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ELECTION COMMISSION OF INDIA

Nirvachan Sadhan,
Ashoka Road,
New Delhi—110 001.

No. 56/97-Judl.III

Dated: 15th December, 1997.

Agrahayana 24, 1919 (Saka)

NOTIFICATION

In exercise of the powers conferred by Article 324 of the Constitution of India read with Rules 5 and 10 of the Conduct of Elections Rules 1961, and all other powers enabling it in this behalf, the Election Commission of India hereby makes the following Order to further amend the Election Symbols (Reservation and Allotment) Order, 1968, namely:—

1. SHORT TITLE AND COMMENCEMENT :—

(1) This order may be called the Election Symbols (Reservation and Allotment) (Amendment) Order, 1997.

(2) It shall come into force on the date of its publication in the Gazette of India.

2. AMENDMENT OF PARAGRAPH 2:—

In the Election Symbols (Reservation and Allotment Order, 1968 (hereinafter referred to as the 'principal Order'), in paragraph 2, in sub-paragraph (1), after clause (e), the following clause shall be inserted, namely:—

(ee) "form" means a form appended to this Order."

3. AMENDMENT OF PARAGRAPH 6 :—

In paragraph 6 of the principal Order, for sub-paragraph (2), the following sub-paragraphs shall be substituted, namely :—

“(2) A political party shall be treated as a recognised political party in a State, if, and only if, either the conditions specified in clause (A) are, or the condition specified in clause (B) is, fulfilled by that party, and not otherwise, that is to say :—

(A) that such party —

(a) has been engaged in political activity for a continuous period of five years; and

(b) has, at the last general election in that State to the House of the People, or, as the case may be, to the Legislative Assembly of the State, returned:—

either (i) at least one member to the House of the People for every twenty five members of that House or any fraction of that number elected from that State;

or (ii) at least one member to the Legislative Assembly of that State for every thirty members of that Assembly or any fraction of that number;

(B) that the total number of valid votes polled by all the contesting candidates set up by such party at the last general election in the State to the House of the People, or as the case may be, to the Legislative Assembly of the State, is not less than six per cent of the total number of valid votes polled by all the contesting candidates at such general election in the State.

(2A) Notwithstanding anything contained in clause (B) of sub-paragraph (2), a political party shall be treated as a recognised political party in a State, if, at the general election to the House of the People or, as the case may be, to the Legislative Assembly of the State, in existence and functioning at or immediately before the commencement of the Election Symbols (Reservation and Allotment) (Amendment) Order, 1997, the total number of valid votes polled by all the contesting candidates set up by such party (but excluding the valid votes of each such candidate in a constituency as has not been elected and has not polled at least one twelfth of the total valid votes polled by all the contesting candidates in that constituency) is not less than four per cent of the total number of valid votes polled by all the contesting candidates at such general election in that State (including the valid votes of those contesting candidates who have forfeited their deposits).”.

4. SUBSTITUTION OF NEW PARAGRAPH FOR PARAGRAPH 7 :— (1) For paragraph 7 of the principal Order, the following paragraph shall be substituted, namely :—

“7. TWO CATEGORIES OF RECOGNISED POLITICAL PARTIES.— (1) If a political party is treated as a recognised political party in accordance with paragraph 6 in four or more States, it shall be known as, and shall have and

enjoy the status of, a "National party" throughout the whole of India, but only so long as that political party continues to fulfil thereafter the conditions specified in paragraph 6 for such recognition in four or more States on the results of any subsequent general election either to the House of the People or to the Legislative Assembly of any State.

(2) If a political party is treated as a recognised political party in accordance with paragraph 6 in less than four States, it shall be known as, and shall have and enjoy the status of, a "State Party" in the State or States in which it is so recognised, but only so long as that political party continues to fulfil thereafter the conditions specified in paragraph 6 for such recognition as a State Party on the results of any subsequent general election to the House of the People or, as the case may be, to the Legislative Assembly of the State, in the said State or States."

5. SUBSTITUTION OF NEW PARAGRAPH FOR PARAGRAPH 9 :-

For paragraph 9 of the Principal Order, the following paragraph shall be substituted, namely:-

"9. RESTRICTION ON THE ALLOTMENT OF SYMBOLS RESERVED FOR STATE PARTIES IN STATES WHERE SUCH PARTIES ARE NOT RECOGNISED — A symbol reserved for a State Party in any State—

(c) shall not be included in the list of free symbols for any other State; and

(b) shall not be reserved for any other party which subsequently becomes eligible, on fulfilment of the conditions specified in paragraph 6, for recognition as a State Party in any other State:

Provided that nothing contained in clause (b) shall apply in relation to a political party, for which the Commission has, immediately before the commencement of the Election Symbols (Reservation and Allotment) (Amendment) Order, 1997, already reserved the same symbol which it has also reserved for some other State Party or Parties in any other State or States."

