

Election Commission of India

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. ECI/PN/38/2024

Date: 02.04.2024

PRESS NOTE

Sub: General elections to Lok Sabha and Legislative Assemblies of Andhra Pradesh, Arunachal Pradesh, Odisha & Sikkim, 2024 - Media Coverage during the period referred to in Section 126 of the R.P. Act, 1951 and other guidelines regarding.

The schedule for holding General Election to Lok Sabha and Legislative Assemblies of Andhra Pradesh, Arunachal Pradesh, Odisha & Sikkim, 2024 has been announced on 16.03.2024. Poll is scheduled to be held in multiple phases on 19.04.2024, 26.04.2024, 07.05.2024, 13.05.2024, 20.05.2024, 25.05.2024 & 01.06.2024.

In this regard, attention of all media is invited to the Section 126(1)(b) of the Representation of the People Act, 1951 that prohibits displaying any election matter by means, inter alia, of television, cinematograph or similar apparatus, in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in the polling area. The relevant portions of the said Section 126 are re-produced below:

(126. Prohibition of public meeting during period of forty-eight hours ending with hour fixed for conclusion of poll-

(1) No person shall-

(a)

(b) **Display to the public any election matter by means of cinematograph, television or other similar apparatus;**

(c).....

In any polling area during the period of forty-eight hours ending with the

hour fixed for the conclusion of the poll for any election in the polling area.

- (2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.
- (3) In this Section, the expression "election matter" means any matter intended or calculated to influence or affect the result of an election

2. During elections, there are sometimes allegations of violation of the provisions of the above Section 126 of the Representation of the People Act, 1951 by TV channels in the telecast of their panel discussions/debates and other news and current affairs programmes. The Commission has clarified in the past that the said Section 126 prohibits displaying any 'election matter' by means, inter alia, of television or similar apparatus, during the period of 48 hours ending with the hour fixed for conclusion of poll in a constituency. **"Election matter" has been defined in that Section as any matter intended or calculated to influence or affect the result of an election.** Violation of the aforesaid provisions of Section 126 is punishable with imprisonment up to a period of two years, or with fine or both.

3. The Commission once again reiterates that the TV/Radio channels and cable networks should ensure that the contents of the programmes telecast/broadcast/displayed by them during the period of 48 hours referred to in Section 126 do not contain any material, including views/appeals by panelists/participants that may be construed as promoting/ prejudicing the prospect of any particular party or candidate(s) or influencing/ affecting the result of the election. This shall, among other things include display of any opinion poll and of standard debates, analysis, visuals and sound-bytes.

4. Political advertisements on any election matter in TV, cable networks, radio, Cinema Halls, use of bulk SMS/voice messages, audio visual displays in any polling

area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in the polling area is also prohibited. "Election matter" is defined as any matter intended or calculated to influence or affect the result of an election.

5. Section 126 of the Representation of People Act, 1951, deals with prohibition of public meeting(s) or propagating and displaying election matter(s) to public, during the operation of silence period. However, it is not applicable in a case of multi-phased elections i.e. when the elections are held on different dates, if content of election matter relates to subsequent phase(s) and in no way, have any reference to the polling area, under silence period.

6. Attention is also invited to Section 126A of the R.P. Act 1951, which prohibits conduct of Exit poll and dissemination of its results during the period mentioned therein, i.e. from the beginning of the hours fixed for poll on the first day of poll (Phase 1) and continue till half an hour after closing of the poll in all the States and Union territories (phase 7). Separate instructions will also be issued specifying the prohibition period for Exit Polls.

7. During the period not covered by Section 126, concerned TV/Radio/Cable/FM channels/internet websites/Social Media platforms are free to approach the state/district/ local authorities for necessary permission for conducting any broadcast/Telecast related events (other than exit polls) which must also conform to the provisions of the model code of conduct, the programme code laid down by the Ministry of Information and Broadcasting under the Cable Network (Regulation) Act with regard to decency, maintenance of communal harmony, etc.

