

	<b>HIMACHAL PRADESH STATE ELECTRICITY BOARD</b> <b>LIMITED.</b>	
	<b>(A State Govt. Undertaking)</b>	
Registered Office	: Vidyut Bhawan, Kumar House, Shimla-171004.	
Number (CIN)	: U40109HP2009SGC031255	
GST No.	: HPSEBL 02AACCH4894EHZB	
Telephone No.	: 0177-2803600, 2801675 (Office), 2658984 (Fax)	
Website Address	: <a href="http://www.hpseb.com">www.hpseb.com</a>	
Email	: <a href="mailto:cmd@hpseb.in">cmd@hpseb.in</a> & <a href="mailto:directorfa@hpseb.in">directorfa@hpseb.in</a>	

No. HPSEBL (Sectt.) / R&E / Misc. Election. / 2019-16989-7013 Dt. 26-6-19

Copy alongwith its enclosures is forwarded to the following for strict compliance.

- 1 All the Chief Engineers in HPSEB Ltd.,
- 2 The Superintending Engineer (IT) HPSEBL, Shimla for uploading the HPSEBL website.
- 3 The C.A.O, F&A Wing, HPSEB Ltd, Shimla -4.
- 4 The Deputy Director (Pers.) / Joint Director / PR / IR in Board Sectt.
- 5 All the Deputy Secretaries / Under Secretaries in HPSEBL Board Sectt.
- 6 Guard file.

DA:-As above.

*Nirang*  
 Under Secretary (R&E),  
 HPSEBL Vidyut Bhawan,  
 Shimla-4.

IT Cell HPSEBL V.B. Shimla-4

Sr. EE/ASE (IT-I)

Sr. EE/ASE (IT-II)

APS/Stone

*Smt. 24*  
*11/2*

For Personal Attention  
Election Urgent  
Fax/email

**"Greater Participation for a stronger Democracy"**  
Election Department, Government of Himachal Pradesh  
35-5DA Complex, Kasumpti, Shimla-171009

No.3-3/2010-ELN- 3088

Dated: Shimla-9, 29 June, 2019.

From

Chief Electoral Officer,  
Himachal Pradesh.

To

1. The Deputy Accountant General (Admin),  
Office of the Accountant General (A & E)  
Himachal Pradesh, Shimla-1.
2. The Director,  
Higher Education,  
Himachal Pradesh, Shimla-1.
3. The Director,  
Elementary Education,  
Himachal Pradesh, Shimla-1.
4. The Director,  
Women and Child Development Department,  
Himachal Pradesh, Shimla-171001.
5. The Director,  
Health Services,  
Himachal Pradesh, Shimla-9.
6. The Director,  
Food, Civil Supplies and Consumer Affairs,  
Himachal Pradesh, Shimla-171009.
7. The Executive Director (Personnel)  
Vidyut Bhawan, Himachal Pradesh State Electricity Board Limited,  
Kumar House, Shimla-171004.

**Subject : Disciplinary Proceedings against officials appointed on election duty.**

Sir,

I am directed to say that the disciplinary proceedings were recommended against the erring officers/officials for dereliction of duty, while on election duty vide this department's letters of even numbers dated 20-5-2019, 21-5-2019, 7-6-2019 and 12-6-2019. Such recommendations should be promptly acted upon by each disciplinary authority and action taken will be communicated to this department immediately so that Election Commission could be apprised within stipulated period. In this regard, Commission's instructions No. 39, 40 and 41 are attached, for information and compliance.

You are, therefore, requested to adhere to the directions contained in the Commission's aforesaid letters and ensure compliance within stipulated time and send compliance report to this department.

Yours faithfully,

✓  
Addl. Chief Electoral Officer,  
Himachal Pradesh

Ends: As Above

R&E Dairly No. 64

Dated 22-6-19

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**INSTRUCTION S.I.NO. 39**

Election Commission's Order No.4/2001/J.S.II dated 07.02.2001 addressed to the Chief Secretary and Chief Electoral Officers of all States/UTs.

**Subject: Disciplinary proceedings against officials appointed on election duty**

The question of true purport and extent of disciplinary jurisdiction of the Commission under Section 13CC of the Representation of the People Act, 1950 and Section 28A of Representation of the People Act, 1951, was raised before the Hon'ble Supreme Court in Writ Petition (C) No.606 of 1993 (Election Commission of India Vs. Union of India and others).

2. The Hon'ble Supreme Court, by its order dated 21.9.2000, disposed of the above writ petition in terms of the Terms of Settlement arrived at between the Commission and the Union government and accepted in toto by the State Governments of Tripura, Maharashtra, Tamil Nadu, Andhra Pradesh and Mizoram.

