

राजस्थान सरकार
निर्वाचन विभाग

एफ 3.1(9)प्रथम/निर्वा/2024/1279

जयपुर, दिनांक: 13.2.24

प्रेषक : मुख्य निर्वाचन अधिकारी
राजस्थान, जयपुर

प्रेषिति : समस्त जिला निर्वाचन अधिकारी,
(कलक्टर्स) राजस्थान

विषय : लोकसभा आम चुनाव, 2024-राष्ट्रीय ध्वज/दल के ध्वज/दल के बैनर के
उपयोग के संबंध में।

महोदय,

विषयान्तर्गत निवेदन है कि लोकसभा आम चुनाव, 2024 निकट भविष्य में सम्पन्न होने है। आगामी लोकसभा आम चुनाव के कार्यक्रम की घोषणा के साथ ही आदर्श आचार संहिता प्रभावी हो जायेगी, जो निर्वाचन प्रक्रिया की समाप्ति तक प्रभावी रहेगी। चुनाव कार्यक्रम की घोषणा की सूचना भारत निर्वाचन आयोग की राजकीय वेबसाईट पर उपलब्ध रहेगी साथ ही आपको विभाग द्वारा सूचना दे दी जायेगी तथा मीडिया के माध्यम से भी इसकी सार्वजनिक जानकारी हो जायेगी।

आदर्श आचार संहिता के प्रभावी रहने के दौरान भारत निर्वाचन आयोग के पत्रांक 509/35/2014-RCC दिनांक 04.03.2014 के द्वारा राष्ट्रीय ध्वज के संबंध में ध्वज संहिता के उपबन्धों और संप्रतिक एवं नाम अधिनियम 1950 तथा राष्ट्रगौरव अपमान निवारण अधिनियम, 1971 के उपबन्धों का कड़ाई से पालन सुनिश्चित करने के संबंध में निर्देश प्रदान किये गये हैं, साथ ही भारत निर्वाचन आयोग की Manual on Model Code of Conduct, March 2019 पुस्तिका के अध्याय-13 में राष्ट्रीय ध्वज के अतिरिक्त दल के ध्वज का वाहनों पर प्रदर्शित किये जाने वाले बैनर/ध्वज की संख्या और आकार के संबंध में विस्तृत दिशा-निर्देश प्रदान किये गये हैं, जिनकी प्रति संलग्न कर प्रेषित की जा रही है।

आयोग के उक्त दिशा-निर्देशों की पालना सुनिश्चित करावें।

संलग्न : उपरोक्तानुसार

भवदीय,

(प्रवीण गुप्ता)

मुख्य निर्वाचन अधिकारी
राजस्थान, जयपुर।

एफ 3.1(9)प्रथम/निर्वा/2024/

जयपुर, दिनांक:

प्रतिलिपि निम्न को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित हैं।

1. समस्त मान्यता प्राप्त राजनैतिक दल।
2. समस्त राज्य स्तर के पंजीकृत अमान्यता प्राप्त राजनैतिक दल।
3. संयुक्त मुख्य निर्वाचन अधिकारी (आई.टी.), निर्वाचन विभाग को पत्र की प्रति विभाग की वेबसाईट पर अपलोड कराने हेतु प्रेषित हैं।

उप मुख्य निर्वाचन अधिकारी
राजस्थान, जयपुर।

INSTRUCTION Sl.No.81

ECI letter No. 509/35/2014-RCC, dated 04.03.2014 addressed to the President/General Secretary/Chairperson of all recognised National and State Political Parties and copy endorsed to the Chief Electoral Officers of all States/UTs.

Subject: In the Allahabad High Court at Lucknow Bench-W.P. (PIL-Civil) (B) No. 603 of 2014-Pratap Chandra Vs. Union of India & others.

I am directed to forward herewith a copy of the Order dated 30/01/2014 passed by the Hon'ble High Court of Allahabad at Lucknow Bench on the issue of use of National flag in rallies of political parties. The relief claimed in the petition was for a direction to the respondents (Central Government, State Government of Uttar Pradesh, Election Commission and State Election Commission) not to allow the use of national flag in rallies of political parties. The Hon'ble High Court of Allahabad disposed of the petition with the observation that there is no prohibition of proper use of national flag by political parties in rallies and that it is the bounden duty of the authorities concerned to ensure strict compliance and observation of the provisions of the Flag Code and the provisions of Emblem and names (Prevention of Improper use) Act, 1950 and the Prevention of insults to National Honour Act 1971.

