

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi 110 001.

No. 491/Media/2010

Dated: 8th June, 2010

To

**Chief Electoral Officers
of all States and Union Territories**

Sub: Measures to check 'Paid News' during elections i.e. advertising in the garb of news in Media

Sir/Madam,

I am directed to invite your attention to the subject cited and to state that the recent phenomenon of 'Paid News', which is assuming alarming proportion as a serious electoral malpractice, has been causing concern to the Commission in the context of conduct of free and fair elections. Several political parties and media groups have also conveyed their similar concerns to the Commission. There has been dialogue of several stakeholders with the Commission at different platforms and there is near unanimity to take necessary steps to put a halt to such mal-practice which puts undue influence on the free will of the voters, encourages the role of money power in a covert manner and disturbs level playing field in elections. The practice of paid news has to be seen as an attempt to circumvent the provisions of Sections 77 and 123 (6) of R.P. Act 1951 which prescribe accounting and ceiling of election expenses and make exceeding such prescribed limits a corrupt practice in elections.

2. The Commission has directed that maximum vigilance may be observed by making use of the existing provisions of law so that the incidence of 'Paid News' or surrogate advertisements in Print and Electronic media in the context of elections is arrested. The cases of 'Paid News' generally manifest in the forms of news

articles/reports published about a particular candidate or a party eulogising them, or similar news articles/reports denigrating the opponents, both intended at unduly influencing the voters. The same or similar type of news articles/reportings (with cosmetic modifications) appearing in more than one newspaper periodical would amount to further corroboration as circumstantial evidence that such news publication could result from collusion of the candidate/party with the editors, publishers, financiers of the newspaper etc. Such collusion would, however, have generally no transactional evidence of payment of consideration in cash or kind.

3. Legal provisions under Sec.127A of the R.P. Act, 1951 make it mandatory for the publisher of an election advertisement, pamphlet, etc., to print the name and address of the publisher as well as printer and failure to do so attracts penalty of imprisonment up to two years and/or fine of Rs.2000/-. Section 171 H of the IPC prohibits incurring of expenditure on, interalia, advertisement without the authority of the contesting candidate. The Commission's detailed instruction No. 3/9/2007/JS-II dated 16th October, 2007 in this behalf may be seen (copy enclosed). The said instruction covers the declared or specified release as advertisement inserted in the newspaper, etc., and disclosure of amount paid for such advertisements, but in the case of 'Paid news'/surrogate news, such payment is seldom disclosed as the matter is camouflaged as news though serving the purpose of advertisement only. For the purpose of Sec.127A (1) of the R.P.Act, 1951, "election pamphlet or poster' means any printed pamphlet, hand-bills **or other document** distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates". Thus, 'Paid News' would also fall in the category of 'other document' liable to be included in 'election pamphlet & poster' and action taken accordingly. Hence, an obvious case of news reporting in the print media dedicated/giving advantage to a particular candidate or the party while ignoring/causing prejudice to other candidates and parties would require investigation.

4. The Commission directs that for the purposes of above investigation, district level committees may be constituted by the DEOs in each district as soon as election is announced to do vigorous scrutiny of all newspapers, published or having circulation in

the district in order to locate political advertisement in the garb of news coverage appearing within the election period. DEOs should closely monitor advertisements released in print media in any form including surrogate advertising in the form of news, and serve notices to candidates/political parties where called for, so that the expenses incurred thereon are duly reflected in the account of the concerned candidate/party.

5. Similarly, the District Committee should also keep a watch on the election news/features, etc. on the electronic media in the district. When there is disproportionate coverage to the speech/activities of a candidate on television/radio channels, which is likely to influence the voters and yield electoral benefit to a particular candidate, and the same coverage appears in several channels, then the candidate should be served with notices by the DEOs to explain her/his stand as to why the coverage should not be treated as advertisement, and matter should be reported to the Commission.

6. The Commission has already issued Order No. 509/75/2004/J.S.-I dated 15th April, 2004 consequent upon order of the Hon'ble Supreme Court of India in SLP (C) No. 6679/2004, (Ministry of Information and Broadcasting vs. M/s Gemini TV Pvt.Ltd and Others) providing for the constitution of a committee for previewing, scrutinizing and verifying all advertisements by individual contesting candidates or political parties, before it is inserted in the electronic media. The aforesaid phenomenon of Paid News by-passes the scrutiny of the Committee despite being a political advertisement in spirit and also evades accounting in the expenses book of the candidates. CEOs may strengthen these Committees so as to also scrutinize the news reports in electronic media, which bear the character of political advertisement, though without being declared to be so. Notices to candidates/parties may be issued by the CEOs on the basis of recommendation of such Committees.

7. The Commission should be kept informed of all cases where notices as aforesaid are issued to parties/candidates.

8. The receipt of this letter may be acknowledged and the Commission informed of the action taken.

Yours faithfully,

(Tapas Kumar)
Principal Secretary