

Vidhan Sabha General Election-2009
Most Immediate/Date Bound

No. 4/68/2009-2Election
Haryana Government
Chief Secretary Office
(Election Branch)

Haryana Civil Secretariat
Dated 5th September, 2009.

To

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1. All the Financial Commissioners & Principal Secretaries / Commissioners and Secretaries to Government Haryana.
 2. All the Heads of Department in Haryana.
 3. All the Divisional Commissioners in Haryana.
 4. All the Deputy Commissioners in Haryana.
 5. All the MDs of Boards/ Corporations in Haryana.
 6. All the Vice Chancellors of Universities in Haryana State.

Subject: - General election to Haryana Legislative Assembly, 2009 – Compliance of the Commission's instructions regarding Model Code of Conduct.

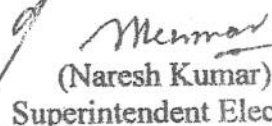
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Sir/Madam,

I am directed to refer to the subject noted above and to enclose herewith a copy of the letter No.464/HR-LA/2009(Complaints), dated 3.09.2009 alongwith enclosures received from the Election Commission of India, New Delhi for strict compliance.

2. Your attention, especially Director Public Relations and the Deputy Commissioners, is drawn to para 2 of the said letter wherein it has been ordered that "All publicity materials like hoardings in public or private places not conforming to Defacement Act of the Government of Haryana should immediately be withdrawn and a compliance report should be sent to the Commission by 5th September, 2009". You are requested to ensure strict and timely compliance of the above directions of the Commission and send compliance report latest by 4.00 PM on 6th September 2009 to the state Government.

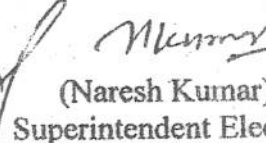
Yours faithfully,


(Naresh Kumar)
Superintendent Election

Endst. No. 4/68/2009-2Election

Dated Chandigarh the 5th September, 2009.

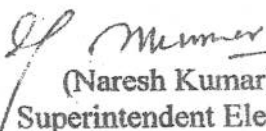
A copy is forwarded to the Principal Secretary, Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi w.r.t. his letter No.464/HR-LA/2009(Complaints), dated 3.09.2009 for information and necessary action.


(Naresh Kumar)
Superintendent Election

Endst. No. 4/68/2009-2Election

Dated Chandigarh the 5th September, 2009.

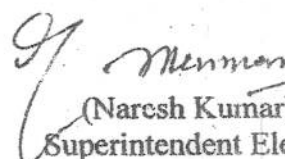
A copy is forwarded to the Chief Electoral Officer, Haryana, Chandigarh for information and necessary action.


(Naresh Kumar)
Superintendent Election

Endst. No. 4/68/2009-2Election

Dated Chandigarh the 5th September, 2009.

A copy is forwarded to the Director Public Relations, Haryana, Chandigarh for information and necessary action.

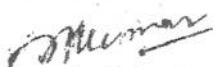

(Naresh Kumar)
Superintendent Election

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19/09
6.55 P.M

ndst. No. 4/68/2009-2Election

Dated Chandigarh the 5th September, 2009.

A copy is forwarded to the Senior Secretaries/Secretaries/Private Secretaries to
Chief Minister/Ministers/State Ministers for bringing these instructions to the notice of
Hon'ble Chief Minister / Ministers / State Ministers.


(Naresh Kumar)
Superintendent Election

CC:

1 PS/CS
2 PS/PSCM
3 Director, NIC

CAMP BAG

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi 110 001

No. 464/HR-LA/2009 [Complaints]

Dated : 3rd September, 2009

To,

✓ 1) The Chief Secretary
to the Government of Haryana
Chandigarh.

2) The Chief Electoral Officer
Haryana, Chandigarh.

Sub: General election to Haryana Legislative Assembly, 2009 – compliance of
the Commission's instructions regarding Model Code of Conduct

Sir,

The Commission has announced programme for holding elections to Haryana Legislative Assembly on 31st August, 2009. With this, the provisions of Model Code of Conduct have come into force. The Commission has issued a number of instructions in this behalf to State Governments/CEOs to ensure the compliance of provisions of Model Code of Conduct. They are also available in the form of Compendium of Instructions issued by the Commission and are also available in the website of the Commission. The Commission has directed that these instructions should be followed meticulously.

