candidate.....)
- 9.... (of candidate.....)

The following polling agent/who were present at the close of the poll declined to receive an attested copy of the ballot paper account and to give a receipt therefore and so an attested copy of the ballot paper account was not supplied to them:

- 1.....(of candidate.....) 2.....(of candidate.....)
- 3.....(of candidate.....) 4.....(of candidate.....)
- 5.....(of candidate.....) 6.....(of candidate.....)
- 7.....(of candidate.....) 8.....(of candidate.....)
- 9.....(of candidate.....)

Signature (.....)

Presiding Officer

Date .....

*ANNEXURE XXIV*

*[Para 29, Chapter XI]*

**Declaration by the Companion of Illiterate,  
Blind of Infirm Elector**

Election to.....

Serial No. and Name of Polling Station .....

I,.....son of.....  
aged ..... resident  
of\* .....

hereby declare that-

- (a) I have not acted as companion of any other elector at any polling station to-day, the .....
- (b) I will keep secret the vote recorded by me on behalf of e.....

Signature of companion

\* Full address to be given

\* Name, Part No. and Serial Number of elector.

*ANNEXURE XXV*  
*[Para 39, Chapter XI]*

(Sample Form)

**FORM 16**

[See rules 45, 56(7) and 56-A(7)]

**Ballot Paper Account**

Election to the Council of States by Members of  
U.P. Legislative Assembly.

No. and name of Polling Station (Place of Poll) -  
Vidhan Sabha Library

	<b>Serial Nos. From</b>	<b>To</b>	<b>Total No.</b>
1. Ballot paper received	001	430	430
2. ballot papers unused (i.e. not issued to voters)			
(a) With this signature of Presiding Officer	422	423	2
(b) Without the signature of Presiding Officer	424	429	
* Total :- (a+b)			6
3. *Ballot papers used at the polling station (1-2=3)			422 (430-8)
4. Ballot papers used at the polling stations but NOT INSERTED INTO THE BALLOT BOX			
(a) Ballot papers cancelled for violation of voting procedure under rule 39A	239		1
(b) Ballot papers cancelled for other reasons	371	-	1

(c) Ballot papers used as tendered ballot papers * Total: (a+b+c)	430	—	$\frac{1}{3}$
5 Ballot papers to be found in the ballot box (3-4=5)			419

Signature of the Presiding Officer

Date.....

\*(Serial numbers need not be given)

*ANNEXURE XXVI*  
*[Para43.1, Chapter XI]*

**Sealing of election papers**

After the close of poll, seal all the election papers in separate packets as required by rule 46. All the packets so sealed except the covers containing (i) the ballot paper account, (ii) paper seal account, (iii) the declarations by the Presiding Officer and (iv) the Presiding Officer's diary should be put and sealed in four large packets as explained in the following paragraphs and sent to the Returning Officer. The covers containing (i) the ballot paper account, (ii) paper seal account (iii) the declarations by the Presiding Officer and (iv) the Presiding Officer's diary should, however, be sent separately to the receiving Centre for election papers.

You should allow each candidate or his election agent or his polling agent who may be present at the polling station to affix their seals on the envelopes and packets containing the following documents:

- (i) the marked copy of the electoral roll;
- (ii) the counterfoils of used ballot papers (at the end of the poll, if the last bundle of ballot papers used for the poll contains some unused ballot papers, the counterfoils of used ballot papers in the bundle should be separated from the bundle and kept in this envelope. The counterfoils so

- separated should be tagged properly);
- (iii) the signed but unused ballot paper with counterfoils, if any;
  - (iv) the other unused ballot papers with counterfoils;
  - (v) the ballot papers cancelled for violation of voting procedure;
  - (vi) the returned and other cancelled ballot papers;
  - (vii) the tendered ballot papers and the list of tendered votes in Form 15;
  - (viii) the list of challenged votes;
  - (ix) the unused and damaged paper seals, if any;
  - (x) appointment letters of polling agents; and
  - (xi) any other papers that the Returning Officer has directed to be kept in a sealed packet.

**Packing of 'Statutory Cover' and 'No statutory Covers and election materials**

In order to avoid delay and inconvenience of waiting at the place for returning sealed boxes, election paper and all other materials, you are advised to pack the covers and other materials into four separate packets, as explained below, and hand them over at the place appointed for receipt thereof.

I. The first packet should contain the sealed covers mentioned below and should be superscribed

as "STATUTORY COVERS".

- (i) the sealed cover containing the marked copy of the electoral roll;
- (ii) the sealed cover containing counterfoils of used ballot papers including tendered ballot papers;
- (iii) the sealed cover containing the signed but unused ballot papers, with counterfoils;
- (iv) the sealed cover containing other unused ballot papers with counterfoils;
- (v) the sealed cover containing the tendered ballot papers and the list in Form 15;
- (vi) the sealed cover containing the ballot papers cancelled for violation of voting procedure; and
- (vii) the sealed cover(S) containing other cancelled ballot papers.

Even if a statement or record to be put in any cover mentioned above is nil, a slip noting on it that the statement or record is "Nil" may be put in the cover and the total number of seven covers made ready so that no necessity arises for the receiving officials at the receiving centre to enquire about the non-production of any of the sealed covers to be received by him.

II. The *second* packet should contain the following covers and should be super scribed as "NON-STATUTORY COVERS":

- (i) the sealed cover containing the copy or

- copies of electoral roll (other than the marked copy);
- (ii) the sealed cover containing the appointment letters of polling agents in Form 10;
  - (iii) the sealed cover containing the list of challenged votes in Form 14;
  - (iv) the sealed covers containing the list of illiterate, blind and infirm electors in Form 14A and the declarations of the companions, under rule 40(1);
  - (v) cover containing the receipt book and cash, if any, in respect of challenged votes; and
  - (vi) cover containing unused and damaged paper seals.

III. The third packet should contain the following items:

- (i) the Handbook 'Instructions to Presiding Officers';
- (ii) pusher for ballot box and metal strip for detaching the ballot papers from counterfoils;
- (iii) self-inking pads;
- (iv) the metal seal of the Presiding Officer;
- (v) articles supplied for marking ballot papers;
- (vi) indelible ink set (with stopper having been secured on each phial effectively with worthen wax to prevent leakage or

evaporation in the case of election from Graduates' or Teachers' Constituency.

IV. All the other items if any, should be packed into the fourth packet.

**Delivery and checking of election records and materials at the collecting centre**

You will hand over to the official in charge of receiving back the election records and materials at the collecting centre the following 11 items in all:

- (i) the sealed ballot box(es);
- (ii) the unused ballot box(es);
- (hi) the unused canvas bag(s or cloth, as the case may be;
- (iv) cover containing the ballot paper account;
- (v) cover containing the paper seal account;
- (vi) cover containing the declarations of the Presiding Officer;
- (vii) cover containing the Presiding Officer's diary;
- (viii) the first packet super scribed 'statutory covers' containing six covers;
- (x) the third packet containing seven items of election material, etc.; and
- (xi) the fourth packet containing all other items, if any.

All the above items [excluding the items contained in the fourth packet referred to at (xi)

above] will be checked by the receiving official(s) at the collecting centre in your presence and thereafter you will be released.

*ANNEXURE XXVII*

*[Para 46, Chapter XI]*

**DUTIES OF POLLING OFFICERS AT  
SIMULATNEOUS ELECTIONS TO  
THE COUNCIL OF STATES AND  
STATE LEGISLATIVE COUNCIL BY  
ASSEMBLY MEMBERS**

**(When Polling party consists of one  
Presiding Officer and three Polling Officers)**

**First Polling Officer**

First Polling Officer will be in charge of the marked copy of the electoral roll for election to the Council of States and responsible for identification of electors. The electors at these elections will normally be known to the Presiding Officer and the Polling Officers and there may not be any difficulty in their identification. A voter may, however, come in with an unofficial identity slip which he has received from a candidate. The slip should be on plain white paper and may contain the name of the elector, his serial number in the electoral roll and the number of the electoral roll part. The slip should not contain the name of the candidate and/or the name of his party. If the voter does not have any such identity slip, the Polling Officer will himself ascertain his name, and will then locate his name in the electoral roll kept by him. The elector should not be compelled to bring an identity slip, nor should he be turned away solely because he has not brought such a slip. The Polling Officer should not

treat the identity slip brought by an elector as a conclusive proof of his identity.

After locating the name of the elector and checking it with the particulars in the relevant entry in the roll, the first Polling Officer will call out loudly the part number, the page number, the serial number and the name of the elector to the hearing of the polling agents and the second Polling Officer. The identity slip, if any, brought by the elector, should then be torn into pieces and put in the Waste Paper basket supplied. Such torn slips should not be thrown on the floor. If there is no challenge as regards the identity of the voter, the Polling Officer will underline the entry relating to the elector in the marked copy of the electoral roll with him in every case and where the elector is a female put (V) mark also on the left hand side of the name of the female elector.

The first Polling Officer will also be in charge of the bundles of ballot papers for election to the Council of States. He will record on the counterfoil of the ballot paper the electoral roll part number and the serial number of the elector as entered in the marked copy of the electoral roll and obtain the signature/thumb impression of the voter on the counterfoil of ballot paper.

For the purpose of obtaining the thumb impression, the stamp pad of purple colour supplied to your polling station should be used and for obtaining signature the copying pencil/ball-point pen supplied should be used. The ballot paper will be detached from the counterfoil with the help of the

flat metal rule having a sharp edge on the lengthwise side. No ballot paper should be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of that ballot paper. It is not necessary to have the thumb impression of the elector on the counterfoil attested by the Presiding or a Polling Officer or by any other officer. He will then pass on the ballot paper to the second Polling Officer.

### **Second Polling Officer**

The second Polling Officer will be in charge of the bundles of ballot papers for election to the State Legislative Council and the marked copy of the electoral roll for election. As the first Polling Officer read aloud the part number and serial number of the elector, the second Polling Officer will underline the entry relating to the elector in the marked copy of the electoral roll with him and where the elector is female also put a (V) mark on the left hand side of the name of the female elector. He will record on the counterfoil of the ballot paper the electoral roll part number and the serial number of the elector as entered in the marked copy of the electoral roll and obtain the signature/thumb impression of the voter on the counterfoil of ballot paper. For the purpose of obtaining the thumb impression the stamp pad of purple colour supplied to your polling station should be used and for obtaining signature the copying pencil/ball-point pen should be used. For the use of voters whose thumb impression has been taken on the counterfoil of the ballot paper, a wet piece of cloth may be kept on the table of the Polling Officer for removing the ink. The ballot paper

will then be detached from the counterfoil with the help of the flat metal rule having a sharp edge on the lengthwise side. Thereafter both the ballot papers will be delivered to the voter and he will be directed to the third Polling Officer sitting near the voting compartment. No ballot paper should be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of that ballot paper. It is not necessary to have the thumb impression of the elector on the counterfoil attested by the Presiding or a Polling Officer or by any other officer.

### **Third Polling Officer**

The third Polling Officer will be in charge of the article to be supplied to elector for marking the ballot papers. He will take both the ballot papers from the elector. He will first fold the ballot paper for election to the Council of States twice first vertically and then horizontally, in such a way the distinguishing mark is clearly visible at the top right hand corner on the back of the ballot paper. He will then unfold the ballot paper and hand it over to the elector. He will also give to the voter the marking article and if specifically requested by the voter, instruct him by making a mark with it on a piece of plain paper. The voter will then be asked to proceed to a voting compartment. After recording his vote, the elector will refold the ballot paper along the lines on which it was folded before issue to him, come out of the voting compartment and insert the ballot paper into the ballot box kept in front of the Polling Officer.

In the meantime the third Polling Officer would have folded the other ballot paper for Legislative Council election also vertically and horizontally. He will then unfold and hand over that ballot paper to the voter, who proceed to another voting compartment, record his vote on the Parliamentary ballot paper, bring it back and drop it into the same ballot box.

The Polling Officer in charge of the ballot box will keep a strict vigil to see that no elector inserts anything other than the genuine ballot paper into the ballot box. For this purpose, he may require any elector to show the distinguishing mark and the Presiding Officer's signature on the back of the ballot paper before its insertion into the ballot box.

*ANNEXURE XXVII-A*

*[Para 46, Chapter XI]*

**DUTIES OF POLLING OFFICERS AT  
SIMULTANEOUS ELECTIONS TO  
THE COUNCIL OF STATES AND  
STATE LEGISLATIVE COUNCIL BY  
ASSEMBLY MEMBERS**

**(When polling party consists of one  
Presiding Officer and four Polling Officer)**

**First Polling Officer**

First Polling Officer will be in charge of the marked copy of the electoral roll for election to the council of States and responsible for identification of electors. The electors at these elections will normally be known to the Presiding Officer and the Polling Officers and there may not be any difficulty in their identification. A Voter may, however, come in with an unofficial identity slip which he has received from a candidate. The slip should be on Plain white paper and may contain the name of the elector, his serial number in the electoral roll, the number of the electoral roll part and the number and name of polling station where he is to cast his vote. The slip should not contain the name of the candidate and/or the name of his party. If the voter does not have any such identity slip, the Polling Officer will himself ascertain his name and will then locate his name in the electoral roll kept by him. The elector should not be compelled to bring

an identity slip, nor should he be turned away solely because he has not brought such a slip.