The Terms of Settlement referred to above are reproduced below:

"That the disciplinary functions of the Election Commission of India over officers, staff and police deputed to perform election duties during election period shall extend to -

- (a) Suspending any officer/official/police personnel for insubordination or dereliction of duty;
- (b) Substituting any officer/official/police personnel by another such person, and returning the substituted individual to the cadre to which he belongs, with appropriate report on his conduct;
- (c) Making recommendation to the competent authority, for taking disciplinary action, for any act of insubordination or dereliction of duty, while on election duty. Such recommendation shall be promptly acted upon by the disciplinary authority, and action taken will be communicated to the Election Commission, within a period of six months from the date of the Election Commission's recommendations;
- (d) The Government of India will advise the State Governments that they too should follow the above principles and decisions, since a large number of election officials are under their administrative control."

3. In supersession of the Commission's order No.508/General/96 JS.I, dated 18<sup>th</sup> March, 1996, the Commission hereby directs that the disciplinary action against Officers, Staff and Police Personnel deputed to perform election duties during an election shall hereafter be governed by the above principles and decisions agreed to between the Union Government and the Election Commission and as recorded by the Supreme Court of India in its Order dated 21.9.2000 in writ Petition (C) No.606 of 1993 (Election Commission of India Vs. Union of India and Others).

4. In this connection, a copy each of the letters dated 7-11 -2000 and 8-11 -2000 issued by the Govt. of India, Department of Personnel and Training is enclosed.

New Delhi, dated the 7<sup>th</sup> November, 2000

**OFFICE MEMORANDUM**

**Subject: Disciplinary Jurisdiction of Election Commission of India over Government servants deputed for election duties**

The undersigned is directed to say that one of the issues in Writ Petition (C) No.608/1993 in the matter of Election Commission of India Vs Union of India & Others was regarding jurisdiction of Election Commission of India over the Government servants deputed for election duties under section 28A of the Representation of the People Act, 1951 and section 13CC of the Representation of the People Act, 1950. The Supreme Court by its order dated 21.9.2000 disposed of the said petition in terms of the settlement between the Union of India and Election Commission of India. The said Terms of Settlement are as under:-

"The disciplinary functions of the Election Commission of India over officers, staff and police deputed to perform election duties shall extend to-

- a) Suspending any officer/official/police personnel for insubordination or dereliction of duty;
- b) Substituting any officer/official/police personnel by another such person, and returning the substituted individual to the cadre to which he belongs, with appropriate report on his conduct;
- c) Making recommendation to the competent authority, for taking disciplinary action, for any act of insubordination or dereliction of duty, while on election duty. Such recommendation shall be promptly acted upon by the disciplinary authority, and action taken will be communicated to the Election Commission, within a period of six months from the date of the Election Commission's recommendations;
- d) The Government of India will advise the State Governments that they too should follow the above principles and decisions, since a large number of election officials are under their administrative control."

2. The implication of the disposal of the Writ Petition by the Supreme Court in terms of the above settlement is that the Election Commission can suspend any officer/official/police personnel working under the Central Government or Public Sector Undertaking or an autonomous body fully or substantially financed by the Government for insubordination or dereliction of duty and the Election Commission can also direct substituting any officer/official/police personnel by another person besides making recommendations to the Competent Authority for taking disciplinary action for insubordination or dereliction of duty while engaged in the preparation of electoral rolls or election duty. It is also clarified that it is not necessary to amend the service rules for exercise of powers of suspension by the

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Election Commission in this case since these powers are derived from the provisions of section 13CC of the Representation of the People Act, 1950 and section 28A of the Representation of the People Act, 1951 since provisions of these Acts would have overriding effect over the disciplinary rules. However, in case there are any conflicting provisions in an Act governing the disciplinary action, the same are required to be amended suitably in accordance with the Terms of Settlement.

3. All Ministries/Departments are requested to bring the above Terms of Settlement to the notice of all concerned for information and compliance.

Sd/-  
(Smt. S. Bandopadhyay)  
Director

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No.11012/7/98-Estt.(A)  
Government of India  
Ministry of Personnel, Public Grievances and Pensions  
(Department of Personnel and Training)  
New Delhi, dated the 8<sup>th</sup> November, 2000  
To

The Chief Secretaries of all the State Governments/UT Administrations.