Recently, the Government of Haryana had launched vigorous effort to propagate welfare schemes implemented by the Government of Haryana through electronic and print media. This should be stopped immediately if for some reasons by now it has not been done. All publicity materials like hoardings in public or private places not conforming to Defacement Act of the Government of Haryana should immediately be withdrawn and a compliance report should be sent to the Commission by 5th September, 2009.

The Commission has specifically directed that instructions of the Election Commission on display of advertisements and hoardings issued vide ECI letter Nos. 437/6/2004-PLN III dated 8th March, 2004, letter No. 437/6/2004-PLN III dated 24th December, 2004; letter No. 437/6/2006 – PLN III dated 23rd November, 2007 regarding prevention of misuse of vehicles during elections; ECI instructions

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regarding tours of Ministers/prevention of misuse of official vehicles issued vide letter No. 437/6/ES0025/94/MCS dated 21st October, 1994; letter No. 437/6/96/PLN-III dated 17th January, 1996 and 4/2001/J.S.II dated 30th March, 2001 (copies enclosed) should be followed in letter and spirit (copies enclosed).

Yours faithfully,



(TAPAS KUMAR)
PRINCIPAL SECRETARY

INSTRUCTION SL. NO. 61

Election Commission's letter No.437/6/98-PLN-III, dated 18.08.1999 addressed to The Cabinet Secretary, The Chief Secretary and Chief Electoral Officers of all States and Union Territories.

Subject: Use of Aircraft during the Election Process.

The Commission has already issued detailed instructions regarding use of Government aircraft owned by the Government and Public Sector Undertakings. As per these existing instructions, during the election process, there is a complete ban on use of aircraft by political functionaries including Chief Minister and Ministers. The only exemption is for the Prime Minister in office. These instructions have been reiterated by the Commission on 14th July, 1999.

2. Requests have been received from some of the Chief Ministers for relaxation of these restrictions for various reasons including those of security.
3. The Commission reviewed the matter in depth and obtained further inputs from appropriate quarters in this regard. After taking into consideration all relevant factors into account, the Commission has decided that the existing instructions in the matter will stand and there shall be no relaxation in the matter for any reason.
4. The Commission's existing restrictions do not, however, prohibit use of private aircraft by such political functionaries including Chief Ministers. Accordingly, the Commission makes it clear that such political functionaries including Chief Ministers may, if required, hire private aircrafts and use it for their political campaign and other election related activities. The expenses of use of such aircraft can be paid for by the concerned political parties and have to be accounted for suitably in their accounts.
5. Kindly acknowledge the receipt.

INSTRUCTION SL. NO. 62

Election Commission's letter No.437/6/98-PLN-III, dated 18.08.1999 addressed to The Secretary to the Govt. of India, Department of Civil Aviation, New Delhi. And copy to Secretary, Deptt of Revenue, Govt. of India, Director General, Civil Aviation, New Delhi and Chief secretary/CEOs of all States/UTs.

Subject: Use of privately owned aircrafts other than scheduled commercial flights by Political Parties and the Government functionaries.

As you are aware, the 12th Lok Sabha has been dissolved and the notifications for holding elections for constituting the 13th Lok Sabha have been issued. This process is to be completed before 10th of October, 1999. High dignitaries like Chief Ministers and Ministers of the Union Government as well as senior political functionaries and party leaders might be making use of privately owned aircrafts other than scheduled commercial flights for attending various political meetings and campaigns.

2. It is important that full records of all such non-scheduled flights are maintained by the appropriate authorities as required under law and relevant rules. Details like passenger manifests, exact times of departure and arrival of aircrafts at various places need to be maintained. Commission may seek information on these details to verify complaints which are received from time to time. Accordingly, I am directed by the Commission to request you to alert the appropriate authorities of the Central and State Governments to keep meticulous records of these details.

Another aspect which has been brought to the notice of the Commission relates to the payments for use of aircrafts for such purposes. It has been reported that in some cases, such payments are made in cash by individuals/political parties.

3. A copy of this letter is also being endorsed to Secretary to the Govt. of India, Department of Revenue and Chief Secretaries of all State Governments and all Chief Electoral Officers for their information and necessary action.

high expenditure on elections, apart from disturbing the level playing field whereby the political parties with smaller resources would be placed at disadvantageous position.

3. Having regard to all the above relevant considerations, the Commission has decided that no leader of a political party shall use private fixed-wing aircraft and helicopters for the purposes of supervising and monitoring the polling and counting process on the days of poll and counting.
4. The Commission has also decided that the Director General of Civil Aviation shall keep the above directions of the Commission in view and shall not permit the flights of private fixed-wing aircraft and helicopters for the movement of leaders of political parties for the above purpose on the days of poll and counting, except with the prior permission of the Election Commission in the case of any emergencies.
5. The above directions of the Commission should be brought to the notice of all political parties functioning in your State immediately for their information, guidance and compliance under intimation to the Commission.