After locating the name of the elector and checking it with the particulars in the relevant entry in the roll, the first Polling Officer will call out loudly the part number, the page number, the serial number and the name of the elector to the hearing of the polling agents and the second and third Polling Officers. The identity slip, if any brought by the elector, should then be torn and destroyed. If there is no challenge as regards the identity of the voter, the Polling Officer will underline the entry relating to the elector in the marked copy of the Electoral roll with him in every case and where the elector is a female put a (V) mark also on the left hand side of the name of the female elector.

At the end of the day's polling he should count the number of men and women voters who have voted and record the result in the Presiding Officer's report to the Returning Officer. One easy method of doing this would be to write down all the serial numbers from 1 to 200 or 300 on two separate sheets of paper before the commencement of the poll.

The voter will then move to the second Polling Officer.

### **Second Polling Officer**

The second Polling Officer will be in charge of the bundles of Council of States ballot papers. As the first Polling Officer reads aloud the part number and serial number of the elector, the Second Polling Officer will record on the counterfoil of the ballot

paper the electoral roll part number and the serial number of the elector as entered in the marked copy of the electoral roll and obtain the signature/ thumb impression of the voter on the counterfoil of ballot paper. For the purpose of obtaining the thumb impression a stamp pad of purple colour supplied to your polling station should be used and for obtaining ^signature a copying pencil/ball-point pen should be used. The ballot paper will then be detached from the counterfoil with the help of a flat metal rule having a sharp edge on the lengthwise side. No ballot paper should be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of that ballot paper. It is not necessary to have the thumb impression of the elector on the counterfoil attested by the Presiding or a Polling Officer or by any other officer. He will then pass on the ballot paper to the third Polling Officer.

### **Third Polling Officer**

The third Polling Officer will be in charge of the bundles of Legislative Council election ballot papers and the marked copy of the electoral roll for that election. As the first Polling Officer reads aloud the part number and serial number of the elector, the third Polling Officer will underline the entry relating to the elector in the marked copy of the electoral roll with him and where the elector is a female also put a (V) mark on the left hand side of the name of the female elector. He will record on the counterfoil of the ballot paper the electoral roll part number and the serial number of the elector

as entered in the marked copy of the electoral roll and obtain the signature/thumb impression of the voter on the counterfoil of ballot paper. For the purpose of obtaining the thumb impression a stamp pad of purple colour supplied to your polling station should be used and for obtaining signature a copying pencil/ball-point pen should be used. For the use of voters whose thumb impression has been taken on the counterfoil of the ballot paper, a wet piece of cloth will be kept on the table of this Polling Officer for removing the ink. The ballot paper will be detached from the counterfoil with the help of a flat metal rule having a sharp edge on the lengthwise side. Thereafter, both the ballot papers will be delivered to the voters and he will be directed to the fourth Polling Officer sitting near the voting compartment. No ballot paper should be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of that ballot paper. It is not necessary to have the thumb impression of the elector on the counterfoil attested by the Presiding or a Polling Officer or by any other officer.

#### **Fourth Polling Officer**

The fourth Polling Officer will be in charge of the articles to be supplied to elector for marking the ballot papers. He will take both the ballot papers from the elector. He will first fold the ballot paper for Council of States election twice, first vertically and then horizontally, in such a way that the distinguishing mark is clearly visible at the top right hand corner on the back of the ballot paper. He will

then unfold the ballot paper and hand it over to the elector. He will also give to the voter marking article and if specifically requested by the voter, instruct him by making a mark with it on a piece of plain paper. The voter will then be asked to proceed to a voting compartment. After recording his vote, the elector will refold the ballot paper along the lines on which it was folded before issue to him, come out of the voting compartment and insert the ballot paper into the ballot box kept in front of the Polling Officer.

In the meantime the fourth Polling Officer would have folded the Legislative Council election ballot paper also vertically and horizontally. He will then unfold and hand over this ballot paper to the voter, who will proceed to another voting compartment, record his vote on this ballot paper, bring it back and drop in into the same ballot box.

The Polling Officer in charge of the ballot box will keep a strict vigil to see that no elector is inserting anything other than the genuine ballot paper into the ballot box. For this purpose, he may require any elector to show the distinguishing mark and the Presiding Officer's signature on the back of the ballot paper before its insertion into the ballot , box.

*ANNEXURE XXVIII*

*[Para 53, Chapter XI]*

**DUTIES OF POLLING OFFICERS AT  
A SINGLE ELECTION TO THE STATE  
LEGISLATIVE COUNCIL FROM A  
COUNCIL CONSTITUENCY**

**(When polling party consists of one Presiding  
Officer and three Polling Officer)**

**First Polling Officer**

On entering the polling station the elector will proceed direct to the first Polling Officer who will be in charge of the marked copy of the electoral roll, responsible for identification of the electors and application of indelible ink. Usually each voter comes in with an unofficial identity slip which he has received from a candidate. The slip should be on plain white paper and may contain the name of the elector, his serial number in the electoral roll, the number of the electoral roll part and the number and name of the polling station where he is to cast his vote. The slip should not contain the name of the candidate and/or the name of his party. If the voter does not have any such identity slip, the Polling Officer will himself ascertain his name, house number, etc., and will then locate his name from the electoral roll kept by him. The elector should not be compelled to bring an identity slip, nor should he be turned away solely because he has not brought such a slip.

It should be noted that carrying of such slip by an elector does not guarantee the identity of the voter nor does it absolve the Polling Officer of his duty and responsibility of satisfying himself about the identity of such voter.

The first Polling Officer in charge of the marked copy of the electoral roll and identification of electors should not treat the identity of an elector established by the mere production of an 'unofficial identity slip' which he brings to the polling station. Though such a slip will help in locating the entries relating to an elector in the electoral roll, it cannot be automatically taken for granted that the person producing the slip is that particular voter. Therefore, the first Polling Officer should simply take the slip and read out only the Serial No. of the entry of the elector in the electoral roll and not read out his/her name and other particulars from the slip. Thereafter, the Polling Officer should ask the person to announce his/her name loudly and if necessary other particulars relating to the entry so as to ensure that he/she is the genuine voter producing the identity slip. If full satisfaction is not obtained, the person may be directed to present himself before the Presiding Officer, who should make a further probe to satisfy himself about the identity of the elector. The Presiding Officer should not hesitate to hand over the elector to the police in case he is proved to be an impersonator.

Though normally a voter coming to a polling station is presumed to be the genuine voter, this presumption is not irrebuttable. If from the

surrounding circumstances like the difference in the age of the elector given in the electoral roll and the age of the person as ascertainable from his appearance, the Polling Officer entertains any doubt about the identity of the voter before him, he should satisfy himself about the real identity and the genuineness of the voter. In such a case he should not accept the identity of the voter on the mere production of the identity slip and should refer the matter to the Presiding Officer for his decision. Otherwise also, the Polling Officer should make test check of identity of voters with reference to unofficial identity slips brought by them.

After locating the name of the elector and checking it with the particulars in the relevant entry in the roll, the First Polling Officer will call out loudly the page number, the part number, the serial number and the name of the elector to the hearing of the polling agents and the second Polling Officer. The identity slip, if any, brought by the elector should then be torn into pieces and put in the Waste Paper Basket supplied. Such torn slips should not be thrown on the floor. If there is no challenge as regards the identity of the voter, the Polling Officer will underline in every case the entry relating to the elector in the marked copy of the electoral roll with him and where the elector is a female, put a (√) mark also on the left hand side of the name of the female elector.

He will then inspect the voter's left forefinger to see that it does not bear any sign or trace of indelible ink and then put a mark with the indelible

ink above the root of the nail in such a way that the ink also spreads on the ridge between the skin and the root of the nail and a clear mark is left on the forefinger. Note that the voter need not be touched at the time of applying the indelible ink on his left forefinger. While application, excess ink should not be taken with the whole length of the rod. Only the tip of the rod should be dipped in the ink. This will avoid excess in take of the ink. The glass (plastic) rod after dipping in the ink should be gently pressed on the finger and rotated so that a clear mark is left on the finger. It must be ensured that the voter's forefinger is perfectly in the horizontal position at the time of the application of the ink and for at least thirty seconds immediately after the application of the ink so that the solvent gets evaporated. If the rod is only lightly touched or rubbed against the voter's finger it will merely leave a smudge which is not sufficient. In case it is noticed that an elector has applied any oily or greasy substance on his finger in order to neutralize the indelible ink mark to be put on his finger, such oily or greasy substance should be removed by the polling officer with the help of the piece of cloth or rag supplied before putting indelible ink mark on the finger of the elector. The voter should not be allowed to rub off the mark for at least half a minute after it has been applied on the finger. If an elector has no left forefinger then indelible ink should be applied on any such finger which he has on his left hand. If he does not have any finger on his left hand the ink should be applied on his right forefinger. If he has no finger on either hand, ink should be applied on

such extremity (stump) of his left or right hand as he possesses.

The voter will then move to the second Polling Officer.

#### Second Polling Officer

The second Polling Officer will be in charge of the bundles of ballot papers as well as the bundle containing the original claim applications of voters (in form 18 or form 19 depending on whether the election is from a Graduates' Constituency or a Teachers' Constituency). As the first Polling Officer reads aloud the part number and serial number of the elector, the second Polling Officer will record on the counterfoil of the ballot paper the electoral roll part number and the serial number of the elector, as entered in the marked copy of the electoral roll. At the same time, he will take out the relevant claim application of that voter from the bundle of claim applications under his charge. He will then compare the signature of the voter on the counterfoil of the ballot paper. He will then compare the signature with that on the claim application of the voter. The ballot paper will then be detached from the counterfoil with the help of a flat metal rule having a sharp edge on the lengthwise side. It will thereafter be delivered to the voter and he will be directed to the third Polling Officer sitting near the ballot box. No ballot paper should be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of the ballot paper.

### Third Polling Officer

The third Polling officer will be in charge of the articles to be supplied to elector for marking the ballot paper. He will take the ballot paper from the elector and fold it twice, first vertically and then horizontally, in such a way that the distinguishing mark is clearly visible at the top right hand corner on the back of the ballot paper. He will then unfold the ballot paper and hand it over to the elector. He will also give to the voter the marking article and if specifically requested by the voter, instruct him by making a mark with it on a piece of plain paper. The voter will then be asked to proceed to a voting compartment. After recording his vote, the elector will refold the ballot paper along the lines on which it was folded before it was issued to him, come out of the voting compartment and insert the ballot paper into the ballot box kept in front of the Polling Officer.

The Polling Officer in charge of the ballot box will keep a strict vigil to see that no elector is inserting anything other than the genuine ballot paper into the ballot box. For this purpose, he may require any elector to show the distinguishing mark and the Presiding Officer's signature on the back of the ballot-paper before its insertion into the ballot box.

Before the voter leaves the polling station, the Polling Officer will examine the left forefinger of the elector and satisfy that the indelible ink mark is clearly impressed on the skin, if the voter has removed the mark or the mark is not clear, the voter should be marked again in such a way that the marking is clear and is not immediately removed.

*ANNEXURE XXEC*

*[Para 54, Chapter XI]*

**DUTIES OF POLLING OFFICERS AT  
SIMULTANEOUS ELECTION TO THE  
STATE LEGISLATIVE COUNCIL  
FROM GRADUATES' AND TEACHERS'  
CONSTITUENCEIS AT A COMMON  
POLLING STATION**

(When polling party consists of one Presiding  
Officer and Four Polling Officer)

**First Polling Officer**

The first Polling Officer will be in charge of the marked copy of the electoral roll for the Graduates' Constituency and responsible for identification of the electors of Graduates' Constituency. He will also be responsible for application of indelible ink on the elector's left forefinger, obtaining signature of the elector, comparing the signature with that on his original claim application in Form 18, and issue of ballot paper for Graduates' Constituency. On entering the polling station, the electors for the Graduates' Constituency will be directed to proceed to the first Polling Officer. Usually each voter comes in with an unofficial identity slip which he has received from candidate. The slip should be on plain white paper and may contain the name of the elector, his serial number in the electoral roll, the number of the electoral roll part and the number and name of the polling station where he is to cast his vote.

The slip should not contain the name of candidate and/or the name of his party, if the voter does not have any such identity slip, the Polling Officer will himself ascertain his name, house number etc., and will then locate his name from the electoral roll kept by him. The elector should not be compelled to bring an identity slip, nor should he be turned away solely because he has not brought such a slip.

It should be noted that carrying of such slip by an elector does not guarantee the identity of the voter nor does it absolve the Polling Officer of his duty and responsibility of satisfying himself about the identity of such over.

