

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 3/ER/2023/SDR/Vol.IV

Dated: 3rd May, 2024

To

The Chief Secretaries of
All States and Union Territories

Subject: Filing of Affidavit by candidate at an election- 'No Dues Certificate' regarding.

Madam/Sir,

I am directed to refer to the Commission's instructions contained in letter of even no. dated 06.03.2024 (copy enclosed) and to state that a candidate who files his nomination paper during an election to the Parliament and State Legislature has also to file an Affidavit in Form 26 before the Returning Officer concerned under the provisions of Section 33A of the Representation of the People Act, 1951. As per the directions of the Supreme Court in various judgments the Affidavit so submitted should be completely filled in and no column should be left blank.

2. As per the directions of the Delhi High Court in judgment dated 07.08.2015 in WP(C) no. 4912/1998 (Krishak Bharat Vs UoI & ors.) a candidate who has been in occupation of accommodation provided by the Government any time during the last 10 years before the date of notification of the election has to give details of the government dues accrued to him of various departments dealing with government accommodation i.e. towards (a) rent, (b) electricity charges, (c) water charges and (d) telephone charges. The date of 'No Dues Certificate' should be the last date of the third month prior to the month in which election is notified or any date thereafter.

3. It is further specified that the 'No Dues Certificate', wherever applicable, has to be submitted before the Returning Officer along with the Affidavit latest by 3:00 PM on the last date of making nominations in the constituency concerned.

4. In view of the above, if the candidate is not able to provide 'No Dues Certificate' even after he has cleared all such dues towards the said government accommodation, this goes against his candidature at the time of scrutiny of nominations. There is no respite to the candidate even if he submits 'No Dues Certificate' after expiry of the statutory period of filing of nominations in the constituency concerned.

5. During ongoing elections to the Lok Sabha, 2024, it has come to the notice of the Election Commission that an intending candidate could not obtain "No Dues Certificate" from concerned authorities and therefore could not file the same with respect to the (a) rent, (b) electricity charges, (c) water charges and (d) telephone charges, even after the candidate had supposedly cleared all such dues. Such instances may cause significant loss not only to the aspiring candidates but also to the political parties and electorate of the constituency concerned and undermines the principles of participatory electoral democracy.

6. Having considered the possibility of serious implications on account of inaction or delayed action by the agencies/authorities/departments concerned and to protect statutory right of the candidate to contest the election, the Commission directs that suitable instructions may be issued to these agencies/authorities/departments to immediately provide/ensure the following, if approached by any intending candidate: -

(a) Issue "No Dues Certificate" by all the concerned agencies/authorities/departments to such person within 48 hours of the receipt of the request letter in case where dues are not pending or are not due by law.

(b) Provide details of dues accrued to such persons within 48 hours of submitting of application to the agencies/authorities/departments.

(c) Issue 'No Dues Certificate' by the agencies/authorities/departments within 24 hours of clearing of dues, if any, as communicated as per (b) above, by such persons on submitting of application.

7. An institutionalized mechanism shall be put in place immediately after promulgation of Model Code of Conduct and a nodal officer shall be appointed to receive and handle such requests from prospective candidate(s) and work as a single window system to dispose off applications as per timelines provided in para 6 above.

8. These instructions shall be brought to the notice of the departments/authorities/agencies concerned immediately for compliance.

Yours sincerely,



(S. B. Joshi)
Principal Secretary

Copy to :- The Chief Electoral Officers of all States/UTs