

ELECTION MATTER
TIME BOUNDURGENT



राज्य निर्वाचन आयोग हिमाचल प्रदेश

STATE ELECTION COMMISSION HIMACHAL PRADESH

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

Email: secysec-hp@nic.in

No. SEC(F)2-6/2021-2075-

dated

the

11th April, 2023

To

The Returning Officer-cum-
Deputy Commissioner Shimla
Himachal Pradesh.

Subject:

Standing Instructions for Voting by Electronic Voting Machines.

Sir,

As you are aware that the State Election Commission has issued programme for the conduct of general elections to Municipal Corporation Shimla vide Notification dated 03.04.2023. The general elections will be conducted through Electronic Voting Machines (EVMs). The State Election Commission has already issued instructions for First Level Check of Electronic Voting Machines vide letter dated 28.03.2023. Therefore, the State Election Commission in exercise of the powers vested in it under Article 243 ZA of the Constitution of India, Section 9 of the HP Municipal Corporation Act, 1994 read with Rule 54 of the HP Municipal Corporation (Election) Rules, 2012, hereby issues the following instructions:-

1. General Instructions:

- (i) The Returning Officer will supply one EVM for each Polling Station to be used for election of Councillor of the said Corporation. However, two spare machines in respect of each ward irrespective of the No. of Polling Stations will be kept as standby, which can be supplied at a Polling Station in case of any mechanical failure or emergency.
- (ii) The Machines used for training purpose shall not be used for poll.
- (iii) You may also procure used batteries from the Election Department for training purposes. New batteries, as far as possible, should not be used for training purposes.

2. Arrangements at Polling Stations

- (i) Outside each polling station the following shall be displayed prominently-

- (a) a notice specifying the polling area, the electors of which are entitled to vote at the polling station and when the polling area has more than one polling station, the particulars of such electors; and
- (b) a copy of the list of the contesting candidates;
- (ii) The Returning Officer shall provide one electronic voting machine and copies of relevant electoral rolls and such other election material as may be necessary for the poll at each polling station.
- (iii) The Returning Officer shall ensure to set up one voting compartment at the polling station in which the electors can record their votes secretly and free from public gaze.

3. Preparation of voting machine by the Returning Officer

- (i) While preparing EVMs it may be ensured that the names of the contesting candidates appear on the ballot paper in the same order in which they appear in the list of the contesting candidates.
- (ii) Also ensure that a button on the ballot unit is also unmasked in front of the column on the ballot paper where option of **NOTA** “उपरोक्त में से कोई नहीं” is provided.
- (iii) Subject to the foregoing provisions of this rule, the Returning Officer shall—
 - (a) Ensure that ballot unit of the EVM is prepared accurately and secure that unit with his seal and the seals of such of the contesting candidates or their Election Agents present who are desirous of affixing the same.
 - (b) Set the number of contesting candidates and close the candidate set section in the Control Unit and secure it with his seal and the seals of such of the contesting candidates or their election agents present as who desirous of affixing the same.

4. Admission to polling station

The Presiding Officer shall regulate the number of electors to be admitted at one time inside the polling station and shall exclude there from all persons other than:-

- (a) polling officers;
- (b) public servants on duty in connection with the election;
- (c) persons authorized by the State Election Commission;
- (d) candidates, their Election Agents.
- (e) a child in arms accompanying the elector;
- (f) a person accompanying a blind or infirm elector who cannot move without help; and
- (g) such other persons as the Returning Officer or the Presiding Officer may employ under direction 7 (ii) or 8 (i) of these directions.

5. Poll Preparations through EVM

- (i) The Control Unit and Balloting Unit of every voting machine used at polling station shall bear a self adhesive stickers :-

Election to Municipalities-20__

- (a) Name of MC/NP-----
- (b) Name and No. of Ward-----
- (c) Control Unit No.-----
- (d) Ballot Unit No.-----
- (e) Name of Polling Station-----
- (f) Date of Poll-----

- (ii) Immediately before the commencement of the poll, the Presiding Officer shall demonstrate to the Polling Agents and other person present that no vote has been already recorded in the voting machine and it bears the stickers referred to in (i) of this direction.
- (iii) A paper seal shall be used for securing the Control Unit of the voting machine and the Presiding Officer shall affix his own signature on these paper seals and obtain thereon the signature of such of the Polling Agents present and are desirous of affixing the same.
- (iv) The Presiding Officer shall thereafter fix the paper seals so signed in the space meant therefore in the Control Unit of the voting machines and shall secure and seal the same.
- (iv) The seal used for securing the Control Unit shall be fixed by the Presiding Officer in such a manner that after the unit has been sealed it is not possible to press the "result button" without breaking the seal.
- (v) The Control Unit shall be closed and secured and placed in full view of the Presiding Officer and the Polling Agents and the Balloting Units shall be placed in the voting compartment.