The First Polling Officer in charge of the marked copy of the electoral roll and identification of electors should not treat the identity of an elector established by the mere production of an 'unofficial identity slip' which he brings to the polling station. Though such a slip will help in locating the entries relating to an elector in the electoral roll, it cannot be automatically taken for granted that the person producing the slip is that particular voter. Therefore, the first Polling Officer should simply take the slip and read out only the Serial No. of the entry of the elector in the electoral roll and not read out his/her name and other particulars from the slip. Thereafter, the Polling Officer should ask the person to announce his/her name loudly and if necessary other particulars relating to the entry so as to ensure that he/she is the genuine voter producing the identity slip. If full satisfaction is not obtained, the person may be directed to present himself before the Presiding Officer, who should make a further

probe to satisfy himself about the identity of the elector. The Presiding Officer should not hesitate to hand over the elector to the police in case he is proved to be an impersonator.

Though normally a voter coming to a polling station is presumed to be the genuine voter, this presumption is not irrebuttable. If from surrounding circumstances like the difference in the age of the elector given in the electoral roll and the age of the person as ascertainable from his appearance, the Polling Officer entertains any doubt about the identity of the voter before him, he should satisfy himself about the real identity and the genuineness of the voter. In such a case he should not accept the identity of the voter on the mere production of the identity slip and should refer the matter to the Presiding Officer for his decision. Otherwise also, the Polling Officer should make test check of identity of voters with reference to unofficial identity slips brought by them.

After locating the name of the elector and checking it with the particulars in the relevant entry in the roll, the first Polling Officer will call out loudly the page number, the part number, the serial number and the name of the elector to the hearing of the polling agents. The identity slip, if any, brought by the elector should than be torn into pieces and put in the Waste Paper Basket supplied. Such torn slips should not be thrown on the floor. If there is no challenge as regards the identity of the voter, the Polling Officer will underline in every case the entry relating to the elector in the marked copy of the electoral roll with him and where the

elector is a female, put a (√) mark also on the left had side of the name of the female elector.

He will then inspect the voter's left forefinger to see that it does not bear any sign or trace of indelible ink and then put a mark with indelible ink above the root of the nail in such a way that the ink also spreads on the ridge between the skin and the root of the nail and a clear mark is left on the forefinger. Note that the voter need not be touched at the time of applying the indelible ink on his left forefinger. While application, excess ink should not be taken with the whole length of the rod. Only the tip of the rod should be dipped in the ink. This will avoid excess in take of the ink. the glass (plastic) rod after dipping in the ink should be gently pressed on the finger and rotated so that a clear mark is left on the finger. It must be ensured that the voter's forefinger is perfectly in the horizontal position at the time of the application of the ink and for at least thirty seconds immediately after the application of the ink so that the solvent gets evaporated. If the rod is only lightly touched or rubbed against the voter's finger it will merely leave a smudge which is not sufficient. In case it is noticed that an elector has applied any oily or greasy substance on his finger in order to neutralize the indelible ink mark to be put on his finger, such oily or greasy- substance should be removed by the Polling Officer with the help of the piece of cloth or rag supplied before putting indelible ink mark on the finger of the elector. The voter should not be allowed to rub off the mark for at least half a minute after it has been applied on the finger. If an elector

has no left forefinger then indelible ink should be applied on any such finger which he has on his left hand. If he does not have any finger on his left hand the ink should be applied on his right forefinger. If he has no finger on either hand, ink should be applied on such extremity (stump) of his left or right hand as he possesses.

The first Polling Officer will also be in charge of the bundles of ballot papers for the Graduates' Constituency. He will record on the counterfoil of the ballot paper the electoral roll part number and the serial number of the elector, as entered in the marked copy of the electoral roll.

He will then obtain the signature of the voter on the counterfoil of ballot paper. He will compare the signature with that on the claim application of the voter in Form 18 which will be supplied by the second Polling Officer. The ballot paper will then be detached from the counterfoil with the help of a flat metal rule having a sharp edge on the lengthwise side. It will thereafter be delivered to the voter and he will be directed to the fourth Polling Officer sitting near the ballot box. No ballot paper should be delivered to an elector unless he has put his signature on the counterfoil of the ballot paper.

#### The Second Polling Officer

The second Polling Officer will be in charge of the bundles containing the original claim applications of voters in Form 18 and 19. When the first Polling Officer reads aloud the name of the voter for the Graduates' Constituency, the second Polling Officer will take out the relevant claim

application of that voter in Form 18 from the bundle of the claim applications under his charge, he will then make available that claim application of the voter concerned to the first Polling Officer for comparison of the voter's signature on the counterfoil of the ballot paper with his signature on the claim application. After the first Polling Officer has compared the said signatures, he will return the claim application to the second Polling Officer, who will keep it back at the relevant place in the bundle of those claim applications.

The second Polling Officer will act likewise in respect of voter for the Teachers' Constituency whose identity is being checked by the third Polling Officer.

#### Third Polling Officer

The third Polling Officer will be in charge of the marked copy of the electoral roll and the ballot papers for the Teachers' Constituency and responsible for the identification of the electors of that constituency, application of indelible ink on their forefinger and issue of ballot papers to them.

The duties of the third Polling Officer will be similar to the duties of the first Polling Officer as indicated above in all respects.

After a voter for the Teachers' Constituency has been issued with ballot paper by third Polling Officer, he will also be directed to proceed to the fourth Polling Officer.

#### Fourth Polling Officer

The fourth Polling Officer will be in charge of the ballot box which will be common for both the elections from the Graduates' and Teachers'

Constituencies. He will also be in charge of the articles to be supplied to electors for marking the ballot papers. He will take the ballot paper from the elector and fold it twice, first vertically and then horizontally, in such a way that the distinguishing mark is clearly visible at the top right hand corner on the back of the ballot paper. He will then unfold the ballot paper and hand it over to the elector. He will also give to the voter an inked rubber stamp and, if specifically requested by the voter, instruct him by making a mark with it on a piece of plain paper. The voter will then be asked to proceed to a voting compartment. After recording his vote, the elector will refold the ballot paper along the line on which it was folded before issue to him, come out of the voting compartment and insert the ballot paper into the ballot box kept in front of the Polling Officer.

The fourth Polling Officer will keep a strict vigil to see that no elector inserts anything other than the genuine ballot paper into the ballot box. For this purpose, he may require any elector to show the distinguishing mark and the Presiding Officer's signature on the back of the ballot paper before its insertion into the ballot box.

Before the voter leaves the polling station, the Polling Officer will examine the left forefinger of the elector and satisfy that the indelible ink mark is clearly impressed on the skin. If the voter has removed the mark or the mark is not clear, the voter should be marked again in such a way that the marking is clear and is not immediately removed.

*ANNEXURE XXX*

*[Para 55, Chapter XI]*

PRESIDING OFFICER'S DIARY

1. Name of the Constituency :  
(in block letters)
2. Date of Poll :
3. Number of the polling station :  
Whether located in-
  - i) Government or quasi-government building :
  - ii) Private building :
  - iii) Temporary structure :
4. Number of Polling Officer recruited locally, if any :
5. Appointment of Polling Officer made in the absence of duly appointed Polling Officer, if any, and the reasons for such appointment :
6. Number of ballot boxes used :
7. Number of paper seals used
8. Number of polling agents and the number who arrived late :
9. Number of candidates who were appointed as Polling Agents at the polling stations.

10. Number of ballot papers issued according to marked copy of the electoral roll

\*Number of ballot papers actually issued at the polling station

.....

*Signature of Polling Officer  
in charge of ballot papers*

*Signature of First Polling Officer*

11. Number of electors who voted-

Men .....

Women .....

Total .....

12. Challenged vote-

Number allowed .....

Number rejected .....

Amount forfeited Rs .....

13. Number of electors who voted with the help of companions :

14. Number of tendered votes :

15. Whether it was necessary to adjourn the poll and if so, the reasons for such adjournment

16. Number of votes cast-
- from 8 a.m. to 10 a.m. :
  - from 10 a.m. to 12 noon :
  - from 12 noon to 2 p.m. :
  - from 2 p.m. to 4 p.m. and so on :

17. Number of slips issued at the closing hour of the poll :

\* This will include ballot papers cancelled and tendered ballot papers also.

18. Electoral offences with details:

Number of cases of-

(a) canvassing within one hundred

Metres of a polling station :

(b) impersonation of voters :

(c) fraudulent defacing, destroying or removal of a list of notice or other document at a polling station :

— (d) bribing of voters

(e) intimidation of voters and other persons :

19. Was the poll interrupted or obstructed by-

(1) riot :

(2) open violence :

(3) natural calamity

(4) any other cause

Please give details of the above.

20. Was the poll vitiated by-

- (1) any ballot at the polling station having been unlawfully taken out of the custody of the Presiding Officer-
  - (a) accidentally or internationally lost or destroyed
  - (b) damaged or tampered with :
- (2) the ballot papers having been unlawfully marked by any person and deposited in the ballot box

Please give details.

21. Serious complaints, if any, made by the candidate

22. Number of cases of breach of law and order

23. Report of mistakes and irregularities committed, if any, at the polling station

24. Whether the declarations have been made before the commencement of the poll and if necessary during the course of poll when a new ballot box is placed for reception of marked ballot paper and at

the end of poll as necessary

Place:.....

Date.....

*Presiding Officer*

This diary should be forwarded to the Returning Office along with the ballot boxes and other sealed papers.

*ANNEXURE XXXI*

*[Para 56, Chapter XI]*

Log Book..... Building in which ballot boxes have been stored pending  
counting

..... District

..... Constituency

Date or entry	Time of entry	Name and design- ation of the Officer entering	Purpose of entry	Detail* of other persons accom- panying the Officer	Sign at ure officer entering	Sign at ure O.I.C. Police Guard	Time of exit	Details of persons coming out with the Officer	Total time spent inside room	Signature of Officer coming out	Signature of the O.I.C. Police Guard	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13

ANNEXURE XXXII

[Para 62.2, Chapter XI]

Model Form for Report U/S 57 of R-P. Act,  
1951

FAX/TELEX/WIRELESS MESSAGE

FROM : RETURNING OFFICER  
FOR..... PARLIAMENTARY/  
ASSEMBLY CONSTITUENCY

TO : SECRETARY  
ELECTION COMMISSION OF INDIA  
NEW DELHI

REPEATED

TO CHIEF ELECTORAL OFFICER OF .....  
..... NO.....(.) DATED THE.....  
..... REFERENCE GENERAL/BYE-  
ELECTION TO HOUSE OF PEOPLE/.....  
LEGISLATIVE ASSEMBLY FROM.....  
PARLIAMENTARY/ASSEMBLY CONSTITUENCY (.)  
REPORTS HAVE BEEN RECEIVED AND  
VERIFIED THAT POLL ON..... (DATE).....  
AT FOLLOWING POLLING STATION(S) WAS  
ADJOURNED UNDER SECTION 57(1) OF THE  
REPRESENTATION OF THE PEOPLE ACT 1951  
BECAUSE OF CIRCUMSTANCES INDICATED  
AGAINST EACH.

SL. NO.	NO. & NAME OF POLLING STATION	NAME/DESIGNATION OF REPORTING AUTHORITY	CIRCUMSTANCES UNDER WHICH POLL ADJOURNED
1	2	3	4
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

COMMISSION'S DIRECTIONS SOLICITED UNDER SECTION 57(2) OF THE SAID ACT (.) IT IS RECOMMENDED THAT ADJOURNED POLL MAY BE HELD ON..... (DATE) BETWEEN..... TO ..... HOURS AT THE ABOVE POLLING STATIONS) AT THE SAME LOCATION(S) (.)

NOT TO BE TRANSMITTED:

PLACE

DATE

RETURNING OFFICER  
FOR .....  
PARLIAMENTARY/ASSEMBLY  
CONSTITUENCY AND .....

Copy by post in confirmation, forwarded to the:

1. Secretary, Election Commission of India, New Delhi.

2. Chief Electoral Officer, .....

Returning officer  
for .....  
Parliamentary/Assembly  
Constituency and.....

ANNEXURE XXXII-A

[Para 63, Chapter XI]

Model Form for Report U/S 58 of R.P. Act,  
1951

FAX/TELEX/WIRELESS MESSAGE

FROM : RETURNING OFFICER  
FOR ..... PARLIAMENTARY/  
ASSEMBLY CONSTITUENCY

TO : SECRETARY  
ELECTION COMMISSION OF INDIA  
NEW DELHI

REPEATED

TO CHIEF ELECTORAL OFFICER OF .....  
..... NO..... (.) DATED THE .....  
..... REFERENCE GENERAL/BYE-  
ELECTION TO HOUSE OF PEOPLE/ .....  
LEGISLATIVE ASSEMBLY FROM .....  
PARLIAMENTARY/ASSEMBLY CONSTITUENCY  
(.) REPORTS HAVE BEEN RECEIVED AND  
VERIFIED THAT POLL ON .....(DATE) .....  
AT FOLLOWING POLLING STATION(S) WAS  
VITIATED TO SUCH AN EXTENT THAT RESULT  
OF POLL THEREAT CANNOT BE ASCERTAINED;  
FOR REASONS INDICATED AGAINST EACH  
POLLING STATION:

SL. NO.	NO. & NAME OF POLLING STATION	NAME/DESIGNATION OF REPORTING AUTHORITY	REASONS FOR POLL BEING VITIATED
1.			
2.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

MATTER IS REPORTED UNDER SUB-SECTION (I) OF SECTION 58 OF THE REPRESENTATION OF THE PEOPLE ACT 1951 (.) FURTHER DIRECTIONS OF COMMISSION IN TERMS OF SUB-SECTION (2) OF SAID SECTION 58 ARE SOLICITED (.)

