



Lok Sabha Elections-2014
Urgent/Email/Through Messenger

Election Department, Government of Himachal Pradesh
38-SDA Complex, Kasumpti, Shimla-9

No: 3-13/2014-ELN - 642

Dated: 11th March, 2014.

From:

Chief Electoral Officer,
Himachal Pradesh.

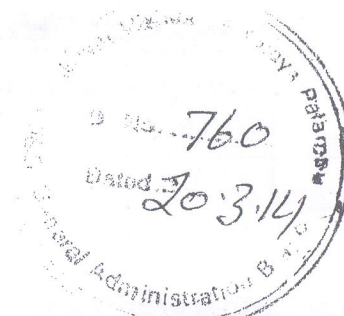
To

1. The Chief Secretary to the Government of Himachal Pradesh, Shimla-171002.
2. The Addl. Chief Secretaries, Government of Himachal Pradesh Shimla-171002.
3. The Principal Secretary to the Hon'ble Chief Minister, Himachal Pradesh, Shimla-171002.
4. All Administrative Secretaries to the Government of Himachal Pradesh, Shimla-171002.
5. All Heads of Departments, Stationed at Shimla.
6. Divisional Commissioner, Shimla/Kangra/Mandi.
7. All Deputy Commissioners in Himachal Pradesh.

Subject:- General Elections to Lok Sabha, 2014 - Instructions on Tours of Ministers and Use of Aircraft/Official Vehicles.

Sir/Madam,

In continuation of this department's letter No. 3-7/2014-ELN-622, dated 5th March, 2014, vide which Commission's press note and election schedule and some Commission' instructions have been sent to all concerned. In this regard, I am to enclose herewith the following letters on tours of Ministers and use of aircraft/official vehicles of Election Commission of India have already been circulated to all concerned during elections in past and thereafter time to time which are also available on the website of Election Commission of India <http://ec.mca.n>



JA (UND)
28/3/14
Librarian
28/3/14
Raja
S.O. (GA)
20/3/14
S.A. (GA)
20/3/14

Sr.No.	Letter No. with date	Subject
<u>TOUR OF MINISTERS</u>		
1.	437/6/ESOO25/94/MCS, dated 21.10.1994	Election period-tours of ministers.
2.	437/6/96-PLN-III, dated 17.01.1996	General Elections - Tours of Ministers.
3.	437/6/7/2004/PLN-III, dated 28.12.2004	Tours of Union Ministers of Railways.
<u>USE OF AIRCRAFT/OFFICIAL VEHICLES</u>		
1.	437/6/94/MCS-Vol V, dated 20.10.1994	Chartering of aircraft and helicopters.
2.	437/6/98-PLN-III, dated 8.01.1998	Use of Aircraft by Political Parties-regarding.
3.	437/6/98-PLN-III, dated 18.08.1999	Use of Aircrafts during the Election Process.
4.	437/6/98-PLN-III dated 18.08.1999	Use of privately owned aircrafts other than scheduled commercial flights by Political Parties and the Government functionaries.
5.	4/2001/J.S.II, dated 30-03-2001	Prevention of misuse of official vehicles during elections- Clarification.
6.	4/2001/J.S.II, dated 08-05-2001	Supervision and monitoring of poll and counting process by leaders of political parties by using private fixed-wing aircraft and helicopters on the days of poll and counting - regarding.
7.	437/6/2006-PLN-III, dated 23.11.2007	Prevention of misuse of vehicles during elections.
8.	437/6/2008/CC&BE, dated 19 th October, 2008	General Election to the Legislative of Assemblies, 2008 - Use of Official vehicle by the functionaries of the various Boards/ Commissions etc. regarding.

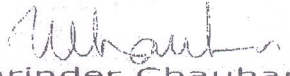
...3...

These instructions are applicable for both general and bye-elections to Lok Sabha and State Legislative Assembly. Kindly ensure strict adherence to these instructions during Lok Sabha Elections-2014 also.

Please acknowledge receipt alongwith enclosures.

Yours faithfully,

Encl.: As above.

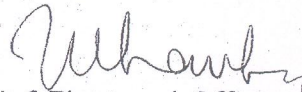

(Narinder Chauhan)
Chief Electoral Officer,
Himachal Pradesh.

Endst.No.3-13/2014-ELN, 692 Dated: Shimla-171009, 11th March, 2014.

Copy alongwith copies of Commission's aforesaid letters are forwarded to:-

1. The Secretary to the Hon'ble Governor, Himachal Pradesh, Shimla-2.
2. Private Secretaries to the Hon'ble Cabinet Ministers, Himachal Pradesh Government, Shimla.
3. The Secretary, Vidhan Sabha for information of Hon'ble Speaker & Deputy Speaker, Himachal Pradesh Vidhan Sabha.
4. The Chairman/Managing Director of all Boards/Corporation/Undertaking, Himachal Pradesh.
5. The Vice Chancellor, Himachal Pradesh University, Summer Hill, Shimla-5/ Dr. Y.S. Parmar Horticulture and Forestry University, Nauni, Solan/Chaudhary Sarwan Kumar Agriculture University, Palampur.
6. All Hon'ble Members of Parliament/MLAs Himachal Pradesh.
7. All Chairmen, Zila Parishad, Himachal Pradesh.
8. The Mayor/Commissioner, Municipal Corporation, Shimla.
9. The Director, Information and Public Relations, Himachal Pradesh, Shimla-2.
10. All Returning/ Assistant Returning Officers in Himachal Pradesh.
11. All recognized and unrecognized Political Parties, Himachal Pradesh.
12. All Heads of Departments/Offices of Central Government, Himachal Pradesh.

