

राजस्थान सरकार  
निर्वाचन विभाग

एफ 3.(1)(9)प्रथम/निर्वा/2023/ 5615

जयपुर, दिनांक: 24.03.2023

प्रेषक : मुख्य निर्वाचन अधिकारी  
राजस्थान, जयपुर।

प्रेषिति :

मुख्य सचिव  
राजस्थान सरकार  
जयपुर।

समस्त अतिरिक्त मुख्य सचिव/प्रमुख शासन सचिव/  
शासन सचिव  
राजस्थान सरकार

: महानिदेशक, पुलिस  
राजस्थान, जयपुर।

समस्त अध्यक्ष/प्रबन्ध निदेशक/निदेशक/सचिव  
बोर्ड/आयोग/निगम राजस्थान

समस्त संभागीय आयुक्त,  
राजस्थान।

समस्त जिला निर्वाचन अधिकारी  
(कलक्टर्स) राजस्थान

**विषय** : विधानसभा आम चुनाव, 2023 –नई योजनाओं की घोषणा– वित्तीय एवं प्रशासनिक मामलों पर प्रतिबंध के संबंध में।

**महोदय,**

विषयान्तर्गत निवेदन है कि राज्य में विधानसभा आम चुनाव, 2023 निकट भविष्य में सम्पन्न होने है। आगामी विधानसभा 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 437/6/2009-CC&BE दिनांक 05.03.2009, पत्रांक 437/6/23/2004 PLN. III दिनांक 11.03.2004 एवं 437/6/1/2014-CC&BE दिनांक 05.03.2014 में नई योजनाओं की घोषणा एवं वित्तीय और प्रशासनिक मामलों पर प्रतिबंध के संबंध में दिशा निर्देश प्रदान किये गये हैं, साथ ही भारत निर्वाचन आयोग की Manual on Model Code of Conduct, March 2019 पुस्तिका के अध्याय-05 में निर्वाचन की घोषण पर आदर्श आचार संहिता के तहत नई योजनाओं/परियोजनाओं की घोषणा पर तथा साथ ही नई राहत देने पर भी रोक है। आयोग ने निर्देश दिया है कि मंत्री एवं अन्य प्राधिकारियों द्वारा किसी भी रूप में किसी भी वित्तीय अनुदान की घोषणा नहीं करेंगे, उनके वायदे नहीं करेंगे, किसी भी प्रकार की परियोजनाओं या योजनाओं की आधारशिला आदि नहीं रखेंगे, कोई निशुल्क पट्टे नहीं आवंटित करेंगे और ना ही ऋण माफी की घोषणा करेंगे, सड़कों के निर्माण, पेयजल की सुविधा आदि का कोई वायदा नहीं करेंगे, जिनका उद्देश्य सत्ताधारी दल के पक्ष में मतदाताओं को प्रभावित करना हो आदि

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के संबंध में आयोग द्वारा विस्तृत दिशा-निर्देश दिये गये हैं, जिनकी प्रति संलग्न कर प्रेषित की जा रही है।

आदर्श आचार संहिता प्रभाव में रहने के दौरान उक्त निर्देशों की पालना सुनिश्चित करावें। साथ ही समस्त प्रशासनिक विभागों से भी यह अपेक्षा है कि वे अपने प्रशासनिक नियन्त्रणाधिन गठित समस्त बोर्ड, आयोग, निगम आदि निकायों में भी इन निर्देशों की पालना सुनिश्चित कराते हुए सभी संबंधित को तदनुसार निर्देशित करावें।

संलग्न : उपरोक्तानुसार

भवदीय,

(प्रवीण गुप्ता)  
मुख्य निर्वाचन अधिकारी,  
राजस्थान, जयपुर।

## ANNEXURE- VI

(CHAPTER – 5 ANNOUNCEMENT OF NEW SCHEMES- RESTRICTION ON FINANCIAL & ADMINISTRATIVE MATTERS)

ECI letter No. 437/6/2009-CC&BE dated 5<sup>th</sup> March, 2009 addressed to the Cabinet Secretary, Govt. of India and the Chief Secretaries and Chief Electoral Officers of all States and UTs.

