

GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (ELECTIONS.F) DEPARTMENT

Memo. No.1870/Elecs.F/2012-14

Dated:14.05.2012.

Sub:- Bye-elections to HOP/APLA from 39-Nellore Parliamentary Constituency & (18) Assembly Constituencies - Candidates to file two affidavits along with Nomination Papers – Value of Non Judicial Stamp Paper - Reg.

- Ref:-
- 1) E.C.I. Letter No.3/ER/2011/SDR, dt. 1.6.2011.
 - 2) U.O.No. 2940/Elecs.F/2011-1, dt. 10.6.2011.
 - 3) Commissioner & Inspector General of Registration & Stamps, A.P., Hyderabad Lr. No. S1/9344/2011, dt. 18.6.2011.
 - 4) U.O. No.24063/Regn.II/A1/2011-1, Revenue (Regn. II) Dept, dt. 27.6.2011.
 - 5) This office Memo. No.4010/Elecs.F/2011-4, dt.13.9.2011.

The attention of the Collectors & D.E.Os of Warangal, Srikakulam, Visakhapatnam, East Godavari, West Godavari, Guntur, Prakasam, Nellore, Kadapa, Kurnool, Anantapur and Chittoor is invited to the references cited and they are informed that the contesting candidates are required to file two affidavits alongwith their nomination paper. The value of Non-Judicial stamp paper of Rs.10/- is required for an affidavit to be sworn in by the candidate before a First Class Magistrate or a Notary in the State of Andhra Pradesh as per Article 4 of Schedule-I A to Indian Stamp Act, 1899. In the reference 5th cited, copies of the references 1st and 3rd cited had already been communicated. However, a copy of the references 1st and 3rd cited are enclosed herewith for ready reference and necessary action.

They are, therefore, requested to bring it to the notice of all the Returning Officers / Asst. Returning Officers and all election authorities.

BHANWAR LAL,
CHIEF ELECTORAL OFFICER &
E.O. PRINCIPAL SECRETARY TO GOVERNMENT

To

All Collectors & D.E.Os. of Warangal, Srikakulam, Visakhapatnam, East Godavari, West Godavari, Guntur, Prakasam, Nellore, Kadapa, Kurnool, Anantapur and Chittoor(w.es.)

Copy to:

The Returning Officer, 39-Nellore Parliamentary Constituency & Collector, Nellore (w.e.)

The Returning Officers, 104-Parakal, 127-Narasannapeta, 152-Payakaraopet(SC), 161-Ramchandrapuram, 177-Narsapuram, 186-Polavaram(ST), 212-Prathipadu(SC), 220-Macherla, 227-Ongole, 242-Udayagiri, 244-Rajampet, 246-Kodur(SC), 247-Rayachoty, 253-Allagadda, 263-Yemmiganur, 267-Rayadurg, 272-Anantapur Urban and 286-Tirupati Assembly Constituencies (w.es.) through Dist. Collector & DEOs concerned.

// FORWARDED: BY ORDER //


SECTION OFFICER

A/

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashok Road, New Delhi-110 001

No 3/ER/2011/SDR

Dated: 1st June, 2011

To

The Chief Electoral Officers of
all States and Union Territories.

Subject:- Affidavit filed by candidates – regarding.

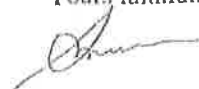
Sir,

The candidates are required to file two affidavits alongwith their nomination paper. The affidavits are required to be sworn before a first class Magistrate or a Notary Public. In a writ petition (No. 8682 of 2011 and M.P. No. 1 of 2011) the Hon'ble Madras High Court has directed that the duly sworn affidavits should be on stamp paper of a value of Rs. 20/- (in the case of Tamil Nadu). A copy of the Order of the Hon'ble High Court is enclosed.

2. The value of stamp paper for affidavits is prescribed under the State Act, and hence varies from State to State. In view of the above mentioned order of the Hon'ble Madras High Court, the Commission has directed that in future the affidavits to be filed by the candidates should be on stamp paper of such denomination as prescribed under the State law of the State concerned on the subject.

3. This direction may be brought to the notice of all election authorities and all political parties in the State/Union Territories, for compliance in future elections.

Yours faithfully,



(SUMIT MUKHERJEE)
UNDER SECRETARY

Copy alongwith copy of the order of the Hon'ble Madras High Court referred to above, to the President/General Secretary of all recognized National and State Political Parties. It is advised that these instructions may be passed on to all lower units of the Party and to the candidates of all future elections, for compliance. Failure to comply with these instructions could result in the rejection of the nomination paper of the candidate.

32
Of No: 366/Ric

Sl. no. 1(R)

DSCCJP
CSCC
19/4/11



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09 ..04..2011

Coram:

The Honourable Mr.M.Y.EQBAL, CHIEF JUSTICE
and
The Honourable Mr.Justice T.B.SIVAGNAMAM

Writ Petition No. 3582 of 2011
and
M.P.No.1 of 2011

M. Belesundaram

... Petitioner

vs.

