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ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 4/2024/SDR/Vol. II

Dated: 6th September, 2024

To,

The Chief Electoral Officers of
All States and Union Territories

**Sub: - Custody, retention, inspection, supply and disposal of election records
relating to general/bye election to the House of the People and State
Legislative Assembly-regarding**

Ref:

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|---|------------------|
| 1. No. 4/2008/SDR | dated 29.01.2009 |
| 2. No. 3/ER/ECI/LET/FUNC/JUD/SDR/2016 | dated 07.09.2016 |
| 3. No. 464/INST/2022/EPS | dated 19.06.2023 |
| 4. No. 464/Counting Arrangements/2023-EPS | dated 18.07.2023 |
| 5. No. 464/Strong room /2023-EPS | dated 18.07.2023 |
| 6. 3/ER/2023/SDR/Vol. V | dated 27.02.2024 |
| 7. 3/ER/2023/SDR/Vol. IV | dated 06.03.2024 |

Madam/Sir,

I am directed to state that Rules 92-94 of the Conduct of Elections Rules, 1961 contain provisions for custody, retention, inspection, supply and disposal of election papers in connection with general/bye election to the House of the People and State Legislative Assembly. Rule 92 deals with the custody of ballot boxes and papers relating to election, Rule 93 deals with the production and inspection of election papers; whereas the provisions for retention and disposal thereof are contained in Rule 94 of the said Rules.

2. In addition to rules mentioned above, the Commission has issued various instructions with regard to custody, storage, inspection, supply, retention and disposal of election papers from time to time. Further, there are instructions of the Commission for recording of various stages of election process through multiple recording devices (e.g. photography, videography, CCTV, webcasting) during the process of nomination, scrutiny, and withdrawal of candidature, allotment of symbols, EVM preparations, campaign activities, polling, counting and declaration of results. These recordings are to be stored in CD/storage devices under safe custody of the District Election Officer as per the extant provisions of the Commission's instructions and the Conduct of Elections Rules, 1961.

3. Under the Rule 92 when an Assembly or Parliamentary Constituency extends over more districts than one, the election papers of that constituency will be kept in the custody of such one of the District Election Officers having jurisdiction over the constituency as the Election Commission may direct. Under this arrangement, normally, the District Election Officer, who is Returning Officer himself/ herself of such multi-district constituency or Returning Officer of such constituency works under his district jurisdiction, will be responsible for the safe custody of these papers. In case of Assembly Constituency spreading over more than one district, the election records shall be kept in the custody of District Election Officer to whom the Returning Officer of that Assembly Constituency reports.

4. Though there are no explicit provisions to deploy electronic recording devices in the electoral process under the electoral laws and the rules made thereunder, however, in order to enhance the transparency measures in the electoral process and inclusivity of different stakeholders during various stages of electoral process, the Commission has introduced different electronic mechanisms to supplement and strengthen the existing law and the rules and such steps are in consonance with the evolving technology and expectations. The statutory provisions governing disclosures are restrictive, however, the records including the electronic contents are provided to different stakeholders liberally through instructional regime. However, the experiences, during the recent time, show that such liberal provisions in the Commission's directions/ instructions have been misused to serve mala fide and ulterior motives by certain non-contestants and to propagate the misconception on electoral processes through smear campaign on social media by selective and out of context use of such liberally provided content. The Commission therefore, in partial modification of the earlier instructions relating to custody, retention, inspection, supply and disposal of election papers and electronic recordings of the above-mentioned events, issues the following comprehensive and composite instructions in this context:

A. Pre Nomination period-

- i) The video recordings, photography and other documents pertaining to the period between announcement and notification of the election shall be kept in the safe custody of the Returning Officer or the District Election Officer, as the case may be till the declaration of result. Thereafter these records shall be sealed and handed over to/ kept by the District Election Officer who shall keep these records in his safe custody as per the provisions of Rule 92 of the Conduct of Elections Rules, 1961.

- ii) After declaration of result, these records shall be retained for a period of three months as per Rule 94(c) of Conduct of Elections Rules, 1961. These records may be disposed-off as per the instructions given under Para 7.
- iii) During the custody of the District Election Officer, the statutory documents shall be opened for inspection and supply thereof, on demand, only to the candidate(s) or elector(s) of that constituency pertaining to that election. The instruction for inspection and supply of election records are given in Para 6.