NOT TO BE TRANSMITTED:

PLACE

DATE

RETURNING OFFICER  
FOR .....  
PARLIAMENTARY/ASSEMBLY  
CONSTITUENCY AND .....

Copy by post in confirmation, forwarded to the:

1. Secretary, Election Commission of India, New Delhi.

2. Chief Electoral Officer, .....

Returning officer  
for .....  
Parliamentary/Assembly  
Constituency and .....

*ANNEXURE XXXII-B*

*[Para 64.2, Chapter XI]*

Model Form for Report U/S 58A of R.P. Act,  
1951

FAX/TELEX/WIRELESS MESSAGE

FROM : RETURNING OFFICER  
FOR ..... PARLIAMENTARY/  
ASSEMBLY CONSTITUENCY

TO : SECRETARY  
ELECTION COMMISSION OF INDIA  
NEW DELHI

REPEATED

TO CHEIF ELECTORAL OFFICER OF.....  
.....NO ..... (.) DATED THE.....  
..... REFERENCE GENERAL/BYE-  
ELECTION TO HOUSE OF PEOPLE/.....  
LEGISLATIVE ASSEMBLY FROM .....  
PARLIAMENTARY/ASSEMBLY CONSTITUENCY  
(.) REPORTS HAVE BEEN RECEIVED THAT  
BOOTH CAPTURING HAS TAKEN PLACE AT  
THE FOLLOWING POLLING STATION(S) IN  
SUCH A MANNER THAT RESULT OF POLL  
TAKEN THEREAT ON.....(DATE)  
CANNOT BE ASCERTAINED (.) DETAILS OF  
BOOTH CAPTURING ARE GIVEN BELOW  
AGAINST EACH SUCH POLLING STATION:

NO.	NO. & NAME OF POLLING STATION	NAME/DESIGNATION OF REPORTING AUTHORITY	DETAILS OF BOOTH CAPTURING
1	2	3	4
1.			
2.			
3.			
4.			
5.			
6.			

MATTER IS REPORTED TO THE ELECTION COMMISSION IN TERMS OF SUB-SECTION (1) OF SECTION 58A OF REPRESENTATION OF THE PEOPLE ACT 1951 (.) COMMISSION'S DIRECTIONS UNDER SUB-SECTION (2) OF SAID SECTION 58 ARE SOLICITED (.)

NOT TO BE TRANSMITTED:

PLACE

DATE

RETURNING OFFICER  
FOR.....  
PARLIAMENTARY/ASSEMBLY  
CONSTITUENCY AND.....

Copy by post in confirmation, forwarded to the:

1. Secretary, Election Commission of India, New Delhi.

2. Chief Electoral Officer, .....

Returning officer  
for .....  
Parliamentary/Assembly  
Constituency and.....

*ANNEXURE XXXIII*

*[Para 2.3, Chapter XII]*

**SINGLE TRANSFERABLE SYSTEM  
OF VOTING-DETAILED  
ILLUSTRATION**

Detailed steps of Counting Procedure

In order to enable you to have an idea as to how the counting is done, step by step details of the counting are given below:-

I. Preliminary Steps

The polled ballot box which is duly sealed is placed in full view of all candidates and their agents in the counting hall. The candidates and their agents are requested by the Returning Officer (R.O.) to examine the seals before it is opened. Thereafter, the box is opened and the Returning Officer takes out all papers from the box and puts them in a tray FACE DOWN. After all papers are taken out, the empty box is shown to all and kept aside. Thereafter, the Returning Officer and counting assistants proceed to count the number of papers in the box. The total number of ballot papers in the box is tallied with the ballot papers to be found in the ballot box as shown in item 5 of the Ballot Paper Account. Let us suppose that the box contains 300 ballot papers.

II. Scrutiny of Ballot Papers

The Returning Officer then proceeded to scrutinise each ballot paper as to" its validity, after

such scrutiny, he rejected 17 ballot papers as invalid, due to reasons like-

1. Blank ballot papers (no marking of preferences).
2. Mark of identification like signature put on ballot papers.
3. Ballot papers marked with an instrument OTHER THAN the one supplied for the purpose.
4. No. "1" preference marked against more than one candidate/marked to no candidate/ marked in words like "ONE" and not in figures.

After rejecting the invalid ballot papers, the Returning Officer bundled the VALID BALLOT papers and kept them at one place. Then he directed the Counting Assistants to arrange the wooden trays candidate wise on the Table.

#### m. First Round of Counting

The Counting Assistants arranged the 12 trays and fixed the names of each of 12 candidates on each tray and arranged them in serial order of the candidates as they appeared on the ballot paper.

Thereafter, the Returning Officer Proceeded to distribute the VALID BALLOT papers to each tray of the candidates as per FIRST PREFERENCE given on the ballot papers with Number "1". If No. 1 was marked to candidate X, then that ballot paper was placed in the tray marked 'X' and so on. Thus all

283 VALID ballot papers were distributed to the 12 trays.

After distributing all 283 valid ballot papers, the Returning Officer directed the Counting Assistants (C.A.) to check the ballot papers in each tray to confirm that each of the ballot papers put in that tray was marked with preference "1" in favour of that candidate to whom that tray belonged and there was no mix up of ballot papers. After ensuring that there was no such mix-up, the C.As counted the ballot papers in each tray, noted the total number on a slip and placed the slip on the top of bundle of ballot papers in each tray. The Returning Officer noted on a paper the number of ballot papers polled by each candidate and totaled the number to ensure that all 283 ballot papers were accounted for. After satisfying that the figures tallied he distributed covers to C.As. who were asked to note on the cover the name of candidate, and other particulars of votes polled as follows:

No. & name of Candidate: 1- Amit Kumar

MAINPARCEL (ORIGINAL VOTES)

\* 49@ 100=4900

\* 49 are ballot papers, 100 is the value of each ballot paper and 4900 is the total value of votes polled by the candidate.

After preparing the above covers for each candidate, the C.As. Put the original votes of each candidate in his respective cover. Thereafter the C.As. entered the result of first round of counting in the sheets kept by the side of each tray known

as "PROGRESSIVE TOTAL SHEETS"

The Returning Officer got the result of first count posted in the RESULT SHEET (column 2 of result sheet). Then the Returning Officer proceeded to calculate the QUOTA required for a candidate to get elected.

#### IV. Quota for Election

The principle of calculating the quota for ^- election is as follows:

$$\frac{\text{Total value of valid ballot papers}}{\text{No. of seats to be filled} + 1} + 1 = \text{Quota}$$

(a) Total value of valid ballot papers = 28300

(b) Seats to be filled = 6

$$\therefore \text{Quota} = \frac{28300}{6+1} + 1 = 4043$$

While calculating as above quota the remainder that comes by dividing 28300 by 7 (i.e., 6+1) was ignored. The round figure that comes by ignoring the remainder was taken and one' more was added to it to arrive at quota. In layman's words, the principle of quota is:

T QUOTA = Total value of valid votes divided by number of seats to be filled plus one. One more number is added to quotient after ignoring the fractions and the figure so arrived at is the quota.

As shown above, in the present case the quota for getting elected was arrived at as 4043. Then the Returning Officer announced the result of first round

of counting as shown in column 1 and 2 of the result sheet. Shri Amit Kumar who secured 4900 votes secured the quota and the Returning Officer declared him as elected. Shri Amit Kumar secured 857 votes more than the quota and this 857 is known as "SURPLUS" of Shri Amit Kumar (4900-4043=857)

As and when a candidate gets elected, if the seats to be filled are less than the candidates remaining in the field, the surplus secured by the winning candidate has first to be distributed to the remaining candidates (known as continuing candidates). Therefore, the Returning Officer proceeded further to distribute the surplus votes (857) of Shri Amit Kumar after noting in the remarks column (21) of the result sheet against the name of Shri Amit Kumar as "ELECTED-1" as he was the first candidate to get elected.

#### V. Distribution of Surplus of Shri Amit Kumar-Second Round of Counting

The second round of counting was the distribution of surplus of Shri Amit Kumar Shri A.K. got only one packet of original votes and that packet contained 49 ballot papers due to which he was elected. Therefore, the Returning Officer had to distribute all the 49 ballot papers in Shri A.K.'s packet. For this distribution, the second preference marked on the ballot papers of Shri A.K. had to be seen and ballot papers given to the trays of other candidates according to second preference marked thereon.

Therefore, the Returning Officer proceeded to examine the 49 ballot papers of Shri A.K. for their

second preference. The Returning Officer found that out of 49 papers, on 30 papers either there was:

1. No Second preference marked;
2. If marked, it was done in words like "TWO";
3. No. 2 was put against the names of more than one candidate.

Therefore, the Returning Officer rejected those 30 ballot paper. Those ballot papers should NOT be called as rejected papers, but as "EXHAUSTED PAPERS". The Returning Officer, therefore, found only 19 ballot paper on which second preference was correctly marked with No. 2. He distributed the 19 papers to the candidates remaining in the field (kindly see Transfer Sheet No.1). Now, these 19 ballot papers will not have the same value of 100 each, but a NEW VALUE to be calculated as follows:

The new transfer value of surplus votes is arrived at by dividing the total surplus by the No. of ballot papers actually distributed (unexhausted ot papers).

$$\begin{array}{r} \text{Total Surplus} \\ \text{Ballot papers actually} \\ \text{distributed} \end{array} \quad \begin{array}{r} = 857 \\ \\ = 19 \end{array}$$

$$\text{NEW VALUE} = \frac{857}{19} = 45, \text{ Remainder } 2$$

(ignore the remainder 2 and take quotient 45 as the value)

Therefore, the new value was 45 and total value

of transferred 19 papers was  $45 \times 19 = 855$  whereas total surplus was 857. Thus the remainder  $2(857 - 855 = 2)$  is known as "loss of value due to neglect of fraction" and was shown in column II(g) of Transfer Sheet No. 1. Thereafter the distribution of surplus of Shri A.K. was entered in the Result Sheet (column 3) and the Progressive total after this round of counting was shown in column 4.

Now that Shri amit Kumar had been elected, the Returning Officer got his tray removed from the table. NOW ONWARDS Shri Amit Kumar should not receive any further vote and in subsequent counts if any preference was marked in favour of Shri A.K. that preference was to be ignored and the next preference marked on the ballot paper was to be taken into account.

After Shri A.K's surplus distribution, no further candidate was elected. Therefore, the Returning Officer examined the result in column (4) of the Result Sheet and announced that candidate No. 9-Shri Imito Tombi was the one who got lowest number of total votes and, therefore, was to be ELIMINATED from the field of contest. His tray was removed from the table and placed before the Returning Officer for the purpose of elimination as follows.

VI. Shri Imito Tombi: Elimination of Candidate Lowest at the Poll Distribution of his votes

Now kindly refer to TRANSFER SHEET No. 2 . The Returning Officer announced that Shri Imito Tombi (II) got two packets of votes. The first packet was the main parcel containing 11 votes at the value

of 100 each and the second packet (sub-parcel-1) 2 ballot papers (transferred to him from the surplus of Shri Amit Kumar) of 45 value each. Now all his votes in both the packets were to be transferred to others as per next preference marked. On such transfer OTHER REMAINING CANDIDATES received Shri Tombi's papers AT THE SAME VALUE at which HE RECEIVED THEM.

The transfer of votes of ELIMINATED candidate shall be done packet by packet and SHOULD NOT BE MDCED UP. The Returning Officer took the main parcel containing 11 ballot papers of 100 value. He found 3 papers got no further preference marked and therefore were EXHAUSTED. On 8 papers further preference was marked (2-Baldev Singh got 4, 8-Harishanker got 1 and 12 Lalita Kumari got 3 papers). Thus they were distributed at the value of 100 each and put into separate sub-parcels for each candidate receiving them. After finishing with the main parcel, the Returning Officer took the second parcel of Shri Imito Tombi. That second parcel (sub-parcel No. 1) contained 2 papers of 45 value each. He received them from the elected candidate Shri Amit Kumar. On those two papers, the third preference was marked in favour of Shri Baldev Singh and Dwaraka Das respectively. This distribution was noted on Transfer Sheet No. 2. This distribution was posted on the Result Sheet in column 5 and the progressive total in column 6.

