

**OFFICE OF THE CHIEF ELECTORAL OFFICER,  
TELANGANA**

**Ground Floor, South 'H' Block, Secretariat, Hyderabad-500022**

U.O.Note No.2306/Elecs.A/A1/2018-4,

Dated:27.09.2018

Sub:- Applicability of Model Code of Conduct in cases of premature dissolution of Legislative Assembly followed by the caretaker Government in position till the formation of new Government after fresh election - regarding.

Ref:- From the ECI Lr.No. 437/6/ECI/INST/FUNCT/MCC/2018, dt.27.09.2018

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A copy of the letter received from the Election Commission of India, wherein certain instructions on applicability of Model Code of Conduct in cases of premature dissolution of Legislative Assembly followed by the caretaker Government in position till the formation of new Government after fresh election, is communicated herewith to all the Departments of Secretariat for information and strict compliance.

2. A copy of the document on Model Code of Conduct for the guidance of Political Parties and Candidates is also enclosed herewith for ready reference.

Dr.RAJAT KUMAR,  
CHIEF ELECTORAL OFFICER &  
E.O PRL. SECRETARY TO GOVT.

To  
All the Departments of Secretariat (w.e)  
Copy to: P.S to C.M (w.e)  
Copy to: P.S to Ministers (w.e)

//FORWARDED :: BY ORDER//

  
SECTION OFFICER

By Spl. Messenger/Speed Post

# ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

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No. 437/6/ECI/INST/FUNCT/MCC/2018

Dated: 27<sup>th</sup> September, 2018

To

1. The Cabinet Secretary,  
Government of India,  
Rashtrapati Bhawan,  
New Delhi.
2. The Chief Secretaries to the Government of  
All States/UTs.

**Subject: Applicability of Model Code of Conduct in cases of premature dissolution of Legislative Assembly followed by the caretaker Government in position till the formation of new Government after fresh election – regarding.**

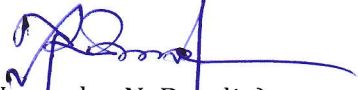
Sir/Madam,

I am directed to state that the Commission has considered the matter of application of the Model Code of Conduct in the cases of premature dissolution of Legislative Assembly where a caretaker government has been asked to carry on the administration of that State/UT for the purposes of free, fair, transparent, and robust electoral process. On careful consideration of the matter, keeping the observation of Hon'ble Supreme Court in S.R.Bommai and Ors Vs. Union of India & Ors. (1994), that ***the caretaker Government should merely carry on the day-to-day Government and desist from taking any major policy situation decision*** in view, Commission has directed the following:-

- (i) In such an eventuality as described above, the provisions of Part-VII (Party in Power) of the Model Code of Conduct shall come into operation with immediate effect in the State concerned and shall continue to be in force till the completion of the election to constitute the new Legislative Assembly;
- (ii) The provisions of the aforesaid Part-VII of Model Code of Conduct shall apply on the caretaker State Government as well as on the Central Government in so far as matters relating to that State are concerned;

- (iii) Consequently, neither the caretaker State Government nor the Central Government shall announce any new schemes, projects, etc. in respect of that State or undertake any of the activities prohibited under the aforesaid Part-VII of the Model Code of Conduct;
  - (iv) All other prohibitions under Part-VII, such as use of official resources for any non-official purposes, combining of official visit with electioneering work, etc. shall apply on all Ministers and other authorities of the caretaker State Government, the Central Government as well as Governments of other States.
2. This may be brought to the notice of all concerned and the receipt of this letter may please be acknowledged.

Yours faithfully,



(Narendra N. Butolia)  
Principal Secretary

# **ELECTION COMMISSION OF INDIA**

## **MODEL CODE OF CONDUCT FOR THE GUIDANCE OF POLITICAL PARTIES AND CANDIDATES**

### **I. General Conduct**

(1) No party or candidate shall include in any activity which may aggravate existing differences or create mutual hatred or cause tension between different castes and communities, religious or linguistic.

(2) Criticism of other political parties, when made, shall be confined to their policies and programme, past record and work. Parties and Candidates shall refrain from criticism of all aspects of private life, not connected with the public activities of the leaders or workers of other parties. Criticism of other parties or their workers based on unverified allegations or distortion shall be avoided.

(3) There shall be no appeal to caste or communal feelings for securing votes. Mosques, Churches, Temples or other places of worship shall not be used as forum for election propaganda.

(4) All parties and candidates shall avoid scrupulously all activities which are “corrupt practices” and offences under the election law, such as bribing of voters, intimidation of voters, impersonation of voters, canvassing within 100 meters of polling stations, holding public meetings during the period of 48 hours ending with the hour fixed for the close of the poll, and the transport and conveyance of voters to and from polling station.

