

**Karnataka Assembly Election 2018**

# **Model Code of Conduct**

*A Ready Reckoner for Departmental Officers*

*March 2018*



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Inclusive, Accessible & Ethical Elections

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Office of Chief Electoral Officer,  
Bengaluru



# Karnataka Assembly Election 2018



## Model Code of Conduct

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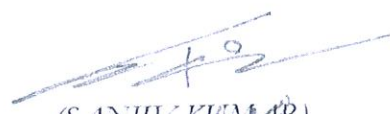


## FOREWORD

*Implementation of Model Code of Conduct (MCC) is one of the most important aspect of conduct of free and fair elections and to create level playing field for all political parties and candidates. Many aspects of Model Code of Conduct are applicable to official machinery. When the Model Code of Conduct is in force, it is very important for official machinery to remain neutral and also proactively prevent misuse of official machinery by party in power.*

*The Election Commission of India has issued several Circulars on Model Code of Conduct over the period of last four decades. Important circulars which are relevant today are compiled, organised and presented through this booklet to all the departmental Secretaries and Heads of Departments. Any intentional / un-intentional omission or Commission will attract penal provisions in addition to departmental enquiries. I am confident that there will not be any occasion for such action and the senior officers of the government will maintain absolute neutrality and ensure complete observance of provision of the Model Code of Conduct in true letter and spirit.*

*My best wishes*

  
(S. ANJIV KUMAR)  
Chief Electoral Officer &  
Ex-officio Addl. Chief Secretary to Government,  
D.P.A.R.(Elections)



## TABLE OF CONTENTS

Sl. no.	Letter No.	Date	Subject	Page No.
1.	437/6/98-PLN-II	15.09.1998	Neutrality of Official Machinery	1
<b>I. IMPLEMENTATION OF SCHEMES</b>				
2.	464/INST/2007-PLN-I	07.01.2007	MCC for prevention of misuse of official machinery	2-7
3.	437/6/2009-CC&BE	05.03.2009	Clarification regarding implementation/processing of various schemes and projects of the government	8-11
4.	*437/6/INST/2014 - CC&BE	14.03.2014	CM/PM Relief Fund for Medical Assistance	12
5.	437/6/INST/2009-CC&BE	09.03.2009	Applicability of Model Code to various Govt. Schemes/projects etc	13
6.	437/6/16/2003/PLN-III	01.04.2004	Clarification regarding implementation of Rural Development Programmes	14
7.	437/6/23/2004 PLN.III	11.03.2004	Implementation of drought relief works -regarding.	15-16
8.	PS/JS (RC)/04-216	24.02.2004	Continuation of programme activities under PMGSY	17-18
9.	PS/JS (RL)/04-216	24.02.2004	Clarification regarding implementation/processing of various schemes and projects of the government	19
10.	434/6/PLN-III	22.03.1996	Major tenders and auctions – regarding.	20
11.	DPAR 42 SAS 2017	06.06.2017	Constitution of a Screening Committee to examine the proposals to be sent Election Commission of India during the Model Code of Conduct of Elections	21-23
<b>II. PAYMENT OUT OF DISCRETIONARY FUNDS AND MP / MLA LOCAL AREA DEVELOPMENT SCHEME</b>				
12.	*437/6/1/2014-CC&BE	05.03.2014	Release of funds under MPs' /MLAs' Local Areas Development Scheme	24
13.	437/6/89	07.11.1989	Payment from the discretionary Grants of Ministers on the eve of general elections .	25-26
14.	576/17/84	09.11.1984	Payments out of the discretionary funds on the eve of General Elections or Bye-Elections	27



Sl. no.	Letter No.	Date	Subject	Page No.
<b>III. PUBLICITY</b>				
15.	*437/6/INST/2014 - CC&BE	11.09.2014	Display of Photos of Political Functionaries on beneficiary cards, electric bills, construction site plaques etc-clarification regarding.	28
16.	*437/6/INST/2014 - CC&BE	20.03.2014	Instructions relating to deletion of all references on politicians/Ministers on the official website during election period of General/Bye-elections to the Lok Sabha and State Legislative Assemblies.	29
17.	*437/6/CG/2013-CC&BE	30.10.2013	Permission of Election Commission on DAVP's Newspaper Advt. on the occasion of the Death Anniversary of Former Prime Minister Smt. Indira Gandhi and the Birth Anniversary of Shri Sardar Valabhbhai Patel-reg.	30
18.	437/6/INST/2008-CC&BE	13.04.2009	Applicability of Model Code of Conduct - Display of advertisements and hoardings at the cost of public exchequer	31
19.	*437/6/INST/2008 - CC&BE	01.04.2009	Display the photographs/calendars, etc of national leaders and prominent personalities in the government offices/premises- clarification reg.	32
20.	437/6/INST/2009-CC&BE	23.02.2009	Publication of advertisements in connection with occasions like World Habitat Day, Pulse Polio/HIV awareness campaigns and celebrations of various 'Diwas' like Independence Day, Republic Day, Gandhi Jayanti, State Formation days.	33
21.	437/6/2007(INST)-PLN-III	21.11. 2007	Instructions relating to deletion of all references on politicians/Ministers on the official website during election period of General / Bye-Elections to the Lok Sabha and State Legislative Assemblies - regarding.	34
22.	437/6/2004-PLN III	08.03.2004	Display of advertisements and hoardings at the cost of public exchequer.	35-36
<b>IV. USE OF OFFICIAL VEHICLES</b>				
23.	*437/6/INST/2009 - CC&BE	25.10.2009	Use of vehicles for election campaign- Bullet- proof vehicles provided for security reasons- clarification.	37
24.	437/6/2008/CC&BE	19.10.2008	Use of official vehicle by the functionaries of the various Boards/Commissions etc.- regarding.	38



Sl. no.	Letter No.	Date	Subject	Page No.
25.	4/2001/J.S.II	30.03.2001	Prevention of misuse of official vehicles during elections - Clarification	39
26.	437/6/98-PLN-III	18.08.1999	Use of Aircraft during the Election Process	40
27.	437/6/98/PLN-III	08.01.1998	Use of Aircraft by Political Parties-regarding	41
28.	437/6/96-PLN-III	09.04.1996	General Elections - Security cover to Ministers/Candidates	42-43
29.	437/6/94/MCS-Vol-V	20.10.1994	Chartering of aircraft and helicopters	44-45
<b>V. MEETINGS/VIDEO CONFERENCE/TOUR OF MINISTERS</b>				
30.	*437/6/MISC/2015- CC	19.06.2015	Construction of Helipads by State Administrations during Election Tours of the Prime Minister-reg.	46
31.	*437/6/CG/2014-CC&BE	07.10.2014	Relaxation of Model Code of Conduct on PM's visit-reg.	47
32.	*437/6/INST/2014- CC&BE	18.03.2014	Model Code of Conduct-Ban on Video Conferencing.	48-49
33.	437/6/2004-PLN III	30.12.2004	Model Code of Conduct-Ban on Video Conferencing-Regarding	50
34.	437/6/INST/2011-CC&BE	27.04.2011	Tours of Chief Ministers and Ministers of Union govt. - regarding	51
35.	437/6/2007-PLN-III	23.11.2007	Tours of Ministers - General Elections	52-55
36.	437/6/7/2004/PLN-III	28.12.2004	Tours of Union Minister of Railways	56
37.	437/6/96/PLN-III	17.01.1996	General Elections - Tours of Ministers	57-59
38.	437/6/ES0025/94/MC	21.10.1994	Election period-tours of ministers	60-62
39.	437/6/INST/2011-CC&BE	01.04.2011	Tours of Chief Ministers - regarding	63
40.	437/6/INST/2011-CC&BE	24.03.2011	Tours of Chief Ministers - regarding	64



Sl. no.	Letter No.	Date	Subject	Page No.
41.	437/6/INST/2010 - CC&BE/Vol.II	05.04.2011	Use of vehicles for election campaign- Bullet-proof vehicles provided for security reasons - Instructions - regarding.	65
42.	437/6/INST/2010- CC&BE	07.06.2010	Use of Bullet Proof Vehicles by SPG Protectees (other than Prime Minister) for election campaign - regarding.	66
<b>VI. POSTING OF OFFICERS AND BAN ON TRANSFER OF OFFICERS</b>				
43.	*437/6/1/2014- CC&BE	16.08.2014	Transfer/ Posting of Officers- regarding.	67-71
44.	*437/6/1/2014- CC &BE	21.02.2014	Posting of Officers - clarification- regarding	72
45.	*437/6/1/2014- CC &BE	09.01.2014	Posting of Officers - regarding	73-76
46.	437/6/INST/2009- CC&BE	18.02.2009	The Commission's instruction on Posting of Officers dated 04.02.09 - clarifications regarding.	77
47.	437/6/1/2008	19.10.2008	Clarification regarding transfer	78-79
<b>VII. RESTRICTION ON USE OF GUEST HOUSES etc.</b>				
48.	437/6/2006-PLN- III (Vol. II)	01.04.2006	Allotment of Govt. Guest House - reg.	80
49.	437/6/38/2004- PLN-III	06.04.2004	Model Code of Conduct-Use of Rest Houses, Dak Bungalows and other Government accommodation.	81
50.	437/6/98-PLN-III	08.01.1998	Restrictions on use of Government Guest Houses, Bhawans and State Sadans for holding of political parties meeting regarding election purposes.	82
<b>VIII. CELEBRATION OF IMPORTANT DAYS</b>				
51.	437/6/INST/2012- CC&BE	24.01.2012	Celebration of Republic Day- Clarification on the attendance of political functionaries - regarding	83-84
52.	437/6/98-PLN-III	10.01.1998	Celebration of Republic Day - attendance of political functionaries	85
<b>IX. APPLICABILITY</b>				
53.	437/6INST/2011/ CC&BE	05.04.2011	Meeting of Municipalities - regarding	86
54.	437/6/INST/2008 - cc&be	19.03.2009	Applicability of Model Code of Conduct to Commissions, Corporations, Committees, etc	87



Sl. no.	Letter No.	Date	Subject	Page No.
55.	*464/INST/2009/ EPS	18.03.2009	Use of School Grounds for campaign purposes during election process- regarding.	88-89
56.	437/6/6/2004	25.03.2004	Applicability of Model Code of Conduct - to Speaker and Dy. Speaker.	90
<b>X. PERIOD OF MODEL CODE OF CONDUCT</b>				
57.	437/6/2011/CC& BE	11.10.2011	General/Bye-elections to the Lok Sabha/State Legislative Assemblies/ Councils - period of enforcement of Model Code of Conduct - regarding	91
<b>XI. MISCELLANEOUS</b>				
58.	*437/6/1/2014- CC&BE	29.03.2014	Issue of Electricity tariff and related order by the State Electricity Regulatory Commissions- reg.	92
59.	*437/6/INST/2009- CC&BE	26.04.2009	Briefing of CM/HM by police officers- reg.	93
60.	*437/6/2009/CC &BE	24.03.2009	Permission for allotment of liquor vends/finalization of wholesale liquors sale during the period of operation of the Model Code of Conduct-regarding.	94-95
61.	437/6/3/2004- PLN-II	19.02.2004	Restrictions on eviction / demolition of unauthorized structures, etc. - regarding	96-98
62.	437/6/2002-PLN- III	25.01.2002	Waiving off of recoveries and bad debts by State Government financial institutions during election period - reg.	99-100
63.	437/6/98-PLN-III	23.01.1998	Restrictions on tours /leave of the officers whose spouses are active in political arena	101
64.	437/6/93 J.S. II	31.12.1993	Instructions to curb the misuse of free travel passes in the interest of free and fair elections	102



## **Circular 1: Neutrality of Official Machinery**

**Election Commission's letter No.437/6/98-PLN-II dated 15.09.1998**

**Subject: Preparations for election for electing State Assemblies.**

The tenure of the assembly in the State is expiring in December 1998; and elections have to be held shortly. As you know, the Commission and the State Electoral Officers are actively focusing on the arrangements, and meetings are being continuously held at Delhi and at your State Headquarters, to finalize all arrangements. The Election Commission of India, and the entire State election machinery are, therefore, in active election mode.

The Election Commission of India and all political parties, desire a level playing field, in order to ensure fair and free elections. The commission is expected very shortly, to announce the detailed schedule for elections. Therefore, the Commission expects, and strongly urges, that the State Governments, at this juncture, with a very short period left for the formal start of the election process, will refrain from taking any major financial and other initiatives, which can be widely perceived as distorting the level playing field for all parties, particularly the opposition. The Commission is confident, that in the 4 years and nine months of its tenure, the State government has taken all beneficial developmental steps, which it wished to, undertake. Any major announcements of this nature now, with only a couple of months left at best, are bound to be misconstrued, and not expected of any political party, in India's 5 decade old mature democracy.

The Commission would also advise against the creation of any new administrative units or major 'academic institutions etc. In general the Commission expects that nothing will be done by the incumbent ruling political party, which can be seen as simply largesse for undesirable exertion of influence on voters.

The Commission further directs that as the Head of the Services in the State, you will take due care and caution, to ensure, that the entire administrative apparatus in the State, not only remains neutral, but is visibly seen to be so, by the general public and all political parties.



## I. IMPLEMENTATION OF SCHEMES:

### Circular 2: MCC for prevention of misuse of official machinery

Election Commission's letter No. 464/INST/2007-PLN-I Dated: 07.01.07 addressed to The Chief Secretaries and the Chief Electoral Officers of all States and Union Territories.

#### On Welfare schemes and governmental works:

1. Announcement of new projects or programme or concessions or financial grants in any form or promises thereof or laying of foundation stones, etc., which have the effect of influencing the voters in favour of the party in power is prohibited.
2. These restrictions apply equally to new schemes and also ongoing schemes. But it does not mean that in the case of national, regional and State utility schemes, which have already been brought up to the stage of completion, their utilization or functioning in public interest should be stopped or delayed. The coming into force of the Model Code of Conduct cannot be given as an excuse for not commissioning such schemes or allowing them to remain idle. At the same time, it should be ensured that the commissioning of such schemes is done by civil authority and without associating political functionaries and without any fanfare or ceremonies whatever, so that no impression is given or created that such commissioning has been done with a view to influencing the electorate in favour of the ruling party. If in doubt, a clarification should be obtained from Chief Electoral Officer/Election Commission of India.
3. It is further clarified that simply because a budget provision has been made for any particular scheme or the scheme has been sanctioned earlier or a reference to the scheme was made in the address of the Governor or the budget speech of the Minister it does not automatically mean that such schemes can be announced or



inaugurated or otherwise taken up after the announcement of elections while the Model Code of conduct is in operation, since they will clearly be intended to influence the voters. Such actions if undertaken will be considered a violation of the model code of conduct.

4. No fresh sanctions for governmental schemes should be made. Review by political executive (Ministers etc.) and processing of beneficiary oriented schemes, even if ongoing, should be stopped till completion of elections. No fresh release of funds on welfare schemes and works should be made or contract for works awarded in any part of the state where election is in progress without prior permission of the Commission. This includes works under the Member of Parliament (including Rajya Sabha members) Local Area Development fund or MLAs / MLCs Local Area Development Fund, if any such scheme is in operation in the state.
5. No work shall start in respect of which even if work orders have been issued before the model code came into effect, if the work has actually not started in the field. These works can start only after the completion of election process. However, if a work has actually started, that can continue.
6. There shall be no bar to the release of payments for completed work(s) subject to the full satisfaction of the concerned officials.
7. Commission does not refuse approval for schemes undertaken for tackling emergencies or unforeseen calamities like providing relief to people suffering from drought, floods, pestilences, other natural calamities or welfare measures for the aged, infirm etc. In these matters, however, prior approval of the Commission should be taken and all ostentatious functions should be strictly avoided and no impression should be given or allowed to be created that such welfare measures or relief and rehabilitation works are being undertaken by the Government in office so as to influence the electors in favour of the party in power which at the same time will adversely affect the prospects of the other parties.



