



सत्यमेव जयते

महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

शुक्रवार, मार्च ३, १९९५/फाल्गुन १२, शके १९१६

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी प्रत्येक विभागाच्या पुरवणीला वेगळे पृष्ठ क्रमांक दिले आहेत.

भाग एक-अ-मध्य उप विभाग

महाराष्ट्र जिल्हा परिषदा व पंचायत समित्या. ग्रामपंचायती, नगरपरिषदा, प्राथमिक शिक्षण आणि स्थानिक निधी लेखा परीक्षा अधिनियम यांखालील (भाग चार-व मध्ये प्रसिद्ध करण्यात आलेले आदेश व अधिसूचना यांब्यतिरिक्त) आदेश व अधिसूचना.

STATE ELECTION COMMISSION

New Administrative Building, Opp. Mantralaya, Madam Cama Road, Bombay 400 032,
dated the 2nd March 1995.

Order

CONSTITUTION OF INDIA.

No. SEC. 1095/306/Desk-3.—Whereas the superintendence, direction and control of all elections to the Panchayats and the Municipalities in the State are vested in the State Election Commission, Maharashtra in accordance with the provisions of Articles 243-K and 243-ZA of the Constitution of India ;

And Whereas as envisaged in the provisions made by the Constitution (Seventy-third) Amendment Act, 1992 and the Constitution (Seventy-fourth) Amendment Act, 1992, it is intended *inter alia* to ensure regular, timely and also free, fair and in efficient manner, all elections to the Panchayat and the Municipalities under the superintendence, direction and control of the State Election Commission;

And Whereas the provisions with regard to the elections to the Panchayats and the Municipalities made in the relevant State Acts under which the Panchayats and the Municipalities are constituted do not, in all the Acts provide for the requisitioning of staff, premises, vehicles, etc. that may be required at or for an election to a Panchayat or a Municipality ;

And Whereas it is necessary and expedient in the interest of maintaining purity of elections to a Panchayat or a Municipality and in the interest of conduct of such elections in a free, fair and efficient manner, to provide for requisitioning of staff, premises, vehicles, etc. that may be required at or for any election to a Panchayat or the Municipality including any bye-election and for incidental provisions with regard thereto;

Now, Therefore, in exercise of the powers conferred by Articles 243-K and 243-ZA of the Constitution of India, read with sub-section (4) of section 18A of the Bombay Municipal Corporation Act (Bom. III of 1888), sub-section (4) of section 9B of the City of Nagpur Corporation Act, 1948 (C. P. and Berar II of 1950), Sub-section (4) of section 14 of the Bombay Provincial Municipal Corporation Act, 1949 (Bom. LIX of 1949), sub-section (4) of section 10A of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, sub-section (4) of section 10A of the Bombay Village Panchayats Act, 1958 (Bom. III of 1959), the Zilla Parishads and Panchayats Samitis Act, 1961 (Mah. V of 1962), and of all other powers enabling me in this behalf, and in relation to holding of elections under these provisions under the supervision, direction and control of the State Election Commission, I, D. N. Chaudhari, State Election Commissioner, Maharashtra hereby make an order as follows :—

1. *Title, extent, application and commencement.*—(1) This Order may be called the Panchayats and Municipalities Election (Requisitioning of Staff, Premises and Vehicles, etc.) Order, 1995.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall apply to such Panchayat or Municipality where, the law for the time being in force under which it has been constituted, does not provide for the matters provided in this Order; and where any such law makes provisions for such matters, the relevant provisions of this Order shall not apply.

(4) It shall come into force on the 3rd March 1995.

2. *Requisitioning of Staff for election.*—Every State Government Department or Office, local authority, Corporation owned or controlled by the State Government, or a company or any subsidiary company set up by the State Government, in the State shall, when so requested, in the case of any election to a Municipal Corporation, by the Municipal Commissioner concerned or, in any other case, by the Collector, or by an officer authorised by the Municipal Commissioner or, as the case may be, by the Collector (hereinafter in this Order referred to as "the requisitioning authority"), make available to them such staff as may be necessary for the performance of any duty in connection with the preparation and revision of electoral roll or list of voters and the conduct of election.