With the transfer of votes of Shri Imito Tombi, no further candidate got elected since nobody reached the quota required for election. The Returning Officer pointed out that the next

candidate to be ELIMINATED shall be No.7-Gyan Dev Kumar who got total 1845 votes and was the candidate with LOWEST votes at that stage. The tray of Shri G.D. Kumar was removed from the table and placed before the Returning Officer for distribution. At this stage out of total 12 trays on the table, the trays of 3 candidates were removed (No. 1 who got elected, No.9 and No.7 who were eliminated) and the containing candidates were only 9.

#### VII Elimination of Shri Gyan Dev Kumar & Distribution of his votes

Like Shri Tombi, Shri Gyan Dev Kumar also got only 2 parcels, the main parcel containing 18 original votes of 100 value each and the sub- parcel No. 1 only one paper with a value of 45. The Returning Officer distributed both the packets like that of Shri Tombi (kindly see Transfer Sheet No.3).

The distribution of votes of Shri Gyan Dev Kumar as shown in Transfer Sheet No.3 was posted in column 7 of the Result Sheet and the total votes of all candidates as a result of this distribution was shown in column 8 thereof.

From column 8 of Result Sheet, it may be seen that no further candidate was elected. Therefore, Returning Officer announced that No. 6—Shri Frank Mathew with total 2045 votes was the lowest at the poll. Therefore, the Returning Officer proceeded to eliminate Shri Frank Mathew counting.

#### VDI Distribution of Votes of Shri Frank Mathew

This was the Fifth Round of counting. The tray

containing the votes of Shri Frank Mathew was removed from the table and placed before the Returning Officer. The continuing candidates whose trays remained on the table were 8 (excluding candidates at SI. No. 1, 6, 7 and 9). The Returning Officer, therefore, proceeded to distribute the votes of Frank Mathew to the 8 continuing candidates.

Frank Mathew got 3 packets. Main parcel containing 19 original votes of 100 value each and the second parcel which was sub-parcel No. 1 contained one paper of 100 value and the third parcel which was sub-parcel No. 2 contained one paper of 45 value. The Returning Officer distributed votes in his 3 parcels as shown in Transfer Sheet No. 4. The distribution was entered in column 9 and the result thereof in column 10 of the Result Sheet. Even after this round of counting, no further candidate got elected. Therefore, the Returning Officer eliminated candidate No. 10- Jaya Kumari who got only 2345 votes and lowest at the poll.

#### IX Elimination of Jaya Kumari-Sixth Round of Counting

Kindly see Transfer Sheet No. 5. Jaya Kumari got a total two parcels, the main parcel containing 23 votes of 100 value and the sub-parcel No.1 got one vote of the value of 45. First the Returning Officer distributed the votes in main parcel. Out of these 23 votes, Shri Kalyan Sundaram (No. 11) secured 700 votes. He already got 3,400 votes and with the 700 votes his total came to 4,100 which was more than the quota required for election. Therefore, after distributing the votes in main parcel

of Jaya Kumari the tray of Shri Kalyan Sundaram who secured the quota for election was removed because he SHOULD NOT BE GIVEN ANY FURTHER VOTE FROM THE REMAINING SUB-PARCELS. Returning Officer then distributed the one vote in Sub Parcel No. 1. Thereafter, the distribution of all votes of Jaya Kumari was entered in Transfer Sheet No.5 and the Result Sheet (columns 11 and 12). After noting the result of this round in the Result Sheet, the Returning Officer announced that No. 11 Kalyan Sundaram was elected and against his name in the Result Sheet, it was noted as "ELECTED-II" in COLUMN 21.

At this stage, before taking up of ELIMINATION of any other candidate, the Returning Officer had to distribute the surplus votes of Shri Kalyan Sundaram who secured total 4,100 votes. The quota being 4043, the surplus was  $4100-4043=57$

#### X Distribution of surplus of Shri Kalyan Sundaram

This was the 7th Round of Counting. Shri K.S. got his surplus from the last sub-parcel (No.3)) in which he got 7 votes of 100 values. Therefore, for the purpose of distribution of his surplus, the Returning Officer had to take into account the 7 votes in the last sub-parcel only.

The Returning Officer examined the 7 ballot paper and found that one was marked to Hari Shankar and 6 were to Lalita Kumari. Therefore, all 7 were marked to continuing candidates. Therefore, the NEW VALUE of these 7 papers was

calculated as follows (kindly see item No. V of this note). Surplus was 57 and the ballot papers transferred were 7 (see Transfer Sheet no. 6). the New Value was

$$= \frac{57}{7} = 8(\text{ignore fraction})$$

The total value =  $7 \times 8 = 56$  ( $57 - 56 = 1$  and this one was the "loss of value due to neglect of fraction"). Thus, the 7 ballot papers were distributed at a new value of 8 each. This was noted in columns 13 and 14 of the Result Sheet.

After distribution of surplus of Kalyan Sundaram, no other candidate got quota. Therefore, again the Returning Officer had to eliminate the candidate lowest at the poll.

XI. Eighth Round of Counting: Elimination of No.3

Candidate No.3 Shri Chandra Mohan with 2,680 votes was the lowest at the poll. Returning Officer eliminated him and distributed his votes in main parcel and sub-parcel Nos. 1,2 and 3. Kindly see Transfer Sheet No. 7 and columns 15 and 16 of the Result Sheet. From the 22 original votes of Shri CM., Shri Baldev Singh secured 400 votes from the main parcel. He already got 3,835 votes which have now become  $3,835 + 400 = 4,235$ . Thus he secured the quota required for election. Therefore, he was not entitled for any further vote from the remaining 3 sub-parcel of Shri Chandra Mohan. Shri Baldev

Singh's tray was, therefore, kept aside. Thereafter, the Returning Officer distributed the 3 sub-parcels of Chandra Mohan one after the other. After distribution of all votes, the result of this round was entered in the Result Sheet at columns 15 and 16. Shri Baldev Singh was shown as ELECTED-III in column 21.

Before taking up further counting, the surplus of Shri Baldev Singh was to be distributed.

XII. Ninth Round of Counting : Distribution of surplus of Shri Baldev Singh

Shri Baldev Singh got total 4,135 votes and thus he got 192 votes as surplus ( $4,235-4,043=192$ ). Kindly see Transfer Sheet No.8. The last sub-parcel of Shri Baldev Singh contained 4 ballot papers out of which he got surplus of 192. All 4 ballot papers were marked to continuing candidates. Therefore, the New Value of the 4 ballot papers was 192 divided by  $4=48$ . The result after transfer of surplus of Shri Baldev Singh may be seen at columns 17 and 18 of the Result Sheet.

After distribution of surplus of Shri Baldev Singh the over all position of candidates was as follows:

ELECTED

Shri Amit Kumar (No. 1)-Elected I  
Shri K. Sundaram (No. 10)-Elected II  
Shri Baldev Singh (No. 2)-Elected III

ELIMINATED

Shri Imito Tombi (No. 9)

Shri Gyan Dev Kumar (No.7)  
Shri Frank Mathew (No.6)  
Kum. Jaya Kumari (No. 10)  
Shri Chandra Mohan (No. 3)

Thus but of 6 seats, 3 seats have already been filled. Out remaining 9 candidates 5 were already eliminated. Now remained 4 candidates as continuing candidates and out of these 4, 3 were to be elected. Therefore, only one of them was to be eliminated. The 4 continuing candidates were:

No. 4 -Dwaraka Das  
No. 5-Ela Joseph  
No. 8-Hari Shankar  
No. 12-Lalita Kumari

Out of the 4 above, Hari Shankar with 3,388 votes was the lowest at the poll Therefore, he had to be eliminated.

#### XIII. Tenth and Last Round of counting: Elimination of Hari Shankar

The Returning Officer took up the last round of counting and eliminated Shri Hari Shankar. Kindly. see Transfer Sheet No.9.

Shri Hari Shankar got total 9 parcels (one main parcel and 8 sub-parcels). From his main parcel of 23 votes of 100 value each, Dwaraka Das secured 400, Ela Joseph secured 700 and Lalita Kumari secured 300 votes. After the transfer of main parcel, both Ela Josheph and Lalita Kumari got elected. Therefore, they were not given any further vote from the sub-parcles. Thereafter after receiving one vote

of 45 value from sub-parcel 1 and one vote of 100 value from sub-parcel 2, Dwaraka Das also got the quota and elected. Therefore, the Returning Officer closed the counting after transferring up to sub-parcel No. 2 of Hari Shankar. With this, the remaining three seats were also filled. The result was entered in column 19 and 20 of the Result Sheet. Column 21 was also filled up showing the order of election and elimination. Then the Returning Officer declared the 6 candidates as elected, *vide* note below the Result Sheet. The Returning Officer signed the Result Sheet and affixed his seal. Thus the counting ended.

## RESULT SHEET

Total valid votes : 283  
 Value of each vote : 100  
 Total value of valid votes = 28,300

No. of seats to be filled :-6  
 Quota =  $\frac{\text{Total value of valid votes}}{\text{No. of seats} + 1} + 1$

ie,  $\frac{28,300}{6 + 1} + 1 = 4043$

Name of candidates	Value of votes at first	Distribution of surplus of 1. Amit K.	Result	Distribution of votes of 9-Imito Tombi	Distribution of votes of 7-G.D. Kumar	Result	Result	Distribution of 6-Frank Mt.	Result	Distribution of votes of 10-Jaya Kumari					
1	2	3	4	5	6	7	8	9	10	11					
1. Amit Kumar	490	(-) 857	4043	—	—	4043	—	—	4043	—	4643	—	—		
2. Baldev Singh	2700	(+) 90	2790	(+) 445	3235	—	—	3235	(+) -300	3335	(+) 300				
3. Chandra Mohan	2200	(+) 180	2380	—	—	2380	—	—	2380	(+) 100	2480	(+) 200			
4. Dwaraka Das	2200	(+) 180	2380	(+) 46	2425	—	—	2425	(+) 100	2526	(+) 200				
5. Ela Joseph	2300	(+) 90	2390	—	—	2390	(+) 100	2490	(+) 400	2890	(+) 45				
6. Prank Mathew	1900	—	—	1900	—	—	1900	(+) (146) 2045	(-) 2045	—	—	—			
7. Gyan Dev Kumar	1800	(+) 45	1845	—	—	1845	(-) 1845	1845	—	—	—	—			
8. Hari Shankar	2300	(+) 136	2435	(+) 100	2535	—	—	2535	(+) 246	2780	(+) 200				
9. Imito Tombi	1100	(+) 90	1190	(-) 1190	—	—	—	—	—	—	—	—			
10. Jaya Kumari	2300	(+) 45	2345	—	—	2345	—	—	2345	—	2345	(-) 2345			
11. Kalyan Sundaram	2500	—	—	2500	—	—	2500	(+) 800	3300	(+) 100	3400	(+) 700			
12. Lalita Kumari	2100	—	—	2100	(+) 300	2400	(+) 800	3200	(+) 400	3600	(+) 300				
<b>Non Transferable papers</b>															
Loss Due to Fraction/ Exhausted votes	—	2	—	2	—	300	302	—	—	302	—	400	702	—	400
<b>Total</b>	<b>28 300</b>			<b>20 300</b>		<b>20 300</b>		<b>28 300</b>		<b>20 300</b>					

**RESULT SHEET— Contd.**

Name of candidates (B.F. from pro-page)	Result	Distribution of surplus or 11- K Sundaram		Result	Distribution of votes of 3-C Mohan		Result	Distributio n of urplus ) of 2- Baldev		Result	Distribution of votes of 8-Hari. S.		Result	Remarks
	12	13	14	15	16	17	18	19	20	21				
1. Amit Kumar	4043	—	—	4043	—	—	4043	—	—	4043	—	—	4043	Elected - I
2. Baldev Singh	3835	—	—	3835	(+)	400	4235	192	4043	—	—	4043	4043	Elected III
3. Chandra Mohan	2680	—	—	2680	(-)	2680	—	—	—	—	—	—	—	Eliminated-V
4. Dwaraka Das	2725	—	—	2725	(+)	800	3525	48	3573	(+)	545	4118	4118	Elected-VI
S. Ela Joseph	2935	—	—	2935	(+)	745	3680	144	3824	(+)	700	4524	4524	Elected-IV
6. Frank Mathew														Eliminated-III
7. Gyan Dev Kumar														Eliminated-II
8. Hari Shankar	2980	O)	8	2988	(+)	400	3388	—	3388	(-)	3380	—	—	Eliminated-VI
9. Imito Tombi														Eliminated-I
10. Jaya Kumari														Eliminated-IV
11. Kalyan Sundaram	4100	(-)	57	4043	—	—	4043	—	4043	—	—	4043	4043	Elected-II
12. Lalita Kumari	3900	(+)	48	3948	(+)	45	3993	—	3993	(+)	300	4293	4293	Elected-V
<b>Non Transferable</b>	—			—			—		—			—	—	
LOSS Due to Fraction/ Exhausted votes	1102	—	1	1103	—	290	1393		1393	—	1843		3236	
<b>Total</b>	<b>28,300'</b>			<b>28,300'</b>			<b>28,300</b>		<b>28,300</b>				<b>28,300</b>	