On Transfers and posting of officials:

The Commission directs that there shall be a total ban on the transfer of all officers/officials connected with the conduct of the election. These include but are not restricted to: -

- (i) The Chief Electoral Officer and Additional/Joint/Deputy Chief Electoral Officers;
- (ii) Divisional Commissioners;
- (iii) The District Election Officers, Returning Officers, Assistant Returning Officers and other Revenue Officers connected with the Conduct of Elections;
- (iv) Officers of the Police Department connected with the management of elections like range IGs and DIGs, Senior Superintendents of Police and Superintendents of Police, Sub-divisional level Police Officers like Deputy Superintendents of Police and other Police officers who are deputed to the Commission under section 28A of the Representation of the People Act, 1951;
- (v) Other officers drafted for election works like sector and zonal officers, Transport cell, EVM cell, Poll material procurement & distribution cell, Training cell, Printing Cell etc. Senior officers, who have a role in the management of election in the State, are also covered by this direction.
- (vi) The transfer orders issued in respect of the above categories of officers prior to the date of announcement but not implemented till the time when model code came into effect should not be given effect to without obtaining specific permission from the Commission.
- (vii) This ban shall be effective till the completion of the election process.

*Dr. J. K. Singh*  
*with*  
*problems*



- (viii) In those cases where transfer of an officer is considered necessary on account of administrative exigencies, the State Government may, with full justification, approach the Commission for prior clearance.
- (ix) No appointments or promotions in Government / Public Undertakings shall be made during this period, without prior clearance of the Commission.

#### **On Misuse of Official Machinery:**

1. Official vehicles cannot be used for electioneering work. 'Official Vehicles' include all vehicles belonging to
  - Central and State Government,
  - Public Undertakings of the Central and State Government,
  - Joint Sector Undertakings of Central and State Government,
  - Local Bodies, Municipal Corporations, Municipalities,
  - Marketing Boards (by whatever name known),
  - Cooperative Societies,
  - Autonomous District Councils, or
  - Any other body in which public funds, howsoever small a portion of the total, are invested, and also
  - Vehicles belonging to the Ministry of Defence and the Central Police Organizations under the Ministry of Home Affairs and State Governments.
2. It is open for a minister of the Union or State to make private visits using his or her private vehicle(s). For such private visits, the official personal staff of the ministers shall not accompany them. However, if a Minister is traveling in some emergent situation, out of his HQ on purely official business, *which cannot be avoided in public interest, then a letter certifying to this effect should be sent from the Secretary concerned of the Department to the Chief Secretary of the state where the Minister intends to visit, with a copy to the Commission.* During such tour, the Chief Secretary may provide the Minister with



Government vehicle and accommodation and other usual courtesies for his official trip. However, immediately proceeding or during or in continuation of such an official tour, no minister can carry out or combine any election campaign or political activity. The Commission will keep watch on such arrangements in due consultation with its Chief Electoral Officer.

3. No Minister, whether of union or state, will summon any election related officer of the constituency or the State, for any official discussions during the period of elections commencing with the announcement of the elections. Only exception will be when a Minister, in his capacity as in charge of the department concerned, or a Chief Minister undertakes an official visit to a constituency, in connection with failure of law and order or a natural calamity or any such emergency which requires personal presence of such Ministers/Chief Ministers for the specific purpose of supervising review/salvage/relief and such like purpose.
4. Ministers are entitled to use their official vehicles only for commuting from their official residence to their office for official work provided that such commuting is not combined with any electioneering or any political activity.
5. Ministers, whether of the Union or State, shall not combine in any manner their official tours with election work.
6. Whether on a private or official visit, no pilot car(s) or car(s) with beacon lights of any colour or car(s) affixed with sirens of any kind shall be used by any political functionary, even if the State administration has granted him a security cover requiring presence of armed guards to accompany him on such visit. This is applicable whether the vehicle is government owned or private owned.
7. Any official who meets the Minister on his private visit to the constituency where elections are being held shall be guilty of misconduct under the relevant service rules; and if he happens to be an official mentioned in Section 129 (1) of the Representation of People Act, 1951, he shall also be additionally considered to have violated the statutory provisions of that Section and liable to penal action provided there-under.



8. On-going programmes, which actually started in the field before the announcement of elections may continue.
9. Relief and rehabilitation measures to the people in areas affected by floods, drought, pestilence, and other natural calamities, can commence and continue.
10. Grant of cash or medical facilities to terminally or critically ill persons can continue with appropriate approvals.
11. Public places like maidans must be available impartially to all parties/contesting candidates for holding election meetings. So also use of helipads must be available impartially to all parties/contesting candidates, to ensure a level playing field.



**Circular 3 ; Clarification regarding implementation/processing of various schemes and projects of the government:**

**ECI letter No. 437/6/2009-CC&BE dated 5<sup>th</sup> March, 2009;**

Model Code of Conduct during General Elections and decided to issue to following Guidelines regarding implementation/processing of the various projects, schemes, rural development programmers etc. by the Central/State Governments :-

1. All Model Code of Conduct related directions shall be issued only by the Commission. The Cabinet Secretariat or any other government agency should reiterate and disseminate the directions of the Commission for compliance.
2. RBI may continue to take decisions unhindered on monetary policy issues.
3. After the Model Code of Conduct comes into effect, the Ministry of Finance will need to take prior approval of the Commission on any policy announcements, fiscal measures, taxation related issues and such other financial relief. Similarly, other Ministries/Departments will need to take prior approval of the Commission before announcing any relief/benefit.
4. The following types of existing works can be continued by the government agencies without reference to the Election Commission after the Model Code of Conduct comes into force:
5. Work-Projects that have actually started on the ground after obtaining all necessary sanctions;
6. Beneficiary-projects where specific beneficiaries by name have been identified before coming of the Model Code of Conduct into force;
7. Registered beneficiaries of NREGA may be covered under existing projects. New projects under NREGA that may be mandated under the provisions of the Act may be taken up only if it is for the already registered beneficiaries and the project is already listed in the approved and sanctioned shelf of projects for which funds are also already earmarked.



8. There shall be no bar to release of funds for the completed portion of any work subject to observance of laid down procedures and concurrence of finance department.

9. The following type of new works (whether beneficiary or work oriented) that fulfill all the following conditions before Model Code of Conduct comes into effect, can be taken up under intimation to the Commission-

i. Full funding has been tied up.

ii. Administrative, technical and financial sanctions have been obtained

iii. Tender has been floated, evaluated and awarded and

iv. There is contractual obligation to start and end the work within a given time frame and failing which there is an obligation to impose penalty on the contractor.

v. In case of any of the above conditions not being met in such cases prior approval of the Commission shall be sought and obtained.

vi. Global tenders already floated, can be evaluated and finalized where any time limits are specified for such purpose.

vii. Tenders other than global tenders, that are already floated may be evaluated but not finalized without prior approval of the Commission. If they are not already floated, they shall not be floated without prior approval of the Commission.

viii. Commission invariably takes a humanitarian view on the work that are necessitated due to man-made or natural calamities.

ix. Ex-gratia payments and gratuitous relief in the aftermath of a disaster can be given directly to the persons affected at the current rates/scales of assistance presently in force, under intimation to the Commission. No change in the extant and prescribed scales of payments, however, shall be made in the existing rates/scales without prior permission of the Commission.



- x. Payment directly to the hospitals from CM's/PM's Relief Fund, in lieu of direct cash payment to individual patients (beneficiaries) will be permissible without reference to the Commission.
- xi. Emergent relief works and measures that are aimed to mitigate the hardships, directly and solely, of the persons affected in a disaster may be taken up under intimation to the Commission.
- xii. However, new works that may be necessitated by way of preventive measures to mitigate the likely effects of natural disasters like repair of embankments, water channels etc. can be taken up only with prior permission of the Commission.
- xiii. Also, an area shall not be declared drought/flood affected or any such calamity affected without prior approval of the Commission. The extent of area already declared to be calamity-effected cannot be expanded without prior approval of the Commission.
- xiv. Similarly, any selective assistance to a group of persons from the PM's or the CM's Relief Fund will require prior approval of the Commission.

The following type of activities will require prior permission of the Commission:

- a. New works and project cannot be taken up from discretionary funds of whatever nature. Discretionary fund, in this context, includes funds, which are provided for in the budget in a generic manner and for which no identified and sanctioned project exists prior to Model Code of Conduct coming into effect.
- b. Proposals for revival of sick PSUs, governmental take over of enterprises etc. (or any policy decision on similar lines) cannot be taken up.
- c. Fresh auctions of liquor vends etc. cannot be held even if the annual



auction time falls within the Model Code of Conduct period. Where necessary, the government should make interim arrangements as provided in their respective laws.

- d. Area of operation of any existing project/scheme/programme can not be extended or expanded.
- e. No land allocation shall be made by the government to any entity, whether individual or an enterprise.
- f. Signing a MOU or an agreement where the government is a party will also require prior clearance by the Commission.
- g. Regular recruitment/appointment or promotion through the UPSC, State Public Service Commissions or the Staff Selection Commission or any other statutory authority can continue. Recruitments through non-statutory bodies, will require prior clearance of the Commission.
- h. While starting any work (including any relief work) or developmental activity no formal function shall be held involving any political functionary. As a matter of good practice, normal functions and publicity even with the presence of official functionaries should be kept to the minimum.
- i. Where works are to be undertaken or functions are to be held in fulfillment of international commitments, prior concurrence of the Commission shall be taken.
- j. All Government of India references to the Election Commission of India shall be made preferably through the Cabinet Secretariat. In so far as reference from State Governments are concerned, the same shall be made to the Election Commission of India through the Chief Electoral Officer (CEO) of the state concerned.



**Circular 4 ; CM/PM Relief Fund for Medical Assistance**

**ECI letter No. 437/6/INST/2014/CC&BE, dated 14.03.2014 addressed to the Chief Secretaries and Chief Electoral Officers of all States and UTs:**

I am directed to refer to the Commission's letter No. 437/6/2009-CC&BE, dated 5<sup>th</sup> March, 2009, on the subject cited above, whereby the Commission issued guidelines regarding implementation/processing of the various projects, schemes, rural development programmes etc. by the Central/State Governments.

As per para 9(b) of the aforesaid letter, dated 5<sup>th</sup> March, 2009, payment directly to the hospitals from CM's/PM's Relief Fund, in lieu of direct cash payment to individual patients (beneficiaries) will be permissible without reference to the Commission, on the work that are necessitated due to man-made or natural calamities.

It has come to the notice of the Commission that medical assistance under PM's/CM's Relief Fund is also released for various treatment/operation, like heart surgery, kidney transplantation, cancer treatment etc. which are time bound in nature and can't be postponed without endangering patient's health.

The Commission invariably takes a humanitarian view on the release of PM's/CM's Relief Fund for the treatment/operation purpose and it has no objection to the release of PM's/CM's Relief Fund for the medical treatments, provided selection of beneficiaries/patients are done by the concerned Government Officials/Head of the concerned Private Hospitals.

The above instruction of the Commission may kindly be communicated to all concerned.



**Circular 5 : Applicability of Model Code to various Govt. Schemes/projects etc**

**ECI letter No. 437/6/INST/2009-CC&BE dated 9th March, 2009 addressed to Shri S.B.Agnihotri, Jt. Secretary, Cabinet Secretariat, New Delhi;**

I am directed to refer to your D.O. No. JS (SBA)/2009/04 dated 4th March, 2009, addressed to Shri J.P. Prakash, Deputy Election Commissioner and to state that the Commission has decided that any additional work under the following schemes referred to in your letter, shall be under taken with the prior approval of the Commission :-

1. Accelerated Irrigation Benefits Programme (AIBP)- M/o Water Resources.
2. National Social Assistance Programm (NSAP) – M/o Rural Development
3. Jawaharlal Nehru National Urban Renewal Mission (JNNURM) – Including the scheme of purchase of buses for urban transport system- M/o Urban Development
4. Accelerated Power & Development Reform Programme (APDRP)- M/o Power
5. Indira Awas Yojana (IAY) – M/o Rural Development
6. Swaranjayanti Gram Swarojgar Yojana (SGSY) – M/o Rural Development
7. Sampoorna Gramin Rojgar Yojana (SGRY) – M/o Rural Development
8. Pradhan Mantri Gram Sadak Yojana (PMGSY) – M/o Rural Development
9. Technology Upgradation Fund Scheme (TUFS) – M/o Textiles
10. National Rural Employment Guarantee Act (NREGA) – M/o Rural Development.
11. Affordable Housing- to be implemented by M/o Housing and Urban Poverty Alleviation (HUPA)



**Circular 6; Clarification regarding implementation of Rural Development Programmes**

**Election Commissioner's letter No. 437/6/16/2003/PLN-III, dated 01.04.2004**

1. Sampoorna Grameen Rozgar Yojana (SGRY): - Continuing works in Progress under SGRY may be continued and funds earmarked for such works can be released. In case of any Panchayat where all on going works have been completed and there is a requirement for taking up NEW wage employment works and where funds released directly to the Panchayats from the Ministry of Rural Development are available, new works can be started from approved annual action plan for 2003-04 with the prior consent of the District Collector / District Election Officer. From other funds, no new works should be started.
2. Indira Awas Yojana (IAY): - Beneficiaries who have been sanctioned housing scheme under IAY and have started work, will be assisted as per norms. No new constructions will be taken up or fresh beneficiaries sanctioned assistance till the elections are over.
3. Swaranjayanti Gram Swarozgar Yojana (SGSY): - Under SGSY, only those help groups which have received part of their subsidy / grant will be provided the balance installments. No fresh individual beneficiaries or SHGs will be given financial assistance till the elections are over.



**Circular 7. Implementation of drought relief work -regarding.**

**Election Commission's letter No. 437/6/23/2004 PLN.III, dated 11.03.2004**

**Subject: General Elections 2004 - Implementation of drought relief work -regarding.**

The Commission has been receiving various representations from the State Governments regarding the modalities of implementing relief work in areas which have been declared as "drought affected" in the respective States. The Commission after taking into account all relevant factors, directs the following :-

- (i) The drought relief works by way of immediate relief measures to be taken up by the State Governments shall only be in the areas which have been declared as "drought affected" within the parameters laid down under the guidelines for managing of Calamity Relief Fund by the Central Government. No new areas are to be added to the existing list of such "drought affected" areas after the announcement of elections on February 29<sup>th</sup> 2004. Addition of any additional area/village will only be subject to obtaining prior concurrence of the Commission after following the due procedure laid down for seeking assistance under the Calamity Relief Fund/ National Relief Fund laid down by the Government of India for operation of such funds.
- (ii) To provide immediate relief in the areas declared as drought affected, the Commission has provisionally approved the following measures:-
  - (a) Provision of drinking water by way of water tankers.
  - (b) Digging of bore-wells as well as dug-wells in scarcity areas on account of drying of the existing bore-wells/dug-wells.
  - (c) Provision of rice/wheat at prescribed rates for distribution among the destitute without support and who cannot go for work as per mechanism already prescribed in the Calamity Relief Fund Scheme.
  - (d) Provision of fodder for cattle.
  - (e) New works on wage employment (Food for work etc.) where such existing works have been completed.



- (iii) No minister of the Government or a political functionary will be associated in the management of the drought relief operations in any capacity, supervisory or otherwise, during period of operation of the model code of conduct.
- (iv) The entire relief operation would be taken up by the Division, District and Taluka/sub- District Administration without involving elected representatives and/or non-officials at any level.

Kindly ensure compliance of the directions of the Commission and acknowledge.



**Circular 8; Continuation of programme activities under PMGSY**

**D.O. No. PS/JS(RC)/04-216 February 24, 2004.**

Please refer to the Ministry's D.O. letter No. 17015/1/2004-GC dated 13<sup>th</sup> February, 2004 addressed to you. As you are aware the Pradhan Mantri Gram Sadak Yojana (PMGSY) is a Centrally Sponsored Scheme for providing rural connectivity. Copy of the PMGSY Guidelines is enclosed herewith. The main features include the following:

- The proposals for the road works are cleared by the State Level Standing Committee headed by the Chief Secretary. Detailed Project Reports (DPRs) are checked by independent State Technical Agencies such as IITs, RECs etc.
  - Proposals of the State are considered by the Inter-Ministerial Empowered Committee chaired by Secretary, Ministry of Rural Development and Adviser (Transport), Planning Commission, representative of Ministry of Road Transport & Highways and Director, CRRI, etc. are members of the Committee.
  - After clearance, the works are put to open tender by the State Government according to the Standard Bidding Document for PMGSY and works are to be completed within a period of 9 months.
2. The stages of execution commencing with the clearance by the Ministry to the Annual Proposals comprises:
- Issue of Notices Inviting Tenders, specifying date and time of closing of receipts f bids and opening of tenders as per Standard Bidding Document provisions
  - Finalization on the basis of lowest qualifying bid and award of work
  - Issue of Work Orders after Contract agreement.
  - Re-tendering in case of inadequate response

Decisions for the purpose are taken at the level of the Programme Implementation Unit (PIU) or the Executing Agency/Department as per pattern of the State.



