

CHAPTER - XVIII

ELECTIONS

Conduct of Government Servants in relation to Elections and participation in Political activities and attendance at Political meetings/Guidelines thereof

1.1. It enjoins upon the Government officials at all levels that they should maintain an attitude of strict impartiality in relation to elections, that they should not only be impartial but should also be seen to be independent, neutral and impartial on all matters relating to the elections, that they should treat all parties and candidates equally, fairly and justly, and that no Government official should do any act (other than the giving of vote) which could be interpreted as furthering the prospects of any party or candidate at the election. In regard to tours of Ministers in the Districts and Sub/Divisions on the eve of and during election, the concerned official may make necessary arrangements to enable the Ministers to carry out their responsibilities as Ministers, but no such Official should organise any election meeting or be present in such meeting except when required for maintenance of law and order. Similarly, while granting permission for holding any election meeting in a public place no distinction should be made between one political party/candidate and another and if more parties than one apply for holding meeting at any place on the same day and hours the party which applied first should be allowed to hold the meeting.

1.2.1. A question arises as to whether participation by a Government servant in a public meeting or demonstration organised by a political party would amount to participation in a political movement or activity within the meaning of Rule 18(1) of the Assam Services(Conduct)Rules,1965 as amended (and as adapted by the Government of Meghalaya).

1.2.2. This question has been considered, and it is felt that, in the light of the existing provisions of the Conduct Rules and the instruction already issued on the subject, taking any active part by a Government servant in a meeting or demonstration organized by a political party might give cause for an impression which may well be construed as assisting a political movement. For example, if a Government servant takes active or prominent part in organising or conducting such a meeting or demonstration or speaks himself therein, or attends regularly or even frequently any such meeting, etc., such action on his part is likely to create an impression that he is taking part in or assisting a political movement or activity. In order therefore, to avoid any doubt of their political neutrality, it would be in the interest of the Government servants themselves not to participate in such meetings or demonstrations.

1.3. Any breach of these instructions will be considered as a serious act of indiscipline liable for disciplinary action.

1.4. The Government of India, Ministry of Home Affairs Office Memorandum No.25/44/49/Ests., dated the 10th October,1949 is reproduced below for guidance of all concerned.

“ Attention is invited to the scope of Rule 23(I) of the Government Servants’ Conduct Rules which lays down that no Government servant shall take part in, subscribe in aid of assist in any way, any political movement in India.

“2. Enquiries have been received as to whether attendance by a Government servant at public meetings organised by political parties would amount to participation in a political movement within the meaning of the Rule referred to. Even in regard to this narrower question the position must necessarily remain as stated herein below.

“3. The following observations may, however, be of assistance to Government servants in deciding their own course of action:-

(1) Attendance at meetings organised by a political party would be contrary to Rule 23(I) of the Government Servants’ Conduct Rules unless all the following conditions are satisfied:

- (a) That the meeting is a public meeting and not in any sense a private or restricted meeting.
- (b) That the meeting is not held contrary to any prohibitory order or without permission where permission is needed, and
- (c) That the Government servant in question does not himself speak at, or take active or prominent part in organising or conducting the meeting.

“(2) Even where the said conditions are satisfied, while occasional attendance at such meetings may not be construed as participation in a political movement, frequent or regular attendance by a Government servant at meetings of any particular political party is bound to create the impression that he is a sympathiser of the aims and objects of that party and that in his official capacity he may favour or support the member of that particular party. Conduct which gives cause for such an impression may well be construed as assist in a political movement.

“(3) Government servants have ample facilities through the medium of the press to keep themselves informed regarding the aims, objects and activities of the different political parties and to equip themselves to exercise intelligently their civic rights, e.g., the right to vote at elections to Legislative or Local Self- Government institutions”

Transfer of Officials on the eve of elections :

2.1. In connection with the conduct of elections relating to Parliament/Legislative Assemblies apart from the Returning Officers and Assistant returning Officers may other Government officials are also required for the conduct of elections and maintenance of law and order during elections. Transfer of officers having duties in connection with elections on the eve of elections will seriously interfere with the smooth, and efficient conduct of elections.