**Sub: General Elections – Enforcement of the Model Code of Conduct - reg.**

Sir,

I am directed to state that the Commission has considered various aspects in the context of the Model Code of Conduct during General Elections and decided to issue to following Guidelines regarding implementation/processing of the various projects, schemes, rural development programmers etc. by the Central/State Governments :-

1. All Model Code of Conduct related directions shall be issued only by the Commission. The Cabinet Secretariat or any other government agency should reiterate and disseminate the directions of the Commission for compliance.
2. RBI may continue to take decisions unhindered on monetary policy issues.
3. After the Model Code of Conduct comes into effect, the Ministry of Finance will need to take prior approval of the Commission on any policy announcements, fiscal measures, taxation related issues and such other financial relief. Similarly, other Ministries/Departments will need to take prior approval of the Commission before announcing any relief/benefit.
4. The following types of existing works can be continued by the government agencies without reference to the Election Commission after the Model Code of Conduct comes into force:
  - a. Work-Projects that have actually started on the ground after obtaining all necessary sanctions;
  - b. Beneficiary-projects where specific beneficiaries by name have been identified before coming of the Model Code of Conduct into force;
  - c. Registered beneficiaries of NREGA may be covered under existing projects. New projects under NREGA that may be mandated under the provisions of the Act may be taken up only if it is for the already

- registered beneficiaries and the project is already listed in the approved and sanctioned shelf of projects for which funds are also already earmarked.
5. There shall be no bar to release of funds for the completed portion of any work subject to observance of laid down procedures and concurrence of finance department.
  6. The following type of new works (whether beneficiary or work oriented) that fulfill all the following conditions before Model Code of Conduct comes into effect, can be taken up under intimation to the Commission-
    - a. Full funding has been tied up.
    - b. Administrative, technical and financial sanctions have been obtained
    - c. Tender has been floated, evaluated and awarded and
    - d. There is contractual obligation to start and end the work within a given time frame and failing which there is an obligation to impose penalty on the contractor.
    - e. In case of any of the above conditions not being met in such cases prior approval of the Commission shall be sought and obtained.
  7. Global tenders already floated, can be evaluated and finalized where any time limits are specified for such purpose.
  8. Tenders other than global tenders, that are already floated may be evaluated but not finalized without prior approval of the Commission. If they are not already floated, they shall not be floated without prior approval of the Commission.
  9. Commission invariably takes a humanitarian view on the work that are necessitated due to man-made or natural calamities.
    - a. Ex-gratia payments and gratuitous relief in the aftermath of a disaster can be given directly to the persons affected at the current rates/scales of assistance presently in force, under intimation to the Commission. No change in the extant and prescribed scales of payments, however, shall be made in the existing rates/scales without prior permission of the Commission.

- b. Payment directly to the hospitals from CM's/PM's Relief Fund, in lieu of direct cash payment to individual patients (beneficiaries) will be permissible without reference to the Commission.
  - c. Emergent relief works and measures that are aimed to mitigate the hardships, directly and solely, of the persons affected in a disaster may be taken up under intimation to the Commission.
  - d. However, new works that may be necessitated by way of preventive measures to mitigate the likely effects of natural disasters like repair of embankments, water channels etc. can be taken up only with prior permission of the Commission.
  - e. Also, an area shall not be declared drought/flood affected or any such calamity affected without prior approval of the Commission. The extent of area already declared to be calamity-affected cannot be expanded without prior approval of the Commission.
  - f. Similarly, any selective assistance to a group of persons from the PM's or the CM's Relief Fund will require prior approval of the Commission.
10. The following type of activities will require prior permission of the Commission:
- a. New works and project cannot be taken up from discretionary funds of whatever nature. Discretionary fund, in this context, includes funds, which are provided for in the budget in a generic manner and for which no identified and sanctioned project exists prior to Model Code of Conduct coming into effect.
  - b. Proposals for revival of sick PSUs, governmental take over of enterprises etc. (or any policy decision on similar lines) cannot be taken up.
  - c. Fresh auctions of liquor vends etc. cannot be held even if the annual auction time falls within the Model Code of Conduct period. Where necessary, the government should make interim arrangements as provided in their respective laws.
  - d. Area of operation of any existing project/scheme/programme can not be extended or expanded.