3. Some State Governments have queried whether the PMGSY Scheme will be affected by the Model Code of Conduct to be brought into force by the Election commission of India. In this connection, it may be pointed out that the process of election of the road works qualifying under the PMGSY criteria and preparation of DPRs is a well regulated and time consuming process and proposals coming to the Empowered Committee are accordingly those which have been put through a systematic procedure starting many months earlier. The Empowered Committee is an official inter- Ministerial Committee. The PMGSY is a regular Centrally Sponsored Programme and the works have to be tendered and awarded in such a way that the earth work and Water bound Macadam (WBM) needs to be completed before the end of the monsoon for proper results. As an abundant precaution, the State Governments have been advised not to refer any matters relating to tendering and award of works for decision of the political executive, elected representative (if that was the practice) during the period of the Model Code of Conduct.

Accordingly, the Election Commission may kindly confirm that execution of annual PMGSY proposals of States cleared before coming into force of the Model Code of Conduct may be continued as per the PMGSY Guidelines (subject to such conditions that the Election Commission of India may like to lay down) so that the earth work and WBM is completed before the end of the monsoon. Needless to add, there will be no inaugurations, announcements, laying of foundation stones etc. by public figures/individuals during the period that the Model Code of Conduct is in force.



**Circular 9; Clarification regarding implementation/processing of various schemes and projects of the government:**

- (1) The work which has already been started on ground may be continued
- (2) No fresh work shall be started till the completion of the elections and
- (3) Tenders are not to be finalized during the period of elections.



**Circular 10. Major tenders and auctions – regarding.**

Election Commission's letter No.434/6/PLN-III, dated 22.03.1996, addressed to the Chief Secretaries of all States and Union Territories and repeated The Chief Electoral Officers of all States and Union Territories

It has been brought to the notice of the Commission that several major tenders, auctions etc. relating to matters such as liquor vends, tendu leaves and other such cases are being processed currently. The possibility that some of these auctions might result in unfair advantage/ disadvantage to the party in power/others cannot ignored.

2. The Commission, therefore, directs that in all cases where major such auctions etc. are to be held, they should be put off till the last date of completion of elections in the concerned areas and the State Government should make interim arrangements where unavoidably necessary.
3. Departures from this will be considered as serious violations of the code of conduct.



**Circular II. Constitution of a Screening Committee to examine the proposals to be sent Election Commission of India during the Model Code of Conduct of Elections:**

**GOVERNMENT ORDER No.DPAR 42 SAS 2017, BENGALURU, DATED:06<sup>th</sup> JUNE, 2017**

**PROCEEDINGS OF THE GOVERNMENT OF KARNATAKA**

**Subject:** Constitution of a Screening Committee to examine the proposals to be sent Election Commission of India during the Model Code of Conduct of Elections.

**Read:** Letter No.437/6/POL/LET/FUN/2017-CCS/721, dated: 09.01.2017 from Shri. R.K.Shrivastava, Senior Principal Secretary, Election Commission of India, New Delhi.

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**PREAMBLE:**

In letter dated 09.01.2017 read above, the Election Commission of India has stated that as a number of proposals relating to Model Code of Conduct are being received in the Commission from Chief Electoral Officers and sometimes from the concerned Departments directly, the Election Commission of India has decided that Screening Committee headed by the Chief Secretary of the State shall be constituted with the following composition:-

- |  |   |                 |
|--|---|-----------------|
| i) Chief Secretary                             | - | <b>Chariman</b> |
| ii) Secretary/Principal Secretary of           |   |                 |
| the department(s) to which the proposal relate | - | <b>Member</b>   |
| iii) Secretary/Principal Secretary of the      |   |                 |
| Co-ordination department of the State          | - | <b>Member</b>   |

The Election Commission of India has stated that the said Committee shall examine all such proposals, before sending it to the Election Commission of India through the Chief Electoral Officer concerned, in light of the existing instructions/clarifications available in the form of compendium/instructions available on the ECI Portal. It is further stated that the proposals cleared by the Screening Committee shall be submitted to the concerned Chief Electoral Officer along with full details and a note on urgency, i.e. why the proposal cannot



wait till completion of poll/election. Further, the Chief Electoral Officer shall forward only such proposal(s) that are cleared by the aforesaid Screening Committee to the Election Commission of India along with his/her comments immediately. Hence, the Election Commission of India has requested to advise all the departments of the State not to forward any reference directly to the Election Commission of India. It is further stated that the concerned Departments of the Government should not send original file(s) to the Chief Electoral Officer's Office and only a self contained reference be sent through the Screening Committee.

In view of the above, the State Government have examined the matter and have decided to constitute a three member Screening Committee to examine the proposals before sending the proposals to Election Commission of India along with appropriate guidelines. Accordingly, the following orders are issued:-

**GOVERNMENT ORDER No.DPAR 42 SAS 2017,**

**BENGALURU, DATED:06<sup>th</sup> JUNE, 2017**

In view of the facts and circumstances explained in the preamble, Screening Committee to examine the proposals when the Model Code of Conduct is in force before sending the proposals to Election Commission of India with the following members is constituted:-

- |   |            |
|---|------------|
| 1) The Chief Secretary to Government  | - Chairman |
| 2) The Additional Chief Secretary/Principal Secretary to Government/Secretary to Government of the department(s) to which the proposal relate               | - Member   |
| 3) The Additional Chief Secretary/Principal Secretary to Government/Secretary to Government, DP & AR (Administrative Reforms, Training & Political Pension) | - Member   |

Henceforth, the Screening Committee shall examine all such proposals, before sending it to the Election Commission of India through the Chief Electoral Officer of Karnataka & E/o Principal Secretary to Government, DP & AR (Elections).

The proposals cleared by the Screening Committee shall be submitted to the concerned Chief Electoral Officer along with full details and a note on urgency, i.e. why the proposal can't wait till completion of poll/election.

The Chief Electoral Officer shall forward only such proposal(s) that are cleared by the aforesaid Screening Committee to the Election Commission of India along with his/her comments immediately.

The concerned Department of the State Government should not forward any reference directly to the Election Commission of India.

The concerned Departments of the State Government shall not send original file(s) to the Chief Electoral Officer's Office and only a self contained reference be sent through the Screening Committee.

The concerned Departments shall submit the proposals to the Additional Chief Secretary/Principal Secretary to Government/Secretary to Government, DP & AR(Administrative Reforms, Training & Political Pension).

The Additional Chief Secretary/Principal Secretary to Government/Secretary to Government, DP & AR(Administrative Reforms, Training & Political Pension) shall be the convener of the meeting of the Screening Committee and shall coordinate with all the activities related to the Screening Committee.

The Chief Electoral Officer shall provide a copy of the MCC guidelines to the Screening Committee.

The Election Commission of India takes reasonable time to dispose of a reference, last minute reference should be avoided.



## II. PAYMENT OUT OF DISCRETIONARY FUNDS AND MP / MLA LOCAL AREA DEVELOPMENT SCHEME

### Circular 12: Release of funds under MPs' / MLAs' Local Areas Development Scheme

Election Commission's letter no. 437/6/1/2014-CC&BE dated 05.03.2014 addressed to The Cabinet Secretary, The Secretary Department of Programme Implementation and the Chief Secretaries/Chief Electoral Officers of all States and Union Territories

I am directed to refer to the Commission's Press Note No. ECI/PN/10/2014, dated 5<sup>th</sup> March, 2014 (Press Note available at Commission's web-site – [www.eci.gov.in](http://www.eci.gov.in)) as per which the Commission has announced the enforcement of the Model Code of Conduct for the guidance of the Political Parties and Candidates, consequent on the announcement of General Election to Lok Sabha and to the Legislative Assemblies of the States of Andhra Pradesh, Odisha and Sikkim including certain bye-elections.

2. The Commission has considered the release of funds under the Member of Parliament Local Area Development Schemes and has decided that-

- a. No fresh release of funds under the Member of Parliament (including Rajya Sabha members) Local Area Development fund shall be made in any part of the country where election is in progress. Similarly no fresh release of funds under the MLAs'/MLCs' Local Area Development Fund shall be made, if any such scheme is in operation, till the completion of election process.
- b. No work shall start in respect of which work orders have been issued before the issue of this letter but the work has actually not started in the field. These works can start only after the completion of election process. However, if a work has actually started, that can continue.
- c. There shall be no bar to the release of payments for completed work(s) subject to the full satisfaction of the concerned officials.

**Circular 13; Payment from the discretionary Grants of Ministers on the eve of general elections:**

**Election Commission letter No. 437/6/89 dated the 07.11.1989**

I am directed to forward herewith a copy of Ministry of Home Affairs, New Delhi, letter No. 26/4/89, Public dated 3rd November, 1989, on the above subject and to request you to insert the instructions in the booklet containing Consolidated Instructions of the Election Commission of India' and to treat it as a part of the standing instructions contained in that booklet.

I am directed to enclose a copy of the relevant extracts from the judgment of the Supreme Court in Civil Appeal No. 1632 (NCE) of 1967 against the order of the High Court for the States of Punjab and Haryana in election petition No. 24 of 1967 and to state that in the interest of purity of elections, the Commission is in respectful agreement with the view expressed by the Supreme Court that the distribution of money from the discretionary grants on the eve of an election should be avoided. Although such disbursement may be for the general public good, it is an evil practice even if it may not be a corrupt practice. The Court has observed that the dividing line between an evil practice and corrupt practice is a very thin one. It would be understood that the energy to do public good should be used not on the eve of elections but much earlier and that even slight evidence might change this evil practice into corrupt practice".

2. Similar pronouncements have been made by the Courts in certain other cases also. The relevant extracts from the judgments are reproduced below:-

(a) Shri Khader Sheriff Vs. Munnuswami Gounder: (1955) (Supreme Court).

"It has been frequently pointed out that while it is meritorious to make a donation for charitable purposes, if that is made at the time, or on the eve of an election, it is open to the charge that its real object was to induce the electors to vote in favour of the particular candidate".



- (b) In the Wigan case, (2 O'M&H) Justice Bowen, J., one of the most noted judges of England in the second half of the nineteenth century had observed - "In the second place, I wish to answer the suggestion that this was merely charity. Charity at election times ought to be kept by politicians in the background. No doubt the distress was great in Wigan at this time, and there was probably many a fireless and breedless house through out the town; but the persons who ought to have relieved the distress were not politicians of Wigan; they ought to have stood aloof; they had another duty to discharge on that day and they could not properly discharge both duties at the same time. In truth, I think, it will generally be found that the feeling which distributes relief to the poor at the election time, though those who were the distributors may not be aware of it, is really not charity, but party feeling following in the steps of charity, wearing the dress of charity, and mimicking her gait."
- (c) While in the interest of the general good of the public it may be necessary to place discretionary grants at the disposal of the Ministers, certain restrictions should be imposed, either by providing in the rules governing the disbursement of the grants or otherwise, that payments out of the discretionary grants should not be made when a countrywide general election, or a mid-term general election or even a bye election is in prospect and in any case it should not be made after the notification calling any such election is issued. The rules may also require that the benefits are, as far as possible, uniformly distributed within the State and not utilized in a particular district or constituency alone.
3. The Commission desires that in the interest of fair and free elections certain healthy conventions should be introduced and if necessary, changes should also be made in the rules regulating the distribution of discretionary grants by Ministers so that no disbursement or promise of disbursement from the grant is made on the eve of an election. I am, therefore, to request that the observations made by the Supreme Court and the High Court of Punjab and Haryana may be brought to the notice of the authorities concerned for such action as may be considered necessary.



**Circular 14; Payments out of the discretionary funds on the eve of General Elections or Bye-Elections: ECI letter No. 576/17/84 dated 09.11.1984:**

I am directed to State that the Supreme Court in Civil Appeal No. 1632 (NCE) of 1967 (Ghasi Ram Vs. Dal Singh and Others) had observed as follows:-

"Although we have held in this case that the action of the first respondent cannot be characterised as not innocent, we are constrained to say that the attitude of Government is far from laudable, Election is something which must be conducted fairly. To arrange to spend money on the eve of elections in different constituencies, although for general public good, if when all is said and done is evil practice, even if it may not be corrupt practice. The dividing line between an evil practice and corrupt practice is a very thin one. It should be understood that energy to do public good should be used not on the eve of elections but much earlier and that even slight evidence might change this evil practice into corrupt practice. Payments from discretionary grants on the eve of elections should be avoided."

The Commission had earlier recommended to the Central and State Governments to issue necessary instructions so that ministers and other authorities do not sanction grants/payments out of the discretionary funds on eve of elections. The "Model Code of Conduct for the guidance of Political Parties, candidates and Governments" evolved by the Commission also inter alia is designed to discourage such grants/payments.

The Central/State/Union Territory Government must have either issued suitable instructions or been following certain wholesome conventions in this regard.

It is requested that these instructions or conventions may be observed both in letter and spirit at all elections - General or Bye-elections.

2. The Commission may please be informed of the action taken in the matter.
3. The earlier communication of the Commission in its letter No. 576/17/79 at the 10<sup>th</sup> October, 1979 may be treated as superseded.



### III.PUBLICITY

**Circular 15: Display of Photos of Political Functionaries on beneficiary cards, electric bills, construction site plaques etc-clarification regarding:**

**ECI letter No. 437/6/INST/2014/CC&BE, dated 11.09.2014**

I am directed to state that some clarification has been sought by the various Chief Electoral Officers on display of Photos of political functionaries on beneficiary cards, construction site and electric bills etc. The Commission has considered the issue and has decided as follows:-

- (i) Beneficiary cards distributed to beneficiaries, constructions site plaques etc. erected during the enforcement of Model Code of Conduct shall not contain photographs, messages of Chief Ministers, Ministers and other political functionaries. However, no interference is called for in respect of photos of political functionaries on beneficiary cards, construction site plaques etc. that are distributed/erected prior to the enforcement of model code of conduct.
- (ii) Similarly electricity bills, water bills etc. to be generated after the enforcement of Model Code of Conduct should not contain any photographs or messages/symbols of political functionaries/parties.
- (iii) The instructions contained in Commission's letter No. 437/6/INST/2013-CCC&BE, dated 13.11.2013 (copy enclosed) shall also be scrupulously followed.

**Circular 16: Instructions relating to deletion of all references on politicians/Ministers on the official website during election period of General/Bye-elections to the Lok Sabha and State Legislative Assemblies:**

**ECI letter No. 437/6/INST/2014/CC&BE, dated 20.03.2014**

I am directed to state that the Commission vide its letter No. 437/6/2007 (INST)-PLN- III, dated 21st November, 2007, issued instructions to deletion of all references on politicians/Ministers on the official website during election period of General/Bye-elections to the Lok Sabha and State Legislative Assemblies.

It has come to the notice of the Commission that the aforesaid instructions of the Commission are not being followed by Central and State Governments during election period. It is clearly mentioned in clause VII (iv) of Model Code of Conduct for guidance of Political parties and candidate:-

“VII. Party in Power

The party in power whether at the Centre or in the State or States concerned, shall ensure that no cause is given for any complaint that it has used its official position for the purpose of its election campaign and in particular

(iv) Issues 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 in power shall be scrupulously avoided.”

The Commission has considered the question of various references currently available in the Ministerial office website and in the State Government websites pertaining to several Department and Government Organization highlighting their achievements but eulogizing the same as personal achievements of Politicians/Ministers.

The Commission has decided that during the period when Model Code of Conduct is in force in connection with General Election to the Lok Sabha/State Legislative Assemblies currently going on, all references of Ministers, Politicians or Political Parties available on such Central/State Government's official website, shall be removed.



**Circular 17; Permission of Election Commission on DAVP's Newspaper Advt. on the occasion of the Death Anniversary of Former Prime Minister Smt. Indira Gandhi and the Birth Anniversary of Shri Sardar Valabhbhai Patel-reg.**

**ECI letter No. 437/6/CG/2013-CC&BE, dated 30.10.2013**

I am directed to refer to Commission's letter of even number dated 30<sup>th</sup> October, 2013 on the subject cited above.

The Commission has reconsidered the matter and decided that there may be no objection to the publication of photographs and message related to departed political leaders except those leaders who passed away in recent past.

In view of this the Commission has allowed the publication of photographs and messages in the proposed advertisement enclosed with your letter under reference.

