

Bye-Election -2017
MOST IMMEDIATE

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

Memo No.4078/Elecs.B/A1/2017-43

Dated:13.08.2017.

Sub: Elections - Bye-election to 139-Nandyal Assembly Constituency scheduled to be held on 23.08.2017 - Prohibition on transmission of unauthorized **bulk SMSs** during the period of 48 hours ending with the hours fixed for conclusion of Poll - ECI instructions - Reg.

Ref:1.From ECI, New Delhi Lr.No.464/INST/2012-EPS,Dt.05.11.2008.
2.From ECI, New Delhi Lr.No.464/INST/2012-EPS, Dt.15.05.2012.

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Copies of the references cited are sent herewith to the Collector & District Election Officer, Kurnool district; Director-General of Police, Andhra Pradesh, Vijayawada; Superintendent of Police, Kurnool district; Returning Officer for 139-Nandyal Assembly Constituency. They are informed that the Election Commission of India has issued instructions regarding prohibition on misuse of Short Message Services (SMSs) for campaign during General / Bye-Elections.

2. In view of the Bye-Election to 139-Nandyal Assembly Constituency scheduled to be held on 23.08.2017, they are requested to advertise Special Mobile numbers on which the receiver of objectionable SMSs can be forwarded as per the directions issued by the Election Commission of India and also to initiate appropriate investigation and trace back the original sender of such SMSs to take appropriate action under the relevant provisions of IPC/Representation of the People Act, 1951. They are also requested to take action for enforcing prohibition of transmitting bulk SMSs of political nature during the period of 48 hours ending with the hours fixed for conclusion of poll i.e from 6.00 pm on 21.08.2017 to 6,.00 pm on 23.08.2017.

3. They are also requested to bring these instructions to the notice of all the Mobile Service Providers in the State to ensure that they strictly adhere to the ECI instructions while extending the SMS services to the customers; to have a check on the misuse of SMS services for campaign/political adversaries and to furnish the Account expenditure of all authorized SMSs to this office during the period of 48 hours ending with the hours fixed for conclusion of Poll i.e from 6.00 pm on 21.08.2017 to 6,.00 pm on 23.08.2017, as it is an offence under Section 126 of Representation of the People Act, 1951 and any violation will be taken seriously and appropriate action will be taken under relevant provisions of Election Laws.

4. The Collector & District Election Officer, Kurnool district, is further requested to bring these instructions to the notice of the Commission's Observers and also to the Assistant Returning Officers / MCC Teams, all political parties, contesting candidates and their agents in order to enable them to scrupulously comply with the instructions of the Commission on

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transmission of bulk SMSs and monitoring of transmission of bulk SMSs during 48 hours ending with the hours fixed for conclusion of poll i.e. from 6.00 pm on 21.08.2017 to 6.00 pm 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 Director General of Police, Police Head Quarters, Andhra Pradesh,
Suryaraopet, Vijayawada, Krishna district (w.e)
The Superintendent of Police, Kurnool district (w.e)
The Joint Collector, Kurnool & Returning Officer, 139-Nandyal AC through
Collector & District Election Officer, Kurnool (w.e)
All the Mobile Service Providers through the Superintendent of Police, Kurnool
district (w.e)

Copy to

All recognized National & State Parties of Andhra Pradesh (w.e) ...
(with a request to intimate to all the cadre and contesting candidates of
their Party)
All Contesting Candidates in 139-Nandyal AC (w.e)
through Returning Officer for 139-Nandyal AC
SF/SC

//FORWARDED::BY::ORDER//


SECTION OFFICER
BAJ

Election Commission's letter No. 464/INST/2008/EPS Dated 5th November, 2008
Addressed to the Chief Electoral Officers of all States and Union Territories

