

कार्यालय मुख्य निर्वाचन अधिकारी, उत्तर प्रदेश।

चतुर्थ तल, विकास भवन, जनपथ मार्केट, हजरतगंज, लखनऊ-226001

संख्या- 37 / सी0ई0ओ0-1-142/1-2008 लखनऊ दिनांक 05 जनवरी, 2024
सेवा में,

1. समस्त जिला निर्वाचन अधिकारी,
उत्तर प्रदेश।
2. पुलिस आयुक्त, लखनऊ, गौतमबुद्धनगर, गाजियाबाद, कानपुर नगर,
वाराणसी, प्रयागराज एवं आगरा।
3. समस्त वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक, उत्तर प्रदेश।

विषय: **Enforcement of the Model Code of Conduct-Do's and Don'ts-Regarding.**

महोदय/महोदया,

उपरोक्त विषय पर कृपया भारत निर्वाचन आयोग के पत्र संख्या-437/6
/INST/ECI/FUNCT/MCC/2024(MCC ENFORCEMENT) दिनांक-02.01.2024 (छायाप्रति संलग्न)
का सन्दर्भ ग्रहण करने का कष्ट करें।

2- उक्त पत्र के माध्यम से Enforcement of the Model Code of Conduct- Do's and Don'ts
के संबंध में दिशा-निर्देश दिये गये हैं।

अतः भारत निर्वाचन आयोग से प्राप्त उक्त पत्र की छायाप्रति संलग्नकर प्रेषित करते
हुए अनुरोध है कि कृपया आयोग के दिशा-निर्देशों का गहनतापूर्वक अध्ययन कर समस्त
संबंधितों के संज्ञान में लाते हुए आवश्यक कार्यवाही सुनिश्चित कराने का कष्ट करें।

संलग्नक:-यथोक्त।

भवशिष्य,

(चन्द्रशेखर)

अपर मुख्य निर्वाचन अधिकारी।

संख्या:-37 (1)/सी0ई0ओ0-1-तददिनांक।

प्रतिलिपि उक्त संलग्नक सहित निम्नलिखित को सूचनार्थ एवं आवश्यक
कार्यवाही हेतु प्रेषित:-

- 1- समस्त अपर मुख्य सचिव/प्रमुख सचिव/सचिव उत्तर प्रदेश शासन।
- 2- प्रमुख स्टाफ आफीसर, मुख्य सचिव, उत्तर प्रदेश शासन।
- 3- समस्त उप एवं सहायक जिला निर्वाचन अधिकारी, उत्तर प्रदेश।

(चन्द्रशेखर)

अपर मुख्य निर्वाचन अधिकारी।



भारत निर्वाचन आयोग सचिवालय
SECRETARIAT OF THE ELECTION COMMISSION OF INDIA
निर्वाचन सदन, अशोक रोड, नई दिल्ली-110001
Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 437/6/INST/ECI/FUNCT/MCC/2024(MCC ENFORCEMENT)

Dated: 2nd January, 2024

To,

- (i) The Chief Secretaries
of all States and Union Territories.
- (ii) The Chief Electoral Officers
of all States and Union Territories.

Subject:- Enforcement of the Model Code of Conduct – Do's and Don'ts – regarding

Reference: Commission's instructions:

- (i) No. 437/6/2009-CC&BE, dated 05.03.2009
- (ii) No. 437/6/16/2004, dated 09.03.2004
- (iii) No. 464/INST/2007-PLN-I, dated 07.01.07
- (iv) No. 437/6/INST/2008-CC&BE, dated 19.03.2009
- (v) No. 437/6/INST-2008/CC&BE, dated 01.04.2009
- (vi) No. 437/6/INST/2011-CC&BE, dated 05.04.2011
- (vii) No. 437/6/2011/CC&BE, dated 11.10.2011
- (viii) No. 437/6/1/INST/2013-CC&BE, dated 13.11.2013
- (ix) No. 437/6/INST/2014/CC&BE, dated 14.03.2014
- (x) No. 437/6/INST/2014/CC&BE, dated 20.03.2014
- (xi) No. 437/6/ES023/94 MCS, dated 04.10.1994
- (xii) No. 437/6/93 J.S. II, dated 31.12.1993
- (xiii) No. 434/6/PLN-II, dated 22.03.1996
- (xiv) No. 437/6/2002-PLN-III, dated 25.01.2002
- (xv) No. 437/6/23/2004 PLN.III, dated 11.03.2004
- (xvi) No. 437/6/INST/2009-CC&BE, dated 09.03.2009
- (xvii) No. 437/6/2009/CC&BE, dated 24.03.2009
- (xviii) No. 437/6/INST-2009/CC&BE, dated 26.04.2009
- (xix) No. 437/6/INST-2012/CC&BE, dated 21.01.2012
- (xx) No. 437/6/1/2014/CC&BE, dated 29.03.2014
- (xxi) No. 437/6/2007(INST)-PLN-III, dated 21.11.2007
- (xxii) No. 437/6/2004-PLN III, dated 30.12.2004
- (xxiii) No. 437/6/INST/2014/CC&BE, dated 18.03.2014
- (xxiv) No. 437/6/38/2004-PLN-III, dated 06.04.2004
- (xxv) No. 437/6/2006-PLN-III (Vol. II) dated: 01.04.2006, and
- (xxvi) No. 437/6/98-PLN-III dated 08.01.1998

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JHE (M)

03/1/24

(चन्द्रशेखर)
विशेष सचिव निर्वाचन एवं
अपर मुख्य निर्वाचन अधिकारी
उत्तर प्रदेश शासन।

So. 1

03/01/24
(मनीष शुक्ल)
सुदत मुख्य, निर्वाचन अधिकारी
उप्रप्र लखनऊ

Madam/Sir,

Model Code of Conduct comes into operation right from the time and day, the Election Commission issues the schedule of elections. The Commission has issued various instructions and clarifications on observance of code of conduct from time to time vide letters listed above. Following are the consolidated instructions in supersession of all the existing instructions in reference:

I. Applicability of Model Code of Conduct:

A. Duration of Application

- (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 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.

B. Extent of Application

- (i) At the time of a general election to the House of the People or to a State Legislative Assembly, Model Code of Conduct applies throughout India or, the state concerned, as the case may be.
- (ii) At the time of a bye-election, MCC would be enforced in the entire district(s) covering the Constituency going for bye-election(s). However, if a constituency is comprised in State Capital/Metropolitan Cities/Municipal Corporations, then Model Code of Conduct would be applicable in the area of concerned Constituency only and for any district in which Corporation/ Metropolitan City/Municipal Corporation is located, MCC would be enforced in the particular Assembly Constituency Segment only and not in the whole of the district. For the district(s) with number of polling stations less than 10% of the total polling stations of the constituency concerned, the instructions would be applicable only in the

area under jurisdiction of those polling stations. However, it must be ensured that the other instructions regarding deployment of staff, etc., are strictly observed in all districts irrespective of number of polling stations situated therein.

C. Who are Covered under Model Code of Conduct

- (i) 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.
- (ii) The general provisions of Model Code of Conduct are applicable to all persons, including those who intend to be a candidate in an election, from the date of announcement of elections by the Commission. Election expenditure by the candidate shall be counted from the date he files his nomination papers. However, it is clarified that expenditure on material which may have been produced before filing of nomination if used after filing of nomination by the candidate shall be included in the election expenditure of the candidate.

II. Welfare schemes and governmental works

1. Announcement of new projects or programmes 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.
8. The names of MPs/MLAs etc. appearing on moving vehicles like water tanks, ambulances etc. funded under MPLAD schemes should be covered suitably during the election period as such vehicles moving from one place to another may be considered as a form of election campaign in favour of the MP/MLA etc. concerned.

9. 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.
10. RBI may continue to take decisions unhindered on monetary policy issues.
11. 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.
12. All Government of India references to the Election Commission of India shall be made preferably through the Cabinet Secretariat. In so far as references 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.
13. 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:
 - a. Work-Projects that have actually started on the ground after obtaining all necessary sanctions;
 - b. Beneficiary-projects where specific beneficiaries by name have been identified before coming of the Model Code of Conduct into force;
 - c. Registered beneficiaries of MGNREGA may be covered under existing projects. New projects under MGNREGA 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.
14. 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.
15. 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-
 - a. Full funding has been tied up.
 - b. Administrative, technical and financial sanctions have been obtained

- c. Tender has been floated, evaluated and awarded and
 - d. 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.
 - e. In case of any of the above conditions not being met in such cases prior approval of the Commission shall be sought and obtained.
16. Global tenders already floated, can be evaluated and finalized where any time limits are specified for such purpose.
17. 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.
18. Commission invariably takes a humanitarian view on the work that are necessitated due to man-made or natural calamities.
- a. 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.
 - b. 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.
 - c. 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.
 - d. 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.
 - e. 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-affected cannot be expanded without prior approval of the Commission.
 - f. 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.