**Circular 18; Applicability of Model Code of Conduct – Display of advertisements and hoardings at the cost of public exchequer**

**ECI letter No. 437/6/INST/2008- CC&BE, 13.04.2009**

*“The party in power whether at the Centre or in the States/UTs concerned. shall ensure that no cause is given for any complaint that it has used its official position for the purposes of its election campaign and in particular-(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 in power shall be scrupulously avoided.”*

With the announcement of the schedule of General Elections to Lok Sabha and to the Legislative Assemblies of various States on 2nd March, 2009, the Model Code of Conduct came into force immediately. The continuing display of such hoardings and advertisements at the cost of public exchequer, even if such Hoardings, advertisements or posters were displayed prior to the date of announcement of elections, constitutes a violation of the Model Code of Conduct as it provides an undue advantage to the party in power and has the effect of influencing the voters in favour of the party in power.

The Commission directs that all such hoardings, advertisements, etc. on display at the cost of Public exchequer shall be removed forthwith by the authorities concerned and a compliance report furnished to the Commission.

The Commission has also directed that no advertisements should be issued in the newspapers and other media including electronic media at the cost of public exchequer during the election period and the misuse of mass media during the election period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the party in power should be scrupulously avoided.

All Ministries/Departments/Offices of the Central Government and the State Governments may be informed of this directive of the Commission for immediate compliance.



**Circular 19; Display the photographs/calendars, etc of national leaders and prominent personalities in the government offices/premises- clarification reg.**

**ECI letter No. 437/6/INST-2008/CC&BE, dated 01.04.2009**

I am directed to invite a reference to the Commission letter of even number dated 28th March, 2009, on the above subject, and to state that the underlying intention of the Commission's instruction was that the photographs and images of the political functionaries, who deep influence on the minds of electors and many of whom are still active in public life and may even be contesting the current general elections, should not be displayed in the government buildings and premises as that would have the effect of disturbing the level playing field vis-à-vis the political functionaries of other parties and candidates.

In view of the inputs received, the Commission had issued the above instructions. In the meanwhile, certain doubts have been raised and clarification has been sought about the removal of the image of some national leaders, poets and prominent historical personalities of the past. In this regard, the Commission would like to state that the abovementioned underlying purpose of the instruction needs to be fully appreciated while being acted upon. It is clarified that while the photographs of Prime Minister, Chief Ministers, Ministers and other political functionaries should not be displayed, this instruction, however, is not applicable with regard to the images of national leaders, poets, and prominent historical personalities of the past, and the President of India and the Governors. It is further clarified that in case of any doubt in this regard regarding removal of any photograph or images, the issue may be referred to the Chief Electoral Officer of the State/Union Territory concerned before taking action in the matter.



**Circular 20; Publication of advertisements in connection with occasions like World Habitat Day, Pulse Polio/HIV awareness campaigns and celebrations of various 'Diwas' like Independence Day, Republic Day, Gandhi Jayanti, State Formation days.**

**ECI letter No. 437/6/INST/2009-CC&BE dated 23rd February 2009:**

The Commission receives various references from the Ministries/Departments seeking clearance for the publication of advertisements on the occasions of World Habitat Day. Pulse Polio Immunization/HIV awareness campaigns during the run-up to General/Bye-elections to the Lok Sabha/State Legislative Assemblies when the model code of conduct is in force.

Objecting to the publication of advertisement on important social issues is never intended by the Commission. It only wants to ensure that the party in power does not misuse the Government machinery in the garb of spreading a social message which is against the spirit of providing a level playing field and so violate the spirit of free and fair election. Election Commission of India has therefore, taken a clear stand that there will be no objection to the release of such advertisements if they do not contain the photograph or political message of any Minister/political dignitary and do not highlight the achievements of the party which may influence the voters and induce them to vote in their favour.

Different important historical days like Independence Day, Republic Day, Gandhi Jayanti, Shivaji Jayanti and State Formation Days are celebrated with much fanfare which are attended to by Central/State Ministers who, at time, make it a platform for gaining political advantage by highlighting the achievements of the party in power or their political functionaries contesting the elections. The Commission has taken a serious note of this and decided that while the Ministers can participate in such celebrations the theme of their speeches should be confined only to the historical background, deeds and achievements of the historical figures and they must take utmost care not to make any political speech converting the forum into a platform for political campaign.

For similar reasons, there will be a complete ban on celebrations like "xxx years/days in power" during this period as such occasions are virtually utilized to highlight the achievement of the party in power.



**Circular 21. Instructions relating to deletion of all references on politicians/Ministers on the official website during election period of General / Bye-Elections to the Lok Sabha and State Legislative Assemblies – regarding:**

**Election Commission's letter No.437/6/2007(INST)-PLN-III Dated : 21st November, 2007;**

I am directed to state that the Commission has considered the question of various references currently available in the State Government websites/Ministerial official websites pertaining to several Department and Govt. Organization highlighting their achievements but eulogizing the same as personal achievements of Politicians / Ministers. The Commission has decided that during the period when model code of conduct is in force in connection with general election to the Lok Sabha /State Legislative Assemblies, all references to Ministers, Politicians or Political Parties available on such State Government /Central Government 's official websites, shall be taken off/ purged of. During bye-elections, these instructions may be confined to only those Politicians/Ministers, etc. who themselves become candidates at such bye-elections.

This may kindly be brought to the notice of all concerned for strict compliance.  
Kindly acknowledge receipt.

**Circular 22; Display of advertisements and hoardings at the cost of public exchequer:**

**Election Commission's letter No. 437/6/2004-PLN III, dated 08.03.2004;**

It has come to the notice of the Commission that a number of hoardings depicting the achievements of the party in power are being displayed by the Union and the States/UT Governments at the cost of public exchequer. Your attention is invited to sub-para (iv) of para VII - Party in Power- of the Model Code of Conduct for the Guidance of Political Parties and Candidates which is as under:-

The party in power whether at the Centre or in the States/UTs concerned, shall ensure that no cause is given for any complaint that it has used its official position for the purposes of its election campaign and in particular-(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 in power shall be scrupulously avoided.'

With the announcement of the schedule of elections to Lok Sabha and the legislative Assemblies of Andhra Pradesh, Karnataka, Orissa and Sikkim on 29<sup>th</sup> February 2004 the Model Code of Conduct came into force immediately. The continuing display of such hoardings and advertisements at the cost of public exchequer, even if such Hoardings, advertisements or posters were displayed prior to the date of announcement of elections, constitutes a violation of the Model Code of Conduct as it provides an undue advantage to the party in power and has the effect of influencing the voters in favour of the party in power.

The Commission directs that all such hoardings, advertisements, etc. on display shall be removed forthwith by the concerned authorities and a compliance report furnished to the Commission.



The Commission has also directed that no advertisements should be issued in the newspapers and other media including electronic media at the cost of public exchequer during the election period and the misuse of mass media during the election period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the party in power should be scrupulously avoided.

All Ministries/Departments/Offices of the Central Government and the State Governments may be informed of this directive of the Commission for immediate compliance.

#### IV. USE OF OFFICIAL VEHICLES

**Circular 23; Use of vehicles for election campaign-Bullet- proof vehicles provided for security reasons- clarification.**

**ECI letter No. 437/6/INST/2009-CC&BE dated 25.10.2009;**

Please refer to the Commission's letter No. 437/6/2007/PLN-III, dated 24th October, 2007, on the above subject. In the said letter, it has been mentioned that in the case of persons provided with Z-plus security cover and allotted bullet-proof vehicle in view of security considerations, would be permitted to use such state owned bullet-proof vehicle during the period of operation of Model Code of Conduct. It has also been mentioned therein that the cost of propulsion of such bulletproof vehicles will be borne by the Government.

The Commission has re-considered the above issue. On such re-consideration, the Commission has decided that while the political functionaries provided with bullet-proof vehicles on security considerations may continue to use the bullet-proof vehicles during the period of operation of Model Code of Conduct, the cost of propulsion of such vehicles should be borne by the person concerned when it is used for non-official purposes during such period. If the person is a leader of political party in terms of Explanations 1 and 2 under Section-77(1) of the Representation of the People Act, 1951, the expenditure on propulsion of the vehicle may be borne by the political party concerned for any journey referred to in the said Section-77(1). In no case, the expenditure will be borne by the government in such cases.

These instructions may be brought to the notice of all election authorities and other authorities concerned in the State and also to the notice of all political parties based in your State including the State units of recognized political parties.



**Circular 24. Use of official vehicle by the functionaries of the various Boards/Commissions etc.- regarding:**

**Election Commissions letter No. 437/6/2008/CC&BE Dated : 19th October,2008;**

It has been brought to the notice of the Commission that the vehicles provided by the State Government to non-official functionaries viz. Chairman, Dy. Chairman, President, Vice President, Commissioners etc. of the various autonomous organizations are likely to be misused during the electioneering. The provisions of the Model Code Conduct and various instructions issued from time to time prohibit the use of official vehicle for the purpose of electioneering to ensure a level playing field among the parties and candidates in the fray.

The Commission, after taking into account all relevant factors, has decided that the functionaries of all the autonomous organizations may be instructed to use the official vehicle only for commuting between office and residence and to attend any official meeting within the Head Quarters itself. The District Administration may be advised to keep strict vigil on the movement of such vehicle and any vehicle found being misused may be confiscated forthwith.

This may be brought to the notice of the all concerned for strict compliance.

**Circular 25. Prevention of misuse of official vehicles during elections – Clarification**

**Election Commission's letter No. 4/2001/J.S.II dated 30.03.2001;**

1. The Commission had directed in the above Order that the restrictions on the use of official vehicles for campaigning, electioneering or election related travel are applicable in the case of the Speaker, the Deputy Speaker of Lok Sabha and the Deputy Chairman of Rajya Sabha at the time of General Elections to the Lok Sabha.
2. In Order to ensure free and fair poll and maintain the purity of election process, the Commission has directed that the restrictions on the use of official vehicles for campaigning, electioneering or election related travel as enumerated in the Commission's Order dated 15<sup>th</sup> January, 1996 will be equally applicable in the case of Speaker and Deputy Speaker of the State Legislative Assembly at the time of General Election to any State Assembly irrespective of whether the Speaker and/or the Deputy Speaker of the Legislative Assembly is a contesting candidate or not at the General Election to the State Assembly.
3. This should be brought to the notice of all concerned including the units of all recognized National and State Parties in your State.
4. This disposes of Message No. 2243/2001 -1, dated 16<sup>th</sup> March, 2001 from Chief Electoral Officer, Tamil Nadu.
5. The receipt of this letter may kindly be acknowledged immediately.



**Circular 26; Use of Aircraft during the Election Process :**

**Election Commission's letter No.437/6/98-PLN-III, dated 18.08.1999**

The Commission has already issued detailed instructions regarding use of Government aircraft owned by the Government and Public Sector Undertakings. As per these existing instructions, during the election process, there is a complete ban on use of aircraft by political functionaries including Chief Minister and Ministers. The only exemption is for the Prime Minister in office. These instructions have been reiterated by the Commission on 14<sup>th</sup> July, 1999.

- a. Requests have been received from some of the Chief Ministers for relaxation of these restrictions for various reasons including those of security.
- b. The Commission reviewed the matter in depth and obtained further inputs from appropriate quarters in this regard. After taking into consideration all relevant factors into account, the Commission has decided that the existing instructions in the matter will stand and there shall be no relaxation in the matter for any reason.
- c. The Commission's existing restrictions do not, however, prohibit use of private aircraft by such political functionaries including Chief Ministers. Accordingly, the Commission makes it clear that such political functionaries including Chief Ministers may, if required, hire private aircrafts and use it for their political campaign and other election related activities. The expenses of use of such aircraft can be paid for by the concerned political parties and have to be accounted for suitably in their accounts.
- d. Kindly acknowledge the receipt.

**Circular 27. Use of Aircraft by Political Parties-regarding:**

**Election Commission's letter No. 437/6/98/PLN-III dated 08.01.1998;**

The Commission has already issued detailed instructions regarding use of Government aircraft owned by the Government and Public Sector Undertakings. As per these existing instructions, during the election process there is a complete ban on use of aircraft by political functionaries including Chief Minister and Ministers. The only exemption is for the Prime Minister in office. These instructions have been reiterated again recently by the Commission on 16.12.1997.

Requests have been received from some of the Chief Ministers for relaxation of these restrictions for various reasons including those of security.

The Commission reviewed the matter in depth and obtained further inputs from appropriate quarters in this regard. After taking into consideration all relevant factors into account, the Commission has decided that the existing instructions in the matter will stand and there shall be no relaxation in the matter for any reason.

The Commission's existing restrictions do not however prohibit use of private aircraft by such political functionaries including Chief Ministers. Accordingly the Commission makes it clear that such political functionaries including Chief Ministers may, if required, hire private aircrafts and use it for their political campaign and other election related activities. The expenses of use of such aircraft can be paid for by the concerned political parties and have to be accounted for suitably in their accounts.

Kindly acknowledge the receipt.



**Circular 28; General Elections; Security cover to Ministers/Candidates:**

**Election Commission letter No.437/6/96-PLN-III, dated 09.04.1996**

Instructions have been issued from time to time on the question of use of aircraft/helicopter and motor cars and vehicles in connection with election work by political personalities, whether in office or outside. The following instructions are issued in consolidation/modification of all other instructions in this regard and should be scrupulously followed with immediate effect :-

1. No part of the present instructions may be treated as effecting any modification whatsoever in regard to the existing instructions regarding the travel and the provision of facilities including transport and security, for the Prime Minister even when he is travelling specifically for party and election work. The existing instructions should be scrupulously adhered to.
2. All the remaining political personalities including both those in office e.g. Minister of the Union Government or Chief Minister or Minister of the State Government or occupants of any other public office such as Chairman of a State Corporation, Cooperative etc. And those not in any public office will be governed by this order.
3. No relaxation can be made to any person with regard to the absolute ban on the use of Government owned/funded/hired means of transport for any reason other than security. These exclusions refer for example to age, state of health etc.; and to all manner of vehicles.
4. The use of State owned aircraft (whether fixed wing or helicopter) propelled at State cost or hired at State cost will not be permitted for any reason including security. No exceptions in this regard will be made.

5. In respect of persons covered by security, the use of State owned one bullet proof vehicle for the particular person (PP) will be permitted in all cases where the security agencies, including the intelligence authorities, have prescribed such use. The use of multiple cars in the name of stand-by should not be permitted unless so specifically prescribed by security authorities. The cost of propulsion of such bullet proof vehicles where such use of bullet proof vehicles is specified will be borne by the particular person whether he is in office or out, and whether he is a candidate or not.

The number of vehicles to accompany the cascade including pilots, escorts etc. will be strictly in accordance with the instructions laid down by the security authorities and shall not exceed them under any circumstances. The cost of propulsion of all such vehicles, whether owned by Government or hired vehicles, will be met by the State Government. No recovery need be made also on the cost of the manpower provided.

In all cases where a party or a candidate hires a private aircraft/helicopter for any reason whatsoever, the complete cost will be included as part of election expenditure without exception.

All persons who are included in the category of ex-Prime Ministers are also covered by these instructions and are not entitled to the special stipulations provided for the Prime Minister in office.

No relaxation can be provided on any considerations including those of security to any one regarding the use of loudspeakers whether fitted on vehicles or otherwise.



**Circular 29; Chartering of aircraft and helicopters**

**Election Commission's Order No. 437/6/94/MCS-Vol V dated 20.10.1994;**

1. The Commission has already issued instructions imposing a total and absolute ban on the use of official vehicles for campaigning, electioneering or election related travel during elections.
2. It has been brought to the notice of the Commission that political parties are getting State/ Public Sector Undertakings aircraft/helicopters chartered through private companies etc. for electioneering in such a way that the other parties are put to a disadvantage. The commission has, therefore, directed that the procedure to be followed for chartering Government aircraft/ helicopters (including those owned by Public Sector Undertakings and Corporations) should be on an absolutely equitable basis and should be widely publicized. Some of the minimum conditions which should be included in the procedure to make it absolutely equitable are as under:-

There should be no discrimination between the ruling party on the one hand and the other parties and contesting candidates on the other.

The payment will be made by the political parties or the contesting candidates and proper record maintained.

The rates and terms and conditions should be uniform for all.

The actual allotment should be made on a first-come first-served basis. For this purpose, the date and time of receipt of the application should be noted down by the authorized receiving authority.

In the rare case when both the date and time of two or more applicants is the same, the allotment will be decided by draw of lots.

To obviate any contingency of rejection of an application for failure to mention certain particulars or on such other technical grounds, a format of the application should be prepared and made available to all those who want to avail of the facility.

No individual, firm, party or candidate will be allowed to charter the aircraft/helicopter for more than three days at a time. Any application which does not conform to this requirement shall be rejected.

3. The above conditions/stipulations to be incorporated in the procedure are illustrative and not exhaustive. Every endeavor should be made to make the procedure as equitable and just as possible.
4. The entire exercise should be transparent and wide publicity, if necessary, through print and electronic media should be given in advance about the entire procedure. There should be no scope whatsoever that any part of the exercise was done under a cloak of secrecy.
5. A copy of the instructions issued in this regard should be sent to the Commission immediately after issue.



## V.MEETING/VIDEO CONFERENCE/TOUR OF MINISTERS

**Circular 30: Construction of Helipads by State Administrations during Election Tours of the Prime Minister-reg.**

**ECI letter No. 437/6/MISC/2015-CC, dated 19.06.2015**

I am directed to refer to your letter No. VI.23014/241/2012-VSI, dated 22<sup>nd</sup> May, 2015, on the subject cited, and to clarify that for the construction of helipad during election tours of the Prime Minister, the State Administrations can be requested to undertake construction of helipads. However, the expenses incurred on the construction of such helipads will be borne by the political party concerned in accordance with the Commission's instructions related to charging of expenditure for star campaigners.

**Circular 31. Relaxation of Model Code of Conduct on PM's visit-reg;**

**ECI letter No.437/6/CG/2014-CC&BE dated 07.10.2014**

In reference to your D.O. letter dated 7<sup>th</sup> October 2014 addressed to Shri Vinod Zutshi, Dy. Election Commissioner, on the subject cited, I am directed to state that after considering the matter, the Commission has decided to exempt the Prime Minister from the operation of the model code of conduct provision pertaining to the combining of official visit with electioneering visit in the current case and for all future elections.



**Circular 32; Model Code of Conduct-Ban on Video Conferencing;**

**ECI letter No. 437/6/INST/2014/CC&BE, dated 18.03.2014**

I am directed to invite reference to the Commission's letter No. 437/6/2004- PLN III, dated 30-12-2004, on the above subject. In the said letter, it was directed that during the period of operation of MCC, no video-conferencing shall take place between the Chief Minister/Ministers/ political functionaries of the Union and State Govts. with the officials.

2. The Commission has re-considered the matter in the light of certain requests to permit video-conferencing to assess/monitor situation in the event of natural calamity. The Commission has decided that in the immediate aftermath of any calamity of significant scale/magnitude, if video-conferencing is considered essential, then Chief Minister or Minister concerned may hold one video-conferencing with the officials concerned subject to the following conditions:-

1. The CEO of the State shall be approached by the Department concerned and approval of the CEO should be obtained before holding the VC. For any subsequent VC, permission from the Commission shall be obtained;
2. Only the Collector/District Magistrate and senior officials in charge of the relief in connection with the natural calamity of the area concerned alone shall be called to attend the video-conferencing;
3. No issue other than rescue/relief and other aspects connected to the calamity shall be discussed in the VC;
4. No publicity whatsoever shall be given for the VC, either before or after the VC,
5. The VC should not be open to media;
6. An Audio/Video recording of the proceedings of the VC shall be maintained by the Department concerned and a copy of the same given to the CEO;

7. No announcement or promise of any grant, assistance in cash or kind, and no statement of political nature or announcement capable of influencing the electors shall be made through the VC.
8. A representative of the CEO will be present during the VC.
9. It may be noted that the above exception is only in the immediate aftermath of a calamity of significant scale/magnitude, and the ban on video-conferencing by Ministers and political functionaries with the officials during the period of operation of MCC will continue to apply as generic principle.

These instructions may be brought to the notice of the State Govt. and all election officials in the State.



**Circular 33 ; Model Code of Conduct - Ban on Video Conferencing- regarding**

**Election Commission's letter No. 437/6/2004-PLN III, dated 30.12.2004**

I am directed to refer to Commission's letter no. 437/6/96/PLN -III dated 17<sup>th</sup> January, 1996 (Copy Enclosed) and to state that the Commission has considered the issue of video conferencing after the announcement of elections between the Chief Minister of the States, Ministers and other political functionaries of the Union and State Governments and the officials and decided that no video conferencing should take place between the Chief Ministers of the States, Ministers and other political functionaries of the Union and State Governments and the officials individually or collectively, after the announcement of elections and from the date from which Model Code of Conduct comes into force in a state or the constituency.

The receipt of the letter may kindly be acknowledged.

**Circular 34; Tours of Chief Ministers and Ministers of Union govt. – regarding**

**ECI letter No.437/6/INST/2011-CC&BE dated 27<sup>th</sup> April, 2011**

In partial modification of Commission's Instruction No.437/6/INST/2011- CC&BE, dated 01<sup>st</sup> April, 2011, the Commission has decided that the restriction regarding personal staff members who can accompany on personal/private tours shall not apply to the Prime Minister.



## **Circular 35; Tours of Ministers – General Elections**

**Election Commission's letter No.437/6/2007-PLN-III Dated : 23<sup>rd</sup> November, 2007**

The Commission, in order to ensure a level playing field which is a precondition for free and fair elections, has issued instructions from time to time governing such tours of ministers and has prescribed certain guidelines to ensure that the official machinery is in no way engaged in any election related work by such touring dignitaries. These have been upheld by the Supreme Court of India in the case of Narendra Kumar Gaur vs. Election Commission of India in Writ Petition No. 339 of 1999 on 16.08.99.

2. The Commission's instructions contained in the letters mentioned at the reference above have been consolidated for the sake of convenience in the following paragraphs :-

(1) If a Minister of the Union is traveling from his/her headquarters to a poll bound state/district on purely official business, which cannot be avoided in public interest, then a letter certifying to this effect should be sent from the Secretary of the department/ministry concerned of the Government of India, to the Chief Secretary of the state which the Minister intends to visit, with a copy to the Commission. On receipt of such information from the Secretary that the Union Minister is proposing a purely official visit and no political activity of any kind is envisaged during such tour, the Chief Secretary may provide the Union Minister with a Government vehicle and accommodation and extend other usual courtesies for his official trip. While doing so, the Chief Electoral Officer of the State, who is entrusted with the task of monitoring of electoral activity in the State, including the implementation of the Model Code of Conduct, shall be alerted in advance by the Chief Secretary. The Commission will keep watch on such arrangements in consultation with its Chief Electoral Officer. It is hoped that the Union Ministers will avoid making official visits to their home States, Constituency state and particularly to the constituencies from where they are contesting elections while it is open for them to make private visits (See ECI instruction No. 437/6/99 – PLN III dated 15.07.99)



**(2) The Commission also directs that –**

- (i) No minister of State Government shall undertake an official visit to any constituency for which elections have been announced by the Commission during the period commencing with announcement of the elections upto end of the election process.
- (ii) Minister will not summon any election related officer of the constituency or the State in which any elections have been announced, to a place or office or guest house inside or outside the aforesaid constituency for any official discussions during the period of elections commencing with the announcement of the elections from such constituency and ending with the completion of election process.
- (iii) The only exception to these instructions will be when a Minister, in his capacity as in charge of the department concerned, or a Chief Minister undertakes an official visit to a constituency, or summons any election related officers of the constituency to a place outside the constituency, in connection with failure of law and order or occurrence of a natural calamity or any such emergency which requires personal presence of such Ministers/Chief Ministers for the specific purpose of supervision review/salvage/relief and other similar purposes. (See ECI instruction No. 437/6/96/PLN III – dated 17.01.96)

(3) It is clarified that the Ministers are entitled to use their official vehicles in their headquarters from their place of residence to their office for official work provided that such commuting is not combined with any electioneering or any political activity which would include a visit to party office even if it were enroute. No pilot car(s) or car(s) with beacon lights of any colour or car(s) affixed with sirens of any kind making his presence conspicuous shall be used by any Minister during his/her electioneering visits, even if the State administration has granted him a security cover requiring presence of armed personnel to accompany him on such visit. (See ECI instruction No. 437/6/96/PLN III – dated 17.01.96)



(4) During bye elections from any constituencies, either Parliamentary or Assemblies, the following restrictions will be applicable with regard to the tours of Ministers subject to exceptions mentioned above in para 2(iii) covering situations of grave emergency:-

- (i) All Ministers, whether Central or State, shall not combine in any manner their official tours with election work after the announcement of the bye elections. They shall return to their headquarters on completion of their official tours. All and any visits to the district(s) where bye-election is being held and where Model Code of Conduct is, therefore, in force, have to be completely private in nature and such private visits should begin and end at the Minister's headquarters.
- (ii) In case where a Minister traveling on official work transits through the district(s) where the bye-election is being held en route to any other district on official visit, he/she shall not halt in the district(s) where Model Code of Conduct is in force and shall not attend to any political work.
- (iii) No official of any rank of the district(s) where the bye-election is being held, shall be called to attend any meeting by any Minister in any district, that is to say, even in other districts where election is not being held.
- (iv) Any official who meets the Minister on his private visit to the constituency where elections are being held shall be guilty of misconduct under the relevant service rules; and if he happens to be an official mentioned in Section 129 (1) of the Representation of People Act, 1951, he shall also be additionally considered to have violated the statutory provisions of that Section and liable to penal action provided there under.
- (v) No pilot car(s) or car(s) with beacon lights of any colour or car(s) affixed with sirens of any kind making his presence conspicuous shall be used by any Minister during his/her private visit to the constituency where a bye election is under way even if the State administration has granted him a security cover requiring

presence of armed guards to accompany him on such visit. (See ECI instruction No. 437/6/4/2003 – PLN III dated 12.06.03)

(5) The Commission further directs that the Chief Electoral Officer of the State who is entrusted with the task of monitoring of electoral activities in the State including the implementation of Model Code of Conduct shall be kept informed in advance by the District Election Officer of any visit proposed to be undertaken by any Minister of the State Govt. or any Central Minister to the district where bye-election is being held and the Chief Electoral Officer shall forthwith communicate the same to the Election Commission. (See ECI instruction No. 437/6/4/2003 – PLN III dated 12.06.03)

3. Any violation of these instructions will be viewed as gross infringement not only of the Model code of Conduct but also of the authority of the Commission to promulgate such directions as it considers necessary to ensure peaceful, fair and free poll reflective of the true choice of the people, and will be visited with such action as considered appropriate by the Commission on the merits of the specific circumstances.



## **Circular 36; Tours of Union Minister of Railways**

**Election Commission's letter No. 437/6/7/2004/PLN-III, dated 28.12.2004**

Please refer to your letter no. 2004/G/32/1 dated 25.12.2004 seeking clarifications on following points.

1. When Hon'ble Minister of Railways is required to return from Patna to his Headquarters at Delhi for attending matters relating to the Railway Budget or attend Cabinet Meetings and Meetings of the Sub-Committees of the Cabinet; can his visits to Delhi be treated as official;
2. Whether the Hon'ble Minister of Railways can make an official visit from Patna (where he is doing political campaign) to Kolkata for attending various railway programmes in West Bengal. Whether such a journey from Patna to Kolkata and the visit of the Minister to various places in West Bengal by a Helicopter for attending railways functions can be treated as official.
3. Whether Hon'ble Minister of Railways can avail of his Identity Card/Privileges of Air Journeys as a Member of Parliament and as Union Minister for undertaking train/air journeys for going to Patna for political work and return to Headquarters at Delhi.

**The Commission has considered the matter and issues raised are clarified as follows.**

1. The Hon'ble Minister while in Patna for political campaign cannot come officially from Patna to New Delhi for attending the meetings relating to railway budget or Cabinet meetings or the meetings of the Sub-Committee of the Cabinet.
2. The Hon'ble Minister cannot combine his political or personal visit to Patna with official visit to Kolkata or elsewhere, even if, he pays the money for the entire trip himself. The Hon'ble Minister will have to return to his Headquarters to start the official journey. Under no circumstances, political or personal visits of the Ministers of the Union or State Government to the State of Bihar or Jharkhand or Haryana can be combined with official visits to any other place in India.
3. The Hon'ble Minister can avail of normal privileges of free railway / air pass as available to Members of Parliament, but he is not entitled to take benefit of privileges as Union Minister for Railways for train/air journeys for going to Patna and returning to Headquarters at Delhi.



**Circular 37; General Elections - Tours of Ministers**

**Election Commission's letter No. 437/6/96/PLN-III/, dated 17.01.1996**

I am directed to state that the Ministry of Home Affairs, Government of India vide their Circular No. 10/17/89-M & G, dated November 1, 1989 have reproduced the summary of their instructions on the tour of Ministers in connection with the election campaign. These instructions inter alia lay down some specific formalities to be observed separately for official and private tours of the Ministers of Government of India during the period of electioneering particularly in the context of the fact that such tours generally overlap. A copy of the abovementioned circular of the Ministry of Home Affairs dated November 1, 1989 is enclosed at Annexure I.

2. The Commission has been keenly watching the observance of the aforesaid instructions of the Ministry of Home Affairs by the Ministers both of Central Government and of the Government of State in which elections are held, as well as some other neighboring and other States whose Ministers pay visits to the States having elections during the period of electioneering. The Commission is constrained to observe that not only the spirit and letter of the aforesaid instructions of the Ministry of Home Affairs are vague, equivocal and permissive in nature, they are flouted with impunity and misused with flagrant disregard to the image of impartiality which persons in high public office must cultivate and preserve during the period of election in order to maintain the purity of the election process and insulate the free right of franchise to be exercised by the voters from the manipulative tactics of the privileged ruling party both at Centre and in the State Governments.

3. During the elections superintended by the Commission in recent years the Commission has been at pains to observe that the Ministers in their capacity as



Members of the ruling party at the Centre and in some States misused the government owned machinery including guest houses, and such like official infrastructures for the ostensible purpose of official visits for monitoring Government programmes with the covert intention of participating in the election campaign of their parties. Such Ministers are understandably accompanied, on the above described "official" visits, by functionaries of their political parties. No departmental officials are reported to be accompanying the Ministers on which visits and meetings as a result of which even semblance of an official visit is not maintained.

4. The Commission also observes with serious objection that local officers of the district administration and State Government who have also to perform statutory and other functions related to the conduct of elections are perforce made to attend on such Ministers in the name of administrative and security arrangements which further casts a suspicion on the much needed independence and impartiality of the election related officers.
5. In the above circumstances, the Commission in exercise of the plenary powers vested in it by virtue of Article 324 of the Constitution and all other powers enabling it in this behalf, has decided to issue its own directions in the interest of fair and free poll.
6. These instructions of the Commission do not in any way over-ride, modify or are affected by the instructions of the Ministry of Home Affairs, Government of India No. 10/17/89-M&G dated 1 st November, 1989 referred to above. The Commission directs in supersession of its earlier instructions, as follows:-

Hence forth no Minister either of Central or State Government shall undertake an official visit of any constituency from which elections have been announced by the Commission during the period commencing with the announcement of the elections upto the end of the election process.

The Commission also directs that no Minister will summon any election related

officer of the constituency or the State in which any elections have been announced, to a place or office or guest house outside the aforesaid constituency for any official discussions during the period of elections commencing with the announcement of the elections from such constituency and ending with the completion of election process.

The only exception to these instructions will be when a Minister, in his capacity as incharge of the concerned department, or a Chief Minister undertakes an official visit to a constituency, or summons any election related officers of this constituency to a place outside the constituency, in connection with failure of law and order or a natural calamity or any such emergency which requires personal presence of such Ministers/Chief Ministers for the specific purpose of supervising review/salvage/relief and such like purpose.

7. It is clarified that the Ministers are entitled to use their official vehicles in there headquarters from their place of residence to their office for official work provided that such commuting is not combined with any electioneering or any political activity.
8. Any violation of these instructions will be viewed as gross infringement not only of the Model code of Conduct but also of the authority of the Commission to promulgate such directions as it considers necessary to ensure peaceful, fair and free poll reflective of the true choice of the people, and will be visited with grave consequences as considered appropriate by the Commission on the merits of the specific circumstances.



**Circular 38; Election period-tours of ministers:**

**Election Commission's letter No. 437/6/ES0025/94/MCS dated 21.10.1994**

The Commission vide its letter No. 437/6/93-PS-II dated 31 st December, 1993 had reiterated the total and absolute ban on the use of official vehicles for campaigning, electioneering or election related travel during elections and had directed that there will be total ban on the use of any vehicles for any purpose connected with the election by any political party, the candidate or any other person connected with election.