8. Attention of all Internet websites and Social Media platforms is also invited to the

provisions of The Information Technology Act, 2000, Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 and ECI guidelines No-491/SM/2013/Communication, dt 25thOctober, 2013 (Annexure-I), for all political content on their platform. As regards political advertisement on electronic media, the same needs pre-certification by the Committees set up at State/District level as per the Commission's order No. 509/75/2004/JS-I, dt 15th April, 2004 and letter no. 491/Paid News/2019/Communication dated 25.02.2019.

9. Attention of all print media is also invited to the **guidelines issued by Press Council of India dated 30.07.2010** and **'Norms of Journalists Conduct - 2022'** to follow for observance during the election. (Annexure-II)

10. Attention of the electronic media is invited to the **"Guidelines for Election Broadcasts"** issued by NBSA dt 3rd March, 2014. (Annexure-III)

11. **Internet and Mobile Association of India (IAMAI)** has also developed a **"Voluntary Code of Ethics"** for all the participating social media platforms to ensure free, fair & ethical usage of their platforms to maintain integrity of the electoral process during the General Elections to the Lok Sabha 2019. As agreed by IAMAI, vide letter dated 23.09.2019, the **"Voluntary Code of Ethics"** shall be observed during all elections. Accordingly, the Code is also applicable in ongoing elections. Attention of all concerned Social Media platforms is invited to the **"Voluntary Code of Ethics"** dt 20th March, 2019 in this regard. (Annexure-IV)

12. Further, it is also informed that no Political Party or Candidate or any other Organization or Person shall publish any **Advertisement in the print media on poll day and one day prior to poll day**, unless the contents of political advertisements are got pre-certified by them from the MCMC Committee at the State/District level,

as the case may be. The applicants shall have to apply to MCMC not later than 02(two) days prior to the proposed date of publication of such advertisements.

13. As mentioned in the ECI advisory dated March 1, 2024, Political advertisements especially sky bus advertisements masquerading as news headlines to mislead readers shall not be published in newspapers. There should be explicit restrictions on advertisements predicting the victory of a particular party and any form of speculative content related to election outcomes shall be avoided. Attention is also drawn to the Part (A) para 2 (xii) of Press Council's Norms of Journalist conduct which provides that "An editor shall be responsible for all matters, including advertisements published in the newspaper. If responsibility is disclaimed, this shall be explicitly stated beforehand."

The above advisory should be duly observed by all the concerned stakeholders.



(Rajesh Kumar Singh)
Under Secretary

Annexure-I

No. 491/SM/2013/Communication

Dated: 25th October, 2013

To,

1. Chief Electoral Officers of all States and Union Territories
2. Presidents/General Secretaries of All National/State recognized Political Parties.

Subject: Instructions of the Commission with respect to use of Social Media in Election Campaigning.

Sir,

The Commission's attention was drawn to use of social media for election campaigning and also certain violations of the Electoral Law in the social media, which need to be regulated in the interest of transparency and level playing field in the elections.

Social media refers to the means of interactions among people in which they create, share, and/or exchange information and ideas in virtual communities and networks. It differentiates from traditional/industrial media in many aspects such as quality, reach, frequency, usability, immediacy, and permanence. The prevalence of Web and social media has increased over the years and there have been demands from the political and social groups to regulate the social media during elections as other media is regulated.

There are broadly five different types of social media:

- a) collaborative projects (for example, Wikipedia)
- b) blogs and micro blogs (for example, Twitter)

- c) content communities (for example, YouTube)
- d) social networking sites (for example, Facebook)
- e) virtual game-worlds (e.g., Apps)

Legal provisions relating to election campaigning apply to social media in the same manner in which they apply to any other form of election campaigning using any other media. Since social media is a relatively new form of media, it appears necessary to clarify to all concerned by the following instructions:-

A. Information to be given by candidates about their social media accounts.

Candidates are required to file affidavits in Form-26 at the time of filing of nominations. Detailed instructions and the format in which the affidavits have to be filled were issued vide the Commission's letter No. 3/4/2012/SDR dated 24, August, 2012. Para 3 of this Form requires that email ID of the candidate, if any, should be communicated to the Commission in this Form. The Commission finds it necessary that authentic social media accounts of candidates should also be informed to the Commission. This information should be furnished in the said Para 3 as follows:-