B. Nomination process-

- i) The election papers and electronic content recorded through photography, CCTV & video recordings shall be kept in the safe custody of the Returning Officer till the declaration of result. Thereafter these records shall be sealed and handed over to the District Election Officer who shall keep these records in his safe custody as per the provisions of Rule 92 of the Conduct of Elections Rules, 1961.
- ii) After declaration of result, these records shall be retained for a period of one year as per Rule 94(c) of Conduct of Elections Rules, 1961. These records may be disposed-off as per the instructions given under Para 7.
- iii) During the custody of the District Election Officer, the statutory documents shall be opened for inspection and supply thereof, on demand, only to the candidate(s) or elector(s) of that constituency pertaining to that election. The instruction for inspection and supply of election records are given in Para 6.

C. Campaign period-

- i) As regards the documents, video recordings and photography of election campaign activities of candidates and political parties made by the election expenditure monitoring teams, flying squads, SSTs, etc. is concerned, the records shall be kept in the safe custody of the Returning Officer till the declaration of result. Thereafter, these records shall be sealed and handed over to the District Election Officer who shall keep these records in his safe custody as per the provisions of Rule 92 of the Conduct of Elections Rules, 1961.
- ii) After declaration of result, these records shall be retained for a period of six months as per Rule 94(c) of Conduct of Elections Rules, 1961. These records may be disposed-off as per the instructions given under Para 7.

iii) During the custody of the District Election Officer, these records shall be opened for inspection and supply thereof, on demand, only to the candidate(s) or elector(s) of that constituency pertaining to that election. The instruction for inspection and supply of election records are given in Para 6.

D. Inside and outside the polling station:

- i) The poll proceedings recorded inside and outside the polling stations in the prescribed Formats, voting machines and event recorded through photography/webcasting/CCTV/videography shall be kept in the safe custody of the Returning Officer or the District Election Officer, as the case may be, till the declaration of result. Thereafter, these records shall be sealed and handed over to/ kept by the District Election Officer as per the provisions of Rule 92 of the Conduct of Elections Rules, 1961.
- ii) Such records shall be treated as records mentioned in Rule 93(1) of the Conduct of Elections Rules, 1961 and shall not be opened and their contents shall not be inspected by, or produced before, any person or authority except under the order of a competent court. However, the webcasting data and videography data/photography inside the Polling Stations shall be kept in the secured custody of DEO concerned for use during scrutiny process, if required.
- iii) Further, it is clarified that under Rule 49S of the Conduct of Elections Rules, 1961, Presiding Officer is required to furnish a true attested copy of the account of votes recorded as prepared by him in Form 17C Part I only and no other documents, to each polling agent present after obtaining a receipt from the said polling agents, only at the close of poll.
- iv) After declaration of result, these records shall be retained for a period of one year as per Rule 94(b) of Conduct of Elections Rules, 1961. These records may be disposed-off as per the instructions given under Para 7.
- v) On the order of the competent court, if copy (ies) of such data/record are to be provided to the candidate(s) or elector(s) of that constituency, the same may be provided as per norms given in Para 6.

E. Counting and declaration of result:

- i) After the counting process is over, the proceedings of counting and declaration of result recorded through videography/photography/CCTV duly sealed by the

Returning Officer shall be kept in the safe custody of the DEO as per the provisions of Rule 92 of the Conduct of Elections Rules, 1961.

- ii) Such records are part of records mentioned in Rule 93(1) of the Conduct of Elections Rules, 1961 and shall not be opened and their contents shall not be inspected by, or produced before, any person or authority except under the order of a competent court.
- iii) After declaration of result, these records shall be retained for a period of one year as per Rule 94(b) of Conduct of Elections Rules, 1961. These records may be disposed-off as per the instructions given under Para 7.
- iv) On the order of the competent court, if copy (ies) of such data/record are to be provided to the candidate(s) or elector(s) of that constituency, the same may be provided as per norms given in Para 6.
- v) However, as per the provision of Rule 93(3) of the Conduct of Elections Rules, 1961, copies of the returns by the Returning Officer forwarded under Rule 64 e.g. return of election in Form 21-E, Form 21C or Form 21D and result sheet in Form 20 may be furnished on a payment of a fee of two rupees for each copy.
- vi) Further, Form 17C Part II is result of counting and is prepared at the time of counting. It is signed by the counting supervisor and also by the candidates or their election/counting agents. A copy of the Form 17 C part II is furnished to the election/counting agent at the time of counting.