- e. No land allocation shall be made by the government to any entity, whether individual or an enterprise.
  - f. Signing a MOU or an agreement where the government is a party will also require prior clearance by the Commission.
11. Regular recruitment/appointment or promotion through the UPSC, State Public Service Commissions or the Staff Selection Commission or any other statutory authority can continue. Recruitments through non-statutory bodies, will require prior clearance of the Commission.
  12. While starting any work (including any relief work) or developmental activity no formal function shall be held involving any political functionary. As a matter of good practice, normal functions and publicity even with the presence of official functionaries should be kept to the minimum.
  13. Where works are to be undertaken or functions are to be held in fulfillment of international commitments, prior concurrence of the Commission shall be taken.
  14. All Government of India references to the Election Commission of India shall be made preferably through the Cabinet Secretariat. In so far as reference from State Governments are concerned, the same shall be made to the Election Commission of India through the Chief Electoral Officer (CEO) of the state concerned.

This may be brought to the notice of all concern authorities.

## ANNEXURE- VIII

(CHAPTER – 5 ANNOUNCEMENT OF NEW SCHEMES- RESTRICTION ON FINANCIAL & ADMINISTRATIVE MATTERS)

Election Commission's letter No. 437/6/23/2004 PLN.III, dated 11.03.2004 addressed to the Chief Secretaries of Andhra Pradesh, Karnataka, Maharashtra, Tamil Nadu & Jharkhand.

**Subject: General Elections 2004 - Implementation of drought relief work -regarding.**

The Commission has been receiving various representations from the State Governments regarding the modalities of implementing relief work in areas which have been declared as "drought affected" in the respective States. The Commission after taking into account all relevant factors, directs the following :-

- (i) The drought relief works by way of immediate relief measures to be taken up by the State Governments shall only be in the areas which have been declared as "drought affected" within the parameters laid down under the guidelines for managing of Calamity Relief Fund by the Central Government. No new areas are to be added to the existing list of such "drought affected" areas after the announcement of elections on February 29<sup>th</sup> 2004. Addition of any additional area/village will only be subject to obtaining prior concurrence of the Commission after following the due procedure laid down for seeking assistance under the Calamity Relief Fund/ National Relief Fund laid down by the Government of India for operation of such funds.
- (ii) To provide immediate relief in the areas declared as drought affected, the Commission has provisionally approved the following measures:-
  - (a) Provision of drinking water by way of water tankers.
  - (b) Digging of bore-wells as well as dug-wells in scarcity areas on account of drying of the existing bore-wells/dug-wells.
  - (c) Provision of rice/wheat at prescribed rates for distribution among the destitute without support and who cannot go for work as per mechanism already prescribed in the Calamity Relief Fund Scheme.
  - (d) Provision of fodder for cattle.
  - (e) New works on wage employment (Food for work etc.) where such existing

works have been completed.

- (iii) No minister of the Government or a political functionary will be associated in the management of the drought relief operations in any capacity, supervisory or otherwise, during period of operation of the model code of conduct.
- (iv) The entire relief operation would be taken up by the Division, District and Taluka/sub-District Administration without involving elected representatives and/or non-officials at any level.

Kindly ensure compliance of the directions of the Commission and acknowledge.



## ANNEXURE- IX

(CHAPTER – 5 ANNOUNCEMENT OF NEW SCHEMES- RESTRICTION ON FINANCIAL & ADMINISTRATIVE MATTERS)

Election Commission's letter no. 437/6/1/2014-CC&BE dated 05.03.2014 addressed to The Cabinet Secretary, The Secretary Department of Programme Implementation and the Chief Secretaries/Chief Electoral Officers of all States and Union Territories

**Subject: General Elections to Lok Sabha 2014 and State Legislative Assemblies of Andhra Pradesh, Odisha and Sikkim - Release of funds under MPs' /MLAs' Local Areas Development Scheme**

I am directed to refer to the Commission's Press Note No. ECI/PN/10/2014, dated 5<sup>th</sup> **March, 2014** (Press Note available at Commission's web-site – [www.eci.gov.in](http://www.eci.gov.in)) as per which the Commission has announced the enforcement of the Model Code of Conduct for the guidance of the Political Parties and Candidates, consequent on the announcement of General Election to Lok Sabha and to the Legislative Assemblies of the States of Andhra Pradesh, Odisha and Sikkim including certain bye-elections.

