

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi 110 001.

No.ECI/PN/26/2010

Dated : 3rd August, 2010

PRESS NOTE

A news report regarding alleged bribery of MLAs of Jharkhand Legislative Assembly to seek votes in the recently held election to the Rajya Sabha from the said state was shown in a news channel on 2nd of August,2010. The Commission discussed today the said news report in all its ramifications and directed that the government of Jharkhand lodge necessary FIR under relevant provisions of the law in the matter.

2. The channel has shown a few MLAs of Jharkhand Legislative Assembly as saying that on payment, they can get their and their colleague's first and second preference votes in the manner desired by the payer. This amounts to offence of bribery at an election under section 171-B of the IPC which reads as under:

(1)Whoever-

- (i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or
- (ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right,
commits the offence of bribery:

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

- (2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.
- (3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

3. It also amounts to offence under section 8 and 9 of Prevention of Corruption Act which reads as under:

Sec. 8: Taking gratification, in order, by corrupt or illegal means, to influence public servant:

Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant, whether named or otherwise, to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

Sec:9. Taking gratification, for exercise of personal influence with public servant:

Whoever accepts or obtains or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant whether named or otherwise to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment for a term which shall be not less than

six months but which may extend to five years and shall also be liable to fine.

By order

(Tapas Kumar)
Principal Secretary