19. The medical assistance under PM's/CM's Relief Fund 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 may be released, provided selection of beneficiaries/patients are done by the concerned Government Officials/Head of the concerned Private Hospitals.
20. The process required for the decision on the power tariff may be continued by the State Electricity Regulatory Commission. 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.
21. 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 takeover 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 cannot 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.
22. 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.
23. 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.

24. 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.

III. Implementation of drought relief work

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. 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.

IV. On Transfers and posting of officials

(1) No officer connected directly with elections shall be allowed to continue in the present district (revenue district) of posting:-

(i) if she/he is posted in her/his home district.

(ii) if she/he has completed three years in that district during last four (4) years or would be completing 3 years. The three years period shall be reckoned backwards from last day of the month of end of the term of Legislative Assembly of the State. While calculating the period of three years, promotion to a post within the district is to be counted.

(2) Applicability

2.1 District Officers: - These instructions shall cover not only officers appointed for specific election duties like DEOs, Dy. DEOs, RO/AROs, EROs/AEROs, officers appointed as nodal officers of any specific election works but also district officers like ADMs, SDMs, Dy. Collector/Joint Collector, Tehsildar, Block Development Officers or any other officer of equal rank directly deployed for election works.

2.2 Officers other than District Officers: - These instructions shall also cover the officers deputed in Municipal Corporations and Development Authorities, etc.

2.3 Police Officers: - These instructions shall be applicable to the police department officers such as Range ADGs/IGs, DIGs, Commandants of State Armed Police, SSPs, SPs, Addl. SPs, Sub-Divisional Head of Police, SHOs, Inspectors, Sub-Inspector, RIs / Sergeant Majors or equivalent ranks, who are responsible for security arrangement or deployment of police forces 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. Following shall be followed:

(i) The Police Sub-Inspectors and above should not be posted in their home district.

(ii) If a Police Sub-Inspector has completed or would be completing a tenure of 3 years out of four years on or before the cutoff date in a police sub-division, then he should be transferred out to a police sub-division which does not fall in the same AC. If that is not possible due to small size of district, then he/she should be transferred out of the district.

2.4 Prohibition and Excise Officers: - Further, these instructions shall also be applicable to the officers of the Prohibition and Excise Department of the State of the rank of Sub-Inspector and above.

(3) Ban on transfer/posting of election related officers-

During the period of implementation of Model Code of Conduct, 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.
- (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.

V. On Misuse of Official Machinery

1. Official vehicles cannot be used for electioneering work. 'Official Vehicles' include all vehicles belonging to

- o Central and State Government,
- o Public Sector Undertakings of the Central and State Government,
- o Joint Sector Undertakings of Central and State Government,
- o Local Bodies, Municipal Corporations, Municipalities,
- o Marketing Boards (by whatever name known),
- o Cooperative Societies,
- o Autonomous District Councils, or
- o Any other body in which public funds, howsoever small a portion of the total, are invested, and also
- o 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 preceding 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. 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 of Ministers, Politicians or Political Parties available on Central/State Government's official website highlighting their achievements but eulogizing the same as personal achievements of Politicians/Ministers shall be taken off/purged off. During bye-elections, these instructions may be confined to only those Politicians/Ministers, etc. who themselves become candidates at such bye-elections.

VI. Display of the photographs, calendars etc. of national leaders and prominent personalities in the government offices/premises, etc.

1. 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.
2. 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. 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.

VII. Meeting of Local Bodies – Panchayats, Municipalities, etc.

1. 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.
2. 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 was referred to the Commission.
3. The Commission, after considering the matter, 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.

VIII. Briefing of CM/HM by police officers

1. The security briefings of Chief Minister or the Home Minister when considered essential should be undertaken by the Home Secretary or the Chief Secretary, who in turn should be briefed by the police agencies. 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. 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.

