



# State Election Commission, Haryana

Nirvachan Sadan, Plot No. 2, Sector – 17  
Panchkula, Haryana – 134 109

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Ref. No. : SEC/3E-D/2011/3377-3385

Date : 14/12/11

To

Deputy Commissioner-cum-  
District Election Officer(Panchayat),  
Kurukshetra, Karnal, Jind, Palwal, Narnaul, Sirsa, Rohtak,  
Yamuna Nagar and Bhiwani..

**Subject : Corrigendum in the Gazette Notification- Advice regarding.**

Sir,

I am directed to refer to your Nos. Nil dated 27.8.2010 , 2014 dated 28.7.2010 & 10702 dt.14.12.2010, 3484, 3498, 3502 all dated 27.7.2010, 6093 dated 29.7.2010, 16936 dated 6.12.2010, 26020 dated 16.11.2010 , 3693-94 dated 21.12.2010, 7811 dated 16.12.2010 and 2798 dated 20.4.2011 respectively, on the subject cited above and to say that the Commission has sought advice from the Advocate General, Haryana on the following points:-

- (i) Whether the Commission can issue corrigendum in the notification of elected members of PRIs on the recommendation of the Deputy Commissioner-cum-District Election Officer (Panchayat ) by treating it clerical mistake ; or
- (ii) The affected candidates be advised to take recourse to the filing of an election petitions.

2. On the above said quarries, the Advocate General, Haryana vide memo No. 45349 dated 21.09.2011 has advised as under:-

“The State Election Commission has no powers to issued corrigendum for making change in the result sheet, which was prepared by the concerned Returning Officer vide which the result of the election was declared. A clerical mistake in printing the name, if any, under a specific circumstance can only be rectified after following the principle of natural justice by way of passing a speaking order by giving due opportunity of being heard to all concerned. Such a course could be an exception where a large number of candidates are the election fray wherein the possibility of some clerical mistake could not be ruled out”.

3. In view of the advice of Advocate General Haryana, the Commission has decided that :-

- (i) If the mistake is committed by the Returning Officer, no corrigendum shall be issued by the Commission in the notification of the elected members of PRIs. The affected person may be advised to take appropriate legal remedy.

- (ii) In the case where mistake has been committed by the officer/official other than the Returning Officer, the Commission can issue corrigendum, for which the Deputy Commissioner-cum-District Election Officer (Panchayat) shall afford an opportunity of personal hearing to all concerned and shall send reasoned recommendation in each case, separately, to Commission, for consideration of issuance of corrigendum.

Yours faithfully

(Parmal Singh) 7/1/11

Asstt. State Election Commissioner, Haryana  
Email: [asec.sec@hry.nic.in](mailto:asec.sec@hry.nic.in)

Endst. No. SEC/3E-II/2011/3386-3421

Dated: 10.10.2011

A copy of above is forwarded to the following for information please:-

1. Chief Secretary to Govt. of Haryana, Chandigarh.
2. Financial Commissioner & Principal Secretary to govt. of Haryana, Development and Panchayat Department, Chandigarh.
3. Director, Development and Panchayat, Haryana, Chandigarh.
4. All the Deputy Commissioners-cum-District Election Officers and District Development and Panchayat Officers in the State of Haryana for information and further necessary action. (Except District Kurukshetra, Karnal, Jind, Palwal, Narnaul, Sirsa, Rohtak, Yamuna Nagar and Bhiwani).



Asstt. State Election Commissioner, Haryana  
Email: [asec.sec@hry.nic.in](mailto:asec.sec@hry.nic.in)

(Parmal Singh) 7/1/11



From

The Advocate General, Haryana,  
Chandigarh.

State Election Commission Haryana  
Diary No. 3692. Dated 26-9-11

To

The Secretary,  
State Election Commission, Haryana,  
Nirvachan Sadan, Plot No. 2, Sector 17,  
Panchkula.

Memo. No. 45349  
Dated, Chandigarh the 21/9/11

Subject: Advice – regarding.

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In reference to your Memo. No. SEC/3E-II/2011/SPL-1, dated 30/8/2011, on the subject noted above.