Enclosures: As above.


Chief Electoral Officer,
Himachal Pradesh.

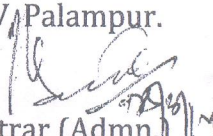
Copy to Section-I/Complaint/Clarification & Permission/L & O Seats and Private Secretary to CEO and Nodal Officer for Media for information and necessary action.

**CSK HIMACHAL PRADESH KRISHI VISHVAVIDYALAYA
'GENERAL ADMINISTRATION BRANCH'**

Endst No. QSD. 7-3/2013/CSK HPKV (GA)/-16688-788 Dated, Palampur, the:- 25 MAR 2014

Copy of obverse alongwith its enclosure is forwarded to the following for information and necessary action:

1. All the Statutory Officers, CSKHPKV, Palampur.
2. All Heads of Departments/Units/Offices, CSKHPKV, Palampur.
3. All the Programme ~~Coordinator~~ Scientist Incharges, RRECs/ ARECs/ RRSs/ RSSs/KVKs., CSKHPKV.
4. The Joint Controller (Local Audit), CSKHPKV, Palampur.
5. The Joint Director (I&PR), CSKHPKV, Palampur.
6. All Deputy/Assistant Registrars/Section Officers, (Head Quarter), CSKHPKV, Palampur.
7. PA to the Vice-Chancellor/PS to Registrar, CSKHPKV, Palampur.


Dy. Registrar (Admn.)
CSKHPKV, Palampur

INSTRUCTION Sl. No. 66

Election Commission's letter No. 437/6/ES0025/94/MCS dated 21.10.1994 addressed to Chief Secretaries and CEOs of all States and UTs.

Subject: Election period-tours of ministers

The Commission vide its letter No. 437/6/93-PS-II dated 31 st December, 1993 had reiterated the total and absolute ban on the use of official vehicles for campaigning, electioneering or election related travel during elections and had directed that there will be total ban on the use of any vehicles for any purpose connected with the election by any political party, the candidate or any other person connected with election.

2. The Commission vide its letter No. 437/6/94 dated 2nd February, 1994 had invited attention to the circular letter No. 10/17/89-M&G dated 1 st November, 1989 from the Ministry of Home Affairs on the tour of ministers in connection with the election campaign and had observed that those instructions were flouted with impunity and had therefore issued further instructions without, in any way overriding, modifying or affecting the instructions of the Ministry of Home Affairs dated 1 st November, 1989 referred to above.

3. The Supreme Court in its order dated 29th April, 1994 in a writ petition (Civil) No. 312 of 1994(State of Tamil Nadu versus Chief Election Commissioner and others) seeking exemption in the case of Chief Minister of Tamil Nadu had directed as follows :

"While we are conscious of the effort being made by the Election Commission to ensure cleanliness of the electoral process and for the protection and ensuring of free and fair polls, we are afraid, the Election Commission cannot, as it seeks to do here, put out of consideration the security requirements of certain political personalities who might, in view of extremist and terrorist activities and threats to their lives, require security of a high order. To confine the security to only the Prime Minister of the country, as the Election Commission has done, and to deny, as the communication dated 31 st March, 1994 seeks to do, to all other may not reflect a proper perception and appreciation of the problem. At all events, the Election Commission will have to take note of the statutory provisions. However, we should make one aspect clear. Having regard to the responsibilities and obligation of the Election Commission to ensuring purity of the electoral process, it is open to the Election Commission, if it has material to doubt that the assessments of the security requirement made by the Director of the Tamil Nadu Special Security Group under the status are so manifestly and unduly excessive as to amount to promotion indirectly, of partisan electoral interests, to bring such matter to the notice of the State Government for appropriate corrective steps."

4. The Cabinet Secretariat in its letter No. 10/22/094-ES dated 3/5 May, 1994 had issued instructions that under the provisions of the Special Protection Group Act, 1988 protection is provided for proximate security of the following :

- (i) The Prime Minister and the members of his immediate family;

(ii) Any former Prime Minister or the members of his immediate family for a period of 5 years from the date on which the former Prime Minister ceases to hold the office of Prime Minister.

5. In the light of the above order of the Supreme Court the Commission had substituted paragraph 3 of its letter No. 437/6/93/PS-II dated 31st December, 1993 vide para 6 of letter of even number dated 8th May, 1994 to say that "the Commission has decided that para 3 of its above referred circular letter No. 437/6/93-P-II dated 31st December, 1993 will stand substituted by the following :-

3(A) The only exceptions from the prohibitions mentioned in para 2 above will be the Prime Minister and other political personalities who might, in view of extremist and terrorist activities and threats to their lives, require security of a high order and whose security requirements are governed by any statutory provisions made by Parliament or the State Legislature in this behalf.