6. SUBSTITUTION OF NEW PARAGRAPH FOR PARAGRAPH 10 :- For paragraph 10 of the principal Order, the following paragraph shall be substituted, namely :

"10. CONCESSIONS TO CANDIDATES SET UP BY A STATE PARTY AT ELECTIONS IN OTHER STATES :- If a political party, which is recognised as a State Party in some State or States, sets up a candidate at an election in a constituency in any other State, in which it is not a recognised State Party, then such candidate may, to the exclusion of all other candidates in the constituency, be allotted the symbol reserved for that party in the State or States in which it is a recognised State Party, notwithstanding that such symbol is not specified in the list of symbols for such other State, on the fulfilment of each of the following conditions, namely :-

(a) that an application is made to the Commission by the said party for exclusive allotment of that symbol to the candidate set up by it, not later than the third day after the publication in the Official Gazette of the notification calling the election;

(b) that the said candidate has made a declaration in his nomination paper that he has been set up by that party at the election and that the party has also fulfilled the requirements of clauses (b), (c) and (d) of paragraph 13 in respect of such candidate; and

(c) that in the opinion of the Commission there is no reasonable ground for refusing the application for such allotment:

Provided that nothing contained in this paragraph shall apply to a candidate set up by a State Party at an election in any constituency in a State in which that party is not a State party and where the same symbol is already reserved for some other State Party in that State."

7. **SUBSTITUTION OF NEW PARAGRAPH 12** :-- For paragraph 12 of the principal Order, the following paragraph shall be substituted, namely:—

"12. CHOICE OF SYMBOLS BY OTHER CANDIDATES AND ALLOTMENT THEREOF.—(1) Any candidate at an election in a constituency in a State

other than—

(a) a candidate set up by a National party; or

(b) a candidate set up by a political party which is a State party in that State; or

(c) a candidate referred to in paragraph 10; shall choose and shall be allotted in accordance with the provisions hereafter set out in this paragraph, one of the symbols specified as free symbols for that State by notification under paragraph 17.

(2) Where any free symbol has been chosen by only one candidate at such election, the returning officer shall allot that symbol to that candidate and to no one else.

(3) Where the same free symbol has been chosen by several candidates at such election, then—

(a) if of those several candidates, only one is a candidate set up by a political party, which is at present an unrecognised political party but which was a recognised State Party in that State not earlier than six years from the date of notification of such election, the Returning Officer shall allot that free symbol to the candidate set up by such unrecognised political party and to no one else;

and, if of those several candidates, two or more candidates are set up by such unrecognised political parties, which previously were recognised State Parties in that State, the Returning Officer shall decide by lot as to which of these two or more candidates set up by the said political parties that free symbol shall be allotted and allot that free symbol to the candidate on whom the lot falls and to no one else;

(b) if of those several candidates, only one is a candidate set up by an unrecognised political party and all the rest are independent candidates, the Returning Officer shall allot that free symbol to the candidate set up by the unrecognised political party and to no one else and if of those several candidates, two or more are set up by different [other than the parties referred to in clause (a)] and the rest are independent candidates, the returning officer shall decide by lot to which of the two or more candidates set up by the different that free symbol shall be allotted and allot that free symbol to the candidate on whom the lot falls and to no one else;

Provided that where of two or more such candidates set up by such different

such election, a sitting member of the House of the People, or, as the case may be, of the Legislative Assembly (irrespective of the fact as to whether he was allotted that free symbol or any other symbol at the previous election when he was chosen as such member), the returning officer shall allot that free symbol to that candidate and to no one else;

(c) if of those several candidates, no one is set up by any unrecognised political party but all are independent candidates and one of the independent candidates is, or was immediately before such election a sitting member of the House of the People, or as the case may be, of the Legislative Assembly, and was allotted that free symbol at the previous election when he was chosen as such member, the returning officer shall allot that free symbol to that candidate and to no one else; and

(d) if of those several candidate, being all independent candidates, no one is or was a sitting member as aforesaid, the returning officer shall decide by lot to which of those independent candidates that free symbol shall be allotted and allot that free symbol to the candidate on whom the lot falls and to no one else;

