

Report of the Task Force to Strengthen the Institution of the State Election Commission and related matters

1. Constitution of the Task Force

1.1 A Task Force was constituted in the Ministry of Panchayati Raj by Order No. M-11011/51/2010-P&C (AR) Vol. II dated 18.3.2011 to suggest the measures for strengthening the institution of the State Election Commission.

1.2 Members of the Task Force

(1)	Dr. Hrusikesh Panda, Additional Secretary, MoPR	Chairman
(2)	Joint Secretary, Ministry of Law (Legislative Deptt.)	Member
(3)	Joint Secretary, Ministry of Urban Development	Member
(4)	Principal Secretaries (PR&RD Deptt.), Government of Tamil Nadu, Maharashtra, West Bengal and Uttar Pradesh	Members
(5)	Mrs. Rashmi Shukla Sharma, Joint Secretary, MoPR	Member Secretary

1.3 The Terms of Reference of the Task Force were:

- (i) To examine variations in the working of the SECs in different States / UTs, identify good practices and also areas of concern.
- (ii) To suggest measures for giving reasonable autonomy to SECs in discharging their responsibilities.
- (iii) To examine the need for amendments to the Constitution and Law including the Model Panchayat Election Bill and the Model State Election Commissioner (Conditions of Service) Bill.

1.4 During the meeting of the Task Force with the State Election Commissioners (SECs), a view was taken that the Task Force should base its Report on the objective of how to conduct more free and fair elections. The autonomy and structure of State Election Commission will be a part of this larger objective.

Instead of limiting the scope of this report to any specific law, a holistic view of good practices across states and institutions should be taken by the Task Force.

2. Proceeding of Task Force

2.1 The Task Force met thrice. In the first meeting, beside the members, the SECs of Andhra Pradesh, Bihar and Jharkhand were present as invitees. In the second meeting, the SECs of Karnataka, Gujarat, Nagaland and representative of SEC, Tamil Nadu were present as invitees. The list of participants in the meetings is given in Annexure.I.

2.2 The note dated 08/03/2011 received from the Convenor of the Standing Committee of SECs was considered by the Task Force. Detailed written proposals were received from SECs of Karnataka and Jharkhand. The Standing Committee of State Election Commissioners had sent their comments dated 26/08/2011 on the draft minutes of the 2nd meeting of the Task Force and these have been examined. A copy of the Background Paper on Electoral Reforms presented by the Ministry of Law and Justice in December, 2010 has been examined by the Task Force. The other documents examined include the Protocol of Gujarat SEC on e-voting and the instructions issued by the Election Commission of India on role of media during the period of enforcement of the code of conduct and "Paid News". The draft minutes were discussed in detail in the third meeting held on 29th August.

2.3 On 15th September, 2011 the Standing Committee of State Election Commissioners met the Chairman of the Task Force and the Secretary, Panchayati Raj. In this meeting, in particular, the question of money-power in elections was discussed. This has been included in the Report. In this context, the question of compulsory voting has also been briefly mentioned in the report.

3. Constitutional Provisions

3.1 The 73rd and 74th Constitutional amendments envisage the setting up of State Election Commission consisting of a State Election Commissioner to be appointed by the Governor. Article 243E of the Constitution states that every Panchayat,

unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting. It further mandates that elections to Panchayats be completed before the expiry of its duration or six months from the date of its dissolution.

3.2 As per Article 243K and Article 243 ZA, the superintendence, direction and control of preparation of electoral rolls and conduct of all elections to Panchayats and Municipalities vests with a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor. The SECs are to function independently of the State Government concerned. The SEC cannot be removed from office except in like manner and on like ground as a Judge of a High Court, and the Governor is mandated, when requested by the SEC, to make available such staff as may be necessary for the discharge of his duties. Subject to these provisions, the Constitution empowers the State Legislature to make laws regarding elections to Panchayats.

3.3 The powers and responsibilities vested on the Election Commission of India under Article 324(1) for election to Parliament and State Legislature are identical with that of SEC under Articles 243 K and 243 ZA.

4. Variations across States

4.1.1 As can be seen from the above, the intent of the Constitution clearly is that the State Election Commission shall be an independent institution to conduct free and fair elections to Panchayats and Municipalities.

4.1.2 In pursuance to the spirit of the Constitutional provision, the State Governments have established State Election Commissions in most States. These Commissions have since conducted about four general elections in the country to the third tier of government. However, in the Constitutional framework, laws regarding Panchayat elections are framed by States, and therefore, there is a great deal of variation across States. Notably, because of inadequate legal, administrative and financial provisions, several SECs face constraints in conducting free and fair elections. Even though the third tier of government has a constitutional status now,

all State Governments are not able to give State Election Commissions the priority they need and deserve for ensuring a fair and equitable operation of democracy.

4.1.3 The 73rd and 74th Amendments of the Constitution had a positive impact on the 3rd tier of governance in both rural and urban areas. Elections have been held regularly and when elections are not held in time people can approach the High Court because of the Constitutional provisions. Most of the States have incorporated the broad principles of independence in elections to Panchayats and Municipalities. However, aberrations continue. In Nagaland, which is included in part IX A of the Constitution but excluded from part IX, a provision for 1/3rd reservation for women has been mandated in the State law. But during the last election conducted in Mokokchung Town Council (Municipality) in 2008, some men surrounded the office of the Returning Officer and did not allow women candidates to file their nominations. This is also apprehended in Nagaland in Municipal Elections scheduled in near future. At the same time, the Task Force notes that women groups have become active and want to fight against the illegal actions of these adversaries.

4.1.4 En masse supersession of Panchayats and Municipalities after change of government at the State was a common occurrence earlier, but has become rarer after the 73rd and 74th Amendments of the Constitution. Nevertheless, even in 2011 after change of government in Puducherry there was en masse supersession of the Panchayats. On the positive side, elections have been held for Panchayats in Jharkhand and Jammu & Kashmir after decades. The comparative peace in the polling process and the larger voter turnout also shows that Panchayats have been recognized as a necessary and important aspect of local governance and agency functions. On the downside, there was high level of violence observed in states like Uttar Pradesh which is linked to high amount of funds available in Panchayats.

4.2 Several difficulties faced by the State Election Commissions in conducting free and fair elections and absence of independence have been pointed out during discussions and in the documents.

4.2.1 In some States, the State Election Commissions are housed in State Government Secretariats creating the impression as if they are a part of the State Government or one of its departments. In smaller States (like Manipur, Nagaland) the State Election Commissioner is a part time government servant. Even in a major State like Tamil Nadu, the SEC has a tenure of two years which is extendable. These situations do not conform to the impartiality and independence of SEC envisaged under Articles 243 K and 243 ZA of the Constitution.

4.2.2 A lot of election related jurisprudence has evolved in India especially in the context of Parliamentary and State Legislature elections. This jurisprudence is, *mutatis mutandis* applicable to elections to local bodies as well. However, the State Election Commissions do not have the ability to handle legal work for want of in-house legal personnel, law officers and libraries. Moreover, the jurisprudence related to elections to local bodies has also not been put to use due to the incapacity of State Election Commission to handle legal issues and assert them in courts and absence of an institutional mechanism for compilation of the jurisprudence.

4.2.3 Application of Information Technology and computerization, which is facilitating work in other areas of governance and the electoral processes of Election Commission of India are not being used by all State Election Commissions due to lack of IT related capacity in terms of hardware, software and personnel.

4.2.4 Many State Election Commissions have been provided inadequate staff by the State Governments, the provisions of Article 243K(3) notwithstanding.

4.2.5 The status of SECs vary from State to State. Some major States have not vested the status of High Court judges on the SEC. The status of SECs across the States is given in Annexure II.

4.2.6 The allowances and remuneration permitted for staff deployed for preparation/ revision of electoral rolls and for conduct of elections are often inferior to what is available for similar jobs done for the Election Commission of India. As a

result, the staff deployed perceive that the work of State Election Commission is inferior to that of elections conducted by Election Commission of India.

4.3 The Second Administrative Reforms Commission in its Sixth Report on Local Governance (2007) had vide para 3.2.2 observed as under:

“3.2.2 Constitution of the State Election Commission.

3.2.2.1 Given the common functions of the State Election Commissions with regard to local bodies' elections, it is necessary to examine how the system has functioned and what improvements to that system, if any, are required. The State Election Commission performs functions similar to that of the Election Commission of India. The number of elected representatives of the people has enormously increased over the years and the conduct of elections to the local bodies is indeed a gigantic task. The institution is not yet two decades old, but holds the key to a highly representative system of democratic governance in the country. It is, therefore, essential that the machinery for organizing local elections is adequately supported.”

5. **Measures for giving reasonable autonomy to SECs.**

5.1 An important issue with respect to the State Election Commissioners is the status and their terms and conditions. The Constitution mandates that the SEC cannot be removed except in like manner and on like ground as a Judge of a High Court. It has been widely perceived that the intent of the Constitution is that the SEC should have the status of a Judge of a High Court. This is said to be the reason why majority of the States have followed the spirit of the Constitution. Out of 31 States, in 18 the status of the SEC is that of a Judge of a High Court, in 5 States the status is that of Chief Secretary to the State Government and in others of Secretary/Additional Secretary, or even not properly defined. The status of the SEC is an extremely important issue as it empowers the SEC to insist on procedures being followed. The SEC should be able to ensure that full cooperation from the State Government is forthcoming. Further, the Task Force was informed that sometimes, after elections are completed, SECs become parties to litigation on the election results and are occasionally summoned by High Court to be personally present during the proceedings. This creates an anomalous situation where a Constitutional Authority is summoned by the Court. The tenure of the SEC also varies. In some States, the term of the SEC is less than 5 years, so that an SEC may complete his term without conducting any elections.

5.2 **Status of SEC:** For ensuring the proper functioning of SECs as envisaged under the Constitution, the following suggestions were made:

- a) **SECs should be given the status of a High Court Judge as otherwise, cooperation of the Chief Secretary, DGP, Finance Secretary and other important officials may not be forthcoming, and more importantly, the SEC may not appear to be independent. The Task Force supports this.**
- b) The tenure of the SEC should be fixed for a term of five or six years or till the SEC reaches the age or 65 years whichever is earlier. If the tenure is less than five years, it is possible that SECs may complete their tenures without conducting Panchayat election even once. There should be no provision of extension. **The Task Force recommends a tenure of five**

years or 65 years of age whichever is earlier and without any provision of extension.

- c) There was a suggestion that SEC should be a three-member body as a single Election Commissioner could be more vulnerable to pressure by the State Government and other groups. The Task Force examined the pros and cons of this. The independence and authority envisaged under the existing Constitutional provision has not been fully put in place. This should be done before the structure is expanded, and which has cost implications. Of course, this will also require amendment of Article 243 K (1) of the Constitution. **Hence the Task Force does not support a three-member Commission.**

5.3. Manpower available to SECs

Many SECs are facing severe staff shortage which affects the smooth conduct of elections. In many States junior level staff are deputed to the SECs. Direct recruitment is an alternative, but there can be a vested interest in view of the long tenure and inability of SEC to change them. On the whole, deputation system is better. There are also issues related to manpower during the conduct of elections. Unlike the Election Commission of India, SECs do not always have full disciplinary powers over the deputed staff, which comes in the way of effective intervention in case of malpractices etc.

For smooth conduct of Panchayat elections, the following are recommended by the Task Force:

- a) **Permanent staff of the SECs should be limited to Class IV. Rest of the staff should be on deputation. In case Class III staff are in position, their career graph should be charted.**
- b) **Personnel from Public Sector Undertakings and Central Government offices located in State should be drafted for conducting Panchayat elections. This may require amendment of State Laws / Rules.**
- c) **In view of the law and order problems sometimes encountered during the Panchayat elections, there were suggestions for adequate provision**

of central paramilitary forces as in the case of Assembly and Parliamentary elections.

6. Funds

However, the central concern is availability of funds and so ultimately the State Government has to take a call on this. Some lower-cost alternatives are re-polling, voter awareness, prosecution for offences during and/ or related to election process and presence of Observers with clear powers and responsibilities. The SEC can also exercise greater authority if it is vested with powers to try election cases.

6.1 Some SECs have reported that adequate funds are not provided by State Governments for the conduct of elections. At present, there is a great deal of disparity between the funds provided for Parliament and Assembly elections conducted by ECI and Panchayats/Municipality elections conducted by SECs. SECs require adequate funding for meeting office expenses, both on infrastructure and personnel, use of ICT to facilitate their functioning and building of a database on various aspects of election. The following were the suggestions regarding finances of SECs:

- It would be appropriate to provide funds as per the norms set by the Election Commission of India. MoPR and MoUD may share some of this expenditure.
- The feasibility of a CSS for strengthening SECs may be explored.

6.2 In the 2nd meeting held on 13.6.2011, Principal Election Officer, Govt. of Tamil Nadu suggested that the use of Electronic Voting Machines (EVMs) may be expanded. SEC Karnataka informed the Task Force that ECI has suggested that 40% EVMs should be provided by the State Govt. with the rest coming from ECI. However, because of the stipulation that EVM records are to be retained for a period of 6 months after an election, their availability on a continuous basis cannot be assured. SECs are therefore forced to borrow EVMs from other States to tide over their requirement. SEC Karnataka requested Gol to provide funding for the

additional EVMs required to be provided by the States. **However, it was agreed that since election petitions have to be filed within one month, the EVM records can be erased and made suitable for reuse one month after the elections except in cases where litigation is pending.**

6.3. Process of Providing Funds

The process of obtaining funds from the State Governments is often quite protracted, with the SECs needing to make several proposals etc. to the State Government. At present, SECs do not have the power to divert funds allotted under one head to other heads of expenses. This leads to operational difficulties at the time of conducting elections.

6.3.1. The recommendation of the Task Force is the following. **SECs should have the flexibility to utilize funds as per their priorities without having to seek approval of the Finance Department of the State Government in every instance. In case of elections, the freeze on non-plan expenditure enforced in the months of February and March should not be applied to SECs. There should be an enabling provision under which SECs could make emergency withdrawal of funds for conducting elections. Further, funds of SECs should not lapse at the end of the financial year, as in the case of government departments, as this causes serious difficulties for elections organized in April and May. Since dates of election (other than bye-election) are known in advance, budget provision should be made in the main budget and not at supplementary stage.**

6.4 Central Sector Scheme

6.4.1 **The Task Force examined the above suggestions and recommends that in 12th Five Year Plan the State Election Commissions should be given a grant from the proposed scheme of Panchayat Shashaktikaran Abhiyan (PSA). For a State to be eligible to receive this grant, among other things, the following conditions must be satisfied at least by the second year of the Plan:**

- (a) The State Election Commissioner must be full time;**
- (b) He should have a tenure of five years or up to 65 years of age whichever is earlier;**
- (c) There should be no provision for extensions. The protection given to the SEC under Article 243K must be available under the state law or rules governing the State Elections Commissions;**
- (d) The SEC must have the status of a High Court Judge;**

6.4.2 The grant for the SECs can be spent for any of the following activities:

- a) Purchase of EVMs;**
- b) Expenses relating to conduct of elections;**
- c) E-voting and other innovative practices;**
- d) Building;**
- e) Voters education including observation of National Voters' Day;**
- f) Engagement of employees on contractual basis;**
- g) Engagement of a Legal Officer of the level of an Additional District Judge or a legal practitioner:**

6.5 Allocations for SEC including expenditure on conduct of local body elections and on administrative expenses should be clearly provided in the States' main budget, since the period when general election is due is known in advance.

6.6 Separate financial powers should be prescribed for the SEC. SECs should have the flexibility to divert funds between different heads of accounts while incurring election-related expenditure. They should have the flexibility for procurement etc. subject to ECI norms

7. Central legislative interventions needed to ensure appropriate terms and conditions, manpower and funds for SECs.

7.1 The following suggestions have been made:

- a) Insertion of Article 243K(3A) through Constitutional Amendment providing that the Governor of a State shall formulate rules relating to financial and administrative powers of the SEC under Article 163 (2) in consultation with the SEC.
- b) The Union Government should pass legislation relating to elections, election machinery, uniformity in the terms and conditions of SECs under the residuary powers conferred on it under Entry 97 of the Union List in the Seventh Schedule to the Constitution.
- c) Grants for strengthening the SECs could be proposed in the memorandum to be submitted to the 14th Finance Commission. The release of Finance Commission grants could be linked to proper support and authority given by the State Governments to the SECs.
- d) As in the case of JNNURM funds, release of funds to the State Governments by the Centre could be made conditional on adequate measures being taken by the State Governments for strengthening the institution of SEC and other aspects of decentralized governance.

7.2 The Task Force has examined the above suggestions and come to the following conclusions:

- (a) It is not possible to insert rule-making powers for the Governor as financial and administrative powers are substantive powers; and particularly financial powers cannot bypass the State Legislatures. Secondly, since both part IX and part IXA of the Constitution vests on the State Legislature the responsibility of detailed legislation, the Governor cannot assume these powers. The Constitution can not be amended contrary to this spirit of the part IX and part IXA of the Constitution and vest legislative powers on the Union on one issue, i.e., the State Election Commission.
- (b) Since the law-making power for SEC has been vested specifically to the State Legislature under Article 243(K) the residual powers under Entry 97 of the Union List of the VIIth Schedule of the Constitution would not be applicable:

(c) **The Task Force agrees that release of funds from Central Finance Commission can be recommended subject to the conditions like the structure of SEC recommended at Para 6.4.1 above and also the following conditions:**

- (i) **Panchayats and Municipalities should not be superseded en masse;**
- (ii) **Grants not to be released during period of en masse supersession or supersession beyond six months ;**
- (iii) **Reservation for women:**
- (iv) **Constitution of State Finance Commission ;**
- (v) **Conduct of both direct and indirect elections through SECs.**

8. Vesting of Powers of Civil Court on State Election Commission

8.1 Vesting of certain powers of civil court on matters of election is justified on several counts:

- (a) This will expedite the adjudication process;
- (b) SEC will have greater authority for conduct of elections;
- (c) SEC can use his time between election to attend to court work and the Civil Courts will be spared of the burden to that extent.

8.2 In order for the SEC to act as a Court, it is desirable that he is accorded the status of the Judge of a High Court. **In line with the powers vested on the SEC, Karnataka, the Task Force recommends that the following judicial powers may vest with the SEC:**

- (a) **Anti-defection law where election is based on party lines;**
- (b) **Use of office for personal gains during and after election of candidates / elected representatives;**
- (c) **Absence for more than three meetings;**
- (d) **Disqualification for non-submission of election expenditure;**
- (e) **Disqualification arising out of false declaration of caste, tribe, education, number of children etc. where applicable.**

8.3 A note on the judicial powers of SEC, Karnataka and extracts of some provisions of the law is given at Appendix - III.