3(B) The Commission would like to make it clear that having regard to its responsibilities and obligations to ensuring purity of the electoral process, the Commission, if it has material doubt that the assessments of the security requirements made by the authorities under the above referred special enactments or any other special instructions of the Government are so manifestly or unduly excessive as to amount to promotion, indirectly, of partisan electoral interests, bring such matter to the notice of the Central Government and/or, as the case may be, the State Government for appropriate corrective steps.

3(C) For achieving this, the Commission may call for any information from the Central Government or the State Government concerned with regard to the assessment of the security requirements made in respect of any such personality. Such information shall be furnished to the Commission by the concerned Government forthwith."

6. It was further clarified by the Commission in its letter No. 437/6/94 dated 14th May, 1994 that all State Governments and the Union Territory Administration are requested to adhere strictly to the orders of the Supreme Court. Further, orders relating to security of the individuals issued under statutory powers or other powers must be fully honored.

7. The Commission has further directed that when such individuals visit State/Constituency for electioneering and election related work, the expenditure incurred on security arrangements like barricading/ rostrums etc. shall be borne by the concerned political parties.

INSTRUCTION Sl. No. 67

Election Commission's letter No. 437/6/96/PLN-III/, dated 17.01.1996 to addressed to the Chief Secretary (All States & Union Territories) Repeat The Chief Electoral Officer's (All States & Union Territories)

Subject: General Elections - Tours of Ministers

I am directed to state that the Ministry of Home Affairs, Government of India vide their Circular No. 10/17/89-M & G, dated November 1,1989 have reproduced the summary of their instructions on the tour of Ministers in connection with the election campaign. These instructions inter alia lay down some specific formalities to be observed separately for official and private tours of the Ministers of Government of India during the period of electioneering particularly in the context of the fact that such tours generally overlap. A copy of the abovementioned circular of the Ministry of Home Affairs dated November 1,1989 is enclosed at Annexure I.

2. The Commission has been keenly watching the observance of the aforesaid instructions of the Ministry of Home Affairs by the Ministers both of Central Government and of the Government of State in which elections are held, as well as some other neighboring and other States whose Ministers pay visits to the States having elections during the period of electioneering. The Commission is constrained to observe that not only the spirit and letter of the aforesaid instructions of the Ministry of Home Affairs are vague, equivocal and permissive in nature, they are flouted with impunity and misused with flagrant disregard to the image of impartiality which persons in high public office must cultivate and preserve during the period of election in order to maintain the purity of the election process and insulate the free right of franchise to be exercised by the voters from the manipulative tactics of the privileged ruling party both at Centre and in the State Governments.

3. During the elections superintended by the Commission in recent years the Commission has been at pains to observe that the Ministers in their capacity as Members of the ruling party at the Centre and in some States misused the government owned machinery including guest houses, and such like official infrastructures for the ostensible purpose of official visits for monitoring Government programmes with the covert intention of participating in the election campaign of their parties. Such Ministers are understandably accompanied, on the above described "official" visits, by functionaries of their political parties. No departmental officials are reported to be accompanying the

Ministers on which visits and meetings as a result of which even semblance of an official visit is not maintained.

4. The Commission also observes with serious objection that local officers of the district administration and State Government who have also to perform statutory and other functions related to the conduct of elections are perforce made to attend on such Ministers in the name of administrative and security arrangements which further casts a suspicion on the much needed independence and impartiality of the election related officers.

5. In the above circumstances, the Commission in exercise of the plenary powers vested in it by virtue of Article 324 of the Constitution and all other powers enabling it in this behalf, has decided to issue its own directions in the interest of fair and free poll.

6. These instructions of the Commission do not in any way over-ride, modify or are affected by the instructions of the Ministry of Home Affairs, Government of India No. 10/17/89-M&G dated 1 st November, 1989 referred to above. The Commission directs in supersession of its earlier instructions, as follows:-

- 6.1 Henceforth no Minister either of Central or State Government shall undertake an official visit of any constituency from which elections have been announced by the Commission during the period commencing with the announcement of the elections upto the end of the election process.
- 6.2 The Commission also directs that no Minister will summon any election related officer of the constituency or the State in which any elections have been announced, to a place or office or guest house outside the aforesaid constituency for any official discussions during the period of elections commencing with the announcement of the elections from such constituency and ending with the completion of election process.
- 6.3 The only exception to these instructions will be when a Minister, in his capacity as incharge of the concerned department, or a Chief Minister undertakes an official visit to a constituency, or summons any election related officers of this constituency to a place outside the 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.

7. It is clarified that the Ministers are entitled to use their official vehicles in there headquarters from their place of residence to their office for official work provided that such commuting is not combined with any electioneering or any political activity.

8. Any violation of these instructions will be viewed as gross infringement not only of the Model code of Conduct but also of the authority of the Commission to promulgate such directions as it considers necessary to ensure peaceful, fair and free poll reflective of the true choice of the people, and will be visited with grave consequences as considered appropriate by the Commission on the merits of the specific circumstances.

INSTRUCTION Sl. No. 71

Election Commission's letter No. 437/6/7/2004/PLN-III, dated 28.12.2004 addressed to Shri V.N. Mathur, Secretary, Railway board, Ministry of Railways Rail Bhawan, New Delhi

Subject: Tours of Union Minister of Railways

Please refer to your letter no. 2004/G/32/1 dated 25.12.2004 seeking clarifications on following points.

1. When Hon'ble Minister of Railways is required to return from Patna to his Headquarters at Delhi for attending matters relating to the Railway Budget or attend Cabinet Meetings and Meetings of the Sub-Committees of the Cabinet; can his visits to Delhi be treated as official;
2. Whether the Hon'ble Minister of Railways can make an official visit from Patna (where he is doing political campaign) to Kolkata for attending various railway programmes in West Bengal. Whether such a journey from Patna to Kolkata and the visit of the Minister to various places in West Bengal by a Helicopter for attending railways functions can be treated as official.
3. Whether Hon'ble Minister of Railways can avail of his Identity Card/Privileges of Air Journeys as a Member of Parliament and as Union Minister for undertaking train/air journeys for going to Patna for political work and return to Headquarters at Delhi.

The Commission has considered the matter and issues raised are clarified as follows.

1. The Hon'ble Minister while in Patna for political campaign cannot come officially from Patna to New Delhi for attending the meetings relating to railway budget or Cabinet meetings or the meetings of the Sub-Committee of the Cabinet.
2. The Hon'ble Minister cannot combine his political or personal visit to Patna with official visit to Kolkata or elsewhere, even if, he pays the money for the entire trip himself. The Hon'ble Minister will have to return to his Headquarters to start the official journey. Under no circumstances, political or personal visits of the

Ministers of the Union or State Government to the State of Bihar or Jharkhand or Haryana can be combined with official visits to any other place in India.

3. The Hon'ble Minister can avail of normal privileges of free railway / air pass as available to Members of Parliament, but he is not entitled to take benefit of privileges as Union Minister for Railways for train/air journeys for going to Patna and returning to Headquarters at Delhi.

INSTRUCTION SI. No. 76

Election Commission's Order No. 437/6/94/MCS-Vol V dated 20.10.1994 to (1) The Cabinet Secretary Rastrapati Bhavan, New Delhi. 2. Secretary to the Govt. of India, Ministry of Home Affairs, New Delhi. 3. Secretary to the Govt. of India, Ministry of Law, Justice & Company Affairs, New Delhi. 4. Chief Secretaries of all States and Union Territories 5. Chief Electoral Officers of all States and Union Territories.

Subject: Chartering of aircraft and helicopters

ORDER

1. The Commission has already issued instructions imposing a total and absolute ban on the use of official vehicles for campaigning, electioneering or election related travel during elections.

2. It has been brought to the notice of the Commission that political parties are getting State/ Public Sector Undertakings aircraft/helicopters chartered through private companies etc. for electioneering in such a way that the other parties are put to a disadvantage. The commission has, therefore, directed that the procedure to be followed for chartering Government aircraft/ helicopters (including those owned by Public Sector Undertakings and Corporations) should be on an absolutely equitable basis and should be widely publicized. Some of the minimum conditions which should be included in the procedure to make it absolutely equitable are as under:-

2.1 There should be no discrimination between the ruling party on the one hand and the other parties and contesting candidates on the other.

2.2 The payment will be made by the political parties or the contesting candidates and proper record maintained.

2.3 The rates and terms and conditions should be uniform for all.

2.4 The actual allotment should be made on a first-come first-served basis. For this purpose, the date and time of receipt of the application should be noted down by the authorised receiving authority

2.5 In the rare case when both the date and time of two or more applicants is the same, the allotment will be decided by draw of lots.

2.6 To obviate any contingency of rejection of an application for failure to mention certain particulars or on such other technical grounds, a format of the application should be prepared and made available to all those who want to avail of the facility.

2.7 No individual, firm, party or candidate will be allowed to charter the aircraft/helicopter for more than three days at a time. Any application which does not conform to this requirement shall be rejected.

3. The above conditions/stipulations to be incorporated in the procedure are illustrative and not exhaustive. Every endeavor should be made to make the procedure as equitable and just as possible.

4. The entire exercise should be transparent and wide publicity, if necessary, through print and electronic media should be given in advance about the entire procedure. There should be no scope whatsoever that any part of the exercise was done under a cloak of secrecy.

5. A copy of the instructions issued in this regard should be sent to the Commission immediately after issue.

INSTRUCTION SI. No. 78

Election Commission's letter No. 437/6/98/PLN-III dated 08.01.1998 addressed to The Cabinet Secretary, New Delhi, Chief Secretaries and CEOs of all the States and UTs.

Subject: Use of Aircraft by Political Parties-regarding

The Commission has already issued detailed instructions regarding use of Government aircraft owned by the Government and Public Sector Undertakings. As per these existing instructions, during the election process there is a complete ban on use of aircraft by political functionaries including Chief Minister and Ministers. The only exemption is for the Prime Minister in office. These instructions have been reiterated again recently by the Commission on 16.12.1997.