6. Marked copy of electoral roll

Immediately before the commencement of the poll, the Presiding Officer shall also demonstrate to the Polling Agents and others present that the marked copy of the electoral roll to be used during the poll does not contain any mark other than the mark made in respect of Poll Duty Ballot.

7. Facilities for women electors

- (i) Where a polling station is set for both men and women electors, the Presiding Officer may direct that they shall be admitted into the polling station alternately in separate batches.
- (ii) The Returning Officer or the Presiding Officer may appoint a women to serve as an attendant at any polling station to assist women elector's and also to assist the Presiding Officer generally in taking the poll in respect of women electors and in particular to help to search any women elector in case it becomes necessary.

8. Identification of electors

- (i) The Presiding Officer may employ at the polling station such persons as he thinks fit to help in the identification of the electors or to assist him otherwise in taking the poll.

(ii) As each elector enters the polling station, the Presiding Officer or the Polling Officer authorised by him in this behalf shall check the electors name and other particulars with the relevant entry in the electoral roll and then call out the serial number, name and other particulars of the electors.

(iii) The identity cards issued by the Election Commission of India or any other document prescribed by any other officer authorized by it to the voters shall be valid proof of identification during the polling. Following documents shall also be valid proof of identification of an elector:

1. Pass Port;
2. Driving License;
3. Income Tax Identity Card-PAN;
4. Identity cards issued to their employees by the State/Centre Govt. Public Sector Undertakings, Local Bodies and any private industrial houses;
5. Bank/Kisan/Post Office Pass Book;
6. Ration Card;
7. SC/ST/OBC Certificate issued by the competent authority;
8. Student Identity Card;
9. Property papers such as lease, registered deed etc.;
10. Arms License;
11. Conductor License issued by the Transport Authority;
12. Pension record such Ex-servicemen pension book/Pension Payment Order.
13. Certificate issued to the widow/dependent of Ex-Serviceman;
14. Railway/Bus Pass;
15. Handicapped Certificate;
16. Freedom-Fighter Identity Card.
17. Aadhar card

(iv) In deciding the right of a person to cast his vote the Presiding Officer or the Polling Officer as the case may be shall over look the clerical or printing errors in an entry in the electoral roll if he is satisfied that such person is identifiable with the elector to whom such entry relates.

9. Challenging of Identity

(i) Any Polling Agent may challenge the identity of a person claiming to be a particular elector *by first depositing a sum of twenty rupees in cash with the Presiding Officer for each such challenge as per the provisions of Rule 71 of the HP Municipal Corporation Elections Rules, 2012.*

(ii) On such deposit being made, the Presiding Officer shall—

- (a) warn the person challenged of the penalty for personation;
- (b) read the relevant entry in the electoral roll in full and ask him whether he is the person referred to in that entry;
- (c) enter his name and address in the list of challenged vote in Form-42 of

- (d) the Rules *ibid*; and require him of affix his signature in the said list.
- (iii) The Presiding Officer shall thereafter hold a summary inquiry into the challenge and may for that purpose—
 - (a) require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identity;
 - (b) put to the person challenged any questions necessary for the purpose of establishing his identity and require him to answer them on oath; and
- (iv) If, after the inquiry, the Presiding Officer considers that the challenge has not been established he shall allow the person challenged to vote; and
if he considers that the challenge has been established, he shall debar the person challenged from voting.
- (v) If the Presiding Officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit made under direction 9 (i) be forfeited to Government, and in any other case, returned to the challenger at the conclusion of the inquiry.

10. Safeguards against impersonation

- (i) Every elector about whose identity the Presiding Officer or the Polling Officer, as the case may be, is satisfied, shall allow his left forefinger to be inspected by the Polling Officer and indelible ink mark to be put on it.
- (ii) If any elector—
 - (a) refuses to allow his left forefinger to be inspected or marked in accordance with direction 10 (i) or has already such a mark on his left forefinger or does any act with a view to removing the ink mark, or
 - (b) Fails or refuses to produce his identity cards as required under direction 8(iii), shall not be allowed to vote.
- (iii) Any reference in these directions to the left forefinger of an elector shall, in the case where the elector has his left forefinger missing, be construed as a reference to any other finger of his left hand and shall in the case where all the fingers of his left hand are missing be construed as a reference to the forefinger or any other finger of his right hand and shall in the case where all his fingers of both the hands are missing be construed as a reference to such extremity of his left or right arm as he possesses.

