

Bye-Elections-2017
Most Immediate

OFFICE OF THE CHIEF ELECTORAL OFFICER, ANDHRA PRADESH AND TELANGANA
South 'H' Block, Secretariat, Hyderabad - 500 022

Memo.No.4078/Elec. B/A1/2017-10, Dated:28.07.2017.

Sub: Elections - Bye-Election to 139-Nandyal Assembly Constituency, Kurnool district of Andhra Pradesh State scheduled to be held on 23.08.2017 - Restrictions on printing of pamphlets, posters etc and for proper record keeping by MCMC - ECI instructions- Communicated - Regarding.

Ref:1.From the Secretary, Election Commission of India, New Delhi,
Letter No.3/9/2015/SDR, dated 09.10.2015.
2.This office Memo No.4078/Elec.B/A1/2017-1, Dt.27.07.2017.

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In continuation of this office Memo 2nd cited, a copy of the Commission's letter first cited is sent herewith to the Collector & District Election Officer, Kurnool district; the Returning Officer, 139-Nandyal Assembly Constituency and the Superintendent of Police, Kurnool district. They are informed that the Election Commission of India has issued detailed instructions regarding restrictions on the printing of pamphlets, posters etc and for proper record keeping by the district Media Certification and Monitoring Committee (MCMC).

2. They are, therefore, requested to scrupulously comply with the said instructions of the Commission in view of Bye-Election to 139-Nandyal Assembly Constituency, scheduled to be held on 23.08.2017.

BHANWAR LAL
CHIEF ELECTORAL OFFICER &
E.O. SPL. CHIEF SECRETARY TO GOVT.

To
The Collector & District Election Officer, Kurnool district (w.e)
The Returning Officer, 139-Nandyal Assembly Constituency,
Through: the Collector & District Election Officer, Kurnool district (w.e)
The Superintendent of Police, Kurnool district (w.e)

Copy to:

The Director General of Police, Police Head Quarters, Andhra Pradesh,
Suryaraopet, Vijayawada, Krishna district (w.e)
SF/SC

//FORWARDED::BY::ORDER//


SECTION OFFICER



- 1 -

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001.

No. 3/9/2015/SOR

Dated : 9th Oct., 2015

To

The Chief Electoral Officers of
all States and UTs.

Sub : Restrictions on the printing of pamphlets, posters etc. and for proper record keeping by MCMC.

Sir/Madam,

I am directed to invite reference to the Commission's circular letter No. 3/9/2004/JS-II, dated 24-08-2004 (copy enclosed), on the subject cited above. In the said letter, the provisions of the law regarding printing of pamphlets, posters, etc. in connection with elections, and the position that the political advertisements in print media during the period of election should also contain the name and address of the publisher, have been brought out. The CEO and DEOs should see that the advertisements in print media comply with the said requirements of law.

2. CEO and DEOs should also ensure that the statutory requirements under sub-section(2) of Section 127A of the Representation of the People Act, 1951 are being complied with by the Printers (including the print media) in the manner laid down by the Commission in its Order No. 3/9/ES008/94-JS-II, dated 02-09-94 (copy enclosed). For this purpose, DEOs should hold meetings with the Printers in the district and stress upon them the statutory obligations on their part for timely fulfilment by them.

3. Since the expenditure in those cases where the advertisements seek to promote the prospects of any particular candidate or candidates have to be included in the account of election expenses of the candidate(s) concerned, it is important to keep a record of all such advertisements in the print media. This job can be performed by the expenditure monitoring teams, or by officials specifically engaged for this work. All such material should be taken into account at the time of verification of account of election expenses of

candidates when the candidates produce their accounts on three occasions during campaign period. Later, the printed materials concerned should be sent to the DEO.

2. This may be brought to the notice of all DEOs and ROs for Parliamentary and Assembly constituency in the State for necessary action and compliance.

Yours faithfully,


(ANIL J. JAIPURIAR)
SECRETARY

3

INSTRUCTION SI. No. 53

Election Commission's letter No. 3/9/2004/J.S-II, dated 24.08.2004 addressed to the Chief Electoral Officers of all States and Union Territories.

Subject: - Restrictions on the printing of pamphlets, posters, etc.

I am directed to invite your attention to the Commission's Order No. 3/9/(ES0G8)/94-JS-II dated 2.9.94 on the above subject wherein Commission issued its guidelines in pursuance of the provisions of section 127A of the Representation of the People Act, 1951 regarding printing and publication of election pamphlets, posters etc. These provisions are reproduced below:-

"127A. Restrictions on the printing of pamphlets, posters, etc. (1) No person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and addresses of the printer and the publisher thereof.

(2) No person shall print or cause to be printed any election pamphlet or poster -

(a) unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and

(b) unless, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document;

(i) where it is printed in the capital of the State, to the Chief Electoral Officer; and

(ii) in any other case, to the district magistrate of the district in which it is printed.

