

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 76/Instructions/EEPS/2015/Vol-II

Dated: 29th May, 2015

To

The Chief Electoral Officers of
All States and UTs

Subject: Standard Operating Procedure for seizure and release of cash and other items -
regarding

Madam/Sir,

In supersession of Commission's Order No. 76/Instructions/2014/EEPS/Vol. XIX, dated 30th December 2014, I am directed to forward herewith the revised Standard Operating Procedure (SOP) for deployment of the Flying Squads, Static Surveillance Teams etc. and for seizure and release of cash and other items during election process, for necessary action and compliance.(Changes in italics).

2. You are requested to kindly bring it to the notice of all election officials, the Income Tax Department, Police Department and Excise Department for compliance.

3. Kindly acknowledge the receipt of this letter.

Yours faithfully,

Sd/-

(S. K. Rudola)
SECRETARY

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN ASHOKA ROAD NEW DELHI-110001

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Order

Whereas, the Superintendence, direction and control of all elections to Parliament and the Legislature of every State is vested in the Election Commission under Article 324 of the Constitution; and

Whereas, all forms of intimidation, threat, influence and bribing of electors must be prevented in the interest of free and fair election and; reports are received that money power and muscle power are being used during election process for inducement of electors by way of distribution of cash, gift items, liquor or free food; or for intimidation of electors by threat or intimidation; and

Whereas, distribution of cash or any item of bribe or use of muscle power for influencing electors are crime under sections *171 B and 171 C* of IPC and also are Corrupt Practices under Section 123 of R.P. Act, 1951;

Now, therefore, for the purpose of maintaining purity of elections, the Election Commission of India hereby issues the following Standard Operating Procedure for Flying Squads, constituted for keeping vigil over excessive campaign expenses, distribution of items of bribe in cash or in kind, movement of illegal arms, ammunition, liquor, or antisocial elements etc. in the constituency during election process:

Flying Squad (FS)

1. There shall be three or more Flying Squads (FS) in each Assembly Constituency/Segment. The FS shall start functioning from the date of announcement of election and shall continue till completion of poll.
2. The Flying Squad shall (a) attend to all model code of conduct violations and related complaints; (b) attend to all complaints of threat, intimidation, movement of antisocial elements, liquor, arms and ammunition and large sum of cash for the purpose of bribing of electors etc.; (c) attend to all complaints regarding election expenditure incurred or authorized by the candidates / political party; (d) videograph with the help of Video Surveillance Team (VST), all major rallies, public meetings or other major expenses made by political parties after the announcement of election by the Commission.
3. In Expenditure Sensitive Constituencies (ESC), there shall be more FSs, depending on the requirement. The FS shall not be given any other work during the period. The names and mobile numbers of the Magistrate as head of the FS and other officials in FS

shall be provided to the Complaint Monitoring Control Room and Call Centre, RO, DEO, General Observer, Police Observer, Expenditure Observer and Assistant Expenditure Observer. In ESCs, CPF or State Armed Police may be mixed in the FS, depending on the situation and the DEO shall take necessary steps in this regard. The DEO shall constitute the FS with officers of proven integrity.

4. Whenever a complaint regarding distribution of cash or liquor or any other item of bribe or regarding movement of antisocial elements or arms and ammunition, is received, the FS shall reach the spot immediately. In case of suspicion of commission of any crime, the incharge Police Officer of FS shall seize cash or items of bribe or other such items, and gather evidence and record statement of the witnesses and the persons from whom the items are seized and issue proper Panchnama for seizure as per the provisions of CrPC to the person from whom such items are seized. He shall ensure that case is submitted in the Court of *competent* jurisdiction within 24 hrs. The Magistrate of the FS will ensure that proper procedure is followed and there is no law and order problem.

5. The Magistrate of the FS shall send a Daily Activity report in respect of items of seizure of bribe or cash to the D.E.O. in a format as per Annexure - A, with a copy to R.O., S.P. and the Expenditure Observers, and shall *also* send Daily Activity report in respect of model code of conduct violations to RO, DEO, S.P. and General Observer in the format as given in Annexure-B. The S. P. shall send daily activity report to Nodal Officer of Police Headquarter, who shall compile all such reports from the district and send a consolidated report in the same format (i.e.,: Annexure – A & B) on the next day by fax/ e-mail to the Commission with a copy to the CEO of the state.

6. The entire proceeding shall be video recorded. The Incharge Officer of FS shall also file complaints/F.I.R. immediately against (i) the persons, receiving and giving bribe; and (ii) any other person from whom contraband items are seized, or (iii) any other antisocial elements found engaged in illegal activity. The copy of the complaint/FIR shall be displayed on the notice board of the R.O. for public information and be sent to the DEO, General Observer, Expenditure Observer and Police Observer. The Expenditure Observer shall mention it in the Shadow Observation Register, if it has links with any candidate's election expenditure.