INSTRUCTION SL. NO. 63

Election Commission's letter No. 4/2001/J.S.II dated 30.03.2001, addressed to the Chief Electoral Officers of all States and Union Territories.

Subject: Prevention of misuse of official vehicles during elections - Clarification.

I am directed to invite your attention to the Commission's Order No. 437/6/96/PLN-III, dated 15th January, 1996 on the above subject, reproduced at p.p. 171 -173 of the Commission's Compendium of Instructions, 1998.

2. The Commission had directed in the above Order that the restrictions on the use of official vehicles for campaigning, electioneering or election related travel are applicable in the case of the Speaker, the Deputy Speaker of Lok Sabha and the Deputy Chairman of Rajya Sabha at the time of General Elections to the Lok Sabha.
3. In Order to ensure free and fair poll and maintain the purity of election process, the Commission has directed that the restrictions on the use of official vehicles for campaigning, electioneering or election related travel as enumerated in the Commission's Order dated 15th January, 1996 will be equally applicable in the case of Speaker and Deputy Speaker of the State Legislative Assembly at the time of General Election to any State Assembly irrespective of whether the Speaker and/or the Deputy Speaker of the Legislative Assembly is a contesting candidate or not at the General Election to the State Assembly.
4. This should be brought to the notice of all concerned including the units of all recognized National and State Parties in your State.
5. This disposes of Message No. 2243/2001 -1, dated 16th March, 2001 from Chief Electoral Officer, Tamil Nadu.
6. The receipt of this letter may kindly be acknowledged immediately.

INSTRUCTION SL. NO. 64

Election Commissions letter No.4/2001/JS-II dated 08.05.2001 addressed to the Chief Electoral Officers of all States and Union Territories. With copy forwarded to:

1. The Director General of Civil Aviation, New Delhi. 2. The Secretary to the Government of India, Ministry of Tourism & Civil Aviation, New Delhi. 3. The Cabinet Secretary, Government of India, New Delhi. 4. The Chief Secretaries to the Governments of all States and Union Territories.

Subject: Supervision and monitoring of poll and counting process by leaders of political parties by using private fixed-wing aircraft and helicopters on the days of poll and counting - regarding.

A question has been raised whether the leaders of political parties may be permitted to supervise and monitor the process of polling and counting by using private fixed-wing Aircraft and helicopters for movement from constituency to constituency on the days of poll and counting.

2. I am directed to state that the Election Commission has carefully considered the question in all its aspects. The supervision and monitoring of the polling and counting process by these leaders will amount to interference in the performance of the functions of the Election Commission and usurping its powers, as the superintendence, direction and control of conduct of elections has been vested by Article 324 of the Constitution in the Election Commission and none else. Further, most of the leaders of all political parties have been categorized under various security grading and provided with security covers according to such grading. If they move from constituency to constituency on the days of polling and counting, adequate security precautions will have to be taken and security covers provided to each of them. On the days of polling and counting, the police and other security personnel are fully engaged in providing protection to voters, polling parties and polling materials in and around polling stations and counting centres, and in patrolling duties in the constituencies for maintaining proper law and order and peaceful atmosphere. Any disturbance or distraction in these arrangements to provide security to the leaders of political parties on the move from constituencies to constituencies may have serious impact on the conduct of free and fair poll and smooth and peaceful elections. It will also mean extra strain on the administrative machinery at the district and the sub-divisional levels, which are already stretched to the maximum during these days, as many of these political leaders will be entitled to some facilities, and courtesies on their visits there as per the requirements of protocol. Further, their movement, particularly on the days of poll, might also be taken as campaign during the prohibited period of 48 hours. It may also not be out of context to mention that the use of private fixed-wing aircraft and helicopters by the leaders of political parties on the days of poll and counting would add considerably to the already mounting election expenses and would be a retrograde step in the direction of reasonable curbs on

INSTRUCTION SL. NO. 65

Election Commissions letter No. 437/6/2008/CC&BE Dated : 19th October, 2008 addressed to the Chief Electoral Officers of (1) Chhattisgarh, Raipur, (2) Jammu & Kashmir, Jammu, (3) Madhya Pradesh, Bhopal, (4) Mizoram, Aizwal, (5) NCT of Delhi, Delhi, (6) Rajasthan, Jaipur.