“My contact telephone no.(s) is/are.....,
my email ID (if any) is ,
and my social media accounts (if any) are..... ”

B. Pre-Certification of Political Advertisements

In pursuance of the Hon'ble Supreme Court of India's Order in SLP (Civil) N. 6679/2004, dated 13 April,2004, the Commission issued detailed instructions on this subject vide its order no. 509/75/2004/JS- 1/4572 dated 15.04.2004. In this order, it was stated that every registered/ national and State political party and every contesting candidate proposing to issue advertisements on television channels and/ or on cable network will have to apply to Election Commission of India/designated officer for pre-certification of all political advertisements on electronic media before the publication. The order was further modified and consolidated vide Commission's order dated 27.08.2012, wherein Media Certification and Monitoring Committees at district and State levels were given the

responsibilities of pre-certification of such advertisement along with other functions viz acting against Paid News etc. Since social media websites are also electronic media by definition, therefore, these instructions of the Commission contained in its order No.509/75/2004/JS- 1/4572 dated 15.04.2004 shall also apply mutatis mutandis to websites including social media websites and shall fall under the purview of pre-certification.

You are, therefore, requested to ensure that no political advertisements are released to any internet based media/websites, including social media websites, by political parties/ candidates without pre-certification from competent authorities in the same format and following the same procedures as referred in the aforesaid orders.

C. Expenditure on campaigning through internet including social media websites.

According to Section 77, sub section (1), of Representation of the People Act, 1951, every candidate is required to keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent between the date on which he has filed nomination and the date of declaration of the result thereof, both dates inclusive. The Hon'ble Supreme Court of India had directed in Common Cause Vs. Union of India in 2005 that political parties should also submit a statement of expenditure of elections to the ECI and such statements are required to be submitted within 75 days of assembly elections and 90 days of Lok Sabha elections. It is obvious that expenditure on election campaign through any advertisement in social media is a part of all expenditure in connection with the elections.

For the sake of removing any ambiguity, it is hereby directed that candidates and political parties shall include all expenditure on campaigning, including expenditure on advertisements on social media, both for maintaining a correct account of expenditure and for submitting the statement of expenditure. This, among other things, shall include payments made to internet companies and websites for carrying advertisements and also campaign related operational expenditure on making of creative development of content, operational expenditure on salaries and wages paid to the team of workers employed by such candidates and political parties to maintain their social media accounts, etc.

D. Application of Model Code of Conduct to content on internet including social media.

The Commission has a model code of conduct in place during the elections in respect of political parties and candidates which remain in force from the date the elections are announced by the Commission till the completion of elections. It is clarified that the provisions of model code of conduct and related instructions of the Commission issued from time to time shall also apply to the content being posted on the internet, including social media websites, by candidates and political parties.

E. As far as the content posted by persons other than candidates and political parties is concerned, the Commission is considering the matter in consultation with the Ministry of Communication and Information Technology on practical ways to deal with the issue, in so far as they relate to, or can be reasonably connected with, the election campaigning of political parties and candidates.

These instructions may please be brought to the notice of all concerned including candidates, political parties, media and election observers for immediate necessary action.

Yours faithfully,

(Rahul Sharma)
(Under Secretary)
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Guidelines issued by Press Council of India dtd 30.07.2010 to follow for observance during the election:

- i. It will be the duty of the Press to give objective reports about elections and the candidates. The newspapers are not expected to indulge in unhealthy election campaigns, exaggerated reports about any candidate/party or incident during the elections. In practice, two or three closely contesting candidates attract all the media attention. While reporting on the actual campaign, a newspaper may not leave out any important point raised by a candidate and make an attack on his or her opponent.
- ii. Election campaign along communal or caste lines is banned under the election rules. Hence, the Press should eschew reports, which tend to promote feelings of enmity or hatred between people on the ground of religion, race, caste, community or language.
- iii. The Press should refrain from publishing false or critical statements in regard to the personal character and conduct of any candidate or in relation to the candidature or withdrawal of any candidate or his candidature, to prejudice the prospects of that candidate in the elections. The Press shall not publish unverified allegations against any candidate/party.
- iv. The Press shall not accept any kind of inducement, financial or otherwise, to project a candidate/party. It shall not accept hospitality or other facilities offered to them by or on behalf of any candidate/party.
- v. The Press is not expected to indulge in canvassing of a particular candidate/party. If it does, it shall allow the right of reply to the other candidate/party.
- vi. The Press shall not accept/publish any advertisement at the cost of public exchequer regarding achievements of a party/ government in power.
- vii. The Press shall observe all the directions/ orders/instructions of the Election Commission/Returning Officers or Chief Electoral Officer issued from time to time.