9. Other recommendations relating to conduct of free and fair Elections

While strengthening of SECs would be an important initiative for improving Panchayat elections, there are also several process related measures which can be undertaken to ensure free and fair elections. The Task Force has considered the examples of good practices and recommends a number of measures which can be replicated.

9.1 Online voting which has been tried out on an experimental basis in municipal elections in Gujarat could be a means to i) increase voter participation, particularly, in urban areas since it is more convenient and ii) curb electoral malpractices. The protocol of Gujarat is at Appendix I.

9.2 The Government of India may depute Observers to report on the conduct of Panchayat and ULB elections. This would exert some degree of psychological pressure on State election machinery to ensure free and fair local body elections. These Observers from MoPR and MoUD would make short visits to observe the preparations made for polling, the actual polling process and the counting of votes. The concerned Ministries will bear the cost of travel to the States. Local logistics may have to be arranged by the States. The SEC will have to vest specific powers on the Central Observers.

9.3 Paid news carried by print and electronic media can be curbed by adoption of the procedure contained in the guidelines of the Election Commission of India guidelines issued following the Judgment of Hon'ble Supreme Court in SLP (Civil) No.6679 of 2004. Similar measures for enforcement of model Code of Conduct can be followed for election conducted by SEC. A copy of the guidelines is at Appendix II.

9.4 **Security deposit may be enhanced to deter non-serious candidates, who often contest only to later bargain with other candidates to withdraw at a price.**

9.5 **Proper identification of voters based on photographic records is necessary to prevent bogus voting. However, this does not prevent violence. EVMs are not used in U.P. EVMs can reduce violence.**

9.6 In areas of North East outside part IX and part IXA of the Constitution, efforts will have to be made to mainstream the structures of decentralized governance in accordance with process of democratic decentralization, power to the people, entitlement of women to participate in elections and governance, conduct of free and fair election through the State Election Commissions, constitution of State Finance Commission, constitution of Gram Sabha and accountability of village level councils to them, minimum presence of women in Gram Sabhas and reservation for them in village councils. In order to achieve these objectives an Inter Ministerial Team (IMT) including the Chairman of the Task Force has been consulting with the State Governments and other stake holders. Positive response has already come from the Sixth Schedule Areas of Mizoram. **In order to incentivize the process of democracy the Task Force recommends that the grant under Panchayat Sashaktikaran Abhiyan during the 12th Plan may also be released to the Village Councils at par with the Panchayats subject to fulfillment of the above conditions. The Task Force also recommends that the Ministry of Urban development impose similar conditionalities for release of funds to ULBs in the North East.**

9.6.1 Article 243M(3) of the Constitution excludes District Panchayats in the Hill Areas of Darjeeling District in West Bengal from part IX of the Constitution. However this does not prohibit Constitution of Panchayats at Village and Intermediate level in the region. Panchayats did exist before and after the 73rd amendment. Three tier Panchayat General Elections were last held in all districts of West Bengal except the district of Darjeeling in May, 2008 well within the scheduled time. Three tier Panchayat General Elections for the Siliguri Sub-Division of Darjeeling district were held in June, 2009 i.e., within the due date.

9.6.2 Section 185A of the West Bengal Panchayat Act, 1973 provides that there shall not be any Zilla Parishad for the Hill Sub-divisions of Darjeeling district though there will be a Siliguri Mahakuma Parishad for Siliguri Sub division of the aforesaid district. The Act also provides that the Darjeeling Gorkha Hill Council shall exercise all the powers, discharge all the duties and perform all the functions of the Zilla Parishad in respect of Hill Areas of Darjeeling districts.

9.6.3 Panchayat General Elections for Panchayat Samities and Gram Panchayats for hill areas of Darjeeling district were last held simultaneously in the year 1995. However, in the year 2000 only General Elections to Gram Panchayat in hill areas of Darjeeling were held as the State Government did not fix any date for holding General Elections for Panchayat Samiti Constituencies. Thereafter no Panchayat General Election in hill Sub-division of Darjeeling District was held as date of elections was not fixed by Government. Since 2005, election to Gram Panchayat has not been held, though they remain in the statute. Besides, the Hill Council has not constituted any village level unit of Governance.

9.6.4 The Task Force recommends that the elections to the Panchayats in Hill Areas of Darjeeling should be held as per the existing law.

9.7 The SEC should be selected by a collegium comprising of the Chief Minister, the Leader of the Opposition in the Legislative Assembly and the Speaker.

9.8 SECs should be vested with powers for delimitation of wards, reservation of seats and rotation. The policy of delimitation should, however, rest with the State Government. SEC should be the authority to conduct both direct and indirect elections in rural and urban areas.

9.9 The number of voters in a booth should be limited to about 700.

9.10 Full time proper State Election Commissions should be constituted in States where serving officers function as part time State Election Commissioners.

9.11 The Election Commission of India debars certain public servants to participate in conduct of elections to the State and Central Legislatures from time to time. It will be appropriate that such public servants should also be debarred by State Elections Commissions from being employed in election duties in LSG.

10. Money Power in Elections

10.1 Over the years, the Constitutional authority of the State Elections Commissions has reduced physical violence and intimidation in elections. On the other hand with increased devolution of funds and functions, the use of money power in elections to LSG has increased.

10.2 In General Elections conducted by ECI, when the ballot papers were mixed, i.e., when the practice of booth-wise counting was discontinued, the impact of money power declined because it was not verifiable if a person who has taken money for voting had actually voted for the candidate who gave the bribe. On the other hand, this mixing caused great delay and since counting of votes was a continuous process it became increasingly difficult to maintain efficiency in the counting process. The delay in declaration of results created tension. When the margin of victory was low, the tension exacerbated if recounting was asked for, was allowed, or was rejected. Therefore, the practice of mixing of ballot papers was discontinued. Introduction of EVMs has had tremendous impact in upscaling the efficiency of counting and expeditious declaration of results. But at the same time it has also made possible for a candidate who has paid bribes for votes to verify whether he or she has received the votes for which he or she has paid. Of course,

in case of territorial constituency of a Gram Panchayat (Wards) there would be a single booth in most of the States and, therefore, counting has to be booth-wise.

10.3 The booth-wise counting has thus become a fact of life. The Election Commission of India is examining the feasibility of combining the EVMs so that this will be equivalent to mixing of ballot papers from all the booths. As stated above, this will, however, have no impact for elections to Gram Panchayat Ward Members in most of the states.

10.4 On certain occasions the Election Commission of India have issued guidelines prohibiting carrying of money above a certain amount on the day of polling or on a couple of days before polling should be subject to verification, and such person and cash can be detained until the election is over. Such orders can also be passed by Election Officers and Executive Magistrates on their own. While this has been effective, use of local police for preventing this is of doubtful use and may in fact be counter-productive as there is the possibility of local police providing safe passage for persons carrying such cash. In short, availability of Central Para-military Forces is desirable to implement this provision and thus reduce the impact of money power.

10.5 The impact of money power is likely to be less if polling is higher. In low turn out only the committed voters and / or voters who have taken money are likely to come to the polling station. The middle class who are less likely to vote on the basis of money do not go to vote because of loss of time and more than that an overall disinterest and cynicism about the electoral process. **One way of encouraging this segment of voters would be to have e-voting which has been discussed at para 9.1 above.**

10.6 Increase in voting can be assured through compulsory voting. A Bill for compulsory voting has already been passed by the Legislative Assembly of Gujarat though it is awaiting the assent of the Governor. The legal aspect of the compulsory voting is as follows. Compulsory voting has been in practice with nominal penalty for

defaulters in developed democracies. An example is Australia where the compulsory voting has been in force since 1912 and the polling is generally 97-98%. As long as (a) penalty for defaulting in voting is low and nominal, (b) there is a procedure for exemption to those who are unable to vote on genuine grounds like absence from the polling stations for bona fide reasons and (c) the voter is able to vote for 'none of the candidates', compulsory voting would not violate any Fundamental Right of a voter. In Indian conditions as on today the penalty could be something like Rs.25/- . **On the whole the Task Force would recommend that compulsory voting should be examined with an unbiased perspective.** Subject to the above conditions, this could reduce money power. A note on the pros and cons of 'Compulsory voting' is at Appendix IV.

New Delhi

14th October 2011

(A) List of participants of 1st meeting of the Task Force held on 8th April, 2011

Ministry of Panchayati Raj

1. Shri Hrusikesh Panda, Additional Secretary, Chairman
2. Smt. Rashmi Shukla Sharma, Joint Secretary
3. Smt. Susan D. George, Director

State Election Commission (SEC)

1. Shri Ramakanth Reddy, Commissioner, SEC, Andhra Pradesh
2. Shri J.K. Datta, Commissioner, SEC, Bihar
3. Shri S. D. Sharma, Commissioner, SEC, Jharkhand

State Government

1. Shri Trilochan Singh, Pr. Secretary, PR & RD Deptt., West Bengal
2. Shri K. Rajamani, Additional Director, RD & PR Deptt. Tamil Nadu
3. Shri Sudhan Chandola, Joint Director, Panchayati Raj Deptt. U.P.

Ministry of Urban Development

1. Shri Ashutosh Joshi, Director

Ministry of Law & Justice

1. Ms. Reeta Vasishta, Additional Legal Counsel.

(B) List of participants of 2nd meeting of the Task Force held on 13th June, 2011

Ministry of Panchayati Raj

1. Shri Hrusikesh Panda, Additional Secretary in Chair
2. Smt. Rashmi Shukla Sharma, Joint Secretary
3. Ms. Susan D. George, Director

Central Ministry / Department

1. Shri R. Sathyanarayanan, Under Secretary, Ministry of Urban Development

State Election Commission (SEC)

1. Shri C. R. Chikkamath, Commissioner, Karnataka

2. Shri K. C. Kapoor, Commissioner, Gujarat
3. Ms. Banua Z. Jamir, Addl. Chief Secretary-cum-Commissioner, Nagaland
4. Shri M. Parameswaran, Principal Election Officer, Govt. of Tamil Nadu

State Government

1. Shri Rajendra Kumar Goyal, Special Secretary,
Department of Panchayati Raj, Govt. of Uttar Pradesh.

(C) List of participants of 3rd meeting of the Task Force held on 29th August, 2011

Ministry of Panchayati Raj

1. Shri Hrusikesh Panda, Additional Secretary in Chair
2. Smt. Rashmi Shukla Sharma, Joint Secretary

Central Ministry / Department

1. Dr. Sanjay Singh, JS & LC, Legislative Deptt. Ministry of Law & Justice
2. Ms. E. P. Nevideta, Director, Ministry of Urban Development
3. Shri Jose Thomas, Deputy Secretary, Legislative Deptt. Ministry of Law & Justice

State Government

1. Shri N. S. Palaniappan, Pr. Secretary, RD & PR Deptt., Govt. of Tamil Nadu
2. Shri Rajendra Kumar Goyal, Special Secretary, Panchayati Raj Deptt. Govt. of U.P.

STATUS AND SERVICE CONDITION OF CHIEF ELECTION COMMISSIONS

S. No.	Name of State/UT	Status High Court Judge/Chief Secretary/Secretary to Govt. of India/ Any other	Pay Scale/ Grade/ Salary	Tenure / Age Limit
1.	Andhra Pradesh	High Court Judge	80,000/-	05 years / 65 years
2.	Arunachal Pradesh	High Court Judge	80,000/-	05 years / 65 years
3.	Assam	Equivalent to High Court Judge & Chairman, Assam Public Service Commission	80,000/-	04 years / 62 years
4.	Bihar	Chief Secretary	80,000/-	05 years
5.	Chhattisgarh	High Court Judge	80,000/-	05 years / 65 years
6.	Chandigarh	Not defined	80,000/-	03 years / 65 years
7.	Delhi	Status not clearly defined	80,000/-	03 years / 65 years
8.	Gujarat	Addl. Chief Secretary	80,000/-	05 years
9.	Goa	High Court Judge	80,000/-	05 years / 65 years
10.	Haryana	High Court Judge	80,000/-	05 years / 65 years
11.	Himachal Pradesh	Salary (but not allowances) of the High Court Judge. Status not defined.		05 years
12.	Jammu & Kashmir	Holding additional charge of SEC	80,000/-	
13.	Jharkhand	High Court Judge	80,000/-	03 years / 64 years
14.	Kerala	Chief Secretary	80,000/-	05 years / 65 years
15.	Karnataka	High Court Judge	80,000/-	05 years
16.	Maharashtra	M.A.T. Member equivalent to High Court Judge	Pay minus Pension	05 years
17.	Madhya Pradesh	High Court Judge	80,000/-	06 years / 66 years

S. No.	Name of State/UT	Status High Court Judge/Chief Secretary/Secretary to Govt. of India/ Any other	Pay Scale/ Grade/ Salary	Tenure / Age Limit
18.	Manipur	Secretary (Law), Govt. of Manipur. Holding additional charge of SEC	80,000/-	03 years / 62 years
19.	Mizoram	Chief Secretary	Pay minus Pension	03 years
20.	Nagaland	Chief Secretary	80,000/-	03 years
21.	Orissa	High Court Judge	80,000/-	05 years / 65 years
22.	Punjab	High Court Judge	80,000/-	05 years / 65 years
23.	Puducherry	Secretary to Government	80,000/-	03 years / 65 years
24.	Rajasthan	Chief Secretary	Chief Secretary Grade	05 years / 65 years
25.	Sikkim	High Court Judge	80,000/-	05 years / 67 years
26.	Tamil Nadu	High Court Judge	80,000/-	02 years ago no limit
27.	Tripura	Equivalent to Pr. Secretary, Govt. of Tripura/ Addl. Scy., Gol	67000 – 79000	05 years / 62 years
28.	Union Territories (A&N Island, Lakshadweep, Dadra & Nagar Haveli, Daman & Diu)	Secretary to Govt. of India/ Chief Secretary	80,000/-	05 years / 65 whichever is earliest
29.	Uttar Pradesh	High Court Judge	80,000/-	05 years / 65 years
30.	Uttarakhand	High Court Judge	80,000/-	05 years / 65 years
31.	West Bengal	High Court Judge	80,000/-	05 years / 66 years

E-VOTING

1. The copies of the orders issued by the Government of Gujarat and the State Election Commission, Gujarat are given in this Appendix. The actual nature of amendment required for enabling e-voting will depend on the kind of words used under the election law/rules of the States. Only in those cases where voting through ballot papers and EVMs has been specifically provided, the corresponding provisions in these laws/rules will have to be amended. Once these orders are amended the State Election Commission can issue orders analogous to those issued by the State Election Commission, Gujarat.

2. The protocol followed by Gujarat has two forms of e-voting – one through internet and one through e-polling booth. **The Task Force was of the opinion that for urban voters who do not have time or inclination to wait in long queues in polling booths the Internet option is likely to be more acceptable.** The State Election Commissions may take a view on whether to adopt both the forms or only voting through internet.

3. **The Task Force was also of the view that this will increase polling in municipal elections and particularly larger municipalities and corporations. In these bodies the middle class and upper class voters do not participate in election and e-voting can significantly increase polling and this will raise the legitimacy of urban local bodies, and is also likely to reduce the influence of money in voting.**

NOTIFICATION

Urban Development and Urban Housing Department
Sachivalaya, Gandhinagar.
Dated the 5th June, 2010

BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS ACT, 1949.

No-KV/78-2010-MNP-102010-836/P:- WHEREAS, certain draft rules further to amend the Bombay Provincial Municipal Corporations (Conduct of Election) Rules, 1994 were published as required by sub-section (2) of section 456 of the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), at pages 18-1 to 18-3 in the Gujarat Government Gazette Extraordinary, Part I-A, dated the 10th May, 2010, under Government Notification Urban Development and Urban Housing Department No.KV/62-2010-MNP-102010-836/P, dated the 10th May, 2010 inviting objections and suggestions from all persons likely to be affected thereby within a period of fifteen days from the date of publication of the said notification in the *official Gazette*;

AND WHEREAS, the objections and suggestions received on the said draft rules, have been considered by the Government;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of section 456 read with sub-section (2) of section 14 of the Bombay Provincial Municipal Corporations Act, 1949 (Bom.LIX of 1949), the Government of Gujarat hereby makes the following rules further to amend the Bombay Provincial Municipal Corporations (Conduct of Election) Rules, 1994, namely:-

1. These rules may be called the Bombay Provincial Municipal Corporations (Conduct of Election) (Second Amendment) Rules, 2010.
2. In the Bombay Provincial Municipal Corporations (Conduct of Election) Rules, 1994 (hereinafter referred to as the "said rules"), in part – IIIA, after rule 52T, the following rule shall be inserted namely:-

“52 U E- voting of online voting:-

(1) Online voting (hereinafter referred to as “e- voting”) means using system in which a voter can cast his vote by using the electronic device through internet medium.

(2) For e- voting identification of the voter, thumb impression or finger print or Iris Retinal Scan, DNA or any Biometric as may be decided by the State Election Commission from time to time, of the voter shall be obtained before the Mamlatdar or Executive Magistrate for issuance of the Biometric Card.

(3) The designed officer appointed by the State Election Commission shall obtain such information from the e- voter for issuing the Biometric Photo Voter ID Card. The information obtained by the designated officer shall be kept secret and shall not be disclosed.

(4) The State Election Commission shall declare the e- polling stations for e- voting.

(5) The names of contesting candidates and the symbols allotted to them with ballot paper shall be displayed on the electronic equipment or on the *website*, and the same shall be made available to the electronic equipment (server) of e- voting system set up by the State Election Commission or by such other Officer designated by the State Election Commission in this regard.

(6) A voter (hereinafter referred to as an “e- voter”) who have given option for e- voting shall be permitted by the State Election Commission and he shall cast his vote only once in each election.

(7) (1) The e- voting shall be made either by,-
(i) Online using internet;
(ii) By Short Message Service, through his/her own mobile;
(iii) By calling call Centre IVR system;
(iv) By mobile booths;
(v) By any other electronic internet medium as may be decided by the State Election Commission from time to time.

(2) The State Election Commission shall decide any one or more than one of the above option referred to in sub-rule (1) for e-voting depending upon the availability appropriate technology to be used in the conduct of election. For effective have such powers to prescribe such norms and manners for effective implementation of e- voting.