11. Procedure for checking a voter:

- (i) Before permitting an elector to vote, the Polling Officers-I shall —
 - (a) Record the electoral roll Sr. number of the elector as entered in the marked copy of the electoral roll in a register of voters in Form-26A of these directions.

- (b) Obtain the signature or the thumb impression of the elector on the said register of voters and
- (c) Mark the name of the elector in the marked copy of the electoral roll to indicate that he has been allowed to vote and direct the elector to go to Polling Officer No. 2.
- (d) The Polling Officer No. 2 will apply the indelible ink on left forefinger of the elector and thereafter issue him a slip and direct him to proceed to Polling Officer No. 3 incharge of the Control Unit of the EVM.
Provided that no elector shall be issued slip unless he has put his signature or thumb impression on the register of voters.

- (ii) Notwithstanding anything contained above it shall not be necessary for any Presiding Officer or Polling Officer or any other officer to attest the thumb impression of the elector on the register of voters.

12. Voting by a Checked in Voter

Immediately on being permitted to vote the elector shall proceed to the polling officer No. 3 in-charge of the Control Unit of the voting machine, who shall, put his signature on the slip and keep the slip with him (these slips will be kept in safe custody and seal them in a packet after the close of poll in a sealed cover alongwith other covers). Thereafter he will press the appropriate button on the control unit, activate the ballot unit, for recording of elector's vote .

- (i) The elector shall thereafter forthwith:

- (a) proceed to the voting compartment;

- (b) record his vote by pressing the button on the balloting unit against the name and symbol of the candidate for whom he intends to vote; and come out of the voting compartment.

- (ii) Every elector shall vote without undue delay.

- (iii) No elector shall be allowed to enter the voting compartment when another elector is inside it.

- (iv) If an elector who has been permitted to vote under this direction or under direction No. 16 refuses after warning given by the Presiding Officer to observe the procedure laid down by these directions, the Presiding Officer or a Polling Officer under the instructions of the Presiding Officer shall not allow such elector to vote.

- (v) Where an elector is not allowed to vote under the direction just above, a remark to the effect that voting procedure has been violated shall be made against the elector's name in the register of voters by the presiding officer under his signature.

13. Maintenance of Secrecy

Every elector who has been permitted to vote under direction No. 12 shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.

14. Recording of votes of blind or infirm electors

- (i) If the Presiding Officer is satisfied that owing to blindness or other physical infirmities an elector is unable to recognise the symbol on the balloting unit of the voting machine or unable to record his vote by pressing the appropriate button thereon without assistance, the Presiding Officer shall permit the elector to

take with him a companion of not less than eighteen years of age to the voting compartment for recording the vote on his behalf and in accordance with his wishes;

Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day;

Provided further that before any person is permitted to act as the companion of an elector on any day under these directions that person shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any other polling station on that day.

(ii) The Presiding Officer shall keep a record in Form No. 40 of the HP Municipal Corporation Election Rules, 2012 of all such cases under this rule.

15. Elector deciding not to vote

If an elector, after his electoral roll number has been duly entered in the register of voters and has put his signature or thumb impression thereon as required under these directions, decides not to record his vote, a remark to this effect shall be made against the said entry in the Register of Voters by the Presiding Officer. However you can inform the voter that there is an option "**None of the Above**" (NOTA) "उपरोक्त में से कोई नहीं" available on the ballot paper and he can exercise this option instead not voting for any one.

16. Tendered Votes

(i) If a person representing himself to be a particular elector seeks to vote after another person has already voted as such elector, he shall on satisfactorily answering such questions relating to his identity as the Presiding Officer may be entitled to vote. But instead of being allowed to vote through the balloting unit he will be supplied with a tendered ballot paper provided by the State Election Commission. The Presiding Officer will make an endorsement on the back of ballot paper "Tender Ballot Paper" and put his signature.

(ii) Every such elector shall before being supplied with tendered ballot papers write his name against the entry relating to him in Form-41 of these directions.

(iii) On receiving the ballot papers he shall forthwith—

- (a) proceed to the voting compartment;
- (b) record his vote in the ballot paper by placing a mark with the instrument or article supplied for the purpose on or near the symbol of the candidate for whom he intends to vote.
- (c) fold the ballot paper so as to conceal his vote.
- (d) show to the Presiding Officer, if required the distinguishing mark on the ballot paper;
- (e) give it to the Presiding Officer who shall place it in a cover meant for the purpose ; and
- (f) leave the polling station.