Subject: General Election to the Legislative Assemblies, 2008 – Use of official vehicles by the functionaries of the various Boards/Commissions etc. – regarding.

It has been brought to the notice of the Commission that the vehicles provided by the State Government to non-official functionaries viz. Chairman, Dy. Chairman, President, Vice President, Commissioners etc. of the various autonomous organizations are likely to be misused during the electioneering. The provisions of the Model Code Conduct and various instructions issued from time to time prohibits the use of official vehicle for the purpose of electioneering to ensure a level playing field among the parties and candidates in the fray.

The Commission, after taking into account all relevant factors, has decided that the functionaries of all the autonomous organizations may be instructed to use the official vehicle only for commuting between office and residence and to attend any official meeting within the Head Quarters itself. The District Administration may be advised to keep strict vigil on the movement of such vehicle and any vehicle found being misused may be confiscated forthwith.

This may be brought to the notice of the all concerned for strict compliance.

Kindly acknowledge receipt.

By Special Messenger/Speed Post

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi - 110001.

No. 437/6/2006-PLN-III

Dated: 23rd November, 2007

To

- (i) The Cabinet Secretary,
Government of India
Rashtrapati Bhawan
New Delhi
- (ii) The Chief Secretaries of all States and Union Territories
- (iii) The Chief Electoral Officers of all States and Union Territories

Subject: **Prevention of misuse of vehicles during elections.**

Sir,

The Commission has, in the past, issued various instructions from time to time regarding applicability of Model Code of Conduct on prevention of misuse of vehicles during elections. For convenience of all concerned, these instructions have now been consolidated for observance during the period when the Model Code of Conduct is in force. These instructions regarding restrictions on misuse of vehicles during elections have been issued under Article 324 of the Constitution and all other powers enabling the Commission in this behalf.

During Polls :

- (i) Section 123(5) of the Representation of the People Act, 1951 provides that the hiring or procuring or use of vehicles by a candidate or his agent or by any other person with the consent of the candidate or his election agent for the free conveyance of the voters to and from the polling station shall be a 'corrupt practice' for the purposes of the Act. Such a 'corrupt practice' attracts penalty and is punishable with fine, which may extend to five hundred rupees under section 133 of the Representation of the People Act, 1951. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996)
- (ii) For an election to the House of the People, each contesting candidate, on the day of Poll, will be entitled to:
 - (a) One vehicle for his own use in respect of the entire constituency;
 - (b) One vehicle for use of his election agent for entire constituency;
 - (c) In addition, one vehicle for use of his election agent or workers or party workers, as the case may be, in each of the assembly segments comprised in

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the Parliamentary Constituency. (See Election Commission's instruction no. 437/6/2006-PLN-III dated 20.11.06).

(iii) For an election to the State Legislative Assembly, on the date of poll in that Constituency each contesting candidate is entitled to:

- (a) One vehicle for his own use;
- (b) One vehicle for the use of his election agent
- (c) In addition, one vehicle for use of his workers or party workers.

(See Election Commission's instruction no. 437/6/96-PLN-III dated 24.03.2007)

(iv) The permits for the vehicles indicated above will be issued by the District Magistrate/ Returning Officer. The candidates are required to register their vehicles with the authorities concerned and display the permits issued by the authorities on the wind-screen of the vehicles. No other vehicles shall be allowed to be used by the leaders of the political parties including ministers, workers, agents and sympathizers of any candidate. No exception shall be made, irrespective of the status of the candidate. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996).

(v) It is clarified that, henceforth, the candidate or his agent or party workers or workers will be allowed to use only four/three/two wheeler vehicles i.e. cars (of all types) taxies, auto rickshaws, rickshaws and two wheelers. In these four wheel vehicles not more than 5 persons including driver will be allowed to move on the day of poll. It is further clarified that on the day of poll no other person will be allowed to use the Vehicle allotted for candidate's or his election agent's use. (See Election Commission's instruction no. 437/6/2006-PLN-III dated 20.11.2006).

(vi) These instructions on plying vehicles will be applicable on all two wheelers like motorcycles and scooters (except bicycles) also and shall be made applicable for a period of 24 hours before the time fixed for closure of poll and till the completion of poll. These restrictions would not, however, apply to any Govt. servant on duty or in case where such vehicle is being used to transport a patient or old/infirm persons. (See Election Commission's instruction no. 437/6/2004-PLN-III dated 08.05.2004).

