

STATE ELECTION COMMISSION, MAHARASHTRA

No. SEC. 1095/CR-5/95/Desk-3.
New Administrative Building,
Opposite Mantralaya,
Madame Cama Road, Bombay 400 032.
Dated the 15th March 1995.

To,

The Chief Secretary to the Government of Maharashtra,
Mantralaya, Bombay 400 032.

Subject.—Restrictions on transfer of staff connected with the work of elections.

DIRECTION

Whereas, as envisaged in the provisions made by the Constitution (Seventy-third) Amendment Act, 1992 and the Constitution (Seventy-fourth) Amendment Act, 1992, (*vide* Article 243-K and 243-ZA of the Constitution of India) it is intended *inter alia* to ensure regular, timely and also free, fair and in efficient manner, all elections to the Panchayats 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 Panchayats and the Municipalities are constituted do not, in all the Acts, make provisions to regulate transfers of staff connected with the work of election, during an election to a Panchayat of a Municipality ;

And Whereas, the State Election Commission has ordered holding of general elections to over about 14,000 Village Panchayats throughout the State and fixed the programme therefor in two stages as communicated to all the Collectors in the State under letter No. SEC. 1095/CR-30/95/PR, dated the 1st February 1995, according to which the work of making preparations for these elections, such as formation of wards, etc. has commenced on the 23rd February 1995 and the election process shall be completed by the 24th May 1995 ;

And Whereas, the State Election Commission has also ordered holding of general elections to nine Municipal Councils and three Municipal Corporations and fixed the programme therefor in March, April and May 1995 ;

And whereas as provided in sub-section (3) of section 10A of the Bombay Village Panchayats Act, 1958, sub-section (3) of section 14 of the Bombay Provincial Municipal Corporations Act, 1949 and sub-section (3) of section 10A of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, all the officers and members of the Staff appointed or deployed for preparation of electoral rolls and conduct of elections of Panchayats or, as the case may be, Municipal Corporations, shall function under the superintendence, direction and control of the State Election Commissioner ;

And whereas sub-section (4) of the said section 10A and 14, respectively, provide that notwithstanding anything contained in the said Act and the rules made thereunder, the Commission may issue such special or general orders or directions, which may not be inconsistent with the provisions of the said Act or the rules for fair and free elections ;

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, peaceful and efficient manner, to regulate transfers of staff connected with the work of election during any election to a Panchayat or the Municipality including any bye-election ;

भाग एक-अ]

महाराष्ट्र शासन राजपत्र, असाधारण मार्ग २०, १९९५/फाल्गुन २९, शके १९९६

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 Panchayat 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 direct as follows :—

(1) The transfers of Municipal Commissioners and Collectors including Additional Collectors, middle level officers like Deputy Collectors, Chief Officers of Municipal Councils, Block Development Officers, Tahsildars and other officers and employees *connected with or associated with the work of making preparations for and the conduct of the Panchayat / Municipality elections and bye-elections and police officers of all levels in the area of the Panchayat or the Municipality where elections are being held*, should not be ordered or, if ordered earlier given effect to during the period from the date of announcement of election programme until the date of completion of the election or bye-election.

(2) These instructions are considered necessary to ensure that the election process which has started with the help of officers and employees detailed for making preparations for the election work is completed without late or hinderance in that work.

(3) If any transfer is found unavoidable and absolutely necessary a reference should be made to the commission for approval, alongwith the full justification therefor.

(4) At the same time, officers about whom complaints have been received from any contesting candidate/political party reflecting upon his partisan attitude or behaviour during his tenure should be dissociated with the election work.

(5) The authorities concerned of the State Government or of a panchayat or a Municipality shall not effect transfer of officers and staff connected with the formation of wards, preparation of electoral rolls and conduct of elections to a Panchayat or a Municipality during the period specified in direction (1) hereinabove.

(6) The State Government shall strictly implement the above measures and issue detailed and comprehensive standing instructions to all the authorities concerned to take appropriate and legally effective steps in that behalf and assist the election authorities in the peaceful and smooth conduct of free fair and peaceful election poll. A copy of the instructions so issued should be endorsed to the State Election Commission.

(7) These directions shall apply at all other/future general or bye-elections to any Panchayat or Municipality in the State.

D. N. CHAUDHARI,
State Election Commissioner, Maharashtra.

Copy forwarded with compliments and for information to the Additional Chief Secretary, Home Department, Mantralaya, Mumbai 400 032.

Copy forwarded for information to—

All the Divisional Commissioners.

All the Municipal Commissioners.

All the Collectors of Districts.

All the Chief Executive Officers of Zilla Parishad.