I declared that: 1. Shri Amit Kumar, 2. Shri Kalyan Sundaram, 3. Shri Baldev Singh, 4. Miss Ela Joseph, 5. Smt. Lalita Kumari and 6. Shri Dwaraka Das have been duly elected to fill the 6 seats in the Council. New Delhi:  
6th May, 1987

.....  
(Returning Officer)

## TRANSFER SHEET NO.1

### Transfer of Surplus votes of Shri Amit Kumar (elected candidate)

I. (a) Total value of votes	:	4900
(b) Quota	:	4043
(c) Value of surplus votes (a-b)	:	857*
II. (a) Total No. of ballot papers in the main parcel/last sub-parcel to be further transferred	:	49
(b) Value of each such ballot paper in that parcel/sub-parcel :	:	100
(c) No. of exhausted ballot papers :	:	30
(d) No. of unexhausted ballot paper actually transferred (a-c)	:	19
(e) New transfer value of each such transferred ballot	:	$\frac{857}{19}$ or 45
(f) Total value of transferred ballot papers	:	855
(g) Loss of value due to neglect of fraction/exhausted ballot papers	:	2

### III. Distribution of votes among continuing candidates

Sl.	No. and name of candidate	value of votes obtained
2.	Baldev Singh	2 X 45 =90
3.	Chandra Mohan	4 X 45 =180

4.	Dwaraka Das	4 X 45	= 180
5.	Ela Joseph	2 X 45	= 90
7.	Gyan Dev Kumar	1 X 45	= 45
8.	Hari Shankar	3 X 45	= 135
9.	Imito Tombi	2 X 45	= 90
10.	Jaya Kumari	1 X 45	= 45

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$$19 \times 45 = 855$$

Loss due to fraction = 2

TRANSFER SHEET NO. 2

**SI.No. and name of candidate eliminated-9 Imito Tombi**

Total value of votes : 1190

	Main Parcel	Sub-parcels														16		
		1	2	3	4	5	6	7	8	9	10	11	12	13	14		15	
1. No. of ballot papers to be transferred	11	2																13
2. Value of each ballot Paper	100	45																
3. Value of votes to be transferred	1100	90																1190
4. No. of ballot papers actually transferred	8	2																10
5. Value of transferred votes	800	90																890
6. No. of Exhausted ballot papers	3	-																3
7. Value of exhausted ballot papers	300	-																300

CANDIDATE	MAIN PARCEL	DISTRIBUTION OF VOTES			TOTAL
		SUB-PARCEL 1	SUB-PARCEL 2	SUB-PARCEL 3	
		1	2	3	
BALDEV SINGH	400	45	—	—	445
DWARAKA DAS	—	45	—	—	45
HARISHANKER	—	—	—	—	100
LALITAKUMABI	300	—	—	—	300

TRANSFER SHEET NO. 3  
Sl.No. and name of candidate eliminated-7 Gyan Dev Kumar  
 Total value of votes : 1845

	Main Parcel	Sub-parcels															
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1. No. of ballot papers to be transferred	18	1															19
2. Value of each ballot Paper	100	45															
3. Value of votes to be transferred	1800	45															1845
4. No. of ballot papers actually transferred	8	1															19
5. Value of transferred votes	1800	45															1845
6. No. of Exhausted ballot papers	-	-															-
7. Value of exhausted ballot papers	-	-															-

DISTRIBUTION OP VOTES

CANDIDATE	MAIN PARCEL	SUB-PARCEL 1	SUB-PARCEL 2	SUB-PARCEL 3	TOTAL
ELA JOSEPH	100	45	—	—	100
MATHEW	100	45	—	—	145
KUNDARAM	800	—	—	—	800
LALITA KUMARI	800	—	—	—	800
	1800	45	—	—	1845

**TRANSFER SHEET NO. 4**  
**SI.No. and name of candidate eliminated-6 Frank Mathew**  
**Total value of votes : 2045**

	Main Parcel	Sub-parcels																
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	
1. No. of ballot papers to be transferred	19	1	1															21
2. Value of each ballot Paper	100	100	45															
3. Value of votes to be transferred	1900	100	45															2045
4. No. of ballot papers actually transferred	15	1	1															17
5. Value of transferred votes	1500	100	45															1645
6. No. of Exhausted ballot papers	4	-	-															4
7. Value of exhausted ballot papers	400	-	-															400

DISTRIBUTION OF VOTES

CANDIDATE	MAIN PARCEL	SUB-PARCEL			TOTAL
		1	2	3	
BALDEV SINGH	300				300
CHANDRA MOHAN	100				100
DWARAKADAS	100				100
FI.AJOSEPH	400				400
HARI SHANKAR	100	100	45		245
KALYAN SUNDARAM	100				100
LALITA KUMARI	400				400
	1500	100	45		1645

TRANSFER SHEET NO. 5  
SI.No. and name of candidate eliminated-10 Jaya Kumari  
Total value of votes : 2345

	Main Parcel	Sub-parcels															
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1. No. of ballot papers to be transferred	23	1															24
2. Value of each ballot Pap.	100	45															-
3. Value of votes to be transferred	2300	45															2345
4. No. of ballot papers actually transferred	19	1															20
5. Value of transferred votes	1900	45															1945
6. No. of Exhausted ballot papers	4	-															4
7. Value of exhausted ballot papers	400	-															400

DISTRIBUTION OF VOTES

CANDIDATE	MAIN PARCEL	SUB-PARCEL 1	SUB-PARCEL 2	SUB-PARCEL 3	TOTAL
BALDEV SINCH	300	-	-	-	300
CHANDRA MOHAN	200	-	-	-	200
DWARAKA DAS	200	-	-	-	200
ELA JOSEPI	-	45	-	-	45
HAKI SHANKAR	200	-	-	-	200
KALYAN SUNDKAM	700 ELECTED-II	-	-	-	700
LALITA KUMABI	300	-	-	-	300
	1900	45	-	-	1945

TRANSFER SHEET NO.6

Transfer of Surplus votes of Kalyan  
Sundaram (elected candidate)

I.	(a) Total value of votes	:	4100
	(b) Quota	:	4043
	(c) Value of surplus votes (a-b)	:	57*
II.	(a) Total No. of ballot papers in the last sub-parcel to be further transferred	:	7
	(b) Value of each such ballot paper in that parcel/sub-parcel	:	100
	(c) No. of exhausted ballot papers	:	—
	(d) No. of unexhausted ballot paper actually transferred (a-c)	:	7*
	(e) New transfer value of each such transferred ballot paper	:	$\frac{8}{56}$ $\frac{*57}{*7}$
	(f) Total value of transferred ballot papers	:	<hr style="width: 100%;"/>
	(g) Loss of value due to neglect of fraction/exhausted ballot papers	:	<hr style="width: 100%;"/> 1

III. Distribution of votes among continuing candidates

Sl. No. and name of candidate	value of votes obtained
8. Hari Shankar	1 X 8 = 8
12 Lalita Kumari	6 X 8 = 48

**TRANSFER SHEET NO. 7**  
**SI.No. and name of candidate eliminated-3 Chandra Mohan**  
**Total value of votes : 2680**

	Main Parcel	Sub-parcels																
		1	2	3	4	5	6	7	8	9	10	11	12	13	14		15	16
1. No. of ballot papers to be transferred	22	4	1	2														29
2. Value of each ballot Pap	100	45	100	100														
3. Value of votes to be transferred	2200	180	100	200														2680
4. No. of ballot papers actually transferred	20	2	1	2														25
5. Value of transferred votes	2000	90	100	200														2390
6. No. of Exhausted ballot papers	2	2	-	-														4
7. Value of exhausted ballot papers	200	90	-	-														290

**DISTRIBUTION OF VOTES**

CANDIDATE	MAIN PARCEL	SUB-PARCEL	SUB-PARCEL	SUB-PARCEL	TOTAL
		1	2	3	
BALDEV SINGH	400 ELECTED HI	-	-	-	400
DWAKAKA DAS	700	-	100	-	800
E.L.A JOSEPH	500	45	-	200	745
IIAKI SHANKAH	400	-	-	-	400
I.A.I.TA KUMARI	-	45	-	-	45
	2000	90	100	200	2390

TRANSFER SHEET NO.8

Transfer of Surplus votes of 2-Baldev Singh (elected candidate)

I.	(a) Total value of votes	:	4235
	(b) Quota	:	4043
	(c) Value of surplus votes (a-b)	:	192*
II.	(a) Total No. of ballot papers in the last sub-parcel to be further transferred	:	4
	(b) Value of each such ballot paper in that sub-parcel	:	100
	(c) No. of exhausted ballot papers	:	—
	(d) No. of unexhausted ballot paper actually transferred (a-c)	:	$4 \times \frac{192}{100}$
	(e) New transfer value of each such transferred ballot	:	48
	(f) Total value of transferred ballot papers	:	192
	(g) Loss of value due to neglect of fraction/exhausted ballot papers	:	—

III. Distribution of votes among continuing candidates

SI. No. and name of candidate      value of votes obtained

5.    Ela Joseph                              3 X 48 =144

4.    Dwaraka Das  
 $1 \times 48 = \frac{48}{192}$

**TRANSFER SHEET NO. 9**  
**SI.No. and name of candidate eliminated— 8-Shri Hari Shankar**  
**Total value of votes : 3388**

	Main Parcel	Sub-parcels															
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1. No. of ballot papers to be transferred	23	3	1	1	1	1	2	1	4								37
2. Value of each ballot Pap.	100	45	100	100	100	45	100	8	100								
3. Value of votes to be transferred	2300	135	100	100	100	45	100	8	100								3388
4. No. of ballot papers actually transferred	14	1	1	1	Transferred												16
5. Value of transferred votes	1400	45	100	As requisite No. of Candidates													1545
6. No. of Exhausted ballot papers	9	2	-	Got elected													22
7. Value of exhausted ballot papers	900	90	-	100	100	45	200	8	400								853

**DISTRIBUTION OF VOTES**

CANDIDATE	MAIN PARCEL	SUB-PARCEL			TOTAL
		1	2	3	
DWARAKA DAS	400	45	100	-	545 ELECTED VI
ELA JOSEPH	700	-	-	-	700 IV
LALITA KUMARI	300	-	-	-	300 V
	1400	45	100	-	1545

ANNEXURE XXXIV

[Para 3.2 & 45.5, Chapter XII]

Notice to Candidates or their Election Agents regarding the Date, Time and Place for counting

Election to the

Council of States

..... Legislative Council

..... Constituency

In pursuance of rule 51 of the Conduct of Election Rules, 1961, I hereby give notice that I have, in accordance with the said 'rule, fixed the.. ..... day of ..... (month). 19 ..... a.m./p.m. as the date and time for the counting of votes for the above election and..... (place) in..... .....as the place for such counting.

Place..... Signature .....

Date..... Returning Officer .....

To

All candidates or their election agents

*.ANNEXURE XXXV [Para  
4.1 & 52.1, Chapter XII]*

**Appointment of Counting Supervisors/  
Assistants**

Election  
to the

Council of States

..... Legislative Council  
..... Constituency

I ..... (name) .....  
(designation) appoint the persons whose names are  
specified below to act as Counting Supervisors/As-  
sistants and to attend at .....  
for the purpose of assisting me in the counting of votes  
at the said election.

- 1 .....
- 2 .....

*Place* ..... *Signature* .....

*Date* ..... *Returning Officer* .....

*ANNEXURE XXXVI*

*[Para 10.2, Chapter XLI]*

Election to the Council of States/Legislative  
Council by Members of  
----- Legislative Assembly

Statement showing the No. of ballot papers taken out  
of the ballot box(es), postal ballot papers and ballot  
papers found valid and rejected

- |  |       |
|--|-------|
| 1. No. of ballot papers taken out<br>of the ballot box(es)               | ----- |
| 2. No. of Postal ballot papers taken<br>out of covers under rule 54A (7) | ----- |
| Total  |       |
| 3. No. of ballot papers rejected   | ----- |
| 4. No. of ballot papers found valid                                      | ----- |

*Annexure XXXVII*

*[Para : 27, Chapter XII]*

(Sample Form when one seat is to be filled)

TRANSFER SHEET NO.