2. The Commission has considered the release of funds under the Member of Parliament Local Area Development Schemes and has decided that-
  - a) No fresh release of funds under the Member of Parliament (including Rajya Sabha members) Local Area Development fund shall be made in any part of the country where election is in progress. Similarly no fresh release of funds under the MLAs'/ MLCs' Local Area Development Fund shall be made, if any such scheme is in operation, till the completion of election process.
  - b) No work shall start in respect of which work orders have been issued before the issue of this letter but the work has actually not started in the field. These works can start only after the completion of election process. However, if a work has actually started, that can continue.

There shall be no bar to the release of payments for completed work(s) subject to the full satisfaction of the concerned officials.

## CHAPTER 5

# ANNOUNCEMENT OF NEW SCHEMES- RESTRICTION ON FINANCIAL & ADMINISTRATIVE MATTERS

### **Main topics discussed in the Chapter:-**

- Consolidated Guidelines
- Presentation of Annual Budget
- Announcement of Financial Grants/Concessions/Relief/ Subsidy Payment out of Discretionary Funds & MP/ MLA LADS
- Permission to Regular Financial Matters of Statutory Requirement
- Waiving Off of Recoveries and Bad Debts by State Government Financial Institutions
- Restriction on Ad Hoc Appointments
- Instances of Restriction on Other Administrative Decisions

### **5.1 Introduction**

5.1.1 Model Code restricts announcement of new schemes/projects and also grant of new reliefs after the announcement of elections. The Election Commission has directed that ministers and other authorities shall not-

- ✓ announce any financial grants, in any form, or,
- ✓ make promises thereof, or,
- ✓ lay foundation stones etc. of projects or schemes of any kind; or,
- ✓ make any promise of construction of roads, provision of drinking water facilities etc.,

which have the effect of influencing voters in favour of the party in power.

5.1.2 In 1993, the Election Commission cancelled all together a bye-election to Haryana State Assembly from Kalka Assembly constituency on the ground of announcement of certain new development schemes by the then Chief Minister of the State, in violation of Model Code. Almost simultaneously, the Election Commission also cancelled a bye-election from Ranipet Assembly Constituency in Tamil Nadu, where also, the then Chief Minister of the State announced certain new projects, in breach of Model Code.

- 5.1.3 The Election Commission has instructed the Chief Electoral Officers of States to obtain, within 72 hours of announcement of elections, list of all those works which have already been started on ground and also list of fresh work not started so far, for referencing, in case of validating any complaint on violation of Model Code.
- 5.1.4 These Model Code restrictions apply equally to new schemes and also ongoing schemes. But enforcement of Model Code cannot be given as an excuse for not commissioning of the public utility schemes which are at the stage of completion or for allowing them to remain idle. Commissioning of such schemes can be done by civil authorities without any fanfare or ceremonies and without associating political functionaries, though the political functionaries may attend the functions as ordinary participants. In a bye-election in Kerala in March-April 1994, on the Election Commission's directions, the new railway line between Thrissur and Guruvayoor in Kerala, which was scheduled to be inaugurated by the Prime Minister, was commissioned by the officials of the railways and state government. Similarly, during general election to Karnataka State Assembly in 2018, a reference was received from Ministry of Defence that the Defence Minister was proposed to grace a function at a Bangalore plant as Chief Guest and to hand over first metro train set to Chairman, Kolkata Metro Rail Corporation. The Election Commission directed to the Ministry to invite a civil servant as chief guest in the function and do the honours, with other standard conditions.
- 5.1.5 Where the funds are needed to make payments for the completed work, the release of such funds is not objected to. For instance, during the general election to the Karnataka legislative assembly in 2013, Union Ministry of Micro, Small and Medium Enterprises was allowed to release the margin money subsidy of Rs 26 crores to the Government of Karnataka under the Prime Minister's Employment Guarantee Programme as per the scheme guidelines, but without any publicity being given to such release of funds. Likewise, the Central government was permitted to release the remaining grant of Rs 15 crores to that state government under 'One Time Additional Central Assistance for Annual Plan 2012-13' without any publicity.

