

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/1/2008-CC&BE

Dated: 24th October, 2008

To

1. The Cabinet Secretary,
Government of India,
Rashtrapati Bhawan,
New Delhi.
2. The Chief Secretaries of
all States and Union Territories.
3. The Chief Electoral Officers of
all States and Union Territories.

Subject: Election Expenditure on travel by Lead Campaigners - Use of helicopter for election campaign, etc.

Sir,

I am directed to state that according to sub-section (1) of section 77 of the Representation of the People Act, 1951 it is provided that “**Every candidate** at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent between the date on which he has been nominated and the date of declaration of the result thereof, both dates inclusive”. Under sub-section (2) it is provided that the account shall contain such particulars as may be prescribed, and under sub-section (3), it is laid down that the total of the said expenditure shall not exceed such amount as may be prescribed.

2. Explanation (1) to section 77(1) provides that the expenditure by leaders of a political party (usually referred to by us as star campaigners) on account of their travel by air or any other means of transport for propagating programme of a political party shall not be deemed to be expenditure in connection with the election incurred or authorized by a candidate of that political party.

3. The provisions of section 77(1) and Explanation (1) there – under have to be so harmoniously read that they do not nullify the main object underlying the provisions of section

77(1). Section 77(1) clearly stipulates that a candidate has to account for all his election expense, incurred or authorized by him or by his election agent. Explanation (1) is in the nature of an exemption from account of such expenditure which is incurred by the leaders of the political party in connection with the candidate's election, so that election campaign may be carried out in his constituency by leaders of his political party and any expenditure incurred on their travel by or any other means of transport may not form part of the candidate's overall expenditure. It therefore follows that a candidate who has been declared as leader by a Political Party for the purposes of Explanation to Section 77(1), cannot not considered to be a leader of his political party **in his own constituency** within the meaning of Explanation (1) to section 77(1), whatever may be his standing in relation to other candidates of his party in the other constituencies. In his own constituency(ies), he is a candidate first. Thus, whatever expenditure he incurs on his own travel within his constituency(ies), on his travel whether by helicopter/aircraft or by any other means of transport, the same has to be accounted for within his overall limit of maximum expenditure prescribed for his constituency. When he goes out of his constituency to the other constituency as a star campaigner, the expenditure on his travel from his constituency to the other constituency would fall within the exempted category, and so also his travel expenditure from the other constituency to his own constituency when he comes back for his own campaign would be so exempted. But once he reaches his constituency and travels within the said constituency, his expenditure on such travel within his constituency would be liable to be accounted for by him. Any other interpretation of the above mentioned provisions would defeat the very object underlying section 77(1). This would be more evidently glaring in the case of bye-elections where a political party may include the name of its candidate as a star campaigner and that would give him a license to travel within his constituency by adopting any means of communication and without accounting for the same.

Yours faithfully,

(K. N. BHAR)
UNDER SECRETARY

Copy to:

All recognized National & State Political parties.