1. The Chief Election Officer and Secretary to Government, Fort.St.George, Chennai - 600 009.
2. The Returning Officer, 16 Egmore (SC Assembly Constituency), Chennai.
3. The Election Commission of India, Represented by its Chief Election Commissioner, Nirvan Chadhan, Aboke Road, New Delhi - 1.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issue of a Writ of CartioratiFied Mandamus calling for the records relating to ther proceedings of the second respondent dated 29.3.2011 made in Rc.No.Zone VII/Egmore/AC/1/2011 and quash the same and direct the respondents to accept the nomination papers of the petitioner to enable him to contest the election to the Tamil Nadu Legislative Assembly from No.16 Egmore SC Assembly Constituency.

For Petitioner :::: Mr.K.Rajasekaran

For Respondents
1 & 3 :::: Mr.G.Rajagopalan,
Senior Counsel for
M/S.G.R.Associates

Bn 0093208

For Respondent 2

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::: Mr. Raja Kalifulla,
Government Pleader,
Assisted by Ms. M. Sneha,
Government Advocate.

O R D E R

THE HON'BLE CHIEF JUSTICE

In this writ petition, the petitioner has prayer for quashing the order dated 29.03.2011 made in Rc.No.Zone VII/Egmore/AC/1/2011 whereby his nomination paper has been rejected by the second respondent-Returning Officer, 16 Egmore (SC Assembly Constituency), Chennai.

2. The petitioner's case is that he submitted his nomination paper for the election to Tamil Nadu Legislative Assembly 16 Egmore (SC Assembly Constituency) on 26.03.2011, but his nomination paper was rejected on the ground of non-submission of sworn affidavit to be filed by the petitioner on assets and liabilities on a stamp paper.

3. Learned counsel appearing for the petitioner assailed the impugned order mainly on the ground that nowhere in the directives or in the memo issued by the respondents, it was mentioned that an affidavit should be filed on a stamp paper of Rs.20/-, which should be attested by the competent authorities. It is contended that since the rule does not provide for filing of affidavit on a stamp paper, the respondents ought to have given an opportunity for correcting the defects before rejecting his nomination paper.

4. It is the admitted case of the petitioner that he did not file along with his nomination paper an affidavit prescribed by the Election Commission vide its letter dated 27.02.2003 and another affidavit in Form No.26. After the nomination paper was filed by the petitioner, the second respondent namely, the Returning Officer vide letter dated 26.03.2011 informed the petitioner that the requisite affidavit disclosing the assets and liabilities must be furnished and consequent upon non-filing of the affidavit, the order will follow. In spite of the direction given to the petitioner he failed to submit the sworn affidavit disclosing the assets and liabilities on a stamp paper, and consequently, his nomination paper was rejected.

5. It is well settled that a candidate, who is willing to contest the election, either of Parliament or Assembly, must disclose his assets and liabilities while submitting the nomination paper. The said disclosure of assets and liabilities must be by way of an affidavit duly sworn in by the candidate on a stamp paper of a value of Rs.20/-. If such affidavit is not filed disclosing the assets and liabilities, then the defect is substantial in nature, and therefore, the Returning Officer is bound to reject the candidate's nomination paper. In the instant case also, on account of non-filing of the affidavit disclosing the assets and liabilities, the nomination paper of the petitioner has been rejected. Hence, in our

Bn 0093209

view, the rejection of nomination paper cannot be held to be formal in nature, which needs interference by this Court.

6. For the reasons aforesaid, we do not find any merit in this petition, which is accordingly dismissed. No costs. Consequently, miscellaneous petition is closed.

Sd/
Asst. Registrar

/true copy/


Sub Asst. Registrar

pv/-
Copy to:

1. The Chief Election Officer and
Secretary to Government,
Fort.St.George,
Chennai - 600 009.
2. The Returning Officer,
16 Egmore (SC Assembly Constituency),
Chennai.
3. The Election Commission of India,
Represented by its Chief Election Commissioner,
Nirvan Chedhan,
Asoka Road, New Delhi - 1.

1 cc To Mr.K.Rajasekaran, Advocate, SR.25379

W.P.No.8682 of 2011

gv(co)
pmk:9.4.2011

Bn 0093210

(B)

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GOVERNMENT OF ANDHRA PRADESH
REGISTRATION AND STAMPS DEPARTMENT

From
Sri. K.Madhusudhana Rao, I.A.S.,
Commissioner and Inspector General of
Registration and Stamps, A.P.;
Hyderabad.

To
The Principal Secretary to Government,
Revenue (Registration -II) Department,
A.P. Secretariat,
Hyderabad.

Letter no.S1/9344/2011, date; 18 .06.2011

Sir,



Registration and Stamps Department - Elections - candidates to file two Affidavits along with their Nomination papers - indicate the value of Stamp paper required for sworn before a 1st class Magistrate or a Notary in A.P - information furnished - Reg.
Government Memo No.24063/Regn.II/A1/2011-1, Dated.15-06-2011.

-oOo-

With reference to the memo cited, it is informed that Rs.10/- value of Non-Judicial stamp paper is required for an affidavit to be sworn before a first class Magistrate or a Notary in the State of Andhra Pradesh as per Article 4 of Schedule -I A to Indian Stamp Act, 1899.

Yours faithfully,
Sd/- K. Madhusudhana Rao

Commissioner and Inspector General of
Registration and Stamps, A.P: Hyderabad.

Bring the file

N. S. Rao

for Commissioner and Inspector General of
Registration and Stamps A.P., Hyderabad.

[Signature]
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[Signature]
2010

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