'Norms of Journalists Conduct- 2022'

- i) Newspaper should specifically mention "Marketing Initiative" on Supplement/special edition itself to distinguish them from various reports.

- ii) The newspaper should not mis-construct or misquote the statements given by leader. The statements quoted in editorial should project the true spirit of what is being tried to be conveyed by them.
- iii) Columns of news items which largely indicate names of voters on Caste basis and supporters of the candidate of particular political party, such tenor and manner of presentation of news establish the report to be paid news.
- iv) Political news published in competing newspaper with similar content strongly suggests such reports to be paid news.
- v) Two newspapers publishing same news item verbatim during election days is not accidental and it is evident that such news items have been published for consideration.
- vi) Manner of presentation of a news item/photograph that too in favour of a particular party/candidate as also the appeal for voting in favour of a particular party is suggestive of paid news.
- vii) Projecting a candidate's success in Election who is yet to file a nomination is suggestive of paid news.
- viii) News Reports on Campaign meeting and states enthusiasm because film stars were present cannot be termed as paid news.
- ix) While covering news on election, the newspapers are advised to ensure balance in publishing report/interview of candidates.
- x) During the course of election, subject to conditions laid down by the Election Commission of India, newspapers are free to make an honest assessment of prospects of candidates or the parties and its publication would not be paid news so long it is not established that consideration passed on for such publication.
- xi) Newspapers shall not publish any news survey predicting the victory of any political party without verification of it.
- xii) An attempt to influence the voters by projecting the contesting candidate with all virtues during the election is paid news.
- xiii) A news item giving negative aspect of a candidate and at the same time the positive aspect of candidate of other political party without any basis clearly shows that it is paid news.

“Guidelines for Election Broadcasts” issued by NBSA dt 3rd March, 2014.

- i. News broadcasters should endeavor to inform the public in an objective manner, about relevant electoral matters, political parties, candidates, campaign issues and voting processes as per rules and regulations laid down under The Representation of the People Act 1951 and by the Election Commission of India.
- ii. News channels shall disclose any political affiliations, either towards a party or candidate. Unless they publicly endorse or support a particular party or candidate, news broadcasters have a duty to be balanced and impartial, especially in their election reporting.
- iii. News broadcasters must endeavor to avoid all forms of rumour, baseless speculation and disinformation, particularly when these concern specific political parties or candidates. Any candidate/political party, which has been defamed or is a victim of misrepresentation, misinformation or other similar injury by broadcast of information should be afforded prompt correction, and where appropriate granted an opportunity of reply.
- iii. News broadcasters must resist all political and financial pressures which may affect coverage of elections and election related matters.
- iv. News broadcasters should maintain a clear distinction between editorial and expert opinion carried on their news channels.
- vi. News broadcasters that use video feed from political parties should disclose it and appropriately tagged.
- vii. Special care must be taken to ensure that every element of news/ programmes dealing with elections and election related matters is accurate on all facts relating to events, dates, places and quotes. If by mistake or inadvertence any inaccurate information is broadcast, the broadcaster must correct it as soon as it comes to the broadcaster’s notice with the same prominence as was given to the original broadcast.
- viii. News broadcasters, their journalists and officials must not accept any money, or valuable gifts, or any favour that could influence or appear to influence, create a conflict of interest or damage the credibility of the broadcaster or their personnel.
- ix. News broadcasters must not broadcast any form of ‘hate speech’ or other obnoxious content that may lead to incitement of violence or promote public unrest or disorder as election campaigning based on communal or caste factors is prohibited under Election

