

MOST IMMEDIATE
Bye-Election-2017

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

Memo.No.4078/Elec. B/A1/2017-8, 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 - Instructions on maintenance of Law & Order, execution of NBWs, depositing of fire arms and imposition of ban on issue of new licenses etc. - Reg.

Ref:1.From the Election Commission of India, New Delhi, letter No.464/Inst/2009-EPS, dated 01.09.2009.

2.This Office Memo No.4078/Elec.B/A1/2017-1, dt.27.07.2017.

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In view of the Bye-Election to 139-Nandyal Assembly Constituency, Kurnool district scheduled to be held on 23.08.2017, a copy of the Commission's letter 1st cited is sent herewith to the Director-General of Police, Andhra Pradesh State, Vijayawada; the Collector & District Election Officer, Kurnool; Superintendent of Police, Kurnool; and the Home (Arms) Department, A.P. Secretariat, Velagapudi. They are informed that for conduct of free and fair elections, the Election Commission of India has issued directions regarding preventive action to maintain Law & Order i.e., execution of NBWs, ban on sale of illicit liquor, ban on carrying of licensed arms, ban on issue of license of arms, seizure of unlicensed arms and ammunition, deposit of licensed arms, ban on transportation of arms and ammunition, display of arms and taking confidence building measures.

2. They are, therefore, requested to implement the above orders of the Election Commission of India with due priority and to issue instructions to all concerned on depositing of fire arms and to impose ban on issue of new licenses, execution of NBWs and all other items mentioned therein, in the entire Kurnool district, repeat entire Kurnool district under a copy to this office.

3. The Daily (Law & Order) Reports (in the formats already communicated vide reference 2nd cited) for the period from 6.00 am of previous day of reporting to 6.00 am of the reporting day, are to be sent everyday by 1.00 pm, without fail.

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

To
The Director General of Police, Police Head Quarters, Andhra Pradesh,
Suryaraopet, Vijayawada, Krishna district (w.e)
The Collector & District Election Officer, Kurnool district (w.e)
The Superintendent of Police, Kurnool district.
The Home (Arms) Department, AP Secretariat, Velagapudi, Guntur Dist.,
Andhra Pradesh State (w.e)
SC/SF

//FORWARDED::BY::ORDER//


SECTION OFFICER



INSTRUCTION SI. No.112

ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001.

No. 464/INST/2009/EPS

Dated: 1stSeptember,2009

To,

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

**Subject: Preventive Law & Order Action to ensure conduct of peaceful,
free and fair poll during the General Elections/Bye-elections –
Deposit of Arms – Regarding.**

Sir/Madam,

I am directed to invite your attention to the Commission's letters No. 464/INST/2009/EPS dated 24.03.2009 and 01.04.2009 on the above subject, wherein it has been stated that immediately after the announcement of elections, District Magistrates shall make a detailed and individual review and assessment (in accordance with the prevalent State laws) of all licensed arms holders so that licensed arms, in those cases where they consider it essential are impounded in order to ensure maintenance of law and order so essential for ensuring free and fair elections.

2. The above instructions of the Commission came to be reviewed by the Hon'ble High Court of Bombay in CWP No. 835 of 2009 (Sh. Govind Vs. Vikram Kumar, Distt Magistrate & others) wherein it was alleged that the Commission's instructions had not been strictly followed. Upon such review, the Hon'ble High Court in its judgement/order dated 10.07.2009 has laid down certain guidelines to be strictly observed by all authorities concerned in respect of deposit of licence arms. A copy of the aforesaid judgement/order is enclosed herewith.

3. Accordingly, in view of the aforesaid judgement/order dated 10.07.2009, the Commission has reviewed its earlier instructions contained in its letters dated 24.03.2009 and 01.04.2009 and in supersession thereof issued the following instructions:-

(1.) The Commission being deeply aware of the increasingly vitiative role of criminality and muscle power at elections has been taking and directing to take a number of measures over and above the purview of normal law and order arrangements, for augmenting the measures taken for peaceful, free and fair poll. These measures include the deployment of Central Police Forces during the process of elections to assist the State law and Order machinery in prevention of pre-poll, poll and post-poll violence and inspire confidence in the impartiality of election machinery among the common electorate, regulation of vehicular traffic, regulation and ban on the sale of liquor in close proximity with the dates of poll and counting, seizure of illicit arms including review of licensed arms and carrying of weapons on person on the poll day etc.

