



भारत निर्वाचन आयोग
Election Commission of India

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

No. 322/ECI/LET/FUNC/INST-LAC/BIEN/2022

Dated: 04th April, 2022

To,

- The Chief Electoral Officer,
1. Andhra Pradesh, Velagapudi, Amarvati.
2. Maharashtra, Mumbai,
3. Telangana, Hyderabad
4. Karnataka, Bengaluru
5. Uttar Pradesh, Lucknow
6. Bihar, Patna

Subject: Biennial election to the Legislative Council from Local Authorities Constituencies - Reiterating existing guideline- Reg.

Sir,

I am directed to refer to the subject cited, and to state that in respect of election to State Legislative Council from Local Authorities' Constituency, as per Section 27(2)(a) of Representation of the People Act, 1950, the electorate shall consist of members of such local authorities exercising jurisdiction in any place or area within the limits of that constituency as are specified in relation to that States in the Fourth schedule of the said Act.

2. In this regard, it is observed that the tenure of all local bodies falling within a Local Authorities' Constituency does not come to an end at the same time and therefore, there will always be a possibility that some of these bodies may either be in the state of dissolution/suspension or non-functioning for any other reason. Similarly, some of the local bodies may have vacancies for electors and therefore all the electors might not be in place to participate in such elections. However, the Commission has to conduct the said elections before the expiration of term of retiring members as stipulated in Section 16 of Representation of the People Act, 1951. It is pertinent to mention that the responsibility entrusted to the Commission under the Constitution as well as statutory provisions is to conduct elections and not to withhold them.

3. Therefore, in order to deal with such contingencies in a balanced way, the Commission on 24.08.1987 during biennial election to Maharashtra Legislative Council from 06 Local Authorities' Constituencies had prescribed that if at least 75 percent of the local authorities in a local authority constituency were functioning and again at least 75 percent of the voters in the total electorate were available, then the electorate should be asked to elect their representative to the Legislative Council. The rationale behind the said guideline is that elections can be conducted if 3/4th of the electors, from at least 3/4th of the constituent local

bodies, are able to participate in such elections. The above decision of the Commission has continuously been made applicable in such elections ever since.

4. In this regard, I am also directed to refer to the Judgment dated 10.11.1987 passed by Hon'ble Supreme Court in Election Commission of India vs Shivaji and Ors (AIR 1988 SC 61), whereby the Supreme Court had approved the Election Commission's guideline that if at least 75 percent of the local authorities in a local authority constituency were functioning and again at least 75 percent of the voters in the total electorate were available, then the electorate should be asked to elect their representative to the Legislative Council.

5. It is, therefore, reiterated that "if at least 75 percent of the local authorities in a local authorities' constituency are functioning, and in addition at least 75 percent of the electors out of the total electorate of the Constituency are available, then the electorate is treated as available for electing their representative to the Legislative Council".

Yours faithfully,



(PRAFULL AWASTHI)
UNDER SECRETARY