F. EVM preparations:

- i) The proceedings recorded in the prescribed Formats and through photography/CCTV/videography during EVM & VVPAT preparations viz. FLC, randomizations, commissioning, dispersal, storage and other activities till the period of filing of Election Petition, in warehouses or strong rooms at different stages of preparations shall be kept in the safe custody of the Returning Officer till the declaration of result. Thereafter, these records shall be sealed and handed over to the District Election Officer who shall keep these records in his safe custody as per the provisions of Rule 92 of the Conduct of Elections Rules, 1961.
- ii) Such records are part of records mentioned in sub-Rule (1) & (1A) of Rule 93 of the Conduct of Elections Rules, 1961 and shall not be opened and their contents shall not be inspected by, or produced before, any person or authority

- except under the order of a competent court. However, video recordings, if any related to impart of training and awareness drive shall be kept by the DEO separately and should not be mixed with the mandatory recordings mentioned above.
- iii) After declaration of result, these records shall be retained for a period of one year as per Rule 94(b) of Conduct of Elections Rules, 1961. These records may be disposed-off as per the instructions given under Para 7.
 - iv) On the order of the competent court, if copy (ies) of such data/record are to be provided to the candidate(s) or elector(s) of that constituency, the same may be provided as per norms given in Para 6.

G. Other Records:

- i) All records of account of election expenses of a candidate who has lodged it within time and manner shall be retained for a period of one year or till the pendency of case before the Commission.
- ii) All records relating to the account of election expenses of a candidate who has been disqualified u/s 10A of the R. P. Act, 1951 shall be retained for a period of three years from the date on which the Commission's decision under sub-rule (8) of rule 89 of the Conduct of Elections Rules, 1961, is notified. If the disqualification has been removed by the Commission under Section 11 of the said Act, the records shall be destroyed on the expiry of one year after such removal.
- iii) List of challenged votes (Form 14), receipt book used for collection of challenge fee, shall be retained till one year or till they are audited and audit objections if any, settled whichever is later.
- iv) Dispatch register of postal ballot papers, Register of security deposits, Orders of appointment of Presiding officer or polling officer shall be retained till six months after declaration of results.
- v) During the custody of the District Election Officer, these records shall be opened for inspection and supply thereof, on demand, only to the candidate(s) or elector(s) of that constituency pertaining to that election. The instruction for inspection and supply of election records are given in Para 6.
- vi) These records shall be disposed of after expiry of the period of retention as mentioned above with prior approval of the CEO.

5. There are records other than the records pertaining to preparation and updation of electoral rolls generated during non-election period, which pertain to general electoral management during pre-election period. Such records may be required for internal consumption like reference, internal audit and stock taking etc. and shall be under the supervision of the District Election Officer. Access to these records shall be restricted to official purpose only and shall not be available to any other person. These records shall be destroyed after 30 days of completion of that cycle or as decided by the District Election Officer whichever is later.

- 6. Inspection and supply of election papers and electronic contents given in Para A to G and fee thereof**
 - (i) Subject to the provisions of Rule 93 of the Conduct of Elections Rules, 1961 and the Commission's instructions mentioned herein above, inspection and supply of eligible election documents shall only be provided after completion of 45 days from the declaration of result of the election.
 - (ii) If there is any election petition or any other petition is filed or pending before any competent court, then inspection and supply of documents shall be allowed only after order of the competent court.
 - (iii) Inspection and supply of copy of any eligible statutory election record shall be allowed only on written application containing the particulars concerning the election record, by the candidate or the elector of the constituency concerned.
 - (iv) The application should clearly disclose that the applicant has a direct and tangible interest in such document(s) and the nature of such interest.
 - (v) No fee shall be charged when inspection or certified copy of a document is required for official purposes.
 - (vi) To avoid removal or damage or mutilation of any election record, effective supervision by officials is necessary and also simultaneous inspection by more than one person along with a companion, if requested so, shall not be allowed.
 - (vii) In case of account of election expenses, inspection and supply of copies thereof shall be allowed as per Rule 88 of the Conduct of Elections Rules, 1961 and Commission's instructions in this regard mentioned at chapter 18 of the Handbook for Returning Officer-2023.

(viii) The procedure to be followed in respect of an application for it shall be the same as for a similar application made in respect of a case dealt with by a Revenue Officer.

(ix) Under Rule 93(2) of the Conduct of Elections Rules, 1961, the Commission hereby fixes the following fee for inspection and providing copies of election records, on application by the candidate or elector of the constituency concerned:

| Sl.no. | Applicant | Type of Election document/record | Fee for supply of certified copy and timeline | Fee for inspection and timeline |
|---------------|---|--|---|--|
| 1. | Candidate of the constituency concerned | Any eligible statutory document other than the documents covered under Rule 93(1) of CE Rules 1961. And | Nil. within 30 days of receiving of written application or as per the order of the competent court. | Inspection shall be allowed on the day following the date on which the application is made or on a subsequent day on payment of fee of Rs. 5 per hour of inspection or part thereof. |
| 2. | any elector of the constituency concerned | In case of election records covered under Rule 93(1) of CE Rules 1961 and non-statutory documents/records, order of the competent court is required. | Rs.300/- per CD/storage device (excluding cost of CD/storage device), and @ Rs.2/- per page in case of documents. within 30 days of receiving of written application or as per the order of the competent court. | Inspection on an urgent application shall be allowed on the same day in that case the fees shall be Rs. 10 per hour of inspection or part thereof. |

