

STATE ELECTION COMMISSION, ODISHA,
TOSHALI BHAWAN, B-2, 1ST FLOOR, SATYA NAGAR,
BHUBANESWAR-751007

E-Mail [ID-stateelectioncommission.odisha@gmail.com](mailto:stateelectioncommission.odisha@gmail.com)/sec.odisha@gov.in
Fax No.0674-2573494

No. 2646 /SEC

Date: 06/02/2022

From

Sri R.N.Sahu, IAS
Secretary.

To

All District Magistrates.

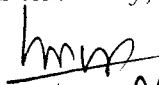
Sub: Important Letters/Orders/Instructions for General Election to ULBs, 2022.

Madam/Sir,

In inviting a reference to the subject cited above I am directed to say that the following Letters/Orders/Instructions shall be in force for coming General Election to ULBs, 2022.

Sl. NO.	Subject	Letter/Order/Instruction No. and Date
1	Clarification regarding receipt head of General Municipal Election	Letter No.32022- Comp.24/97-F
2	Appointment of Polling Agent during poll and counting in the ensuing Municipal Election	Letter No. 2195/SEC, Dtd.30.05.2008
3	Issue of certified copies of documents relating to Municipal General Election.	Letter No.2213/SEC,dtd.30.05.2008
4	Scrutiny of nomination - supply of information by the ULBs to Election Officer regarding arrear due, interest in subsisting contacts etc of the contacting Candidates	Letter No. 2290/SEC, 02.06.2008
5	Important Judgement of the Hon'ble High Court of Orissa regarding applicability of 74 th Amendment of the Constitution of India to Scheduled Areas	Letter No. 2899/SEC, dtd.03.07.2008

Yours faithfully,


Secretary

GOVERNMENT OF ORISSA

FINANCE DEPARTMENT

No. 32022-Comp. 24/97-F.

From

Shri B. K. Tripathy,
Under-Secretary to Government.

To

The Secretary, State Election Commission, Orissa,
Samabaya Bhawan, Janapath, Unit IX,
Bhubaneswar.

SUBJECT—Clarification regarding receipt head of General Municipal Election.

REFERENCE—Your letter No. 5563, Dt. 14-07-1997 Bhubaneswar, the 2nd August 1997.

Sir,

In inviting a reference on the above noted subject, I am directed to state that as per the accounting procedure the deposits made by the candidates contesting elections shall be deposited under the Head 8443—Civil Deposit—121—Deposit in connection with election—Deposit made by candidates for Councillors/Chairman to Urban Local Bodies.

In case of refund of the security deposit made by the candidates, the required amount shall be withdrawn from the above head of account. In case of forfeiture of the amount deposited by the candidate the same shall also be withdrawn from civil deposit and credited to receipt head 0070—Other Administrative Service—02—Elections—104—Fees, Fines and forfeitures.

To sum up, for both of the purposes, the deposits made under Civil Deposit shall be withdrawn. When the refund amount will be paid to the person concerned, the forfeited amount shall be credited to the appropriate receipt head of account indicated above.

Yours faithfully

B. K. TRIPATHY

Under-Secretary to Government

Memo. No. Ele.-MI-11/97-7-8-1997

Copy forwarded to all Executive Officers of U.L.Bs./Election Officers for information and necessary action.

Sd/-

Under-Secretary to Government

STATE ELECTION COMMISSION, ORISSA
TOSHALI PLAZA, BLOCK B-2, 1ST FLOOR
SATYANAGAR BHUBANESWAR

No. Ele-MI-2195, dated the 30th May 2008

From

Sêri F. C. Satapathy,
Secretary.

To

All District Magistrates.

SUBJECT—Appointment of Polling Agent during poll and counting in the ensuing Municipal Elections.

Madam/Sir,

I am directed to say that as per the definition contained in Rule 2(h) of Orissa Municipal (Delimitation of Wards, Reservation of seats and Conduct of Elections) Rules, 1994, Polling Agent means a person duly authorized by a contesting candidate for whom votes are polled during the election in respect of one or more polling stations or places specified for counting of votes. A candidate can appoint the polling agent with the prior approval of the Election Officer. Similarly, a candidate can also appoint **one representative to be present at the time of counting** of votes under Rule 58 of the said Rules. With the prior approval of Election Officer, No form of appointment of Polling Agent/Counting Agent has, however, been prescribed in the Rules for the purpose.