(vii) Penal action, both under the provisions of the R.P Act, 1951 and Chapter IX A of the Indian Penal Code, shall be taken against anyone offending the above directions, in addition to action under the Motor Vehicles Act. All vehicles being used in violation of these directions shall be confiscated. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996).

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(viii) There is, however, no intention on the part of the Commission to put a complete ban on all vehicular traffic on the polling day and thereby create difficulties or cause harassment to the public. For genuine bonafide use for purposes other than election, the following types of vehicles shall also be allowed to be plying on the day of poll and there will be no exception:

(a) Private vehicles being used by the owners for their private use, not connected with elections;

(b) Private vehicles being used by owners either for themselves or for members of their own family for going to the polling booth to exercise their franchise, but not going anywhere within a radius of 200 meters of a polling station;

(c) Vehicles used for essential services namely hospital vans, ambulance, milk vans, water tankers, electricity emergency duty vans, police on duty, officers on election duty;

(d) Public transport carriages like buses plying between fixed termini and on fixed routes;

(e) Taxis, three wheeler scooters, rickshaws etc. for going to airports, railway stations, inter state bus stands, hospitals for journeys which cannot be avoided;

(f) Private vehicles used by sick or disabled persons for their own use. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996).

During Filing Of Nominations:

The maximum number of vehicles that will be allowed to come within the periphery of 100 meters of Returning Officers/Assistant Returning Officers office shall be three. (See ECI instruction No. 464/INST/2007/PLN-I dated 09.02. 2007).

During Period of Electioneering

(ix) It has been experienced that during the period of electioneering private vehicles are used by the candidates, their agents and party leaders and supporters for carting the supporters of a candidate within the constituency and on many occasions anti-social elements with muscle power are openly paraded to instill a sense of fear in the minds of the electorate, so that they either vote in favour of particular party/candidate or abstain from voting altogether. These vehicles are also used sometimes to smuggle illicit arms and ammunition with a view to creating disturbances during elections. In order to curb such undesirable/illegal activities, the Commission further directs that the District Administration shall keep a close watch on the vehicles used by persons accompanying

the contesting candidates and their party's leaders for any possible mischief, including criminal activities like carrying of illegal arms and weapons. If any of these vehicles, either of a party or a private owner, is found to be involved in any such act or for carting anti-social elements with a view to intimidating or creating terror in the mind of the electorate, it shall be the duty of the local administration to impound such vehicles and not to release them till the process of elections is completed. In addition, criminal action against the owner, the occupant(s) and the candidate/political party which is involved in such illegal activities shall also be taken as per law. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996)

(x) So as to ensure free, fair and peaceful elections, the District Administration shall launch such drive for checking the vehicles immediately upon the announcement of the elections and shall continue the drive till the completion of the process of elections. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996)

(xi) Cars/vehicles being used for electioneering purposes shall, under no circumstances, be allowed to move in convoys of more than three vehicles from the date of notification till the completion of election process in any constituency. All bigger convoys shall be broken up, even if they are carrying any minister of Central or State Govt. This shall, however, be subject to any security instructions issued in respect of any such individual. In other words the convoy shall not in any case exceed three vehicles of any person plus the security vehicles allowed in view of the security gradation of that particular person. (See Election Commission's instruction no. 437/6/97-PLN-III dated 18.03.97). Such broken up convoys must have a distance of at least 200 meters between them. (See ECI instruction no. 464/UP-LA/2007 dated 05.04.2007).

(xii) If any person moves in a convoy of vehicles exceeding the limits prescribed above, in spite of the convoy having been broken, it shall be the duty of the local administration to ensure that such vehicles are not allowed to be used by flouting the Commission's directions till the process of election is completed.

(xiii) In case the mode of road transport is to be availed of by leaders of political parties availing the benefit of clause (a) of explanation given under Sec. 77 (1) of R. P. Act, 1951, the permit will be issued centrally by the Chief Electoral Officer, irrespective of whether the same vehicle is to be used by any leader for election campaigning throughout the State or different vehicles are to be used by such party leaders in different areas. The permit will be issued against the name of the person concerned who will display it

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prominently on the windscreen of the vehicle being used by him/her in any area. The permits so issued by the CEO will be of distinctly different colour from the permits to be issued by the DEOs/ROs for candidates. (See ECI instruction no. 464/UP-LA/2007 dated 05.04.2007).