(3) For the purposes of this section:-

- (a) any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression "printer" shall be construed accordingly; and
 - (b) "election pamphlet or poster" means any printed pamphlet, hand-bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates or any placard or poster having reference to an election, but does not include any hand bill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.
- (4) Any person who contravenes any of the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both."

2. It Has been observed that surrogate advertisements appear in print media, especially newspapers, for and against particular political parties and candidates during election period. In many cases such advertisements are for the prospects of election of particular candidates. As per Section 77(1) of the Representation of the People Act, 1951, expenditure involved in such advertisements in connection with the election of any candidate has to be added to the account of election expenses of the candidate, required to be maintained under that Section. Further, Section 171H of IPC prohibits incurring of expenditure, on inter-alia, advertisement, circular or publication, for the purpose of promoting or procuring the election of a candidate, without authority from the candidate. The surrogate advertisements defeat the purposes of the aforesaid provisions of law.

3. In order to sub-serve the requirements of the provisions of law as mentioned above, the Commission has directed that in the case of any advertisements/election matter for or against any political party or candidate in print media, during the election period, the name and address of the publisher should be given along with the matter/advertisement.

4. This may be brought to the notice of all concerned including District Election Officers and the print media in your State for information and compliance.

**ELECTION COMMISSION OF INDIA NIRVACHAN SADAN,
ASHOKA ROAD, NEW DELHI-110 001.**

No.3/9/(ES008)/94-J.S. II

Dated: 2nd Sept., 1994

ORDER

Subject: Restrictions on the printing on pamphlets posters etc.

The printing and publication of election pamphlets, posters, etc., is governed by the provisions of Section 127A of the Representation of the People Act, 1951. The said Section 127A provides as follows:-

“127A. RESTRICTIONS ON THE PRINTING OF PAMPHLETS, POSTERS ETC.

(1) No person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and addresses of the printer and the publisher thereof.

(2) No person shall print or cause to be printed any election pamphlet or poster:-

Unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and

Unless, within a reasonable time after printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document.

(a) Where it is printed in the capital of the State, to the Chief Electoral Officer; and

(b) in any other case, to the district magistrate of the district in which it is printed.

(3) For the purposes of this section:-

(a) Any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression “printer” shall be construed accordingly, and

(b) “election pamphlet or poster” means any printed pamphlet, and bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates or any placard or poster having reference to an election, but does not include any handbill, placard or poster merely announcing the date, time, place and other particular of an election meeting or routine instructions to election agents or workers.

4. Any person who contravenes any of the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.*
- a. The above restrictions on the printing of election pamphlets, posters, etc., have been imposed under the law with a view to establishing the identity of publishers and printers of such documents, so that if any such document contains any matter or material which is illegal, offending or objectionable like appeal on ground of religion, race, caste, community or language or character assassination of an opponent, etc., necessary punitive or preventive action may be taken against the persons concerned. These restrictions also subserve the purpose of placing a check on the incurring of unauthorized election expenditure by political parties, candidates and their supporters on the printing and publication of election pamphlets, posters, etc.
- b. The Commission has noticed that the above provisions of law relating to printing and publication of election pamphlets, posters, etc. are being followed more in their breach than in their observance. At the time of elections, a large number of such documents are printed, published, circulated and pasted on the walls of private and Government buildings in respect of which the above mentioned requirements of law have not been complied with. The printing presses rarely send the printed documents to the Chief Electoral Officers or, as the case may be, the District Magistrates concerned along with the declaration obtained from the publisher as required under Section 127 A(2). Many a time, the election pamphlets, posters, etc. do not bear on the face the names and addresses of the printer and/or publisher thereof in violation of Section 127A (1).
- c. It is further complained to the Commission that no timely action is taken against the offenders with the result that offending material is freely published and circulated with impunity. In this connection, attention is drawn to the following observations made by the Supreme Court in *Rahim Khan Vs. Khurshed Ahmed and others* (*AIR 1975 SC290):

“Even at this stage we may notice that the handbill in question does not contain the name of the printer and publisher although the election law so requires. Unfortunately, when such printed material is circulated, there is no agency of the law which takes prompt action after due investigation, with the result that no printer or candidate or propagandist during elections bothers about the law and

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he is able successfully to spread scandal without a trace of source, knowing that nothing will happen until long after the election, when in a burden some litigation this question is raised. Timely enforcement is as important as rule of law as the making of legislation."

