

Extract from Haryana Government Gazette, (Extra), dated 16th May, 1996]

STATE ELECTION COMMISSION, HARYANA,

THE HARYANA MUNICIPAL ELECTION SYMBOLS (RESERVATION AND ALLOTMENT) ORDER, 1996

The 14th May, 1996

An Order

No.SEC/MC/96/6639—To provide for specifications, reservation, choice, allotment of symbols at elections to Municipalities in the State of Haryana for recognition of Political Parties in relation thereto and for matter connected therewith.

Whereas the Superintendence, direction and control of all elections to Municipal Corporation/Municipal Councils/Municipal Committees in the State are vested in the State Election Commission by the Constitution of India and the Haryana Municipal Corporation Act, 1994 and the Haryana Municipal Act, 1973.

AND WHEREAS, it is necessary and expedient to provide in the interests of purity of elections to the Municipal Corporation, Municipal Councils, Municipal Committees, in the Haryana State and in the interest of conduct of such elections, in fair and efficient manner, for the specification, reservation, choice and allotment of symbols and for the recognition of political parties and for matters connected therewith;

NOW, THEREFORE, in exercise of the powers conferred under Article 243ZA of the Constitution of India, Section 9 of the Haryana Municipal Corporation Act, 1994 (Haryana Act No.16 of 1994), Section 3A of the Haryana Municipal Act, 1973 (Haryana Act No.24 of 1973) and Rule 20 of the Haryana Municipal Corporation (Election) Rules, 1994 and Rule 18 of the Haryana Municipal Election Rules, 1978 and all other powers enabling it in this behalf, the State Election Commission, Haryana hereby makes the following order:-

1. **Short title, extent, application and commencement:-**
 - (1) This order may be called the Haryana Municipal Election Symbols (Reservation and Allotment) Order, 1996.
 - (2) It shall extend to the whole of Haryana in relation to elections in all Municipal Corporation, Municipal Councils and Municipal Committees.
 - (3) It shall come into force on the date of its publication in the Haryana Government Gazette, which date hereinafter referred to be the commencement of this Order.

2. **Definitions and interpretation:-** (1) In this Order, unless the context otherwise requires ----
 - (a) "Act" means, Haryana Municipal Corporation Act, 1994 and the Haryana Municipal Act, 1973;
 - (b) "Clause" means a clause of the Paragraph or sub-paragraph in which the word occurs ;
 - (c) "contested election" means, an election in a Municipal Committee, Municipal Council or Municipal Corporation.
 - (d) "election" means, an election to which this Order applies;
 - (e) "election held on party-basis" means an election in which a candidate set-up by a recognised political party gets an

exclusive allotment of symbol reserved for that party in accordance with the provisions of this order;

- (f) "recognised political party" means and includes every political party which has been recognised by the Election Commission of India as a National Party or as a State party in the State of Haryana under the Election Symbols (Reservation and Allotment), 1968;
- (g) "registered by unrecognised political party" means and includes every political party its head office in Haryana which is registered with but not recognised either as a National Party or as a State Party in Haryana by the Election Commission of India under the Election Symbols (Reservation and Allotment) Order, 1968;
- (h) "rule" means the Haryana Municipal Corporation (Elections) Rules, 1994 and the Haryana Municipal (Elections) Rules, 1978;
- (i) "State Election Commission" means the State Election Commission, Haryana conferred under Article 243K and 243ZA of the Constitution read with section 9 of the Haryana Municipal Corporation Act, 1994 and Section 3A of the Haryana Municipal Act, 1978; and
- (j) "sub-paragraph" means a sub-paragraph of the paragraph in which the word occurs.

- (2) Words and Expressions used but not defined in this Order but defined in the Representation of People Act, 1950 or the rules made thereunder or in the Representation of People Act, 1951 or the rules made thereunder or the Haryana Municipal Corporation Act, 1994 and the Haryana Municipal Act, 1973 or the rules made thereunder shall have the meaning respectively assigned to them in those Acts and Rules.
- (3) In the absence of such definitions, the Punjab General Clauses Act, 1898 (Punjab Act 1 of 1898) shall as far as may be, apply in relation to the interpretation of this order as it applies in relation to the interpretation of a Haryana Act.

3. Notification by State Election Commission of elections to be held on party basis

: For purpose of this order, the State Election Commission shall notify from time to time the election or elections which shall be held on party basis and the election or elections which shall not be held on party basis.

4. Classification of Symbols :--- (1) For purpose of this order symbols are either reserved free.

(2) Save as otherwise provided in this order, a reserved symbol is a symbol which reserved for a recognised political party for exclusive allotment to contesting candidates set up by the party.