## 5.2 Consolidated Guidelines

5.2.1 During general elections to the House of the People and certain State Legislative Assemblies in 2009, on request from some State Governments for relaxation in instructions on humanitarian ground, the Election Commission revisited its existing instructions and issued consolidated guidelines with modifications or clarifications, wherever necessary, on 5 March 2009 (**Annexure VI**). These guidelines are as detailed below:

### Financial matters

- (i) Model Code related directions shall be issued only by the Election Commission.
- (ii) The Cabinet Secretariat or any other government agency should reiterate and disseminate the directions of the Election Commission for compliance.
- (iii) All references from Government of India to the Election Commission shall be made preferably through the Cabinet Secretariat.
- (iv) In so far as reference from State Governments are concerned, the same shall be made to the Election Commission through the Chief Electoral Officer of the State concerned after getting cleared from the Screening Committee.
- (v) Reserve Bank of India may continue to take decisions unhindered on monetary policy issues.
- (vi) Ministry of Finance will need to take prior approval of the Election Commission on any policy announcements, fiscal measures, taxation related issues and such other financial relief. Similarly, other ministries and departments will need to take prior approval of the Election Commission before announcing any relief or benefit.
- (vii) The following types of existing works can be continued by the government agencies **without reference to the Election Commission:**

- (a) work-projects that have actually started on the ground after obtaining all necessary sanctions;
  - (b) beneficiary-projects where specific beneficiaries have been identified, by name, before coming of Model Code into force;
  - (c) registered beneficiaries of MNREGA may be covered under existing projects. New projects under MNREGA that may be mandated under the provisions of the Act may be taken up only if it is for the already registered beneficiaries and the project is already listed in the approved and sanctioned shelf of projects for which funds are also already earmarked.
  - (d) there shall be no bar to release of funds for the completed portion of any work subject to observance of laid down procedures and concurrence of Finance Department.
  - (e) payments directly to the hospitals from Chief Minister's Relief Fund/Prime Minister's Relief Fund, in lieu of direct cash payment to individual patients (beneficiaries), will be permissible without reference to the Election Commission;
- (viii) Following types of new works (whether beneficiary or work oriented) can be taken up **under intimation to the Election Commission only if they fulfill the given conditions before Model Code comes into effect** (in case of any of the conditions not being met, prior approval of the Election Commission shall be obtained).
- (a) full funding has been tied up;
  - (b) administrative, technical and financial sanctions have been obtained;
  - (c) tender has been floated, evaluated and awarded;
  - (d) in case there is contractual obligation to start and end the work within a given time frame and failing which there is an obligation to impose penalty on the contractor; and
  - (e) emergency relief works and measures that are aimed at

mitigating the hardships, directly and solely, of the persons affected in a disaster may be taken up under intimation to the Election Commission;

- (ix) The following types of activities will require **prior permission of the Election Commission**:
- (a) new works and projects cannot be taken up from discretionary funds of whatever nature. (Discretionary fund, in this context, includes funds, which are provided for in the budget in a generic manner and for which no identified and sanctioned project exists prior to Model Code coming into effect)
  - (b) proposals for revival of sick public sector undertakings, governmental takeover of enterprises, etc. (or any policy decision on similar lines) cannot be taken up
  - (c) fresh auctions of liquor vends, etc., cannot be held even if the annual auction time falls within Model Code period. Where necessary, the government should make interim arrangements as provided in its respective laws;
  - (d) area of operation of any existing project or scheme or programme cannot be extended or expanded;
  - (e) no land allocation shall be made by the government to any entity, whether individual or an enterprise; and
  - (f) signing an MOU or an agreement where the government is a party will also require prior clearance by the Election Commission.
  - (g) tenders other than global tenders, if already floated may be evaluated but not finalized. If these are not floated, shall not be floated without prior permission of the Election Commission.
  - (h) where works are to be undertaken or functions are to be held in fulfillment of international commitments, prior concurrence of the Election Commission shall be taken.