7. In case, a complaint is received about distribution of cash, gift items, liquor or free food; or about threat/ intimidation of electors; or of movement of arms/ammunitions/ antisocial elements and it is not possible for the FS to reach the spot immediately, then the information shall be passed on to the Static Surveillance Team, nearest to the spot or to the police station of that area, who shall rush a team to the spot for taking necessary action on the complaint. All seizures made by the police authorities either on receipt of complaints

forwarded by FS or received independently shall also be reported to the FS which shall incorporate such seizure reports in its Daily Activity Reports in relevant rows/columns and this is done to avoid duplication of reports of seizure.

8. Each FS shall announce through a Public address system, fitted onto its vehicle, the following in local language in the area under its jurisdiction: “As per section 171 B of Indian Penal Code, any person giving or accepting any gratification in cash or kind during election process, with a view to inducing the person to exercise his electoral right is punishable with imprisonment up to one year or with fine or with both. Further, as per section 171 C of Indian Penal Code, any person who threatens any candidate or elector, or any other person, with injury of any kind, is punishable with imprisonment up to one year or with fine or both. Flying Squads have been formed to register cases against both the giver and the taker of bribe and for taking action against those who are engaged in threat and intimidation of electors. All the Citizens are hereby requested to refrain from taking any bribe and in case, anybody offers any bribe or is having knowledge about the bribe or cases of threat/intimidation of electors, then he should inform on the toll free number....., of the 24x7 Complaint Monitoring Cell of the district, set up for receiving the complaints”.

9. *As per Commission’s instruction No. 23/1/2015-ERS, dated 21-02-2015, Booth Level Awareness Groups (BAGs) formed for purification and authentication of electoral rolls of the booth will also be associated in collecting the evidences of malpractices taking place in their area either by mobile software developed by the Commission or otherwise. Whenever the BAG provides any information, the Flying Squad should reach the spot within shortest possible time and take necessary action and gather corroborative evidences.*

10. The DEO shall *publish* pamphlets quoting the above in English or Hindi or local language and distribute through the flying squad in prominent places. Press release should also be *issued* by the DEO on the election expenditure monitoring measures.

11. After the announcement of elections, DEO shall make an appeal as mentioned in para 8 above in print and electronic media for the benefit of general public about the monitoring mechanism, which is being put in place during election process.

12. *All the vehicles used by the Flying Squads shall be fitted with the CCTV cameras/webcams or shall have video cameras (keeping in view the availability and economic viability) for recording the interception made by the Flying Squads*

Static Surveillance Team (SST)

1. There shall be three or more Static Surveillance Teams in each Assembly Constituency/Segment with one executive magistrate and three or four police personnel in

each team who shall be manning the check post. Depending on the sensitivity of the area, the CPF members will be mixed in the SSTs.

2. This team shall put check posts at Expenditure Sensitive pockets/hamlets, and shall keep watch on movement of illicit liquor, items of bribe, or large amount of cash, arms and ammunition and also movement of antisocial elements in their area. The entire process of checking shall be *captured in video or CCTV*.

3. The Magistrate of the SST shall send Daily Activity report to the D.E.O. with copy to R.O., S.P. and Expenditure Observer, General Observer, and Police observer in a format as per Annexure –C, on the same day. The S.P. shall send daily activity update to Nodal Officer of Police Headquarter, who shall compile all such reports from the district and send a consolidated report in the same format (i.e., Annexure – C) on the next day by fax/ e-mail to the Commission with a copy to the CEO of the state.

4. The checking by the SSTs shall be done in the presence of an Executive Magistrate and shall be video-graphed. No such checking shall take place without the presence of Executive Magistrate. The video/CCTV record with an identification mark of date, place and team number shall be deposited with the R.O, on the next day who shall preserve the same for verification by the Commission at later point of time. It may also be widely advertised by the DEO that any member of the public can obtain a copy of the video/ CCTV record by depositing Rs. 300/-.

5. Whenever Check Posts are put at the borders of the district/State or at any other place by any agency, for any purpose, then the nearest SST shall be present there in such team, to avoid duplication of checking in the area and reporting of seizure of cash or items of bribe has to be done by the SST.

6. Checking by SST on the major roads or arterial roads shall commence from the date of notification of election. The SSTs shall be controlled by the DEO and S.P. in consultation with General Observer and Expenditure Observers and the mechanism shall be strengthened in last 72 Hrs. before the poll, particularly in vulnerable areas or in Expenditure sensitive pockets *and during such period, the SST shall not be dismantled under any circumstances.*

7. During checking, if any cash exceeding Rs. 50,000/- is found in a vehicle carrying a candidate, his agent, or party worker or carrying posters or election materials or any drugs, liquor, arms or gift items which are valued at more than Rs. 10,000/-, likely to be used for inducement of electors or any other illicit articles are found in a vehicle, shall be subject to seizure. The whole event of checking and seizure is to be *captured in a video/CCTV*, which will be submitted to the Returning Officer, *everyday*.

8. If any star campaigner is carrying cash up to Rs. 1 Lakh, exclusively for his/her personal use, or any party functionary is carrying cash with certificate from the treasurer of the party mentioning the amount and its end use, then the authorities in SST shall retain a copy of the certificate and will not seize the cash. If cash of more than 10 lakh is found in a vehicle and there is no suspicion of commission of any crime or linkage to any candidate or agent or party functionary, then the SST *shall not seize the cash, and* pass on the information to the Income-Tax authority, for necessary action under Income - Tax Laws.

