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General Elections to Lok Sabha

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ELECTIONS – General Elections to Lok Sabha, 2009 – Code of Conduct for Government Servants – Instructions – Issued.

The General Elections to Lok Sabha from Tamil Nadu are to be held on 13.5.2009. The Model Code of Conduct has come into force with the announcement of the elections on 2.3.2009. The filing of nominations will commence on April 17, 2009. The political parties and contesting candidates will soon be starting their election campaign. The instructions issued during the earlier elections, regarding the conduct of Government Servants in general, and of those entrusted with the responsibility of conducting the elections, in particular, are reiterated.

2. Government Servant's Conduct Rules

According to Rules 14 and 16 of the "Tamil Nadu Government Servants' Conduct Rules, 1973", no Government Servant shall be a member of or be otherwise associated with, any political party or any organisation in respect of which there is reason to believe that the organisation has a political aspect, nor shall he take part in, subscribe in aid of, or assist in any other manner any political movement or activity. He shall not only maintain political neutrality but shall also appear to do so. He shall also avoid giving room for any suspicion that he is favouring any political party or any candidate in elections.

It shall be the duty of every Government Servant to endeavour to prevent any member of his family from taking part in subscribing, in aid of or assisting in any other manner, any movement or activity which is, or tends directly or indirectly to be, subversive of the Government as by law established, and where a Government servant is unable to prevent a member of his family from taking part in, or subscribing in aid of, or assisting in any other manner, any such movement or activity, he shall make a report to that effect to the Government.

No Government servant shall canvass or otherwise interfere or use his influence in connection with, or take part in, an election to any Legislature or Local Authority.

The display by a Government servant on his person, vehicle or residence of any electoral symbol shall amount to using his influence in connection with an election.

A Government servant proposing or seconding the nomination of a candidate at an election or acting as a Polling Agent shall be deemed to have committed a breach of the Conduct Rules.

Membership of Service Associations

(1) No Government Servant shall be a member, representative or officer of any association representing or purporting to represent, Government servants or any class of Government Servants unless such association satisfies the following conditions, namely:-

(a) . . . . . .

(b) The Association shall not, in any way, be connected with any political party or organisation or engage in any political activity;

(c) . . . . . .

(d) the Association shall not -

(i) in respect of any election to a Legislative body whether in India or elsewhere, or to a local authority or body

(a) pay or contribute towards any expenses incurred in connection with his candidature by a candidate for such election;

(b) by any means support the candidature of any person for such elections; or

(c) undertake or assist in the registration of election or the selection of a candidate for such election;

3. Election Duties

It is the duty of Government servants to be scrupulously impartial in the discharge of their duties in connection with the elections. It is important that they should not only be impartial but manifestly appear to be impartial. They should not take part in any election campaign or canvassing.

Government servants should not render any assistance to any candidate for the furtherance of the prospects of that candidate's election. This will really not help the candidate himself. This is because if he were to get such an assistance, it would be a corrupt practice.

The Election Commission had received complaints from various parts of the country that Government employees, especially those appointed for

election purposes, such as Returning Officer, Assistant Returning Officers, Presiding Officers, Polling Officers and Counting staff are not always as impartial as they ought to be. **These officials some time show particular favour to candidates of political parties of their choice even at the time of actual poll and the counting of votes.**

All Government employees, especially election officers, should be absolutely impartial, independent and neutral in the performance of their election duties, whether at the time of acceptance or scrutiny of nomination papers, or at the time of polling in the polling stations, or at the time of counting of votes at the counting places.

4. Any misconduct in this respect on the part of Government servant will entail exemplary disciplinary action. Under Section 134 of the Representation of the People Act, 1951, if a Government servant is, without reasonable cause, found guilty of any act or omission in breach of his official duties in connection with the receipt of the nominations, withdrawal of candidatures or the recording or counting of votes at an election, he shall be punishable with fine which may extend to Rs.500. This would, of course, be in addition to any departmental disciplinary action that may be taken against him. The Representation of the People Act, 1951 also contains provisions enjoining strict compliance with the election law by Government servants and prescribing drastic penalties for any infringement – vide Sections 128, 129, 134-A and 136 (1), (2) and (4).

128. Maintenance of secrecy of voting

129. Officers, etc. at elections not to act for candidates or influence voting

134-A.Penalty for Government Servants for acting as Election Agent, Polling Agent or Counting Agent

136.(1) Other offences and penalties therefor:

A person shall be guilty of an electoral offence, if at any election, he -

(a) fraudulently defaces or fraudulently destroys any nomination paper, or

(b) fraudulently defaces, destroys or removes any list, notice or other documents affixed by or under the authority of a Returning Officer; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelope used in connection with voting by postal ballot; or

(d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or in his possession of any ballot paper; or

(e) fraudulently puts into any ballot box anything other than the ballot paper, which he is authorised by law to put in ; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the elections; or

(g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or willfully aids or abets the doing of any such acts.

(2) Any person guilty of an electoral offence under this section shall:

(a) if he is a Returning Officer or an Assistant Returning Officer or a Presiding Officer at a Polling Station or any other Officer or Clerk employed on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both.

(3) .....

(4) An offence punishable under sub-section (2) shall be cognizable

5. Impartiality in maintaining law and order, issue of licences, etc.

The District authorities should exercise great care while exercising powers to restrict public meetings organised by political parties in connection with the Elections. They should not make or continue any prohibitory order without good and sufficient reasons. In issuing licences for the taking of processions, the use of loud-speakers and the holding of meetings and in arranging the dates and times of processions, etc., the authorities should be absolutely impartial. While granting permission to hold any election meeting in a public place, no distinction should be made between one political party and another. If more than one party applies for

holding meetings at any one place on the same day, and at the same time, only the party, which applied first, should be allowed to hold the meeting.

6. Prompt enquiry into complaints

Government servants, in addition to being impartial, should deal promptly with all complaints relating to all matters concerning elections. They should give the complainant a courteous hearing and allow them a reasonable opportunity for making their complaints.

7. Attendance at election meetings

Maintenance of law and order is the responsibility of the officers concerned in respect of all meetings, functions, etc., whether organised by the party in power or by other parties. Normally, the presence of police officials alone may be necessary for the maintenance of law and order. If there are any special circumstances warranting the presence of Executive Magistrates for dealing with Law and order situations, they should also be present. However, the Executive Magistrates should be present in the Headquarters to meet any eventuality. No other Government servant need attend any election meeting.

8. Any disregard of the foregoing instructions will be considered a serious act of indiscipline and warrant action by the Election Commission. All Heads of Departments (including Collectors, District Magistrates and District Judges), the Director General of Police, the Departments of Secretariat, etc. are requested to bring the above instructions to the notice of all officers including Police officials and subordinate officers and staff working under them.

9. The Secretaries to Government are requested to communicate the above instructions to all Departments / Undertakings under their control. The Director General of Police is requested to communicate the above instructions to all the concerned officers including Zonal IGs / Range DIGs / District Superintendents of Police, etc. The Registrar General, High Court, Chennai is requested to communicate the above instructions to all courts in the State.