Explanation.—For the purpose of this clause,—

(1) the expression "a corporation" means any body corporate and shall include a society registered under the Societies Registration Act, 1860 (21 of 1860) in its application to the State of Maharashtra or any body constituted under any law for the time being in force ;

(2) the expression "a corporation controlled by the State Government" shall include a corporation in which not less than twenty-five per cent of the paid up share capital is held by the State Government ;

(3) the expression "staff" shall include officers,

3. *Requisitioning of Premises, Vehicles, etc. for election.*—(1) If it appears to the requisitioning authority that in connection with any election—

(a) any premises are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken; or

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(b) any vehicle, vessel or animal is needed or likely to be needed for the purpose of transport of ballot boxes to or from any polling station or transport of members of police force for maintaining order during the conduct of such election, or transport of any officer or other person for the performance of any duties in connection with such election ;

the requisitioning authority may, by order in writing, requisition such premises or such vehicle vessel or animal, as the case may be, and make such further orders as may appear to it be necessary or expedient in connection with the requisitioning :

Provided that, no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the requisitioning authority to be the owner or person in possession of the property, and such order shall be served on the person to whom it is addressed in the manner prescribed for the service of a notice under any law for the time being in force under which a Panchayat or a Municipality is constituted.

(3) Any person to whom such order is addressed shall be bound to deliver possession of such premises or such vehicle, vessel or animal to the requisitioning authority or to such other officer as may be specified in the order.

(4) Whenever any property is requisitioned under sub-clause (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-clause.

Explanation.—For the purpose of this section,—

(a) The expression “premises” means any land, building, or part of a building and includes a hut, shed or other structure or any part thereof.

(b) The expression “vehicle” means any vehicle used or capable of being used for the purpose of road transport whether propelled by mechanical power or otherwise.

4. *Payment of compensation.*—(1) Whenever in pursuance of the last preceding clause, the requisitioning authority requisitions any premises, or any vehicle, vessel or animal, the requisitioning authority shall pay to the person interested compensation, the amount of which shall be determined by the requisitioning authority taking into consideration the following, namely :—

(a) in the case of premises—

(i) the rent payable in respect of the premises or if no rent is payable, the rent payable for similar premises in the locality;

(ii) if the consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change;

(b) in the case of any vehicle, vessel or animal, the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal.

(2) Any person interested or any person, who claims to be entitled to receive compensation, being aggrieved by the order of the requisitioning authority as to—

(i) the amount of compensation determined; or

(ii) the title of any person entitled to receive compensation; or

(iii) the apportionments of the amount of compensation among two or more persons, may, within one month from the receipt of the order under sub-section (1), or if the order is not addressed to him within one month from the date of the order, appeal to the Divisional Commissioner of a revenue division concerned and the decision of the Divisional Commissioner on such appeal shall be final.

Explanation.—For the purpose of this section, the expression “ person interested ” means,—

(a) in the case of premises,—

(i) the person who was in actual possession of the premises immediately before the requisition; or

(ii) when no person was in actual possession, the owner of such premises,

(b) in the case of any vehicle, vessel or animal, the owner thereof; and

(c) any other person who is entitled to receive compensation :

Provided that, where immediately before the requisitioning, any vehicle or vessel was, by virtue of a hire-purchase agreement, in the possession of a person other than the owner, the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon and in default of agreement in such manner as the requisitioning authority may decide.

5. *Power to obtain information.*—The requisitioning authority may, with a view to requisitioning any staff or premises under clause 3 or determining the compensation payable under clause 4 by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such staff or property as may be so specified.

6. *Power of entry into and inspection of premises etc.*—Any person authorised in this behalf by the requisitioning authority may enter into any premises and any vehicle, vessel or animal therein for the purpose of determining whether, and if so, in what manner an order under clause 3 should be made in relation to such premises, vehicle, vessel or animal, or with a view to secure compliance with any order made under that clause.

7. *Eviction from requisitioned premises.*—(1) Any person remaining in possession of any requisitioned premises in contravention of any order made under clause 3 may be summarily evicted from the premises by any officer empowered by the requisitioning authority in this behalf.

(2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdrawn, remove, or open any lock or bolt or break open any door or any building or do any other act necessary for effecting such eviction.

8. *Release of Premises etc. from requisition.*—(1) When any premises requisitioned under clause 3 are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned or if there were no such person, to the person deemed by the requisitioning authority to be the owner of such premises and such delivery of possession shall be a full discharge of the requisitioning authority from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

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(2) Where the person to whom possession of any premises requisitioned under clause 3 is to be given under sub-clause (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the requisitioning authority shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the *Official Gazette*.

(3) When a notice referred to in sub-clause (2) is published in the *Official Gazette* the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the requisitioning authority or the Panchayat or the Municipality, concerned shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

(4) The provisions of sub-clause (1) to (3) shall apply *mutatis mutandis* to the release of a vehicle, vessel or animal.

