

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001.

No. 576/3/2015/SDR

Dated : 12th November, 2015

To

The Chief Electoral Officers of
all States and UTs.

**Sub : Manner of opting for 'None of the Above' at elections to Rajya Sabha and State
Legislative Council- revised instructions of the Commission.**

Sir/Madam,

I am directed to invite reference to the Commission's two circular letters, both bearing No. 576/3/2013/SDR-Vol.II, dated 24th January, 2014 and 27th February, 2014, regarding provision for NOTA and the manner of marking for NOTA option at elections to Rajya Sabha and State Legislative Councils. As per the instructions therein, option for NOTA was to be marked with a cross or tick mark against 'None of the Above' panel on the ballot paper.

2. It has been brought to the notice of the Commission that there have been some cases where electors, having marked 1st preference against one of the candidates put cross mark or mentioned subsequent preference (2nd, 3rd, etc.) against NOTA, which have led to rejection of the ballot paper. In the light of such cases, the Commission has considered the matter afresh and, with a view to ensuring the compliance of rule 73(2) of the CE Rules 1961 and adoption of a uniform approach towards the requirement of providing for NOTA option and the manner of voting in preferential system using single transferable vote, the Commission has given the following directions for exercising of NOTA option in elections to Rajya Sabha and State Legislative Councils:-

(i) Marking against NOTA shall be by way of writing figures 1, 2, 3, etc. as in the case of marking preference for candidates, i.e in international form of Indian numerals or in the Roman form or in any Indian language ;

(ii) If preference '1' is marked against NOTA, it shall be treated as a case of not voting for any of the candidates and such ballot shall be treated as invalid, even if '1' is also marked against any other candidate in addition to being marked against NOTA;

(iii) If 1st preference is validly marked against one of the candidates, and 2nd preference is marked against NOTA, such ballot paper shall be treated as valid for the candidate for whom 1st preference has been marked, provided there is no other ground to invalidate it, under rule 73(2). In such case, at the stage of examining 2nd preference, the ballot paper shall be treated as exhausted as the 2nd preference is marked against NOTA. Similarly, if 1st and 2nd preferences are validly marked against a candidate each and 3rd preference is marked against NOTA, the ballot shall be valid for the first count and for the purposes of the 2nd preference, but, at the stage of examining the 3rd preference, if such stage comes, the ballot shall be treated as exhausted. These instructions shall apply for subsequent preferences also.

(iv) If 1st preference and subsequent preferences, if any, are validly marked against the candidates and cross/tick is marked against NOTA, the ballot paper shall not be rejected as invalid only on this ground, and the preferences marked against the candidates shall be considered and counted accordingly. However, the general provisions of the rules and the Commission's instructions regarding marks that may identify the voter shall apply in the case of the mark against NOTA option, and if the RO considers that the mark put therein reasonably points towards identification of the voter within the meaning of rule 73(2)(d), that would render the ballot liable to rejection on that ground.

3. Some sample markings on the ballot in accordance with the above directions are attached herewith for more clarity.

4. These directions may be brought to the notice of Returning Officers for Rajya Sabha elections in the State, and for all elections to the Legislative Council (in the States having such council) for compliance in all future elections. The political parties based in the State/UT may also be informed about these directions.

Yours faithfully,



(K.F. WILFRED)
PRINCIPAL SECRETARY

Sample-1

| Sl. No. | Name of Candidate and Party affiliation | Photo of candidate | Column for marking preference |
|---------|---|--------------------|-------------------------------|
| 1. | Candidate A XXX Party | | 5 |
| 2. | Candidate B YYY Party | | 1 |
| 3. | Candidate C ZZZ Party | | 3 |
| 4. | Candidate D Independent | | 4 |
| 5. | Candidate E Independent | | |
| 6. | None of the Above | | 2 |

In this case, vote will be valid for the first preference (i.e. for candidate no. 2 and treated as exhausted as regards second preference onwards as 2nd preference is marked for NOTA).

Sample-2

| Sl. No. | Name of Candidate and Party affiliation | Photo of candidate | Column for marking preference |
|---------|---|--------------------|-------------------------------|
| 1. | Candidate A XXX Party | | 3 |
| 2. | Candidate B YYY Party | | |
| 3. | Candidate C ZZZ Party | | 1 |
| 4. | Candidate D Independent | | 5 |
| 5. | Candidate E Independent | | 2 |
| 6. | None of the Above | | 4 |

In this case, vote will be valid for the first three preferences as preferences 1,2 and 3 have been validly marked and treated as exhausted as regards fourth preference onwards.

Sample-3

| Sl. No. | Name of Candidate and Party affiliation | Photo of candidate | Column for marking preference |
|---------|---|--------------------|-------------------------------|
| 1. | Candidate A XXX Party | | 3 |
| 2. | Candidate B YYY Party | | 1 |
| 3. | Candidate C ZZZ Party | | 2 |
| 4. | Candidate D Independent | | 5 |
| 5. | Candidate E Independent | | 4 |
| 6. | None of the Above | | 6 |

In this case, vote will be valid for all the five preferences as preferences have been validly marked against the candidates.

Sample-4

| Sl. No. | Name of Candidate and Party affiliation | Photo of candidate | Column for marking preference |
|---------|---|--------------------|-------------------------------|
| 1. | Candidate A XXX Party | | |
| 2. | Candidate B YYY Party | | |
| 3. | Candidate C ZZZ Party | | |
| 4. | Candidate D Independent | | 1 |
| 5. | Candidate E Independent | | |
| 6. | None of the Above | | 1 |

In this case, vote will be invalid as 1st preference is marked both for a candidate and NOTA .

Sample-5

| Sl. No. | Name of Candidate and Party affiliation | Photo of candidate | Column for marking preference |
|---------|---|--------------------|-------------------------------|
| 1. | Candidate A XXX Party | | |
| 2. | Candidate B YYY Party | | |
| 3. | Candidate C ZZZ Party | | |
| 4. | Candidate D Independent | | |
| 5. | Candidate E Independent | | |
| 6. | None of the Above | | 1 |

In this case, vote will be invalid as 1st preference is marked for NOTA .

Sample-6

| Sl. No. | Name of Candidate and Party affiliation | Photo of candidate | Column for marking preference |
|---------|---|--------------------|-------------------------------|
| 1. | Candidate A XXX Party | | 3 |
| 2. | Candidate B YYY Party | | 4 |
| 3. | Candidate C ZZZ Party | | 5 |
| 4. | Candidate D Independent | | 2 |
| 5. | Candidate E Independent | | 6 |
| 6. | None of the Above | | 1 |

In this case, vote will be invalid as 1st preference is marked against NOTA.

Sample-7

| Sl. No. | Name of Candidate and Party affiliation | Photo of candidate | Column for marking preference |
|---------|---|--------------------|-------------------------------|
| 1. | Candidate A XXX Party | | 1 |
| 2. | Candidate B YYY Party | | 4 |
| 3. | Candidate C ZZZ Party | | 5 |
| 4. | Candidate D Independent | | 3 |
| 5. | Candidate E Independent | | 2 |
| 6. | None of the Above | | X |

In this case, vote will be valid for all preferences as the preferences have been validly marked against the candidates.