GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
RAILWAY BOARD

No. E(G)2022/EL1-3 **New Delhi, dated:30 .03.2022**

The General Managers,
East Central, North Eastern, Eastern Railways

Sub: Biennial election to the Bihar Legislative Council from Local Authorities' Constituencies - Applicability of Model Code of Conduct - reg.

Please find enclosed herewith Cabinet Secretariat's OM No. 1/41/1/2022-Cab dated 04.03.2022 forwarding therewith Election Commission of India's letter no. 322/LET/FUNC/BR-LC-LAC/BIEN/2021/768 dated 2.3.2022 along with enclosures regarding applicability of Model Code of Conduct with respect to aforementioned elections.

2. Besides the above, the provisions of the Model Code of Conduct as mentioned in the website of the Election Commission of India and the earlier instructions on the subject issued from time to time may also be complied with strictly till the duration of the Election Schedule.

DA: As above

(Harish Chander)
Director/Estt.(Genl.),
Railway Board

o/c

रेल मंत्रालय
Ministry of Railways
रेलवे बोर्ड / Railway Board
अनुलग्नक सहित जारी
Issued with Enclosure
31/03/22
हस्ताक्षर
Signature.....
जारी की तिथि
Date of Issue.....

1108617/2022/General

Chairman, Railway Board
E-Office No. 1166858
Date 09.03.22

MOST IMMEDIATE

No.1/41/1/2022-Cab.

GOVERNMENT OF INDIA (BHARAT SARKAR)
CABINET SECRETARIAT (MANTRIMANDAL SACHIVALAYA)
RASHTRAPATI BHAWAN

New Delhi, the 4th March, 2022

OFFICE MEMORANDUM

Subject: Biennial election to the Bihar Legislative Councils from 24 Local Authorities' Constituencies - Applicability of Model Code of Conduct - regarding.

The undersigned is directed to enclose herewith a copy of Election Commission of India's Letter No. 322/LET/FUNC/BR-LC-LAC/BIEN/2021/768 dated 02.03.2022 on the above mentioned subject, for information and further necessary action.

Encl: As Above

(S.G.P. Verghese)
Joint Secretary
Tel: 2301 1791

All Secretaries to the Government of India

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2022/G/32/1/MCC

भारत निर्वाचन आयोग
Election Commission of India

निर्वाचन सदन
NIRVACHAN SADAN
अशोक रोड, नई दिल्ली- 110001
ASHOKA ROAD, NEW DELHI-110001

No. 322/LET/FUNC/BR-LC-LAC/BIEN/2021/788

Dated: 02nd March, 2022

To

1. The Cabinet Secretary,
Government of India,
Rashtrapati Bhawan,
New Delhi.

2. The Chief Secretary to the Government of
Bihar, Patna -800015.

3. The Chief Electoral Officer,
Bihar, Patna -800015.

Subject: Biennial election to the Bihar Legislative Council from 24 (Twenty four) Local Authorities' Constituencies – Applicability of Model Code of Conduct-regarding.

Sir,

I am directed to state that the Commission has announced biennial election to the Bihar Legislative Council from 24 Local Authorities' Constituencies vide Press Note No. ECI/PN/26/2022, dated 02nd March, 2022.

2. With this announcement, the provisions of the Model Code of Conduct contained in Commission's instruction No. 322/ECI/INST/FUNC/BIEN-LC/2016, dated 26th December, 2016, for the guidance of the Political Parties and Candidates have come into force with immediate effect for this election.

3. A copy of instruction No. 322/ECI/INST/FUNC/BIEN-LC/2016, dated 26th December, 2016 is enclosed. This may be brought to the notice of all concerned Departments of State/Central Government.

4. The receipt of this letter may kindly be acknowledged.

Yours faithfully,

(SUMAN KUMAR DAS)
SECRETARY

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2022/G/32/1/MCC

भारत निर्वाचन आयोग
Election Commission of India

निर्वाचन सदन
NIRVACHAN SADAN
अशोक रोड, नई दिल्ली - 110 001
ASHOKA ROAD, NEW DELHI - 110 001

No. 322/ECI/INST/FUNC/BIEN-LC/2016

Dated. 26th December, 2016

To

The Chief Electoral Officers
1. Maharashtra, Mumbai,
2. Uttar Pradesh, Lucknow,
3. Bihar, Patna,
4. Karnataka, Bangalore,
5. Andhra Pradesh, Hyderabad.
6. Telangana, Hyderabad.

Subject: Biennial/Bye-Elections to the Legislative Councils from Council Constituencies by Graduates' and Teachers' and Local Authorities' Constituencies- MCC-instructions - regarding.