- (i) ex-gratia payments and gratuitous relief in the aftermath of a disaster can be given directly to the persons affected at the current rates or scales of assistance presently in force, under intimation to the Election Commission. No change in the extant and prescribed scales of payments, however, shall be made in the existing rates or scales without prior permission of the Election Commission;
- (j) however, new works that may be necessitated by way of preventive measures to mitigate the likely effects of natural disasters, like repair of embankments, water channels etc. can be taken up only with prior permission of the Election Commission;
- (k) also, an area shall not be declared drought or flood affected or any such calamity affected without prior approval of the Election Commission. The extent of area already declared to be calamity-affected cannot be expanded without prior approval of the Election Commission; and
- (l) similarly, any selective assistance to a group of persons from the Chief Minister's Relief Fund/Prime Minister's Relief Fund will require prior approval of the Election Commission.
- (x) Global tenders already floated, can be evaluated and finalized where any time limits are specified for such purpose. Tenders other than global tenders, that are already floated may be evaluated but not finalized without prior approval of the Election Commission. If they are not already floated, they shall not be floated without prior approval of the Election Commission.
- (xi) While starting any work (including any relief work) or development activity, no formal function shall be held involving any political functionary. As a matter of good practice, normal functions and publicity even with the presence of official functionaries should be kept to the minimum.
- (xii) Regular recruitment or appointment or promotion through

the UPSC, State Public Service Commissions or Staff Selection Commission or any other statutory authority can continue. Recruitments through non-statutory bodies will require prior clearance of the Election Commission.

- 5.2.2 In subsequent General elections, these guidelines are being reiterated and issued with necessary additions/clarifications.

### **5.3 Presentation of Annual Budget**

- 5.3.1 As per the established practice in the country, union budget for a fiscal year is presented to the Parliament in the month of February. The Election Commission, in deference to the State Legislatures, and having regard to convention and propriety, has not laid down any precept or prescribed a course of action for presentation of annual budgets, though an advisory was issued to all states at the time of 2009 general elections (**Annexure VII**).
- 5.3.2 In absence of clear and specific guidelines on this issue, different views have been taken during different elections. At several occasions in the past, presentation of annual budget was deferred. In January 2000, the Election Commission announced the programme for the general elections to the legislative assemblies of Bihar and Odisha. A session of the Bihar Legislative Assembly had already been called before the announcement of elections and that session was scheduled to commence on 10 January 2000. During that session, state budget was to be presented. However, the state government decided overnight not to present the budget or seek the vote-on-account in that session. Even the customary address of the Governor of the State to be made on the inaugural day of the session was substantially pruned down, so as to avoid any mentioning of the state government's achievements during the previous year or announcement of any new schemes or welfare measures in the coming year.
- 5.3.3 In some cases, State Governments and even the Parliament, instead of presenting full budget, sought only a vote on account for 3-4 months.
- 5.3.4 During general elections to Legislative Assemblies of Goa, Manipur, Punjab, Uttarakhand and Uttar Pradesh in January-March 2017, the Election Commission allowed the Union government to present budget



with the direction that no state specific schemes shall be announced in the national budget which may have the effect of influencing the electors of the five poll going states in favour of the ruling party(ies) and in the budget speech, the Government's achievements in respect of said five states will not be highlighted in any manner. It was also expected from the government that the advice given by the Election Commission in that letter No.437/6/INST/2009-CC&BE dated 9<sup>th</sup> March, 2009 will also be duly kept in view by the government at the time of the presentation of the budget (**Annexure VII**). During general elections to State Assemblies of Meghalaya, Nagaland and Tripura in 2018, the Election Commission allowed the presentation of union budget and related programme on AIR.

#### **5.4 Announcement of Financial Grants/Concessions/Relief/Subsidy**

5.4.1 The Election Commission invariably takes a humanitarian view on the works that are necessitated due to man made and natural calamities. It does not refuse approval for schemes undertaken for tackling emergencies or for providing relief to people suffering from drought, floods, pestilences, other natural calamities or welfare measures for the aged, infirm etc. In these matters, however, prior approval of the Election Commission should be taken and all ostentatious functions should be strictly avoided and no impression should be given or allowed to be created that such welfare measures or relief and rehabilitation works are being undertaken by the Government in office so as to influence the electors in favour of the party in power.

