

**OFFICE OF THE CHIEF ELECTORAL OFFICER
WEST BENGAL
21 N S ROAD KOLKATA-700 001**

No.1474 (21)-Home(Elec)
R3E-01/2012

Dated 17th March, 2016

From: **Joint Chief Electoral Officer
West Bengal**

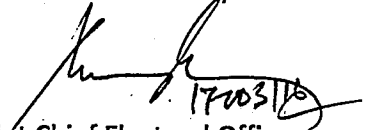
To: **District Election Officer (All)**

Subject: **General Election to the West Bengal Legislative Assembly, 2016- Filing of
affidavit on Government dues-clarifications-regarding.**

Madam/Sir

I am directed to send herewith a copy of letter **No.464/WB-LA/2015(Instt)** dated **17th March, 2016** received from the Principal Secretary, Election Commission of India on the subject cited above and to request you to kindly bring this instructions to the notice of all concerned including Returning Officers and Assistant Returning Officers under your jurisdiction for strict compliance.

Yours faithfully


**Joint Chief Electoral Officer
West Bengal**

Encl.: As stated



भारत निर्वाचन आयोग
Election Commission of India

निर्वाचन सदन
NIRVACHAN SADAN
अशोक रोड, नई दिल्ली - 110 001
ASHOKA ROAD, NEW DELHI - 110 001

No. 464/WB-LA/2015 (Instt)

Dated: 17th March, 2016

To

The Chief Electoral Officer,
West Bengal,
Kolkata.

Subject - General Election to LA of West Bengal 2016 - Filing of affidavit on Govt dues-
clarifications -regarding-

Sir,

I am directed to refer to your letters number 800-Home dated 26.2.2016 and 654-Home(Elec)/R3E01/2012 dated 17.2.2016, on the subject cited, and to clarify the following in relation to ECI instruction contained in its letter number 509/11/2004-JS-I dated 4th February, 2016 :-

Q.1 Whether the said Order as well as the Format of 'Additional Affidavit to be submitted by Candidates' is applicable to the ensuing General Elections to the West Bengal Legislative Assembly, 2016?

Ans- Yes

Q.2 Whether the copy of the said Order and the Format would be handed over to the Candidates by the RO/authorized ARO during the period of filing nomination papers;

Answer -Yes

Q.3 As per Para 16(4) of the Commission's Order no. 3/ER/2003/JS-II dated 27.03.2003 and Para 2 of Commission's letter No. 3/ER/2011/SDR, dated 12.10.2012, whether the additional affidavits filed by the candidates would also be uploaded on the website for dissemination of the Information to the electors.

Ans-Yes

Q.4 Whether the information furnished by the contesting candidates in relation to the dues to the government departments as in the newly introduced Affidavit should also be published by the Returning Officers concerned in at least two newspapers having local circulation, one of which should be a vernacular newspaper within two days after preparing the list of contesting candidates (ref: Commission's letter No. 3/ER/2004/ JS-II, dated 09.03.2004);

Ans- No, only the Govt's dues shown by the candidate in Form 26 may be published in

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Rajat

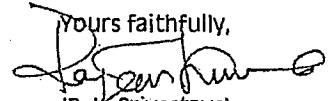
12/03/16

newspapers as per extant instructions of ECI.
Q.5 If any candidate fails to furnish the additional affidavit at the time of filing of nomination papers, whether the RO shall be liable to issue any notice in the same manner as prescribed in respect of affidavit in Form 26 specifying the date and time by which such is to be furnished before the RO and if any notice is prescribed for this purpose and the RO shall also mark the fact of non-furnishing of additional affidavit in the Check List of documents in connection with filing nomination.
Ans. Yes. The RO should give a notice to the candidate and an indication to this effect should be given in the check memo maintained by him.
Q.6 If any candidates fails to furnish the correct information in the additional affidavits (the new additional Affidavit), as per concluding Para of the Commission's letter No. 3/ER/2004-JS-II, dated 02.06.2004, the Commission directed that "where any complaint regarding furnishing of false information by any candidate is submitted by anyone, supported by some documentary evidence, the Returning Officers concerned should initiate action to prosecute the candidates concerned by filing formal complaints before the appropriate authority." But in this context, it is practically very difficult on the part of an RO to initiate action to the appropriate authority against such candidates due to paucity of time during the period of filing nomination paper to period of withdrawal of candidature.
Ans. It is clarified in the affirmative. So, the public officer before which the affidavit is filed, in this case the concerned RO, after a complaint is filed before him may file a complaint before the competent court, under section 177 of IPC. There is, however, no stipulation in ECI instruction of 2004 that it should be filed immediately during election process. In such case, the limitation period is one year from the date the offence come to his notice.
Q.7 Whether the Government building and services referred to in the Commission's instructions shall be construed to include the accommodation, utility services provided by PSUs, Govt. Undertakings, Autonomous Bodies under Govt. Department and Local Bodies;
Ans. As regards the term 'Government accommodation' it should for the time being be understood to have the same meaning as in the context of ECI order dated 27.3.2003.
Q.8 If there is any legal dispute existing between the accommodation or utility service provider

and individual over the issue of settlement of dues/claim and he is denied of being issued with no dues certificate, shall his non-furnishing of such certificate at the time of filing nomination be continued to be considered as defect of substantial nature;

Ans. If the relevant facts are disclosed by the candidate in his application or in a supplementary note by him, the RO should consider the case, but it should not be a ground for rejection of the nomination paper of the candidate.

Please inform all concerned for information and necessary compliance.

Yours faithfully,

(R. K. Srivastava)
Principal Secretary

Copy to CEOs of all other States/UTs for information.