Sir,

I am directed to state that some experience during conduct of elections to Legislative Councils shows that there is lack of clarity with regard to applicability of provisions of Model Code of Conduct in such elections.

2 The Commission constituted a Working Group to examine the matter. The Commission, having considered the report of the Working Group and the matter in its entirety, has directed that all provisions of Model Code of Conduct for the political parties and candidates' shall apply *mutatis mutandis* in Biennial including Bye Elections to the State Legislative Councils from Graduates' & Teachers' Constituencies as well as Local Authorities' Constituencies. Consequently, various instructions issued by the Commission from time to time in clarification of the MCC provisions would also apply for such elections.

3. I am further to say that the following instructions of the Commission which have been issued from time to time to ensure level playing field and also to ensure that a party in power doesn't misuse its position for electoral gains, shall also be applicable in connection with Biennial/Bye Elections to the State Legislative Councils from Graduates' & Teachers' Constituencies as well as Local Authorities' Constituencies (from the date of announcement of election till the date of completion of election).

Tel: 011-23717361-66 Fax: 011-23717412, Website: www.eci.nic.in

"मजबूत लोकतंत्र के लिए बेहतर भागीदारी"
Greater participation for a stronger democracy

I. Ministers, whether Central or State (including Chief Minister) may make official visit to any district(s) in which any Biennial/Bye-election from a Council Constituency is being held subject to the following conditions: -

a. They shall not do any inauguration/laying of foundation stones of any educational institution, which are constituents of Graduates' and Teachers' Constituencies.

b. Official visit shall not be combined with the election related work/tours

c. There shall be no announcement of new policy programme/ policy likely to influence the graduates, the teachers and members of Local Authorities who form the electorate of the Constituencies going to poll.

II. No official of any rank of the district(s) dealing with election related work where the biennial/bye-elections are being held shall be called to attend any meeting by any Minister at any place, even in another district, where election is not being held. Any official who meets the Minister on his private visit to the constituency where elections are being held shall be deemed to be guilty of misconduct under the relevant service rules; and if he happens to be an officer mentioned in Section 129 (1) of the Representation of People Act, 1951, he shall also be additionally considered to have violated the statutory provisions of that section and liable to penal action prescribed under [illegible]

III. No member of any Local Authority which forms part of the electorate of a Local Authorities' Constituency shall be called for any meeting/video conference by any Minister (in his capacity as Minister). Routine meetings of the Local Bodies, when essential, may be held with the prior permission of the District Election Officer of the District concerned.

IV. No pilot car(s) or other car(s) with beacon lights of any colour or car(s) affixed with sirens of any kind making his presence conspicuous shall be used by any Minister during his private visit to the constituency, even if the State administration has granted him a security cover requiring presence of armed guards accompanying him on tour.

V. No policy announcement or programme, which influences the electorate either directly or indirectly, shall be initiated in the Government Departments till the completion of elections.

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VI. On need basis and in consultation with CEO of the state/ECI Observer, the DEO/RO should put in place for every tehsil a special video team to videograph political meeting at public places and to record visits of the Ministers and other important political functionaries. The ECI observer shall see the video recording in the evening of the same day so that he can report any violation to the Commission in prescribed format.

VII. In case of elections from Local Authorities' Constituencies, the restrictions on "Official Tours" by Central & State Ministers will also be applicable to the use of any "Official Cars" by "Office Bearers" of Local Authorities, like, Mayors of Municipal Corporations, Presidents of Municipal Councils & Zilla Parishads. The use of official cars by them shall only be allowed for travel to & from Office to Residence.

VIII. Public places such as maidans etc., for holding election meetings, and use of helipads for air-flights in connection with elections shall not be monopolized by the party in power. Other parties and candidates shall also be allowed to use them on first-cum-first served basis.

IX. No fresh Sanction of work using the IT Platform to be used depending upon the MP/MLA/MLC schemes for work that would amount to influencing the electorate.

X. There shall be a total ban on the transfer of Returning Officers and Assistant Returning Officers appointed for Biennial elections/bye-elections to State Legislative Councils after the announcement of elections and this ban will be in force till the completion of elections. The transfer orders in respect of the above officers issued prior to the date of announcement but not implemented should not be given effect to without obtaining the specific permission of the Commission. In those cases, where transfer of an officer is necessary on account of administrative exigencies, the State Govt. may with full justification approach the Commission for prior clearance.