(8) The State Election Commission shall decide and declare the period and time limit within which an e-voter shall cast his e- vote.

(9) The State Election Commission shall make technical arrangements to maintain the secrecy of e- voting.

(10) An e- voter shall cast his vote himself and not by proxy.

(11) No vote shall be received from any person whose name is not enrolled in the ward roll as an e- voter of the ward to which the election is being held.

(12) In case of failure of system for e- voting, the State Election Commission shall allow voting at such election through Electric Voting Machine or ballot paper, as the case may be.

(13) The electric equipment (server) in which the details of e- voting are stored shall remain under the control of the State Election Commission in this behalf. The State Election Commission shall make adequate technical arrangements so as to ensure e-voters cast are properly stored in the said equipments till they are counted.

(14) The Technical arrangements shall have to be made with regard to the counting of the votes cast through e-voting on the day of counting the votes, by the Returning Officer.

(15) The Returning Officer shall count the cast votes through e-vote recorded in electronic equipment (server) and shall include them in votes of the Ward cast by other system”.

NOTIFICATION
Urban Development and Urban Housing Department
Sachivalaya, Gandhinagar
Dated the 5th June 2010

BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS ACT, 1949

No. KV/79-2010-MNP-102010-836/P:- WHEREAS, certain draft rules further to amend the Bombay Provincial Municipal Corporations (Registration of Electors) Rules, 1994 were published as required by sub-section(2) of Section 3\456 of the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), at pages 19-1 to 19-4 in the Gujarat Government Gazette, Extraordinary, Part I-A, dated the 10th May 2010 under Government Notification Urban Development and Urban Housing Department No. KV/63-2010-MNP-102010-836/P, dated the 10th May 2010 inviting objections and suggestions from all persons likely to be affected thereby within a period of fifteen days from the date of publication of the said notification in the *Official Gazette*;

AND WHEREAS, the objections and suggestions received on the said draft rules, have been considered by the Government;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of section 456 read with sub-section (2) of section 14 of the Bombay Provincial Municipal Corporations Act, 1949 (Bom.LIX of 1949), the Government of Gujarat hereby makes the following rules further to amend the Bombay Provincial Municipal Corporations (Registration of Electors) Rules, 1994, namely:-

1. These Rules may be called the Bombay Provincial Municipal Corporations (Registration of Electors) (Amendment) Rules, 2010.
2. In the Bombay Provincial Municipal Corporations (Registration of Electors) Rules, 1994 (hereinafter referred to as "the said rules"), after rule 6, the following rule shall be inserted, namely:-

"6A. (1) Online Voting (hereinafter referred to as "e-voting") means using system in which a voter can cast his vote by using the electronic device through internet medium or any other medium as provided in Sub rule (7) of Rule 52U of the Bombay Provincial Municipal Corporations (Conduct of Election) Rules, 1994.

(2) A voter (hereinafter referred to as an "e-voter") who intends to cast his vote through e-voting, shall have to register himself in Form A(1) by submitting an application form to the Electoral Registration Officer (ERO) which can be obtained by payment of rupees five.

(3) On registration of voters name, a unique Biometric as e-Voter ID Card in Form A(2) and Personal identification Number (PIN) and / or password in the manner as specified by the State Election Commission shall be issued to an e-voter by the

officer designated by the State Election Commission. The State Election Commission may fix the price of Biometric Photo ID Card from time to time.

(4) If the name of an e-voter is included in the electoral roll, and that e-voter is migrated to other place, then, the Electoral Registration Officer shall inform him as to the inclusion of his name in the electoral roll within reasonable time before the day of voting as against his / her such application.

(5) (a) The name of e-voter shall be included in the electoral roll. Necessary entry regarding e-voters shall be made in the electoral roll against his name with respect to his option of e-voting, or

(b) The State Election Commission shall direct the Electoral Registration Officer, to prepare option wise electoral roll, if deemed fit, in the cases of choices of options given by voters.

(6) With regard to online voting system, the Electoral Registration Officer shall follow the norms decided by the State Election Commission.

(7) Once the voter is provided a unique identification as his Voter ID Card / PIN and / or a password to vote online, his name shall be marked in the Electoral Roll as an e-voter or to prepare separate e-voter's list if deemed fit by State Election Commission

(8) An e-voter shall cast his e-vote as per his option for using technology as permitted by the State Election Commission.

(9) The State Election Commission shall set up e-voting under mobile polling booths at the places such as Bus Junctions, Colleges, Universities, Railway Stations, Airports, etc. as per requirement. Where only those voters who have given option for e-voting, shall be allowed to vote. For this, the Electoral Registration Officer shall inform e-voters well in advance.

STATE ELECTION COMMISSION,
BLOCK NO.9, 6TH FLOOR,
NEW SACHIVALAYA,
GANDHINAGAR

No. SEC/ELC/MNP-E-VOTING-LB-206(1)22011/K, Date :- 8/02/2011

Read:- 1. Notification No. KV/78/2010/MNP/102010/836/P. Dt. 5-06-2010 issued by Urban Development and Urban Housing Department

2. Notification No. KV/79/2010/MNP/102010/836/P. Dt. 5-06-2010 issued by Urban Development and Urban Housing Department

-: ORDER :-

In pursuance of powers conferred vide rule 52 "U", Sub rule 7 (2) of the Bombay Provincial Municipal Corporations (Conduct of Elections) Rules -1994, The State Election Commission here-by decides and issues orders that for the forthcoming general election of Municipal Corporation out of the options provided for in Rule 52 U, sub rule 7 (i) of the above mentioned rules, following two options shall be exercised for E-Voting in all its wards :-

- (i) With the use of Internet :- through one's own PC/Laptop.
- (ii) E-Polling Booth (Staff -E--polling Booth) with the Election. Staff as may be decided by the State Election Commission.

By Order of State Election Commission,

Sd/-
(P.S.Shah)
Secretary,
State Election Commission,
Gandhinagar.

To

- Electoral Registration Officer & Municipal Commissioner, Municipal Corporation Gandhinagar.
- Asstt. Electoral Registration Officer & Dy Municipal Commissioner, Municipal Corporation Gandhinagar
- Returning Officer/ Assistant Returning Officer & those designation..... Municipal Corporation. Gandhinagar

Copy with Compliment to :-

- Additional Chief Secretary, Urban Development and Urban Housing Department, Sachivalaya, Gandhinagar
- Manager, Government Central Press, Gandhinagar,
The order may please be published in the Extra-ordinary Gazette Part 4(c) and 5 copies each of the same may please be forwarded to the concerned District Collectors and 10 copies to this office immediately.

Copy to :-

- City Election Officer and Collector Gandhinagar
Returning Officer /Assistant Returning Officer to be designated for

information please.

- Dy. Secretary / Deputy Election Commissioner-I, & II State Election Commission, Gandhinagar.
- Administrative Officer/ Asstt. Election Commissioners (all) State Election Commission, Gandhinagar.

**STATE ELECTION COMMISSION,
BLOCK NO.9, 6TH FLOOR,
NEW SACHIVALAYA,
GANDHINAGAR**

No. SEC/ELC/MNP-E-VOTING-LS-206(2)22011/K, Date :- 8 /02/2011

**Read :- 1. Notification No. KV/78/2010/MNP/102010/836/P. Dt. 5-06-2010
issued by Urban Development and Urban Housing Department.**

**2. Notification No. KV/79/2010/MNP/102010/836/P. Dt. 5-06-2010
issued by Urban Development and Urban Housing Department.**

:- ORDER :-

In pursuance of powers conferred vide rule 52 "U" sub-rule (7) (2) of the Bombay provincial Municipal Corporations (Conduct of Elections) Rules -1994. The State Election Commission here-by decides and issues orders that for E-Voting as per option No.1 i.e. for those, voting through internet, using their own PC/Laptop, it is decided that for the purpose of identification of the voters, the thumb impression or the finger impression of the voter will be taken before the Mamlatdar or Executive Magistrate.

By Order of the State Election Commission,

Sd/-
(P.S.Shah)
Secretary,
State Election Commission,
Gandhinagar.

To

- Electoral Registration Officer & Municipal Commissioner, Municipal Corporation, Gandhinagar.
- Asstt. Electoral Registration Officer & Dy Municipal Commissioner Municipal Corporation Gandhinagar
- Returning Officer/ Assistant Returning Officer & those designation.....
Municipal Corporation. Gandhinagar.

Copy with Compliment to :-

- Additional Chief Secretary, Urban Development and Urban Housing Department, Sachivalaya, Gandhinagar
- Manager, Government Central Press Gandhinagar,
The order may please be published in the Extra-ordinary Gazette part 4(c) and 5 copies each of the same may please be forwarded to the concerned District Collectors and 10 copies to this office immediately.

Copy to :-

- City Election Officer and Collector Gandhinagar
Returning Officer/Assistant Returning Officer to be designated for information please.
- Dy. Secretary, / Deputy Election Commissioner-I, & II State Election Commission, Gandhinagar.
- Administrative Officer/ Asstt. Election Commissioner (all) State Election Commission, Gandhinagar.

**STATE ELECTION COMMISSION,
BLOCK NO.9, 6TH FLOOR,
NEW SACHIVALAYA,
GANDHINAGAR**

No. SEC/ELC/MNP-E-VOTING-LS-206(3)22011/K, Date :- 8 /02/2011

- Read :-**
- 1. Notification No. KV/78/2010/MNP/102010/836/P. Dt. 5-06-2010 issued by Urban Development and Urban Housing Department.**
 - 2. Notification No. KV/79/2010/MNP/102010/836/P. Dt. 5-06-2010 issued by Urban Development and Urban Housing Department.**
 - 3. Order of the State Election Commission No.SEC-ELE-MNP-E-Voting-LS-206(1)22011-K, dated 8-2-2011.**

:- ORDER :-

The Bombay Provincial Municipal Corporations (Conduct of Elections) Rules –1994 have been amended vide the above mentioned two notifications of the Urban Development and Urban Housing Department cited in the preamble (1) and (2) above and provisions have been incorporated in the said rules for On-line-Voting-E-voting in the Municipal Corporation election and for the counting of the votes.

The State Election Commission, vide orders cited at no.(3) of the preamble, have ordered for holding the forthcoming general election of the Gandhinagar Municipal Corporation that out of the options provided for in part I of rule 52- U, sub-rule 7, the following two options will be available.

- Option (i)** Through the Computer PC/Laptop. available at one's residence with Internet Connection.
- (ii)** Through E-Polling Booth with the polling staff.

Under the powers delegated vide Article 243 Z-A of Constitution of India and under Bombay provincial Municipal Corporation Act-1949 Section 14 Sub Section (I) and Bombay Provincial Municipal Corporation (Conduct of Elections) Rules 1994, Rule 52-U, Sub-Rule (4) the State Election Commission have ordered to hold the forthcoming general election of Gandhinagar Municipal Corporation in all its wards, with EVM (Electronic Voting Machines) as well as, through the option No.(1) as described above, i.e. On line Voting through Computer /PC/Laptop available at his/her residence alongwith internet connection (E-Voting).

In the forthcoming general election of the Gandhinagar Municipal Corporation, in the election in all its wards, the Election Commission have decided that alongwith the above mentioned option No.(1)the E-voters can also cast E-vote from any of E-polling Booths as per option No(2)at the places and the number of such staff at the E-Polling Booths as decided by the City Election Officer and Collector, Gandhingar with the permission of the State Election Commission.

By Order of the State Election Commission,

Sd/-
(P.S.Shah)
Secretary,
State Election Commission,
Gandhinagar.

To

- Electoral Registration Officer & Municipal Commissioner, Municipal Corporation Gandhinagar.
- City Election Officer and Collector, Gandhinagar.
- Asstt. Electoral Registration Officer & Dy Municipal Commissioner Municipal Corporation Gandhinagar
- Returning Officer/ Assistant Returning Officer & Designation.....
Municipal Corporation. Gandhinagar.

Copy w.c.to :-

- Additional Chief Secretary, Urban Development and Urban Housing Department, Sachivalaya, Gandhinagar
- Manager, Government Central Press Gandhinagar,
The order may please be published in the Extra-ordinary Gazette part 4(c) immediately and 5 copies each of the same may please be forwarded to the concerned District Collectors and 10 copies to this office.

Copy to :-

- Dy. Secretary. / Deputy Election Commissioner-I, & II State Election Commission, Gandhinagar.
- Administrative Officer/ Asstt. Election Commissioner (all) State Election Commission, Gandhinagar.

**STATE ELECTION COMMISSION,
BLOCK NO.9, 6TH FLOOR,
NEW SACHIVALAYA,
GANDHINAGAR**

No. SEC/ELC/MNP-E-VOTING-LS-206(4)22011/K, Date :- 8 /02/2011

- Read:-**
- 1. Notification No. KV/78/2010/MNP/102010/836/P. Dt. 5-6-2010 issued by Urban Development and Urban Housing Department.**
 - 2. Notification No. KV/79/2010/MNP/102010/836/P. Dt. 5-6-2010 issued by Urban Development and Urban Housing Department.**

:- ORDER :-

The Urban Development and Urban Housing Department has amended the following rules for registering the vote through On-line Voting System (E-Voting) and counting of these votes in the Municipal Corporation elections:-

1. Bombay Provincial Municipal Corporation (Conduct of Elections) Rules-1994
2. Bombay Provincial Municipal Corporation (Registration of Voting) Rules-1994.

Following orders are issued under powers delegated by Article 243-Z-A of the Constitution of India and Bombay Provincial Municipal Corporation Act-1949, Section 8 and Bombay Provincial Municipal Corporation (Conduct of Elections) Rules-1994.

1. The powers delegated to the State Election Commission to give permission to the Evoters under Rules 52-U-Sub-rule (6) of the Bombay Provincial Municipal Corporation (Conducting of Elections) Rules 1994 are hereby re-delegated to the concerned Returning Officers.
2. The powers delegated to the State Election Commission to give permission to the voters to vote through Electronic Voting Machine (EVM) or through voting card vide the Bombay Provincial Municipal Corporation (Conducting of Elections) Rules 1994 Rule 52-U, Sub-rule (12) are hereby re-delegated to the concerned Returning Officers.

By Order of the State Election Commission,

Sd/-
(P.S.Shah)
Secretary,
State Election Commission,
Gandhinagar.

To

- City Election Officer and Collector, Gandhinagar
- Electoral Registration Officer & Municipal Commissioner, Municipal Corporation Gandhinagar.
- Asstt. Electoral Registration Officer & Dy Municipal Commissioner Municipal Corporation Gandhinagar
- Returning Officer/ Assistant Returning Officer & Designation.....
Municipal Corporation. Gandhinagar

Copy with Compliment to :-

- Additional Chief Secretary, Urban Development and Urban Housing Department, Sachivalaya, Gandhinagar
- Manager, Government Central Press Gandhinagar,
The order may please be published immediately in the Extra-ordinary Gazette part 4(c) and 5 copies each of the same may please be forwarded to the concerned District Collectors and 10 copies to this office.

Copy to :-

- Dy. Secretary / Deputy Election Commissioner-I, & II State Election Commission, Gandhinagar.
- Administrative Officer/ Asstt. Election Commissioner (all) State Election Commission, Gandhinagar.

**STATE ELECTION COMMISSION,
BLOCK NO.9, 6TH FLOOR,
NEW SACHIVALAYA,
GANDHINAGAR**

No. SEC/ELC/MNP-E-VOTING-LS-206(5)22011/K, Date :- 8 /02/2011

- Read:-**
- 1. Urban Development and Urban Housing Department.
Notification No. KV/78/2010/MNP/102010/836/P. Dt. 5-6-2010**
 - 2. Urban Development and Urban Housing Department.
Notification No. KV/79/2010/MNP/102010/836/P. Dt. 5-6-2010**
 - 3. Order No. No.SEC-ELE-MNP-E-Voting-LS-206(1)22011-K,
dated 8-2-2011, of the State Election Commission.**

:- ORDER :-

The State Government have amended the Bombay Provincial Municipal Corporations (Conduct of Elections) Rules-1994 as well as Bombay Provincial Municipal Corporations (Registration of Voters) Rules -1994 vide Notification of Urban Development and Urban Housing Development Department's Notification No. KV/78/2010/MNP/102010/836/P. Dt. 5-6-2010 and No. KV/79/2010/ MNP-102010-836-P dated 5-6-2010 respectively to facilitate Online voting - E-voting registration and its counting. Through the orders of the State Election Commission it has been ordered to provide the following two alternatives from among the alternatives available under Bombay Provincial Municipal Corporations (Conduct of Elections) Rule 52-U, Sub-rule 7, for the purpose of general elections of the Gandhinagar Municipal Corporation, option No.(1) through the use of Internet available at one 's own PC/Laptop.

Option No. 2 On the staff -E-Polling Booth as decided by State Election Commission. Now for exercising of vote through the option No.(2) stated above, on Staff E-Polling Booth, it is found necessary to have a list of such E-voters for Presiding / Polling officers at the Booth as well as for Election Officers at the Booth. After careful consideration the following orders are issued. :-

It has been found necessary to verify and accord sanction to the applications received from the voters to get these voter registered through 'E-Voting' on Staff E-Polling Booth and to prepare ward wise lists of the voters approved, a specimen is required to be prepared for such list. Considering the provisions contained in Article 243-Z-A of the constitution of India as well as considering the provision contained in Section-8 of the Bombay Provincial Municipal Corporation Act-1994, the State Election Commission, Gujarat hereby order to prescribe the list of voters in the specimen shown herewith, for those voters who would like to exercise their votes through E-voting and staff E-polling Booth. The Commission also hereby authorizes the Electoral Registration Officer, nominated by the Municipal Corporation under Electoral Registration Rules, for preparing the voters list accordingly.

The Electoral Registration Officer shall have to forward the voters list as per specimen prescribed herewith, to the concerned Returning Officers of the Wards.

By Order of the State Election Commission,

Sd/-
(P.S.Shah)
Secretary,
State Election Commission,
Gandhinagar.

To

- Electoral Registration Officer & Municipal Commissioner, Municipal Corporation Gandhinagar.
- Asstt. Electoral Registration Officer & Dy Municipal Commissioner, Municipal Corporation Gandhinagar.

