

# ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi - 110001

No. ECI/PN/39/2002/MCPS

Dated 23<sup>rd</sup> October, 2002

## PRESS NOTE

**Subject: - Biennial elections to the Rajya Sabha to fill the seats of members retiring in November, 2002 and bye-elections to the Rajya Sabha and Legislative Council of Uttar Pradesh**

### Biennial Elections to Rajya Sabha

The term of office of 15 members of the Rajya Sabha elected from 3 States is due to expire on their retirement as detailed below:

State	No. of members retiring	Date of retirement
Jammu & Kashmir	1	25.11.2002
	3	29.11.2002
Uttaranchal	1	25.11.2002
Uttar Pradesh	10	25.11.2002

A statement showing the names of members retiring as mentioned above is given in Appendix.

2. In respect of members of the Rajya Sabha to be elected by the members of the Jammu & Kashmir Legislative Assembly, all the four seats are to be filled up on account of biennial retirement of members. On the last occasion, these four vacancies were filled up by holding three separate elections, in accordance with the law on the subject. Consequently the four members to be elected now shall hold office for the full tenure of six years.

3. The Commission has also noted that the Jammu & Kashmir Legislative Assembly has been duly constituted under section 82 of the Jammu & Kashmir Representation of the People Act, 1957 on 13<sup>th</sup> October 2002. The House is yet to be convened for its first meeting. In such cases, the Hon'ble Supreme Court has held

that the MLAs once elected can vote for electing members of the Council of States, even though they have not formally taken oath as such. The relevant portion of the judgment of the Supreme Court is extracted below: -

“ We are of the view that an elected member who has not taken oath but whose name appears in the notification published under section 73 of the Act can take part in all non-legislative activities of an elected member. The right of voting at an election to the Rajya Sabha can also be exercised by him. In this case since it is not disputed that the name of the proposed had been included before the date on which he proposed the name of the appellant as a candidate in the notification published under section 73 of the Act and in the electoral roll maintained under section 152 of the Act, it should be held that there was no infirmity in the nomination. For the same reason even the electoral roll which contained the names of elected members appearing in the notification issued under section 73 of the Act cannot be held to be illegal. That is how even respondent No. 1 appears to have understood the true legal position as he was also proposed as a candidate by an elector who had not yet made oath or affirmation.”

( Pashupati Nath vs Nem Chandra Jain and others - 74 ELR 83)

4. The Commission has decided to hold the above mentioned Biennial Elections in accordance with the following programme:

i	Issue of notifications	01.11.2002 (Friday)
ii	Last date for making nominations	08.11.2002 (Friday)
iii	Date of Scrutiny of nominations	09.11.2002 (Saturday)
iv	Last date for the withdrawal of candidatures	11.11.2002 (Monday)
v	Date of poll	18.11.2002 (Monday)
vi	Hours of poll	9.00 AM to 4.00 PM
vii	Counting of votes	18.11.2002 at 5.00 PM
viii	Date before which elections shall be completed	21.11.2002 (Thursday)

**Bye-elections to Rajya Sabha from Uttar Pradesh**

**There is one casual vacancy in the Rajya Sabha from Uttar Pradesh caused by the resignation of Shri T.N.Chaturvedi on 20.8.2002. The Commission has decided to fill up this vacancy in accordance with the above mentioned programme**

**Bye-election to Uttar Pradesh Legislative Council by MLAs**

**There is one casual vacancy in the Uttar Pradesh Legislative Council caused by the death of Shri Masood Khan on 3.7.2002. The Commission has decided to fill up this vacancy in the Uttar Pradesh Legislative Council by MLAs in accordance with the above mentioned programme**

**(SHANGARA RAM)  
SECRETARY**