In order to ensure uniformity, the State Election Commission has prescribed a form for the purpose, a copy of which is enclosed. The said form shall be submitted in duplicate duly filled in by the candidate to the Election Officer concerned before 5 P.M. of the date immediately preceding the date fixed for poll or counting, as the case may be. One copy of the form will be retained in the Election Officer's office and the second copy shall be given to the candidate or his Polling Agent or Counting Agent. **The Election Officer must ensure that the candidate/Polling Agent/Counting Agent should sign in full on the form prescribed by the Commission.** The appointment order shall be presented by the polling agent to the Presiding Officer concerned at the booth/counting hall.

Yours faithfully
F. C. SATAPATHY
Secretary

Memo No. 2196-SEC., dated the 30th May 2008

Copy with enclosure forwarded to all Election Officers/All Executive Officers of ULBs./
All Political Parties for information and necessary action.

Sd/-
Secretary

FORM OF APPOINTMENT OF POLLING AGENT/COUNTING AGENT

(Prescribed by State Election Commission, Orissa)

Election to the Municipality/NAC

From Ward No.

To

The Election Officer Municipality/NAC.

I (Name of the candidate)
a contesting candidate for Ward No. do hereby give notice that
I have appointed (Name of the Agent) as Polling Agent/ Counting
Agent to attend the polling booth No. of ward No. located at
..... during poll/counting.

Full Signature of Candidate

Date :

I agree to act as such Polling Agent/Counting agent.

Full signature of Polling Agent/Counting Agent.

Declaration of Polling Agent/Counting Agent to be Signed before the Election Officer

I hereby declare that I will not at this election/counting for ward No. do anything
forbidden by Orissa Municipal Act, 1950 and Orissa Municipal (Delimitation of Wards, Reservation
of Seats and Conduct of Elections) Rules, 1994.

Date :

Full signature of Polling Agent/
Counting Agent

Signed before me.

Approved

Date :

Seal & Signature of Election Officer

..... Municipality

N.B. : (1) The form is to be submitted in duplicate to the Election Officer by 5 P.M. of the date
preceding the date of Poll/Counting.

(2) Strike out whichever is not applicable.

(3) The Polling agent is required to be present at the polling station one hour before the
commencement of poll in order to attend the mock polling through E.V.M.

ପୋଲିଂ/କାଉଣ୍ଟିଂ ଏଜେଣ୍ଟ ନିଯୁକ୍ତି ଫର୍ମ

(ରାଜ୍ୟ ନିର୍ବାଚନ କମିଶନଙ୍କ ଦ୍ଵାରା ନିର୍ଦ୍ଧାରିତ)

..... ପୌର ପରିଷଦ/ଅଧିବୃତ୍ତିତ କ୍ଷେତ୍ର ପରିଷଦ ନିର୍ବାଚନ ନିମନ୍ତେ ।

ଓ୍ଵାର୍ଡ ନଂ.

ପ୍ରାପ୍ତେଷ୍ଟ,

ନିର୍ବାଚନ ଅଧିକାରୀ ପୌର ପରିଷଦ/ଅଧିବୃତ୍ତିତ କ୍ଷେତ୍ର ପରିଷଦ ।

ମୁଁ (ପ୍ରାର୍ଥୀଙ୍କ ନାମ) ଓ୍ଵାର୍ଡ ନଂ. ପାଇଁ ପ୍ରତିଦ୍ଵନ୍ଦ୍ବିତା କରୁଅଛି ଓ ମୁଁ ଶ୍ରୀ
..... (ଏଜେଣ୍ଟଙ୍କ ନାମ)ଙ୍କୁ ଓ୍ଵାର୍ଡ ନଂ. ର ଭୋଟ ଗ୍ରହଣ କେନ୍ଦ୍ର ନଂ.
..... ଠାରେ ଅବସ୍ଥିତ ନିମନ୍ତେ ଭୋଟ ଗ୍ରହଣ/ଗଣତି ପାଇଁ ପୋଲିଂ/କାଉଣ୍ଟିଂ ଏଜେଣ୍ଟ ଭାବେ ନିଯୁକ୍ତି କରୁଅଛି ।