It is stated that under the Haryana Panchayati Raj Act, 1994 (hereinafter referred to as 'Act') detailed procedure has been provided for the election of members of Gram Panchayat/Panchayat Samiti and Zila Parishads and also for the election disputes etc. Under Section 161 (4) of the Act, it is provided that after the declaration of general election results, the names of elected Panches, Sarpanches, Members, Chairman, Vice-Chairman, Presidents and Vice-Presidents shall be published in the Official Gazette by the State Election Commission not earlier than one week before the expiry of the duration of the existing Gram Panchayat, Panchayat Samiti and Zila Parishad. It has been further provided that notification regarding all other election results shall be published in the Official Gazette by the State Election Commission forthwith. Besides the above mentioned mandatory provisions, under Section 177 (6) of the above mentioned Act, a procedure pertaining to determination of validity of election enquiry by Judge is also prescribed. It is also necessary to make a mention here that under the Haryana Panchayayati Raj Rules, 1994 (hereinafter referred to as 'Rules'), detailed procedure is prescribed to

achieve the object for holding free and fair elections by way of inviting nomination of candidates/presentation of nomination papers/security deposits, notice of nomination, time and place for scrutiny and scrutiny of nomination papers. Thereafter, withdrawal of candidature as well as preparation of list of contesting candidates, symbols for election to different candidates and also publication of list of contesting candidates. Besides the above mentioned procedure under the said Rules, the candidates have also been given the right to appoint Election Agents, Counting Agents and even the revocation of their appointments. From the reading of the mandatory provisions of the Act and the Rules regarding the above mentioned aspects, it is apparent that there is remote possibility of any mistake regarding the name of the candidate(s), which warrants repetition of corrigendum by the State Election Commission.

Besides the above mentioned aspects, Rule 70 of the above mentioned Rules is also important in this regard wherein the Returning Officer (Panchayat) or the Assistant Returning Officer (Panchayat), shall, (a). declare to be elected the candidate for the office of Panch, who has secured the largest number of valid votes and certify the return of election in Form 18. Similarly the result of Sarpanch shall also be declared forthwith but if there are more than one polling stations in the sabha area, the result sheets for the office of Sarpanch shall be sent to the Polling Station presided over by the Presiding Officer nominated by the District Election Officer (Panchayat) for this purpose, on the same day who shall, after compiling the result sheets in Form 19, declare forthwith the candidate who received the largest number of valid votes, elected as sarpanch. For the purpose of declaration of result for the office of Panch and Sarpanch, the Presiding Officer shall be deemed to be Returning Officer and in case of more than one polling stations in the sabha area, nominated Presiding Officer shall be deemed to be the Returning Officer



for declaration of result for the office of Sarpanch; (b). send from the place specified in clause (e) of rule 24 the result sheet for the offices of members of Panchayat Samiti and Zila Parishad to the concerned Returning Officer for Panchayat Samiti at block level and to the Deputy Commissioner respectively; (c). for the election of member of Panchayat Samiti, compile all the result sheets in Form 16 and prepare Form 20 and declare the candidate, who received the largest number of valid votes elected and shall certify the return of election in Form 20; and (d). for the election of member of Zila Parishad, compile the result sheets in Form 17 and prepare Form 21 and declare the candidate, who received the largest number of valid votes, elected and shall certify the return of election in Form 21.

Under Rule 70 (2) of the Rules, it is provided that the Returning Officer (Panchayat) or the officer authorized by him shall send the signed copy of the returns under this rule to the District Election Officer (Panchayat) and to the State Election Commissioner.

So, from the reading of Rule 70 of the above mentioned mandatory Rules, it is apparent that when the result is declared, Forms 18, 19, 16, 20, 17 and 21 respectively are prepared for the elections of the Panchayat/Panchayat Samiti and Zila Parishads respectively. This also rules out the possibility of any ambiguity as the results of the elections pertaining to the above mentioned Offices are being sent to the District Election Officer (Panchayat) and to the State Election Commissioner. Therefore, the record pertaining to the election is being kept at the level of District Election Officer and the State Election Commission.

In view of the above mentioned facts and circumstances, the State Election Commission has no powers to issue corrigendum for making change in the result sheet, which was prepared by the concerned Returning Officer vide which the result of the election was declared. A

clerical mistake in printing the name, if any, under a specific circumstance can only be rectified after following the principle of natural justice by way of passing a speaking order by giving due opportunity of being heard to all concerned. Such a course could be an exception where a large number of candidates are in the election fray wherein the possibility of some clerical mistake could not be ruled out.

*H.S. Hooda*

(H.S. Hooda)

Advocate General, Haryana.

17/9/2011