

Election Commission of India

Nirvachan Sadan, Ashoka Road, New Delhi 110001

No. 464/INST/2007-PLN-I

Dated: 24th February, 2007

To

The Chief Electoral Officers
of all States and Union Territories

Subject: Restrictions on persons having security cover to become
Election/Polling/Counting Agent-regarding.

Sir,

The Commission has, in the past, issued various instructions from time to time on the appointment of MPs, MLAs and other persons having security cover as election/polling/counting agents, during General Elections/Bye-elections. For convenience of all concerned, these instructions have now been consolidated which are as under:

1. Section 134(B) of the Representation of the People Act, 1951, provides as under:-

"Prohibition of going armed to or near a polling station -

(1) No person, other than the Returning Officer, the Presiding Officer, any Police Officer and any other person appointed to maintain peace and order, at a polling station who is on duty at polling station, shall, on a polling day, go armed with arms, as defined in the Arms Act, 1959(54 of 1959), of any kind within the neighborhood of a polling station.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable with an imprisonment for a term which may extend to two years, or with fine, or with both.

(3) Notwithstanding anything contained in the Arms Act, 1959 (54 of 1959), where a person is convicted of an offence under this Section, the arms as defined in the said Act found in his possession shall be liable to confiscation and the license granted in relation to such arms shall be deemed to have been revoked under section 17 of the Act.

(4) An offence punishable under sub-section (2) shall be cognizable."

Neighborhood of a polling station should be construed to mean an area within a radius of 100 meters from the polling booth on the analogy of Section 130 of the Representation of the People Act, 1951.

2. A tendency has been observed on the part of some candidates to appoint a sitting Minister/M.P/M.L.A as their Election/Polling/Counting Agents. These persons generally have security cover provided to them by the State/Security Agencies. In view of the embargo placed by Sections 130 and 134(B) of the Representation of the People Act, 1951, no security personnel deployed as security cover to the said persons can move around the polling stations which, in turn, restricts the movement of the Minister/MP/MLA or any other person being covered by them, defeating the very purpose for which an election /polling or counting agent is appointed.

3 On several occasions in the past, requests had been received by the Returning Officers from the above category of persons to allow them to relinquish the security cover provided to them in order to enable them to act as Election/Polling/Counting agents. The Commission cannot allow an MP/MLA/any other person to surrender his security, which was provided to him by the State/Security Agency after duly assessing the needs of such security cover.

4. The aspect that a recipient of such security cannot be allowed to deliberately jeopardize his own security should be kept in view by all the Returning Officers/Presiding Officers at the time of approving of the appointments of Election/Polling/Counting Agents.

5. This may be brought to the notice of all Returning Officers, Assistant Returning Officers, Presiding Officers, Political Parties and the candidates.

6. The receipt of this letter may kindly be acknowledged.

Yours faithfully

(K. N. BHAR)
UNDER SECRETARY