

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 3/7/2023/SDR

Dated: 12th October, 2023

To,

The Chief Electoral Officers of
All States and Union Territories

Sub: Prevention of Defacement of Property and Other Campaign Related Items- regarding

Ref:

1. No. 3/7/1994/J.S.-II dated 05th January, 1994
2. No. 3/7/2008/JS-II dated 7th October, 2008
3. No. 3/7/2008/JS-II/SDR dated 10th November, 2008
4. No.3/7/2014/SDR dated 11th March, 2014
5. No. 3/7/2014/SDR dated 26th September, 2014, and
6. No. 437/6/INST/2015-CCS dated 29th December, 2015

Madam/Sir,

I am directed to state that Clause (6) of Part I of the Model Code of Conduct for the guidance of Political Parties and candidates provides that no political party or candidate shall permit their followers to make use of any individual's land, building, compound wall etc., without his/her permission for erecting flag-staffs, suspending banners, pasting notices, writing slogans etc. However, it is observed that, at the time of elections, political parties indulge in defacement of public as well as private buildings, by sticking posters and wall writings and sometimes without permission of owners of the buildings. After elections are over, the cost of removing the posters and wall writings are borne out of the public exchequer in case of a public building and by the individual owners themselves in case of private buildings. In either case, it is the general public at large which has to bear the cost for no fault of theirs'.

2. Some States have local laws and passed legislations for property defacements under which the authorities are empowered to prevent such defacement and bring to book the defaulters. The Election Commission has also recommended the enactment of such provisions in all States/UTs.

3. The Commission had also issued instructions to ensure strict compliance with the provisions of the local laws relating to prevention of defacement of property and to prosecute and proceed against those who indulged in the violation of extant laws. The instructions, inter-alia, provided that the party/association/body/ candidate or any other person who had written or painted or pasted any slogans, symbols or posters on any public or private building without

written permission of the owner of the building should be required to get the defaced walls and buildings whitewashed or painted at its/his cost so as to restore them to the original position.

4. However, it was noted that despite several States having enacted State laws, there was no uniformity throughout the county and therefore, a need was felt for having a comprehensive guidelines on defacement of property for guidance of political parties, law enforcing authorities and the Election Commission's Observers deployed during elections. Accordingly, the Election Commission issued fresh detailed guidelines in supersession of all earlier instructions on 7th October, 2008 and later additional instructions were also issued from time to time to supplement the instructions.

5. Now, in supersession of all the existing instructions, the following consolidated instructions are being issued for information and compliance of the electoral authorities:-

(i) Defacement of Public Places

- a) No wall writing, pasting of posters/papers or defacement in any other form, or erecting/displaying of cutouts, hoardings, banners, flags etc. shall be permitted on any Government premises (including civil structures). A Government premise would include any government office and the campus wherein the office building is situated.
- b) If the local law expressly permits or provides for writing of slogans, displaying posters, etc., or erecting cut-outs, hoardings, banners, political advertisements, etc., in any public place, (as against a government premises) on payment or otherwise, this may be followed strictly in accordance with the relevant provisions of the law and subject to Court orders, if any, on this subject. It should be ensured that any such place is not dominated/monopolized by any particular party(ies) or candidate(s). All parties and candidates should be provided equal opportunity in this regard.
- c) If there is a specifically earmarked place provided for displaying advertisements in a public place, e.g. bill boards, hoardings etc. and if such space is already let out to any agency for further allocation to individual clients, the District Election Officer through municipal authority concerned, if any, should ensure that all political parties and candidates get equitable opportunity to have access to such advertisement space for election related advertisements during the election period.

(ii) Defacement of PSU's Building and Premises:

- a) Buildings and premises of PSUs shall be treated at par with Govt. premises for the purpose of displaying political ads during election period. The Commission has directed that no political advertisements shall be displayed/pasted at the buildings/civil structures or any other structure owned by Public Sector Undertakings (PSUs) or in their premises during the period Model Code of Conduct is in force.
- b) In case there is no specific provision in the by-laws of PSUs or in their agreements with the advertisement agencies to whom they let out space for advertisement for prohibiting display of political advertisement, PSUs may be instructed to add a para in their commercial agreements with commercial agencies/companies while providing space on lease to the advertisement agency for placing commercial advertisements that *"No political advertisement shall be displayed/pasted at the space provided on lease for commercial advertisement like airports, railway stations, Inter State/Local Bus Stands, Govt transportation post offices, Government hospitals/dispensaries etc. (except on main highways, main roads etc.) during the period of Model Code of Conduct. If there is any political advertisement in the provided space, the same shall be removed immediately on enforcement of the Model Code of Conduct."*