Copy with Compliment to :-

- Additional Chief Secretary, Urban Development and Urban Housing Department, Sachivalaya, Gandhinagar
- Manager, Government Central Press Gandhinagar,
The order may please be published immediately in the Extra-ordinary Govt. Gazette part 4(c) and 5 copies each of the same may please be forwarded to the concerned District Collectors and 10 copies to this office.

Copy to :-

- City Election Officer and Collector , Gandhinagar.
- Dy. Secretary / Deputy Election Commissioner-I, & II State Election Commission, Gandhinagar.
- Administrative Officer/ Asstt. Election Commissioner (all) State Election Commission, Gandhinagar.

List of E-Voters who have opted to vote on E-Staff Polling Booth.

Municipal Corporation Ward No.....Ward
Name.....Polling Booth No.....

E-Voters list prepared from the general list of voters ofMunicipal Corporation as on 1-1-2011.

E-voters who opted for voting through E-staff polling booths.

<p>Sr. No. photo Identity card No. Name..... Father/Husband's Name..... House No..... Age..... Sex..... Details of the voter's Name in the general List of voters of Municipal Corporation. Ward No..... Division No..... Sr. No.....</p>	<p>Sr. No. photo Identity card No. Name..... Father/Husband's Name..... House No..... Age..... Sex..... Details of the voter's Name in the general List of voters of Municipal Corporation. Ward No..... Division No..... Sr. No.....</p>	<p>Sr. No. photo Identity card No. Name..... Father/Husband's Name..... House No..... Age..... Sex..... Details of the voter's Name in the general List of voters of Municipal Corporation. Ward No..... Division No..... Sr. No.....</p>
<p>Sr. No. photo Identity card No. Name..... Father/Husband's Name..... House No..... Age..... Sex..... Details of the voter's Name in the general List of voters of Municipal Corporation. Ward No..... Division No..... Sr. No.....</p>	<p>Sr. No. photo Identity card No. Name..... Father/Husband's Name..... House No..... Age..... Sex..... Details of the voter's Name in the general List of voters of Municipal Corporation. Ward No..... Division No..... Sr. No.....</p>	<p>Sr. No. photo Identity card No. Name..... Father/Husband's Name..... House No..... Age..... Sex..... Details of the voter's Name in the general List of voters of Municipal Corporation. Ward No..... Division No..... Sr. No.....</p>
<p>Sr. No. photo Identity card No. Name..... Father/Husband's Name..... House No.....</p>	<p>Sr. No. photo Identity card No. Name..... Father/Husband's Name..... House No.....</p>	<p>Sr. No. photo Identity card No. Name..... Father/Husband's Name..... House No.....</p>

Age..... Sex..... Details of the voter's Name in the general List of voters of Municipal Corporation. Ward No..... Division No..... Sr. No.....	Age..... Sex..... Details of the voter's Name in the general List of voters of Municipal Corporation. Ward No..... Division No..... Sr. No.....	Age..... Sex..... Details of the voter's Name in the general List of voters of Municipal Corporation. Ward No..... Division No..... Sr. No.....
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Number of Voters

Male..... Female.....
Total.....

Date :- / /2011

Place :-.....

**STATE ELECTION COMMISSION,
BLOCK NO. 9, 6 TH FLOOR,
NEW SACHIVALAYA,
GANDHINAGAR**

No. SEC/ELC/MNP-E-VOTING-LS-206(7)22011/K, Date :- 8 /02/2011

- Read :-**
- 1. Notification No. KV/78/2010/MNP/102010/836/P. Dt. 5-06-2010 issued by Urban Development and Urban Housing Department.**
 - 2. Notification No. KV/79/2010/MNP/102010/836/P. Dt. 5-06-2010 issued by Urban Development and Urban Housing Department.**
 - 3. Order of the State Election Commission No.SEC-ELE-MNP-E-Voting-LS- 206(1)22011-K, dated 8-2-2011.**

:- ORDER :-

In the Constitution of India in Chapter IX regarding conducting of Elections in local self Government bodies through an amendment made in Article 243 -K and 243-Z-A, a provision has been made for constituting State Election Commission. The State Government, under local enactment has constituted the State Election Commission for this purpose. In the State, in the context with the election of the Municipal Corporations, after due amendment made in the Bombay Provincial Municipal Corporations Act-1949, Bombay Provincial Municipal Corporation (Conduct of Elections) rules-1994 have been issued which have been amended from time to time and the provisions has been made for voting through two alternatives viz. through casting vote in box or through Electronic Voting Machine. The State Government, vide the notifications cited at No.(1) and (2) of Urban Development and Urban Housing Department has made amendments in the said rules and provided one more alternative for voting as well as for counting of votes viz.

1. Bombay Provincial Municipal Corporations (Conduct of Elections) Rules-1994.
2. Bombay Provincial Municipal Corporations (Registration of Voters) Rules-1994.

In exercise of the powers delegated under the Constitution of India under Article 243-Z-A and Bombay Provincial Municipal Corporations Act, Section 8 and 14.2 and Bombay Provincial Municipal Corporations (Conduct of Election) Rules-1994, Rule 52 U, sub Rule 7,9,13 and 82, the State Election Commission, with a view to make the lection procedure more clear and transparent for voting through on line voting system by exercising the option of E-voting and for counting of votes and in order to ensure that as far as possible the system of voting either through casting of a vote through EVMs or through E-voting remain hassle free and also to ensure free and impartial election, State Election Commission hereby order as under :-

In this order, the On-line Voting system has been referred to as "E-Voting" henceforth

1. Regarding arrangement for Data Centre:-

As per sub-rule 13 of Rule 52-U, at State Election Commission there will be an electronic instrument server - "Data center" for conducting election through E-voting system. The Commission has established an independent "Data Centre". At this "Data Centre", there will be necessary infra structure facilities for E-voting (Such as servers UPS, Network, Antiavirus, Hub, Storage, Back-Up etc.) The "Data Centre" will be main centre for computer application and data collections for E-voting system and will work inclusive of voting storage in E-voting system election. The votes through E-voting system will be stored. The in-charge officer of the "Data Centre" will look after the working of Data Centre during the time of E-voting as well as counting.

2. Regarding registration of E-voters in electoral rolls:-

The Returning Officer will mention the words "E-voters" against the name of concerned voters in the copy of electoral roll.

3. Regarding preparing of "E-Voting Card" and placing it in website for E-voting by the Returning Officer.:-

3.1 In case of voting through E-voting system the Returning Officer, after publishing the list of contesting candidates, inform the contesting candidates / his/her polling agent or his / her authorized representative, through an advance notice in Format "A" and will ask them to remain present at the date, time and place as decided by the Returning Officer for arranging E-Voting Ballot paper in the E-voting system.

3.2 The E-Voting Ballet-paper as decided by the state Election Commission, vide their order No. SEC-ELE-MU -E-Voting LB-206(6) 22011 dated 8-2-2011 will be placed in the E-voting system website of the server of the Data Centre. The E-voting Ballot paper will be placed in E-voting system, after the Returning Officer has finalised the list of contesting candidates and before a duration of 4 days of starting of E-voting. The said voting Ballot paper will go into E-voting system of Data centre at the State Election Commission. It will be verified to ensure that it has been properly placed in the Data Centre. The Rojkam (recording) in this respect will be done by the Returning Officer.

4. Regarding use of Electoral Board (E-board) and smart Card:-

Following E-Board consisting of three officers mentioned below will be constituted for carrying out matters at various stages during E-voting system

1. Returning Officer
2. Assistant Returning Officer and
3. The Officer to be appointed by the Collector.

The above officers will be issued a Smart Card by the State Election Commission and the details of which should be kept SECRET and CONFIDENTIAL. The Smart Card may mainly be used in following stages :-

1. For starting of Mock Poll.
- 2 For completing the Mock Poll.
- 3 For mixing of votes for Mock Poll.
- 4 For counting of votes of Mack Poll.
- 5 For Zeroing after counting of Mock Poll.
- 6 For placing of E- voters voting list into the system.
- 7 For starting of E-voting.
- 8 For suspending of E-voting in unavoidable circumstances.
- 9 For closing of E-voting.
- 10 For mixing of votes of E-voting.
- 11 For counting of votes of E-voting.
- 12 In case of giving of instructions by State Election Commission / District collector at any stage etc.

Out of the three officers of the above mentioned above two officers can operate the E-voting system by making use of their Smart Cards.

5. Regarding connecting of the Data Centre for E-voting:-

Any Officer, designated by the State Election Commission will start the E-voting system at Data Centre by connecting the plug of the Data Centre located at the State Election Commission in the presence of the representatives of the recognized political party / the candidate or the Polling Agent or whosoever is present at the place. He will close the gates of server of Data Centre and seal them, and will make the Rajkam (recording of sealing of gates in the presence of representatives of political party / candidate / Polling Agent whosoever is present at that time.

6 Procedure before starting of E-Voting :-

The concerned Election Officer of the ward under E-voting system of the Municipal Corporation, before starting of the voting will decide the place for Mock Poll through E-voting card placed in the system by Returning Officer in the presence of the representatives of the recognised political party / candidate / Polling Agent and Mock poll through E-voting system. For the purpose of "Mock poll" the Returning Officer will prepare a list of about 20 representatives and their mobile number including those of the candidates or their authorized representatives. The Mock Poll exercise must be completed before starting of the E-voting i.e. around 7-30 AM without fail. After the Mock Poll, there will be mixing of votes with the help of smart card and will declare the result of Mock Poll, keeping a hard copy of the same for record. He will then delete the Mock Poll details from the system and will ensure to all those present there that every thing is deleted from the system and will make a Rajkam (recording) of the same.

The mock poll will be done by those E-voters who have been decided by the Returning Officer after inserting their names in the system. After a Mock-Poll exercise, all these names will be deleted from the system. After this process, the names of the real E-voters, who are going to vote through E-voting system, the soft copy of which is ready, will be introduced in the system by the Returning Officer by clicking at an appropriate place in the E-voting system, likewise the data and time of the E-voting shall have to be entered into the system. After this process, for starting E-Voting shall have to be entered into the system. After this process for starting E-Voting at stipulated time the system will be made "ready to start".

7. The procedure to be followed by the voter for E-voting :-

For E-voting, the E-voter has to log in by using the user name and pass word for registering his vote on the day and at the time, as declared by Election Commission whom he logs in the E-voting card will be seen on the screen. A voter can give his vote to maximum three candidates. For registering the vote, the voter will click in the box provided near the serial number of the candidates whom he wants to vote, At this time, another pass word appeared on the voter's registered mobile number. The voter will enter this pass word at appropriate place in the computer, the computer screen shall display the information that the vote is actually entered. This information will also contain one specific number of receipt, but the receipt will not display which voter has voted for which candidate. The receipt will be in encrypted language using the symbolic medium with the use of technology. If a voter wishes to take a print of the displayed receipt, It can be taken, but it can not be comprehended by any person, and hence the confidentiality of voting shall be kept intact.

8. Regarding confidentiality of E-Voting.:-

Under E-voting the confidentiality of E-voter and E-voting shall be ensured.

9. Regarding stopping of E-voting.:-

After the completion of the time limit for voting, the Returning Officer will find out from the system the number of E-voter who have exercised their E-voting during the period stipulated for voting. Thereafter an Officer, designated by the State Election Commission will immediately separate the E-Voting server of Data Centre from the Internet Network. So that, no one can cast E-vote under E-voting system after the stipulated time. The Data Centre Server shall be sealed in the presence of the representatives of the recognised Political Parties / Candidates / Polling Agents etc. whosoever is present there, The designated Officer will make

Rojkam (recording) of this process of sealing. In Data Centre E-voting system will be protected and closed in such a way that the system cannot be re-opened without specific procedure.

During the procedure, whosoever is present from among the representatives of the recognised political parties /candidates / polling Agents, and if they also want to seal the system they will also be allowed to do this.

10 Tallying under E-voting.-

On completion of Voting, the Returning Officer will find out from the system, the number of E-voters who have cast their voting through E-voting and will prepare an account in form "B" will seal it in an envelope, subscribed as "Number of E-voters who have voted through E-voting system".

The Returning Officer will supply the certified copy of format "B" on demand by the contesting candidates / Polling Agent or their representative and will get the receipt of the same.

11 Election Officer to seal the forms and record under E-voting.-

The Returning Officer will make adequate arrangement for safety of :-
1 Form No. B
2 Papers of Rojkam etc.

12 Counting of votes through E-voting system.-

For purpose of counting of votes under E-voting system the provisions of Rules 53,54,55,56, and 57, where as for declaring the results the provisions of Rules 62,63,64 will apply with appropriate modification the meaning of the words "Voting Card" or "Vote" used in these rules will be considered as "votes registered through Internet E-Voting" .

13 Regarding counting of votes.-

Before starting the counting of votes registered in E-voting system the designated Officer will have to ensure the authorized representatives of the political parties / candidates or their Polling Agents whosoever is present, that the server of Data Centre is intact and sealed. They can be allowed to verify the same. Thereafter, the Designated Officer will place the server of Data Centre in order, joining is with Network and make Rojkam (recording) of this procedure.

14 The Board for counting of Votes.-

As discussed in Para 4 above, there will be a Board of three members consisting of Returning Officer / Assistant Returning Officer, if necessary the City Election Officer and one more local officer as designated by the Collector. The E-voting system can be opened with the use of Smart Card of any two of these three officers of the Board. The Board, before counting the votes will mix the votes.

For the purpose of mixing, the concerned officers will be given a Smart Card. The Smart Card will be inserted in the system by any two officers out of the three in the Board. Then the officers will insert the pass word in the system. Then only the mixing process can take place. The process of starting and closing of mixing will be displayed on the computer screen. After the completion of this process, mixing process is finalized. Thereafter, the Returning Officer will start counting of votes under E-voting system.

15 Process of counting of Votes.:-

The Election Officer will start counting E-votes only after the counting of votes through service / postal Ballot and EVM voting are over. The Election Officer will display this in such a way that the votes received by each candidates are displayed. He will then declare the details availed from the system. While the votes received by each contesting candidate are displayed, the Election Officer should record them in form "C" separately in respect of each candidate. The signatures of present candidates / authorized representatives / Polling Agents will be taken in form C, along with that of the Returning Officer.

16. The Votes received by each contesting candidates through E voting system should be recorded in Form-12 prescribed by the Commission and in form 21 as prescribed under Rule 62 of the Bombay Provincial Municipal Corporation (Conduct of Elections) Rules, and the result sheet should be declared with the details recorded.

17. In the technical process of E-voting system the authorized representatives of the Application software Agency can be allowed to be present for their technical support.

18 Storing /saving of the votes through E-voting.:-

After declaring the results of votes received through E-voting , the details of the E-voting shall be stored and protected for one month's period after declaring the results. As per section 16 of Bombay Provincial Municipal Corporations Act-1949. When an election matter is pending in any of the court, the hard copy of the print out will be stored of a sealed cover with seal and signature. In this system, the details of votes through E-voting will be stored in form of a hard copy / duly signed and sealed by the Returning Officer.

19 Regarding deciding about forms to be used during E-voting procedure.:-

Following forms are decided to be used during E-voting election procedure:-

Sr. No.	Details of the Form	form number
1	2	3
1	Form of Notice to be serviced to an contesting candidates while placing a Ballot	A

	paper in the E-voting system	
2	Form of Tallying of number of voters through E-Voting system	B
3	Form of Result of counting of votes through E-voting. C By Order of State Election Commission,	C

Sd/-
(P.S. Shah)
Secretary,
State Election Commission,
Gandhinagar

To

- City Election Officer and Collector , Gandhinagar,
With a request to inform all concerned officers about this order to see that the procedure prescribed in this order shall be followed in the election of Municipal Corporation.
- Electoral Registration Officer & Municipal Commissioner, Municipal Corporation Gandhinagar.
- Asstt. Electoral Registration Officer & Dy Municipal Commissioner Municipal Corporation Gandhinagar.
- The Returning Officer/ Assistant Returning Officer & those designation..... Municipal Corporation. Gandhinagar

Copy with Compliment to :-

- The Additional Chief Secretary, Urban Development and Urban Housing, Department, Sachivalaya, Gandhinagar.
- The Recognized Political parties (all)
- The Manager, Government Central Press Gandhinagar,
The order may please be published in the Extra-ordinary Gazette part 4(c) immediately and 5 copies each of the same may please be forwarded to concerned District Collectors and 10 copies to this office.

Copy to :-

- The Personal Secretary, to Commissioner, State Election Commission, Gandhinagar.
- The P.A. to Secretary, State Election Commission, Gandhinagar.
- M/s. T.C.S. Ltd., Camp State Election Commission, Gandhinagar.
- The City Election Officer and Collector , Gandhinagar
- The Dy. Secretary / Deputy Election Commissioner-I, & II State Election Commission, Gandhinagar.
- The Administrative Officer/ Asstt. Election Commissioner (all) State Election Commission, Gandhinagar.

Form "A"
(Para-3)

Notice :- informing date, time and place for preparing the Ballot paper for the computer based on line voting through E-voting and placing it in the computer system under Bombay Provincial Municipal Corporation (Conduct of Elections) Rules 1994 Rule 52 B, sub-rule (4) to the contesting candidates or their polling agents in Municipal Corporation..... of ward No.....

No.

Address of the office of the
Returning Officer,
Dated20

To

All contesting candidates / their polling agents or their authorized representatives, (all) (with addresses) You are hereby informed under Bombay Provincial Municipal Corporation (Conduct of Elections) rules 1994 rule 52 -B sub-rule (4) that the voting in election of Municipal Corporation.....ward No..... will be through on -line voting system. with E-voting process.

The procedure in respect of preparing the Ballot paper along with the names and symbols of the contesting candidates for E-voting system will be held atonathours.

Please note that you have to remain present in person on the date, time and the place shown above.

Yours

Returning Officer,
.....Municipal Corporation,
and Designation.

Form B
(para -10)

(para-3) Talleying of No. of voters through E-voting system.

Election of the Municipal Corporation

Ward No..... Ward Name.....

1 Total Number of voters registered
under E-voting system.....

2 Total Number of voters who voted
through E-Voting system.....

Place :-

Signature of the Returning Officer.

Date :-

Received the copy of Talleying of number of voters through E-voting system,.

Name of the Polling Agent

Signature of the polling agent

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9

Form-C
Result of counting of votes under E-votingsystem
(para -15)

Election of Municipal Corporation

Ward No..... Ward Name.....