(iv) If owing to blindness or physical infirmities, such elector is unable to record his vote without assistance; the Presiding Officer shall permit him to take with him a companion, subject to the same conditions and after following the same procedure as per direction No. 14 of these direction.

17. Presiding Officer's entry in the voting compartment during poll

(i) The Presiding Officer may whenever he considers it necessary so to do, enter the voting compartment during poll and take such steps as may be necessary to ensure that the balloting unit is not tampered or interfered with in any way.

(ii) If the Presiding Officer has reason to suspect that an elector who has entered the voting compartment is tampering or otherwise interfering with the balloting unit or has remained inside the voting compartment for unduly long period, he shall enter the voting compartment and take such steps as may be necessary to ensure the smooth and orderly progress of the poll.

(iii) Whenever the Presiding Officer enters the voting compartment under this rule, he shall permit the polling agents present to accompany him if they so desire.

18. Closing of Poll

(i) The Presiding Officer shall close a polling station at the hour fixed in that behalf under rule 33 of the HP Municipal Corporation Election Rules, 2012 and shall not thereafter, admit any elector into the polling station.

Provided that all electors present at the polling station before it is closed shall be allowed to cast their votes. The Presiding Officer may distribute signed slips to the voters standing in queue at the hour fixed for closing of poll starting from the last person in queue.

(ii) If any question arises whether an elector was present at the polling station before it was closed it shall be decided by the Presiding Officer and his decision shall be final.

19. Account of votes recorded

(i) The Presiding Officer shall at the close of the poll prepare an account of votes recorded in Form-43A of these directions and enclose it in a separate cover with the words 'Account of Votes Recorded' super scribed thereon.

(ii) The Presiding Officer shall furnish to every polling agent present at the close of the poll a true copy of the entries made in Form-43A after obtaining a receipt from the said Polling Agent there for and shall attest it as a true copy.

20. Sealing of voting machine after poll.

(i) As soon as practicable after the closing of the poll, the Presiding Officer shall close the Control Units to ensure that no further votes can be recorded and shall detach the balloting units from the control unit in respect of all the EVMs used at the Polling Station.

(ii) The control units and the balloting units shall thereafter be sealed and secured separately in such manner as the Election Commission may direct and the seal used for securing them shall be so affixed that it will not be possible to open the units without breaking the seals.

(iii) The Polling Agents present at the polling station, who desire to affix their seals, shall also be permitted to do so.

21. Sealing of other packets

(i) The Presiding Officer shall then put into the separate packets.–

- (a) the marked copy of the electoral roll;
- (b) the register of voters ;
- (c) counter foil of the used ballot papers
- (d) unused ballot papers
- (e) cancelled ballot papers
- (f) the cover containing the tendered ballot papers and the list in Form- 41A
- (g) the list of challenged votes;
- (h) Used Voters' slip signed by the Polling officers; and
- (i) any other papers directed by the State Election Commission/ Returning Officer to be kept in a sealed packet.

(ii) Each packet shall be sealed with the seal of the Presiding Officer and with the seal either of the candidate or of his Election Agent or of his Polling Agent who may be present at the polling station and may desire to affix his seal thereon.

22. Transmission of voting machines, etc. to the Returning Officer

(i) The Presiding Officer shall then deliver or cause to be delivered to the Returning Officer at such place as the Returning Officer may direct.–

- (a) the voting machines;
- (b) the account of votes recorded in Form-43A
- (c) the sealed packets referred to in direction No. 21; and
- (d) all other papers used at the poll.

(ii) The Returning Officer shall make adequate arrangements for the safe transport of the voting machine, packets and other papers for their safe custody until the commencement of the counting of votes.

23. Adjournment of Poll or Closing of Poll in Emergency:- If during the poll there exists such circumstances that you have to adjourn the poll, decision will be taken in accordance with the provisions enshrined under Rule 51 of the Rules *ibid*.

24. Counting Process

(i) The Returning Officer or any officer authorised by him shall on the date, time and place fixed under Rule 33 of the HP Municipal Corporation Election Rules, 2012, shall start the counting of votes in the manner hereinafter provided.

(ii) Before the commencement of the counting the Returning officer shall read out the provision of Section 22 of the HP Municipal Corporation Act, 1994 to such person as may be present.

(iii) counting for the Councillor according to the serial number of ward shall be undertaken.