2. The Commission vide its letter No. 437/6/94 dated 2nd February, 1994 had invited attention to the circular letter No. 10/17/89-M&G dated 1 st November, 1989 from the Ministry of Home Affairs on the tour of ministers in connection with the election campaign and had observed that those instructions were flouted with impunity and had therefore issued further instructions without, in any way overriding, modifying or affecting the instructions of the Ministry of Home Affairs dated 1 st November, 1989 referred to above.

3. The Supreme Court in its order dated 29th April, 1994 in a writ petition (Civil) No. 312 of 1994(State of Tamil Nadu versus Chief Election Commissioner and others) seeking exemption in the case of Chief Minister of Tamil Nadu had directed as follows :

*"While we are conscious of the effort being made by the Election Commission to ensure cleanliness of the electoral process and for the protection and ensuring of free and fair polls, we are afraid, the Election Commission cannot, as it seeks to do here, put out of consideration the security requirements of certain political personalities who might, in view of extremist and terrorist activities and threats to their lives, require security of a high order. To confine the security to only the Prime Minister of the country, as the Election Commission has done, and to deny, as the communication dated 31 st March, 1994 seeks to do, to all other may not reflect a proper perception and appreciation of the problem. At all events, the Election Commission will have to take note of the statutory provisions. However, we should*



*make one aspect clear. Having regard to the responsibilities and obligation of the Election Commission to ensuring purity of the electoral process, it is open to the Election Commission, if it has material to doubt that the assessments of the security requirement made by the Director of the Tamil Nadu Special Security Group under the status are so manifestly and unduly excessive as to amount to promotion indirectly, of partisan electoral interests, to bring such matter to the notice of the State Government for appropriate corrective steps."*

4. The Cabinet Secretariat in its letter No. 10/22/094-ES dated 3/5 May, 1994 had issued instructions that under the provisions of the Special Protection Group Act, 1988 protection is provided for proximate security of the following :

(i) The Prime Minister and the members of his immediate family;

(ii) Any former Prime Minister or the members of his immediate family for a period of 5 years from the date on which the former Prime Minister ceases to hold the office of Prime Minister.

5. In the light of the above order of the Supreme Court the Commission had substituted paragraph 3 of its letter No. 437/6/93/PS-II dated 31<sup>st</sup> December, 1993 vide para 6 of letter of even number dated 8th May, 1994 to say that "the Commission has decided that para 3 of its above referred circular letter No. 437/6/93-P-II dated 31<sup>st</sup> December, 1993 will stand substituted by the following :-

3(A) The only exceptions from the prohibitions mentioned in para 2 above will be the Prime Minister and other political personalities who might, in view of extremist and terrorist activities and threats to their lives, require security of a high order and whose security requirements are governed by any statutory provisions made by Parliament or the State Legislature in this behalf.

3(B) The Commission would like to make it clear that having regard to its responsibilities and obligations to ensuring purity of the electoral process, the Commission, if it has material to doubt that the assessments of the security requirements made by the authorities under the above referred special enactments or any other special instructions of the Government are so manifestly or unduly excessive as to



amount to promotion, indirectly, of partisan electoral interests, bring such matter to the notice of the Central Government and/or, as the case may be, the State Government for appropriate corrective steps.

3(C) For achieving this, the Commission may call for any information from the Central Government or the State Government concerned with regard to the assessment of the security requirements made in respect of any such personality. Such information shall be furnished to the Commission by the concerned Government forthwith."

6 It was further clarified by the Commission in its letter No. 437/6/94 dated 14th May, 1994 that all State Governments and the Union Territory Administration are requested to adhere strict strictly to the orders of the Supreme Court. Further, orders relating to security of the individuals issued under statutory powers or other powers must be fully honored.

7. The Commission has further directed that when such individuals visit State/Constituency for electioneering and election related work, the expenditure incurred on security arrangements like barricading/ rostrums etc. shall be borne by the concerned political parties.

**Circular 39 ; Tours of Chief Ministers – regarding**

**ECI letter No.437/6/INST/2011-CC&BE Dated: 01<sup>st</sup> April, 2011**

In partial modification of the Commission's instructions contained in Para (2) of its letter of even number dated 24<sup>th</sup> March, 2011, regarding the tours of Chief Ministers, the Commission has decided that during the Model Code period, one member of personal staff of Chief Minister of the State/Union Territory, who has been allowed to accompany him on personal/private tour should be a non-gazetted officer. Further, as already instructed, such personal staff shall not take part in any political activity or assist the Chief Minister in his political work.

The Commission has also decided that these instructions will be applicable also in the case of the Prime Minister/Union Cabinet Ministers.



**Circular 40 ; Tours of Chief Ministers – regarding**

**ECI letter No.437/6/INST/2011-CC&BE dated 24<sup>th</sup> March, 2011**

I am directed to state that according to Commission's existing instructions on the subject cited, the personal staff of the Chief Ministers or other Ministers shall not be allowed to accompany them during their private tours during the period of Model Code of Conduct.

The matter has been reconsidered by the Commission. It has been decided that during the Model Code period, one member of personal staff of the Chief Ministers of States/Union Territories may be allowed to accompany them on personal/private tour. However, such personal staff shall not take part in any political activity or assist the Chief Minister in his political work.

This may be brought to the notice of all concerned.

**Circular 41; Use of vehicles for election campaign-Bullet-proof vehicles provided for security reasons – Instructions – regarding.**

**ECI letter No.437/6/INST/2010-CC&BE/Vol.II dated 5<sup>th</sup> April, 2011**

I am directed to invite your attention to the Commission's letter No.437/INST/2009-CC&BE dated 25<sup>th</sup> March, 2009 (copy enclosed) on the subject cited.

1. The Commission has now received a reference seeking clarification as to whether the political functionaries, who have been provided with bullet proof vehicles on security considerations, if they use such vehicle on payment basis for election campaign, can allow other persons also to travel along with them.
2. The matter has been considered by the Commission. The Commission has decided that there would be no objection, if any other person, including any political functionary or candidate, travels along with a Z+ category political functionary, who has been provided with bullet proof vehicle and for which payment is being made by him or his party.
3. It is further clarified that where the political functionary provided with bullet proof car is a 'Star Campaigner' in terms of Explanation (2) to Section 77(1) of the Representation of the People Act, 1951, the expenditure on the use of bullet proof car would not be deemed to be expenditure incurred or authorized by any candidate.
4. If such political functionary is, however, not a Star campaigner, the expenditure on use of bullet proof car would be included in the account(s) of the candidate(s) in relation to whose election campaign such car is used.



**Circular 42: Use of Bullet Proof Vehicles by SPG Protected (other than Prime Minister) for election campaign – regarding.**

**ECI letter No.437/6/INST/2010-CC&BE dated 07<sup>th</sup> June, 2010**

I am directed to refer to your letters Nos. VI-23014/61/2010-VS dated 16<sup>th</sup> March, 2010 and 7<sup>th</sup> April, 2010 on the subject cited and to clarify, as follows the points raised in para 3 thereof :-

- (i) It is confirmed that the SPG protectees are covered under the instructions contained in Commission's letter No. 437/INST/2009 –CC&BE dated 25.03.2009;
- (ii) If the use of spare multiple vehicles has been prescribed in the case of the SPG Protectee by the security authorities due to security reasons, the same may be allowed at Govt. cost (except the vehicle used by the SPG Protectee)
- (iii) There may be no objection to the personal staff of the SPG Protectee accompanying the said Protectee in the B.R. car as the cost of propulsion of such bullet proof vehicle is to be paid by the Protectee or his political party where such SPG Protectee is a person covered by Section 77(1) of the Representation of the People Act 1951 (i.e. leader of the political party concerned who is called a star campaigner for the party). If any other political dignitary is allowed to accompany the SPG protectee, if the situation so warrants, then 50% of the cost of propulsion shall be booked in the election expenditure of the Party candidate from the particular Constituency concerned as already clarified in Commission's letter No. 437/6/INST/2008-CC&BE dated 31<sup>st</sup> October, 2008. However, it is further clarified that if such companion is also a star campaigner under the said Section 77(1), no such apportionment of expenditure shall be called for.

## VI. POSTING OF OFFICERS AND BAN ON TRANSFER OF OFFICERS

**Circular 43; Transfer/ Posting of Officers-regarding.**

**ECI letter No. 437/6/1/2014 dated 16.08.2014**

The Commission, in its task of conducting free and fair elections has followed the consistent policy to ensure that officers, who are connected with the conduct of bye-election in the States, do not serve in the areas falling in the Assembly/Parliamentary Constituency(ies) where they have served for long and is not their home constituency.

### **2. Bye-election to the Assembly Constituency (ies):**

(2.1) The Commission, in supersession of existing instructions, has decided that no officer connected directly with the conduct of Bye-elections, should be allowed to continue in the present posting within the Assembly Constituency limits:-

- (i) If she/he is posted in her/his home Assembly Constituency limit;
- (ii) If she/he has completed three years during last four years or would be completing 3 years on or before the last day of the sixth month from the date of occurrence of the casual vacancy.

**Such officers shall be shifted out of the Assembly Constituency limit.**

(2.2) (i) These instructions cover Returning Officers and Assistant Returning Officers of the Assembly Constituencies going for bye-elections. These instructions will also cover other officers viz. Deputy/Assistant Collectors, Sub-Divisional Magistrates, Tehsildars and Block Development Officer located in Assembly Constituency Limits.

It is however clarified that officers appointed as Sector Officers, though directly involved in election duties **will not be covered under these instructions** as their duties are such that they are deployed in field duties where their knowledge of the area/terrain is crucial to their effective performance. The CEO, DEO and RO should,



however, keep a close watch on them during the election period to ensure that their performance is strictly impartial.

(ii) As far as officer in the **Police Department** are concerned, these instructions shall be applicable to the Sub-Divisional Head of Police, Dy.SPs/Circle Officers, Inspectors, Sub- Inspectors or equivalent ranks posted in the field within the Assembly Constituency Limit.

(2.3) The Commission further desires that a detailed review may, therefore, be undertaken and all such officers be posted out of their home constituency limits where they have completed or

will complete, on the aforesaid date, tenure of three years in Assembly constituency limit out of the last four years, immediately. Further, for uniformity, the three year period shall be reckoned backwards from the last day of the sixth month as mentioned at para 2.1(ii).

### **3. Bye-election to the Parliamentary Constituency (ies):**

(3.1) The Commission, in supersession of existing instructions, has decided that no officer connected directly with the conduct of Bye-elections to the Parliamentary Constituency going for bye-election, shall be allowed to continue in the present posting within the Parliamentary Constituency limits:-

- (i) If she/he is posted in her/his home district within the concerned Constituency limit;
- (ii) If she/he has completed three years during last four years or would be completing 3 years on or before the last day of the sixth month from the date of occurrence of the casual vacancy.

**Such officers shall be shifted out of the Parliamentary Constituency limit.**

(3.2) (i) These instructions cover Returning Officers and Assistant Returning Officers of the Parliamentary Constituencies going for bye-elections. These instructions will



cover only that District Election Officer who is designated as Returning Officer. Other District Election Officers, even if some part of their district falls in the Parliamentary Constituency going for bye-elections shall not be covered under these instructions. The instructions will however cover other officers viz. Additional Collector, Additional District Magistrate, Deputy Collectors, Assistant Collectors, Sub-Divisional Magistrates, Tehsildars and Block Development Officer located in Parliamentary Constituency Limit.

It is however clarified that officers appointed as Sector Officers, though directly involved in election duties **will not be covered under these instructions** as their duties are such that they are deployed in field duties where their knowledge of the area/terrain is crucial to their effective performance. The CEO, DEO and RO should, however, keep a close watch on them during the election period to ensure that their performance is strictly impartial.

(ii) As far as officer in the **Police Department** are concerned, these instructions shall be applicable to the Superintendent of Police located in the District whose District Election Officer is also the Returning Officer. Other Superintendent of Police, even if some part of their district falls in the Parliamentary Constituency going for bye-elections shall not be covered under these instructions. These instruction will however cover Additional SP, Sub-Divisional Head of Police, Dy.SPs/Circle Officers, Inspectors, Sub-Inspectors or equivalent ranks posted in the field within the Parliamentary Constituency Limit.

(3.3) The Commission further desires that a detailed review may, therefore, be undertaken and all such officers be posted out of their home constituency limits where they have completed or will complete, on the aforesaid date, tenure of three years in Assembly constituency limit out of the last four years, immediately. Further, for uniformity, the three year period shall be reckoned backwards from the last day of the sixth month as mentioned at para 3.1(ii).



4. The Commission also desires that the officers/officials against whom Commission has recommended disciplinary action or who have been charged for any lapse in any election or elections related work in the past, shall not be assigned any election related duty.
5. The Commission further desires that no officer/official against whom a criminal case is pending in any Court of Law be associated with the election work or election related duty.
6. The Commission has in the past received complaints that while the State Government transfers officials in the above categories in pursuance of the direction issued by the Commission, the individuals try to circumvent the objective by proceeding on leave and physically not moving out of the district from which they stand transferred. The Commission has viewed this seriously and desires that all such officials who stand transferred in pursuance of the instructions referred to above shall be asked to move physically out of the district from which they stand transferred immediately on receipt of the transfer orders.
7. Normally, bye-election is held to fill up a casual vacancy within a period of six months from the date of occurrence of vacancy (excepting a situation beyond control of the Commission). Hence, it would be advisable if the State Government initiates steps for implementation of these guideline immediately after occurrence of a casual vacancy in a constituency so that last moment dislocation of officers can be avoided.
8. Any officer who is due to retire within coming six months will be exempted from the purview of the above-mentioned directions of the Commission. Further officers falling in category (home/3+ criteria) shall not be engaged for performing election duties during the elections, if they are due to retire within 6 months.

9. Details of the action taken may be intimated to the Commission for its information.

10. These instructions will begin to apply from the Bye-elections announced by the Commission vide its Press Note No. ECI/PN/37/2014, dated 16<sup>th</sup> August, 2014, onwards and shall be applicable scrupulously in all the bye-election to the Assembly/Parliamentary Constituency (ies) that will be held from time to time.



**Circular 44; Posting of Officers – clarification- regarding**

**ECI letter No. 437/6/1/2014 dated 21.02.2014:**

I am directed to refer to this office letter of even number dated 9<sup>th</sup> January 2014 on the subject cited and to state that some State Governments have brought to the Commission's notice that the expression in the opening para of said letter, namely, "no officer connected with elections, directly or indirectly should be allowed to continue in the present district of posting" is causing difficulty in the matter of implementation in so far as the officers **indirectly** connected with elections are concerned as that would involve transfer of a large number of officers. They have therefore pleaded for the reconsideration of the said instruction. The matter has been considered by the Commission. Taking into account the views expressed by the State Governments, the Commission has decided to amend the said clause as "no officer connected **directly** with elections should be allowed to continue in the present district of posting". However, if prima facie any complaint is received with regard to officials who are **indirectly** connected with elections, Commission shall take appropriate action against such officials. It is clarified that officers appointed as **Sector Officers**, though directly involved in election duties **will not be covered under these instructions** as their duties are such that they are deployed in field duties where their knowledge of the area/terrain is crucial to their effective performance and therefore they will continue to be deployed in the present area/terrain. The CEO, DEO and RO should, however, keep a close watch on such officers during the election period to ensure that their performance is strictly impartial.

**Circular 45; Posting of Officers – regarding**

**ECI letter No.437/6/1/2014-CC&BE dated 09.01.2014**

As you might be aware that the General Election to the House of the People (Lok Sabha), 2014 is to be held shortly. The Commission, in its task of conducting free and fair elections has followed the consistent policy to ensure that officers, who are connected with the conduct of elections in the States, do not serve in their home districts or places where they have served for long and decided that **no officer connected with elections, directly or indirectly, should be allowed to continue in the present district of posting:-**

**(a) If she/he is posted in her/his home district.**

**(b) If she/he has completed three years in that district during last four years or would be completing 3 years on or before 31.05.2014.**

It has been observed that the cut off date prescribed by the Commission has not been scrupulously followed by some State Governments. The Commission has therefore stressed that all the State Governments should strictly follow the cut-off date prescribed for calculating the three year period. Accordingly the 3 year period may be reckoned backwards from 31.05.2014.