Requests have been received from some of the Chief Ministers for relaxation of these restrictions for various reasons including those of security.

The Commission reviewed the matter in depth and obtained further inputs from appropriate quarters in this regard. After taking into consideration all relevant factors into account, the Commission has decided that the existing instructions in the matter will stand and there shall be no relaxation in the matter for any reason.

The Commission's existing restrictions do not however prohibit use of private aircraft by such political functionaries including Chief Ministers. Accordingly the Commission makes it clear that such political functionaries including Chief Ministers may, if required, hire private aircrafts and use it for their political campaign and other election related activities. The expenses of use of such aircraft can be paid for by the concerned political parties and have to be accounted for suitably in their accounts.

Kindly acknowledge the receipt.

INSTRUCTION Sl. No. 79

Election Commission's letter No.437/6/98-PLN-III, dated 18.08.1999 addressed to The Cabinet Secretary, The Chief Secretary and Chief Electoral Officers of all States and Union Territories

Subject: Use of Aircraft during the Election Process

The Commission has already issued detailed instructions regarding use of Government aircraft owned by the Government and Public Sector Undertakings. As per these existing instructions, during the election process, there is a complete ban on use of aircraft by political functionaries including Chief Minister and Ministers. The only exemption is for the Prime Minister in office. These instructions have been reiterated by the Commission on 14th July, 1999.

- a. Requests have been received from some of the Chief Ministers for relaxation of these restrictions for various reasons including those of security.
- b. The Commission reviewed the matter in depth and obtained further inputs from appropriate quarters in this regard. After taking into consideration all relevant factors into account, the Commission has decided that the existing instructions in the matter will stand and there shall be no relaxation in the matter for any reason.
- c. The Commission's existing restrictions do not, however, prohibit use of private aircraft by such political functionaries including Chief Ministers. Accordingly, the Commission makes it clear that such political functionaries including Chief Ministers may, if required, hire private aircrafts and use it for their political campaign and other election related activities. The expenses of use of such aircraft can be paid for by the concerned political parties and have to be accounted for suitably in their accounts.
- d. Kindly acknowledge the receipt.

INSTRUCTION SI. No. 80

Election Commission's letter No.437/6/98-PLN-III, dated 18.08.1999 addressed to The Secretary to the Govt. of India, Department of Civil Aviation, New Delhi. And copy to Secretary, Deptt of Revenue, Govt. of India, Director General, Civil Aviation, New Delhi and Chief secretary/CEOs of all States/UTs

Subject: Use of privately owned aircrafts other than scheduled commercial flights by Political Parties and the Government functionaries

As you are aware the 12th Lok Sabha has been dissolved and the notifications for holding elections for constituting the 13th Lok Sabha have been issued. This process is to be completed before 10th of October, 1999. High dignitaries like Chief Ministers and Ministers of the Union Government as well as senior political functionaries and party leaders might be making use of privately owned aircrafts other than scheduled commercial flights for attending various political meetings and campaigns.

2. It is important that full records of all such non-scheduled flights are maintained by the appropriate authorities as required under law and relevant rules. Details like passenger manifests, exact times of departure and arrival of aircrafts at various places need to be maintained. Commission may seek information on these details to verify complaints which are received from time to time. Accordingly, I am directed by the Commission to request you to alert the appropriate authorities of the Central and State Governments to keep meticulous records of these details.

Another aspect which has been brought to the notice of the Commission relates to the payments for use of aircrafts for such purposes. It has been reported that in some cases, such payments are made in cash by individuals/political parties.

3. A copy of this letter is also being endorsed to Secretary to the Govt. of India, Department of Revenue and Chief Secretaries of all State Governments and all Chief Electoral Officers for their information and necessary action.

INSTRUCTION SI. No. 81

Election Commission's letter No. 4/2001/J.S.II dated 30.03.2001, addressed the Chief Electoral Officers of all States and Union Territories.

Subject: Prevention of misuse of official vehicles during elections - Clarification

I am directed to invite your attention to the Commission's Order No. 437/6/96/PLN-III. dated 15th January, 1996 on the above subject, reproduced at p.p. 171 -173 of the Commission's Compendium of Instructions. 1998.

2. The Commission had directed in the above Order that the restrictions on the use of official vehicles for campaigning, electioneering or election related travel are applicable in the case of the Speaker, the Deputy Speaker of Lok Sabha and the Deputy Chairman of Rajya Sabha at the time of General Elections to the Lok Sabha.

3. In Order to ensure free and fair poll and maintain the purity of election process, the Commission has directed that the restrictions on the use of official vehicles for campaigning, electioneering or election related travel as enumerated in the Commission's Order dated 15th January, 1996 will be equally applicable in the case of Speaker and Deputy Speaker of the State Legislative Assembly at the time of General Election to any State Assembly irrespective of whether the Speaker and/or the Deputy Speaker of the Legislative Assembly is a contesting candidate or not at the General Election to the State Assembly.

4. This should be brought to the notice of all concerned including the units of all recognized National and State Parties in your State.