- Rules. News broadcasters should strictly avoid reports which tend to promote feelings of enmity or hatred among people, on the ground of religion, race, caste, community, region or language.
- x. News broadcasters are required to scrupulously maintain a distinction between news and paid content. All paid content should be clearly marked as “Paid Advertisement” or “Paid Content”: and paid content must be carried in compliance with the “Norms & Guidelines on Paid News” dated 24.11.2011 issued by NBA.
 - Xi Special care must be taken to report opinion polls accurately and fairly, by disclosing to viewers as to who commissioned, conducted and paid for the conduct of the opinion polls and the broadcast. If a news broadcaster carries the results of an opinion poll or other election projection, it must also explain the context, and the scope and limits of such polls with their limitations. Broadcast of opinion polls should be accompanied by information to assist viewers to understand the poll’s significance, such as the methodology used, the sample size, the margin of error, the fieldwork dates, and data used. Broadcasters should also disclose how vote shares are converted to seat shares.
 - xii. The broadcasters shall not broadcast any "election matter" i.e. any matter intended or calculated to influence or affect the result of an election, during the 48 hours ending with the hours fixed for the conclusion of poll in violation of Section 126(1)(b) of the Representation of the People Act, 1951.
 - xiii. The Election Commission of India (ECI) will monitor the broadcasts made by news broadcasters from the time elections are announced until the conclusion and announcement of election results. Any violation by member broadcasters reported to the News Broadcasting Standards Authority (NBSA) by the Election Commission will be dealt by the NBSA under its regulations.
 - xiv. Broadcasters should, to the extent possible, carry voter education programmes to effectively inform voters about the voting process, the importance of voting, including how, when and where to vote, to register to vote and the secrecy of the ballot.
 - xv. News broadcasters must not air any final, formal and definite results until such results are formally announced by the Election Commission of India, unless such results are carried with clear disclaimer that they are unofficial or incomplete or partial results or projections which should not be taken as final results.

“Voluntary Code of Ethics” dt 20th March, 2019:

- i. Participants will endeavour to, where appropriate and keeping in mind the principle of freedom of expression, deploy appropriate policies and processes to facilitate access to information regarding electoral matters on their products and/ or services.
- ii. Participants will endeavour to voluntarily undertake information, education and communication campaigns to build awareness including electoral laws and other related instructions. Participants will also endeavour to impart training to the nodal officer at ECI on their products/ services, including mechanism for sending requests as per procedure established by law.
- iii. Participants and the Election Commission of India (ECI) have developed a notification mechanism by which the ECI can notify the relevant platforms of potential violations of Section 126 of the Representation of the People Act, 1951 and other applicable electoral laws in accordance with procedures established by law. These valid legal orders will be acknowledged and/ or processed within 3 hours for violations reported under Section 126 as per the Sinha Committee recommendations. All other valid legal requests will be acted upon expeditiously by the Participants, based on the nature of reported violation.
- iv. Participants are creating/opening a high priority dedicated reporting mechanism for the ECI and appoint dedicated person(s)/teams during the period of General Elections to interface with and to exchange feedback as may assist with taking expeditious action upon receipt of such a lawful request, following due legal process, from the ECI.
- v. Participants will provide a mechanism for relevant political advertisers, in accordance with their obligations under law, to submit pre-certificates issued by ECI and/or Media Certification & Monitoring Committee (MCMC) of the ECI in relation to election advertisements that feature names of political parties, candidates for the ongoing Assembly Elections. Further, Participants shall expeditiously process/action paid political advertisements lawfully notified to Participants by the ECI that do not feature such certification.
- vi. Participants will commit to facilitating transparency in paid political advertisements, including utilising their pre-existing labels/disclosure technology for such advertisements.

- vii. Participants will, pursuant to a valid request received from the ECI, via Internet and Mobile Association of India (**IAMAI**) provide an update on the measures taken by them to prevent abuse of their respective platforms.
- viii. IAMAI will coordinate with its participant members on the steps carried out under this Code and IAMAI as well as Participants will be in constant communication with the ECI during the election period.