

Code of Conduct- DOs & DONTs

[For Ministers, Secys./ HODs- LS Elections 2009]

The Commission has drawn up a list of 'dos' and 'don'ts' to be followed by candidates and political parties after the announcement of elections and till the completion of the process of elections.

[Compendium of Instructions on Conduct of Elections & Guidelines of the Commission in letter no. 437/6/2009-CC & BE dated 5th of March 2009]

On schemes and works

1. *Announcement of new projects or programme or concessions or financial grants in any form or promises thereof or laying of foundation stones, etc., which have the effect of influencing the voters in favour of the party in power is prohibited.*

These restrictions apply equally to new schemes and also ongoing schemes.

No fresh sanctions for governmental schemes should be made.

New works & project cannot be taken up from discretionary funds of whatever nature. Discretionary fund, in this context, includes funds which are provided for in the budget in a generic manner & for which no identified & sanctioned project exists prior to the Model Code of Conduct coming into force. [Guidelines of the Commission in letter no. 437/6/2009-CC & BE dated 5th of March 2009]

Simply because a scheme has been sanctioned earlier or a reference was made in the address of the Governor/ budget speech of the Minister, it does not mean that such schemes can be taken up when the Model Code of conduct is in operation

No fresh release of funds on welfare schemes and works should be made or contract for works awarded in any part of the state where election is in progress

This includes works under MP (including Rajya Sabha members) Local Area Development (LAD) fund or MLAs / MLCs LAD Fund.

2. *However, in case of schemes, which have already been brought up to the stage of completion, their functioning in public interest need not be stopped or delayed.*

The *commissioning* of such schemes can be done *by civil authority and without associating political functionaries and without any fanfare or ceremonies* whatever, so that no impression is given or created that such commissioning has been done with a view to influencing the electorate in favour of ruling party.

3. Review by political executive (Ministers etc.) and processing of beneficiary oriented schemes, even if ongoing, should be stopped till completion of elections.

4. *No work shall start* in respect of which even if work orders have been issued earlier, *if the work has actually not started in the field.* These works can start only after the completion of election process.

The following types of existing works can be continued by the governmental agencies [ECI's Ir. No. 437/6/2009-CC & BE dated 5th of March 2009]:

(a) Work-projects that have actually started on the ground after obtaining all necessary sanctions can be continued.

(b) Beneficiary projects where specific beneficiaries by name have been identified before coming into force of the Model Code

© Registered beneficiaries of NREGA may be covered under the existing projects. New projects under NREGA that may be mandated under the provisions of the Act may be taken up only if it for the already registered beneficiaries and the project is listed in the approved & sanctioned shelf of projects for which funds are also already earmarked.

5. There shall be no bar to the release of funds for the completed portion of any work subject to observance of laid down procedures and concurrence of Finance Department.

6. The following types of new works (whether beneficiary or work oriented) that *fulfill all the following conditions* before the Model Code of Conduct comes into effect, can be taken up under intimation to the Commission-

(a) Full funding has been tied up

(b) Administrative, technical & financial sanctions have been obtained

© Tender has been floated, evaluated & awarded and

(d) There is a contractual obligation to start & end the work within a given time frame & failing which there is an obligation to impose penalty on the contractor

(e) In case of any of the above conditions not being met in such cases prior approval of the Commission shall be sought & obtained.

[ECI's Ir. No. 437/6/2009-CC & BE dated 5th of March 2009]

7. Global tenders already floated can be evaluated & finalized where any time limits are specified for such purpose.

8. Tenders other than global tenders, that are already floated may be evaluated but not finalized without prior approval of the Commission. If they are not already floated, they shall not be floated without prior approval of the Commission.

[ECI's Ir. No. 437/6/2009-CC & BE dated 5th of March 2009]

While starting any work (including any relief work) or developmental activity no formal function shall be held involving any political functionary. As a matter of good practice, normal functions and publicity even with the presence of official functionaries should be kept to the minimum. [ECI's Ir. No. 437/6/2009-CC & BE dated 5th of March 2009]

Area of operation of any existing project/ scheme/ programme cannot be extended or expanded. [ECI's Ir. No. 437/6/2009-CC & BE dated 5th of March 2009]

No **land allocation** shall be made by the government to any entity, whether individual or an enterprise. [ECI's Ir. No. 437/6/2009-CC & BE dated 5th of March 2009]

Signing a **MOU or an agreement** where the government is a party will also require prior clearance by the Commission. [ECI's Ir. No. 437/6/2009-CC & BE dated 5th of March 2009]

Where works are to be undertaken or functions are to be held in fulfillment of international commitments, prior concurrence of the Commission shall be taken. [ECI's Ir. No. 437/6/2009-CC & BE dated 5th of March 2009]

Relief measures

(a) Ex-gratia payments and gratuitous relief in the aftermath of a disaster can be given directly to the persons affected at the current rates/ scales of assistance presently in force, under intimation to the Commission. No change in the extent & prescribed scales of payments, however, shall be made in the existing rates/ scales without prior permission of the Commission.