(xiv) In case of Video - Vans etc. to be used by a political party for campaign across the states, before any permission to use Video-Vans for campaign is given, it should be ensured by Chief Electoral Officer that such use of vehicle is in accordance with the Motor Vehicle Act. Attention in this context is invited to the judgments dated 23.06.2006 and 14.02.2007 of the Allahabad High Court in writ petition No. 3648 (MB) of 2006. (See ECI instruction no. 464/UP-LA/2007 dated 05.04.2007).

(xv) From the date of notification of the election till the completion of election process in any constituency, the district administration shall keep a close watch on the vehicles used by the contesting candidates, persons accompanying the contesting candidates and other party leaders and ensure that the Commission's instructions are not abused. (See Election Commission's instruction no. 437/6/97-PLN-III dated 18.03.97)

(xvi) The contesting candidates be asked to get the details of all the vehicles that they are using in the election campaign lodged with the District Election Officer or such other officer(s) as may be specifically authorized by the District Election Officer in this behalf before the campaigning commences. Any further deployment of any additional vehicles can take place only after notice to this effect is given by the candidate or his agent well before the actual deployment of the vehicles. While conveying the details of the vehicles that are being deployed for election campaign the details of the areas, tehsil(s) in which the vehicle would operate, should also be conveyed. (See Election Commission's instruction no. 437/6/97-PLN-III dated 18.03.97).

(xvii) The details so obtained should be conveyed by District Election Officer to the Election Expenditure Observers. The vehicles employed for election campaign as per intimation given by the candidates or their election agents to the District Administration should not be requisitioned by the administration. Any vehicle that has not been registered for campaigning with the district administration if found being used for campaigning, shall be deemed to be unauthorized campaigning for the candidate and may attract penal provisions of Chapter IX A of the Indian Penal Code and shall therefore be immediately taken out of the campaigning exercise. (See Election Commission's instruction no. 437/6/97-PLN-III dated 18.03.97).

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(xviii) A cycle rickshaw is also a vehicle as defined in Section 160 of Representation of People Act, 1951, which may be used for election campaign. If it is being used, then a candidate has to account for its expenditure in his account of election expenses. To ensure this, the candidate should give details of such rickshaws being used for his election campaign and, if the rickshaw does not have any municipal registration/permit for its identification, the rickshaw driver may be given a permit in his personal name by the Returning Officer which the rickshaw driver should carry on his person while using that rickshaw for campaign purposes. However, rickshaws being used for normal purposes of carrying passengers in ordinary course etc. may be exempted, if they are displaying only one poster showing the name or party symbol of a candidate, presuming they are doing so on their own free will. (See Election Commission's instruction no. 437/6/2006-PLN-III (vol-ix) dated 12.07.2006).

(2) The above instructions may be brought to the notice of all concerned for strict compliance.

Yours faithfully,

(A. K. MAJUMDAR)
PRINCIPAL SECRETARY

INSTRUCTION SL. NO. 14

Election Commission's letter No. 437/6/2004-PLN III, dated 08.03.2004 addressed to the Cabinet Secretary, Govt. of India, the Secretary, Ministry of Information and Broadcasting, Govt. of India, the Chief Secretaries to the Govt. of all States and Union Territories and copies to Chief Electoral Officers of all States and Union Territories.

Subject: Display of advertisements and hoardings at the cost of public exchequer.

It has come to the notice of the Commission that a number of hoardings depicting the achievements of the party in power are being displayed by the Union and the States/UT Governments at the cost of public exchequer. Your attention is invited to sub-para (iv) of para VII - Party in Power- of the Model Code of Conduct for the Guidance of Political Parties and Candidates which is as under:-

The party in power whether at the Centre or in the States/UTs concerned, shall ensure that no cause is given for any complaint that it has used its official position for the purposes of its election campaign and in particular-(iv) Issue of advertisement at the cost of public exchequer in the newspapers and other media and the misuse of official mass media during the election period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the party in power shall be scrupulously avoided.

With the announcement of the schedule of elections to Lok Sabha and the legislative Assemblies of Andhra Pradesh, Karnataka, Orissa and Sikkim on 29th February 2004 the Model Code of Conduct came into force immediately. The continuing display of such hoardings and advertisements at the cost of public exchequer, even if such Hoardings, advertisements or posters were displayed prior to the date of announcement of elections, constitutes a violation of the Model Code of Conduct as it provides an undue advantage to the party in power and has the effect of influencing the voters in favour of the party in power.

The Commission directs that all such hoardings, advertisements, etc. on display shall be removed forthwith by the concerned authorities and a compliance report furnished to the Commission.

The Commission has also directed that no advertisements should be issued in the newspapers and other media including electronic media at the cost of public exchequer during the election period and the misuse of mass media during the election period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the party in power should be scrupulously avoided.