1. Date of E-voting.....

2 Total number of voters under E-voting system.....

3. Result of counting of votes.....

Sr No.	Name of the Candidate	Total No. of votes received.
1		
2		
3		
4		
5		
6		

Place :-

Signature and Designation of Returning Officer

Date:-

Received copy

Name of the Candidate/counting Agent/

Signature

Polling Agent

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10

**STATE ELECTION COMMISSION,
BLOCK NO.9, 6TH FLOOR,
NEW SACHIVALAYA,
GANDHINAGAR**

No. SEC/ELC/MNP-E-VOTING-LB-206(8)22011/K, Date :- 8/02/2011

**Read:- 1. Notification No. KV/79/2010/MNP/102010/836/P. Dt. 5-06-2010
issued by Urban Development and Urban Housing Department**

:- ORDER :-

The State Government, vide the notification cited above, issued by Urban Development and Urban Housing Department has amended the Bombay Provincial Municipal Corporation (Registration of Voters) Rules 1994 to facilitate registration of E-voters for registering their votes through on line voting - E-voting system.

It has been provided that according to rule 6 A sub-rule (3) of Bombay Provincial Municipal Corporation (Registration of Voters) Rules 1994 that the designated officer of the State Election Commission can give E-voter I. D. card, Pin or password to the registered Evoters, under the powers vested in the state Election Commission under Article 243 Z-A of the Constitution of India and under section 8 of the Bombay Provincial Municipal Corporation Act-1949. The State Election Commission hereby appoints the Returning Officer of the concerned election as Designated Officer for the purpose of this rule.

By Order of State Election Commission,

Sd/-
(P.S.Shah)
Secretary,
State Election Commission,
Gandhinagar.

To

- City Election Officer and Collector Gandhinagar
- Designated to be Returning Officers/Assistant Returning Officers, Gandhinagar through Gandhinagar ;Municipal Corporation, Gandhinagar.
- Electoral Registration Officer & Municipal Commissioner, Municipal Corporation Gandhinagar.

Copy with Compliment to :-

- Additional Chief Secretary, Urban Development and Urban Housing Department, Sachivalaya, Gandhinagar
- Manager, Government Central Press Gandhinagar,
The order may please be published in the Extra-ordinary Gazette part 4(c) immediately and 5 copies each of the same may please be forwarded to the concerned District Collectors and 10 copies to this office immediately.

Copy to :-

- Electoral Registration Officer and Municipal Commissioner, Municipal Corporation, Gandhinagar
- Dy. Secretary / Deputy Election Commissioner-I, & II State Election Commission, Gandhinagar.
- Administrative Officer/ Asstt. Election Commissioners (all) State Election Commission, Gandhinagar.

**STATE ELECTION COMMISSION,
BLOCK NO.9, 6TH FLOOR,
NEW SACHIVALAYA,
GANDHINAGAR**

No. SEC/ELC/MNP-E-VOTING-LS-206(9)22011/K, Date :- 8 /02/2011

- Read :-**
- 1. Notification No. KV/78/2010/MNP/102010/836/P. Dt. 5-06-2010 issued by Urban Development and Urban Housing Department.**
 - 2. Notification No. KV/79/2010/MNP/102010/836/P. Dt. 5-06-2010 issued by Urban Development and Urban Housing Department.**
 - 3. Order of the State Election Commission No. SEC-ELE-MNP-E-Voting-LS- 206(1)22011-K, dated 8-2-2011.**

:- ORDER :-

The State Government, vide there Urban Development and Urban Housing Department Notification No.(1) & (2) mentioned in the preamble has made amendment in the following mentioned rule to facilitate on line voting system (E-voting) and for counting of these votes in the election of Municipal Corporation.

1. Bombay Provincial corporation (Conduct of Elections) Rules-1994
2. Bombay Provincial corporation (Registration of Voting) Rules-1994.

In view of the above mentioned provisions, the State Election Commission, vide their order dated 8-2-2011 mentioned at No. (3) of the preamble ordered to follow 2 options during the forthcoming general election of Gandhinagar Municipal Corporation.

Under the powers delegated through Constitution of India , Article 243 Z-A the Bombay Provincial Municipal Corporation Act-1949, Section 8 and Bombay Provincial Municipal Corporation (Conduct of Election) Rules 1994, it is hereby ordered as follows. :-

(1) For the general elections to be held for Gandhinagar Municipal Corporation the days, time and duration for E-voting by E-voters, as per Bombay Provincial Municipal Corporation (Conduct of Rules) 1994 rule 20 as well as Rule 52 U sub-rule (8) is decided as below. :-

Details of option		Days and Dates of voting	Time for giving voters
Option -1	Through one's own Pc/Laptop with Internet connection	The day to be decided by the state Election Commission	8-00 AM to 5-00 PM
Option- 2	Through Staff E-Polling Booth	The day to be decided by the State Election Commission	8-00 AM to 5-00 PM

By Order of State Election Commission,

Sd/-
(P.S.Shah)
Secretary,
State Election Commission,
Gandhinagar.

To

- City Election Officer and Collector Gandhinagar
- Returning Officers/Assistant Returning Officers, DesignatedMunicipal Corporation, Gandhinagar.
- Electoral Registration Officer & Municipal Commissioner, Municipal Corporation Gandhinagar.
- Asstt Electoral Officer and Deputy Municipal Commissioner Municipal corporation Gandhingar.

Copy with Compliment to :-

- Additional Chief Secretary, Urban Development and Urban Housing Department, Sachivalaya, Gandhinagar
- Manager, Government Central Press Gandhinagar,
The order may please be published in the Extra-ordinary Gazette part 4(c) immediately and 5 copies each of the same may please be forwarded to the concerned District Collectors and 10 copies to this office.

Copy to :-

- Dy. Secretary / Deputy Election Commissioner-I, & II State Election Commission, Gandhinagar.
- Administrative Officer/ Asstt. Election Commissioners (all) State Election Commission, Gandhinagar.
- M/s. T.C.S. Ltd., State Election Commission, Camp., Gandhinagar.

**Election/Urgent
No.SEC/ELE/MNP-E-voting LS-2022011-K**

**State Election Commission,
Block No.9, 6th Floor,
New Sachivalaya, Gandhinagar
Date 10-2-2011**

To

**Electoral Registration Officer and Municipal Commissioner,
Municipal Corporation, Gandhinagar.**

Subject:- Registration of Voters as E-voters in the on line voting E-voting system.

Sir,

You are aware that in due time, the general election of the Gandhinagar Municipal Corporation will be conducted for the first time. The State Election Commission have decided that in this general election the On-line Voting system through E-Voting shall be introduced.

The Urban Development and Urban Housing Department vide their notification dated 5-6-2010 has issued the rules for the procedure of registration of voters for the online voting and has also provided detailed guidance and instructions in the meeting of the representatives of the district. The State Election Commission has also forwarded circulars / orders regarding instructions provided earlier, considering these rules in mind the registration of the voters who give the option for on-line voting under E-voting system out of those voters whose names appear in the voters list of the electoral roll being prepared as on 1-1-2011 is to be done.

The application form and saral form have been placed on the Website of the Commission. It is hoped that the on -line registration on that basis might have been done. Besides this, for submitting the application along with necessary evidences and also for registration, the final date is fixed on 28-2-2011. Therefore, it is requested to carry out intensive drive, for the process of registration for those who wish to cast their votes through on line voting system.

1. The process of collecting the option form for E-voting from those are willing to cast their votes through E-voting system and for their registration is going at the local level. The application forms both in English and Gujarati have been sent to you earlier. Therefore, it is necessary to make the awareness among the voters for adopting this E-voting system, It shall also be necessary to make available the application forms in the ward offices in adequate number. Such application forms can also be got printed at local level.

2. The voters willing to vote through on-line E-voting process can get on-line registration by log in to the web-site [http://www. online votinggujarati.gov.in](http://www.onlinevotinggujarati.gov.in). The website is on and a saral form is provided. Those who are willing to get online registration may open the website and click voter registration. This will result in display of form for on-line registration. The voter may provide necessary details in it (Those voters who have the internet facility available at their residence, can give an option A for E-voting from one's residence only and those who possess preliminary knowledge about computer application but not having internet facility available at the residence, and yet willing to get registered for E-voting can exercise option No. 2 of E-voting at staff E-polling booth) After exercising the option 1 or 2 and submitting it, the on-line registration will be done and a token number shall also be generated. Besides, this it will also be informed through SMS on the mobile phone as well that the on-line application is received and the reference number is also provided, as a token of evidence. On the basis of this application the electoral registration officer will make due verification and make final registration as e-voters for on-line voting and inform the concerned.

3 After on-line registration, the terms of local officers under your control will make personal contact during the verification and will fill in the other details in the application form as may be required. In case of registration under option-1, they will also collect the signature, as is required to be made in the presence of Executive Magistrate. The planning at local level should be made accordingly.

4. Along with on-line registration the process of registration through prescribed application form is continued. The adequate number of printed application forms at ward office level for distribution and for collecting them from the places as become convenient to the voters, shall have to be decided by you. For this purpose, wide publicity should be given. The campaign in this regard may please be undertaken for disseminating the information to the voters.

5. E-voters at local level should be made to appraise the voters about on-line voting system e-voting system, about option-1 and option-2 available to them etc. for this purpose, adequate number of pamphlets, leaflets are to be got printed and distributed. The banners and hoardings can also be installed. The T.V. Channel, Radio etc. can also be deployed for this purpose.

6. Detailed guidelines should be provided to the voters for filling up the prescribed application forms and returning the same during the prescribed period to those voters who would like to get registered under the e-voting system.

7. The list of distribution and collection centers should be prepared in advance to facilitate the voters to collect and submit their application forms before 28-2-2011. Wide publicity should be given regarding these centers to the voters. In the capacity of the Electoral Registration officer, all these incidental procedure is required to be undertaken by you for registration of the voters for on-line E-voting system and there after for exercising appropriate option by them. It is requested that this may implemented properly at the local level.

In view of the above, an intensive drive is necessary for enrolling more and more number of voters to adopt on-line E-voting system and their giving an option for E-voting system. It is requested to carry on the public awareness campaign in this regard.

Thanking you,

Yours faithfully.

Sd/-
(Rejesh Rajyaguru)
Dy. Secretary,
State Election Commission,
Gandhiangar.

Copy to:-

City Election Officer and Collector Gandhinagar for information with a request to be in touch with the Municipal Commissioner Gandhinagar, Municipal Corporation and Co-ordinate with him for registration of e-voters and for necessary consultation and make appropriate arrangement.

Copy to:-

Dy. Secretary /Dy. Election Commissioner 1 & 2, and Assistant Election Commissioner, (concerned unit) State Election Commission, Gandhiangar.

POLITICAL ADVERTISEMENTS AND PAID NEWS

1. The Hon'ble Supreme Court in its orders dated 2nd and 13th April 2004 in SLP (Civil) No.6679 of 2004 (Ministry of Information & Broadcasting vs M/s Gemini TV Pvt. Ltd and others) spelt out the scope of Cable Television Networks (Regulation) Act. 1995 and Rules thereunder. The Election Commission of India has issued a number of orders pursuant to the order of the Hon'ble Supreme Court. The Orders of Election Commission of India dated 8th June 2010 and 16th August, 2011 also cover the problem of "Paid News" during elections. **The powers and the responsibilities of the Election Commission of India under Article 324 are analogous with the powers and responsibilities of the State Election Commission under Article 243K and 243ZA. In view of this position, the State Election Commission can, if so satisfied, issue orders in line with those issued by the Election Commission of India for conduct of free and fair elections to Panchayats and Municipalities.**

2. Copies of the following orders of the Election Commission of India are enclosed :-

No. and Date	Subject
No.491/Media/2011 dt.16 th August, 11	Guidelines for dealing with candidates' advertisements on TV/Cable channels owned by political parties or their functionaries/office bearers during elections
No.491/Media/2010 dt.8 th June, 10	Measures to check 'Paid News' during elections i.e., advertising in the garb of news in Media
No.509/75/2004/J.S-I/Vol.II/RCC/ dt.21 st November, 08	The Commission's order dated 15 th April, 2004, regarding advertisements of political nature on TV Channels & Cable TV Networks – Extension to Radio
No.509/75/2004-JS-I(Vol.II) dt.8 th November, 07	Supreme Court's Order dated 13 th April, 2004 relating to advertisements of political nature on TV Channel and cable networks – clarification -

		regarding
No.509/75/2004-JS.I(Vol.II) November, 07	dt.2 nd	Supreme Court's Order dated 13 th April, 2004 relating to advertisements of political nature on Radio, TV Channel and cable networks – clarification - regarding
No.3/9/2007/JS.II	dt.16 th October, 07	Restrictions on the Printing of pamphlets, posters etc.
No.509/75/2004/JS.I	dt.15 th April, 04	Supreme Court's Order dated 13 th April, 2004 relating to advertisements of political nature on TV Channel and cable networks.

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 491/Media/2011 (Advt)

Dated: 16 th August, 2011

To

The Chief Electoral Officers of
all States and UTs.

Subject : Guidelines for dealing with candidates' advertisements on TV/Cable channels owned by political parties or their functionaries/office bearers during elections.

Sir/Madam,

I am directed to say that the Commission has received various references regarding Paid News and advertisements on TV/Cable Channels network owned by political parties or their functionaries/office bearers. The complaints were filed by different political parties, journalists and other individuals. In order to bring uniformity in dealing with such instances, the Commission has directed to issue the following guidelines: -

1. Six months before the due date of expiry of Lok Sabha or the State/UT Legislative Assembly, as the case may be, a list of television channels/radio channels/newspapers, broadcasting/ circulated in the State/UT and their standard rate cards shall be obtained by the CEOs and forwarded to the Commission.
2. The Media Certification and Monitoring Committee (MCMC) at District level and State level will monitor all political advertisements in relation to candidates, either overt or covert, and will intimate the Returning Officer for issue of notices to candidates for inclusion of notional expenditure based on standard rate cards in their election expenses account, even if, they actually do not pay any amount to the channel/newspaper, that is otherwise the case with "Paid News". This will also include publicity by or on behalf of candidate by Star Campaigner (s) or others, to impact his electoral prospects. A copy of the notice will also be marked to Election Expenditure Observer.
3. In case of bye-election to Parliamentary or Assembly constituency, the standard rate card will be obtained by the District Election Officer concerned immediately on announcement of the bye-election and Media Certification and Monitoring Committee (MCMC) will take due action immediately afterwards.
4. Like in the case of "Paid News", the Chief Electoral Officer and District Election Officers will brief political parties and media houses about the above guidelines before the commencement of the election campaign.
5. In case of any technical doubt relating to the application of the standard rate card, the matter would be referred to the DAVP, Ministry of I&B, Govt. of India for

advice. These instructions should be read together with the Commission's earlier circulars on "Paid News" dated 8th June 2010, 23rd September 2010 and 18th March, 2011.

This may be brought to the knowledge of all concerned immediately.

Yours faithfully,

Sd/-
(Yashvir Singh)
Director

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi 110 001.

No. 491/Media/2010

Dated: 8th June, 2010

To

**Chief Electoral Officers
of all States and Union Territories**

Sub: Measures to check 'Paid News' during elections i.e. advertising in the garb of news in Media

Sir/Madam,

I am directed to invite your attention to the subject cited and to state that the recent phenomenon of 'Paid News', which is assuming alarming proportion as a serious electoral malpractice, has been causing concern to the Commission in the context of conduct of free and fair elections. Several political parties and media groups have also conveyed their similar concerns to the Commission. There has been dialogue of several stakeholders with the Commission at different platforms and there is near unanimity to take necessary steps to put a halt to such malpractice which puts undue influence on the free will of the voters, encourages the role of money power in a covert manner and disturbs level playing field in elections. The practice of paid news has to be seen as an attempt to circumvent the provisions of Sections 77 and 123 (6) of R.P. Act 1951 which prescribe accounting and ceiling of election expenses and make exceeding such prescribed limits a corrupt practice in elections.

2. The Commission has directed that maximum vigilance may be observed by making use of the existing provisions of law so that the incidence of 'Paid News' or surrogate advertisements in Print and Electronic media in the context of elections is arrested. The cases of 'Paid News' generally manifest in the forms of news articles/reports published about a particular candidate or a party eulogising them, or similar news articles/reports denigrating the opponents, both intended at unduly influencing the voters. The same or similar type of news articles/reportings (with

cosmetic modifications) appearing in more than one newspaper periodical would amount to further corroboration as circumstantial evidence that such news publication could result from collusion of the candidate/party with the editors, publishers, financiers of the newspaper etc. Such collusion would, however, have generally no transactional evidence of payment of consideration in cash or kind.

3. Legal provisions under Sec.127A of the R.P. Act, 1951 make it mandatory for the publisher of an election advertisement, pamphlet, etc., to print the name and address of the publisher as well as printer and failure to do so attracts penalty of imprisonment up to two years and/or fine of Rs.2000/-. Section 171 H of the IPC prohibits incurring of expenditure on, inter alia, advertisement without the authority of the contesting candidate. The Commission's detailed instruction No. 3/9/2007/JS-II dated 16th October, 2007 in this behalf may be seen (copy enclosed). The said instruction covers the declared or specified release as advertisement inserted in the newspaper, etc., and disclosure of amount paid for such advertisements, but in the case of 'Paid news'/surrogate news, such payment is seldom disclosed as the matter is camouflaged as news though serving the purpose of advertisement only. For the purpose of Sec.127A (1) of the R.P. Act, 1951, "election pamphlet or poster" means any printed pamphlet, hand-bills **or other document** distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates". Thus, 'Paid News' would also fall in the category of 'other document' liable to be included in 'election pamphlet & poster' and action taken accordingly. Hence, an obvious case of news reporting in the print media dedicated/giving advantage to a particular candidate or the party while ignoring/causing prejudice to other candidates and parties would require investigation.

4. The Commission directs that for the purposes of above investigation, district level committees may be constituted by the DEOs in each district as soon as election is announced to do vigorous scrutiny of all newspapers, published or having circulation in the district in order to locate political advertisement in the garb of news coverage appearing within the election period. DEOs should closely monitor advertisements released in print media in any form including surrogate advertising in the form of news, and serve notices to candidates/political parties where called for,

so that the expenses incurred thereon are duly reflected in the account of the concerned candidate/party.

5. Similarly, the District Committee should also keep a watch on the election news/features, etc. on the electronic media in the district. When there is disproportionate coverage to the speech/activities of a candidate on television/radio channels, which is likely to influence the voters and yield electoral benefit to a particular candidate, and the same coverage appears in several channels, then the candidate should be served with notices by the DEOs to explain her/his stand as to why the coverage should not be treated as advertisement, and matter should be reported to the Commission.

