

WEST BENGAL STATE ELECTION COMMISSION

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No. 253-SEC/1C-1/2006

Date: 31.03.2017

ORDER

In exercise of the powers conferred by the Article 243ZA of the Constitution of India and as per provision of Section 45 of West Bengal Municipal Elections Act, 1994 read with 2nd proviso to rule 11(5) of the West Bengal Municipalities (Conduct of Election) Rules, 1995, the West Bengal State Election Commission hereby issues the following directions regarding **“allotment of symbols” to the validly nominated contesting candidates** in the ensuing general elections to the Urban Local Bodies in 2017.

1. A candidate set up by the recognized political party shall choose, and be allotted, the symbol reserved for that party in **Table I** in the Schedule appended to the West Bengal Municipalities (Conduct of Elections) Rules, 1995 as amended and no other symbol. For the purpose of these directions, a recognized political party means, a political party which is recognized as such by the Election Commission of India as a National party or a State party of this State as on the date of notification for election issued under Section 36 (3) of the West Bengal Municipal Elections Act, 1994. A List of Recognized Political Parties (Table – I for National Parties and Table – II for State Parties of this State) and Symbols Reserved for each of them as given in **Table I and Table – II** are enclosed.
2. For the purpose of an election from any Municipal Constituency, a candidate shall be deemed to be set up by a recognized political party in any such Municipal Constituency, if, and only if,-
 - (a) The candidate has made the prescribed declaration to this effect in his/her nomination paper;
 - (b) A notice by the political party in writing, in **Annexure - II** (as appended in this Order), to that effect has, not later than 3 p.m. on the last date for making nominations, been delivered to the Municipal Returning Officer of the constituency;
 - (c) the said notice in Annexure II is signed by the President, the General Secretary or the Secretary of the State Unit of the recognized political party or by any other office bearer of such recognized political party, duly authorized by such President, Chairman, General Secretary or Secretary as the case may be;
 - (d) the name and specimen signature of such authorized person are communicated by the party, in **Annexure - I** (as appended in this Order), to the Municipal Returning Officer of the constituency and also to the West Bengal State Election Commission not later than 3 p.m. on the last date for making nominations; and
 - (e) **Annexure I and II** are signed, in ink only, **repeat ink only** by the aforesaid office bearer(s) or person authorized by the party, using the official letterhead of the West Bengal Unit of the party and in the format annexed hereto.

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

3. A reserved symbol shall not be chosen by, or allotted to, a candidate other than a candidate set up by a recognized political party for whom such symbol has been reserved.
4. Any candidate other than a candidate of a recognized political party shall choose and be allotted one of the symbols specified as “free symbols” in **Table III** in the Schedule appended to the West Bengal Municipalities (Conduct of Elections) Rules, 1995 as amended. A list of Free Symbols as mentioned in **Table III** is annexed.
5. If the choices come into conflict, the Municipal Returning Officer shall allot symbols in conformity, as far as possible, with the wishes of the candidate and, if necessary, by lot and his decision shall be final. He will, however, take into consideration the following points in arriving at a decision:

(a) declaration as to symbols made by a candidate in the nomination paper first delivered shall only be considered for the purpose even if that nomination paper has been rejected,

(b) Where any free symbol has been chosen by only one candidate at a municipal election, the Municipal Returning Officer shall allot that free symbol to that candidate and to no one else.

(c) Where the same free symbol has been chosen by several candidates at such election, then –

- (i) If of those several candidates only one is a candidate duly set up by a registered unrecognized political party and all the rest are independent candidates, the Municipal Returning Officer shall allot that free symbol to the candidate set up by the registered unrecognized political party and to no one else; and if of those several candidates two or more are set up by different registered unrecognized political parties and the rest are independent candidates, the Municipal Returning Officer shall decide by lot to which of the two or more candidates set up by registered unrecognized political parties that free symbol shall be allotted and allot that free symbol to the candidate on whom the lot falls and to no one else:

Provided that where of two or more such candidates set up by different registered unrecognized political parties only one is or was immediately before such election, a sitting Councillor (irrespective of the fact as to whether he was allotted that free symbol or not at the previous election), the Municipal Returning Officer shall allot that free symbol to that candidate to the exclusion of all other candidates.

- (ii) If of those several candidates, no one is set up by any registered political party and all are independent candidates and one of such independent candidates is, or was immediately before such election, a sitting Councillor, and was allotted that free symbol at the previous election when he was chosen as such member, the Municipal Returning Officer shall allot that free symbol to that candidate and to no one else.