ପ୍ରାର୍ଥୀଙ୍କ ପୂରା ସ୍ଵାକ୍ଷର

ତାରିଖ

ମୁଁ ଉପରୋକ୍ତ ପୋଲିଂ ଏଜେଣ୍ଟ/କାଉଣ୍ଟିଂ ଏଜେଣ୍ଟ ହେବା ପାଇଁ ସମ୍ମତି ପ୍ରକାଶ କରୁଅଛି ।

ପୋଲିଂ ଏଜେଣ୍ଟ/କାଉଣ୍ଟିଂ ଏଜେଣ୍ଟଙ୍କର ପୂରା ସ୍ଵାକ୍ଷର

ପୋଲିଂ ଏଜେଣ୍ଟ/କାଉଣ୍ଟିଂ ଏଜେଣ୍ଟଙ୍କ ଘୋଷଣାନାମା

(ନିର୍ବାଚନ ଅଧିକାରୀଙ୍କ ସମ୍ମୁଖରେ ଦସ୍ତଖତ କରାଯିବ)

ମୁଁ ଏତଦ୍ଵାରା ଘୋଷଣା କରୁଛି ଯେ, ଓଡ଼ିଶା ମ୍ୟୁନିସିପାଲ ଅଧିନିୟମ, ୧୯୫୦ ଓ ଓଡ଼ିଶା ମ୍ୟୁନିସିପାଲ (ଓ୍ଵାର୍ଡମାନଙ୍କର ସାନି
ସୀମା ନିର୍ଦ୍ଧାରଣ, ଆସନ ଆରକ୍ଷଣ ଓ ନିର୍ବାଚନ ପରିଚାଳନା) ନିୟମାବଳୀ, ୧୯୯୪ ଅନୁଯାୟୀ ଓ୍ଵାର୍ଡ ନଂ. ର ନିର୍ବାଚନ/
ଗଣତି କାର୍ଯ୍ୟରେ କୌଣସି ଆଇନବିରୁଦ୍ଧ କାର୍ଯ୍ୟ କରିବନାହିଁ ।

ତାରିଖ.

ପୋଲିଂ ଏଜେଣ୍ଟ/କାଉଣ୍ଟିଂ ଏଜେଣ୍ଟଙ୍କ ପୂରା ସ୍ଵାକ୍ଷର

ମୋ ଆଗରେ ସ୍ଵାକ୍ଷରିତ

ଅନୁମୋଦିତ

ତାରିଖ.

ନିର୍ବାଚନ ଅଧିକାରୀ

..... ପୌର ପରିଷଦ/ଅଧିବୃତ୍ତିତ କ୍ଷେତ୍ର ପରିଷଦ

(ସ୍ଵାକ୍ଷର ଓ ମୋହର)

ବି. ଦ୍ର. : (୧) ଏହି ଫର୍ମରେ ଦୁଇକିତା ପ୍ରତିରୂପ ନକଲ ନିର୍ବାଚନ ଅଧିକାରୀଙ୍କୁ ଭୋଟ ଗ୍ରହଣ/ଗଣତିର ପୂର୍ବଦିନ ଅପରାହ୍ନ ୫
ଘଟିକା ସୁଦ୍ଧା ପ୍ରଦାନ କରାଯିବ ।

(୨) ଯାହା ଅବରକାରୀ କାଟି ଦିଆଯାଉ ।

(୩) ଭୋଟ ଗ୍ରହଣ ଆରମ୍ଭର ଏକ ଘଣ୍ଟା ପୂର୍ବରୁ ଭୋଟ ଗ୍ରହଣ କେନ୍ଦ୍ରରେ E.V.M. ଦ୍ଵାରା ହେଉଥିବା କୃତ୍ରିମ ଭୋଟ
ଗ୍ରହଣକୁ ଦେଖିବା ପାଇଁ ପୋଲିଂ ଏଜେଣ୍ଟଙ୍କର ଉପସ୍ଥିତି ଆବଶ୍ୟକ ।

STATE ELECTION COMMISSION, ORISSA
TOSHALI PLAZA, BLOCK-B2, 1ST FLOOR
SATYANAGAR, BHUBANESWAR

No. 2213-SEC., dated the 30th May 2008

From :

Shri F. C. Satapathy,
Secretary.

To

All District Magistrates.

SUBJECT—Issue of certified copies of documents relating to Municipal General Election.