- (ii) These instructions cover not only officers appointed for specific election duties like District Election Officers, Deputy District Election Officer, Returning Officers and Assistant Returning Officers but also other district officers like Additional District Magistrates, Deputy Collectors, Sub-Divisional Magistrates, Tehsildars, Block Development Officers or any other officer proposed to be deployed for election work.



As far as officers in the Police Department are concerned, these instructions shall be applicable to the Range IGs, DIGs, Commandants of State Armed Police, SSPs, SPs, Addl. SPs, Sub- Divisional Head of Police, Inspectors or equivalent ranks who are responsible for deployment of police force in the district at election time. The police officials who are posted in functional departments like computerization; special branch, training, etc. are not covered under these instructions. Apart from these, the Police Officers of the level of Sub-Inspectors should not be posted in their home Assembly Constituencies. The Police Officers of the level of Sub-Inspectors should be transferred not only out of their police Sub-divisions but also out of the Assembly Constituency if they have completed a tenure of three years during last four years in that sub- division or would be completing 3 years on or before 31.5.2014.

- (iii) The Commission further desires that a detailed review may, therefore, be undertaken in all districts, and all such officers be posted out of their home districts or out of the district where they have completed or will complete, on the aforesaid date, tenure of three years out of the last four years, immediately. While moving such officers, care should be taken that they are **not posted to their home districts. While calculating the period of three years, promotion to a post within the district is to be counted.** While carrying out this review it must be borne in mind that these instructions do not apply to officers posted in the State headquarters of the department concerned.
- (iv) The Commission also desires that the officers/officials against whom Commission has recommended disciplinary action or who have been charged for any lapse in any election or elections related work in the past, shall not be assigned any election related duty.
- (v) The Commission further desires that no officer/official against whom a criminal case is pending in any Court of Law be associated with the election work or election related duty.



- (vi) The Commission has in the past received complaints that while the State Government transfers officials in the above categories in pursuance of the direction issued by the Commission, the individuals try to circumvent the objective by proceeding on leave and physically not moving out of the district from which they stand transferred. The Commission has viewed this seriously and desires that all such officials who stand transferred in pursuance of the instructions referred to above shall be asked to move physically out of the district from which they stand transferred immediately on receipt of the transfer orders.
- (vii) Further, while implementing the above directions, the Commission desires that the Chief Electoral Officer of all the States/UTs shall invariably be consulted while posting the new persons in place of present incumbents who stand transferred as per this policy of the Commission. The copies of the transfer orders issued under these directions shall be given to the Chief Electoral Officer concerned without fail.
- (viii) The transfer orders in respect of officers/officials, who are engaged in the electoral rolls revision work, if any, shall be implemented only after final publication of the electoral rolls, in consultation with the Chief Electoral Officer.
- (ix) Any officer who is due to retire within coming six months will be exempted from the purview of the above-mentioned directions of the Commission. Further officers falling in category (home/3+ criteria if they are due to retire within 6 months) shall not be engaged for performing election duties during the elections.
- (x) It is further clarified that all the officials of the States/UTs who are on extension of service or re-employed in different capacities will not be associated with any election related work except those with the Office of the Chief Electoral Officers.



2. Details of the action taken may be intimated to the Commission for its information immediately and in any case not later than **15.02.2014**.
3. It has been observed in the past that during the General Election, numerous references are received from various States seeking clarification with reference to the applicability of transfer order to individual cases. The Commission directs that all these issues should be handled at the Chief Electoral Officer's level. Only when it is absolutely necessary, individual references should be forwarded to the Commission after considering all aspects at the Chief Electoral Officer's level with his/her specific recommendations.
4. The above instructions may be brought to the notice of all concerned for compliance.

Circular 46; The Commission's instruction on Posting of Officers dated 04.02.09-clarifications regarding.

ECI letter No. 437/6/INST/2009-CC & BE dated 18<sup>th</sup> February, 2009

I am directed to invite your attention to the instruction of even number dated 4<sup>th</sup> February, 2009 and to state that some clarification has been sought during the conference of Chief Electoral Officers and the Commission' meeting with the Chief Secretaries.

The Commission has considered the issue in detail and has decided to issue further guideline in this regard as below: -

There may be cases where it may be difficult to affect the transfer of Police Officer who are in-charge of Thana in compliance of the policy laid down in the abovementioned instruction of the Commission in big Metro cities/smaller states having less number of districts. In such cases the territorial consideration for such police officer may be sub-division as an exception. In rest of the other cases the territorial jurisdiction may be district with prior approval of Commission.

A question has been raised whether this instruction is applicable for the Sub-Inspector of Police. It is clarified that, where the Sub-Inspector of Police is in-charge of Thana, he is covered by this instruction and hence is required to be transferred as per guideline laid down above.



**Circular 47; Clarification regarding transfer**

**ECI letter No. 437/6/1/2008 dated 19<sup>th</sup> October, 2008**

I am directed to state that the Commission has announced the schedule for holding General Election to the Legislative Assembly of the State of Jammu and Kashmir.

2. With this announcement, the provisions of the Model Code of Conduct for the guidance of the Political Parties and Candidates have come into force with immediate effect. This may be brought to the notice of the Government, all Ministries/Departments and all other offices of the Union Government and the State Government of Jammu and Kashmir.
3. Your particular attention is drawn to clause VII (vi) of Model Code, which, inter-alia, states:—

“From the time elections are announced by the Commission, Ministers and other authorities shall not —

- (a) Announce any financial grants in any form or make promises thereof; or
- (b) (Except civil servants) 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.

4. The Commission directs that there shall be a total ban on the transfer of all officers/officials connected with the conduct of the election. These include but are not restricted to: -

- i) The Chief Electoral Officer and Additional/Joint/Deputy Chief Electoral Officers;
- ii) Divisional Commissioners;
- iii) The District Election Officers, Returning Officers, Assistant Returning Officers and other Revenue Officers connected with the Conduct of Elections;
- iv) Officers of the Police Department connected with the management of elections like range IGs and DIGs, Senior Superintendents of Police and Superintendents of Police, Sub-divisional Police Officers like Deputy Superintendents of Police and other Police officers who are deputed to the Commission under section 28A of the Representation of the People Act, 1951;
- v) The transfer orders issued in respect of the above categories of officers prior to the date of announcement but not implemented till date should not be given effect to without obtaining specific permission from the Commission in this regard.
- vi) This ban shall be effective till the completion of the election. The Commission further directs that the State Government should refrain from making transfers of senior officers who have a role in the management of election in the State.
- vii) In those cases where transfer of an officer is necessary on account of administrative exigencies, the State Government may with full justification approach the Commission for prior clearance.



## VII. RESTRICTION ON USE OF GUEST HOUSES etc.

### Circular 48; Allotment of Govt. Guest House – reg.

Election Commission's letter No. 437/6/2006-PLN-III (Vol. II) Dated: 1<sup>st</sup> April 2006

Kindly refer to the instructions of the Commission issued as per letter no. 437/6/2006-PLN-III (Vol. II) dated 14th March 2006 stating that no accommodation will be provided to any Minister of the Central or State Government, Members of Parliament or Members of Legislative Assemblies or political functionaries in any Government Guest House / Rest House / Guest House of any Public Sector Undertaking of the Central or State Government in the States where elections have been announced or are taking place as these are required to accommodate election related officials and observers.

The Commission has now received representations from various States Governments and political functionaries requesting that these restrictions may be relaxed keeping in view the security concerns of various political leaders.

The Commission has further considered the issue in the light of the requests received and decided that henceforth accommodation in Government Guest houses / Rest houses or Guest Houses of Public Sector Undertakings of the Centre or State Government in the States (or the districts) where elections have been announced or are taking place can be given to the political functionaries who are provided security by the State in Z scale or above or equivalent by various State Government under provisions of their laws, on equitable basis. This shall be subject to condition that such accommodation is not already allotted or occupied by election related officials or observers. Some political functionaries shall not carry out any political activity while staying in the Government Guest Houses / Rest Houses or Guest Houses of Public Sector Undertakings as mentioned above.



**Circular 49; Model Code of Conduct-Use of Rest Houses, Dak Bungalows and other Government accommodation.**

**Election Commission's letter No. 437/6/38/2004-PLN-III, dated 06.04.2004**

The Commission has received representations regarding implementation of the provisions on allotment and use of rest houses, *Dak* bungalows and other Government accommodations in a non-uniform manner in violation of the model code of conduct in different States and Union Territories.

The Commission after considering various issues involved and taking into account all relevant factors has decided that the relevant provision of model code of conduct should be implemented in letter and spirit and the available accommodation should be allotted in a fair and equitable manner. The relevant portions are as below:

**Item VII. Party in Power:**

*“(iii) Rest houses, Dak 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 premises appertaining thereto) as a campaign office or for holding any public meeting for the purposes of election propaganda.”*

It shall be ensured that no functionary can use the Circuit House, Dak bungalow to set up campaign office as the Circuit Houses/Dak bungalows are only for temporary stay (boarding and lodging) during transit of such functionaries.

The Commission has further directed that:

- (i) Even casual meeting by Members of political parties inside the premises of the Government owned guesthouse etc. are not permitted and any violation of this shall be deemed to be a violation of the Model Code of Conduct.
- (ii) Only the vehicle carrying the person allotted accommodation in the guest house and not more than two other vehicles, if used by the person, will be permitted inside the compound of the Guest House,
- (iii) Rooms should not be made available for more than 48 hours to any single individual.

However, 48 hours before the close of poll in any particular area, there will be freeze on such allocations till completion of poll or re-poll. The Commission directs that the Chief Electoral Officers will oversee strict and impartial implementation of these guidelines.



**Circular 50; Restrictions on use of Government Guest Houses, Bhawans and State Sadans for holding of political parties meeting regarding election purposes.**

**Election Commission's letter No.437/6/98-PLN-III dated 08.01.1998, addressed to Chief Secretaries, Resident Commissioners and CEOs of all the States and UTs.**

**Subject: Restrictions on use of Government Guest Houses, Bhawans and State Sadans for holding of political parties meeting regarding election purposes.**

The Commission has taken note of utilization of various State Guest Houses, Bhawans and Sadans at Delhi for election related activities by some of the political parties. These include holding of party meeting press conference and consultations. The Commission after taking all factors into account has decided that no part of such premises are utilized for any political activities of the kind already mentioned. The Resident Commissioners and Liaison Officers of all States and Union Territories at Delhi are hereby instructed to ensure that no violation in this regard is made.

There are, however, no restrictions for use of Bhawans for genuine requirements accommodation of officers and other visitors including political functionaries purely for purposes of their official tour to Delhi. The Resident/Liaison Commissioners are also advised that allocation of rooms should be done in a fair and equitable manner and that it would be improper to provide entire floors and large blocks for exclusive use and for extended period by political functionaries and parties.

Kindly acknowledge the receipt.

## VII. CELEBRATION OF IMPORTANT DAYS

Circular 51; Celebration of Republic Day-Clarification on the attendance of political functionaries – regarding

ECI letter No. 437/6/INST/2012-CC&BE dated 24<sup>th</sup> January 2012

I am directed to refer to the Commission's letter no. 437/6/INST/2011-CC&BE dated 28th December, 2011, wherein the Commission has directed as under :-

**“In view of the fact that Republic Day celebrations will come during the election process and that the Central Ministers, Chief Ministers and Ministers in the States belong to political parties and alliances and may even be the candidates, the Commission, purely in the interest of ensuring a level playing field, directs that no Central Minister/Chief Minister/Minister or any other political functionary in the States/Ex-MPs shall do the honours at any Republic Day functions at any location within their home district or constituency or the constituency from where he or she is a contesting candidate or intends to contest.”**

Your attention is also invited to para 3 of the Commission's letter no. 437/6/2007- PLN-III dated 23<sup>rd</sup> November, 2007, which provides as under :-

*“(3) It is clarified that the Ministers are entitled to use their official vehicles in their headquarters from their place of residence to their office for official work provided that such commuting is not combined with any electioneering or any political activity which would include a visit to party office even if it were en-route. No pilot car(s) or car(s) with beacon lights of any colour or car(s) affixed with sirens of any kind making his presence conspicuous shall be used by any Minister during his/her electioneering visits, even if the State administration has granted him a security cover requiring presence of armed personnel to accompany him on such visit.”*



A reference has been received from the Chief Electoral Officer, Punjab that the Chief Minister of Punjab is campaigning in Rama Mandi from where he would like to travel to Ferozpur for hoisting the National Flag on 26<sup>th</sup> January, 2012. The Principal Secretary to Chief Minister requested that the expenditure on the vehicle to be used by Chief Minister from Rama Mandi to Ferozpur and back may be borne by the State Government.

The matter has been considered by the Commission in the light of the above mentioned provisions of the instructions referred to above and as special case the

Commission has decided that the dignitaries who will hoist the National Flag at Republic Day functions may travel directly to that place from the place of election campaign, if any. The travel expenditure for this purpose may be borne by the State Government concerned. They do not need to travel between these places via headquarter. It may, however, be reiterated that **the Ministers shall not hoist flags in their home districts nor in the districts in which the Constituencies from where they are contesting elections, fall.**

## **Circular 52; Celebration of Republic Day - attendance of political functionaries**

**Election Commission's letter No. 437/6/98-PLN-III dated 10.01.1998**

References have been received from various States about the attendance of political functionaries in the celebration of Republic Day. The Commission has considered all the relevant factors in view of the ensuing General Elections to Lok Sabha and Legislative Assemblies and certain Bye-Elections. Commission has decided that there is no objection to Central Ministers/Chief Ministers/Ministers in the States to do the honours in the main Republic Day functions at various locations subject to the condition that in their speeches, they should confine themselves to extolling the achievements of the Martyrs in securing freedom of the country, glory of the Indian State and so on. Under no circumstances, they should become a platform for political campaign.

In view of the fact that Republic Day celebrations will come during the election process and that the Central Ministers, Chief Ministers and Ministers in the States belong to political parties and alliances and may even be the candidates, the Commission, purely in the interest of ensuring a level playing field, directs that no Central Minister/Chief Minister/Minister or any other political functionary in the States/Ex-MPs shall do the honours at any Republic Day functions at any location of within their home district or constituency or from where he or she is a contesting candidate or intends to contest.

The Commission, however, has no objection to organisation of Kavi Sammelan, Mushairas or other cultural functions organised in connection with the Republic Day celebrations and being attended by the Central Ministers, Chief Ministers, Ministers in the States and other political functionaries. However, utmost care should be taken to ensure that no political speeches are made on the occasion.

The Commission has further decided that investiture ceremonies at the National and State level and distribution of Tamra Patras to freedom fighters, etc. will be done according to the existing conventions.

The above instructions may be brought to the notice of all concerned for strict compliance.



## IX. APPLICABILITY

**Circular 53; Meeting of Municipalities – regarding**

**ECI letter No.437/6/INST/2011-CC&BE dated: 05<sup>th</sup> April, 2011**

I am directed to state that a Writ Petition No. 4766(W) of 2011 (Shri Sujit Roy Vs the State of West Bengal & Others) was filed before the Hon'ble High Court of Calcutta seeking a declaration that no meeting of the Councilors of Kulti Municipality should be held during the period when Model Code of Conduct is in force.

The Hon'ble High Court, vide its order dated 11.03.2011, dismissed this Petition with the observation that the question would be for the Commission to decide and further directed that copy of the order be communicated to the Commission.

Accordingly, a copy of the order of the Hon'ble High Court has been referred to the Commission.

The matter has been considered by the Commission. The Commission has decided that there would be no objection on its part to the holding of the statutory meetings, which cannot be avoided by the Municipalities and Panchayats and other local bodies, subject to the condition that no new policy decisions and announcements shall be made in such meetings till the elections are over and only the decisions related to routine day-to-day management issues, and on emergency issues may be taken in such meetings.

**Circular 54; Applicability of Model Code of Conduct to Commissions, Corporations, Committees, etc**

**ECI letter No. 437/6/INST/2008-CC&BE dated: 19<sup>th</sup> March, 2009**

I am directed to state that the Commission has decided to clarify that the provisions of Model Code of Conduct apply to all organizations/committees, corporations/commissions etc, funded wholly or partially by the Central Govt. or any State Govt. like the Commonwealth Games Organizing Committee, DDA, Electricity Regulatory Commissions, Jal Boards, Transport Corporations, any other development authority etc. Any action in contravention of the provisions contained in the Model Code of Conduct for the political parties and candidates including any publication of its advertisements by them highlighting their achievements or announcing new subsidies, tariffs or schemes would attract the provisions of the Model Code of Conduct and tantamount to violation of the same.