(b) Payments directly to the hospitals from CM's/ PM's Relief Fund, in lieu of direct cash payment to the individual patients (beneficiaries) will be permissible without reference to the Commission.

© Emergent relief works & measures that are aimed to mitigate the hardships, directly & solely, of the persons affected in a disaster may be taken up under intimation to the Commission.

(d) However, new works that may be necessitated by way of preventive measures to mitigate the likely effects of natural disasters like repair of embankments, water channels etc., can be taken up only with prior permission of the Commission.

(e) Also, an area shall not be declared drought/ flood affected or any such calamity affected without prior approval of the Commission. The extent of area already declared to be calamity affected cannot be expanded without prior approval of the Commission.

(f) Similarly, any selective assistance to a group of persons from the PM's or the CM's Relief Fund will require prior approval of the Commission.

[ECI's Ir. No. 437/6/2009-CC & BE dated 5th of March 2009]

Advertisements at cost of public exchequer

- Any and all advertisements at the cost of the public exchequer regarding achievements of the party/ Govt. in power is prohibited.

On transfers and posting of officials, recruitment

- There shall be a *total ban on transfer* of all officers/ officials connected with the conduct of the election till the completion of the election process.
- In those cases where transfer of an officer is considered necessary on account of administrative exigencies, the State Government may, with full justification, approach the Commission for prior clearance.
- *No appointments or promotions in Government / Public Undertakings shall be made* during this period, without prior clearance of the Commission.

- Regular recruitment/ appointment or promotion through the UPSC, State Public Service Commissions or the Staff Selection Commission or any other statutory authority can continue. Recruitments through non-statutory bodies will require prior clearance of the Commission. [ECI's Ir. No. 437/6/2009-CC & BE dated 5th of March 2009]

Tours of Ministers

- If a *Minister of the Union* is travelling out of his HQ on *purely official business*, which cannot be avoided in public interest, then a *letter certifying to this effect should be sent from the Secy. concerned of the Deptt. of GOI to Chief Secy. of the State* where the Minister intends to visit, with a copy to the Commission. During such tour, the Chief Secy. may provide the Minister with *Govt. vehicle and accommodation* and other usual courtesies for his official trip

[ECI's Ir. No. 437/6/2006-PLN-III dt. 23rd Nov. 2007]

- No *Min. of State Govt.* shall undertake an official visit to any Constituency during the election period. [Only *exception* will be when a Minister, in his capacity as in charge of the deptt. concerned, or a CM undertakes an official visit to a constituency, in connection with *failure of law and order or a natural calamity or any such emergency* which requires personal presence of such Ministers/ Chief Ministers for the specific purpose of supervising review/ salvage/ relief and such like purpose.]
- However, immediately preceding or during or in continuation of such an *official tour*, no Minister can carry out or combine any election campaign or political activity
[Official work should not at all be mixed with campaigning/ electioneering]
- The Commission will keep watch on such arrangements in due consultation with the CEO.
- *No Minister will summon any election related officer* of the constituency or the State, for any official discussions during the pd. of elections commencing with the announcement of the elections.
- *Any official who meets the Minister* on his private visit to the constituency where elections are being held *shall be guilty of misconduct* under the relevant service rules; and if he happens to be an official mentioned in Section 129 (1) of the ROP Act, 1951, he shall also be additionally considered to have violated the statutory provisions of that Section and liable to *penal action* provided thereunder.
- It is open for a Minister of the Union or State to make *private visits using his or her private vehicle(s)*
- For such private visits, the *official personal staff of the Ministers shall not accompany them.*
- *No accommodation will be provided to any Min., MP, MLA or political functionary in any Govt. or Public Sector Undertaking Guest House* as these are

required to accommodate election related officials & Observers- only *exception* being those provided *security by Govt. in 'Z' scale*

[ECI's Ir. No. 437/6/2006-PLN-III dt. 14th March '06 & Apr. 1, '06]

- Official vehicles cannot be used for electioneering work

[‘Official Vehicles‘ include all vehicles belonging to Government, Public Sector or Joint Sector Undertakings, Local Bodies, Municipal Corporations, Municipalities, Mktg. Boards, Coop. Societies, Autonomous Distt. Councils, or any other body in which public funds, howsoever small, are invested.]