8. **SUBSTITUTION OF NEW PARAGRAPH FOR PARAGRAPH 13 :-** For paragraph 13 of the principal Order, the following paragraph shall be substituted, namely :-

"13. WHEN A CANDIDATE SHALL BE DEEMED TO BE SET UP BY A POLITICAL PARTY:- For the purposes of this Order, a candidate shall be deemed to be set up by a political party if, and only if,-

(a) the candidate has made a declaration to this effect in his nomination paper;

(b) a notice in writing, in Form B to that effect on the last date for making nominations, been delivered to the Returning Officer of the constituency and the Chief Electoral Officer of the State;

(c) the said notice is signed by the President, the Secretary or any other office bearer of the party and the President, Secretary or such other office bearer is authorised by the party to send such notice;

(d) the name and specimen signature of such authorised person are communicated to the returning Officer of the constituency and to the Chief Electoral Officer of the State, in Form A not later than 3 p. m. on the last date for making nominations; and

(e) Forms A and B are signed, in ink only, by the said office bearer authorised by the party;

Provided that no facsimile signature or signature by means of rubber stamp, etc., of any such office bearer shall be accepted and no form transmitted by fax shall be accepted.

9. INSERTION OF FORMS A AND B :—

After paragraph 19 of the principle Order, the following forms shall be inserted :—

"FORM A

7 Communication with regard to Authorized Persons to intimate name of Candidates set up by recognised NATIONAL OR STATE Political party or REGISTERED UNRECOGNISED political Party.

(See paragraph 13(c), (d) and (e) of the Election Symbols (Reservation and Allotment) Order, 1968)

To

1. The Chief Electoral Officer,
.....(State/Union Territory).
2. The Returning Officer for the
.....Constituency.

Subject :- General Elections to from(State/Union Territory) - Allotment of Symbols - Authorisation of persons to intimate names of candidates.

Sir,

In pursuance of paragraph 13 (c) (d) and (e) of the Election Symbols (Reservation and Allotment) Order, 1968, I hereby communicate that the following person (s) has/have been authorised by the party, which is National Party/State Party in the State of /Registered Un-recognised Party to intimate the names of the candidates proposed to be set up by the party at the election cited above.

Name of person authorised to send notice	Name of office held in the party	District(s)/area(s) constituency/constituencies in respect of which he has been authorised
1	2	3
1.		
2.		
3.		

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2. The specimen signatures of the above mentioned person (s) so authorised are given below :-

1. Specimen signatures of Shri

(i) (ii)

(iii)

2. Specimen signatures of Shri

(i) (ii)

(iii)

3. Specimen signatures of Shri

(i) (ii)

(iii)

Yours faithfully, *

Place

President/Secretary
Name of the Party

Date

(Seal of the Party)

NB.

1. This must be delivered to the Returning Officer and the Chief Electoral Officer not later than 3 p.m on the last date for making nominations.
2. Form must be signed in ink by the office bearer (s) mentioned above. No facsimile signature or signature by means of rubber stamp, etc., of any office bearer shall be accepted.
3. No form transmitted by fax shall be accepted.

FORM B

Notice as to names of candidates set up by the political party
(See paragraph 13(b) and (e) of the Election Symbols
(Reservation and Allotment) Order 1968)

To

3. The Chief Electoral Officer,
.....(State/Union Territory).

4. The Returning Officer for the
.....Constituency.

Subject :- General Elections to.....From.....(State/Union
Territory)- setting up of candidate.

Sir,

In pursuance of paragraph 13 (b) and (e) of the Election Symbols
(Reservation and Allotment) Order, 1968, I hereby give notice that the following
persons have been set up by party as its candidates at the on-
suing General Election from the constituency noted against :

Name of the constituency	Name of the ap- proved candi- date	Father's/ Husband's name of approved- candidate	Postal address of ap- proved candi- date	Name of the substi- tute candi- date (who will step- in on the approved candidate nomina- tion being rejected on scrutiny	Father's/ Hus- band's name of substitute candidate	Postal address of sub- stitute candi- date
1	2	3	4	5	6	7

Yours faithfully,

(Name and Signature of the
Authorised person of the party)

(Seal of the Party)

Place

Date

NB.

4. This must be delivered to the Returning Officer and the Chief Electoral Officer not later than 3 p.m. on the last date for making nominations.
5. Form must be signed in ink by the office bearer (s) mentioned above. No facsimile signature by means of rubber stamp, etc., of any office bearer shall accepted.
6. No form transmitted by fax shall be accepted."

By Order,

(K.J. RAO)
SECRETARY