(iii) Defacement of Government Halls/Auditoriums and Other Public Properties

- a) If local laws/guidelines do not preclude political meetings at Halls/Auditoriums/Meeting venues owned/controlled by the Government/local authorities/PSUs/Cooperatives, there is no objection to do it. However, it should be ensured that allocation is done on equitable basis and banners, buntings, flags, cut-outs, displayed at the premises during meeting no defacement shall be permitted after conclusion of the meeting.
- b) Educational institutions including their grounds {whether Govt. aided, private Or Govt.} shall not be used for political campaigns and rallies.

(iv) Defacement of Private Places

- a) In the State where there is no local laws on the subject, temporary and easily removable advertisement materials, such as flags and banners may be put up in private premises with the express permission of the occupant. Such banner or flag should not create any nuisance to others. Photo-copy of the permission in writing obtained in this connection should be submitted to the Returning Officer within 3 days of putting up the flags and banners. The permission should be an act of free will and not extracted by any pressure or threat.
- b) Where the local laws expressly permits wall writings and pasting of posters, putting up hoardings, banners, etc. on private premises with the owner's permission, the contesting candidates or the political parties concerned shall obtain prior written permission from the owner of the property and submit photocopy of the same within 3 days to the Returning Officer or an officer designated by him for the purpose, along with a statement giving the particulars in the prescribed format. The statement in such cases and in the cases mentioned in sub-para (a) above should clearly mention the name and address of the owner of the property from whom such permission has been obtained, and expenditure incurred or likely to be incurred for the purpose.
- c) In those States where the State/local defacement law specifically prohibits display of flags, banners, hoardings etc., the provisions in the law will strictly apply and such material shall not be displayed on private property or property in public view.
- d) If the local law does not expressly permit wall writing, pasting of posters, and similar other permanent/semi-permanent defacement which is not easily removable, the same shall not be resorted to under any circumstances, even on the pretext of having obtained the consent of the owner of the property. This will also apply in the States/UTs where there is no local law on the subject of prevention of defacement of property.
- e) If the state/local law does not so specifically prohibit display of flag or hoarding or banner, etc. on private property, then such material (flag, banner, hoarding) can be allowed to be displayed on private property, on

own volition of the owner/occupier of the property, subject, however to any court decision/direction to the contrary. In the case of display on others' property, prior permission should be obtained from the owner/occupier concerned.

(v) **Defacement of Vehicles**

- a) In private vehicles, subject to the provisions of the Motor Vehicles Act, Rules framed there under and subject to court orders in force, if any, flags and stickers may be put on the vehicles by the owner of the vehicle on his own volition, in such a manner that they do not cause any inconvenience or distraction to other road users. If such display of flags and stickers aims to solicit vote for any particular candidate, then the provisions of Section 171H (Illegal payments in connection with an election) of the IPC would be attracted.
- b) On commercial vehicles, display of any flag, sticker etc. shall not be permitted, unless such vehicle is a vehicle validly used for election campaign after obtaining the requisite permit from the District Election Officer/Retuning Officer and ~~the~~ display thereof in original on the wind screen.
- c) External modification of vehicles including fitting of Loudspeaker thereon, would be subject to the provisions of the Motor Vehicles Act/Rules and any other Local Act/Rules. Vehicles with modifications and special campaign vehicles like Video Rath etc. can be used only after obtaining the requisite permission from the competent authorities under the Motor Vehicles Act.
- d) On buses of State Road Transport Corporations and Municipal Corporations
As it would not be practically possible to ensure equitable sharing of space for the purpose of advertisements on such government owned buses / vehicles, both in terms of the quantity as well as for particular bus routes, the Commission has directed that the State Road Transport Corporation buses and buses owned by Municipal Corporations etc. and other govt. owned vehicles shall not be used for display of political advertisements during the period when the Model Code of Conduct is in force.