6. The Commission has already issued Order No. 509/75/2004/J.S.-I dated 15th April, 2004 consequent upon order of the Hon'ble Supreme Court of India in SLP (C) No. 6679/2004, (Ministry of Information and Broadcasting vs. M/s Gemini TV Pvt. Ltd and Others) providing for the constitution of a committee for previewing, scrutinizing and verifying all advertisements by individual contesting candidates or political parties, before it is inserted in the electronic media. The aforesaid phenomenon of Paid News bypasses the scrutiny of the Committee despite being a political advertisement in spirit and also evades accounting in the expenses book of the candidates. CEOs may strengthen these Committees so as to also scrutinize the news reports in electronic media, which bear the character of political advertisement, though without being declared to be so. Notices to candidates/parties may be issued by the CEOs on the basis of recommendation of such Committees.

7. The Commission should be kept informed of all cases where notices as aforesaid are issued to parties/candidates.

8. The receipt of this letter may be acknowledged and the Commission informed of the action taken.

Yours faithfully,

(Tapas Kumar)
Principal Secretary

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 509/75/2004/J.S-I/Vol.II/RCC/
2008.

Dated: 21st November,

ORDER

Sub: The Commission's order dated 15th April, 2004, regarding advertisements of political nature on T.V Channels & Cable T.V. Networks - Extension to Radio

1. The Commission. vide its order No. 509/75/2004/JS-I dated 15th April, 2004, in pursuance of the order dated 13-4-2004 of the Hon'ble Supreme Court in SLP(Civil) No. 6679/2004(Ministry of I&B Vs M/s Gemini TV and Others), issued directions regarding advertisements of political nature on T.V Channels & Cable T.V. Networks.

2. The Ministry of Information & Broadcasting has, vide their letter No. 1/04/2004- BC.IV dated 20th November, 08, informed that clause-II (4) of the Code for Commercial Advertising on All India Radio, has been amended by adding the following proviso :-

“But advertisements in the form of spots and jingles on payment of prescribed fees, from political parties /candidates/any other person shall be accepted only in respect of General Elections to Lok Sabha/General Election to the State Assemblies/General Election to Local bodies during the period when the Model Code of Conduct is in force. Such advertisements shall be subject to pre-broadcast scrutiny by the Election Commission of India/authorities under the Election Commission of India in respect of elections to Lok Sabha and the State Assemblies and State Election Commissions in the case of Local bodies.”

3. In view of the above, the Commission has directed that its order dated 15th April, 2004, regarding advertisements of political nature on TV Channel/Cable Networks shall apply to advertisements on Radio also, including the Private FM Channels, during the period Model Code of Conduct is in operation in connection with general election to the House of the People or to the Legislative Assembly of any State/UT. Accordingly, for broadcasting any advertisement of political nature on Radio, application for certification for broadcast shall be submitted to the Committee set up in the office of the Chief Electoral Officer of the State concerned for pre-broadcast scrutiny and certification permitting broadcast of the advertisement. The application shall be submitted in the same format as the one prescribed vide the order dated 15-4-2004 for advertisement on TV Channel/Cable Networks, along with the Tape/ CD and an attested transcript of the proposed advertisement. The format for certification of advertisement shall also be the same as that prescribed in the order dated 15-4-2004. The reference to 'telecast' in these formats shall be read to include 'broadcast' for the purposes of advertisements on Radio.

4. It is clarified that all other directions and the conditions specified in the order dated 15th April, 2004, and the subsequent instructions on the subject shall apply in the case of advertisements of political nature on Radio.

By order,

(K. F. WILFRED)
SECRETARY

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.509/75/2004-JS-I (Vol.II)

Dated: 8th November, 2007

To

The Chief Electoral Officers
of all the States and Union Territories.

Sub: Supreme Court's order dated 13th April, 2004 relating to advertisements of political nature on TV Channel and cable networks – clarification – regarding.

Sir,

I am directed to invite a reference to the Hon'ble Supreme Court's order dated 13.04.2004, regarding political advertisements on TV/Cable Networks. Clarifications have been sought regarding political advertisements over Radio.

In this context, it is clarified that the Code for Commercial Advertising on the All India Radio prohibits advertisement of political nature. The Ministry of Information and Broadcasting, Government of India, have confirmed that the Code for Advertising on the AIR is also applicable for advertisements on FM Channels. Therefore, it may be seen that advertisements of political nature are **prohibited on all Radio Channels.**

The above clarification may be brought to the notice of all election authorities and others concerned in the State. The Code for Advertising referred to above can be had from the website of AIR www.allindiaradio.org.

Please acknowledge receipt of this letter.

Yours faithfully,

(S. R. KAR)
UNDER SECRETARY

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi- 110 001.

No.: 509/75/2004-JS.I (Vol.II)
2007

dated the 2nd November,

To,
The Chief Electoral Officers
Of all States and Union Territories.

Subject: Supreme Court's order dated 13th April, 2004 relating to advertisements of political nature on Radio, TV Channel and cable networks – clarification – regarding.

Sir,

I am directed to invite your attention to the Commission's Order No. 509/75/2004/JS.I dated 15.4.2004 on the subject cited. As per the Order of the Hon'ble Supreme Court and the instruction's of the Commission in pursuance thereof, advertisements of political nature to be displayed on TV/Cable networks are required to be got certified by the Committee set up for this purpose. The Chief Electoral Officer, Gujarat (vide letter NoELC-1007-769-(Cell)-CHH, dated 24.10.2007) has made a reference stating that certain political parties have submitted applications with CDs containing various programme telecasted earlier on various TV channel/Cable network for certification and whether the Committee is required to consider such applications for certification. In this connection, it is clarified that keeping in view the object sought to be achieved by the Hon'ble Supreme Court's order 13.4.2004, the word 'advertisement' will have to be given a broader meaning to cover 'programme' which any political party/organization intends to use as campaign material on Cable Network or similar apparatus. Accordingly, the Committees will have to pre-view all such material given by the party for certification. The two CDs sent by Chief Electoral Officer, Gujarat with the above referred letter are referred herewith for necessary action on the part of the Committee.

Yours faithfully,

(S. R. KAR)
UNDER SECRETARY

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Dehi-110 001.

No. 3/9/2007/JS II

Dated : 16th October, 2007

To

1. The Chief Secretaries of all States/Union Territories.
2. The Chief Electoral Officers of all States/Union Territories.

Subject:- Restrictions on the Printing of pamphlets, posters etc.

Sir,

I am directed to invite a reference to the Commission's letter No. 3/9/2004/JS-II, dated 24th August, 2004 regarding the provisions of section 127A of the Representation of the People Act, 1951.

2. It has been brought to the notice of the Commission that advertisement are brought out in print media, some surrogate and some under the name of some organizations.

3. The following points may be noted in respect of the advertisements that appear in the print media, especially newspapers, for and against particular political parties and candidates during election period:

(a) In the case of advertisements, the source of which is traceable, the following action may be taken: -

- (i) if the advertisement is with the consent or knowledge of the candidate, it will be treated to have been authorized by the candidate(s) concerned and will be accounted for in the election expenses account of the candidate(s);

(ii) if the advertisement is not with the authority from the candidate, then action may be taken for prosecution of the publisher for violation of Section 171 H of IPC-(incurring expenditure in advertisement without written authority from the candidate(s) concerned).

(b) If the identity of the publisher is not indicated in the advertisement, then you may contact and get the information from the Newspaper concerned, and consider appropriate action, as above.

4. The District Election Officers, Returning Officers alongwith other election authorities may be informed of the Commission's abovementioned instructions for their compliance. Action taken in this regard may please be confirmed by endorsing to the Commission, a copy of the instructions issued to the District Election Officers, Returning Officers etc.

5. Please acknowledge receipt of this letter.

Yours faithfully,

(K.F.WILFRED)
SECRETARY

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001.

No. 509/75/2004/JS-I

Dated : 15th April, 2004.

To

The Chief Electoral Officers
of all States / Union Territories.

Subject: - Supreme Court's Order dated 13th April, 2004 relating to advertisements of political nature on TV Channel and cable networks.

Sir,

I am directed to enclose herewith a copy of the order dated 15th April, 2004, passed by the Commission in pursuance of the Order dated 13th April, 2004, of the Hon'ble Supreme Court in SLP (C) No. 6679 of 2004 (Ministry of Information and Broadcasting Vs. M/s. Gemini TV Pvt. Ltd. and others).

2. It may be noted that the Commission has directed that for pre-viewing, scrutinizing and certifying advertisements to be telecast over TV channels and cable networks by any registered political party or by any group or organization / association, having headquarters in NCT of Delhi, the Chief Electoral Officer, Delhi is to constitute a Committee as directed in paragraph 6 (i) of the Order. Similarly, the Chief Electoral Officers of other States / Union Territories will constitute Committees for dealing with applications by political parties and other associations / groups with headquarters in their States / Union Territories, as per paragraph 6 (iii). Vide paragraph 6 (v) of the Order, the Returning Officer of every Parliamentary Constituency have been declared as Designated Officer for previewing, scrutinizing and certifying advertisements by individual candidates contesting election from the constituency concerned. For the candidates contesting the current general election to the Legislative Assemblies of Andhra Pradesh, Karnataka, Orissa and Sikkim and the bye-elections in some States, the Returning Officer of the Parliamentary Constituency comprising the Assembly Constituency concerned will entertain applications for certification of advertisements.

3. The Chief Electoral Officers of all States / Union Territories are also required to constitute further a Committee to attend to complaints / grievances in regard to

the decision of the Committees / Designated Officers on the application for certification of advertisements.

4. Each application for certification is to be submitted before the Committee concerned or the Designated Officer concerned in a statement as per the format prescribed in Annexure-A appended to the Order. The certificate for telecast for an advertisement is to be given by the Committee / Designated Officer in the format as given in Annexure-B appended to the Order. The applicants are required to submit two copies of the proposed advertisements in electronic form alongwith an attested transcript thereof.

5. A proper record in a register should be maintained for all applications received for certification. Each application should be serially numbered and the serial numbers should also be indicated on the two copies in electronic form and the receiving officer should affix his signature on the electronic copy. After issue of certificate, one electronic copy of the advertisement as certified for telecast, should be retained by the Committee / Designated Officer.

6. All Chief Electoral Officers may take immediate action for acquiring, by hiring or purchase, necessary equipments / infrastructure, such as television, VCR, VCD, etc. that may be required for the purpose of previewing and scrutinizing of advertisements by the Committees and Designated Officer in their State / Union Territory. Any purchase made are to be in accordance with the rates and procedures approved by the State Governments for similar items.

7. The Commission's order may be given wide publicity and this may be specifically brought to the notice of all District Election Officers / District Magistrates, Returning Officers, TV Channels, cable operators and political parties in the State / Union Territory.

8. Kindly acknowledge receipt.

Yours faithfully,

(K.F. WILFRED)
SECRETARY

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001.

No. 509/75/2004/JS-I

Dated : 15th April, 2004.

ORDER

1. Whereas, Section 6 of the Cable Television (Regulation) Act, 1995, provides that no person shall transmit or re-transmit through a cable service any advertisement unless such advertisement is in conformity with the prescribed advertisement code; and

2. Whereas, Sub- rule (3) of Rule 7 of the Cable Television Network (Regulations) Rules, 1994 laying down the advertising code in terms of the abovementioned Section 6 provides that “no advertisement shall be permitted, the objects whereof, are wholly or mainly of a religious or political nature; advertisements must not be directed towards any religious or political end”; and

3. Whereas, the High Court of Andhra Pradesh, by its judgement and order dated 23-03-2004 in WPMP No.5214/2004 (Gemini TV Pvt. Ltd. Vs. Election Commission of India and others), suspended the above mentioned provisions of Rule 7(3) of the Cable Television Network (Regulation) Rules, 1994; and

4. Whereas the Hon'ble Supreme court, by its interim order dated 2-4-2004, in SLP (Civil) No.6679/2004 (Ministry of Information & Broadcasting Vs M/s Gemini TV and Others), in substitution of the order under challenge, had directed as below:-

- (i) **No cable operator or TV channel shall telecast any advertisement, which does not conform to the law of the country and which offends the morality, decency and susceptibility of views or which is shocking, disgusting and revolting;**
- (ii) **The telecast shall be monitored by the Election Commissioner of India;**

- (iii) **The question as to whether the expenditure incurred by the candidate on inserting such advertisement should or should not be included, shall be considered on 5th April, 2004; and**
- (iv) **The modalities whether such advertisements are in conformity with law, shall be laid down by the Election Commissioner of India.**

5. Whereas, The Hon'ble Supreme Court of India by its further order dated 13th April, 2004, in SLP (Civil) No.6679/2004, has directed as follows:

“ --- Before we pass the order, it will be worthwhile to notice certain provisions of the Cable Television Networks (Regulation) Act, 1995 [for short, “the Act”], as amended from time to time, and the Rules framed there under. The object of the Act is to regulate the operation of the cable television network in the country. Section 6 of the Act provides that no person shall transmit or retransmit through a cable service any advertisement unless such advertisement is in conformity with the prescribed advertisement code. Section 11 of the Act provides that if any authorized officer has reason to believe that the provisions of the Act have been or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for operating the cable television network. Section 12 of the Act provides for confiscation of the equipment in the event of any violation of the provisions of the Act. Similarly, Section 13 of the Act also provides for seizure or confiscation of the equipment and punishment. Section 16 further provides for punishment for contravention of the provisions of the Act. Section 19 lays down that an authorized officer, if he thinks necessary or expedient so to do in the public interest, may, by order, prohibit any cable operator from transmitting or re-transmitting any advertisement which is not in conformity with the prescribed programme code and advertisement code and it is likely to promote enmity on grounds of religion, race, language, caste or community or any other grounds whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religion, racial, linguistic or regional groups or castes or

communities or which is likely to disturb public tranquility. Section 22 of the Act empowers the Central Government to frame Rules to carry out the provisions of Act. The Central Government in exercise of the powers conferred on it by Section 22 of the Act is empowered to make Rules which are known as The Cable Television Networks Rules, 1994 [for short, “the Rules”]. Rule 7 of the Rules provides that where an advertisement is carried in the cable service it shall be so designed as to conform to the laws of the country and should not offend morality, decency and religious susceptibilities of the subscribers. Sub-rule (2), inter alia, provides that no advertisement shall be permitted which derides any race, caste, colour, creed and nationality, is against any provision of the Constitution of India and tends to incite people to crime, cause disorder or violence or breach of law or glorifies violence or obscenity in any way. Sub-rule (3) further provides that no advertisement shall be permitted the objects whereof are wholly or mainly of religious or political nature, advertisements must not be directed towards any religious or political end. It is in this background, we now propose to pass the following order:

Every registered National and State, political party and every contesting candidate proposing to issue advertisement on television channel and/or cable network will have to apply to the Election Commission/Designated Officer (as designated by the Election Commission) not later than three days prior to the date of the proposed commencement of the telecast of such advertisement. In case of any other person or unregistered political parties, they will have to apply not later than seven days prior to the date of the telecast. Such application shall be accompanied by two copies of the proposed advertisement in electronic form along with a duly attested transcript thereof. In case of first phase of elections, the application shall be disposed of within two days of its receipt and until decision thereon is taken, our order dated 2nd April, 2004, shall apply. In case of subsequent phase of election, the application shall be disposed of within three days of its receipt and until the decision thereon is taken, our order dated 2nd April, 2004, shall apply. While disposing of such applications, it will be open to the Election

Commission/Designated Officer to direct deletion/modification of any part of the advertisement.

The application for certification shall contain following details:

- (a) The cost of production of the advertisement;**
- (b) The approximate cost of proposed telecast of such advertisement on a television channel or cable network with the break-up of number of insertions and rate proposed to be charged for each such insertion;**
- (c) It shall also contain a statement whether the advertisement inserted is for the benefit of the prospects of the election of a candidate(s)/parties;**
- (d) If the advertisement is issued by any person other than a political party or a candidate, that person shall state on oath that it is not for the benefit of the political party or a candidate and that the said advertisement has not been sponsored or commissioned or paid for by any political party or a candidate; and**
- (e) A statement that all the payments shall be made by way of cheque or demand draft.**

We find that Section 2(a) of the Act defines “authorized officer”, within his local limits of jurisdiction, as (a) District Magistrate; (b) Sub-divisional Magistrate; or (c) or Commissioner of Police. Similarly, Section 28-A of the Representation of People Act, 1951 provides that the Returning Officer, Assistant Returning Officer, Presiding Officer, Polling Officer and any other officer appointed under this part and any police officer designated for the time being by the State Government, for the conduct of any election shall be deemed to be on deputation to the Election Commission for the period commencing on and from the date of the notification calling for such election and ending with the date of declaration of results of such election and,

accordingly, such officer shall during that period, be subject to the control, superintendence and discipline of the Election Commission.

Since it is not physically possible for the Election Commission to have a pre-censorship of all the advertisements on various cable networks and television channels, it has become necessary to authorize the Election Commission to delegate its powers in this behalf to the respective District Magistrates of all the States or Union Territories, not below the rank of a Subdivisional Magistrate or a member of the State Provincial Civil Service. This may be done by a general order issued by the Election Commission. These officers shall act under the control, superintendence and discipline of the Election Commission. The Election Commission in its turn may delegate its powers to the Chief Electoral Officer of each State or the Union Territories, as the case may be.

The Chief Electoral Officer of each State or Union Territory may appoint a committee for entertaining complaints or grievances of any political party or candidate or any other person in regard to the decision to grant or to refuse certification of an advertisement. The committee so appointed shall communicate its decision to the Election Commission.

The committee so constituted will function under the overall superintendence, direction and control of the Election Commission of India.

The decision given by the committee shall be binding and complied with by the political parties, candidates, or any other person applying for advertisements in electronic media subject to what has been state above.

The comments and observations for deletion or modification, as the case may be, made, shall be binding and complied with by the concerned political party or contesting candidate or any other person within twenty four hours from the receipt of such communication and the advertisement so modified will be re-submitted for review and certification.

We may clarify that provisions of Section 126 of the Representation of People Act, 1951, shall apply to the advertisement covered by this order.

If any political party, candidate or any other person is aggrieved by the decision taken either by the committee or by the Designated Officer/Election Commission it will be open for them to approach only this court for clarification or appropriate orders and no other court, tribunal or authority shall entertain any petition in regard to the complaint against such advertisement. This order shall come into force with effect from 16th April, 2004 and shall continue to be in force till 10th May, 2004.