Sir,

I am directed to say that certified copies of the Orders of the Election Officer on matters relating to entries in the Electoral Roll, on rejection / acceptance of nomination papers filed by the contesting candidates, result of counting and other documents not having any bearing on the secrecy of voting, are to be supplied to the interested applicants. The Commission orders that the following procedures shall be followed in the matter of granting certified copies of election related documents :

- (1) The Election Officers who have the facility of record room in their own office will issue certified copy as per the procedure laid down in the Orissa Records Manual.
- (2) The Election officers who do not have the facility of record room in their own office will issue true and attested copies of the documents required by the concerned party who has to make an application in accordance with the provisions of Chapter IX of Orissa Records Manual. The fees required for the purpose shall be deposited by the concerned party in cash for which a receipt will be granted. The fees thus received will be credited in due course in the Head of Account, i.e., 02-Election-101-Sale Proceeds of Election Forms and Documents-Receipt from Municipal General Election.
(The copies of the required documents may be prepared manually or making Xerox copies of the same if such facilities are available. The documents should be attested as true copy of the Original)
- (3) Copies of the documents, which have bearing on the secrecy of voting, should not be granted.

However, the Commission makes it very clear that after the process of election is over, the Election Officer shall submit all the election related documents to the District Magistrate concerned for preservation of those documents in the district record room. The District Magistrate or any officer authorized by the District Magistrate shall issue the certified copy to the applicant in accordance with the provisions laid down in the Orissa Records Manual.

Yours faithfully
F. C. SATAPATHY
Secretary

Memo No. 2214-SEC., dated the 30th May 2008

Copy to all Election Officers for information and necessary action.

Sd/-
Secretary

STATE ELECTION COMMISSION, ORISSA.
TOSHALI PLAZA, B-2, 1 ST FLOOR,
SATYANAGAR, BHUBANESWAR - 751 007

No. 2290-Ele. (Mi) 2008- S.E.C., Dated the 2nd June 2008

From

Shri F. C. Satapathy
Secretary

To

All District Magistrates.

SUBJECT—Scrutiny of nomination – Supply of information by the Urban Local Bodies to the Election Officer regarding arrear dues, interest in subsisting contracts, etc. of the contesting candidates.

Madam/Sir,

I am directed to say that Section 16 of the Orissa Municipal Act, 1950 and Section 70 of Orissa Municipal Corporation Act, 2003 lay down the procedure for disqualification of being a candidate for election. Among other things, the above quoted Sections contain the following provisions which mostly relate to various affairs of Municipality or Corporation in one way or other.

As per Section 16 of the Orissa Municipal Act, 1950—

"No person shall be qualified for election as a Councillor of a Municipality if such person –

- (vi) is in arrear or any dues payable to the Municipality without sufficient cause shown to the satisfaction of the Election Officer, for a period of one year immediately preceding the year in which the election is held; or
- (viii) is interested in a subsisting contract, either directly or indirectly made with or any work being done for the Municipality, except as a shareholder in a registered joint stock company or Co-operative Society, constituted under the law for the time being in force :

Provided that a person shall not be deemed to have any interest in such contract or work by reason only of his having a share or interest in; –

- (a) any lease, sale or purchase of immovable property or any agreement for the same; or
- (b) any agreement for the loan of money or any security of the payment of money only; or
- (c) any newspaper in which any advertisement relating to the affairs of the Municipality is or may be inserted; or
- (d) the sale to the Municipality of any articles in which he regularly trades or the purchase from the Municipality of any article to a value in either case, not exceeding fifteen hundred rupees in the aggregate, in any year during the period of the contractor work; or

- (ix) is employed as a paid legal practitioner on behalf of the Municipality or as legal practitioner against the Municipality; or
- (x) is an officer or servant holding office under the Municipality or a Honorary Magistrate with jurisdiction over any part of the area of the Municipality".

Similar provisions also exist in clauses (k), (f), (g) and (j) of Section 70 of the Orissa Municipal Corporation Act, 2003.

In all such cases the information is supposed to be available with the Municipal Commissioner/Executive Officer of the concerned Corporation/ Municipality. The Election Officer being an officer not directly connected with the Corporation/Municipality affairs and with its records will find it difficult at the time of scrutiny of nomination papers to know if a candidate is liable to be disqualified in connection with the Corporation/Municipality affairs as per the aforesaid provisions. In order to obviate difficulties at the time of scrutiny of nominations the Municipal Commissioner/Executive Officers of concerned U.L.Bs. are to supply a list of all those persons who come under the purview of the aforesaid provisions. Non-compliance of the above order will amount to violation of order of a statutory authority.

