

GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (ELECS.F) DEPARTMENT

Memo No.257/Elecs.F/2013-96

Dated:23.02.2013.

Sub:- Hand Book for Returning Officer for election to the Council of States & State Legislative Councils – 1992 (reprint-1996) – **Amendment regarding counting of votes** – Regarding.

- Ref:- 1. E.C.I., New Delhi, letter No.318/RO-HB/2011-CC&BE, Dt. 17.02.2011.
2. This office Memo. No.545/Elecs.F/2011-25, Dt.17.2.2011.
3. This office Memo. No.257/Elecs.F/2013-18, Dt.28.1.2013.

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The attention of the Collectors of East Godavari, Guntur, Karimnagar, Visakhapatnam & Nalgonda and Returning Officers of Graduates' & Teachers' Constituencies is invited to the E.C.I. reference 1st cited, wherein the Commission has decided to amend the relevant instructions containing in the Chapter XII of the Hand Book for the Returning Officers for election to the Council of State & State Legislative Council-1992 (Reprint-1996). A copy of the reference 1st cited along with the amended instructions has already been communicated to all the District Election Officers and the R.Os. in the references 2nd and 3rd cited for current biennial elections. However, a copy of the reference 1st cited is once again enclosed herewith. They are, therefore, requested to follow the instructions duly carrying out the said amendments to the Hand Book available with them for all biennial/by-elections to the Council of States and State Legislative Councils.

The Collectors & Returning Officers of East Godavari, Guntur, Karimnagar, Visakhapatnam & Nalgonda are requested to bring the above instructions to the notice of all election related officials, counting personnel and all the contesting candidates immediately.

BHANWAR LAL,
CHIEF ELECTORAL OFFICER &
E.O. PRINCIPAL SECRETARY TO GOVERNMENT

To
The Collectors of East Godavari, Guntur, Karimnagar,
Visakhapatnam & Nalgonda and Returning Officers of Graduates' &
Teachers' Constituencies.
SF/SC.

// FORWARDED: BY ORDER //


SECTION OFFICER


ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 318/RO-HB/2011-CC&BE

Dated: 17th February, 2011

To

**The Chief Electoral Officers
of all States/Union Territories.**

Subject:- Handbook for Returning officer for election to the Council of States & State
Legislative Councils -1992 (reprint-1996) -- amendments -- Regarding.

Sir/Madam,

I am directed to state that the Commission had received some complaints from candidates and political parties during the biennial election to Maharashtra Legislative Council, 2010 regarding some irregularities in the process of voting, whereby some instructions relating to marking of ballot papers were allegedly misused by some voters to establish their identity.

2. Therefore, the Commission has decided to amend relevant instructions contained in Chapter-XII of the Handbook for the Returning Officers for election to the Council of States & State Legislative Councils -1992 (reprint-1996). The instructions regarding counting of votes contained in Chapter-XII of the said Hand book at paras 14-18 have been amended as per details in the enclosed statement (Annexure) and the Handbook available with election authorities in the State may be corrected accordingly.

3. The amended instructions will come into effect immediately and shall be applicable for all future biennial/bye-elections to the Council of States and State Legislative Councils.

4. Receipt of the letter may kindly be acknowledged.

Yours faithfully,


(DILIP KR. VARMA)
UNDER SECRETARY

Existing paras 14 to 18 of Chapter XII of Hand Book for Returning Officer for Council of State and State Legislative Councils Elections 1992 (reprint 1996) be substituted by the following

14. “Mark or writing by which an elector may be identified”.

Under Rule 73(2) (d), a ballot paper shall be rejected if it bears any mark or writing by which an elector can be identified. The Supreme Court has held in *Shradha Devi Vs. Krishna Chandra Pant* (AIR 1982 SC 1592) that the mark or writing which would invalidate the ballot paper must be such as to itself unerringly point in the direction of or reasonably give indication of the identity of the voter. There must be some causal connection between the mark and the identity of the voter that looking at one, the other becomes revealed. In the absence of such suggested mark or writing the ballot paper cannot be rejected merely because there is some mark or writing. Any mark or writing of an innocuous nature cannot be raised to the level of such suggestive mark or writing as to reveal the identity of the voter.