This order is being issued in exercise of the powers under Article 142 of the Constitution of India and it shall bind all the political parties, candidates, persons, group of persons or Trusts who propose to insert the advertisement in the electronic media, including cable network and/or television channels as well as cable operators.

It will be open to the Election Commission to requisition such staff as may be necessary for monitoring the telecast of such advertisements. Where the Election Commission is satisfied that there is a violation of this order or any provisions of the Act, it will issue an order to the violator to forthwith stop such violations and it will also be open to direct seizure of the equipments. Every order shall be promptly complied with by the person(s) on whom such order is served.

The funds to meet the cost of monitoring the advertisements should be made available to the Election Commission by the Union of India. Adequate publicity of this order shall be given by the Union of India on the electronic media and through print media.

This order is in continuation of the order passed by this Court on 2nd April, 2004 and shall remain in operation as an interim measure till 10th May, 2004.

Subject to the aforesaid order, the judgement of the High Court of Andhra Pradesh dated 23rd March 2004 shall remain stayed. This order is passed not in derogation of but in addition to the powers of the Central Government in regard to the breach of the provisions of the Act.”

6. Now therefore, in pursuance of the aforesaid directions of the Hon'ble Supreme Court, the Election Commission, hereby directs as follows: -

(i) The Chief Electoral Officer Delhi is hereby directed to constitute a Committee comprising the following persons to deal with the applications by the political parties and organizations mentioned in para (ii) herein below:-

- a) The Joint Chief Electoral Officer – Chairperson.
- b) Returning Officer of any Parliamentary Constituency in Delhi.
- c) One expert being an officer not below the rank of Class- I officer to be requisitioned from the Ministry of Information & Broadcasting.

(ii). The above Committee will entertain applications for certification of any advertisement to be inserted in a television channel or cable network by the following:-

- a) All registered political parties having their headquarters in NCT of Delhi.
- b) All groups or organizations or associations or persons having their headquarters in NCT of Delhi.

(iii) The Chief Electoral Officer of every other State/Union Territory is hereby directed to constitute the following Committee to deal with applications by political parties and organizations mentioned in para (iv) below:-

- (a) The Additional/Joint Chief Electoral Officer - Chairperson.
- (b) Returning Officer of any Parliamentary constituency located in the capital of the State.
- (c) One expert being an officer not below the rank of Class- I officer to be requisitioned from the Ministry of Information & Broadcasting.

(iv). The Committee constituted in para (iii) above will entertain applications for certification for advertisement on television channel and cable network by the following:-

- (a) All registered political parties having their headquarters in that State/Union Territory,
- (b) All organisations or group of persons or associations having their registered offices in that State/Union Territory.

(v) The Returning Officer of every Parliamentary constituency in the country are hereby declared as Designated Officers for the purpose of entertaining application for certification of an advertisement proposed to be issued on cable network or television channel by an individual candidate contesting the election from the Parliamentary constituency of which such Designated Officer is the Returning Officer and candidates contesting in the Assembly constituencies falling within that Parliamentary constituency. The said Returning Officer may co-opt any of the Assistant Returning Officers, not below the rank of a Sub-divisional Magistrate belonging to the State Provincial Civil Service to assist him in the task of certification of applications.

7. The Chief Electoral Officer of every State/Union Territory will constitute the following Committee to entertain complaints/grievances of any political party or candidate or any other person in regard to the decision to grant or refuse certification of an advertisement:-

- (i) The Chief Electoral Officer - Chairperson.
- (ii) Any Observer appointed by the Election Commission of India

- (iii) One expert to be co-opted by the Committee other than the one mentioned in paras 6 (i) and 6 (iii) above.

8. The applications for certification of any advertisements by every registered political parties and every contesting candidates shall be made to the Committees mentioned in paras 6 (i) and 6 (iii) above or the Designated Officer as mentioned in para 6 (iv) above, as the case may be, not later than 3 (three) days prior to the date of the commencement of the telecast of such advertisements. In the case of first phase of elections such applications shall be disposed of within 2 (two) days of its receipt and until decision thereon is taken, the order of the Supreme Court dated 2-4-2004 shall apply.

9. Where an application for certification of advertisement is by any other person or unregistered political parties, it will have to be made not later than 7 (seven) days prior to the date of telecast.

10. Every such application, in the format prescribed at **Annexure A**, shall be accompanied by the following :

- (i) Two copies of the proposed advertisement in the electronic form along with a duly attested transcript thereof.
- (ii) The application for certification shall contain following details:-
 - (a) The cost of production of the advertisement;
 - (b) The approximate cost of proposed telecast of such advertisement on a television channel or cable network with the break-up of number of insertions and rate proposed to be charged for each such insertion;
 - (c) It shall also contain a statement whether the advertisement inserted is for the benefit of the prospects of the election of a candidate(s)/parties;

- (d) If the advertisement is issued by any person other than a political party or a candidate, that person shall state on oath that it is not for the benefit of the political party or a candidate and that the said advertisement has not been sponsored or commissioned or paid for by any political party or a candidate;
- (e) A statement that all the payment shall be made by way of cheque or demand draft.

11. While taking a decision on the applications for certification of an advertisement, it will be open for the Committees constituted in para 6 (i) and 6 (iii) above or the Designated Officer as in para 6 (v) above or the review Committee as constituted in para 7 above to direct deletion/modification of any part of the advertisement. Every such order making comments and observation for deletion and modification shall be binding and be complied by the concerned political party or contesting candidate or any other person within 24 hours from the receipt of such communication. The advertisement so modified will be re-submitted for review and certification.

12. Where the Committees constituted in para 6 (i) and 6 (iii) above or the Designated Officer or the review Committee as constituted in para 7 above as the case may be, is satisfied that the advertisement meets the requirements of the law and in accordance with the directions of the Supreme Court as inserted in paras 4 and 5 above, it should issue a certificate to the effect of the advertisement concerned is fit for telecast. The format for the certificate is at **Annexure B**.

13. The directions contained in the order dated 13th April 2004 by Supreme Court shall be strictly complied with by everyone concerned and will remain in operation till 10th May 2004 and it shall bind all the political parties, candidates, persons, group of persons or Trusts who propose to insert the advertisements in the electronic media, including the cable networks and/or television channels as well as cable operators.

By Order,

(K.F. WILFRED)
SECRETARY

APPLICATION FOR CERTIFICATION OF ADVERTISEMENT

- I.
- (i) Name and full address of the applicant

 - (ii) Whether the advertisement is by a political party / contesting candidate / any other person / group of persons / association/ organization / Trust
(give the name)

 - (iii) (a) In case of political party, the status of the party (whether recognized National/ State / unrecognized party)

(b) In case of a candidate, name of the Parliamentary / Assembly Constituency from where contesting

 - (iv) Address of Headquarters of political party / group or body of persons / association/ organization / Trust

 - (v) Channels / cable networks on which the advertisement is proposed to be telecast

 - (vi) (a) Is the advertisement for the benefit of prospects of election of any candidate(s)

(b) If so, give the name(s) of such candidate(s) with full address and

name(s) of constituency(ies)

- (vii) Date of submission of the advertisement
- (viii) Language(s) used in the advertisement
(advertisement is to be submitted with two copies in electronic form alongwith a duly attested transcript)
- (ix) Title of advertisement
- (x) Cost of production of the advertisement
- (xi) Approximate cost of proposed telecast with the breakup of number of insertions and rate proposed for each such insertion
- (xii) Total expenditure involved (in Rupees)

II.

I, Shri / Smt. _____, S/o/D/o/W/o _____,
(full address) _____,
undertake that all payments related to the production and telecast of this advertisement will be made by way of cheque / demand draft.

Place :

Signature of the applicant

Date :

III.

(Applicable for advertisement by a person / persons, other than a political party or a candidate)

I, Shri / Smt. _____, S/o/ D/o / W/o _____,
(full address) _____,
hereby state and affirm that the advertisement(s) submitted herewith is not for the
benefit of any political party or any candidate and that this advertisement(s) has /
have not been sponsored / commissioned or paid for by any political party or a
candidate.

Place :

Signature of applicant

Date :

CERTIFICATION OF ADVERTISEMENT FOR TELECAST

I.

- (i) Name and address of the applicant /
political party / candidate / person / group
of persons / association/ organization/
Trust
- (ii) Title of advertisement
- (iii) Duration of advertisement
- (iv) Language(s) used in advertisement
- (v) Date of submission of advertisement
- (vi) Date of certification for telecast

II.

Certified that the above advertisement is fit for telecast as per the guidelines prescribed by the Hon'ble Supreme Court of India.

Signature of chairperson /
members of committee /
Designated Officer

Place :

Date :

JUDICIAL POWERS OF STATE ELECTION COMMISSION, KARNATAK

The State Election Commissioner is a quasi-judicial authority to conduct the election cases related to;

- 1) The Commissioner has the power to disqualify a member of Gram Panchayat, Taluka Panchayat and Zilla Panchayat, on the basis of a report submitted by the concerned authority regarding absence of members for more than three consecutive ordinary meetings.
- 2) The Commissioner has the power to disqualify a member of Gram Panchayat, Taluk Panchayat and Zilla Panchayat, on the report submitted by the concerned authority regarding office of profit by the members.
- 3) The Commissioner has the power to disqualify a member of Gram Panchayat, Taluk Panchayat and Zilla Panchayat on the report submitted by the concerned authority regarding Anti-defection activity by a member.
- 4) The Commissioner has the power to disqualify the member of Taluk Panchayat and Zilla Panchayat on the report submitted by the concerned authority regarding failure to lodge an account of election expenses during the election.
- 5) Commissioner has the power to disqualify a member of Corporation, City Municipal Corporation, Town Municipal Corporation, Town Panchayat, on the report submitted by the concerned authority for non-submission of account of election expenses during the elections.

Karnataka Municipal Corporations Act, 1976

26-C. Failure to lodge an account of election expenses.-If the State Election Commission is satisfied that any person:

- (a) has failed to lodge an account of election expenses within the time and in the manner required by or under this Act; and
- (b) has no good reason or justification for the failure,

The State Election Commission shall by order published in the Official Gazette declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order.

Karnataka Municipalities Act, 1964

16-C. Failure to lodge an account of election expenses. - If the State Election Commission is satisfied that any person.-

- (a) has failed to lodge an account of election expenses within the time and in the manner required by or under this Act; and
- (b) has no good reason or justification for the failure,

The State Election Commission shall by order published in the Official Gazette declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order.

The Karnataka Panchayat Raj Act, 1993

13(2) If any question arises as to whether a person is, or has become subject to disqualification under sub-section (1), the State Election Commission may either *suo motu* or on a report made to him and after giving an opportunity to the person concerned of being heard, decide the question.

124. Delimitation of territorial constituencies. - 1[Subject to the general or special order of the State Election Commission, the Deputy Commissioner] shall, by notification,-

- (a) divide the area within the jurisdiction of every Taluk Panchayat for the purpose of elections to such Taluk Panchayat into as many single member territorial constituencies as the number of members required to be elected under Section 122;
- (b) determine the extent of each territorial constituency; and
- (c) determine the territorial constituency or constituencies in which seats are reserved for the Scheduled Castes, Scheduled Tribes, Backward Classes and women.

The Karnataka Local Authorities (Prohibition of Defection) Act, 1987

4. Decision on the question as to disqualification on the ground of defection.- (1) A complaint that a member or a Councillor has become subject to

the disqualification under Section 3 may be made by a Member, Councillor or a political party to the Chief Executive Officer of the concerned local authority,-

- (a) in a case falling under clause (a) of sub-section (1) after the member or the Councillor gives up the membership of the political party;
 - (b) in a case falling under clause (b) of sub-section (1), after the expiry of fifteen days specified therein;
 - (c) in a case falling under sub-section (2), after he joins the political party;
- and

1[(d) *****]

(2) Where a complaint under sub-section (1) is received by the Chief Executive Officer of the concerned local authority, he shall, within twenty-four hours from the receipt of such complaint, refer the same for decision to,-

- 2[(i) in the case of Zilla panchayat, to the State Election Commissioner;]
- (ii) in the case of Municipal Corporation, to the Divisional Commissioner;
- (iii) in the case of City or Town Municipal Council 3[or Town Panchayat], to the Deputy Commissioner;
- 4[(iv) in the case of a Taluk Panchayat, to the State Election Commissioner;]

Who shall decide the question within 5[thirty days] after the receipt by him of the reference and his decision shall be final.

Karnataka Panchayat Raj Act, 1993

308-C. Failure to lodge an account of election expenses. - If the State Election Commission is satisfied that any person.-

(a) has failed to lodge an account of election expenses within the time and in the manner required by or under this Act; and

(b) Has no good reason of justification for the failure;

The State Election Commission shall by order published in the Official Gazette declare him to be disqualified and any such person shall be disqualified for a period of six years from the date of the order.

308-D. Returning Officer *etc.*, deemed to be on deputation to State Election Commission. - The Returning Officers, presiding officers, polling officers and any other or staff employed in connection with the preparation , revision and correction of electoral roll for, and the conduct of all elections to the Zilla Panchayat, Taluk Panchayat and Grama Panchayat shall be deemed to be on deputation to the State Election Commission for the period during which they are so employed and such officers and staff shall, during that period, be subject to the control, superintendence and discipline of the State Election Commission. If during that period, the officer concerned commits any misconduct, action shall be taken against him under the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.]

COMPULSORY VOTING

Compulsory voting is a system in which electors are obliged to [vote](#) in [elections](#) or attend a polling place on voting day. If an eligible voter does not attend a polling place, he or she may be subject to punitive measures such as [fines](#), [community service](#), or perhaps [imprisonment](#) if fines are unpaid or community service not performed.

[Athenian democracy](#) held that it was every [citizen](#)'s duty to participate in decision making, but attendance at the assembly was voluntary. Sometimes there was some form of social [opprobrium](#) to those not participating. For example [Aristophanes](#)'s comedy [Acharnians](#), in the 5th century BC, shows public slaves herding citizens from the [agora](#) into the assembly meeting place ([ponyx](#)) with a red-stained rope. Those with red on their clothes were fined.

Arguments in favour

Compulsory voting ensures a large voter turnout. This means a victorious candidate or party clearly represents a majority of the population, not merely politically motivated individuals who would vote without compulsion. This helps ensure that governments do not neglect sections of society that are less active politically. Victorious political leaders of compulsory systems may claim a higher degree of political legitimacy than those of non-compulsory systems with lower voter turnout.

Another important benefit is that compulsory voting prevents interference with access to the vote. In a similar way that the [secret ballot](#) is designed to prevent interference with the votes actually cast, compelling voters to the polls for an election mitigates the impact that external factors may have on an individual's capacity to vote such as the weather, transport, or restrictive employers. If everybody must vote, then restrictions on voting are easily identified and steps are taken to remove them. It is a measure to prevent disenfranchisement of the socially disadvantaged. Polls are generally held on a Saturday or Sunday as evidenced in nations such as

Australia, to ensure that working people can fulfill their duty to cast their vote. Postal and pre-poll voting is provided to people who cannot vote on polling day, and mobile voting booths may also be taken to old age homes and hospitals to cater for immobilized citizens.

If voters do not want to support any given choice, they may cast [spoilt votes](#) or [blank votes](#). According to compulsory voting supporters, this is preferred to not voting at all because it ensures there is no possibility that the person has been intimidated or prevented from voting should they wish. In certain jurisdictions, voters also have the option to vote [none of the above](#) if they do not support any of the candidates to indicate clear dissatisfaction with the candidate list rather than simple apathy at the whole process.

Compulsory voting may encourage voters to research the candidates' political positions more thoroughly. Since they are voting anyway, they may take more of an interest into the nature of the politicians they may vote for, rather than simply opting out. This means candidates need to appeal to a more general audience, rather than a small section of the community.

A result of this setup is that it is, therefore, more difficult for extremist or special interest groups to vote themselves into power. Under a non-compulsory voting system, if fewer people vote, then it is easier for smaller sectional interests and lobby groups to motivate a small section of the people to the polls and thereby control the outcome of the political process. The outcome of an election where voting is compulsory reflects more of the will of the people (*Who do I want to lead the country?*) rather than reflecting who was more able to convince people to take time out of their day to cast a vote (*Do I even want to vote today?*).

Political scientist [Arend Lijphart](#) writes that compulsory voting has been found to increase voting by 7–16% in national elections, and by even more in local and provincial elections and elections to the [European Parliament](#). The large increases in turnout are found even where the penalties for not voting are extremely low. He argues that other civic duties also exist, like paying [taxes](#), attending [school](#) and, in some democracies, [military conscription](#) and [jury duty](#). All of these obligations

require far more time and effort than voting does, thus compulsory voting can be seen as constituting a much smaller intrusion of freedom than many other activities.

Apart from the increased turnout as a value in itself, Lijphart lists other advantages to compulsory voting. First, the increase in voting participation may stimulate stronger participation and interest in other political activities. Secondly, as no large campaign funds are needed to goad votes to the polls, the role of money in politics decreases. Thirdly, compulsory voting acts as a sort of civil education and political stimulation, which creates a better informed population. Fourthly, high levels of participation decreases the risk of political instability created by crises or dangerous but charismatic leaders.

Arguments against

Compulsory voting can be seen as infringing a basic freedom of the citizen. Some consider the fining of recalcitrant voters to be more oppressive still.

Some believe that voting is not a civic duty, but rather a civil right. While citizens may exercise their civil rights (free speech, marriage, etc.) they are not compelled to. Furthermore, compulsory voting may infringe other rights. For example, most [Jehovah's Witnesses](#) believe that they should not participate in political events. Forcing them to vote explicitly denies them their freedom of religious practice. In some countries with compulsory voting, Jehovah's Witnesses and others may be exempted on these grounds. If however they are forced to go to the polling place, they can still use a blank or invalid vote.

Some do not support the idea of compulsory voting, particularly if they have no interest in politics or no knowledge of the candidates. Others may be well-informed, but have no preference for any particular candidate, and have no wish to give support to the incumbent political system. Such people may vote at random simply to fulfill legal requirements: the so called [donkey-vote](#) may account for 1-2% of votes in these systems, which may affect the electoral process. Similarly, citizens may vote with a complete absence of knowledge of any of the candidates, or deliberately skew their ballot to slow the polling process or disrupt the election.