Hence, you are requested to instruct the Municipal Commissioner/ the Executive Officers under your jurisdiction to submit a detail list of persons with regard to the above points to the Election Officer appointed for the concerned U.L.Bs. before the date fixed for the filing of nominations.

Yours faithfully,

F. C. SATAPATHY

Secretary

MEMO. No. 2291/SEC., Dated the 2nd June 2008

Copy to all Election Officers/Municipal Commissioner, Cuttack & Bhubaneswar and all Executive Officers for information and necessary action.

Sd/-

Secretary

STATE ELECTION COMMISSION, ORISSA
TOSHALI PLAZA, B-2, 1ST FLOOR
SATYANAGAR, BHUBANESWAR - 751007

No. 2899-SEC.,

Date : 03-07-2008

From

Shri F. C. Satapathy,
Secretary.

To

The District Magistrates,
Mayurbhanj, Sundergarh, Koraput, Rayagada, Nabarangpur, Malkangiri, Sambalpur,
Keonjhar, Kandhamal, Gajapati, Kalahandi & Balasore.

Sub : Important judgment of the Hon'ble High Court of Orissa regarding applicability of
74th Amendment of the Constitution of India to the Scheduled Areas.

Sir,

In inviting a reference to the subject cited above, I am directed to say that the Hon'ble High Court of Orissa have delivered an important judgment on 14-08-2003 in W.P.(C) No. 7646 of 2003 regarding applicability of the 74th Amendment of the Constitution of India to the Scheduled Areas of the State. This judgment was delivered on the petition filed by one Rashid Aslam, a resident of Rourkela Municipality.

Part IX-A was inserted in the Constitution of India by the Constitution (74th Amendment) Act, 1992 which contain the provision relating to Municipality. Article 243ZC reads as "Nothing in this part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), in Article 244". In this context your attention is drawn to para 5 of 5th Schedule of the Constitution of India. Sub-Para 1 of Para 5 of the said schedule provides:

"(1) Notwithstanding anything in this Constitution, the Governor may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a scheduled area or any part thereof in the State subject to such exceptions and modification as he may specify in the notification and any direction given under this sub-paragraph may be given as to have retrospective effect."

The contention of the petitioner was that since Article 243ZC provides that the 74th Amendment shall not apply to the Scheduled Areas, Rourkela Municipality being within Sundergarh District which is a Scheduled Area, no election shall be held to the said Municipality.

The Hon'ble High Court in their judgment have observed that these two provisions (Article 243ZC and Sub-Para 1 of Para 5 of the 5th Schedule of the Constitution) are contradictory to each other. At the same time they have observed that all efforts must be made to adopt an interpretation so that one part or the other do not become devoid of any application or meaning.

The claim of the petitioner is that the provision of Article 243ZC being repugnant or inconsistent with that of the provision of Paragraph 5 of the 5th Schedule, it will be the Article 243ZC which would prevail over paragraph-5 of the 5th Schedule.

The Hon'ble High court in their judgment dated 14-8-2003 have observed that in view of the provisions contained in sub-para 1 of Para-5 of the 5th Schedule of Constitution of India, the State Legislature is not deprived of any such power to make laws applicable to all Municipalities situated within the scheduled Areas/tribal Areas. The State is not under obligation or compulsion to make any law in conformity with Part-IXA of the Constitution so far as their applicability to scheduled Areas/tribal Area is concerned.

It is pertinent to mention here that the Orissa Municipal (Amendment) Act, 1994 which received the assent of the Governor on 23rd May, 1994 wherein clause 2(c) of the said Amendment provided that "nothing in this Act shall apply to the Scheduled Areas referred to in clause (1) of Article 244 of the Constitution." Subsequently, the Government in Housing & Urban Development Department with the assent of the Governor from 31st day of May 1994 published in Notification No. 743 dated 14-8-1995 provided that the provisions of the Orissa Municipal Act, 1950 shall be deemed to have been applied to the Scheduled Areas of the State w.e.f. 31st May, 1994 (copy enclosed).

Hence, in conformity of Notification dated 14th August, 1995 elections are being held in the Municipal areas situated within the Scheduled Areas of the State.

Yours faithfully,

F. C. SATAPATHY

Secretary