**Subject: Disciplinary Jurisdiction of Election Commission of India over Government servants deputed for election duties.**

I am directed to say that one of the issues in Writ Petition (C) No.608/1993 in the matter of Election Commission of India Vs Union of India & Others was regarding jurisdiction of Election Commission of India over the Government servants deputed for election duties under section 28A of the Representation of the People Act, 1951 and section 13CC of the Representation of the People Act, 1950. The Supreme Court by its order dated 21.9.2000 disposed of the said petition in terms of the settlement between the Union of India and Election Commission of India. The said Terms of Settlement are as under:-

"The disciplinary functions of the Election Commission of India over officers, staff and police deputed to perform election duties shall extend to-

- a) Suspending any officer/official/police personnel for insubordination or dereliction of duty;
- b) Substituting any officer/official/police personnel by another such person and returning the substituted individual to the cadre to which he belongs, with appropriate report on his conduct;
- c) Making recommendation to the competent authority, for taking disciplinary action, for any act of insubordination or dereliction of duty, while on election duty. Such recommendation shall be promptly acted upon by the disciplinary authority, and action taken will be communicated to the Election Commission, within a period of six months from the date of the Election Commission's recommendations;
- d) The Government of India will advise the State Governments that they too should follow the above principles and decisions, since a large number of election officials are under their administrative control."

2. Government of India has issued instructions to bring the above terms of settlement to the notice of all concerned for information and compliance vide OM NO. 11012/7/98-Estt. (A) dated 7<sup>th</sup> November, 2000 (Copy enclosed). It is requested that the State Governments may follow the Terms of Settlement above mentioned in the case of officials deputed for election duties by the State Governments.

Yours faithfully,

d/-  
(HARINDER SINGH)  
Joint Secretary (E)

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**INSTRUCTION SL No. 40**

No. 4/2008/JS.II

Dated: 30<sup>th</sup> July, 2008

**OFFICE MEMORANDUM**

**Subject: Disciplinary proceedings against officials appointed on election duty.**

The Commission has considered the issue of fixing a uniform policy approach in the cases of disciplinary action against election officials. Disciplinary issues against election officials arise on account of violations of provisions of Law/Rules, Model Code of Conduct and instructions of the Commission and for omissions and commission on the part of the officials which adversely affect the smooth conduct of elections. Individual cases of disciplinary action against the election related officials will be handled by the Zonal Section dealing with the election to which the case relates. For uniform approach in such cases, the following guidelines have been prescribed :

1. In the case of disciplinary cases arising out of violations of Model Code of Conduct and the provisions of the law ( Representation of the People Act, etc ) :
  - (i) In the cases involving senior level officials such as ERO, AERO, RO, ARO, DEO, ADM, SP, DSP, RCS, etc., the cases of violation of law should be treated differently as compared to junior level functionaries. In the case of such senior level officers, the approach should be to take exemplary disciplinary action, so that the signal goes loud and clear to all other officials that there would be zero tolerance on such violation affecting election management.

- (ii) The cases involving junior level staff functionaries, such as clerical cadre, constables, etc, appropriate disciplinary action should be taken on the basis of facts and the gravity of the case, keeping in view the fact that action against such junior level functionaries do not reverberate in terms of signals beyond a limited jurisdiction. Out of these, any case of partisan behavior should be viewed seriously as distinguished from procedural lapses, which may be viewed differently.

2. In disciplinary cases involving major seizure of cash and other materials in election related matters:

- (i) Exemplary disciplinary action should be taken against officials at all levels who are involved in omissions and commissions related to violation of laws & instructions in such cases.

- (ii) The CEO of the concerned State should be directed to monitor and intensely follow up such cases involving violations of laws related to election management, which results in police cases.

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**3. Disciplinary action against officials representing the Election Commission of India.**

(iii) District Election Officer (DEO), Returning Officer (RO), Electoral Registration Officer (ERO), etc. have the most important and sensitive statutory as well as managerial role in the conduct of free and fair elections. In the case of violation, of instructions, omissions and commissions by these officials, especially ROs and EROs, exemplary disciplinary action should be taken so as to ensure that the purity of the election process is upheld.

(iv) The observers, are senior Officers selected from the premier services of the country and they directly represent the Election.

Commission. Hence for wilful violations by them severe disciplinary action should be taken. For minor lapses or transgressions, warnings can be issued, if the officer concerned shows contrition and makes amends for any loss to exchequer.



**INSTRUCTION SL No.41**

**Election Commission letter No. 4/2008/JS.II Dated: 19<sup>th</sup> August, 2008 addressed to the Chief Secretaries of all states & Union Territories.**

**Subject: Violation of law and instructions by election related officials - action to be taken - regarding.**

I am directed to send herewith a copy of the Commission's O.M. No. 4/2008/JS.II dated 30-7-2008, in the matter of disciplinary action against election officials for acts of omission and commission on their part, for your information. As per para 2 of the O.M., the Chief Electoral Officers is to closely monitor cases involving violations of laws, which result in police cases, so that the cases are intensely followed up.

Kindly acknowledge receipt of this letter.

Copy to : Principal Secretaries /Zonal Secretaries