2.2. The Election Commission of India have impressed upon all State Governments that transfer and posting of officers should be avoided with effect from the date the Commission's approval for the programme for holding the election/bye-election is received by the State Government. In pursuance of the request made by the Election Commission of India, Government have decided that henceforth no Government officials, especially those who are having duties in connection with the election should be transferred from their present posts or stations on the eve of General Elections/Bye-Elections to Parliament/Legislative Assemblies till all the work connected with the elections is over.

2.3. Government also stress that the above instructions are also to be followed in respect of General Elections/Bye-elections to the autonomous District Councils as far as practicable.

**Ban on transfer of officers connected with the conduct of Elections –
General Election / Bye -election :**

3.1. In view of the fact that the Election Commission has emphasised the immediate need for imposing and enforcing a ban on the transfer of all officers connected with the revision and preparation of electoral rolls and conduct of elections thereafter until the election is completed, the transfer of officers having duties with such works should not be made and if orders of transfer have been made in respect of those officers, the orders should either be stayed or cancelled till the General Election to the Lok Sabha is completed.

3.2. Grant of leave to the Officers, especially Senior Officers connected with the conduct of election should not also be made except with prior approval of the competent authority.

3.3. Extracts of Election Commission of India's Letter No. 434/1/79, dtd. 24th August, 1979 and No. 434/1/85, dtd. 7th May, 1985, No. 434/1/86, dtd. 13th February, 1986 and No. 434/1/91, dtd. 20th March, 1991 are reproduced below :-

**Extract of Election Commission of India's letter No. 434/1/79,
dated, 4th August, 1979.**

Subject. General Election to Lok Sabha, 1979 -Revision of Electoral Rolls and Conduct of Elections -Assistance from State Government in the matter of imposing ban on transfer of Officers and employment of personnel on election work.

I am directed to say that consequent on the dissolution of the Lok Sabha by the President on the 22nd August, 1979, the Election Commission has swung into action on a war footing so as to complete the preparation of electoral rolls by the 31st October, 1979 and thereafter to hold the general election to the Lok Sabha in November -December, 1979 for constituting a new House. The Commission has sent detailed instructions to all the Chief Electoral Officers in regard to the revision of the electoral rolls vide wireless message of the 22nd August, 1979. According to the programme fixed by the Commission house to house enumeration is to start with effect from the 1st September, 1979 and the process of the revision would be completed on the 31st October, 1979 with the final publication of the

electoral rolls. Thereafter the process connected with the actual conduct of poll will commence. The gigantic task of revision of electoral rolls has to be completed within the stipulated time which is very short. Thereafter, the process connected with the actual conduct of poll will commence. The Commission would like to be assured that the officers actually connected or likely to be associated with the above operations i.e. (1) Electoral Registration Officers, (2) Assistant Electoral Registration Officers, (3) Returning Officers (4) Assistant Returning Officers, who will have to discharge statutory responsibilities for preparation and publication of electoral rolls and for conduct of elections and (5) all other officers connected with the preparation of rolls, conduct of elections and maintenance of law and order during the elections, i.e. District Election Officers, Superintendent of Police, Tahsildars, Block Development Officers, Officers of Local Bodies, State Under-takings, Teachers etc., would not be transferred from their present posts or stations until the end of December, 1979, by which time the work in connection with the General Election is likely to be over.

The Commission trusts that the State Government would appreciate the context in which the above assurance is sought. Transfers of officers having duties in connection with the elections will seriously interfere with the smooth and efficient conduct of elections. Such transfers on the eve of preparation of electoral rolls will stand in the way of completing the huge task with expedition. On the eve of elections, such transfers are likely to create doubts in the minds of political parties and contesting candidates that the elections will not be free, fair and pure. Any loss of faith in the impartiality of elections will in its turn lead to violence, intimidation and coercion at the elections.