IX. Misuse of free travel passes

1. Instances have come to the notice of the Commission 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 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, concessional 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.

X. Permission for allotment of liquor vends/finalization of wholesale liquors sale /major auctions relating to Tendu leaves, etc.

1. Each State has enacted a separated State Excise Laws 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 vendors through the system of tenders or by draw of lots on the price fixed by the Govt.
2. 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.
3. 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.

4. In all cases where major auctions etc. are to be held relating to matters such as tendu leaves and other such cases, 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.

XI. Presentation of Budgets

1. The Commission would like to point out the prevalent convention that is followed in most of the States is that instead of presenting full budget, only a vote on account is taken for 3-4 months in cases where a General Election is imminent or when the process of General Election has been announced and the Model Code of Conduct is in operation. It contributes to a healthy democratic practice.

2. The Commission, in deference to the State Legislatures, and having regard to such a convention and propriety, would not like to lay down a precept or prescribe a course of action. However, it would advise, in the case of States that are going for Assembly polls, that a vote on account should be taken.

XII. Waiving off of recoveries and bad debts by State Government financial institutions during election period.

1. 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 cannot 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, offers 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.

2. 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.

XIII. Ban on Video Conferencing

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.

However, 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: -

- (i) 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;

- (ii) 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;
- (iii) No issue other than rescue/relief and other aspects connected to the calamity shall be discussed in the VC;
- (iv) No publicity whatsoever shall be given for the VC, either before or after the VC,
- (v) The VC should not be open to media;
- (vi) 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;
- (vii) 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.
- (viii) A representative of the CEO will be present during the VC.

XIV. Use of Rest Houses, Dak Bungalows and other Government accommodation

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.

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 Governments 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. Such 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.

XV. Restrictions on use of Government Guest Houses, Bhawans and State Sadans located at Delhi 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 is 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 for 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.

XVI. Other Do's and Don'ts for the guidance of the Candidates and Political Parties to be observed from the announcement of an election and until the completion of process of election

The Commission has drawn up a list of 'Dos' and 'Don'ts' to be followed by candidates and political parties after the announcement of elections and till the completion of the process of elections. The Commission has directed that this be given the widest possible publicity and its contents brought to the knowledge of all candidates and political parties including in the official language of the State.

It must be clearly brought to the notice of candidates and political parties that the list of 'Dos' and 'Donts' is only illustrative and not exhaustive and is not intended to substitute or modify other detailed directions/instructions on the above subjects, which must be strictly observed and followed.

DO'S'

- (1) On-going programmes, which actually started in the field before the announcement of elections may continue.
- (2) Relief and rehabilitation measures to the people in areas affected by floods, drought, pestilence, and other natural calamities, can commence and continue.
- (3) Grant of cash or medical facilities to terminally or critically ill persons can continue with appropriate approvals.
- (4) 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.
- (5) Criticism of other political parties and candidates should relate to their policies, programme, past record and work.
- (6) The right of every individual for peaceful and undisturbed home life should be fully safeguarded.
- (7) The local police authorities should be fully informed of the venue and time of the proposed meetings well in time and all necessary permissions taken.
- (8) If there are any restrictive or prohibitory orders in force in the place of the proposed meeting, they shall be fully respected. Exemption, if necessary, must be applied for and obtained well in time.
- (9) Permission must be obtained for the use of loudspeakers or any other such facilities for the proposed meetings.
- (10) The assistance of the police should be obtained in dealing with persons disturbing meetings or otherwise creating disorder.
- (11) The time and place of the starting of any procession, the route to be followed and the time and place at which the procession will terminate should be settled in advance and advance permissions obtained from the police authorities.
- (12) The existence of any restrictive orders in force in the localities through which the procession has to pass should be ascertained and fully complied with. So also, all traffic regulations and other restrictions.
- (13) The passage of the procession must be without hindrance to traffic.