XI. In order to conduct free and fair elections to keep a check on adverse role of money power and to check the movement of black money during biennial elections/bye-elections to Legislative Council, the Standard Operating Procedure (SOP) issued on 29.05.2015, excepting deployment of State Surveillance Teams, should be made applicable.

XII. State and District Media Certification and Monitoring Committee (MCMC) shall be appointed, as prescribed in the Compendium of Instructions on Election Expenditure Monitoring, immediately on announcement of biennial/ bye elections for pre-certification of election advertisements as in case of TV Channels / Cable Network, Radio including private FM Channels, Cinema Halls, Audio-Visual displays in public place and social media and also monitoring the general conduct of political functionaries during campaign.

XIII. The bulk SMSs/Voice messages on phone in election campaigning shall also be in the purview of pre-certification of election advertisements as in case of TV Channels / Cable Network, Radio including private FM Channels, Cinema Halls, Audio-Visual displays in public place and social media. The legal provisions, as applicable to other modes of electronic media shall also be applicable to bulk SMSs/ Voice messages.

XIV. Under Section 29 of the Representation of the People Act, 1951 read with Rule 69 of the Conduct of the Election Rules, 1961, a place of poll is fixed for conducting poll in respect of election to the Council of States and the State Legislative Councils by MLAs. As per Section 135C, "dry day" is to be declared in Polling Areas and polling area is defined in Section 25 of the Representation of the People Act, 1951, which is applicable to elections from Constituencies to the election to the State Legislative Assemblies and elections to Legislative Councils from Graduates', Teachers' and Local Authorities' Constituencies.

XV The provision regarding prevention of misuse of vehicles and regulation of convoys during campaign period as in the case of elections to House of People / Legislative Assemblies shall be made applicable for Council elections also.

XVI. Restriction on the presence of political functionaries in a constituency after the campaign period is over i.e., 48 hours before the closure of the poll as in the case of elections to House of People / Legislative Assemblies shall be made applicable for Council elections from Council Constituencies also.

4. In the context of certain queries that have been raised in this connection, it is clarified that:

(a) The practice of keeping the electors in hotels/resorts and other similar places during election period would amount to bribing of electors. It is clarified that

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such practice shall be construed as violation of sub Para (4) of Para I-General Conduct of MCC apart from being violation of Section 171 B of IPC.

(b) The phrase 'the rest houses/dak bunglows or other Government accommodation' in paragraph (VII- (ni)) of MCC would also include *Guest Houses* of all institutions that are getting Government assistance in any form of grant-in-aid etc.

(c) With regard to paragraph (VII-(v) & (vi)) of MCC, it is clarified that these would be made applicable only with regard to the Graduates'/Teachers'/Local Authorities' Constituencies where the election is being held.

Kindly inform all concerned including all registered and recognized parties based in your state.

Please ensure compliance.

Yours faithfully,

(R. K. SRIVASTAVA)
SR. PRINCIPAL SECRETARY

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भारत निर्वाचन आयोग
Election Commission of India

निर्वाचन सदन
NIRVACHAN SADAN
अशोक रोड, नई दिल्ली- 110001
ASHOKA ROAD, NEW DELHI-110001

No. ECI/PN/26/2022

Dated: 02nd March, 2022

PRESS NOTE

Sub: Biennial Elections to Bihar Legislative Council from 24 Local Authorities' Constituencies –reg.

The term of office of 24 members of Bihar Legislative Council from 24 Local Authorities' Constituencies had expired as per details below: -

S. No.	Name of Local Authorities Constituencies	Name of member	Date of Retirement
1.	Patna	Rit Lal Ray *(Vacant w.e.f 11.11.2020 as sitting member is elected in Bihar Legislative Assembly)*	16.07.2021
2.	Nalanda	Reena Devi Alias Reena Yadav	
3.	Gaya-cum-Jahanabad-cum-Arwal	Manorma Devi	
4.	Aurangabad	Rajan Kumar Singh	
5.	Nawada	Salman Raghib	
6.	Bhojpur-cum-Buxar	Radhacharan Sah	
7.	Rohtas-cum-Kaimur	Santosh Kumar Singh	
8.	Saran	Sachchidanand Rai	
9.	Siwan	Tun Ji Pandey	
10.	Gopalganj	Aditya Narayan Pandey	
11.	West Champaran	Rajesh Ram	
12.	East Champaran	Rajesh Kumar @ Bablu Gupta	
13.	Muzaffarpur	Dinesh Prasad Singh	
14.	Vaishali	Subodh Kumar	
15.	Sitamarhi-cum-Sheohar	Dilip Ray *(Vacant w.e.f 11.11.2020 as sitting member is elected in Bihar Legislative Assembly)*	
16.	Darbhanga	Sunil Kumar Singh *(Vacant w.e.f 22.07.2020 due to death of sitting member)*	
17.	Samastipur	Hari Narayan Chaudhary *(Vacant w.e.f 01.05.2021 due to death of sitting member)*	
18.	Munger-cum-Jamui-cum-Lakhisarai-cum-Sheikhpura	Sanjay Prasad	
19.	Begusarai-cum-Khagaria	Rajnish Kumar	
20.	Saharsa-cum-Madhepura-cum-Supaul	Nutan Singh	
21.	Bhagalpur-cum-Banka	Manoj Yadav *(Vacant w.e.f 11.11.2020 as sitting member is elected in Bihar Legislative Assembly)*	
22.	Madhubani	Suman Kumar	
23.	Purnea-cum-Araria-cum-Kishanganj	Dr. Dilip Kumar Jaiswal	
24.	Katihar	Ashok Kumar Agrawal	