5. This disposes of Message No. 2243/2001 -1, dated 16th March, 2001 from Chief Electoral Officer, Tamil Nadu.

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

INSTRUCTION SI. No. 82

Election Commissions letter No.4/2001/JS-II dated 08.05.2001 addressed to the Chief Electoral Officers of all States and Union Territories. With copy forwarded to 1 .The Director General of Civil Aviation, New Delhi. 2.The Secretary to the Government of India, Ministry of Tourism & Civil Aviation, New Delhi.3.The Cabinet Secretary, Government of India, New Delhi.4.The Chief Secretaries to the Governments of all States and Union Territories.

Subject: Supervision and monitoring of poll and counting process by leaders of political parties by using private fixed-wing aircraft and helicopters on the days of poll and counting -regarding

A question has been raised whether the leaders of political parties may be permitted to supervise and monitor the process of polling and counting by using private fixed-wing Aircraft and helicopters for movement from constituency to constituency on the days of poll and counting.

2. I am directed to state that the Election Commission has carefully considered the question in all its aspects. The supervision and monitoring of the polling and counting process by these leaders will amount to interference in the performance of the functions of the Election Commission and usurping its powers, as the superintendence, direction and control of conduct of elections has been vested by Article 324 of the Constitution in the Election Commission and none else. Further, most of the leaders of all political parties have been categorized under various security grading and provided with security covers according to such grading. If they move from constituency to constituency on the days of polling and counting, adequate security precautions will have to be taken and security covers provided to each of them. On the days of polling and counting, the police and other security personnel are fully engaged in providing protection to voters, polling parties and polling materials in and around polling stations and counting centres, and in patrolling duties in the constituencies for maintaining proper law and order and peaceful atmosphere. Any disturbance or distraction in these arrangements to provide security to the leaders of political parties on the move from constituencies to constituencies may have serious impact on the conduct of free and fair poll and smooth and peaceful elections. It will also mean extra strain on the administrative machinery at the district and the sub-divisional levels, which are already stretched to the maximum during these days, as many of these political leaders will be entitled to some facilities, and courtesies on their visits there as per the requirements of protocol. Further, their movement, particularly on the days of poll, might also be taken as campaign during the prohibited period of 48 hours. It may also not

be out of context to mention that the use of private fixed-wing aircraft and helicopters by the leaders of political parties on the days of poll and counting would add considerably to the already mounting election expenses and would be a retrograde step in the direction of reasonable curbs on high expenditure on elections, apart from disturbing the level playing field whereby the political parties with smaller resources would be placed at disadvantageous position.

3. Having regard to all the above relevant considerations, the Commission has decided that no leader of a political party shall use private fixed-wing aircraft and helicopters for the purposes of supervising and monitoring the polling and counting process on the days of poll and counting.

4. The Commission has also decided that the Director General of Civil Aviation shall keep the above directions of the Commission in view and shall not permit the flights of private fixed-wing aircraft and helicopters for the movement of leaders of political parties for the above purpose on the days of poll and counting, except with the prior permission of the Election Commission in the case of any emergencies.

5. The above directions of the Commission should be brought to the notice of all political parties functioning in your State immediately for their information, guidance and compliance under intimation to the Commission.

INSTRUCTION SI. No. 44

Election Commission's letter No. 437/6/2006-PLN-III Dated: 23rd November, 2007 addressed to The Cabinet Secretary Government of India, the Chief Secretaries and the Chief Electoral Officers of all States and Union Territories.

Subject: Prevention of misuse of vehicles during elections.

The Commission has, in the past, issued various instructions from time to time regarding applicability of Model Code of Conduct on prevention of misuse of vehicles during elections. For convenience of all concerned, these instructions have now been consolidated for observance during the period when the Model Code of Conduct is in force. These instructions regarding restrictions on misuse of vehicles during elections have been issued under Article 324 of the Constitution and all other powers enabling the Commission in this behalf.

During Polls :

- (i) Section 123(5) of the Representation of the People Act, 1951 provides that the hiring or procuring or use of vehicles by a candidate or his agent or by any other person with the consent of the candidate or his election agent for the free conveyance of the voters to and fro from the polling station shall be a 'corrupt practice' for the purposes of the Act. Such a 'corrupt practice' attracts penalty and is punishable with fine, which may extend to five hundred rupees under section 133 of the Representation of the People Act, 1951. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996)
- (ii) For an election to the House of the People, each contesting candidate, on the day of Poll, will be entitled to:
 - (a) One vehicle for his own use in respect of the entire constituency;
 - (b) One vehicle for use of his election agent for entire constituency;
 - (c) In addition, one vehicle for use of his election agent or workers or party workers, as the case may be, in each of the assembly segments comprised in C:\Documents and Settings\Administrator\Desktop\23 nov 2007\00_9_MCC_

_Entitlement_of_vehicles.doc 2 the Parliamentary Constituency. (See Election Commission's instruction no. 437/6/2006-PLN-III dated 20.11.06).