5. In order that in future there is strict observance of, and compliance with, the requirements of the above mentioned provisions of law on the subject, the Commission, in exercise of its powers under Article 324 of the Constitution and all other powers enabling it in this behalf, and in suppression of all its previous instructions on the subject, hereby directs as follows:-
5. (1) As soon as any election from a Parliamentary, Assembly or Council Constituency is announced by the Election Commission, the District Magistrates shall, within three days of such announcement of election, write to all printing presses in their districts.
- (a) Pointing out to them the requirements of above mentioned Section 127A and specifically instructing them to indicate clearly in the print line the names and addresses of printer and publisher of any election pamphlets or posters such other material printed by them:
- (b) Asking the printing presses to send the copies of the printed material (along with three extra copies of each such printed material) and the declaration obtained from the publisher as required under Section 127A (2) within three days of its printing:
- (c) Impressing on them in clear terms that any violation of the provisions of Section 127A and the above directions of the Commission would be very seriously viewed and stern action, which may in appropriate cases include even the revocation of the license of the printing press under the relevant laws of the State, would be taken.
5. (2) The Chief Electoral Officers shall do likewise in respect of the printing presses located at the State capitals.
5. (3) Before undertaking the printing of any election pamphlets or posters, etc., printer shall obtain from the publisher a declaration in terms of Section 127A (2) in the proforma prescribed by the Commission in Appendix A hereto. This declaration shall be duly signed by the publisher and attested by two persons to whom the publisher is personally known. It should also be authenticated by the printer when

it is forwarded to the Chief Electoral Officer or the District Magistrate, as the case may be.

5. (4) As directed above, the printer shall furnish four (4) copies of the printed material, along with the declaration of the publisher, within three (3) days of the printing thereof. Along with such printed material and the declaration, the printer shall also furnish the information regarding number of copies of document printed and the price charged for such printing job, in the proforma prescribed by the Commission in Appendix-B hereto. Such information shall be furnished by the printer, not collectively but separately, in respect of each election pamphlets, posters, etc., printed by him within three (3) days of the printing of each such document.
5. (5) As soon as a District Magistrate receives any election pamphlets or posters, etc., from a printing press, he shall examine whether the publisher and printer have complied with the requirements of law and the above directions of the Commission. He shall also cause one copy thereof to be exhibited at some conspicuous place in his office so that all political parties, candidates and other interested persons may be able to check whether the requirements of law have been duly complied with in relation to such document and which would also enable them to bring to the notice of the authorities concerned the cases of other election pamphlets, posters, etc., in respect of which the above requirements of law have been violated.
5. (6) The Chief Electoral Officers shall also likewise take further follow up action as mentioned in sub-Para (5) above in respect of the pamphlets, posters, etc., received by them.
5. (7) The Chief Electoral Officers and District Magistrates shall initiate prompt action for investigation forth with if any case of publication of election pamphlets, posters etc. in violation of the above mentioned provisions of said section 127A and/or the Commission's above directions either comes, or is brought to their notice. In all such cases prosecutions should be launched against the offenders most expeditiously and these cases should be pursued vigorously in the courts concerned.
6. The Commission hereby cautions all political parties, candidates and others concerned that any violation of the law and the Commission's directions on the

above subject will be viewed with utmost concern and the most stringent action possible will be taken against the offenders.

7. If any officer who is responsible the enforcement of the above provisions of law and the directions of the Commission is found to have failed in the due discharge of his duties in this regard, he will be liable to severe disciplinary action apart from any penal action that may be called for against him for breach of his official duty.

BY ORDER AND IN THE NAME OF ELECTION COMMISSION OF INDIA

Sd/-

(S.K. MENDIRATTA)

SECRETARY

TO,

1. The Chief Secretaries of Government of all States and Union Territories.
2. The Chief Electoral Officers of All States and Union Territories.

-11-

APPENDIX - A

Performa for declaration to be submitted by the Publisher of Election Posters, Pamphlets, etc.

(See Section 127-A of the Representation of the People Act, 1951)

I,.....son/daughter/wife of.....
(Name) resident of.....(village/town).....
(District) (State), hereby declare that I as the
publisher of (give brief particulars of
election poster, pamphlet, etc.)

Being printed by

(Name of the printing press)

Place

(Signature of Publishers)

Date

Full Address.....

Attested by (person personally known to publisher)

Signature (name and address)

Signature (name and address)

Countersigned by

Signature (Name and address of Printer)

APPENDIX – B

PROFORMA FOR SUBMISSION OF INFORMATION REGARDING PRINTING OF
ELECTION POSTERS, PAMPHLETS, ETC.

1. Name and address of printer.....
2. Name and Address of publisher.....
.....
3. Date of Printing order of the Publisher.....
4. Date of declaration of the publisher.....
5. Brief Particulars of election poster, pamphlet, etc.....
.....
6. Number of copies of the above document printed.....
.....
7. Date of printing.....
8. Printing charges (including cost of paper) being charged from the publisher in respect
of the above document.....
.....

Place.....

(Signature of Printer)

Date.....

Seal of the printer