(To be used for distribution of votes of  
excluded candidate)

Name of candidate excluded : M

Total value of votes : 41

	Main Parcel	Sub-parcels						etc.
		1	2	3	4	5	6	
1. No. of ballot papers to be transferred	29	3	4	2	1	1		= 41
2. Value of each ballot paper	1	1	1	1	1	1		
3. Value of votes to be transferred	29	3	4	2	1	1		= 41
4. No. of ballot papers actually transferred	27	3	2	2	-	-		
5. Value of transferred votes	27	3	2	2	-	-		= 35
6. No. of exhausted ballot papers	2	-	2	-	1	1	-	= 6
7. Value of exhausted ballot papers	2	-	2	-	1	1	-	= 6

## Distribution of votes

Name of continuing candidate	Value of votes obtained by transfer of ballot paper from									
	Main Parcel.	Sub-parcels							etc.	Total
		1	2	3	4	5	6			
A	1	-	1	-	-	-	-	=	2	
B	3	-	-	-	-	-	-	=	3	
C	4	-	-	-	-	-	-	=	4	
D	-	-	1	-	-	-	-	=	1	
K	-	2	-	-	-	-	-	=	2	
N	17	-	-	2	-	-	1	=	20	
Y	1	-	-	-	-	-	-	=	1	
Z	1	1	-	-	-	-	-	=	2	
<b>Total</b>	<b>27</b>	<b>3</b>	<b>2</b>	<b>2</b>	<b>-</b>	<b>-</b>	<b>1</b>	<b>=</b>	<b>35</b>	

*ANNEXURE XXXVIII*

*[Para 39.1, Chapter XII]*

Election to .....

Account of votes received by Y (candidate)

Main Parcel/ Sub-parcel	Name of candidate from whom transferred	No. of ballot papers	Value of each ballot paper	Total value
Main Parcel		40	100	4000
(Original votes)				
Sub-parcel (1)	G	3	23	69
Sub-parcel (2)	H	1	100	100
Sub-parcel (3)	M	8	15	120
Sub-parcel (4)	K	11	100	1100
Sub-parcel (5)	K	14	7	98
				5487

SAMPLE FORM

ANNEXURE XXXDC

[Para 40.2, Chapter XII]

(To be used for distribution of *surplus* votes of  
elected candidate)

TRANSFER SHEET NO. 1

Transfer of *Surplus votes of Shri Am it Kumar (elected  
candidate)*

1.	(a) Total value of votes	:	4900
	(b) Quota	:	4043
	(c) Value of surplus votes (a-b)	:	857
II.	(a) Total No. of ballot papers in the main parcel/last sub-parcel to be further transferred	:	49
	(b) Value of each such ballot paper in that parcel/sub-parcel	:	100
	(c) No. of exhausted ballot papers	:	30
	(d) No. of unexhausted ballot papers actually transferred (a-c)	:	19
	(e) New transfer value of each such transferred ballot	:	$\frac{857}{19}$ or 45
	(f) Total value of transferred ballot papers	:	855
	(g) Loss of value due to neglect of fraction/exhausted ballot	:	2

III. Distribution of votes among continuing candidates

Sl.No. and name of candidate	Value of votes obtained
2. Baldev Singh	$2 \times 45 = 90$
3. Chandra Mohan	$4 \times 45 = 180$
4. Dwaraka Das	$4 \times 45 = 180$
5. Ela Joseph	$2 \times 45 = 90$
7. Gyan Dev Kumar	$1 \times 45 = 45$
8. Hari Shankar	$3 \times 45 = 135$
9. Imito Tombi	$2 \times 45 = 90$
10 .Jaya Kumari	$1 \times 45 = 45$
	<hr/>
	$19 \times 45 = 855$
Loss due to fraction	$= 2$

**SAMPLE FORM**

**ANNEXURE XL**  
**[Para 40.2, Chapter XII]**  
 (To be used for distribution of votes of *excluded* candidate)  
**TRANSFER SHEET NO. 2**  
 SI.No. and name of candidate excluded-9 Imito Tombi  
 Total value of votes : 1190

	Main Parcel	Sub-parcels																
		1	2	3	4	6	6	7	8	9	10	11	12	13	14	15	16	
1. No. of ballot papers to be transferred	11	2																13
2. Value of each ballot paper	100	45																
3. Value of votes to be transferred	1100	90																1190
4. No. of ballot papers actually transferred	8	2																10
5. Value of transferred votes	800	90																890
6. No. of Exhausted ballot papers	3	-																3
7. Value of exhausted ballot papers	300	-																300

DISTRIBUTION OF VOTES					
CANDIDATE	MAIN PARCEL	SUB-PARCEL 1	SUB-PARCEL 2	SUB-PARCEL 3	TOTAL
BALDEV SINGH	400	45	-	-	445
DWARAKADAS	-	45	-	-	45
HARI SHANKER	-	-	-	-	100
LAUTA KUMARI	-	-	-	-	300

## SAMPLE FORM

### ANNEXUREXLI

*[Para 58.2, Chapter XII]*

### FORM 16

[See rules 45, 56(7) and 56A(7)]

#### PART-I BALLOT PAPER ACCOUNT

Election to the Maharashtra Legislative Council  
from Greater Bombay (Graduates') Constituency

Number and Name of Polling Station—45

	Serial No.s		Total No.
	From	To	
1. Ballot papers received	34201	35080	880
2. Ballot papers unused : (i.e., not issued to voters)			
(a) With the Signature of Presiding Officer	34975	34980	6
(b) Without the Signature of Presiding Officer	34981	35078	98
*Total (a+b)			104
3. *Ballot papers used at the Polling Station (1-2=3)			776
4. Ballot papers used at the Polling Stations but NOT INSERTED INTO THE BALLOT BOX :			
(a) Ballot papers cancelled for violation of voting procedure under rule 39A	34344		1

	Serial No.s	Total No.
	<u>From to</u>	
(b) Ballot papers cancelled for other reasons	34288	4
	34601	
	34777	
	34780	
(c) Ballot papers used as tendered ballot papers	35080	
	35079	2
*Total (a+b+c) :		7
5. *Ballot papers to be found in the ballot box (3-4=5)		769

\*Serial numbers need not given.

Sd/

*Signature of the Presiding Officer*

## Part II-Result of Counting

I.	Name of candidate.	Number of valid votes cast
1.		
2.		
3.		
4.		
5.		
etc.		
II. Rejected Ballot Papers		
III.Total		769
	Whether the total number of ballot papers shown against item No.III above tallies with the total shown against item No.5 of Part I or any discrepancy noticed between these two totals.	No discrepancy

Place.....  
Date.....

*Sd/-  
Signature of Counting  
Supervisor*

Place.....  
Date.....

*Sd/-  
Signature of the  
Returning Officer*

*ANNEXURE XLII*

*[Para 58.3, Chapter XII]*

Statement showing the number of ballot papers taken out of the ballot boxes, postal ballot papers and ballot papers found valid and rejected

Election to.....

I. No. of ballot papers taken out of ballot boxes and postal ballot papers

SI. No. of polling station	No. of ballot papers taken out of the ballot box(es)
1.	
2.	
3.	
4.	
5.	
etc.	
Total	
No. of postal ballot papers taken out of covers under rule 54A(7)	-----
Grand Total	

II. No. of ballot papers rejected

III. No. of valid ballot papers

*ANNEXURE XLIII*  
*[Para 6, Chapter XIII]*  
SPECIMEN TELEGRAM

(To be used at an Election by Assembly  
Members)

IMMEDIATE

ELECCOM  
NEW DELHI

BIENNIAL ELECTION 1992 TO COUNCIL OF  
STATES BY MEMBERS OF .....  
(NAME OF STATE) LEGISLATIVE ASSEMBLY  
(STOP) TOTAL VOTES POLLED TWO HUNDRED  
NINETY ONE (STOP) VOTES REJECTED ONE  
(STOP) VALID VOTES TWO HUNDRED NINETY  
(STOP) NUMBER OF CANDIDATES TO BE  
ELECTED SLX (STOP) SHRIX (NAME OF PARTY)  
SHRIM (NAME OF PARTY) SHRIMATIK (NAME  
OF PARTY) SHRI J (NAME OF PARTY) SHRI C  
(NAME OF PARTY) AND SHRIH (NAME OF  
PARTY) DECLARED ELECTED (STOP)

*ANNEXURE XLIII-A*

*[Para 6, Chapter XIII]*

SPECIMEN TELEGRAM

(For Election in Council Constituency)

IMMEDIATE

ELECCOM NEW  
DELHI

BIENNIAL ELECTION 1992 TO BIHAR LEG  
ISLATIVE COUNCIL. (STOP) .....  
(NAME OF CONSTITUENCY) TEACHERS' CON-  
STITUENCY (STOP) TOTAL ELECTORS FIVE  
THOUSAND NINE HUNDRED EIGHTY FIVE  
(STOP) VOTES POLLED THREE THOUSAND  
EIGHT HUNDRED SEVENTY SLX (STOP) VOTES  
REJECTED ONE HUNDRED EIGHTEEN (STOP)  
VALID VOTES THREE THOUSAND SEVEN HUN-  
DRED FIFTY EIGHT (STOP) NUMBER OF SEATS  
TO BE FILLED ONE (STOP) SHRI X (NAME OF  
PARTY) DECLARED ELECTED (STOP)

ANNEXURE XLW

[Para 5, Chapter XIV]

APPLICATION FOR REFUND OF DEPOSIT  
MADE UNDER SECTION 34 READ WITH  
SECTION 39(2) OF THE REPRESENTATION  
OF THE PEOPLE ACT, 1951

By a Candidate

FROM

Name.....

Address .....

To

The Returning Officer for Election to the Council of States by Members of..... Legislative Assembly.

*Subject* : Return of deposit under section 158 of the Representation of the People Act, 1951.

Sir,

1. I was a candidate for election to the Council of States by Members of..... Legislative Assembly.

2. I made a deposit of Rs .....  
..... for that election in the Treasury under  
receipt No ..... on.....  
..... \*in cash with Returning Officer

on.....

3. My nomination paper was  $\frac{* \text{ accepted}}{\text{rejected}}$  by the Returning Officer my candidature in time.

4. I  $\frac{* \text{ withdraw}}{\text{did not withdraw}}$  my candidature in time.

5. I  $\frac{* \text{ was}}{\text{was not}}$  elected and secured more than one - sixth of the vote sufficient to secure the return of a candidate at that election.

6.1 request that the deposit referred to in paragraph 2 may be returned to me.

7.1 hereby declare that all the statements made in this application are true to my knowledge.

Yours faithfully,

Place .....

Date ..... (Signature of Candidate)

\*Strike off the words not applicable in your case.

ANNEXURE XLW-A

{Para 5, Chapter XIV}

APPLICATION FOR REFUND OF DEPOSIT  
MADE UNDER SECTION 34 READ WITH  
SECTION 39(2) OF THE REPRESENTATION  
OF THE PEOPLE ACT, 1951

By a Depositor when he is not the Candidate

FROM

Name .....

Address.....

To

The Returning Officer for Election to the Council of States by Members of ..... Legislative Assembly.

*Subject* : Return of deposit under section 158 of the Representation of the People Act, 1951.

Sir,

1 ..... (Name of the candidate) was a candidate for election to the Council of States by Members of ..... Legislative Assembly.

2. On behalf of the said candidate, I made a deposit of Rs..... for that election in the ..... Treasury under receipt No ..... on ..... \*in cash with Returning Officer on.....

3. His nomination paper was  $\frac{* \text{accepted}}{\text{rejected}}$  by Returning Officer

4. He  $\frac{* \text{withdraw}}{\text{did not withdraw}}$  his candidature in time.

5. He  $\frac{* \text{was}}{\text{was not}}$  elected and secured more than one - sixth of the vote sufficient to secure the return of a candidate at that election.

6.1 request that the deposit referred to in paragraph 2 may be returned to me.

7. I hereby declared that I have verified all the statements made in this application, and they are true to my knowledge.

Yours faithfully,

Place .....

Date ..... (Signature of Applicant)

I ..... the above mentioned candidate at the aforesaid election hereby certify that the statements contained in paragraphs 2 to 5 of this application are true to my knowledge.

Yours faithfully,

Place .....

Date ..... (Signature of Candidate)

\*Strike off the words not applicable in your case.

*ANNEXURE XLW-B*

*[Para 5, Chapter XIV]*

APPLICATION FOR REFUND OF DEPOSIT  
MADE UNDER SECTION 34 READ WITH  
SECTION 39(2) OF THE REPRESENTATION  
OF THE PEOPLE ACT, 1951

By the Legal Representative of the Candidate

FROM

Name.....

Address .....

To

The Returning Officer for Election to the Council of States by Members of..... Legislative Assembly.

*Subject* : Return of deposit under section 158 of Representation of the People Act, 1951.

Sir,

1. The late Shri .... was a candidate for election to the Council of States by Members of..... Legislative Assembly. He died on the..... and I am his legal representative.

2. He made a deposit of Rs..... for that election, in the ..... Treasury under receipt

No .....on .....\*in cash with Return  
ing Officer on .....

3 His nomination paper  $\frac{* \text{accepted}}{\text{rejected}}$  by  
was by Returning Officer

4. He  $\frac{* \text{withdraw}}{\text{did not withdraw}}$  his candidature in time.

5. He  $\frac{* \text{was}}{\text{was not}}$  elected and secured more than one -  
sixth of the vote sufficient to secure the return of  
a candidate at that election.

6.1 request that the deposit referred to in para-  
graph 2 may be returned to me.