(iii) For an election to the State Legislative Assembly, on the date of poll in that Constituency each contesting candidate is entitled to:

- (a) One vehicle for his own use;
- (b) One vehicle for the use of his election agent
- (c) In addition, one vehicle for use of his workers or party workers.

(See Election Commission's instruction no. 437/6/96-PLN-III dated 24.03.2007)

(iv) The permits for the vehicles indicated above will be issued by the District Magistrate/ Returning Officer. The candidates are required to register their vehicles with the authorities concerned and display the permits issued by the authorities on the windscreen of the vehicles. No other vehicles shall be allowed to be used by the leaders of the political parties including ministers, workers, agents and sympathizers of any candidate. No exception shall be made, irrespective of the status of the candidate. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996).

(v) It is clarified that, henceforth, the candidate or his agent or party workers or workers will be allowed to use only four/three/two wheeler vehicles i.e. cars (of all types) taxies, auto rickshaws, rickshaws and two wheelers. In these four wheel vehicles not more than 5 persons including driver will be allowed to move on the day of poll. It is further clarified that on the day of poll no other person will be allowed to use the Vehicle allotted for candidate's or his election agent's use. (See Election Commission's instruction no. 437/6/2006-PLN-III dated 20.11.2006).

(vi) These instructions on plying vehicles will be applicable on all two wheelers like motorcycles and scooters (except bicycles) also and shall be made applicable for a period of 24 hours before the time fixed for closure of poll and till the completion of poll. These restrictions would not, however, apply to any Govt. servant on duty or in case where such

vehicle is being used to transport a patient or old/infirm persons. (See Election Commission's instruction no. 437/6/2004-PLN-III dated 08.05.2004).

- (vii) Penal action, both under the provisions of the R.P Act,1951 and Chapter IX A of the Indian Penal Code, shall be taken against anyone offending the above directions, in addition to action under the Motor Vehicles Act. All vehicles being used in violation of these directions shall be confiscated. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996).
- (viii) There is, however, no intention on the part of the Commission to put a complete ban on all vehicular traffic on the polling day and thereby create difficulties or cause harassment to the public. For genuine bonafide use for purposes other than election, the following types of vehicles shall also be allowed to be plied on the day of poll and there will be no exception:
- (a) Private vehicles being used by the owners for their private use, not connected with elections;
 - (b) Private vehicles being used by owners either for themselves or for members of their own family for going to the polling booth to exercise their franchise, but not going anywhere within a radius of 200 meters of a polling station;
 - (c) Vehicles used for essential services namely hospital vans, ambulance, milk vans, water tankers, electricity emergency duty vans, police on duty, officers on election duty;
 - (d) Public transport carriages like buses plying between fixed termini and on fixed routes;
 - (e) Taxis, three wheeler scooters, rickshaws etc. for going to airports, railway stations, inter state bus stands, hospitals for journeys which cannot be avoided;
 - (f) Private vehicles used by sick or disabled persons for their own use. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996).

During Filing Of Nominations:

The maximum number of vehicles that will be allowed to come within the periphery of 100 meters of Returning Officers/Assistant Returning Officers office shall be three. (See ECI instruction No. 464/INST/2007/PLN-I dated 09.02. 2007).

During Period of Electioneering

- (ix) It has been experienced that during the period of electioneering private vehicles are used by the candidates, their agents and party leaders and supporters for carting the supporters of a candidate within the constituency and on many occasions anti-social elements with muscle power are openly paraded to instill a sense of fear in the minds of the electorate, so that they either vote in favour of particular party/candidate or abstain from voting altogether. These vehicles are also used sometimes to smuggle illicit arms and ammunition with a view to creating disturbances during elections. In order to curb such undesirable/illegal activities, the Commission further directs that the District Administration shall keep a close watch on the vehicles used by persons accompanying the contesting candidates and their party's leaders for any possible mischief, including criminal activities like carrying of illegal arms and weapons. If any of these vehicles, either of a party or a private owner, is found to be involved in any such act or for carting anti-social elements with a view to intimidating or creating terror in the mind of the electorate, it shall be the duty of the local administration to impound such vehicles and not to release them till the process of elections is completed. In addition, criminal action against the owner, the occupant(s) and the candidate/political party which is involved in such illegal activities shall also be taken as per law. (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996)
- (x) So as to ensure free, fair and peaceful elections, the District Administration shall launch such drive for checking the vehicles immediately upon the announcement of the elections and shall continue the drive till the completion of the process of elections.
- (See Election Commission's instruction no. 437/6/96-PLN-III dated 16.01.1996)
- (xi) Cars/vehicles being used for electioneering purposes shall, under no circumstances, be allowed to move in convoys of more than three vehicles from the date of notification till the completion of election process in any constituency. All bigger convoys shall be broken up, even if they are carrying any minister of Central or State Govt. This shall, however, be subject to any security instructions issued in respect of any such individual. In other words the convoy shall not in any case exceed three vehicles of any person plus the security vehicles allowed in view of the security gradation of that particular person. (See Election Commission's instruction no. 437/6/97-PLN-III dated 18.03.97). Such broken up convoys must have a distance of at least 200 meters between them. (See ECI instruction no. 464/UP-LA/2007 dated 05.04.2007)