(5) The right of every individual for peaceful and undisturbed home-life shall be respected, however much the political parties or candidates may resent his political opinions or activities. Organizing demonstrations or picketing before the houses of individuals by way of protesting against their opinions or activities shall not be resorted to under any circumstances.

(6) No political party or candidate shall permit its or his followers to make use of any individual’s land, building, compound wall etc., without his permission for erecting flag-staffs, suspending banners, pasting notices, writing slogans etc.

(7) Political parties and candidates shall ensure that their supporters do not create obstructions in or break up meetings and processions organized by other parties. Workers or sympathisers of one political party shall not create disturbances at public meetings organized by another political party by putting questions orally or in writing or by distributing leaflets of their own party. Processions shall not be taken out by one

party along places at which meetings are held by another party. Posters issued by one party shall not be removed by workers of another party.

## **II. Meetings**

(1) The party or candidate shall inform the local police authorities of the venue and time any proposed meeting well in time so as to enable the police to make necessary arrangements for controlling traffic and maintaining peace and order.

(2) A Party or candidate shall ascertain in advance if there is any restrictive or prohibitory order in force in the place proposed for the meeting if such orders exist, they shall be followed strictly. If any exemption is required from such orders, it shall be applied for and obtained well in time.

(3) If permission or license is to be obtained for the use of loudspeakers or any other facility in connection with any proposed meeting, the party or candidate shall apply to the authority concerned well in advance and obtain such permission or license.

(4) Organizers of a meeting shall invariably seek the assistance of the police on duty for dealing with persons disturbing a meeting or otherwise attempting to create disorder. Organizers themselves shall not take action against such persons.

## **III. Procession**

(1) A Party or candidate organizing a procession shall decide before hand the time and place of the starting of the procession, the route to be followed and the time and place at which the procession will terminate. There shall ordinarily be no deviation from the programme.

(2) The organizers shall give advance intimation to the local police authorities of the programme so as to enable the latter to make necessary arrangements.

(3) The organizers shall ascertain if any restrictive orders are in force in the localities through which the procession has to pass, and shall comply with the restrictions unless exempted specially by the competent authority. Any traffic regulations or restrictions shall also be carefully adhered to.

(4) The organizers shall take steps in advance to arrange for passage of the procession so that there is no block or hindrance to traffic. If the procession is very long, it shall be organized in segments of suitable lengths, so that at convenient intervals, especially at points where the procession has to pass road junctions, the passage of held up traffic could be allowed by stages thus avoiding heavy traffic congestion.

(5) Processions shall be so regulated as to keep as much to the right of the road as possible and the direction and advice of the police on duty shall be strictly complied with.

6) If two or more political parties or candidates propose to take processions over the same route or parts thereof at about the same time, the organizers shall establish contact well in advance and decide upon the measures to be taken to see that the processions do not clash or cause hindrance to traffic. The assistance of the local police shall be availed of for arriving at a satisfactory arrangement. For this purpose the parties shall contact the police at the earliest opportunity.

(7) The political parties or candidates shall exercise control to the maximum extent possible in the matter of processionists carrying articles which may be put to misuse by undesirable elements especially in moments of excitement.

(8) The carrying of effigies purporting to represent member of other political parties or their leaders, burning such effigies in public and such other forms demonstration shall not be countenanced by any political party or candidate.

#### **IV. Polling Day**

All Political parties and candidates shall –

(i) co-operate with the officers on election duty to ensure peaceful and orderly polling and complete freedom to the voters to exercise their franchise without being subjected to any annoyance or obstruction.

(ii) supply to their authorized workers suitable badges or identity cards.

(iii) agree that the identity slip supplied by them to voters shall be on plain (white) paper and shall not contain any symbol, name of the candidate or the name of the party;

(iv) refrain from serving or distributing liquor on polling day and during the forty eight hours preceding it.

(v) not allow unnecessary crowd to be collected near the camps set up by the political parties and candidates near the polling booths so as to avoid Confrontation and tension among workers and sympathizers of the parties and the candidate.

(vi) ensure that the candidate's camps shall be simple. They shall not display any posters, flags, symbols or any other propaganda material. No eatable shall be served or crowd allowed at the camps and

(vii) co-operate with the authorities in complying with the restrictions to be imposed on the plying of vehicles on the polling day and obtain permits for them which should be displayed prominently on those vehicles.

#### **V. Polling Booth**

Excepting the voters, no one without a valid pass from the Election Commission shall enter the polling booths.

## **VI. Observers**

The Election Commission is appointing Observers. If the candidates or their agents have any specific complaint or problem regarding the conduct of elections they may bring the same to the notice of the Observer.

## **VII. Party in Power**

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

(i) (a) The Ministers shall not combine their official visit with electioneering work and shall not also make use of official machinery or personnel during the electioneering work.