Another group opposed to compulsory voting are principled nonvoters. They believe that the political process is inherently corrupt and violent, and prefer to minimize their personal involvement with it. If one adheres to Murray Rothbard's view of the state as a "gang of thieves writ large" then compulsory voting is a form of conscription into the largest mob with the biggest guns.

Supporters of voluntary voting assert that low voter participation in a voluntary election is not necessarily an expression of voter dissatisfaction or general political apathy. It may be simply an expression of the citizenry's political will, indicating satisfaction with the political establishment in an electorate. Former Australian opposition leader, [Mark Latham](#), urged Australians to hand in blank votes for the 2010 election. He stated the government should not force citizens to vote or threaten them with a fine. But this did not work. There was a large turnout of voters resulting in charge of government.

By countries

Historical

- (U.S.) State of [Georgia](#) in 1777 (10 years before the Constitution of 1787 established the United States of America):

Every person absenting himself from an election, and shall neglect to give in his or their ballot at such election, shall be subject to a penalty not exceeding five pounds; the mode of recovery and also the appropriation thereof, to be pointed out and directed by act of the legislature: Provided, nevertheless, That a reasonable excuse shall be admitted.

[Austria](#) (introduced 1929 for presidential elections and 1949 in some states for parliamentary elections, abolished step by step between 1982 and 2004)

- [Netherlands](#) (introduced 1917 along with universal suffrage, abolished 1970)
- [Spain](#) (1907–1923, but not enforced)
- [Venezuela](#) (removed in 1993)

Present day

There are currently 32 countries with compulsory voting. Of these, only 12 countries (and one Swiss canton) enforce it. Of the 30 member states of the [Organisation for Economic Co-operation and Development](#), 10 have forms of compulsory voting.

Enforced

These are the 12 countries that enforce compulsory voting

- [Argentina](#) (compulsory for citizens between 18 and 70 years old, non-compulsory for those older than 70. However in primaries, citizens under 70 may refuse to vote, if they formally express their decision to the electoral authorities, at least 48 hours before the election. This is valid only for the subsequent primary, and needs to be repeated every time the voter wishes not to participate.)
- [Australia](#) – Compulsory enrollment and voting for state and national elections for all eligible adults (18 and above). In some states local council elections are compulsory too.
- [Brazil](#) (non-compulsory for citizens between 16 and 18 years old, those older than 70 and illiterate people)
- [Chile](#) (enrollment voluntary)
- [Democratic Republic of the Congo](#)
- [Ecuador](#) (compulsory for citizens between 18 and 65 years old; non-compulsory for citizens aged 16–18, illiterate people, and those older than 65)
- [France](#) (compulsory for the electoral college electing the [Senate](#) ; about 80,000 elected officials)
- [Fiji](#)
- [Liechtenstein](#)
- [Nauru](#)
- [Peru](#) (compulsory for citizens between 18 and 70 years old, non-compulsory for those older than 70)

- Singapore (compulsory for citizens above 21 years old with effect from 1st January of the year of election)
- [Uruguay](#)

There is one region in Switzerland that enforces compulsory voting:

- [Schaffhausen](#)

Measures to encourage voting

Although voting in a country may be compulsory, penalties for failing to vote are not always strictly enforced. In [Australia](#) and [Brazil](#), providing a legitimate reason for not voting (such as being sick or outside the country) is accepted. In Argentina, those who were ill on voting day or over 500 km away from their voting place are also excused, by requesting a doctor to prove their condition, in the first case or asking for a certificate at a police station near where they are in the second case. Belgian voters can vote in an embassy if they are abroad or can empower another voter to cast the vote in their name, to do this the voter must give a "permission to vote" and carry a copy of the eID card and their own on the actual elections.

States that sanction non-voters with fines generally impose small or nominal penalties. However, penalties for failing to vote are not limited to fines and legal sanctions. [Belgian](#) voters who repeatedly fail to vote in elections may be subject to [disenfranchisement](#). Goods and services provided by public offices may be denied to those failing to vote in [Peru](#) and [Greece](#). In [Brazil](#), if you fail to vote in elections, you are barred from obtaining a passport before having voted in the two most recent elections, which can delay your passport for years. If a [Bolivian](#) voter fails to participate in an election, the citizen may be denied withdrawal of his or her salary from the bank for three months.

In Turkey, according to a law passed by the parliament in 1986, if an eligible elector does not cast a vote in the elections, then they pay a fee of about 5 [Turkish liras](#) (about \$8 US).

**Minutes of the meeting of the Standing Committee of the
State Election Commissioners
Udaipur (Rajasthan) : 9th December, 2011**

A meeting of the Standing Committee of the State Election Commissioners (SEC) was held in the Circuit House at Udaipur on 9th December, 2011 at 10:00 a.m.

The following SECs participated in the meeting:

1. Smt. Renu Sahni Dhar, SEC, UTs.
2. Shri S.D. Sharma, SEC, Jharkhand
3. Shri Ramakant Reddy, SEC, Andhra Pradesh
4. Smt. Mira Pande, SEC, West Bengal
5. Shri Rakesh Mehta, SEC, NCT of Delhi & UT-Chandigarh
6. Shri K.D. Singh, SEC, Arunachal Pradesh
7. Shri C.R. Chikkamath, SEC, Karnataka
8. Shri A.K. Pande, SEC, Rajasthan.

The meeting was convened primarily to discuss the report of the Task Force constituted by the Government of India to strengthen the institution of the State Election Commissions. A copy of the report of the Task Force was made available to all the members before the meeting so as to make the discussions more focused and expeditious.

The Committee studied the report in detail. After extensive discussions, it was decided to offer the comments on the different points raised in the report of the Task Force on the following lines

<u>Para</u>	- <u>Comments</u>
1 to 4	- No comments
5	Measures for giving reasonable autonomy to SECs.
5.1	- No comments, as it is factual in nature.
5.2	- Status of SECs.
	a) - The Standing Committee endorsed the proposal of the Task Force that SECs should be given the status of a High Court Judge. Further, the Standing Committee reiterated that the SECs should additionally be given the salary, allowances, perquisites and all serving/retirement benefits available to a sitting Judge of the High Court.
	b) - The Standing Committee recommends that the tenure of SECs should be fixed for a term of 6 years or 65 years of age

SECs should be fixed for a term of 6 years or 65 years of age whichever is earlier, as originally recommended by the Ministry . This recommendation will, however, come into effect prospectively.

The Standing Committee agrees that there should be no provision of extension.

- c) - The Standing Committee agrees with the Task Force that there is no need to have a three member Commission.

5.3 - **Manpower available to SECs.**

- a) The Standing Committee felt that since conditions vary from state to state, it may not be possible to prescribe a uniform staffing pattern for all the Commissions. It therefore recommends that a basic minimum strength for each Commission should be fixed by each State Government in consultation with the SEC. The staff must include sufficient numbers of permanent employees to ensure greater domain knowledge. Rest of the staff can be on deputation.

- b) - There should be enabling provisions for drafting personnel from Public Sector Undertakings and Central Government offices located in the state for conducting elections to Panchayats/Municipalities.

6. - **Funds.**

- 6.1 & 6.2 - No comments are called for.

6.3 - **Process of providing funds:**

- 6.3.1 - The Standing Committee endorsed the recommendations of the Task Force.

6.4 - **Central Sector Scheme.**

- 6.4.1 - The Standing Committee agrees with the recommendations of the Task Force except that point ‘(b)’ of 6.4.1 should read ‘the tenure of 6 years’ and not 5 years.

- 6.4.2 - The Standing Committee agrees with the recommendations of the Task Force.

- 6.5 - The Standing Committee agrees with the recommendations of the Task Force.

- 6.6 - The Standing Committee agrees with the recommendations of the Task Force.
7. - **Central legislative interventions needed to ensure appropriate terms and conditions, manpower and funds for SECs.**
- 7.2 c) - The Standing Committee agrees with the recommendations of the Task Force.
8. - **Vesting of Powers of Civil Court on State Election Commission.**
- 8.2 - The Standing Committee agrees with the recommendations of the Task Force.
9. - **Other recommendations relating to conduct of free and fair elections.**
- 9.2 - The Standing Committee was of the opinion that instead of authorizing the Government of India to depute Observers during Panchayat/ULB elections, the SECs should be authorized to call for such Observers from the Government of India through a nodal department such as the Department of Personnel and Training. These Observers shall work under the supervision and control of the SECs, as is the case with the Election Commission of India.
- 9.3 - The Standing Committee agrees with the recommendations of the Task Force.
- 9.4 - The Standing Committee agrees with the recommendations of the Task Force.
- 9.6 - The Standing Committee agrees with the recommendations of the Task Force.
- 9.7 - The Standing Committee was of the opinion that there is no need to provide for the Constitution of a collegium for the selection of the SEC . The present practice of selection of SEC by the Hon'ble Governor on the recommendation of the Chief Minister is quite satisfactory and it is also analogous to the selection process of the Chief Election Commissioner of India.

- 9.8 - The Standing Committee agrees with the recommendations of the Task Force.
- 9.9 - The Standing Committee felt that the number of voters in a booth should be left to the discretion of the SEC.
- 9.10 - The Standing Committee agrees with the recommendations of the Task Force.
- 9.11 - The Standing Committee agrees with the recommendations of the Task Force.
- 10. - **Money Power in Elections:**
 - The observations made in paras 10.1 to 10.6 are of pivotal importance for the conduct of free and fair elections, both for the Parliament and Legislatures, as well as for the local bodies. These issues are being addressed by the policy makers, think tanks, ECI and the SECs in different forms.

The Standing Committee agrees with the observations of the Task Force that these issues need to be addressed with an open mind with the objectives of finding an effective and practical solution.

The Standing Committee appreciated the efforts being made by the Government of India to ensure that the 73rd and 74th amendments of the Constitution are implemented all over the country in letter and spirit. The recommendations of the Task Force are also in accordance with the observations of the Hon'ble High Court and the Hon'ble Supreme Court of India in several cases. By way of illustration, attention may be invited towards the observations made by the Hon'ble Supreme Court of India in case No. Appeal (civil) 5756 of 2005 by the name of Kishansing Tomar versus The Municipal Corporation of the City of Ahmedabad & Others. (Judgment date 19/10/2006). In this Judgment, Hon'ble Supreme Court has categorically held that “ *it is necessary for all the State governments to recognize the significance of the State Election Commission which is a constitutional body and it shall abide by the directions of the Commission in the same manner in which it follows the directions of the Election Commission of India during the elections for the Parliament and State Legislatures. In fact, in the domain of elections to the Panchayats and the Municipal Bodies under the Part IX and Part IXA for the conduct of the*

elections to these bodies they enjoy the same status as the Election Commission of India.

In terms of Article 243 K and Article 243 ZA (1) the same powers are vested in the State Election Commission as the Election Commission of India under Article 324.”

Furthermore, the Hon’ble Supreme Court has observed that “ *it is clear that the powers of the State Election Commission in respect of conduct of elections is no less than that of the Election Commission of India in their respective domains*”. In the same judgment quoted above, the Hon’ble Supreme Court has observed that “*Article 243 K(3) also recognizes the independent status of the State Election Commission. It states that upon a request made in that behalf of Governor shall make available to the State Election Commission “such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause (1). It is accordingly to be noted that in the matter of the conduct of elections, the concerned government shall have to render full assistance and cooperation to the State Election Commission and respect the latter’s assessment of the needs in order to ensure that free and fair elections are conducted*”.

The recommendations of the Task Force will go a long way in strengthening the State Election Commissions, ensuring their autonomy, and ultimately in consolidating democracy at the grass root level.

The meeting ended with vote of thanks to the Chair.

Summary of recommendations as accepted by the Ministry of Panchayati Raj

Sl. No.	Suggestions of the Task Force with comments of the Standing Committee as accepted by the Ministry.
1.	The State Election Commission should be authorized under Law to notify the Dates to conduct elections, enforcement of code of conduct, filing of nomination, withdrawal of nomination, scrutiny, final list of candidates etc. The SEC shall appoint polling personnel either himself or by delegated authorities.
2.	SECs should be given the status of a High Court Judge. They should also have the salary, allowances, perquisites and all serving/retirement benefits of High Court Judge.
3.	The tenure of SEC should be for five / six years or 65 years of age whichever is earlier and without any provision of extension.
4.	The Task Force does not support a three-member Commission.
5.	<p>d) Permanent staff of the SECs should be limited to Class IV. Rest of the staff should be on deputation. In case Class III staff are in position, their career graph should be charted.</p> <p>e) Personnel from Public Sector Undertakings and Central Government offices located in State should be drafted for conducting Panchayat elections. This may require amendment of State Laws / Rules.</p> <p>f) In view of the law and order problems sometimes encountered during the Panchayat elections, there were suggestions for adequate provision of central paramilitary forces as in the case of Assembly and Parliamentary elections. This will be dependent on availability of funds.</p> <p>g) Since conditions vary from state to state, it may not be possible to prescribe a uniform staffing pattern for all the Commissions. It is, therefore, recommended that a basic minimum strength for each Commission should be fixed by each State Government in consultation with the SEC. The staff must include sufficient numbers of permanent employees to ensure greater domain knowledge. Rest of the staff can be on deputation.</p>

	h) There should be enabling provisions for drafting personnel from Public Sector Undertakings and Central Government offices located in the state for conducting elections to Panchayats/Municipalities. This will require specific provisions in state legislations.
6.	Some lower-cost alternatives for free and fair polling are re-polling, voter awareness, prosecution for offences during and/ or related to election process and presence of Observers with clear powers and responsibilities. The SEC can also exercise greater authority if it is vested with powers to try election cases.
7.	Since election petitions have to be filed within one month, the EVM records can be erased and made suitable for reuse one month after the elections except in cases where litigation is pending.
8.	SECs should have the flexibility to utilize funds as per their priorities without having to seek approval of the Finance Department of the State Government in every instance. In case of elections, the freeze on non-plan expenditure enforced in the months of February and March should not be applied to SECs. There should be an enabling provision under which SECs could make emergency withdrawal of funds for conducting elections. Further, funds of SECs should not lapse at the end of the financial year, as in the case of government departments, as this causes serious difficulties for elections organized in April and May.
9.	In 12 th Five Year Plan the State Election Commissions should be given a grant from the proposed scheme of Panchayat Shashaktikaran Abhiyan (PSA). For a State to be eligible to receive this grant, among other things, the following conditions must be satisfied at least by the second year of the Plan: <ul style="list-style-type: none"> (a) The State Election Commissioner must be full time; (b) He should have a tenure of five / six years or up to 65 years of age whichever is earlier; (c) There should be no provision for extensions. (d) The protection given to the SEC under Article 243K must be available under the state law or rules governing the State Elections Commissions; (e) The SEC must have the status of a High Court Judge;

10.	Allocations for SEC including expenditure on conduct of local body elections and on administrative expenses should be clearly provided in the States' main budget, since the period when general election is due is known in advance.
11.	Separate financial powers should be prescribed for the SEC. SECs should have the flexibility to divert funds between different heads of accounts while incurring election-related expenditure. They should have the flexibility for procurement etc. similar to ECI norms.
12.	<p>Release of funds from Central Finance Commission can be recommended subject to the conditions like the structure of SEC recommended at Para 9 above and also the following conditions:</p> <ul style="list-style-type: none"> (vi) Panchayats and Municipalities should not be superseded en masse; (vii) Grants not to be released during period of en masse supersession or supersession beyond six months ; (viii) There must be at least one third reservation for women: (ix) Constitution of State Finance Commission ; (x) Both direct and indirect elections should be through SECs.
13.	<p>The following judicial powers for disqualification may vest with the SEC:</p> <ul style="list-style-type: none"> (a) Defection where election is based on party lines and is a ground for disqualification under the law; (b) Use of office for personal gains during and after election of candidates / elected representatives; (c) Absence from more than three consecutive meetings; (d) Non-submission of election expenditure; (e) False declaration of caste, tribe, education, number of children etc. where applicable. (f) Any other ground for disqualification where prescribed under the law.
14.	<p>Online voting which has been tried out on experimental basis in municipal elections could be a means to:-</p> <ul style="list-style-type: none"> i) increase voter participation, particularly, in urban areas since it is more convenient; and ii) curb electoral malpractices.

15.	The SECs should call for Observers for elections to Panchayats and Municipalities from the Government of India through Ministries of Panchayati Raj, Urban Development and DoPT. These Observers shall work under the supervision and control of the SECs, as is the case with the Election Commission of India.
16.	Paid news carried by print and electronic media can be curbed by adoption of the procedure contained in the guidelines of the Election Commission of India issued following the Judgment of Hon'ble Supreme Court in SLP (Civil) No.6679 of 2004. Similar measures for enforcement of model Code of Conduct can be followed for election conducted by SEC.
17.	Security deposit may be enhanced to deter non-serious candidates, who often contest only to later bargain with other candidates to withdraw at a price.
18.	Proper identification of voters based on photographic records is necessary to prevent bogus voting.
19.	In order to incentivize the process of democracy, the grant under Panchayat Sashaktikaran Abhiyan during the 12 th Plan may also be released to the Village Councils at par with the Panchayats subject to fulfillment of the above conditions. The Ministry of Urban development impose similar conditionalities for release of funds to ULBs in the North East.
20.	The elections to the Gram Panchayats and Block Panchayats in Hill Areas of Darjeeling should be held as per the existing law.
21.	SECs should be vested with powers for delimitation of wards, reservation of seats and rotation. The policy of delimitation should, however, rest with the State Government. SEC should be the authority to conduct both direct <u>and</u> indirect elections in rural <u>and</u> urban areas.
22.	The number of voters in a booth should be limited to about 700.

23.	Full time proper State Election Commissions should be constituted in States where serving officers function as part time State Election Commissioners.
24.	The Election Commission of India debars certain public servants to participate in conduct of elections to the State and Central Legislatures from time to time. It will be appropriate that such public servants should also be debarred by State Elections Commissions from being employed in election duties in LSG.
25.	On certain occasions the Election Commission of India have issued guidelines prohibiting carrying of money above a certain amount on the day of polling or on a couple of days before polling. Subject to verification such person can be detained and such cash can be seized until the election is over. Such orders can also be passed by Election Officers and Executive Magistrates on their own. While this has been effective, use of local police for preventing this is of doubtful use. In short, availability of Central Para-military Forces is desirable to implement this provision and thus reduce the impact of money power.
26.	Compulsory voting should be examined with an unbiased perspective.