The Commission would strongly emphasise the immediate need for imposing and enforcing a ban on the transfer of all officers connected with the revision and preparation of electoral rolls and conduct of elections thereafter, until the election is completed as indicated above.

It would also be necessary to ensure that grant of leave to these officers will be done with circumspection so that the election work will not suffer. It is requested that the necessary orders in this connection may kindly be issued immediately and copy thereof endorsed to the Commission for its information.

The gigantic tasks of enumeration by house to house visits in the entire State within 20 days, calls for employment of a vast army of persons drawn from various Government organisations and local bodies like School Teachers, Clerks, etc.

The State Government may issue directives immediately to the concerned departments that no efforts should be spared to place at the disposal of the election authorities all the persons that are required for the massive operation, even if it would mean temporary inconvenience and dislocation to their regular work.

As you are aware the Chief Electoral Officer and the army of persons working under his supervision and control are carrying on their shoulder a heavy responsibility and arduous task unprecedented in its nature, context and complexities and they are, therefore, entitled as a matter of priority of all sympathy, consideration and assistance. The Commission, therefore, urge that the State Government should co-operate with the Chief Electoral Officer in all

respects and deal with any problem encountered by him in the course of the operation with the utmost expeditions and consideration and without unnecessary fetters like strict adherence to financial restrictions which tend to defeat any operation of the magnitude now undertaken.

**Extract of Election Commission of India's letter No. 434/1/85,
dated, 7th May, 1985.**

Subject :- Ban on transfer of officers connected with the conduct of elections
General Election / Bye-election Revised instructions.

I am directed to say that in the interest of free and fair election and observances of absolute rectitude on the part of civil administration during the election, the Commission has always been laying great emphasis on putting an embargo on transfer of officers having duties-statutory or otherwise connected with the conduct of elections. If transfers of officers, particularly at senior levels who are in some way or other entrusted in a routine and casual manner after the announcement of elections, there will certainly be a room for doubt and apprehension about the fair conduct of elections and impartiality of the administration. Creation of an atmospheres of trust and confidence in the minds of public, political parties and candidates is very necessary in the field of elections. Every possible step designed to achieve this objective is not only desirable but also improvative (2). Keeping in view the above considerations, the Commission strongly feels the need for imposing and on forcing a ban on the transfer of all officers, connected with the conduct of elections until they are completed. This ban should serve as a standing instruction for all elections, both general and bye-election.

- (3). The Commission solicits the cooperation of the State Government in the matter .
- (4) In the conduct of General Election/bye-election, the officers who are actually connected or likely to be associated with are :-
 - (i) the C.E.O. and Additional Joint Deputy Assistant C.E.O., and District Electoral Officers.
 - (ii) Divisional Commissioner, and such other officers.
 - (iii) District Election Officers /Returning Officers, Assistant ROs, who have to discharge statutory duties and responsibilities connected with the conduct of elections.
 - (iv) The Superintendent of Police, Deputy Superintendent of Police, Assistant Superintendent of Police and other senior level police officers like S.H.O., or Police Station incharge who are entrusted with the task of maintenance of law and order and peaceful conduct of elections.
 - (iv) Senior Level Officers in the Revenue Department like Revenue Officers, Deputy Collectors, Tehsildars, Deputy

Tehsildars, Block Development Officers and Officers of Local Bodies who are entrusted with some function or the other connected with elections.

- (5). The ban on transfer should be enforced and be effective from the date of announcement of the election as distinct from the date of notification made by the Commission till its completion.
- (6). The grant of leave other than casual leave to the officers, especially the senior officers, connected with the conduct of elections should not be accepted without a reference to the Commission. It would also be necessary that the grant of leave other than casual leave to the officers connected with the elections should be done with adequate care and scrutiny so that election work does not suffer .

However, if in the interest of administration, for meeting emergent and unavoidable situation the State Government feels that the transfers of officers who are connected with the election work is unavoidable an urgent orders of transfer may either be deferred at least till the declaration of result of election or the Commission informed of the reasons in specific cases whether transfer orders are absolutely necessary to be implemented immediately. In the latter, type of cases, the concurrence of the Election Commission may be obtained before effecting such transfer orders.