- Ministers are entitled to use their *official vehicles only for commuting from their official residence to their office for official work provided that such commuting is not combined with any electioneering or any political activity*
- During electioneering, *no pilot car(s) or car(s) with beacon lights of any colour or car(s) affixed with sirens of any kind shall be used* by any political functionary, even if State administration has granted him a *security cover*

[This is applicable whether the vehicle is government owned or private owned]

- Functionaries of autonomous organisations should not use official vehicles for party purposes

[ECI's Ir. No. 437/6/2008/ CC & BE dt. Oct. 19, 2008]

- Any vehicle being misused can be confiscated

Defacement of Property

I- Defacement of public places

- No wall writing, pasting of posters/ papers or defacement in any other form, or erecting/ displaying of cutouts, hoardings, banners flags, etc. shall be permitted on any *Government premise* (incl. civil structures therein).
- According to “The Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959”, ‘*public places*’ means any place (including a road, street or way, whether a thoroughfare or not and a landing place) to which the public are granted access or have a right to resort, over which they have a right to pass.
- “*Place open to Public view*” includes any private place or building, monument, statue, post, wall, fence, tree or other thing or contrivance visible to a person being in, or passing along, any public place. [Sec. 2 read with explanation under (c) & (d) of the Act.]
- Section 4A(1) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 provides that *no person shall* –
 - a) *affix to or inscribe or exhibits on, any place open to public view, any poster or any effigy, or any bill, notice, document, paper or other thing containing any words, signs or visible representations; or*

b) *put up or fix any thatty board or board supported on, or attached to, any post, pole standard, framework or other support wholly or in part upon or over any land, building, wall or structure*

- However, sub-section (2) of Section 4A of the same Act provides that notwithstanding anything contained in sub-section (1), COP in the city of Madras, Madurai or Coimbatore and the Collector of districts concerned in other local areas, *may grant permission to any person on any special occasion, to put up or fix any thatty board on poles or standards in such places*, subject to such conditions and for such period, as may be specified in such permission
- The “local area” has been defined as the area within a Municipal Corporation or any Municipality

IV. Use of halls / auditoriums and other public properties

- In the case of Halls/ Auditoriums/ Meeting venues owned/ controlled by the Government/ local authorities/ PSUs/ Cooperatives, political meetings are generally not permitted.
- *Educational institutions including their grounds shall not be used for political campaigns and rallies*

Extracts from the Model Code of Conduct & other Instructions/ Guidelines of Election Commission

VII. Party in Power

The *party in power* shall ensure that no cause is given for any complaint that it has used its *official position for the purposes of its election campaign* and in particular -

(i) (a) *Ministers shall not combine their official visit with electioneering work and shall not also make use of official machinery or personnel during the electioneering work;*

(b) *Govt. transport* including official air-crafts, vehicles, machinery and personnel shall not be used for furtherance of the interest of the party in power;

(ii) *Public places such as maidans* etc., for holding election meetings, and use of helipads for air-flights in connection with elections shall not be monopolized by itself. Other parties and candidates shall be allowed the use of such places and facilities on the same terms and conditions on which they are used by the party in power;

(iii) Rest houses, dark bungalows or other *Government accommodation shall not be monopolized* by the party in power or its candidates and such accommodation shall be allowed to be used by other parties and candidates in a fair manner but no party or candidate shall use or be allowed to use such accommodation (including premises appertaining thereto) *as a campaign office or for holding any public meeting for the purposes of election propaganda;*

(iv) Issue of *advertisements at cost of public exchequer* in newspapers and other media and the *misuse of official mass media* during the election period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the party in power shall be scrupulously avoided

(v) Ministers and other authorities shall not sanction *grants/ payments out of discretionary funds* from the time elections are announced by the Commission; and

(vi) From the time elections are announced by Commission, *Ministers and other authorities* shall not –

(a) *announce any financial grants in any form or promises thereof*; or

(b) (except civil servants) *lay foundation stones etc. of projects or schemes of any kind*; or

(c) *make any promise of construction of roads, provision of drinking water facilities etc.*; or

(d) make any *ad-hoc appointments in Government, Public Undertakings etc.* which may have the effect of influencing the voters in favour of the party in power.

(vii) Ministers of Central or State Government shall not *enter any polling station or place of counting* except in their capacity as a candidate or voter or authorised agent.