(3) A free symbol is a symbol other than a reserved symbol.

5. Notification by the State Election Commission of the lists of symbols for elections:- The Election Commission shall notify from time to time:-

- (a) The list of reserved symbols and the list or lists of free symbols for use in an election or elections by the political party.
- (b) The list or lists of free symbols for use in an election or elections by the candidates other political parties.

6. Notification by the State Election Commission of the list of recognised Political Parties and that of registered but unrecognised political parties:- (1) The State Election Commission shall notify from time to time the list of recognised Political Parties and the symbols respectively reserved for them and the of registered but unrecognised Political Parties.

(2) For the purposes of sub-paragraphs (1), the recognised Political Parties and the registered but unrecognised Political Parties shall submit an application to the State Election Commission incorporation with the particulars listed out in Annexure I to this order within thirty days of commencement of this order.

(3) Every application under sub-Paragraph (2) shall be signed by the President, the Secretary any other office bearer of the party and the President, Secretary or such other office bearer is authorised by the party of the recognised political party and the registered but unrecognised political party (by what name called) and presented to the State Election Commission.

(4) The application under Sub-Paragraph (5) shall be accompanied by (i) a copy of the memorandum or rules and regulations of the recognised political party or the registered but unrecognised political party by what ever name called and such memorandum or rules and regulations shall contain a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India as by Law shed and to the principles of socialism, secularism and democracy and would uphold the sovereignty, and integrity of India; and (ii) an attested order communication/Notification of the Election Commission of India according recognition/registration to the recognised political party or the registered by unrecognised political party.

(5)“ The State Election Commission may call for such other particulars as it may deem fit from recognized political party or the registered but unrecognised political party.

7. Allotment of Symbols:- In every contesting election, a symbol shall be allotted to a contesting candidate in accordance with the provisions of this Order and different symbols shall be allotted to different contesting candidates at an election in the same Constituency.

8. Allotment of Symbols in Elections not held on party basis:- (1) In an election not held on party basis every candidate shall declare in the nomination paper first filed by him, his choice of three free symbols from the list of free symbols for that election indicating the order of his preference. The symbol shall be allotted in accordance with the procedure laid down below:-

- (a) The allotment symbol shall be considered in the order of the preference made by the candidates, that is to say, the first preference of the candidates will be considered first, the second preference next and the third preference last;
- (b) If any symbol has been sought for by more than one candidate the allotment of that symbol shall be decided by drawing a lot between those candidates and the candidate whose name is drawn first shall be allotted that symbols ;
- (c) If any candidate could not be allotted the symbol sought for in his first preference in the lot, he shall be considered for the allotment of the free symbol sought as his second preference should the second choice of symbol can not also be allotted, due to failure in the lot he shall be considered for the allotment of the free symbol sought as his

second preference should second choice of the symbol could not also be allotted due to conflicting claim for the symbol and failure in the lot, he shall be considered for the allotment of the free symbol of his third preference Even if this could not be allotted he should be allotted, the first symbol which has not been allotted to any of the candidates out of the list of free symbols notified by the State Election Commission;

(d) In an election where the candidates have not declared in the nomination paper first filed by him, his choice of three free symbols from the list of free symbols for that election Indicating the order of his preference then the symbols shall be allotted serial-wise from the list of free symbols notified by the State Election Commission to the candidate whose names have been mentioned in the list of contesting candidates prepared in Hindi in alphabetical order of Devangri Script on the last day of withdrawal of nomination even if the contesting candidates agree among themselves upon their symbol.

(2) No candidate will ask for any other symbol but for the symbol notified by the State Election Commission. In case any such symbol which is not notified by the State Election Commission is asked by any candidate, the same will be ignored.

(3) Each candidate or his election agent shall be intimated the symbol allotted to him in writing and signature obtained in token of having grieved that intimation. He shall also be given specimen copy of that symbol, along with the said intimation.

9. Allotment of symbols in elections held on party basis:- (1) Choice of the symbol by candidate set up by recognized political party and allotment thereof In an election held on party basis every candidate set up by recognized political party shall seek the symbol reserved for that party and no other symbol and he shall be allotted the same but no other symbol;

Provided that when there are conflicting claims for any reserved symbol due to defect of substant character either in the nomination paper or otherwise, none of the claimants shall be allotted that reserved symbol and all the claimants shall be treated as independent candidates and allotted the free symbols after allotting to all other candidates in that election :

Provided further that no reserved symbol shall be sought or allotted in an election, to any candidate other than a candidate set up by a recognized political party to which that symbol has been reserved even no candidate has been set up by that recognized political party in that election.