7. Disposal of election papers and electronic contents-

- (i) The disposal of election papers and electronic contents shall be done as per the provisions of Rule 94 of the Conduct of Elections Rules, 1961 read with the above mentioned instructions pertaining to various aspects of elections.
- (ii) Before disposal of these records, the DEO shall ascertain whether any election petition or any other petition is filed or pending before any competent court.

- (iii) If no election petition is filed/pending for the election then the above mentioned election records may be destroyed with the prior approval of the CEO of the State after expiry of abovementioned retention period.
- (iv) Where an election petition or any other petition is pending for adjudication by a court, the records relating thereto should not be destroyed until the expiry of three months has passed from the date of disposal of such petition finally.
- (v) It shall be ensured that advance written intimation shall be given to the contesting candidates and political parties concerned before disposing of the records.
- (vi) Final Result Sheet (Form 20), Declaration of Result of Election (Forms 21, 21A, 21B, 21C, 21D, 23 and 23A) and Return of Election (Forms 21E and 23B) should be kept as permanent records of election.
- (vii) A table containing various types of records to be destroyed in certain timelines, may be seen at Annexure 'A' and 'B'

8. (a) It is hereby clarified that "competent court" within the meaning of Rule 93(1) of the Conduct of Elections Rules, 1961 is either any court having jurisdiction to try electoral offences etc. for the prosecution of which the documents mentioned in the said rule are required or the court having jurisdiction to try election petition under Section 80A of the Representation of the People Act, 1951.

(b) If an election petition is pending before the high court and simultaneously the election records are also required to be presented before the court trying an electoral offence matter then in such case the District Election Officer shall seek permission from the high court trying that election petition before the records are supplied to that court on demand/to the petitioner on request.

9. With regard to the electronic recordings recorded through photography/webcasting/CCTV/videography, it shall be ensured that the unedited recordings should be stored in appropriate storage device(s) and be sealed, clearly labelling all the details contained therein including the date, time, time duration, name of the place, constituency and election, immediately after that particular stage of election in the constituency is over. The CD/storage device shall be indexed with a uniform code number in the following standard formulation: State/Distrct/AC/Date of recording/location/Gist of event recorded. It should be ensured that the recordings

of the different processes are duly catalogued and be kept intact and unedited with proper locking seals so that it cannot be copied by anyone after it has been sealed. No guarantee for authenticity and veracity of the contents of the CDs/storage devices will be undertaken under any circumstances and these will be made available on ‘as is’ basis. While providing the electronic recordings the particulars of the recordings such as election, place, event date & time etc. should be clearly mentioned. The electronic recordings which are the part of the election papers as specified under Rule 93(1) of the Conduct of Elections Rules, 1961 shall be stored in the trunk in the election paper Strong Room, designated for documents different from EVM/VVPAT strong rooms, where all the statutory documents relating to that election have been stored. The other administrative directions on inspections of records issued vide reference 3rd cited and para 19.8 of Handbook for Returning Officer, 2023 may be ensured.

10. Protocol for safe storage of Polled EVMs, VVPAT, VVPAT slips and election papers:-

All the extant instructions as contained in the latest edition of Manual of EVM and VVPAT and Commission’s instruction in the reference 5th cited regarding safe storage of Polled EVMs, VVPAT, VVPAT slips and election papers shall be scrupulously followed.

11. Protocol for opening of election papers strong room for supply of copies/recordings:

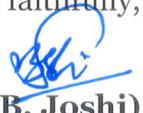
A separate log book shall also be maintained and in the event of opening of the strong room, entry should be made about date, time, duration and name(s) of person(s), purpose for opening the strong room. The other protocol for opening strong rooms such as prior intimation to contesting candidates, videography of the activity in the strong rooms, including opening and re-sealing etc. should be scrupulously followed.

12. The election papers and documents shall be shredded centrally in the district or the State as the CEO may decide. The electronic devices containing various electoral data viz. CD, DVD, Pendrive, Hard disk etc. shall be crushed and then disposed off as per the existing norms of the State for disposal of e-waste. The data shall neither be copied nor the devices are formatted while disposing them i.e. the devices shall be

along with their contents. The DEO will ensure that there is no leakage and data theft while disposing off the election records. The election records shall be disposed-off in the supervision of a responsible officer.