All Ministries/Departments/Offices of the Central Government and the State Governments may be informed of this directive of the Commission for immediate compliance.

The receipt of this letter may be acknowledged.

INSTRUCTION SL. NO. 27

Election Commission's letter No. 437/6/2004-PLN III, dated 24.12.2004 addressed to the Chief Secretaries/Chief Electoral Officers of Bihar & Jharkhand.

Subject: - Display of advertisements and hoardings at the cost of public exchequer.

It has come to the notice of the Commission that a number of hoardings depicting the achievements of the party in power are displayed during the run up to the elections by the State Government/Union Government at the cost of public exchequer. Your attention is invited to sub-para (iv) of para VII - 'Party in Power' - of the Model Code of Conduct for the Guidance of Political Parties and Candidates which is as under: -

"The party in power whether at the Centre or in the States/UTs concerned, shall ensure that no cause is given for any complaint that it has used its official position for the purposes of its election campaign and in particular-

- (iv) Issue of advertisement at the cost of public exchequer in the newspapers and other media and the misuse of official mass media during the election period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the party in power shall be scrupulously avoided."
2. With the announcement of the schedule of elections to the Legislative Assemblies of Bihar, Haryana and Jharkhand on 17th December, 2004, the Model Code of Conduct came into force immediately. The continuing display of such hoardings, and advertisements at the cost of public exchequer, even if such hoardings, advertisements or posters were displayed prior to the date of announcement of elections, constitutes a violation of the Model Code of Conduct as it provides an undue advantage to the party in power and has the effect of influencing the voters in favour of the party in power.
3. The Commission has directed that those hoardings, advertisements, etc., put up by the Government which purport to give general information or convey general messages to the masses on family planning, social welfare schemes etc. may be allowed to be displayed. However, all those hoardings, advertisements, etc. which seek or purport to project the achievements of any living political functionaries or political party and which carry their photos or name or party symbol should be removed forthwith as no political functionary or political party can use public resources and incur or authorize expenditure from public exchequer to eulogise himself or itself or enhance his/its own or any political leader's personal image. Such hoardings, etc. undoubtedly amount to their individual/party election campaign at public cost.
4. The Commission has also directed that no advertisements should hereafter be issued in the newspapers and other media, including electronic media, at the cost of public exchequer during the election period and the misuse of mass media

Model Code of Conduct and Ban on Transfer

during the election period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the party in power should be scrupulously avoided.

5. All Departments/Offices of the State Government may be informed of this directive of the Commission for immediate compliance.
6. The receipt of this letter may be acknowledged.

By Fax/Speed post/ Special Messenger

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

Dated: 23rd November, 2007

No. 437/6/2007-PLN III

To,

1. The Cabinet Secretary
Cabinet Secretariat
New Delhi
2. The Chief Secretaries of All States and Administrators of all UTs
3. The Chief Electoral Officers of all the States and Union Territories

Subject: - Tours of Ministers - General Elections

Reference :-

1. Commission's Letter No. 437/6/96/PLN-III dated 17.01.1996
2. Commission's Letter No 437/6/99-PLN-III dated 15.07.1999
3. Commission's Letter No 437/6/4/2003-PLN-III dated 12.06.2003

Sir,

I am directed to state that Ministers may be undertaking visits to the State(s) where election is being held or have been announced and the provisions of Model Code of Conduct are in force, in connection with electioneering. The Commission, in order to ensure a level playing field which is a precondition for free and fair elections, has issued instructions from time to time governing such tours of ministers and has prescribed certain guidelines to ensure that the official machinery is in no way engaged in any election related work by such touring dignitaries. These have been upheld by the Supreme Court of India in the case of Narendra Kumar Gaur vs. Election Commission of India in Writ Petition No. 339 of 1999 on 16.08.99.

2. The Commission's instructions contained in the letters mentioned at the reference above have been consolidated for the sake of convenience in the following paragraphs :-

- (1) If a Minister of the Union is traveling from his/her headquarters to a poll bound state/district on purely official business, which cannot be avoided in public interest, then a letter certifying to this effect should be sent from the Secretary of the department/ministry

concerned of the Government of India, to the Chief Secretary of the state which the Minister intends to visit, with a copy to the Commission. On receipt of such information from the Secretary that the Union Minister is proposing a purely official visit and no political activity of any kind is envisaged during such tour, the Chief Secretary may provide the Union Minister with a Government vehicle and accommodation and extend other usual courtesies for his official trip. While doing so, the Chief Electoral Officer of the State, who is entrusted with the task of monitoring of electoral activity in the State, including the implementation of the Model Code of Conduct, shall be alerted in advance by the Chief Secretary. The Commission will keep watch on such arrangements in consultation with its Chief Electoral Officer.