- (xii) If any person moves in a convoy of vehicles exceeding the limits prescribed above, in spite of the convoy having been broken, it shall be the duty of the local administration to ensure that such vehicles are not allowed to be used by flouting the Commission's directions till the process of election is completed.
- (xiii) In case the mode of road transport is to be availed of by leaders of political parties availing the benefit of clause (a) of explanation given under Sec. 77 (1) of R. P. Act, 1951, the permit will be issued centrally by the Chief Electoral Officer, irrespective of whether the same vehicle is to be used by any leader for election campaigning throughout the State or different vehicles are to be used by such party leaders in different areas. The permit will be issued against the name of the person concerned who will display it prominently on the windscreen of the vehicle being used by him/her in any area. The permits so issued by the CEO will be of distinctly different colour from the permits to be issued by the DEOs/ROs for candidates. (See ECI instruction no. 464/UP-LA/2007 dated 05.04.2007).
- (xiv) In case of Video - Vans etc. to be used by a political party for campaign across the states, before any permission to use Video-Vans for campaign is given, it should be ensured by Chief Electoral Officer that such use of vehicle is in accordance with the Motor Vehicle Act. Attention in this context is invited to the judgments dated 23.06.2006 and 14.02.2007 of the Allahabad High Court in writ petition No. 3648 (MB) of 2006. (See ECI instruction no. 464/UP-LA/2007 dated 05.04.2007).
- (xv) From the date of notification of the election till the completion of election process in any constituency, the district administration shall keep a close watch on the vehicles used by the contesting candidates, persons accompanying the contesting candidates and other party leaders and ensure that the Commission's instructions are not abused.

(See Election Commission's instruction no. 437/6/97-PLN-III dated 18.03.97)

- (xvi) The contesting candidates be asked to get the details of all the vehicles that they are using in the election campaign lodged with the District Election Officer or such other officer(s) as may be specifically authorized by the District Election Officer in this behalf before the campaigning commences. Any further deployment of any additional vehicles can take place only after notice to this effect is given by the

candidate or his agent well before the actual deployment of the vehicles. While conveying the details of the vehicles that are being deployed for election campaign the details of the areas, tehsil(s) in which the vehicle would operate, should also be conveyed. (See Election Commission's instruction no. 437/6/97-PLN-III dated 18.03.97).

(xvii) The details so obtained should be conveyed by District Election Officer to the Election Expenditure Observers. The vehicles employed for election campaign as per intimation given by the candidates or their election agents to the District Administration should not be requisitioned by the administration. Any vehicle that has not been registered for campaigning with the district administration if found being used for campaigning, shall be deemed to be unauthorized campaigning for the candidate and may attract penal provisions of Chapter IX A of the Indian Penal Code and shall therefore be immediately taken out of the campaigning exercise. (See Election Commission's instruction no. 437/6/97-PLN-III dated 18.03.97).

(xviii) A cycle rickshaw is also a vehicle as defined in Section 160 of Representation of People Act, 1951, which may be used for election campaign. If it is being used, then a candidate has to account for its expenditure in his account of election expenses. To ensure this, the candidate should give details of such rickshaws being used for his election campaign and, if the rickshaw does not have any municipal registration/permit for its identification, the rickshaw driver may be given a permit in his personal name by the Returning Officer which the rickshaw driver should carry on his person while using that rickshaw for campaign purposes. However, rickshaws being used for normal purposes of carrying passengers in ordinary course etc. may be exempted, if they are displaying only one poster showing the name or party symbol of a candidate, presuming they are doing so on their own free will. (See Election Commission's instruction no. 437/6/2006-PLN-III (vol-ix) dated 12.07.2006).

(2) The above instructions may be brought to the notice of all concerned for strict compliance.

INSTRUCTION SI. No. 84

Election Commissions letter No. 437/6/2008/CC&BE Dated : 19th October,2008 addressed to the Chief Electoral Officers of (1) Chhattisgarh, Raipur, (2) Jammu & Kashmir, Jammu, (3) Madhya Pradesh, Bhopal, (4) Mizoram, Aizwal, (5) NCT of Delhi, Delhi, (6) Rajasthan, Jaipur.

Subject: General Election to the Legislative of Assemblies, 2008 - Use of official vehicle by the functionaries of the various Boards/Commissions etc.-regarding.

It has been brought to the notice of the Commission that the vehicles provided by the State Government to non-official functionaries viz. Chairman, Dy. Chairman, President, Vice President, Commissioners etc. of the various autonomous organizations are likely to be misused during the electioneering. The provisions of the Model Code Conduct and various instructions issued from time to time prohibits the use of official vehicle for the purpose of electioneering to ensure a level playing field among the parties and candidates in the fray.

The Commission, after taking into account all relevant factors, has decided that the functionaries of all the autonomous organizations may be instructed to use the official vehicle only for commuting between office and residence and to attend any official meeting within the Head Quarters itself. The District Administration may be advised to keep strict vigil on the movement of such vehicle and any vehicle found being misused may be confiscated forthwith.

This may be brought to the notice of the all concerned for strict compliance.