- (7). No Senior Officer directly connected with the conduct of elections should be given additional charge of work of another department which will make it very difficult for him to devote undivided attention to election work.
- (8). The State Governments, should not encourage ad hoc promotions or ad hoc or temporary appointments, at lower levels, in Government or Public Under-taking immediately after the announcement of the general elections.
- (9). I am accordingly to request that suitable standing instructions to all departments concerned may be issued immediately on the above lines. A copy of these instructions to all departments concerned may kindly be forwarded to the Commission for its information and record.

**Extract of Election Commission of India's letter No. 434/1/86,
Dated, 13th February, 1986**

Subject :- Ban on transfer after announcement of elections –
Item No.111 (1) of the proceedings of the Chief Electoral
Officers Conference held on 28th and 30th December, 1985.

I am directed to invite a reference to item No. III (1) of the Proceedings of the conference of the Chief Electoral Officers of all States / Union Territories held on the 28th and 30th December, 1985, at New Delhi and to say that the conference after due deliberations had made the following observations: -

" The ban on transfer should apply to persons likely to be connected directly with the elections. In other cases, transfer could be made with the approval of the Chief Electoral Officer. As far as the grant of leave was concerned, this may be considered on merits at the levels of District Election Officer, Chief Electoral Officer and Chief Secretary "

I am accordingly to request that the above mentioned decision of the Conference may be brought to the notice of all concerned and strictly followed in all future elections.

**Extract of Election Commission of India's letter No. 434/1/91,
dated, 20th March, 1991.**

Subject :- General Election to Lok Sabha and State Legislature Assemblies, 1991 - Ban on transfer of officers connected with election work - payment out of discretionary fund by Ministers on the eve of General Election / Bye-elections – Implementation of guidelines of Model Code of Conduct for the Guidance of Political Parties and Candidates.

As you are aware that the 9th Lok Sabha has been dissolved by the President on 13th March, 1991 and has directed that the new Lok Sabha should be constituted on or before 5th June, 1991. General Elections to some State Assemblies may also be held alongwith the Lok Sabha elections. (2). Officers connected with the preparation of elections such as (i) review of the lists of polling stations; (ii) collection of information from Central and State Government and Local Authorities regarding the persons to be deployed on election duties; (iii) to draw the lists of sensitive constituencies areas in consultation with the police and other concerned authorities to ensure voting by weaker sections and women without any fear and hindrance, must have started their work in full swing. The officers who are connected with the election work for the aforesaid preparation would include (i) Chief Electoral Officer;(ii) Additional! Joint! Deputy! Assistant Chief Electoral Officers; (iii) Divisional Commissioners ;(iv) District Election Officers; (v) Returning Officers and Assistant Returning Officers; (vi) Deputy Collectors, Tehsildar Deputy Tehsildars, Block Development Officers and officers of local bodies who are entrusted with the election work; and (vii) Superintendent of Police! Deputy Superintendent of Police! Assistant Superintendent of Police who are to maintain law and order and peaceful conduct of elections. The Commission, therefore, desire that its instructions contained in item XII in its consolidated Instructions booklet banning the transfer of officers be enforced and followed strictly with effect from 25th March, 1991, until the elections are

completed. (3). The Commission's instructions contained in Item 1 of its said Consolidated Instructions for not sanctioning payments out of discretionary funds on the eve of General/Bye-Elections should also be enforced with effect from 25th March, 1991.

4. Transfer of Officers having duties in connection with elections will seriously interfere with the smooth and efficient conduct of elections. Such transfers on the eve of elections are likely to create doubts in the minds of political parties and contesting candidates that the elections will not be free, fair and pure and any loss of faith in the impartiality of election will in its turn lead to violence, intimidation and coercion at elections. In pursuance of the request made by the Election Commission, the State Government have decided that no Government officials having duties in connection with the elections should be transferred from their present posts or stations until the end of elections.