15. Under the rules, it is obligatory for an elector only to mark figure '1' in the ballot paper. The placing of figure '2' or subsequent preferences is only optional. For the above reasons, a ballot paper should **usually** be treated as valid if the first preference has been indicated correctly thereon by marking it with figure “1”. If the other preferences are not indicated at all or, are indicated not in figures but in words, then those preferences should be treated as having been not made at all. In other words, the elector will be regarded as having indicated only his first preference. The correct indication of the first preference is enough to make it a valid vote and such a ballot paper should not **generally** be rejected *in toto*. It shall be counted and taken into account for further transfers up to that subsequent preference which has been validly indicated in figures. (Such a ballot paper would become exhausted only at that stage at which it is sought to be transferred further with reference to such preferences as have been indicated not in figures but in words.)

However, if it is noticed that *a particular pattern has been followed by an elector in indicating his subsequent preferences in words like ‘two’ or ‘second preference’ instead of figure ‘2’ and so on or such words have been written in addition to the figure '1', ‘2’ and so on in a particular manner which apparently points to attempt to reveal the identity of the elector to the candidate(s), that can be treated as leading to some causal connection between the mark and the identity of the voters.* Such ballot paper would be liable to be rejected

After para 15, a new para 15A has been added as follows:-

15A. The explanation under to rule 37A permits that the figures indicating preferences may be marked in the international form of Indian numerals or in the Roman form or in the form used in any Indian language but shall not be indicated in words. A voter can therefore choose to mark all the preferences, as he/she may like to indicate, in figures either in international form of

Indian numerals or in the Roman form or in the form used in any Indian language generally used in the State where the election is being held. The elector cannot use a combination of languages for writing the preferences in figures. Some electors who may have arrived at some pre-planned agreement with candidates may adopt the pattern of marking preferences in a particular pre-determined combination of different forms of numerals to reveal their identity to the candidate(s) concerned. There have been such complaints in the past. Therefore, such cases, which can lead to some causal connection between the mark and the identity of the voters, should be viewed from that angle, and if the design is obvious, such ballot papers would be liable to be rejected.

Grounds on which ballot Paper not to be Rejected

16. A ballot paper should not be rejected simply because-

(a) the figure '1' has been marked not in the column meant for marking the order of preferences but at some other place in the panel of candidate, or '1' is marked in the space meant for marking and also marked in the box containing the name of the candidates. Where, however, such double marking is seen as a pattern adopted by an elector as a pre-determined plan to reveal his identity to the candidate(s) concerned, such double marking may be interpreted as leading to a casual connection between the marking and identity of the electors, in which case the ballot papers may be liable to be rejected.

(b) the original mark is patently in the column of one candidate but an impression or smudge thereof appears against the name of some other candidate due to wrong folding;

(c) there is a faint un-decipherable thumb impression or smudge impression left inadvertently by the elector on the ballot paper while handling it because of the presence of some ink on his thumb which was put thereon for the purpose of obtaining his thumb impression on the counterfoil of the ballot paper.

Reasonable facilities to candidates for inspection of invalid ballot paper

17.1 Before rejecting any ballot paper, you should give a reasonable opportunity to the candidates or their agents present at your table to see the ballot paper. However, while doing so, do not allow them to handle any ballot paper physically.

17.2 You should also not allow the serial number of any ballot paper to be noted down by anyone in the case of elections in the local authorities constituencies and by members of the Legislative Assembly to the State Legislative Council where the serial numbers of ballot papers are effectively concealed.

Rejected Ballot Papers to be Suitably Endorsed/Signed by Returning Officer

18.1 You should endorse on every ballot paper which you reject the word 'Rejected' and the ground(s) for such rejection in abbreviated form either in your own hand or by means of a rubber stamp. You should also initial each such endorsement but you need not give the date.

18.2 A rubber stamp in the following form specifying the various reasons for rejecting a ballot

paper may be used. In that case what you are required to do is to affix this stamp which mentions all the reasons and make a tick mark (✓) against the particular reason for which the ballot paper is to be rejected and then affix your initial.

Rejected

- (i) No marking
- (ii) Mark on blank area
- (iii) Multiple voting
- (iv) Voter identifiable
- (v) Preference(s) indicated in words.
- (vii) Marked with un-official article

(If the ballot paper is rejected on any other ground, the same may be recorded in hand