(2.) These extra measures taken by the Commission cannot absolve the normal law and order outfit of the State from taking such preparatory steps as are necessary for generation of an atmosphere conducive to the conduct of peaceful, free and fair poll during the run up period to the elections. It is indispensable to tighten the local law and order outfit and enforce with adequate strictness the day-to-day criminal administration with a view to mitigating the requirement of the aforesaid extra measures.

(3.) The Commission desires the States/UTs to undertake the following prophylactic measures immediately and report regularly the progress and effect of these measures in the context of holding peaceful, free and fair elections:-

Electoral and Criminal offences

3.1 A special drive should be launched to compile a list of such persons as are reported to have indulged in electoral offences like booth capturing, intimidation, impersonation in each police station of each and every constituency during the past at least two elections and a list thus compiled of each constituency made available to the District Election Officer and the Returning Officer concerned of each Parliamentary/Assembly Constituency to be forwarded to the Commission if and when asked for.

3.2 A special drive should be launched to update the lists of history sheeters, declared absconders, fugitive criminals in each police station falling in each and every Parliamentary/Assembly Constituency and record of such updated list be handed over to the District Election Officers and Returning Officers concerned, constituency wise, to be kept ready for dispatch to the Commission if and when asked for.

3.3 A special drive should be launched to effect the service of all pending warrants and challans in each police station of each and every Parliamentary/Assembly Constituency and fortnightly updated constituency-wise information of unserved warrants be made available to the concerned District Election Officer and Returning Officer to be forwarded to the Commission, if and when asked for.

3.4 A special drive should be launched to expedite the investigation and prosecution of all electoral offences registered in previous elections in each police station of each and every Parliamentary Assembly Constituency and a fortnightly report be made available to the District Election Officer and Returning Officer concerned to be forwarded to the Commission, if and when asked for.

Ban on Sale of Liquor

3.5 A special drive should be launched to unearth illicit liquor making factories and information about seizures be made available to the concerned District Election Officer and Returning Officer concerned, fortnightly to be forwarded to the Commission if and when asked for. All restrictions provided in excise law on the storage of liquor in unlicensed premises shall be vigorously enforced. Section 135C of Representation of

the People Act, 1951 provides that no spirituous, fermented or intoxicating liquors or other substances of like nature shall be sold, given or distributed at a hotel, eating house, tavern, shop or any other place, private or public, within a polling area during the period of 48 hours ending with the hour fixed for conclusion of poll for any election in the polling area. Therefore, 'Dry Day' shall be declared and notified under relevant state laws for the stipulated period for the poll areas. The day on which counting of votes is to be taken up, shall also be declared 'Dry Day'.

Ban on carrying of Licensed Arms

3.6 Prohibitory orders under section 144 of the Criminal Procedure Code, 1973 shall be issued banning the carrying of licensed arms as soon as an election is announced and should be effective till the declaration of results.

3.7 The States should conduct a 100% scrutiny of licenses of arms and ammunition shops with a view to ensuring that the records of their stocks are kept up-to-date and that their antecedents, recent involvement in irregularities, if any, and political leanings, if any, warrant a close super checking and monitoring of their business during the days of active electioneering.

Ban on issue of License of Arms

3.8 Issue of license for arms should be prohibited during the period commencing with the date of announcement of elections. This ban will continue to be operative till the completion of the election as notified.

Seizure of unlicensed arms and ammunitions

3.9 A special drive should be launched to unearth and seize unlicensed arms and ammunition. A very thorough search and seizure by the State Police of unlicensed arms and places of indigenous manufacture of arms and ammunition shall be carried out and persons involved shall be arrested. While unearthing and seizure of unlicensed weapons is a normal ongoing responsibility of the police, it shall be vigorously intensified during the election period. Inter-state and Intra-State movements of trucks and commercial vehicles shall be strictly checked with a view to preventing smuggling of arms and ammunition and anti-social elements. Raids should be carried out regularly and intensively on underground arms factories.

Deposit of Licensed Arms

3.10 Immediately after the announcement of elections, District Magistrates shall make a detailed and individual review and assessment (in accordance with the prevalent State laws) of all licence holders so that licensed arms in those cases where they consider it essential are impounded in order to ensure maintenance of law and order so essential for ensuring free and fair elections. These arms should be deposited with the district authorities. Among cases which may need to be reviewed are the following:

- (a) Arms licenses of persons released on bail,
- (b) Arms licenses of persons having a history of criminal offences, and
- (c) Arms licenses of persons previously involved in rioting at any time but especially during the election period. The above categories are only illustrative and not exhaustive.