9. During checking, if there is any suspicion of commission of crime, the seizure of cash or any item shall be done by the incharge Police Officer of the SST as per provision of CrPC in presence of the Executive Magistrate. The Police Officer in charge of SST shall file complaint/FIR in the Court, having jurisdiction, within 24 hours.

10. FS and SST shall be polite, decent and courteous, while checking the baggage or vehicle. The purse held by the ladies shall not be checked, unless there is a lady officer. The FS shall also supervise the functioning and proper conduct of SSTs during checking in their areas.

11. Advance training of FSs and SSTs should be done as per direction of the Commission. The DEO and the SP of the district shall ensure that the teams are constituted and properly trained. The Nodal Officer at the Police Headquarters shall ensure that proper training and sensitisation of the police force in this regard is done.

12. In case of any grievance about the conduct of the FS or SST, the Authority, whom the person can appeal for redressal of grievance *on misconduct or harassment* shall be the Dy. DEO of the district (in charge of the Expenditure Monitoring Cell).

13. After seizure, the seized amount shall be deposited in such manner as directed by the Court and a copy of seizure of cash, in excess of Rs. 10 lacs shall be forwarded to the Income Tax authority, engaged for the purpose. The DEO shall issue necessary instructions to the treasury units to receive the seized cash beyond office hours and on holidays also, in case it is required.

14. Wherever the FS or SST or police authorities receive information about any suspicious items in their area, including movement of huge amount of cash, they shall keep the respective Law enforcement agencies informed about such items.

15. *All the vehicles, used by SSTs and FSs may be fitted with GPRS enabled tracking unit so that timely action by the teams can be monitored.*

16. **Release of Cash**

(i) In order to avoid inconvenience to the public and genuine persons and also for redressal of their grievances, if any, a committee shall be formed comprising three officers of

the District, namely, (i) CEO, Zila Parishad/CDO/P.D,DRDA (ii) Nodal Officer of Expenditure Monitoring in the District Election Office (Convenor) and (iii) District Treasury Officer. The Committee shall suo-motu examine each case of seizure made by the Police or SST or FS and where the Committee finds that no FIR/Complaint has been filed against the seizure or where the seizure is not linked with any candidate or political party or any election campaign etc., as per Standard Operating Procedure, it shall take immediate step to order release of such cash etc. to such persons from whom the cash was seized after passing a speaking order to that effect. The Committee shall look into all cases and take decision on seizure.

(ii) The procedure of appeal against seizure should be mentioned in the seizure document and it should also be informed to such persons at the time of seizure of cash. The functioning of this committee should be given wide publicity, including telephone no. of the convenor of the Committee.

(iii) All the information pertaining to release of cash, shall be maintained by the Nodal Officer expenditure monitoring in a register, serially date wise with the details regarding amount of Cash intercepted/seized and date of release to the person(s) concerned.

(iv) If the release of cash is more than Rs. 10 (Ten) Lac, the nodal officer of Income Tax shall be kept informed before the release is effected.

(v) All cases of seizure of cash etc., effected by FS, SST or Police authorities shall immediately be brought to the notice of the Committee formed in the District and the Committee shall take action as per para (i) mentioned above. In no case, the matter relating to seized cash/ seized valuables shall be kept pending in malkhana or treasury for more than 7(Seven) days after the date of poll, unless any FIR/Complaint is filed. It shall be the responsibility of the Returning Officer to bring all such cases before the appellate committee and to release the cash/valuables as per order of the appellate committee.

17. It is further informed that the EEMS software for Daily Activity Report, available in the Commission's website may be used for sending the report to the Commission.

By order,

Sd/-

(S. K. Rudola)
Secretary

Note: Please refer Annexure-B8, B9 & B10 for Annexure- A, B & C.

Format for Receipt to be given to persons from whom cash/article is seized

Book No.....

Receipt Number.....

Date

Name of the Executive Magistrate

(Heading the Flying Squad/ Static Surveillance Team)

1. Cash Amount seized Rs..... (in words.....)

/ Other articles seized.....

.....from

Shri.....

.....Address:.....

Mobile No.

at.....(name of place where seized) on

dated.....falling in the Assembly/Parliamentary Constituency

of.....

(Name of State/ UT) DistrictPolice Station

.....as the entire cash/ other articles is suspected to be used as bribery of the electors.

Or

2. The cash Rs..... (In words Rs

.....)/- (details of other articles) have been handed over

to Shri.....(name and designation of the Officer of Income Tax Deptt.) taking necessary action under Income Tax Laws. (Strike out if not applicable)

Appeal Procedure

You may appeal to (Name of ADM/SDM, heading the Expenditure Monitoring Cell) for redressal of grievance, within seven days or you may appeal to Joint Director of Income Tax (Inv.) for necessary relief if action relates to Income Tax deptt.

Signature with Stamp

(Name, Designation and address of Magistrate)

Date: