

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

No. 52/2012/SDR

Date: 16th October, 2012

To,

The Chief Electoral Officers
of all States/UTs.

Sub: Guidelines for smooth management of Postal Ballot Papers for Police Officers on poll duty - regarding.

Ref: - ECI letters No. 52/2008 JS-II dated 21st October 2008, No. 52/2009/JS-II/SDR dated 4th February 2009, No. 59/2009/SDR (JS-II) dated 25th March 2009 and 52/2012/SDR dated 13th August 2012.

Sir/Madam,

I am directed to inform you that in W.P. No. 4783 of 2006 filed before the Hon'ble High Court of Judicature at Madras by K. Shivakumar Vs. CEC & others, a prayer was made to issue direction to notify and declare all policemen in the State as persons entitled to Postal Ballots Papers and to ensure that all arrangements are made to enable all policemen to vote during elections.

2. The Hon'ble Madras High Court, during the course of hearing, observed that in view of the fact that as a matter of practice all police force from constable to DGP of the State are brought within the ambit of Section 28A of the R.P. Act, 1951 and subjected to the control, superintendence and discipline of the Election Commission during the election period whether it would be possible to devise a method by which the problem of many police personnel not being able to cast vote on the poll day at the polling station could be solved by extending the facility of postal ballot paper to all the policemen of the State Police Department instead of restricting it only to those police personnel who are engaged in election related duties on the day of poll.

3. The Commission considered the matter and decided that the facility of postal ballot could be extended to all the police officials, except those who are on leave during the election period, considering the facts that all the police personnel are notified under section 28A of the Representation of the People Act, 1951 as on deputation to the Commission in connection with elections and that though there could be certain police personnel who may not actually be appointed for any direct poll related work, but are indirectly in one way or the other performing duties related to elections on the day of poll. It was also considered that for availing of the facility of postal ballot, the police personnel will have to fulfill all the legal and procedural formalities for voting through postal ballots, including submitting the application in the requisite format (Form 12 appended to the Conduct of Election Rules, 1961) to the Returning Officer seeking issue of postal ballot paper, etc. as in the case of the other staff on election duty.

4. The above decisions of the Commission were placed before the Hon'ble High Court which took cognizance of the above decisions and disposed of the Writ Petition without any further direction vide order dated 22.08.2012.

5. Accordingly, the Commission has directed that all police personnel in the State who are covered under the notification issued by the State Govt. in terms of Section 28A of the RP Act 1951, at every election, would be treated as personnel on election duty and hence would be entitled to vote through postal ballot.

6. As follow up of the above judgment of the Hon'ble Madras High Court, and the Commission's above decision, the instructions contained in sub-para (b) of para 2 of Commission's letter of even no. dated 13.08.2012 about smooth management of postal ballots papers for police officers on poll duty may be considered as omitted and the subsequent sub-paragraphs of para 2 may be re-numbered accordingly. All the procedural requirements in para 2 [except sub-para (b)] will be duly observed and followed.

7. The Returning officers will ensure issue of postal ballot paper to all those police personnel who submit their application for issue of postal ballots papers under rule 20 of CE Rules 1961 at the training / facilitation centres or otherwise so as to reach him at least 7 days or such shorter period as the Returning Officer may allow before the date of poll.

8. Kindly acknowledge the receipt. These instructions may be brought to the notice of the Home Department of the State with the request to communicate this to the SPs at District Level so that they may brief the police personnel to apply for postal ballot if they desire to vote by post. The SPs may co-ordinate with the DEO/ROs for this purpose at the time of elections.

Yours faithfully,

(Ashish Chakraborty)
Secretary