It is hoped that the Union Ministers will avoid making official visits to their home States, Constituency state and particularly to the constituencies from where they are contesting elections while it is open for them to make private visits (See ECI instruction No. 437/6/99 - PLN III dated 15.07.99)

(2) The Commission also directs that -

(i) No minister of State Government shall undertake an official visit to any constituency for which elections have been announced by the Commission during the period commencing with announcement of the elections upto end of the election process.

(ii) Minister will not summon any election related officer of the constituency or the State in which any elections have been announced, to a place or office or guest house inside or outside the aforesaid constituency for any official discussions during the period of elections commencing with the announcement of the elections from such constituency and ending with the completion of election process.

(iii) The only exception to these instructions will be when a Minister, in his capacity as in charge of the department concerned, or a Chief Minister undertakes an official visit to a constituency, or summons any election related officers of the constituency to a place outside the constituency, in connection with failure of law and order or occurrence of a natural calamity or any such emergency which requires personal presence of such Ministers/Chief Ministers for the specific purpose of

supervision review/salvage/relief and other similar purposes. (See ECI instruction No. 437/6/96/PLN III – dated 17.01.96)

(3) It is clarified that the Ministers are entitled to use their official vehicles in their headquarters from their place of residence to their office for official work provided that such commuting is not combined with any electioneering or any political activity which would include a visit to party office even if it were enroute. No pilot car(s) or car(s) with beacon lights of any colour or car(s) affixed with sirens of any kind making his presence conspicuous shall be used by any Minister during his/her electioneering visits, even if the State administration has granted him a security cover requiring presence of armed personnel to accompany him on such visit. (See ECI instruction No. 437/6/96/PLN III – dated 17.01.96)

(4) During bye elections from any constituencies, either Parliamentary or Assemblies, the following restrictions will be applicable with regard to the tours of Ministers subject to exceptions mentioned above in para 2(iii) covering situations of grave emergency:-

(i) All Ministers, whether Central or State, shall not combine in any manner their official tours with election work after the announcement of the bye elections. They shall return to their headquarters on completion of their official tours. All and any visits to the district(s) where bye-election is being held and where Model Code of Conduct is, therefore, in force, have to be completely private in nature and such private visits should begin and end at the Minister's headquarters.

(ii) In case where a Minister traveling on official work transits through the district(s) where the bye-election is being held en route to any other district on official visit, he/she shall not halt in the district(s) where Model Code of Conduct is in force and shall not attend to any political work.

(iii) No official of any rank of the district(s) where the bye-election is being held, shall be called to attend any meeting by any Minister in any district, that is to say, even in other districts where election is not being held.

(iv) Any official who meets the Minister on his private visit to the constituency where elections are being held shall be guilty of misconduct under the relevant service rules; and if he happens to be an official mentioned in Section 129 (1) of the Representation

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of People Act, 1951, he shall also be additionally considered to have violated the statutory provisions of that Section and liable to penal action provided thereunder.

(v) No pilot car(s) or car(s) with beacon lights of any colour or car(s) affixed with sirens of any kind making his presence conspicuous shall be used by any Minister during his/her private visit to the constituency where a bye election is under way even if the State administration has granted him a security cover requiring presence of armed guards to accompany him on such visit. (See ECI instruction No. 437/6/4/2003 - PLN III dated 12.06.03)

(5) The Commission further directs that the Chief Electoral Officer of the State who is entrusted with the task of monitoring of electoral activities in the State including the implementation of Model Code of Conduct shall be kept informed in advance by the District Election Officer of any visit proposed to be undertaken by any Minister of the State Govt. or any Central Minister to the district where bye-election is being held and the Chief Electoral Officer shall forthwith communicate the same to the Election Commission. (See ECI instruction No. 437/6/4/2003 - PLN III dated 12.06.03)

3. Any violation of these instructions will be viewed as gross infringement not only of the Model code of Conduct but also of the authority of the Commission to promulgate such directions as it considers necessary to ensure peaceful, fair and free poll reflective of the true choice of the people, and will be visited with such action as considered appropriate by the Commission on the merits of the specific circumstances.

Yours faithfully

(A.K. MAJUMDAR)
PRINCIPAL SECRETARY