(b) Government transport including official air-crafts, vehicles, machinery and personnel shall not be used for furtherance of the interest of the party in power;

(ii) Public places such as maidens etc., for holding election meetings, and use of helipads for air-flights in connection with elections shall not be monopolized by itself. Other parties and candidates shall be allowed the use of such places and facilities on the same terms and conditions on which they are used by the party in power;

(iii) Rest houses, dark bungalows or other Government accommodation shall not be monopolized by the party in power or its candidates and such accommodation shall be allowed to be used by other parties and candidates in a fair manner but no party or candidate shall use or be allowed to use such accommodation (including premises appertaining thereto) as a campaign office or for holding any public meeting for the purposes of election propaganda;

(iv) Issue of advertisement at the cost of public exchequer in the newspapers and other media and the misuse of official mass media during the election period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the party in power shall be scrupulously avoided.

(v) Ministers and other authorities shall not sanction grants/payments out of discretionary funds from the time elections are announced by the Commission; and

(vi) From the time elections are announced by Commission, Ministers and other authorities shall not –

(a) announce any financial grants in any form or promises thereof; or

(b) (except civil servants) lay foundation stones etc. of projects or schemes of any kind; or

(c) make any promise of construction of roads, provision of drinking water

facilities etc.; or

(d) make any ad-hoc appointments in Government, Public Undertakings etc. which may have the effect of influencing the voters in favor of the party in power.

**Note :** The Commission shall announce the date of any election which shall be a date ordinarily not more than three weeks prior to the date on which the notification is likely to be issued in respect of such elections.

(vii) Ministers of Central or State Government shall not enter any polling station or place of counting except in their capacity as a candidate or voter or authorized agent.

### **VIII Guidelines on Election Manifestos**

1. The Supreme Court in its judgment dated 5th July 2013 in SLP(C) No. 21455 of 2008 ( S. Subramaniam Balaji Vs Govt. of Tamil Nadu and Others) has directed the Election Commission to frame guidelines with regard to the contents of election manifestos in consultation with all the recognized political parties. The guiding principles which will lead to framing of such guidelines are quoted below from the judgment:-

- (i) “Although, the law is obvious that the promises in the election manifesto cannot be construed as ‘corrupt practice’ under Section 123 of RP Act, the reality cannot be ruled out that distribution of freebies of any kind, undoubtedly, influences all people. It shakes the root of free and fair elections to a large degree”.
- (ii) “The Election Commission, in order to ensure level playing field between the contesting parties and candidates in elections and also in order to see that the purity of the election process does not get vitiated, as in past been issuing instructions under the Model Code of Conduct. The fountainhead of the powers under which the Commission issues these orders is Article 324 of the Constitution which mandates the Commission to hold free and fair elections.”
- (iii) “We are mindful of the fact that generally political parties release their election manifesto before the announcement of election date, in that scenario, strictly speaking, the Election Commission will not have the authority to regulate any act which is done before the announcement of the date. Nevertheless, an exception can be made in this regard as the purpose of election manifesto is directly associated with the election process”.



2. Upon receiving the above directions of the Hon'ble Supreme Court, the Election Commission held a meeting with the recognized National and State Political Parties for consultation with them in the matter and took note of their conflicting views in the matter.

During consultations, while some political parties supported the issuance of such guidelines, others were of the view that it is their right and duty towards voters to make such offers and promises in manifestos in a healthy democratic polity. While the Commission agrees in principle with the point of view that framing of manifestos is the right of the political parties, it cannot overlook the undesirable impact of some of the promises and offers on the conduct of free and fair elections and maintaining level playing field for all political parties and candidates.

3. The Constitution under Article 324 mandates the Election Commission, to conduct elections inter alia to the Parliament and the State Legislatures. Having due regard to the above directions of the Supreme Court and after consultation with the Political Parties, the Commission, in the interest of free and fair elections, hereby directs that Political Parties and Candidates while releasing election manifestos for any election to the Parliament or State Legislatures, shall adhere to the following guidelines :-

(i) The election manifesto shall not contain anything repugnant to the ideals and principles enshrined in the Constitution and further that it shall be consistent with the letter and spirit of other provisions of Model Code of Conduct.

(ii) The Directive Principles of State Policy enshrined in the Constitution enjoin upon the State to frame various welfare measures for the citizens and therefore there can be no objection to the promise of such welfare measures in election manifestos. However, political parties should avoid making those promises which are likely to vitiate the purity of the election process or exert undue influence on the voters in exercising their franchise.

(iii) In the interest of transparency, level playing field and credibility of promises, it is expected that manifestos also reflect the rationale for the promises and broadly indicate the ways and means to meet the financial requirements for it. Trust of voters should be sought only on those promises which are possible to be fulfilled.