



## राज्य निर्वाचन आयोग हिमाचल प्रदेश

STATE ELECTION COMMISSION HIMACHAL PRADESH

आर्मसडेल, शिमला-171002, Armsdale, Shimla-171002 Tel. 0177-2620152, 2620159, 2620154, Fax. 2620152

No. SEC.16-70/2014- 4513-15

Dated, the 2<sup>nd</sup> Nov, 2015.

### NOTIFICATION

Whereas, the State Election Commission has issued notification No. SEC.16-29/2001-I-3517-48 dated 09/10/2015 as below:-

*"In exercise of the powers vested in it under Article 243-K (1), ZA (1) of the Constitution of India, Section 160 (1) of the H.P. Panchayati Raj Act, 1994, Section 281 (1) of the H.P. Municipal Act, 1994 read with first proviso of the clause 2.1 of the Himachal Pradesh Panchayats and Municipalities Model Code of Conduct, 2015, the State Election Commission Himachal Pradesh do hereby enforce with immediate effect the following clause of the Himachal Pradesh Panchayats and Municipalities Model Code of Conduct, 2015:-*

#### **12- Organizational status quo**

**12.1** *"The structural, classification or area of the Panchayats and Municipalities shall not be altered during a period of one hundred twenty days ending on the date on which the five year term of the said institutions are due to expire, no decision taken earlier shall be implemented during this period.*

All the concerned please ensure strict adherence to above provision";

And whereas, Hon'ble High Court of Himachal Pradesh while disposing off the Civil Writ Petition No. 4122, 3996, 4191, 4212, 4219, 4220, 4230 and 4278 on 28/10/2015 is pleased to observe vide para 6 & 7 as under:-

*"6. In view of the notification reproduced above, all the notifications issued earlier have been kept under eclipse rendering the instant writ petitions in fructuous since no cause of action survives as on today.*

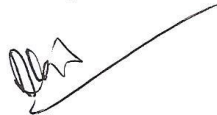
*7. Having said so, all the writ petitions are dismissed as having become in fructuous with liberty to the petitioners to seek appropriate remedy at appropriate stage";*

And whereas, the Department of Panchayati Raj vide its letter No. PCH-HA(1)9/2010 dated 2/11/2015 has brought to the notice of the Commission that due to the notification issued by the Commission all notifications issued by the Department, inter-alia, after following due process prescribed under the law shall not be implemented during the period starting from 24/09/2015 to 22/01/2016 which will affect the delimitation of constituencies of Panchayat as well as their reservation process which is near completion. Re-storing the position prior to 24/09/2015 will further require de-limitation and reservation for which statutory time required is not available. The department has requested for reconsideration and to modify its application from the date of its issuance;

And whereas, another request has also been received from Urban Development Department that the notifications issued by the Urban Development Department with respect to organization of Municipalities which includes inclusion of Panchayat Areas in different Districts will get affected and it tantamount that notification issued after following due process of law will be nullified. The department has requested for giving prospective effect to notification dated 9<sup>th</sup> October, 2015.

And whereas, the above requests have been considered by the Commission carefully and Commission is of the considered view that requests of the State Governments appear to be genuine and accepted. The Commission has issued the said notification on 9<sup>th</sup> October, 2015 to complete the election process to constitute the Panchayats before the expiry of their five year term (which is expiring on 22/01/2016, and in case of Municipalities on 16/01/2016 as earliest date of first meeting is 17/01/2011) in pursuance to Article 243E (3) (a), 243U (3) (a) of the Constitution of India read with section 120 (2) (a) of the H.P. Panchayati Raj Act, 1994 and section 14(2)(a) of H.P. Municipal Act, 1994.

And whereas, if the notifications issued by the state Government between 24/09/2015 to the date of notification i.e. dated 09-10-2015 are not given effect, the Delimitation of Wards in respect of affected Panchayats and Municipalities will have to be undertaken de-novo and the Commission will have to generate the new draft electoral rolls as per new delimitation, which will further delay the election process;



And whereas, first proviso of clause 2.1 of the Himachal Pradesh Panchayats and Municipalities Model Code of Conduct 2015 provides that the Commission may enforce different provisions of this code on different dates and hence Commission enforced clause 12.1 "Organizational Status Quo" of the said code on 9<sup>th</sup> October, 2015 with immediate effect and the Commission had no intention to enforce the said clause retrospectively.

Now therefore, in partial modification of the notification No. SEC.16-29/2001-I-3517-48 dated 09/10/2015; and in exercise of the powers vested in it under Article 243E (3) (a), 243K (1), 243U(3)(a), ZA (1) read with Section 120 (2) (a), 160 (1) of the H.P. Panchayati Raj Act, 1994 and Section 14(2)(a), 281(1) of H.P. Municipal Act,1994 and all other powers enabling in this behalf the State Election Commission in larger public interest hereby orders that the notifications issued by the Government till 09/10/2015 will not be affected under clause 12.1 of the Model Code of Conduct enforced by the Commission on 09/10/2015, as the said notification has been given effect from 9<sup>th</sup> October, 2015 i.e. the date of issuance of the notification by the State Election Commission.

By Order  
(T.G. Negi)  
State Election Commissioner  
Himachal Pradesh.

Endst. No. No.SEC.16-70/2014- 4813-18 Dated, the 2<sup>nd</sup> Nov, 2015.

Copy to:-

1. The Chief Secretary Government of Himachal Pradesh.
2. The Additional Chief Secretary (UD) Government of Himachal Pradesh.
3. The Secretary (Panchayati Raj) Government of Himachal Pradesh.

  
Secretary  
State Election Commission  
Himachal Pradesh