5.4.2 The Election Commission has directed (**Annexure VI**) that:

- (i) Ex-gratia payments and gratuitous relief in aftermath of a disaster can be given directly to the persons affected, at the current rates/scales of assistance presently in force, under intimation to the Election Commission. No change in the extant and prescribed scales of payments, however, shall be made in the existing rates/scales without prior permission of the Election Commission.
- (ii) The Election Commission has no objection to release of PM's/CM's Relief Fund for the medical treatments, provided selection

of beneficiaries/patients are done by the concerned Government officials/head of the concerned private hospitals. Payment directly to the hospitals from CM's/PM's Relief Fund, in lieu of direct cash payment to individual patients (beneficiaries) will be permissible without reference to the Election Commission.

- (iii) Emergent relief works and measures that are aimed to mitigate the hardships, directly and solely, of the persons affected in a disaster may be taken up under intimation to the Election Commission.
- (iv) However, new works that may be necessitated by way of preventive measures to mitigate the likely effects of natural disasters like repair of embankments, water channels etc. can be taken up only with prior permission of the Election Commission.
- (v) Also, an area shall not be declared drought/flood affected or any such calamity affected without prior approval of the Election Commission. The extent of area already declared to be calamity-affected cannot be expanded without prior approval of the Election Commission.
- (vi) Similarly, any selective assistance to a group of persons from the Prime Minister's/Chief Minister's Relief Fund will require prior approval of the Election Commission.
- (vii) Ministers and other authorities shall not sanction grants/payments out of discretionary funds.

5.4.3 Implementation of relief work in drought affected areas:- During 2004 general elections, the Election Commission approved the following modalities of implementing relief work in areas which have been declared as "drought affected" (**Annexure VIII**):-

- (i) The drought relief works by way of immediate relief measures to be taken up by the State Governments shall only be in the areas which have been declared as "drought affected" within the parameters laid down under the guidelines for managing of Calamity Relief Fund by the Central Government. No new areas are to be added to the existing list of such "drought affected" areas after the announcement of elections. Addition of any additional

area/village will only be subject to obtaining prior concurrence of the Election Commission after following due procedure for seeking assistance under the Calamity Relief Fund/ National Relief Fund specified by the Government of India for operation of such funds.

- (ii) To provide immediate relief in the areas declared as drought affected, the Election Commission approved the following measures on provisional basis:-
  - (a) Provision of drinking water by way of water tankers.
  - (b) Digging of bore-wells as well as dug-wells in scarcity areas on account of drying of the existing bore-wells/dug-wells.
  - (c) Provision of rice/wheat at prescribed rates for distribution among the destitute without support and who cannot go for work as per mechanism already prescribed in the Calamity Relief Fund Scheme.
  - (d) Provision of fodder for cattle.
  - (e) New works on wage employment (Food for work etc.) where such existing works have been completed.
- (iii) No minister of the Government or a political functionary will be associated in the management of the drought relief operations in any capacity, supervisory or otherwise.
- (iv) The entire relief operation would be taken up by the Division, District and Taluka/sub-District Administration without involving elected representatives and/or non-officials at any level.

## 5.5 Payment out of Discretionary Funds & MP/MLA LADS

- 5.5.1 The constitutional validity of the members of Parliament Local Area Development (MPLAD) Scheme was questioned before the Supreme Court in *Bhim Singh v Union of India and Ors.* It was contended that the scheme gave unfair advantage to sitting members of Parliament in as much as they could utilize the funds available to them to induce voters in their favour. However, the Supreme Court rejected the contention and

observed that spending from the MPLAD fund is subject to provisions of the Representation of the People's Act, 1951 and regulations of the Election Commission. In this connection, the Election Commission has instructed that no new schemes shall be sanctioned under the MPLAD scheme during the period Model Code is in force. Even where some sanction under the scheme has already been granted but the work has not commenced on ground at the time of coming into force of the Model Code, such work shall not be taken up and executed till completion of the election.