- (iii) If of those several candidates, all are independent candidates and no one is, or was a sitting Councillor, the Municipal Returning Officer shall decide by lot to whom of those independent candidates the free symbol shall be allotted.
- (iv) When a candidate set up by a unrecognized registered political party or an independent candidate is not allotted the symbol of his/her first choice, he/she will be allotted symbol on the basis of his/her second or third choice as the case may be, following the similar procedure. If no choice is left in respect of a candidate, the Municipal Returning Officer shall allot one of the free symbols not allotted to any other candidate.
6. If in any particular constituency, number of contesting candidates exceeds the number of symbols specified in **Table III of the Schedule**, the Municipal Returning Officer shall, in allotting additional symbols required, make a combination of any two of the symbols specified in **Table III** as aforesaid, and his decision thereon shall be final.
7. In order to obtain preference in respect of allotment of free symbols over independent candidates, registered unrecognized political parties shall have to sponsor their candidates by submitting notices in **Annexure - I** and **Annexure - II** as appended in this order within the stipulated time and date as prescribed in paragraph 2 along with a copy of the Order of Election Commission of India registering their party as registered political party.
- 8. SUBSTITUTION OF A CANDIDATE BY A POLITICAL PARTY:**
- For the removal of any doubt, it is hereby clarified that a political party which has given a notice in **Annexure II** under paragraph 2 in favour of a candidate may rescind that notice and may give a revised notice in **Annexure II** in favour of another candidate for the constituency:
- Provided that the revised notice in **Annexure II**, clearly indicating therein that the earlier notice in **Annexure II** has been rescinded, reaches the Municipal Returning Officer of the constituency not later than 3.00 PM on the last date for making nominations and the said revised notice in **Annexure II** is signed by the authorized person referred to in clause (d) of paragraph 2:
- Provided further that in case more than one notice in **Annexure II** is received by the Municipal Returning Officer in respect of two or more candidates, and the political party fails to indicate in such notices in **Annexure II** that the earlier notice or notices in **Annexure II**, has or have been rescinded, the Municipal Returning Officer shall accept the notice in **Annexure II** in respect of the candidate whose nomination paper was first delivered to him and the remaining candidate or candidates in respect of whom also notice or notices in **Annexure II** has or have been received by him shall not be treated as candidates set up by such political party.
9. Keeping in view the provision of Rule 4 read with Rule 11 of the West Bengal Municipalities(Conduct of Elections) Rules, 1995 as amended and as per the provisions under section 40 of the West Bengal Municipal Election Act 1994 as amended to the effect that (1) the nomination papers of candidates set up by the recognized National and State Political Parties are required to be subscribed by only one elector as proposer and (2) a nomination paper of other

candidates to be subscribed by 10(ten) electors as proposers of that constituency(ward). In view of above, certain clarifications were sought for from the Commission regarding setting up of candidates by Political Parties. Following clarifications are, therefore, given on the above issues: —

a) Nomination papers filed by a candidate claiming to have been set up by a recognized National or State Political Party subscribed by only one elector as proposer, will be rejected, if a notice in writing to that effect has not been delivered to the Returning Officer of the Constituency by an authorized office bearer of that political party by 3.00 PM on the last date for making nominations in Annexure I & II prescribed by the Commission for the purpose.

b) Sometimes a candidate may file more than one (but not more than four) nomination papers--some as candidate set up by a recognized political party and the others as candidate set up by a registered but unrecognized political party or as an independent candidate. In that case the nomination paper filed as a candidate of a recognized political party, if rejected, on the ground of the non-receipt of the said notice in Annexure I & II by 3.00 PM on the last date of filing nomination from the concerned recognized political party, or for any other reason, then the other nomination papers filed by the said candidates as a candidate set up by a registered unrecognized Political Party will be valid if the same are proposed by ten electors of that constituency(ward) and are otherwise found in order on scrutiny. In such a case, he would be deemed to be a candidate set up by a registered but un-recognised political party, if such party has sent notices in Annexure I & II by 3.00 P.M. on the last date for making nominations or otherwise he will be treated as an independent candidate.

c) If a candidate has filed nomination paper with both part I & II thereof duly filled in and he fails to bring notice in Annexure I & II from the authorized office bearer of the concerned political party, the nomination paper may be accepted if part II is properly filled in and subscribed by ten electors as proposers of that constituency(ward).

d) If a candidate, who has filed his nomination paper as a candidate claiming to be set up by a registered but un-recognised political party, fails to bring in his favour a notice from the concerned political party in Annexure I & II, his nomination paper will be accepted only if it is subscribed by ten electors as proposer of that constituency (ward) but he would be deemed to be an independent candidate.

e) If among the nomination papers of a candidate, one nominating him as a candidate set up by a recognized political party and the other as an independent candidate, are accepted, he may be deemed to be a candidate set up by a recognized political party.

It must be noted that a State Party, which is recognized in some other States but not in West Bengal, shall be treated as registered but unrecognized political party.