(vi) Election Advertisements by Political Parties/Candidates/Private Persons

- a) If any political party/association/candidate/person indulges in defacement of any property in violation of the local law, if any, or the above instructions, the Returning Officer/District Election Officer shall issue notice to the offender for removing the defacement forthwith. If the political party/association/candidate/person does not respond promptly, the district authorities may take action to remove the defacement, and the expenses incurred in the process shall be recovered from the political party/association/candidate/person responsible for the defacement. Further the amount also shall be added to the election expenditure of the candidate concerned and action should also be initiated to prosecute the offender under the provisions of the relevant law (under the law related to prevention of defacement, if any or under the provisions of the general law for causing willful damage to the property of others).
- b) Subject to any restrictions under any local law or any court orders in force, the political parties, candidates, their agents, workers and supporters may put up banners, buntings, flags, cut-outs, on their own property, provided they do so on their own volition voluntarily and without any pressure from any party, organization or person, and provided further that these do not cause any inconvenience in any manner to anyone else.
- c) Nothing inflammatory or likely to incite disaffection amongst communities shall be permissible in such writings/display.
- d) If such display of banners, flags etc. aims to solicit vote for any particular candidate, then the provisions of Section 171H of the IPC would be attracted and would have to be followed. Section 171H of the IPC stipulates that whoever without the general or special authority in writing of a candidate incurs or authorizes expenses on account of the holding of any public meeting or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees. Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses

were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

- e) The expenditure incurred on this mode of specific campaign of candidate(s) shall be added to the election expenditure made by the concerned candidate. Expenditure incurred on exclusive campaign for a party without indicating name of any candidate shall not be added to the candidate's expenditure account. The contesting candidate shall furnish such information, village/locality/town-wise, to the Returning Officer, or the authorized officer within 3 days of obtaining the requisite permission from the concerned for easy checking by the Returning Officer or the Election Observer or any officer connected with the conduct of elections.
- f) In context with defacement of property by sticking of posters etc., attention is also invited to the provisions of section 127A of the Representation of the People Act, 1951 which, *inter alia*, provides that no person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and addresses of the printer and the publisher thereof. The Commission has issued separate instructions on restriction on the printing on pamphlets, posters etc. However, it is reiterated that if any officer, who is responsible for the enforcement of the provisions of the above law and the directions of the Commission, is found to have failed in the due diligence of his duties in this regard, he shall be liable to severe disciplinary action apart from any penal action that may be called for against him for breach of his official duty.
- (vii) Timeline for Removal of Unauthorized Defacement**

The Election Commission has fixed the following timelines for removal of unauthorized display of electioneering material:-

- a) Defacement of Government property- For this purpose, a Government premise would include any Government office and the campus wherein the office building, compound and other establishment are situated. All wall-writings, posters/papers or defacement in any other form, including cutout/hoardings, banners, flags etc, on Government property shall be removed within 24 hours from the announcement of elections by the Election Commission.

- b) Defacement of public property and misuse of public space- All unauthorized political advertisements, in the form of wall writings/posters/papers or defacement in any other form, cutouts/hoardings, banners/flags etc. at public property and in public space like railway stations, bus stands, airports, railway bridges, roadways, government buses, electric/telephone poles, municipal/local bodies' buildings etc., shall be removed within 48 hours from the announcement of elections.
- c) Defacement of private property- Subject to any local law and Court's direction, all unauthorized political advertisements displayed at a private property, shall be removed within 72 hours from the announcement of elections by the Election Commission.
- d) Subject to the local laws and Court's directions any defacement to the government, public or private property subsequent to the announcement of elections shall be dealt with as per the standard protocol provided in the guidelines of redressal of complaints received at C-Vigil. The cases of defacement, other than received at C-Vigil, shall also be redressed promptly, as soon as complaints are received.

6. Above instructions shall be brought to the notice of the District Election Officers, Returning Officers and all other election related authorities and all registered political parties based in the State, including State units of recognized National and State parties, and also the contesting candidates, for information and compliance. Further, for implementation of guidelines as envisaged in Para 5(ii) Defacement of PSU's Buildings and Premises', the PSUs located in the concerned States should also be advised accordingly.

Yours faithfully,



(S.B. JOSHI)

PRINCIPAL SECRETARY

STANDARD DISTRIBUTION