Subject: Prohibition of misuse of Short Message Services (SMSs) – regarding

1. I am directed to state that it has been brought to the notice of the Commission that certain objectionable messages on Short Message Services (SMSs) are transmitted by some persons to vested interests in the elections, violating the provisions of election law, model code of conduct and the Commission's directions/instructions issued in this behalf. By the aforesaid acts, the atmosphere for free, fair and peaceful elections process may get vitiated.
2. The Commission has considered the matter and has decided to issue the following directions:-
 - (i) For objectionable SMSs, which are violating the provision of election law, model code of conduct and the Commission's directions/instructions issued in this behalf, the Police authorities should advertise special mobile numbers on which the receiver of such SMS can forward the said SMS (along with the number of the sender of objectionable SMS). The Police Authorities should initiate appropriate inquiry and trace back the original sender of such SMS and take appropriate action under the relevant provisions of the Indian Penal Code, Representation of the People Act, 1951, the Conduct of Election Rules, 1961, instructions/directions issued thereunder by the Commission and any other law applicable in the case.
 - (ii) Bulk SMS (es) transmitted during the campaign period as an alternative electioneering, as and when noticed by Returning Officer or District Election Officer will be brought to the notice of Chief Electoral Officer, who in turn, will find out the cost involved from the Service Provided and apportion it to the candidate or candidates concerned as the case may be.
 - (iii) There shall be prohibition of transmitting bulk SMSs of political nature during the period of 48 hours ending with the hours fixed for conclusion of poll.
3. This shall be brought to the notice of all concerned immediately including Mobile Service Providers in the State and given wide publicity. A copy of this letter shall also be handed over to all Observers through the District Election Officers.
4. The receipt of this letter may please be acknowledged with the confirmation that the relevant instructions have been issued to all the concerned officers. A copy of instructions/directions so issued in this behalf may also be endorsed the Commission for its information and record.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

23 MAY 2012

Date: 15th May, 2012

No. 464/INST/2012-EPS

To
The Chief Electoral Officers
Of all States/UTs.

Ref:
Subject:
Commission's letter No. 464/INST/2008-EPS date 05.11.2008.
Prohibition of misuse of Short Messages Services (SMSs)- regarding

Sir/Madam,

With reference to the Commission's letter No. 464/INST/2008-EPS dated 05.11.2008, on the subject cited, I am directed to state that a query has been raised by CEO, Gujarat as to whether Bulk SMS for single constituency Bye-election without reference to candidate shall be treated as General Party propaganda and the expenditure should be booked in the candidate's elections expenditure or political party's expenditure.

2. The Commission has considered the matter and modified the earlier instruction as follows:-

- (i) For objectionable SMSs, which are violating the provision of election law, model code of conduct and Commission's directions/ instructions issued in this behalf, the Police Authorities should advertise special mobile numbers on which the receiver of such SMS can forward the said SMS (alongwith the number of the sender of objectionable SMS). The Police Authorities should initiate appropriate inquiry and trace back the original sender of such SMS and take appropriate action under the relevant provisions of the Indian Penal Code, Representation of the People Act, 1951, the Conduct of Election Rules, 1961, instructions/ directions issued thereunder by the Commission and any other law applicable in the case.
- (ii) Bulk SMS(s) transmitted during the campaign period, to further the electoral prospects of any candidate as an alternative electioneering as and when noticed by Returning officer or District Election Officer will be brought to the notice of Chief Electoral Officer, who in turn, will find out the cost involved from the Service provider and apportion it to the candidate or candidates concerned as the case may be. Where the bulk SMS is done by political party and do not carry the name of the candidate(s) irrespective of single Bye-election/ General Election, the expenditure will be treated as general party propagandas and will not be apportioned to any candidate.
- (iii) There shall be prohibition of transmitting bulk SMSs of political nature during the period of 48 hours ending with the hours fixed for conclusion of poll.

This shall be brought to the notice of all concerned immediately including Mobile Service Providers in the State and given wide publicity. A copy of this letter shall also be handed over to all Observers through the District Election Officers.

4. The receipt of this letter may please be acknowledged.

Yours faithfully,


(SUMIT MUKHERJEE)
SECRETARY