5.5.2 Release of funds under the MPLAD Schemes will be subject to the following restrictions (**Annexure IX**):-

- (i) No fresh release of funds under MPLAD (including Rajya Sabha members) Fund shall be made in any part of the country where election is in progress. Similarly, no fresh release of funds under the MLAs'/ MLCs' LAD Fund shall be made, if any such scheme is in operation, till completion of election process.
- (ii) No work shall start in respect of which work orders have been issued before the period Model Code comes in operation but the work has actually not started in the field. These works can start only after completion of election process. However, if a work has actually started, that can continue.
- (iii) There shall be no bar to the release of payments for completed work(s) subject to full satisfaction of the concerned officials.
- (iv) Where schemes have been cleared and funds are provided or released and materials procured and reached the site, such scheme may be executed as per programme.

## **5.6 Permission to Regular Financial Matters of Statutory Requirement**

The Election Commission allowed revision of wages rates under MGNREGA during general election to Karnataka State Assembly 2018 with subject to the standard conditions, as it is an annual feature and does not involve any new policy. Similarly, issue of notification on recommendation of Committee on GST Council meeting was permitted as the said financial matter was of statutory requirement with all India bearing. Likewise, the Election Commission also

permitted increase of EPF credit rate and reduction in rate of administrative charges payable by employer under EPF scheme.

## **5.7 Waiving Off of Recoveries and Bad Debts by State Government Financial Institutions**

The Election Commission has taken a view that financial institutions funded, partly or wholly, by the State Governments should not take recourse to writing off loans advanced to any individual, company, firm, etc. during the period when Model Code is in force, without the prior concurrence of the Election Commission. Similarly, the financial limits that these institutions have to adhere to while granting or extending loans should not be enhanced by issuing of loans indiscriminately to beneficiaries during Model Code period.

### **Administrative Matters**

## **5.8 Restriction on Ad Hoc Appointments**

5.8.1 Model Code envisages that during the period of its operation, no ad hoc appointments in government, public undertakings, etc. shall be made, which may have the effect of influencing the voters in favour of the party in power.

5.8.2 The policy of the Election Commission, has been that it does not object to the appointments/regular recruitment/promotions made on the results or recommendations of the Union or State Public Service Commissions, Staff Selection Commission or other such statutory bodies or regular promotions on the recommendations of departmental promotion committees. But in certain cases, even regular appointments being made in the normal course on the basis of due selection by the authorities concerned have been deferred till after the completion of elections.

5.8.3 Recruitment through non-statutory bodies will require prior clearance of the Election Commission. Normally, wherever the Election Commission considers that the matter is not of extreme urgency and could wait till the completion of the election process, it advises the government to defer such appointments for the time being. Some of the important proposals of appointments so deferred by the Election Commission

during elections held in past years was:-

- (i) reconstitution of the Delhi Urban Art Commission,
- (ii) reconstitution of the National Board for Wildlife,
- (iii) restructuring of the Brahmaputra Board into the Brahmaputra River Basin Authority,
- (iv) nomination of private individuals as chairmen of the governing councils of four new National Institutes of Design,
- (v) appointment of member in the National Commission For Scheduled Tribes,
- (vi) appointment of the Chairman, Central Board of Film Certification,
- (vii) appointment of advisory panel members in the Regional Centres of CBFC and
- (ix) nomination of three non-official members of the Central Silk Board.

## **5.9 Instances of Restriction on Other Administrative Decisions**

- 5.9.1 The Election Commission did not permit modification of lists of 'other backward classes (OBC)' and such other special categories of people by some of the state governments at the time of the general election to the House of the People in 1998, as that could be construed and perceived as being done with a view to influencing certain sections of the electorate and providing unfair advantage to the ruling parties.
- 5.9.2 Similarly, the setting up of the National Commission for Welfare of Socially and Economically Backward Sections among Religious and Linguistic Minorities by the Central Government in October 2004 when general elections were in progress to some state legislative assemblies, was considered by the Election Commission as violation of Model Code.
- 5.9.3 Likewise, the Election Commission did not accept proposals of the governments of Madhya Pradesh and Haryana for creation of some new districts on the eve of the general elections to the state legislative assemblies in 2003 and 2005, respectively.

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