- (14) Cooperation should be extended to all election officials at all times to ensure peaceful and orderly poll.
- (15) All Workers must display badges or identity cards.
- (16) Unofficial identity slips issued to voters shall be on plain (white) paper and not contain any symbol, name of the candidate or name of the party.
- (17) Restrictions on plying of vehicles during the campaign period and on poll day shall be fully obeyed.
- (18) (Except voters, candidates and their election/polling agents), only persons with a specific valid authority letter from the Election Commission can enter any polling booth. No functionary however highly placed (e.g. Chief Minister, Minister, MP or MLA etc.) is exempt from this condition.
- (19) Any complaint or problem regarding the conduct of elections shall be brought to the notice of the observer appointed by the Commission/Returning Officer/Zonal/Sector Magistrate/Election Commission of India.
- (20) Directions/orders/instructions of the Election Commission, the Returning Officer, and the District Election Officer shall be obeyed in all matters related to various aspects of election.
- (21) Do not leave the constituency after the campaign period is over if you are not a voter or a candidate or candidate's election agent from that constituency.

DON'Ts

- (1) Any and all advertisements at the cost of the public exchequer regarding achievements of the party/Government in power is prohibited.
- (2) No Minister shall enter any polling station or the place of counting, unless he or she is a candidate or as a voter only for voting.
- (3) Official work should not at all be mixed with campaigning/electioneering.
- (4) No inducement, financial or otherwise, shall be offered to the voter.
- (5) Caste/communal feelings of the electors shall not be appealed to.
- (6) No activity, which may aggravate existing differences or create mutual hatred or cause tension between different castes, communities or religious or linguistic groups shall be attempted.
- (7) No aspect of the private life, not connected with the public activities, of the leaders or workers of other parties shall be permitted to be criticized.

- (8) Other parties or their workers shall not be criticized based on unverified allegations or on distortions.
- (9) Temples, Mosques, Churches, Gurudwaras or any place of worship shall not be used as places for election propaganda, including speeches, posters, music etc., on electioneering.
- (10) Activities which are corrupt practices or electoral offences such as bribery, undue influence, intimidation of voters, personation, canvassing within 100 meters of a polling station, holding of public meetings during the period of 48 hours ending with the hour fixed for the close of the poll and conveyance of voters to and from polling stations are prohibited.
- (11) Demonstrations or picketing before the houses of individuals by way of protesting against their opinion or activities shall not be resorted to.
- (12) Subject to the local laws, no one can make use of any individual's land, building, compound wall, vehicles etc. for erecting flag staffs, putting up banners, pasting notices or writing slogans etc. without specific permission of the owner (to be shown to and deposited with the District Election Officer).
- (13) No disturbances shall be created in public meetings or processions organized by other political parties or candidates.
- (14) Processions along places at which another party is holding meetings shall not be undertaken.
- (15) Processionists shall not carry any articles, which are capable of being misused as missiles or weapons.
- (16) Posters issued by other parties and candidates shall not be removed or defaced.
- (17) Posters, flags, symbols or any other propaganda material shall not be displayed in the place being used on the day of poll for distribution of identity slips or near polling booths.
- (18) Loudspeakers whether static or mounted on moving vehicles shall not be used either before 6 a.m. or after 10p.m. and without the prior written permission of the authorities concerned.
- (19) Loudspeakers shall also not be used at public meetings and processions without the prior written permission of the authorities concerned. Normally, such meetings/processions will not be allowed to continue beyond 10.00 p.m. in the night and will be further subject to the local laws, local perceptions of the security arrangements of the area and other relevant considerations like weather conditions, festival season, examination period, etc.
- (20) No liquor should be distributed during elections.


- (21) On the day of the poll, no person who has been assessed to be having a security threat and therefore given official security shall enter the vicinity of a polling station premise (within 100 meters) with his security personnel. Further, on the day of the poll no such person shall move around in a constituency with his security personnel. If the person provided with official security happens to be a voter also, then he or she shall restrict his / her movement - accompanied by security personnel, to voting only.
- (22) No person who has been assessed to be having a security threat and therefore provided official security or who has private security guards for himself, shall be appointed as an election agent or polling agent or counting agent.

NOTE: The above list of Do's' and Don'ts' is only illustrative and not exhaustive and is not intended to substitute any other detailed orders, directions/instructions on the above subjects, which must be strictly observed and followed.

The clarification/approval of the Election Commission of India/Chief Electoral Officer of your state should be obtained in case of doubt.

The above instructions of the Commission shall be brought to notice of all concerned for strict compliance. Please acknowledge the receipt of this letter.

Yours faithfully,


(NARENDRA N. BUTOLIA)
SR. PRINCIPAL SECRETARY