(2) Choice of symbol by candidates set up by registered but unrecognised political parties and independent candidates; Every candidate who is set up by the registered but unrecognised political party or is an independent candidate shall declare in the nomination paper first filed by him, his choice of three symbols from the list of free symbols for that election indicating the order of his preference. The symbol shall be allotted in accordance with the procedure laid down below:

(a) The allotment of symbols shall be considered inn the order of the preference made by the candidates, that is to say, the first preference of the candidates will be considered first the second preference next and the third preference last:

Provided that the allotment of symbols to candidates set up by the registered but un-recognized political parties shall be completed first and only thereafter the allotment of symbol the independent candidates shall be taken up and allotted from among the remaining free symbols.

- (b) Where a free symbol has been sought for by only one candidate set up by a registered unrecognised political party, as his first choice it shall be allotted to that candidate and no one else. If any free symbol has been sought for by more than one candidate set up by the registered but unrecognised political parties, the allotment of the symbol shall be decided by drawing a lot between those candidates and the candidate whose name is drawn first shall be allotted that symbol.
- (c) If any candidate set up by the registered but unrecognised political party could not be allotted the symbol sought for in his first preference in the lot he shall be considered for allotment of the free symbol sought as his second preference. Should the second choice of symbol could not also be allotted, due to conflicting claims for the symbol and failure in the lot he shall be considered for the allotment of the free symbol of his third preference. Even if this could not be allotted, he should be allotted any one of the free symbols left after allotting to other candidates set up by the registered but unrecognised political parties in accordance with the procedure set out above.
- (d) After completing the allotment of free symbols to all the candidates set up by the registered but unrecognised political parties, the remaining free symbols shall be allotted to the independent candidate in accordance with their choice and preference by a opting the procedures for allotment of symbols to candidates set up to the registered but recognized political parties.

10. When a candidate shall be deemed to be set up by a political party:-

For the purpose of this order, a candidate shall be deemed to be set up by a political party, if, and only if, -

- (a) the candidate has enclosed a declaration to that effect alongwith the nomination paper;
- (b) the candidate is a member of that political party and his name is borne on the rolls of members of the party;
- (c) a notice in writing, in Form-B (Annexure-III), to that effect has, not later than 3.00P.M. on the last date for making nominations, been delivered to the concerned Returning Officer;
- (d) the said notice is signed by the President, the Secretary or any other office bearer of the party and the President, Secretary or such other office bearer authorised by the party to send such notice in form 'A' in (Annexure-II);
- (e) the communication with regard to the name and specimen signature of such authorised persons are delivered to the Returning Officer of the Municipal Council/Committee/Corporation not later than 3.00 P.M. on the last date for making nominations; and

- (f) form A & B (Annexure II & III) are signed, in ink only, by the said office bearer or person authorised by the party.

Provided that no facsimile signature or signature by means of rubber stamp, etc, of any such office bearer shall be accepted and no form transmitted by fax shall be accepted.”

11. Power of State Election Commission to suspend or withdraw recognition of a recognized political party for its failure to observe Model Code of Conduct or to follow lawful directions and instructions of the State Election Commission:- Not with standing anything in this Order, if the State Election Commission is satisfied on information in its possession that a recognized political party under the provisions of this Order, has failed or has refused or is refusing or has shown or is showing defiance by its conduct or otherwise(a) to observe the provisions of the “ Model Code of Conduct of Guidance for Political Parties and Candidate is issued by the State Election Commission from time to time or as amended by it from time to time, or (b) to follow or carry out the lawful directions and instructions of the State Election Commission given from time to time with a view to furthering the conduct of free, fair and peaceful elections of safeguarding the interest of the general public and the electorate in particular, the State Election Commission may, after taking into account all the available fact and circumstances of the case and after giving the party a reasonable opportunity of showing cause in relation to the action proposed to be taken against, it either suspend , subject to such terms as the State Election Commission may deem appropriate, or withdraw the recognition of such party of the Municipal elections.

12. Power of State Election Commission to issue instructions and Directions:- The State Election Commission may issue instructions and directions:-

- a. for the clarification of any of the provision of this order;
- b. for the removal of any difficulty which may arise in relation to the implementation of any such provisions; and
- c. in relation to any matter with respect to the reservation and allotment of symbols and recognition of political parties, for which this order makes no provision or make insufficient provision, and provision is in the opinion of the State Election Commission necessary for the smooth and orderly conduct of elections.

(BY ORDER AND IN THE NAME OF STATE ELECTION COMMISSIONER)

Sd/- J.K.DUGGAL