9. *Offences and penalties.*—Any person who,—

(1) contravenes any order made under clause 2 or, after having issued an order of requisition and entrusted with any duty in connection with any election, refuses to attend or to perform such duty ;

(2) contravenes any order made under clause 3 ;

(3) refuses to furnish the information or willfully furnishes false information called for the order addressed; shall on conviction; be punished,—

(a) for an offence under sub-clause (1) or (2), with imprisonment for a term which may extend to one year, or with fine, or with both.

(b) for an offence under sub-clause (3), with imprisonment for a term which may extend to three months, or with fine, or with both.

D. N. CHAUDHARI,

State Election Commissioner, Maharashtra.



महाराष्ट्र शासन राजपत्र

असाधारण भाग एक-अ-मध्य उप-विभाग

वर्ष ४, अंक ३३]

बुधवार, जुलै १८, २०१८/आषाढ २७, शके १९४०

[पृष्ठ २, किंमत : रुपये २६.००

असाधारण क्रमांक ६७

प्राधिकृत प्रकाशन

महाराष्ट्र जिल्हा परिषदा व पंचायत समित्या, ग्रामपंचायती, नगरपरिषदा, प्राथमिक शिक्षण आणि स्थानिक निधी लेखापरीक्षा अधिनियम यांखालील (भाग चार-ब मध्ये प्रसिद्ध करण्यात आलेले आदेश व अधिसूचना यांव्यतिरिक्त) आदेश व अधिसूचना.

STATE ELECTION COMMISSION, MAHARASHTRA

New Administrative Building, Hutatma Rajguru Chowk, Madam Cama Road
Mumbai 400 032, dated the 18th July 2018

Reference.—SEC Order No. SEC.1095/306/Desk-3, dated 2nd March 1995.

CORRIGENDUM

No. SEC/ZPPS/2017/CR.44/D-7.— Whereas, the superintendence, direction and control of all election to the Panchayats and the Municipalities in the State are vested in the State Election Commission, Maharashtra in accordance with the provisions of Articles 243-K and 243-ZA of the Constitution of India;

2. And whereas, State Election Commission has plenary powers to cope with certain situations which may not be provided for in the enacted laws and rules and as the relevant State Acts under which the Panchayat and the Municipalities are constituted do not provide for requisitioning the staff, premises, vehicles that may be required at or for an election to Panchayat and Municipality. The State Election Commission, as such has exercised its powers in issuing the said reference order.

3. And whereas, in view of the order passed by the Bombay High Court, Bench at Aurangabad in Writ Petition No.1514/2017 on 5th May 2017, it has become necessary to amend the reference order on the lines of section 159 of the Representation of People Act, 1951.

(१)

Now, therefore, in exercise of the powers conferred by Articles 243-K and 243-ZA of the Constitution of India, read with sub-section (4) of section 18A of the Mumbai Municipal Corporation Act (Bom.III of 1888), sub-section (4) of section 14 of Maharashtra Municipal Corporation Act (Bom.LIX of 1949), sub-section (4) of section 10-A of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, sub-section (4) of section 9A of the Maharashtra Panchayat Parishad and Panchayat Samiti Act, 1961 (Mah.V of 1962), sub-section (4) of section 10A of the Maharashtra Village Panchayat Act, 1958 (Bom.III of 1959), and of all the powers enabling it in this behalf, and in relation to holding of elections under these provisions under the supervision, direction and control of the State Election Commission, Maharashtra hereby makes the following order :—

The Para No. 2 of State Election Commission Order No. SEC.1095/306/Desk-3, dated 2nd March 1995 shall be replaced and read as follows :—

“ 2. Requisition of Staff for election –

(1) The authorities specified in sub-section (2) shall, when so requested by Municipal Commissioner in the case of any election to Municipal Corporation or in any other case by the Collector or by an Officer authorized by Municipal Commissioner or as the case may be, by the Collector (hereinafter in this order referred to as requisitioning authority), make available to them such staff as may be necessary for the performance of any duty in connection with the preparation and revision of electoral roll or list of voter and the conduct of election.

(2) The following shall be the authorities for the purpose of sub-section (1), namely :—

- (i) any Maharashtra State or Central Government Department or Office,
- (ii) any Local authority in Maharashtra State,
- (iii) any University established or incorporated by or under a Central Provincial or State Act,
- (iv) A Government Company as defined in section 617 of the Companies Act, 1956 (1 of 1956),
- (v) Any other institution, concern or undertaking which is established by or under Central Provincial or State Act or which is controlled or financed wholly or substantially by funds provided, directly or indirectly, by the Central Government or a State Government.”

(3) The above amendment shall come into force on the date of its publication in the *Official Gazette*.

By order of State Election Commissioner,

AVINASH SANAS,
Deputy Commissioner,
State Election Commission,
Maharashtra.