2. Biennial elections to fill up 24 seats could not be conducted by 16.07.2021 as the Constituent Local Bodies/Electors therein were not in existence at that time. The Commission *vide* letter dated 21.05.2021 had sought information regarding existence of constituent Local Bodies functioning and their percentage in the said Constituencies. The CEO, Bihar vide letter dated 27.05.2021 had informed that the term of all Rural Local Bodies which constitute 97.56% of total electoral college for said election was to expire on 15.06.2021 and accordingly, said election could not be held at that time.

3. Now, CEO, Bihar vide letter dated 27.12.2021 has submitted the updated status regarding percentage of Local Bodies functioning as well as percentage of electors therein in all 24 Local Authorities' Constituencies. The Chief Electoral Officer, Bihar has informed that the percentage of Local Bodies functioning as well as the percentage of electors therein is more than 75%.

4. The term of office of the members to be elected to the Bihar Legislative Council from the said Local Authorities' Constituencies shall be subject to the decision of the Hon'ble Supreme Court of India in SLP(C) No. 17123/2015 *(Election Commission of India Vs Devesh Chandra Thakur & Others)*.

5. The Commission having re-assessed Covid-19 pandemic situation in the State of Bihar and after taking into consideration all other aspects has now decided to conduct biennial election to the Bihar Legislative Council from above-mentioned 24 Local Authorities' Constituencies in accordance with the following programme:-

	Events	Days & dates
1.	Issue of Notification	09th March, 2022 (Wednesday)
2.	Last date of making nominations	16th March, 2022 (Wednesday)
3.	Scrutiny of nominations	17th March, 2022 (Thursday)
4.	Last date for withdrawal of candidatures	21st March, 2022 (Monday)
5.	Date of poll	04th April, 2022 (Monday)
6.	Hours of poll	08:00 am to 04:00 pm
7.	Counting of Votes	07th April, 2022 (Thursday)
8.	Date before which election shall be completed	11th April, 2022(Monday)

6. Broad Guidelines of Covid-19 as issued by ECI as available at link https://eci.gov.in/files/file/13932-revised-broad-guidelines-for-conduct-of-general-electionsbye-elections-during-covid-19/ as well as subsequent guidelines relating to physical public meeting etc contained in ECI Press Note No. ECI/PN/20/2022 dated 12.02.2022 and Press Note No ECI/PN/23/2022 dated 22.02.2022 available at link https://eci.gov.in/files/file/14036-publicci-

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partiescandidates-may-campaign-from-6am-to-10pm-following-all-extant-instructions/ https://eci.gov.in/files/file/14057-meetings-rallies-and-road-shows-of-political-parties-and-candidates-allowed-subject-to-sdma-regulations-and-prior-permission-of-district-authorities-limit-of-50-percent-is-relaxed-now/ respectively as well as further direction in the matter to be issued by the Commission to be followed, wherever applicable, during entire election process for all persons.

7. The Model Code of Conduct concerning the said election will come into force with immediate effect in the concerned Constituency. Please see the details in Commission's website under https://eci.gov.in/files/file/4070-biennial-bye-elections-to-the-legislative-councils-from-council-constituencies-by-graduates%E2%80%99-and teachers%E2%80%99-and-local-authorities%E2%80%99-constituencies-%E2%80%93-mcc-instructions-%E2%80%93-regarding/

8. The Chief Secretary, Bihar is being directed to depute a senior officer from the State to ensure that the extant instructions regarding COVID-19 containment measures are complied with while making arrangements for conducting the election.

(PRAFULL AWASTHI)
UNDER SECRETARY