3.11 As per the above-referred guidelines laid down by the Bombay High Court, for such review and assessment of all licence holders;

- (a) There shall be a Screening Committee in every District and in every Commissionerate area. In the District, the Screening Committee shall consist of the District Magistrate and the Superintendent of Police. In the Commissionerate area, it shall consist of the Commissioner of Police (Admn.) and Joint/Additional Commissioner of Police (Admn.)
- (b) The Screening Committee shall commence the work of screening from the day of announcement of election by the Election Commission and it shall complete the exercise of screening in respect of licences placed before it as far as possible before the date of issue of notification of elections.
- (c) Cases of all licence holders as mentioned in para 3.10 above shall be placed before the Screening Committee.
- (d) On receipt of report from the Screening Committee, the licensing authority shall issue notice before the last date fixed for withdrawal of candidature to the individual licence holder for depositing his arms and inform the licence holder that failure to deposit the arms as directed would result in prosecution under

Section 188 of the I.P.C. as stated in clause 3.11 (g).

- (e) The licence holder thereafter shall deposit his arms forthwith and in any case within a period of seven days from the date of receipt of the notice. The Licensing Authority shall give proper receipt to the licence holder.
- (f) The decision taken by the Screening Committee shall be final.
- (g) Any licence holder who fails to deposit arms within the period specified above shall be liable for prosecution under Section 188 of the Indian Penal Code.

3.12 The District Administration shall ensure foolproof arrangements for keeping the deposited firearms in safe custody. Proper receipt must be given to the licence holders depositing the firearms. It shall be the bounden duty of the District Administration to ensure that all firearms deposited with the Administration are returned to the licence holders immediately after one week after the declaration of results.

3.13 The sportsmen who are the members of National Rifle Association, at different levels and have to participate in various sporting events in which they use their rifles, will be exempted from these restrictions. This ban shall, also not be applicable to those communities who are entitled to display weapons by long standing law, custom and usage. This shall, however, not prevent the District Administration to impound weapons of any person, even from such communities, if they are found to be indulging in violence or posing a threat to the maintenance of law and order and peaceful conduct of elections. In such cases too, the seized firearms shall remain impounded till one week after the declaration of results.

Transportation of Arms and Ammunitions

3.14 Strict vigil shall be maintained by thorough checking of lorries, light vehicles and all other vehicles from three days before the date of poll to ensure that no undesirable elements or arms and ammunition are being transported into the constituency from outside and to apprehend them if they are doing so. Such checking of vehicles shall continue till the completion of the counting of votes and the declaration of results. As and when such culprits are apprehended, the arms and ammunition and vehicles concerned shall be confiscated.

3.15 An atmosphere in which each and every elector is able to access the polling station without being obstructed or being unduly influenced by anybody is an important prerequisite to a free and fair election. Undue influence at elections is an electoral offence under section 171C of the IPC. Any voluntary interference or attempt at interfering with the free exercise of any electoral right constitutes the crime of undue influence at an election. Section 123 (2) of the Representation of the People Act 1951 defines, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent with the free exercise of any electoral right, as a corrupt practice.

Confidence – building measures.

3.16 The DEO and SP shall initiate all preventive measures to ensure that such intimidation/ obstruction do not really happen on the poll day. They shall initiate confidence-building measures to bolster the voters' confidence about the arrangements for free and fair poll. They shall undertake tours to such locations and meet the communities and explain the arrangements made for the free and fair poll.

3.17 The police patrolling parties should keep track of the vulnerable locations and keep the control room informed. Wherever necessary police pickets shall be established to ensure free access to all voters to cast their votes without fear.

3.18 The Commanders/Assistant Commanders of the CPF shall be given a list of such vulnerable locations. Wherever CPF arrives in advance for area domination, special attention shall be given for such locations. On the day of poll the Commanders/Assistant Commanders shall make it a point to visit such vulnerable pockets as a confidence building measure. In case they come across any obstruction they shall take note of that and immediately inform any of the electoral officials such as RO/DEO/SP/Observer/Sector Officer and keep a note of the time of their intimidation.

3.19 If any complaint is received or information gathered from any sources about obstruction/threat to any voter/voters the same shall be enquired into by the local administration without any delay.

3.20 A special drive should be launched to compile a list of such persons as are reported to have indulged in the offences under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 during the election period.

Display of Arms

3.21 Display of arms in procession in support of a candidate during campaign period, tantamount to threat and intimidation to voters at election. The Commission directs that no individual or group of persons can be allowed to display arms during a procession or any meeting in support of a candidate, under any circumstances. The meeting/procession for campaigning of a party should be Video-graphed.