7. I hereby declared that all the statements made  
in this application are true to my knowledge.

Yours faithfully,

Place .....

Date .....

(Signature of Applicant)

\*Strike off the words not applicable in your case.

ANNEXURE XLV

[Para 10, Chapter XW\

**APPLICATION FOR REFUND OF DEPOSIT  
MADE UNDER SECTION 34 READ WITH  
SECTION 39(2) OF THE REPRESENTATION  
OF THE PEOPLE ACT, 1951**

By a Candidate

FROM

Name.....

Address.....

To

The Returning Officer for Election to the  
..... Legislative Council.

*Subject* : Return of deposit under section 158 of  
the Representation of the People Act,  
1951.

Sir,

1. I was a candidate for \*biennial/\*bye-election  
to the.....,, .... Legislative Council\*by  
Members of State Legislative Assembly/from  
the..... constituency.

2. I made a deposit of Rs.....for  
that election in the Treasury under receipt No .....  
.....on ..... \*in cash with the Return  
ing Officer on.....

4. My nomination paper was \* accepted by  
Returning Officer rejected

4. I \* withdraw  
did not withdraw my candidature in time.

5. I \* was  
was not elected and secured more than one -  
sixth of the votes sufficient to secure the return of  
a candidate at that election.

6.1 did not stand as a candidate from any other  
Council constituency of this biennial election

Or,

[6. (a) I stood as a candidate at this biennial  
election also from the

- (i) ..... Council constituency
- (ii) ..... Council constituency
- (iii) ..... Council constituency.

(b) I have not applied for the return of my deposit  
in any of these other constituencies. The deposits  
made in these other constituencies may be forfeited.]

7.1 request that the deposit referred to in para-  
graph 2' may be returned to me.

8.1 hereby declare that all the statements made in  
this application are true to my knowledge.

Yours faithfully,

Place .....

Date .....

(Signature of Candidate)

\* Strike off the words not applicable in your case.

Omit the portion within [ ] as necessary.

ANNEXURE XLV-A

[Para 10, Chapter XW]

APPLICATION FOR REFUND OF DEPOSIT  
MADE UNDER SECTION 34 READ WITH  
SECTION 39(2) OF THE REPRESENTATION  
OF THE PEOPLE ACT, 1951

By a Depositor when he is not the Candidate

FROM

Name .....

Address.....

To

The Returning Officer

*Subject* : Return of deposit under section 158  
of the Representation of the People  
Act, 1951.

Sir,

1 ..... (Name of the candidate) was a  
candidate for biennial/bye-election election to the  
..... Legislative Council by\* members of State  
Legislative Assembly/from the.....  
constituency.

2. On behalf of the said candidate, I made a  
deposit of Rs ..... for that election in the  
..... Treasury under receipt No .....

/in cash with Returning Officer on.....

3. His nomination paper was  $\frac{* \text{accepted}}{\text{rejected}}$  by  
Returning Officer

4. He  $\frac{* \text{withdraw}}{\text{did not withdraw}}$  my candidature in time.

5. He  $\frac{* \text{was}}{\text{was not}}$  elected and  $\frac{* \text{secured}}{\text{did not secure}}$  more

than one - sixth of the votes sufficient to secure the return of a candidate at that election.

6. He did not stand as a candidate at the said biennial election from any other Council constituency.

Or,

[6. (a) He stood as a candidate at the said biennial election also from the—

- (i) .....Council constituency
- (ii) .....Council constituency
- (iii) .....Council constituency.

(b) No application has been made for the return of the deposits made in connection with the elections in these other constituencies. The deposits made in these other constituencies may be forfeited.]

7.1 request that the deposit referred to in paragraph '2' may be returned to me.

8. I hereby declare that I have verified all the statements made in this application and they are true to my knowledge.

Yours faithfully,

Place.....

Date.....

(Signature of Applicant)

\*Strike off the words not applicable in your case.

I....., the above mentioned candidate at the aforesaid election hereby certify that the statements contained in paragraphs 2 to 6 of this application are true to my knowledge.

Place.....

Yours faithfully

Date.....

(Signature of Candidate)

Omit the portion within L ] as necessary.

ANNEXURE XLV-B

[Para 10, Chapter XV]

APPLICATION FOR REFUND OF DEPOSIT  
MADE UNDER SECTION 34 READ WITH  
SECTION 39(2) OF THE REPRESENTATION  
OF THE PEOPLE ACT, 1951

By the Legal Representative of the Candidate

FROM

Name .....

Address.....

To

The Returning Officer

*Subject* : Return of deposit under section 158 of  
the Representation of the People Act,  
1951.

Sir,

1. The late Shri.....was a candidate  
for the biennial/bye-election election to the.....  
..... Legislative Council by\* members of the State  
Legislative Assembly/from the.....  
constituency. He died on the..... and I am  
his legal representative.

2. He made a deposit of Rs ..... for that  
election in the..... Treasury under receipt

No ..... on...../in cash with the  
Returning Officer on .....

His nomination paper was  $\frac{* \text{ accepted}}{\text{rejected}}$  by  
Returning Officer

4. He  $\frac{* \text{ withdraw}}{\text{did not withdraw}}$  my candidature in time.

5. He  $\frac{* \text{ was}}{\text{was not}}$  elected and  $\frac{* \text{ secured}}{\text{did not secure}}$  more

sixth of the votes sufficient to secure the return of a  
candidate at that election.

6. He did not stand as a candidate at the said  
biennial election from any other constituency.

Or, [6. (a) He stood as a  
candidate at the said biennial election also from the

- (i) .....Council constituency
- (ii) .....Council constituency
- (hi) .....Council constituency.

(b) No application has been made for the return of  
the deposits made in connection with the elections in  
these other constituencies. The deposits made in these  
other constituencies may be forfeited.]

7. I request that the deposit referred to in para-  
graph '2' may be returned to me.

8. I hereby declared that all the statements made  
in this application are true to my knowledge.

Yours faithfully,

Place .....

Date ..... (Signature of Applicant)

\*Strike off the words not applicable in your case.  
Omit the portions within [ ] necessary.

*ANNEXURE XLVI*

*[Para 3, Chapter XV]*

REPORT ON THE ELECTION BY THE  
RETURNING OFFICER

1. Name of Constituency  
(in Block Letters)
2. Date or dates of poll in  
the Constituency :
3. Number of polling parties deployed in the Constituency, the composition of each party including police or similar officers employed for maintaining order at the polling station :
4. Nature of the polling programme. Single day poll. Constituency divided into zones and polling completed one after another with one/two days interval for transit or single party took up polling in adjacent polling stations on successive 2/3 days of alternative :
5. Total number of elec-

tors in the Constitu-  
ency— (i) men (ii)  
women :

6. Names of candidates nominated and the choice of symbols party affiliation shown by each in the nomination paper first delivered by or on his behalf:
7. Number of nomination papers filed on behalf of each candidate :
8. Names of candidates whose nomination papers were rejected with brief reasons :
9. Names of candidates who withdrew their nominations.
10. Names of contesting candidates together with the description of their party affiliation :
11. Names of candidates (independents), subsequent to the last date of withdrawal joined some other party, or some party claims that

its candidate is contesting the elections as a party candidate :

12. Number of polling stations located—
- (i) in Government and quasi-Government buildings :
  - (ii) in private buildings :
  - (iii) in temporary structures :

Total :

13. Number of postal ballot papers :—

Returned back

	Issued	Returned back	
	in time	after prescribed hour	undelivered

(a) Voters under preventive detention:

(b) Voters on election duty :

14. Names of polling stations, if any, where poll was adjourned and repoll was ordered and

reasons for such adjournment or repoll :

15. Number of electors who voted—

Men :

Women :

Total :

16. Number of illiterate, blind or infirm voters who voted with the help of companions :

17. Percentage of votes polled to total electorate :

18. Date and time of commencement of counting

19. Number of valid first preference votes polled by each contesting candidate :...

20. Number of votes rejected :

21. Challenged votes—

Total :

Number allowed :

Number rejected :

Amount forfeited :

22. Tendered votes— Total :
23. Date and time of declaration of result :
24. Number of Polling Officers recruited locally:
25. Number of candidates :  
partywise (also independents and others)—  
(a) forfeited deposit :  
(b) amount of deposit forfeited :
26. Number of candidates who were their own election agents :
27. Number of election agents appointed :
28. Number of polling agents appointed :
29. Number of candidates who appointed polling agents :
30. Number of counting agents appointed by candidates :
31. Number of ballot boxes used and types of ballot boxes used :

32. Number of paper seals used, if any:

33. Number of Electoral offences with their details :—

Number of cases of—

- (a) disorderly conduct at election meetings:
- (b) convening, holding or attending public meetings within the constituency on a polling day:
- (c) illegal hiring or procuring of conveyance for the transport of voters :
- (d) canvassing within one hundred metres of a polling station :
- (e) impersonation of voters :
- (f) fraudulent defacing, destroying or removal of a list or notice or other document at a polling station :
- (g) bribing of voters :

- (h) intimidation of voters  
(and other persons) :
34. Mistakes and irregularities committed by Presiding Officers :
35. Highest and lowest polling — polling stationwise:
36. (a) No. of votes cast—  
from 7.30 a.m. :  
to 9.30 a.m.  
from 9.30 a.m. :  
to 11.30 a.m.  
from 11.30 a.m.:  
to 1.30 p.m.  
from 1.30 p.m. :  
to 3.30  
p.m. and as on
- (6) Number of slips issued at the closing hour of the poll:
37. Serious complaints, if any, made by the candidates :
38. Number of cases of breach of law and order:
39. Recounting of votes—

- (i) Number of applications/requests received for recounting in part or *in toto* :
- (ii) Number of applications/requests allowed for recounting in part or *in toto* :
- (iii) Result before recounting and after recounting of votes :

40. Was the poll interrupted or obstructed by *p.*:

- (1) riot,
- (2) open violence,
- (3) natural calamity,
- (4) any other cause

Please give details of the above:

41. Was the poll vitiated by—

- (1) any ballot box used at the polling station having been unlawfully taken out of the custody of the Presiding Officer—
  - (a) accidentally or intentionally destroyed or lost :
  - (b) damage or tampered with :

(2) the ballot papers  
having been unlaw-  
fully marked by any  
person and deposited  
in the ballot box:

42. Whether declaration have been made by all the  
Presiding Officers before the commencement of  
the poll and at the end of poll as necessary :

*ANNEXURE XLVII*

*[Para9, Chapter XV]*

LIST OF PAPERS FOR DESTRUCTION SIX  
MONTHS AFTER THE DECLARATION OF  
RESULT

1. Form of Notice (Form 1).
2. Notice of nomination (Form 3-A).
3. List of validly nominated candidates under rule 8 (Form 4).
4. Form of Notice of withdrawal ((Form 5).
5. Notice of withdrawal of candidatures (Form 5).
6. List of contesting candidates (Form 7-A).
7. Appointment of election agents (Form 8).
8. List of tendered votes (Form 15).
9. Appointment of polling and counting agents (Forms 10 and 18).
10. Office copies of Form 18.
11. Revocation of the appointment of election agents, polling agents and counting agents (Forms 9, 11 and 19).
12. Used electoral rolls at a polling station other than the marked copy [rule 31(3)].
13. Record kept by the Presiding Officers regarding voting by blind and infirm electors (Form 14-A).
14. Packet containing cancelled ballot papers [rules 39(7) and 41].
15. Notes and record maintained by the Presiding

Officer, the declarations made by the polling agents and any other paper directed by the Returning Officer to be kept in a sealed packet.

16. List containing names of persons under preventive detention (rule 21).
17. List of electors permitted to vote by postal ballot.
18. Applications made by persons subjected to preventive detention for permission to vote by postal ballot received by the Returning Officers.
19. Application for postal ballot papers by electors employed on election duty (Form 12 and Form 12-A).
20. Postal ballot papers returned undelivered.
21. Applications made for re-issuing of postal ballot papers.
22. Applications for the recount of votes (rule 63).
23. Unused postal ballot papers with counterfoils.
24. Notice of counting of votes—time, place and date, etc.
25. Notice of inspection of accounts of election expenses.
26. Correspondence between the Returning Officer and the candidates and the election or counting agents.
27. Application for allotment of symbols.
28. Damaged paper seals and unused paper seals including those received back from the Presiding Officers by the Returning Officers.

29. General reports, diaries and memo, note-books from the Presiding Officers.
30. Notices under clauses (a) and (6) of sub-rule (1) of rule 31.
31. Packets containing objections by candidates and agents etc., in the course of poll and counting of votes.
32. Sealed packet containing the proceedings drawn by the Returning Officer after counting of votes.
33. Sealed packets containing check memos for counting of votes.
34. Certified extract of electoral rolls filed along with the nomination papers.
35. Forms of account of ballot papers.
36. Paper seal account.
37. Publicity material such as wall posters, hand bills and open statements issued by the candidates at the election.
38. Election Duty Certificates (Form 12-B).
39. Declarations under rule 40(1).