- 13.** The above instructions shall be brought to the notice of all concerned for strict compliance.

Yours faithfully,


(S. B. Joshi)
Principal Secretary

ANNEXURE 'A'

| Relevant rules of Conduct of Elections Rules, 1961 | Type of documents | Retention period after declaration of result of the election. if no petition is pending |
|--|--|---|
| Rule 94(a) | Packets of unused ballot papers, Undistributed ballot papers left with RO | 6 months |
| Rule 94(b) | Used ballot paper (whether valid, tendered or rejected), marked copies of electoral roll, declarations by elector, attestation of their signatures, and Register of Voters (Form 17 A). Packet of paper slips of printer under Rule 57 C , counterfoils of used ballot papers | One year Shall not be destroyed except with the previous approval of the Election Commission. [proviso to rule 94(b)] |
| Rule 94 (c) Subject to any direction to the contrary given by the Commission or by a competent court or Tribunal- | Papers specified in Annexure 'B' | Six months |
| -do- | List of challenged votes (form 14), receipt book used for collection of challenge fee, dispatch register of postal ballot papers, forms of nomination papers | One years or till they are audited and audit objections if any, settled whichever is later |
| -do- | Orders of appointment of Presiding officer or polling officer | Six months |
| -do- | Register of deposits | Six months |
| -do- | All records of account of election expenses of a candidate who has lodged it | One year |

| | | |
|------|--|--|
| | within time and manner | |
| -do- | <p>All records relating to the account of election expenses of a candidate who has been disqualified u/s 10A of the R. P. Act, 1951</p> <p>If the disqualification has been removed by the Commission under Section 11 of the said Act, the records shall be destroyed</p> | <p>Retained for a period of 3 years from the date on which the Commission's decision under sub-rule (8) of rule 89 of the Conduct of Elections Rules, 1961, is notified.</p> <p>One year after such removal.</p> |

List of the papers for destruction - six months after the declaration of result of election

- (1) Form of Notice (Form 1).
- (2) Notice of nominations (Form 3A).
- (3) List of validly nominated candidates under rule 8 (Form 4).
- (4) Form of Notice of withdrawal (Form 5).
- (5) Notice of withdrawal of Candidates (Form 6).
- (6) List of contesting candidates (Form 7A).
- (7) Appointment of election agents (Form 8).
- (8) List of tendered votes (Form 15).
- (9) Appointment of polling and counting agents (Form 10 and 18).
- (10) Office copies of Form 18.
- (11) Revocation of the appointment of election agents, polling agents and counting agents (Form 9, 11, 19).
- (12) Used electoral rolls at a polling station other than the marked copy [Rule 31(3)/49C (3)].
- (13) Record kept by the Presiding Officers regarding voting by blind and infirm electors (Form 14A).
- (14) Packet containing cancelled ballot papers [Rules 39(7) and 41.]
- (15) Notes and records maintained by the Presiding Officer, the declarations made by the polling agents and any other paper directed by the Returning Officer to be kept in a sealed packet.
- (16) List containing names of persons under preventive detention (Rule 21).
- (17) List of electors permitted to vote by postal ballot.
- (18) Applications made by persons subjected to preventive detention for permission to vote by postal ballot received by the Returning Officers.
- (19) Applications for postal ballot papers by electors employed on election duty (Form 12 and Form12A).
- (20) Postal ballot papers returned undelivered.
- (21) Applications made for reissuing of postal ballot papers.
- (22) Applications for the recount of votes (Rule 63).
- (23) Unused postal ballot papers with counterfoils.

- (24) Notice of counting of votes-time, place and date, etc.
- (25) Notice of inspection of accounts of election expenses.
- (26) Correspondence between the Returning Officer and the candidates and the election or counting agents.
- (27) Application for allotment of symbols.
- (28) Damaged paper seals and unused paper seals including those received back from the Presiding Officers by the Returning Officers.
- (29) General reports, diaries and memo, note-books from the Presiding Officers.
- (30) Notices under clauses (a) and (b) of sub-rule (i) of rule 31/49C
- (31) Packets containing objections by candidates and agents etc., in the course of poll and counting of votes.
- (32) A Sealed packet containing the proceedings drawn by the Returning Officer after counting of votes.
- (33) Sealed packets containing check memos for counting of votes.
- (34) Paper seal account.
- (35) Publicity material such as wall posters, handbills and open statements issued by the candidates at the election.
- (36) Election duty certificates (Form 12-B)
- (37) Declarations under rule 40 (1)/ 49N of Conduct of Elections Rules, 1961