**Circular 55; Use of School Grounds for campaign purposes during election process-regarding.**

**ECI letter No. 464/INST/2009-EPS, dated 18.03.2009**

It has always been the endeavor of the Commission to ensure free and fair elections and towards that end it has issued instructions from time to time on various aspects of the election process to ensure that there is no damage to any person or property. The Commission attaches highest importance to the integrity and transparency of the electoral process. The main objective of the Commission is to ensure level playing field for all political parties and to see that the ruling party (ies) at the Centre and in the States do not use their official power and machinery to further their prospects in the elections. The election campaign, therefore, forms an effective tool for all political parties to reach out among the common masses and create voting awareness among them.

2. The Commission has been receiving representations from various States/UTs regarding scarcity of grounds for campaign purposes. The political parties have been urging the Commission from time to time to allow them to utilize school and college grounds for political meetings. The Commission has considered the issue and has decided to allow the use of school and college grounds for political meetings provided: The Chief Electoral Officers of All States/UTs.(except Punjab and Haryana) Use of School Grounds for campaign purposes during election Process - regarding.

- a) schools and colleges academic calendar is not disturbed under any circumstances.
- b) The School/College Management has no objection for this purpose and prior permission for such campaigning is obtained from the school/college Management as well as Sub Divisional Officer.
- c) such permission is granted on first-come-first served basis and no political party is allowed to monopolize the use of those grounds.

- d) Any violation in the allotment of school/college grounds for political meetings will be viewed seriously by the Commission. The accountability in this regard lies with the Sub Divisional Officer, and
  - e) The Political Parties and candidates and campaigners shall take care to ensure that the above norms are not violated.
3. The Commission further directs that, if such grounds are utilized for campaigning purpose it should be returned to the authority concerned, without any damage or with the requisite compensation for the damage caused, if any. The political party/parties restoring back the campaign ground to the concerned school/college authority should be responsible for the payment of such compensation, if any.
4. The above instruction would apply to all States/UTs except Punjab and Haryana where there is express prohibition of the Punjab & Haryana High Court in the matter.



**Circular 56; Applicability of Model Code of Conduct – to Speaker and Dy. Speaker.**

**Election Commissioner's letter No. 437/6/6/2004, dated 25.03.2004**

I am directed to refer to your letter dated March 18, 2004 and to state that during the General Elections to Lok Sabha the restrictions on the use of official vehicles are also made applicable in respect of the Speaker of the Lok Sabha, Deputy Speaker of the Lok Sabha and Deputy Chairperson of the Rajya Sabha. As far as provision of security is concerned, the State Governments have already been advised to provide security based on the threat perceptions in respect of any individual.

## X. PERIOD OF MODEL CODE OF CODE OF CONDUCT

**Circular 57; General/Bye-elections to the Lok Sabha/State Legislative Assemblies/ Councils - period of enforcement of Model Code of Conduct – regarding**

**ECI letter No.437/6/2011/CC&BE Dated: 11<sup>th</sup> October, 2011**

I am directed to state that the Commission has decided as under :-

- (i) In the case of general elections to the Lok Sabha/State Legislative Assemblies, the Model Code of Conduct which comes into force on the date of announcement of election schedule by the Election Commission, will hereafter cease to be in operation once the *Due Constitution Notification* constituting the new House(s) concerned is issued by the Commission, irrespective of the date(s) before which the election is to be completed as mentioned in the election notifications;
- (ii) In the case of bye-elections to the Lok Sabha/State Legislative Assemblies, the Model Code of Conduct will cease to be in operation immediately after the formal declaration of the result of the bye-election by the Returning Officer concerned.
- (iii) In the case of all elections to the Legislative Councils of States, where the Model Code of Conduct is made applicable, it shall cease to be in operation on the declaration of result of election by the Returning Officer concerned.

This may be brought to the notice of all concerned.



## **XI. MISCELLANEOUS**

**Circular 58; Issue of Electricity tariff and related order by the State Electricity Regulatory Commissions- reg.**

**ECI letter No. 437/6/1/2014/CC&BE, dated 29.03.2014**

I am directed to state that references are being received in the Commission from the State Electricity Regulatory Commissions of various States asking for concurrence of this Commission from Model Code angle for the issue of revised/new electricity tariffs and related orders. The matter has been considered by the Commission. The Commission's policy and stand on the issue are as follows:- **"The Commission has no objection to the continuation of the process required for the decision on the power tariff. However, tariff award shall be made only on the completion of poll in the relevant State, i.e. after the poll date/dates in that State"**. You are requested to bring to this the notice of the State Electricity Regulatory Commission of your State immediately.

**Circular59; Briefing of CM/HM by police officers-reg.**

**ECI letter No. 437/6/INST-2009/CC&BE, dated 26.04.2009**

I am directed to state that the Commission has issued instructions to the effect that security briefings of Chief Minister or the Home Ministers when considered essential should be undertaken by the Home Secretary or the Chief Secretary, who in turn should be briefed by the police agencies. The instruction further state that in case where police agency's/official's presence is considered essential, the Chief Secretary/Home Secretary may require the police agency/official to be present in such briefings.

2. The spirit behind the Commission's instruction is to safeguard a free, fair and transparent election and provide a level playing field to all political parties as also to ensure that there is no scope for public complaints that the political executive/government of the day is misusing the government machinery for political purpose. It is reiterated that these instructions should, however, not be construed as any restriction to any **security related activity** of the law and order enforcing agencies. Therefore, in situations where it is so warranted, the law and order enforcing agencies should not take the plea of ECI instructions for any inaction or delay in action to be taken by them. Whatever is required under the circumstances, including informing the political executives by the DGP and taking directions from them, should be undertaken by the police agencies in the bonafide performance of their duty or exercise of their authority.

This may be brought to the notice of all concerned.



**Circular 60; Permission for allotment of liquor vends/finalization of wholesale liquors sale during the period of operation of the Model Code of Conduct-regarding.**

**ECI letter No. 437/6/2009/CC&BE, dated 24.03.2009 addressed to the Chief Electoral Officers of all States and Union Territories:**

**Subject: Permission for allotment of liquor vends/finalization of wholesale liquors sale during the period of operation of the Model Code of Conduct-regarding.**

References are being received in the Commission from several States requesting from permission to make allotment of liquor vends in the State in view of the Model Code of Conduct in operation now. In some cases, applications inviting tenders are sought to be published and in some cases permission has been sought for initiating action and for allotment through various processes including draw of lots, etc.

Each State has enacted a separated State Excise governing the allotment of liquor vends. From the references received in the Commission, it is observed that varying models exist in different States for the sale of liquor through the venders. In some States/UTs the State Govt. Itself sells liquor through the outlets of the State run corporation/undertaking. In some other States, supplies liquor to the retail venders who are selected on the basis of applications by the Excise Department. There are also States where liquor contracts are awarded either at the State level or at the district level directly to the liquor through the system of tenders or by draw of lots on the price fixed by the Govt.

The contracts are annually awarded for the financial year. Some of the State Excise laws contain an enabling provision for extension by the Government of the contract for some period beyond the close of the financial year, whereas in some others, no such enabling provision is made in the existing law.

In view of the above position, the Commission has directed that the following procedure may be followed in the matter of allotment of liquor vends, during the period of operation of the Model Code of Conduct –

- (i) Where the extant Excise Laws of a State empower the State Govt. or the authorities thereunder to make an interim arrangement beyond the current financial year, pending arrangement, such interim arrangement may be made with the concerned contractor/vendors on the existing terms and conditions.
- (ii) Where no such enabling provision is available in the existing Excise Laws, the State Govt. may go ahead with the normal practice followed in the previous years strictly in accordance with the existing laws for the grant of new licenses/contracts for the ensuing financial year.



**Election Commission's letter No.437/6/3/2004-PLN-II, dated 19.02.2004**

As you are aware, the 13<sup>th</sup> Lok Sabha has been dissolved and the General Election to the Lok Sabha alongwith simultaneous election to some State Legislative Assemblies is to take place shortly.

2. The Commission has been made aware that different agencies of the Government, responsible for urban affairs and other developmental projects, have been undertaking eviction drives leading to demolition of unauthorized structures, Jhuggi (JJ) clusters and relocation of people from one area to another. Such steps, wherever taken up, no doubt may have been the resultant actions after following the due process of law by the concerned agencies and sometimes even implemented on directions of a competent Court of Law. While the Commission fully appreciates the objectives of the Government agencies responsible for such actions in the management of their affairs, in the context of the General Election to the Lok Sabha alongwith simultaneous election of some State Legislative Assemblies, the Commission is concerned about the impact that such dislocation of people may have on the fidelity of the electoral rolls to be used in the ensuing elections.
3. The electoral roll is the basic document for the conduct of any election as it is the one on which the whole electoral process is founded. When a constituency is called upon to elect a member to the Lok Sabha or to the Legislative Assembly of a State, it means, in fact, that those electors who have been enrolled in the electoral roll are called upon to elect a member of the Lok Sabha or of a Legislative Assembly. Under Article 326 of the Constitution, every Indian citizen of the age of 18 years or above on the prescribed qualifying date is entitled to be registered as an elector in the elector roll of the Parliamentary and Assembly constituency in which he is ordinarily resident (unless he suffers from a prescribed disqualification). But the right to vote in such constituency is conferred by Section 62 of the Representation



of People Act, 1951 only on those persons whose names are entered in the electoral roll of the constituency whose names are entered in the electoral roll for the time being in force in the constituency. Therefore, the electoral roll of the constituency has to be as accurate and up-to-date as is humanly possible for the conduct of free and fair elections. The electoral rolls for all the States going to polls in future have been or are being finalized with reference to 1.1.2004 as the qualifying date and by now the electors ordinarily resident in any particular area are aware of the inclusion of their names in the relevant part of the electoral roll of the Assembly constituency concerned. Thus, whenever any eviction or demolition drive is taken up by a civic agency leading to dislocation of existing electors from their ordinary place of residence, the relevant part of the electoral roll of the Assembly constituency necessarily gets affected and becomes defective in as much as a large number of such dislocated electors lose their right to vote at the polling stations to which they have been assigned. In many cases, the electors so displaced as a result of the demolition or eviction drive get relocated in another area outside the assembly constituency in which they were ordinarily resident and cannot be included in time in the electoral rolls of the area where they have been relocated. Any election held on the basis of these defective rolls would thus deprive a substantially large number of electors who have been displaced from their places of ordinary residence of their franchise. Besides, these defective electoral rolls may also give an opportunity to unscrupulous elements to resort to bogus voting in the names of voters who have been shifted out on account of demolition or eviction drives carried out in a particular polling area/constituency. These factors would not only vitiate the fair and free election but may even materially affect the result of election in the constituency concerned.

4. The Commission has, decided in the interest of free and fair elections, and to maintain the fidelity of electoral rolls, that any demolition/eviction drives shall be temporarily suspended and shall not be carried out by any Government/civic agencies between now and the completion of the General Election. Wherever there



are any problems in the implementation of the above decision of the Commission because of any orders issued by any Court of Law, the Government of the State or the Central Government, as the case may be, shall bring the matter to the notice of the Commission for appropriate directions to ensure due compliance with the Court's orders. In such cases of unavoidable dislocation, the Government shall place before the Commission all relevant facts, including a suitable rehabilitation plan, to enable the Commission to give appropriate orders in regard to the corrective steps to be taken by the electoral authorities concerned to ensure that such dislocated electors are not deprived of their voting rights.

**Circular 62; Waiving off of recoveries and bad debts by State Government financial institutions during election period - reg.**

**Election Commission's letter no.437/6/2002-PLN-III dated 25.01.2002**

As you are aware, in order to ensure a level playing field between contesting parties and candidates in elections and also in order to see that the purity of the election process does not get vitiated, the Commission has been issuing instructions under the Model Code of Conduct and other related statutes, rules, regulations, etc. The fountainhead of the powers under which the Commission issues these orders is Article 324 of the Constitution, which mandates the Commission to hold free and fair elections.

2. State Government institutions of several types are nowadays engaged in commercial and banking activities. The Supreme Court has observed in *Kirpal Singh Vs Uttam Singh* (AIR 1986 SC 300) that 'Nowadays the activities of the State are so manifold and prolific that the State has been forced, in the interests of better management and administration and in order to further the Directive Principles of State Policy, to set up various Corporations which are but mere instrumentalities of the State'. The Supreme Court has further observed in *Satrucharla Chandrasekhar Vs Vyricherla Pradeep Kumar* (AIR 1992 SC 1959) that the incorporation of a body corporate may suggest that it is independent of the government, but that would not be conclusive of the fact, as, sometimes, the form may be that of body incorporate independent of the government, but, in substance, it may just be an alter ego of the government. Accordingly, several State Government financial institutions are undertaking commercial and banking activities, like, granting loans, rescheduling the recovery of loans and, in many cases, writing off bad loans or defaulted loans. Whereas this normal activity of such State Government institutions may go on during non-election period these activities when the election process is underway, sometimes, get vitiated and are looked upon with suspicion by political parties, candidates and general public. It can not be gainsaid that the



party in power which wields considerable influence over the government of the day and which is also contesting the elections to get back to power, can get bad or defaulted loans to be written off, giving rise to allegations that the person or the business house whose loan is being written off makes contributions to the party coffers to help them in their election campaign. There could also be the other abuse of a flurry of loaning activities of a populist nature aimed to garner votes, which would, in the long run, affect the health of the loaning institution itself.

3. Keeping the above ground position and the realities of the situation in view, the Commission is of the considered view that all financial institutions funded, partly or wholly, by the State Governments should not take recourse to writing off loans advanced to any individual, company, firm, etc. during the period when the Model Code of Conduct is in force, without the prior concurrence of the Commission. Similarly, the financial limits that these institutions have to adhere to while granting or extending loans should not be enhanced by issuing of loans indiscriminately to beneficiaries when the Model Code of Conduct is in force.
4. The above directive of the Commission should be brought to the notice of all the abovementioned financial institutions and other concerned immediately for their information and strict compliance. A copy of the instruction issued to them in this behalf may kindly be endorsed to the Commission for its information and record.

The receipt of the letter may kindly be acknowledged urgently.

**Circular 63; Restrictions on tours /leave of the officers whose spouses are active in political arena:**

**Election Commission's letter No.437/6/98-PLN-III dated 23.01.1998**

It has come to the notice of the Commission that there are several instances of officers belonging to the Indian Administrative Service, Indian Police Service and other State Government Senior officials whose spouses are active in the political arena either as candidates in elections or as active members of political parties.

The Commission in the interest of free and fair poll, directs that in all such cases the concerned officers should not leave their Headquarters either on leave or on tour till the elections are complete in all respects.

If for some reason they are required to leave their Headquarters then specific written permission of the Chief Secretary has to be obtained before they leave their Headquarters during the election period who should ensure that such officers do not get involved in any way with the political activities of their spouses.

Receipt of this letter may kindly be acknowledged.



**Circular 64; Instructions to curb the misuse of free travel passes in the interest of free and fair elections**

**Election Commission's letter No. 437/6/93 J.S. II, dated 31.12.1993:**

I am directed to state that instances have come to the notice of the Commission during the recently concluded general elections to the Legislative Assemblies of Himachal Pradesh, Madhya Pradesh, Mizoram, Rajasthan, Uttar Pradesh and National Capital Territory of Delhi where the free passes issued by the Railways and the Government Airlines have been misused to travel to and from the States/constituencies/areas having the general elections. Issue of such passes enabled the holders to travel round the country free of cost and participate in election related activities and thus attempt to vitiate the holding of free and fair elections.

2. The Commission has decided that such activities should be stopped. Accordingly, the Commission has directed that in future no golden passes, free passes, confessional passes or any other types of passes be issued or allowed to be used for travel to and from the states/constituencies/area going to the polls during general elections/bye-elections. This ban will apply from the date of announcement of the general election/bye-election till the declaration of results.
3. No one shall be exempted from the ambit of the aforesaid ban. The only exception will be in the case of tour operators and travel agents.
4. Suitable instructions in the matter may be issued to all concerned for strict adherence during all future general elections/bye-elections. A copy of the instruction issued may be endorsed to the Commission.

Please acknowledge the receipt.





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Inclusive, Accessible & Ethical Elections

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Office of Chief Electoral Officer,  
Bengaluru