4. The Chief Secretary shall arrange for compilation of daily law & order report for each district in format prescribed in the Proforma (LOR – Form I, **annexed**) and for its transmission to the CEO. District authorities should not send this report directly to the ECI. The Chief Secretary shall also arrange for compilation of a consolidated report for entire state in another format (LOR – Form II, **annexed**) by the Home Department. This reports should be sent to the CEO, who in turn would fax the report with his/her comments to ECI.

5. It is clarified that Commission has not banned supply of arms and ammunitions from one State to other. However, such transfers should only be on the basis of valid papers, including 'no objection certificates' from the respective District Magistrates. It must be ensured that the supply reaches the actual consignee and it does not reach the hands of any unauthorised person. All care should be taken to ensure that trucks, lorries etc carrying arms and ammunitions to other states should reach actual consignee and do not find their way into the hand of unauthorised persons. Therefore trucks and other commercial vehicles shall be vigorously checked at interstate borders with a view to preventing smuggling of arms and ammunitions. The state authorities supplying the consignment shall inform the concerned authorities of the states wherein the supplies of arms and ammunitions are sent so as to take advance action to provide adequate security for remitting the consignment to the actual consignee.

Yours faithfully,

**(SUMIT MUKHERJEE)
UNDER SECRETARY**

**Daily Law & Order Report for Districts for
Electoral Events**

Election ID : STATE ELECTIONS, 2004

(Report for a day should cover a period of 24 hours from 6.00 AM of that day to 6.00 AM of next day)

Report for..... day (2) Date			Month		Year			
Name of State:								
Name of Police District:								
Part II : Details of Incidents of Violence (Use a separate sheet for each incident of violence covered in item 6 of part I)								
A. General Information								
1.	Incident No.:					Time :		
2.	Place/Location:							
3.	Brief Narrative Summary of incident of violence :							
4.	Political/Communal Affiliation of the Groups/People involved in the incident, if any :							
5.	Police Action taken, if any :							
6.	Break-up of persons killed and injured in the incident:		Killed		Injured			
	a) Political workers/Activists							
	b) Poll Officials							
	c) Policemen/Security Staff on Duty							
	d) Onlookers							
	e) Others							
	Total							

7. Details of Damage to Property, if any :

**Signature
of SP/SSP:**

**Name of
SP/SSP:**

**Daily Law & Order Report for Districts for Electoral
Events Election ID: STATE ELECTIONS,
2004**

(Report for a day should cover a period of 24 hours from 6.00 AM of that day to 6.00 AM of next day)

Report for..... day (2)	Date			Month		Year			
Name of State:									
Name of Police District:									

Part IIB : Names & Particulars of Persons killed/injured
(Use a separate sheet for each incident of violence covered in item 6 of Part I)

Incident No.:

S.No.	Name & Particulars of Person	Age (3)	Sex	Category (4)	Killed/Injured
Signature of SP/SSP:			Name of SP/SSP :		

- (3) Approximate age.
- (4) Political worker or activist/Poll official/Policeman or security staff on duty/Onlooker/Others.

**Election Commission of India
Daily Law & Order Report for State for
Electoral Events Election ID : STATE
ELECTIONS, 2004**

(Report for a day should cover a period of 24 hours from 6.00 AM of that day to 6.00 AM of next day)

To
The Secretary
Election Commission of India

Start Date for these Reports (1): Date			Month		Year				
Report for..... day (2) : Date			Month		Year				

Name of State:

Sl. No.	Item	Reporting Day	Cumulative from Start Date upto and including Reporting day
1.	No. of Unlicensed Arms/Explosive seized		
	a) Arms/Weapons		
	b) Cartridges/Explosives(Quantity/Numbers)		
2.	No. of illicit arms manufacturing centres raided and seizures made		
3.	Licensed Arms deposited/impounded/Cancelled		
4.	No. of persons bound down U/S 107/116 CrPC etc.		
5.	Execution of non-bailable warrants		
	a) Executed		
	b) Pending		
6.	a) No. of incidents of violence related to poll campaign, political rivalry etc.		
	b) Total killed		
	c) Total injured		
	d) Damage to property (in Rs. Lakhs)		
Signature Of CEO:		Name of CEO:	

IMPORTANT: In case a violent incident has occurred for this day, please enclose, for each incident, a copy of the report for the concerned Police District in Form LOR-FORM I.