

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi – 110001

No.76/Instructions/2014/EEPS/Vol.XII

Dated: 29th August, 2014

To

The Chief Electoral Officer,
Jammu & Kashmir
Srinagar

Sub:- Jammu and Kashmir Legislative Assembly Election – Opening of Separate Bank Account for election expenditure by the candidate one day before the date notification of election – Reg.

Sir,

I am directed to state that the superintendence, direction and control of elections to the State Legislature is vested in the Election Commission of India under section 138 of the Jammu and Kashmir Constitution. Reports are received that the candidates are spending excessive amount in election campaign, which disturbs the level playing field and are not showing correct expenses in the day to day accounts of their election expenses. Therefore, for maintaining the purity of election process, facilitating maintenance of correct accounts of election expenses by the candidates and also for their proper monitoring, the Election Commission of India issues the following instructions:

- (i) In order to facilitate monitoring of election expenditure, each intending candidate is required to open a separate bank account exclusively for the purpose of election expenditure. This account can be opened any time only for the purpose of election, not later than one day before the date of notification of election. The account number of this bank account shall be communicated by the candidate in writing to the Returning Officer (RO) of the Constituency at the time of filing of his nomination. Wherever the candidate has not opened the bank account or not intimated

the bank account no., the RO shall issue a notice to each such candidate to comply with the Commission's instructions.

(ii) The bank account can be opened either in the name of the candidate or in the joint name with his election agent for the purpose of election expenditure. The said bank account should not be opened in the joint name with any family member of the candidate or any other person, if he/she is not the election agent of the candidate.

(iii) The bank account can be opened anywhere in the state. The accounts can also be opened in any of the banks including the co-operative banks or in the post offices. The existing bank account of the candidate should not be used for this purpose as it has to be a separate bank account for election purpose.

(iv) All election expenditure shall be made by the candidate, only from this bank account. All expenses to be incurred by the candidate on electioneering shall be deposited in this bank account, irrespective of its source of funding including candidate's own fund. A self-certified copy of the statement of this bank account shall be submitted by the candidate to the DEO along with the statement of the account of election expenditure as required to be filed within a period of 30 days from the date of declaration of result.

(v) The candidate(s) shall incur his/her election expenses by crossed account payee cheque, or draft or by RTGS/NEFT from the bank account opened for election purpose. However, if the amount payable by the candidate(s) to any person/entity, for any item of expenditure, does not exceed Rs. 20,000/- during the entire process of election, then such expenditure can be incurred in cash, by withdrawing it from the said bank account.

(vi) The candidate is required to deposit the entire amount received through any source and meant for election expenses in the said bank account and all his/her election expenses are to be incurred only from the said account.

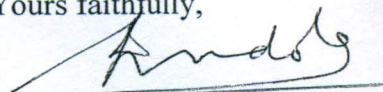
(vii) The candidate is also required to ensure that neither his/her agents and/or followers nor he/she himself/herself carries cash exceeding Rs. 50,000/- in the constituency during election process, as per direction dated 30.11.2012 of Hon'ble Supreme Court in the case of Election Commission Vs. Bhagyoday Jan Parishad and Ors. (SLP No. CC 20906/2012) (copy enclosed).

(viii) It is hereby clarified that if any election expenses are incurred without routing it through the said bank account or not by way of cheque or draft or RTGS/NEFT, as mentioned in para (v) above, it will be treated that the candidate has not maintained the accounts in the manner, prescribed by the Commission.

(ix) The DEOs shall issue suitable instructions to all the banks or post offices located in their districts to ensure that they open dedicated counters for election purpose to facilitate prompt service to the candidates in opening of bank accounts. The banks shall also allow withdrawals and deposits from the said account on priority basis during the election period.

2. I am directed to request you to bring it to the notice of all candidates, election officials and all concerned.

Yours faithfully,


(S.K. RUDOLA)
SECRETARY

ITEM NO.61

COURT NO.2

SECTION IX

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Civil)...../2012

CC 20906/2012

(From the judgment and order dated 09/11/2012 in WP No.231/2012 of The
HIGH COURT OF GUJARAT AT AHMEDABAD)

ELECTION COMMISSIONER

Petitioner(s)

VERSUS

BHAGYODAY JANPARISHAD & ORS.

Respondent(s)

(With appln(s) for permission to file SLP without c/copy as well as plain copy of
impugned order and exemption from filing c/copy as well as plain copy of the
impugned order and permission to file additional documents and exemption from
filing legible copy of annexures and urging additional grounds and permission
to file true copy of impugned judgment and impleadment and office report)

WITH

SLP(C) NO. 35290 of 2012

(With appln.(s) for exemption from filing c/c of the impugned judgment and
with prayer for interim relief and office report)

Date: 30/11/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN

HON'BLE MR. JUSTICE MADAN B. LOKUR

For Petitioner(s) Mr. Ashok Desai, Sr. Adv.
Mr. S.K. Mendiratta, Adv.
Ms. Meenakshi Arora, Adv.
Mr. Mohit D. Ram, Adv.
Mr. Vasav Anatharaman, Adv.

For Respondent(s) Mr. Mukul Rohatgi, Sr. Adv.
Mr. P.S. Narasimha, Sr. Adv.
Mr. S. Udaya Kumar Sagar, Adv.
Ms. Bina Madhavan, Adv.
Ms. Praseena E. Joseph, Adv.
Mr. Vishnu, Adv.
Mr. Chitrajeet Upadhyaya, Adv.
for M/s Lawyer'S Knit & Co.

Ms. Kamini Jaiswal, Adv.(N/P)

UPON hearing counsel the Court made the following
ORDER

Exemption allowed.

Issue notice.

Ms. Bina Madhavan, learned counsel, accepts notice on behalf of respondent No.1 and seeks time to file counter affidavit. Let the needful be done within four weeks.

Rejoinder affidavit, if necessary, may be filed within four weeks thereafter.

Mr. Ashok Desai, learned Senior Counsel, appearing for the Election Commission, states that regard being had to the concern of the Election Commission for conducting fair and free elections and, at the same time, not to cause any inconvenience to the general public, it has been decided by the Election Commission that for the time being paragraph 4.7.1. of the Instructions on Election Expenditure Monitoring, issued in July, 2012, as amended from time to time, shall be substituted as follows:

"During such checking, if any cash exceeding Rs.50,000/- (Rupees Fifty Thousand only) is found in a vehicle carrying a candidate, or his agent or party worker or carrying posters or election materials or any drugs, liquor, arms or gift items (valued more than Rs. 10,000/-) which are likely to be used for inducement of electors or any other illicit articles are found in a vehicle, the same shall be subject to seizure.

The whole event of checking and seizure is to be video graphed by a video team which submit the copy of the video CD to the Returning Officer.:

Mr. Ashok Desai, learned Senior Counsel, states that the above change in the Instructions shall be given wide publicity.

In view of the above, no interim directions are called for in these petitions.

List the application for impleadment along with the main case.

|(VINOD LAKHINA)
|COURT MASTER

|(INDU BALA KAPUR)
|COURT MASTER