

## ELECTION COMMISSION OF INDIA

Srivachan Sadan, Ashoka Road, New Delhi - 110 001.

No.3/1./2004/J.S.II

Dated:- 4<sup>th</sup> March, 2004.

To

The Chief Electoral Officers of  
all States and Union Territories.

Subject:- Conduct of Election (Amendment) Rules, 2004- regarding.

Sir/Madam.

I am directed to forward herewith a copy of the Conduct of Election (Amendment) Rules, 2004, notified by the Ministry of Law & Justice in pursuance of the Representation of the People (Amendment) Act, 2003 (No. 40 of 2003) forwarded to you vide Commission's letter of even no. dated 21<sup>st</sup> October, 2003. In the case of electors at election to Council of States, who are members of political parties, the political parties concerned, are entitled to appoint an agent (in Form 22A) to verify as to which candidate the elector has cast his vote. This verification can be done during the poll, before the ballot paper is inserted into the ballot box, and again, before the packets of ballot papers are sealed under sub-rule (2) of rule 84.

This may be brought to the notice of the Returning Officers for elections to the Council of States and other authorities concerned immediately. This may also be brought to the notice of the State units of recognised political parties.

Yours faithfully:

  
(K.F. WILFRED)  
SECRETARY

TO BE PUBLISHED IN THE GAZETTE OF INDIA EXTRAORDINARY,  
PART II, SECTION 3, SUB-SECTION (ii) DATED THE 27<sup>TH</sup> FEBRUARY, 2004.

GOVERNMENT OF INDIA  
MINISTRY OF LAW AND JUSTICE  
LEGISLATIVE DEPARTMENT

New Delhi, dated the 27<sup>th</sup> February, 2004.  
*Phalguna, 8, 1925 Saka*

NOTIFICATION

S.O. ---(E) .- In exercise of the powers conferred by section 169 of the Representation of the People Act, 1951 (43 of 1951), the Central Government, after consulting the Election Commission, makes the following rules further to amend the Conduct of Elections Rules, 1961, namely:-

1. (1) These rules may be called the Conduct of Elections (Amendment) Rules, 2004.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Conduct of Elections Rules, 1961,-

(1) in rule 42, in sub-rule (4), the following shall be inserted at the end, namely:-

'Provided that where such elector is a member of a political party in an election to fill a seat or seats in the Council of States, the presiding officer shall, before placing the tendered ballot paper in the said cover, allow the authorised agent of that political party to verify as to which candidate the elector has cast his vote.

*Explanation.-* For the purposes of this rule, "authorised agent", in respect of a political party, means an authorised agent appointed, under sub-rule (2) of rule 39AA as made applicable, by clause (ii) of rule 70, to election, in a council constituency and, by assembly members other than by postal ballot under clause (a) of rule 68, by that political party.';

(2) in rule 42A as made applicable, to notified polling stations, by clause (f) of sub-rule (3) of rule 49, in sub-rule (5), the following shall be inserted at the end, namely:-

'Provided that where the person referred to in sub-rule (3) is a member of a political party in an election to fill a seat or seats in the Council of States, the presiding officer, notwithstanding anything contained in sub-rule (3), shall, before the

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tendered ballot paper is placed in the said cover, allow the authorised agent of that political party to verify as to whom such person has cast his vote.

*Explanation.-* For the purposes of this rule, "authorised agent", in respect of a political party, means an authorised agent appointed, under sub-rule (2) of rule 39AA as made applicable, by clause (ii) of rule 70, to election, in a council constituency and, by assembly members other than by postal ballot under clause (a) of rule 68, by that political party.;

(3) for rule 67, the following rule shall be substituted, namely:-

67. Definition.- Unless the context otherwise requires, in this Part-

(a) and in rule 84, "authorised agent", in respect of a political party, means an authorised agent appointed, under sub-rule (2) of rule 39AA as made applicable, by clause (ii) of rule 70, to election, in a council constituency and, by assembly members other than by postal ballot under clause (a) of rule 68, by that political party;

(b) "election" means an election by assembly members or an election in a council constituency.;

(4) in rule 38A as made applicable, by clause (ii) of rule 70, to election, in a council constituency and, by assembly members other than by postal ballot under clause (a) of rule 68,-

