

STATE ELECTION COMMISSION

No. SEC.1095/CR-25/95/PR,
New Administrative Building,
Opp. Mantralaya, Madam Cama Road, Bombay 400 032,
Dated 21st January 1995.

To
The Commissioners,
(All Revenue Divisions),
The Municipal Commissioner,
(All Municipal Corporations),
The Collector,
(All Districts),
The Chief Executive Officer,
(All Zilla Parishads).

Sub.—Elections to the Panchayats and the Municipalities—

Prevention of defacement of property and for matters connected therewith or incidents thereto :—

The Governor of Maharashtra has promulgated an Ordinance, being Maharashtra Ordinance No. 1 of 1995, to provide for prevention of defacement of property and for matters connected therewith or incidental thereto. This Ordinance has been published in the *Maharashtra Government Gazette, Extraordinary, Part IV*, dated the 18th January 1995 at pages 14.

2. It is common knowledge that political parties/associations/bodies or candidates or their workers, supporters or sympathisers indulge in defacing or spoiling private or public property including buildings by pasting of posters, writing of slogans, painting of symbols, erecting flagstuffs, suspending banners, etc. Indulgence in such undesirable activities, without written permission of the owner of the building, whether private or public, by such party/association/body/candidate/person, calls for action such as prosecution or otherwise being proceeded against under the law. All such acts of defacement of property indulged in by political parties/associations/bodies or persons whether during the election period or non-election period call for such action as mentioned above. The laws in relation to the Panchayat Raj institutions and the Municipal Corporations or Municipal Councils do not adequately provide for appropriate action against such party or persons and as the Government has observed that there is increasing tendency of defacing private or public properties for personal purpose and advertisement, etc. without obtaining necessary permission for the same from the local authority concerned, the abovementioned Ordinance has been promulgated.

3. The Ordinance defines the expressions "advertisement", "defacement", "place open to public view", "public place" as under—

(a) advertisement means any printed, cyclostyled typed or written notice, document paper on any other thing containing any letter, word, picture, sign or visible representation;

(b) "defacement" includes impairing or interfering with the appearance of beauty, damaging, disfiguring, spoiling or injuring in any way whatsoever and the word "deface" shall be construed accordingly;

(c) "place open to public view" includes any private place or building monument, statue post, wall, fence or contrivance, visible to a person being in, or passing along, any public place;

(d) "public place" means any place (including a road, street, or way whether a throughfare or not and a landing place) to which the public are granted access or have a right to resort or over which they have a right to pass.

The offence for defacing property is punishable with imprisonment for a period which may extend to three months or with fine which may extend to two thousand rupees or with both.

The provisions of the Ordinance do not apply to any advertisement exhibited with the written permission of the local authority; or exhibited in the window of any building in relation to trade, profession or business carried on within the land or building upon or over which such advertisement is exhibited or to any sale or to letting of such land or building or any effects therein; or advertisement of any sale, entertainment or meeting to be held on or upon or in the same; or advertisement to business of railway administration.

The offence punishable under the Ordinance is cognizable. Under the provisions of the Ordinance, the State Government is empowered to free the property from any defacement, or to erase any writing or remove any erection or fixation from any place open to public view and the expenditure incurred in doing so shall be recoverable from the person guilty of such offence.

The provisions of this special law which has been enacted through this Ordinance would now be available for checking and preventing defacement of property more particularly when resorted to during or about the period of elections to the Panchayats and the Municipalities.

The copy of this Ordinance can be had from the relevant gazette pointed out above, and, with a view to checking or preventing defacement of private and public property, the authorities in the field shall no doubt bring the provisions thereof to the notice of the Officers and employees who would be dealing with election matters in respect of elections to the Panchayats and the Municipalities.

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