Grant of leave and/or deputation of Government employees

5. The grant of leave to the Government employees connected with the elections should be done with adequate care and scrutiny so that election work does not suffer, and the leave should not be granted till the election process is over. Even in the case where leave has already been granted, such case should be reviewed on merit. Leave on Medical ground may be granted only on production of the certificate from the Medical Board chaired in each District by the District Health and Medical Officer. (*)

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(*) *Vide Personnel & A.R.(A) Department's letter No. PER 28/84/45 dated, 12th December, 1984*

Guidelines for the conduct of Government servants

6. The Election Commission of India letter No. 62/79, dated, 13th November, 1979 is reproduced below: -

"(1) Attention to sections 129 and 134 of the Representation of People Act, 1951 relating to the conduct of Government servants during elections is invited. The Government employee should not only be impartial but should also appear to be impartial in relation to the elections. In short, they are required so to conduct themselves as to inspire confidence in the public in regard to their impartiality so that there might not be any occasion for the people to think that the elections would not be held in a free, fair and pure atmosphere. It should be stressed that they should avoid giving room for any suspicion that they are favouring any party or any candidate. They are not expected to take any part in any election and are not to lend their names official position or authority to assist one individual as against another or one group as against another.

"(2) With particular reference to the tours that the Ministers might undertake on the eve of the elections, it is necessary that while Government officers should make all the usual arrangements to enable the Ministers to carry out their responsibilities as Ministers, the Government officers should not themselves organise any election meetings or be present in person during any such meetings except only such officers who may have to be present to the extent necessary for maintaining law and order and making the necessary

security arrangements. The question as to

whether a public meeting addressed by a Minister was officially sponsored or was one held for election propaganda has to be decided by the Minister himself. If the meeting is an election meeting, the arrangement for organising it is to be made on the Minister's behalf unofficially and the expenditure in that connection is to be borne by him or his party. It is further made clear that a public meeting held on the eve of an election is normally to be considered to be an election meeting and the expenses thereof are not to be borne from public funds. The preservation of law and order at every meeting will however, be the responsibility of the Government officials responsible for law and order.

"(3). In the matter of election meetings in a public place, the Government officers should not make any distinction between one political party and another in granting permission to hold such meetings. If more parties than one apply for holding a meeting at any place on the same day and the same out, the party which applies first should be given preference.

"(4). Further attention is specially invited to the provisions of Section 134 A of the Representation of People Act, 1951, which read as follows: -

134 A : Penalty for Government Servants for acting as Election Agent, Polling Agent or counting Agent :-

" If any person in the service of the Government acts as an election agent or a polling agent or a counting agent of a candidate at an election, he shall be punishable with imprisonment for a term which may extend to three months, or with fine or with both ".

"(5). The extracts of Rule 5 of the Central Civil Services (Conduct) Rules, 1964, which inter alia prohibits the Government servants from taking part in politics and elections is given below: -

Rule 5 Taking part in politics and elections :-

- (1) No Government servants shall be a member of or be otherwise associated with, any political party or any organisation which takes part in politics nor shall he take part in, subscribe in aid of, or assist in any other manner, any political movement or activity.
- (2) 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 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.
- (3) If any question arises whether a party is a political party or whether any organisation takes part in politics or whether any movement or activity falls within the scope of sub-rule(2) the decision of the Government thereon shall be final.
- (4). No Government servant shall canvass or otherwise interfere with or use his influence in

connection with or take part in an election to any Legislative or Local Authority.

Provided that

- (1) A Government servant qualified to vote at such election may exercise his right to vote, but where he does so, he shall give no indication of the manner in which he proposes to vote or has voted.
- (2) A Government servant shall not be deemed to have contravened the Provisions of this sub-rule by reason only that he assists in the conduct of an election in the due performance of a duty imposed on him by or under any law for the time being in force.

EXPLANATION:-

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 within the meaning of this sub-rule.”