(a) in sub-rule (2),-

(i) for clause (c), the following clause shall be substituted, namely:-

"(c) mark the name of the elector in the marked copy of the electoral roll to indicate that a ballot paper has been issued to him,-

(i) and record in the marked copy of the electoral roll, the serial number of the ballot paper issued to that elector, in the case of an election to fill a seat or seats in the Council of States;

(ii) without recording therein the serial number of the ballot paper issued to that elector, in the case of an election to fill a seat or seats in the Legislative Council of a State.;"

(ii) for the proviso, the following proviso shall be substituted, namely:-

"Provided that no ballot paper shall be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of that ballot paper.;"

(b) in sub-rule (4), for the words "No person", the words, figures and letters "Subject to rule 39AA, no person" shall be substituted;

(c) for sub-rule (5), the following sub-rule shall be substituted, namely:-

"(5) Before any ballot paper is delivered to an elector at an election to fill a seat or seats in the Legislative Council of a State by assembly members or in a local authorities' constituency, the serial number of the ballot papers shall be effectively concealed in such manner as the Election Commission may direct.";

(5) after rule 39A, as made applicable, by clause (ii) of rule 70, to election, in a council constituency and, by assembly members other than by postal ballot under clause (a) of rule 68, the following rule shall be inserted, namely:-

"39AA. Information regarding casting of votes.- (1) Notwithstanding anything contained in rule 39A, the presiding officer shall, between the period when an elector being a member of a political party records his vote on a ballot paper and before such elector inserts that ballot paper into the ballot box, allow the authorised agent of that political party to verify as to whom such elector has cast his vote:

Provided that if such elector refuses to show his marked ballot paper to the authorised agent of his political party, the ballot paper issued to him shall be taken back by the presiding officer or a polling officer under the direction of the presiding officer and the ballot paper so taken back shall then be further dealt with in the manner specified in sub-rules (6) to (8) of rule 39A as if such ballot paper had been taken back under sub-rule (5) of that rule.

(2) Every political party, whose member as an elector casts a vote at a polling station, shall, for the purposes of sub-rule (1), appoint, in Form 22A, two authorised agents.

(3) An authorised agent appointed under sub-rule (2) shall be present throughout the polling hours at the polling station and the other shall relieve him when he goes out of the polling station or *vice versa*.";

(6) in rule 73, in sub-rule (2), for the words "A ballot paper shall", the words, figures, letter and brackets "Subject to rule 38A as made applicable, by clause (ii) of rule 70, to election, in a council constituency and, by assembly members other than by postal ballot under clause (a) of rule 68, a ballot paper shall" shall be substituted;

(7) in rule 84, in sub-rule (2), the following proviso shall be inserted at the end, namely:-

"Provided that where such counting relates to an election to fill a seat or seats in the Council of States, the returning officer shall, before sealing the packets under

clause (b), allow the authorised agent of a political party to verify as to whom the electors being members of that political party have cast their votes.”;

(8) after Form 22 appended therewith, the following Form shall be inserted, namely:-

“FORM 22A  
[See rule 39AA(2)]

Appointment letter

Election of the -----

I.....\*President/General Secretary of.....Party do hereby appoint the following persons as the authorised agents of the Party to verify under rule \*39AA/ rule 42/ rule 42A/ rule 84 as to whom the electors who are the members of the said political party have cast their votes. Photographs of the aforesaid authorised agents are pasted hereunder and is attested under my hand and seal.

Name of the authorised agents

Address of the authorised agents

1.....  
2.....

Signature of \* President/  
General Secretary of the Party)

(Seal)

We agree to act as such authorised agents

Signature of the authorised agents

1.....  
2.....

Space for the photographs

\*Strike off the inappropriate alternative.”

[F.No.H-11019(1)/99-Leg.II]

(N.L. MEENA)

Joint Secretary and Legislative Counsel to the Government of India.

Note: The principal rules were published in the Gazette of India, Extraordinary vide notification number S.O. 859, dated the 15<sup>th</sup> April, 1961 and last amended vide notification number S.O.1294 (E), dated the 11<sup>th</sup> November, 2003.