The above said Order of the Hon'ble High Court may be noted and also brought to the notice of the cadres of the party at all level to ensure that there is no violation of the provisions of the Flag Code and the Acts mentioned in the Order.

Kindly acknowledge receipt.

COPY

Legalix – Allahabad High Court Judgment Information System (Judgment/Order in text Format)

This is an UNCERTIFIED copy for information/reference. For authentic copy please refer to certified copy only. In case of any mistake, please bring it to the notice of Deputy Registrar(Copying).

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

Court No.2

Case:-MISC. BENCH No.-603 of 2014

Petitioner:- Pratap Chandra (P.I.L.)

Respondent:- Union of India Through Secretary Ministry of Home & Others

Counsel for Petitioner:- Vijay Kumar Pandey

Counsel for Respondent:- C.S.C., A.S.G., AprajitaBansal, Manish Mathur

Hon'ble ImtiyazMurtaza, J.

Hon'ble Devendra Kumar Upadhyaya, J.

Heard Sri Vijay Kumar Pandey, learned counsel for the petitioner, Sri K.C. Kaushik, Assistant Solicitor General of India for respondent no.1, Sri Manish Mathur for respondent no.2, learned Chief Standing Counsel for respondent no.3 and 4 and Ms. Aprajita Bansal for respondent no.5.

Through the instant Public Interest Litigation, a direction has been sought to be issued to the respondents not to allow the use of the National Flag in any particular rallies of any political parties.

For proper use of the National Flag, Flag Code of India has been notified by the Government of India, wherein certain provisions have been made. According to paragraph 2.1. of the said Code, there is no restriction in display of National Flag by members of general public, private organisations, educational institutions etc., except to the extent provided in the Emblems and Names (Prevention of Improper Use) Act, 1950 and Prevention of Insults to National Honour Act, 1971 or any other law enacted for the said purpose.

The Flag Code specifically prohibits the use of National Flag for commercial purpose in violation of the Emblems and Names (Prevention of Improper Use) Act, 1950. It also clearly envisages that the Flag shall not be dipped in salute to any person or thin and further that the Flag shall not be flown at half-mast except on occasions on which the Flag is flown at half-mast on public buildings in accordance with the instructions issued by the Government. There are certain other instructions in the Flag Code.

The Flag Code and other enactments referred to hereinabove have been promulgated for their strict observance. We may also refer that any contravention of the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950, attracts penal action.

On a specific query being put to the learned counsel for the petitioner, as to whether there is any prohibition for proper use of National Flag by the political parties, he could not satisfy the Court. However, he stated that it is the bounden duty of the State authorities to ensure that the national flag is used only in proper manner and in accordance with the provisions contained in the Flag Code of India as also in the enactment, namely, the Emblems and Names (Prevention of Improper Use) Act, 1950 and the provisions of the Prevention of Insults to National Honour Act, 1971. Needless to say that in order to preserve the honour and respect attached to the National Flag, it is the bounden duty of the authorities concerned to ensure strict compliance and observance of the provisions of the Flag Code of India and the legislations, as referred to hereinabove. We hope and expect that strict compliance thereof shall be ensured by all concerned.

With the aforesaid observation, the petition is disposed of finally.

Order Date:- 30.1.2014

MFA/-

Visit <http://elegalix.allahabadhighcourt.in/elegalix/StartWebSearch.do> for more Judgments/Orders delivered at Allahabad High Court and Its Bench at Lucknow. Disclaimer

CHAPTER 13

USE OF NATIONAL FLAG/PARTY FLAGS/ PARTY BANNERS

Main topics discussed in the Chapter:-

- Use of National Flag
- Use of Party Flags/Banners by Party Workers at their Residences
 - ✓ Number of party flag to be displayed
- Number and Size of Banners/Flags to be Displayed on Vehicles
- Campaign Related Items

13.1 Use of National Flag

13.1.1 During election campaigning, political parties/candidates sometimes use National Flag. A petition was filed in the High Court of Allahabad seeking directive to the Central Government, State Government of Uttar Pradesh and the Election Commission not to allow use of national flag in rallies of political parties. The High Court while disposing of the petition by its order dated 30 January, 2014 observed that there is no prohibition of proper use of national flag by political parties in rallies and that it is the bounden duty of the authorities concerned to ensure strict compliance and observation of the provisions of the Flag Code and the provisions of Emblem and Names (Prevention of Improper use)

Act, 1950 and the Prevention of Insults to National Honour Act 1971. (Annexure XIV)

13.1.2 In a bye election in 2017, it was brought to notice of the Election Commission that during campaign a dummy coffin of a departed political leader wrapped in national flag was used for electoral gains. The Election Commission considered it inappropriate. The Election Commission directed that the authorities concerned were bound to observe strictly and comply with the provisions of the Flag Code, Emblem and Names (Prevention of Improper Use) Act, 1950 and the Prevention of Insults to National Honour Act, 1971 for proper use of national flag in rallies by political parties. On a reference from the Chief Electoral Officer, Punjab sending a request from the Chief Minister of Punjab who was campaigning in Rama Mandi to allow him to travel to Ferozpur for hoisting the National Flag on 26 January, 2012. The

Election Commission, while allowing, in this regard directed that the Ministers should not hoist flags in their home districts nor in the districts in which the constituencies from where they were contesting elections, are located.

13.2 Use of Party Flags/Banners by Party Workers at their Residences

- 13.2.1 Subject to restrictions under any local law or any court orders in force, the political parties, candidates, their agents, workers and supporters may put up banners, buntings, flags, cut-outs, on their own property, provided they do so on their own volition, voluntarily and without any pressure from any party, organization or person, and provided further that these do not cause any inconvenience in any manner to anyone else. If such display of banners, flags etc. aims to solicit vote for any particular candidate, then the provisions of *Section 171H* of the Indian Penal Code would be attracted and necessary action should be taken under the said provisions.

[Section 171H of the Indian Penal Code stipulates that whoever without the general or special authority in writing of a candidate incurs or authorizes expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees: Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate].

- 13.2.2 Number of party flag to be displayed:** There should be only three number of flags of a party/candidate to be used at party workers’/ supporters’ residence and at party offices. In case, some person wants to display flags of more than one party or candidate, then it shall be restricted to only one flag of each party/candidate. Display of flags would be subject to local law and court orders, if any. However, the expenditure shall be strictly accounted for as per existing directions of the Election Commission.

13.3 Number and Size of Banners/Flags to be Displayed on Vehicles

13.3.1 As for maximum number and size of party flag to be used by party workers on vehicles, Election Commission has instructed as follows:

- (i) Two wheelers- One flag of maximum size 1ft X ½ ft. may be permitted on one two wheeler including bike. No banner shall be allowed. 1 or 2 small stickers of appropriate size may be permitted on each vehicle.
- (ii) Three wheelers, four wheelers, e-rickshaws- One flag of maximum size 1ft X ½ ft. No banner will be allowed. 1 or 2 small stickers of appropriate size may be permitted on each vehicle.
- (iii) As for a road show, only one flag of the size of 1 ft. X ½ ft. would be allowed by the Returning Officer on a campaign vehicle.
- (iv) Length of pole/stick for carrying flag shall not be more than 3 feet.
- (v) It is clarified that if a party is having a pre-poll alliances/seat sharing arrangement with another party then campaign vehicle of a candidate/political party may display one flag each of such parties.
- (vi) During a road show, the maximum size of a banner to be carried out with hand will be 6 ft. X 4 ft.

13.3.2 While using flags or stickers on any vehicle, due care shall be taken that visibility of the driver (of concerned vehicle or any other vehicle on road), and any passenger from front or rear view is not hampered in any manner.

13.3.3 No spot/focus/flashing/search lights and hooters shall be put on any campaign vehicle.

13.3.4 No person shall put any flag or banner or sticker of big size on any vehicle except with prior permission of the Competent Authority, and subject to the relevant provisions of law and court direction/orders, if any.

13.3.5 Chief Electoral Officer shall ensure that all the local law, court's directions/orders and provisions of Motor Vehicle Act are uniformly applied throughout the State.

13.4 Campaign Related Items

Subject to accounting for the expenditure, the Election Commission has permitted the following campaign related items:-

- (i) In processions and rallies etc., flags, banners, cutouts etc. can be carried subject to local laws and prohibitory orders in force;
- (ii) In such procession, wearing of special accessories like cap, mask, scarf etc. supplied by political party/candidate may be permitted. However, supply of main apparels like saree, shirt, etc. by party/candidate is not permitted.