25. Counting of Poll Duty Ballot

- (i) First of all the Poll Duty Ballots received in time in respect of the office for which counting is to be undertaken shall be counted.
- (ii) Covers containing poll duty ballot received after the hour fixed for the commencement of the counting of votes should not be opened. They should be rejected and kept in a separate packet and sealed, noting thereon the appropriate particular.
- (iii) The valid poll duty ballots received shall be counted and the total number of votes received by each candidate should then be calculated and entered in the Form-43A Part-II of these directions at appropriate place and announced for the information of the candidates/counting agents.
- (iv) **Since Poll Duty Ballots will be counted first and any Poll Duty Ballot received after the commencement of counting will not be entertained, therefore you must ensure that all Poll Duty Ballot Papers received in time are delivered at the counting centre well in time and no Poll Duty Ballot Paper is left undelivered, if otherwise received in time.**

26 Counting of votes recorded in the Electronic Voting Machines

The provisions of Rule 77 of the HP Municipal Corporation Election Rules, 2012 providing for admission to the place of counting shall also apply for counting of votes through Electronic Voting machines.

27 Scrutiny and inspection of voting machines

- (i) The Returning Officer or such other Officer as may be authorized by him in this behalf shall take out the Electronic Voting machines according to serial number of the wards. Before the votes recorded in any Control Unit of a voting machine are counted, the candidate or his Election Agent or his Counting Agent present at the counting table shall be allowed to inspect the paper seal and such other vital seals as might have been affixed on the unit and to satisfy themselves that the seals are intact.
- (ii) The Returning Officer shall satisfy himself that none of the voting machines has in fact been tampered with.
- (iii) If the Returning Officer is satisfied that any voting machine has in fact been tampered with he shall not count the votes recorded in that machine and shall refer the matter to the State Election Commission for further orders.

28. Counting of votes

- (i) After the Returning Officer is satisfied that a voting machine has in fact not been tampered with he shall have the votes recorded therein counted by pressing the button marked "Result" provided in the control unit whereby the total votes polled and votes polled by each candidate shall be displayed in respect of each such candidate on the display panel provided for the purpose in the unit. While doing so, the Returning Officer shall seek attention of the candidates / his or her counting agents, if present, to observe this process and the displays appearing on the control unit and its entry in the statutory forms.
- (ii) As the votes polled by each candidate are displayed on the control unit, the Returning Officer shall have:-

- (a) the total number of such votes recorded separately in respect of each candidate in Part-II of

Form-43A.

- (b) Part-II of Form 43A completed in all other respects and signed by the counting supervisor and also by the candidates or their election agents or their counting agents present; and
- (c) corresponding entries made in a result sheet in Form-47 and on the basis of such particulars so entered in the result sheet proceed to announce the result of poll.
- (d) The Returning Officer shall prepare a return in Form 44 and send it to the Commission immediately after declaration of results as required under Rule 80 (6) of the Rules *ibid* alongwith name of candidate, if any deemed to have been elected /uncontested under Rule 50 of the Rule *ibid*.

29. Sealing of voting machines

(1) After the result of voting recorded in a control unit has been ascertained candidate-wise and entered in Part II of Form 43A and Form 47 under these directions, the Returning Officer shall reseal the unit with his seal and the seals of such of the candidates or their election agents present who may desire to affix their seals thereon so that the result of voting recorded in the unit is not obliterated and the unit retains the memory of such result.

(2) The control unit so sealed shall be kept in specially prepared boxes on which the Returning Officer shall record the following particulars, namely—

- (a) the name of the constituency;
- (b) the particulars of polling station or stations where the control unit has been used;
- (c) serial number of the control unit;
- (d) date of poll; and
- (e) date of counting;

(ii) the relevant provisions of rules under Chapter-VIII –Counting of Votes and Declaration of results shall, so far as may be apply in relation to voting by voting machines and any reference in those rules to,—

- (a) ballot paper shall be construed as including a reference to such voting machine;
- (b) any rule shall be construed as a reference to the corresponding rule in Chapter VIII as the case may be to direction No. rule 27 or 28 or 29 of these directions.

(3) All voting machines used at an election shall be kept in the safe custody of the Returning Officers for thirty days from the publication of the result under Section 14 of the Act.

30. Custody of Papers relating to election

The Returning Officer shall retain the packets mentioned in direction No. 21 above in his custody in accordance with Rule 84 of the Rules *ibid*.

31. Production and Inspection of election Papers


(1) While in the custody of the Returning Officer the packets mentioned in directions No. 21 ante shall

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not be opened and their contents shall not be inspected by, or produced before, any person or authority except under the orders of the competent court or of the Officer authorized under Section 14 of the Act ibid.

- (2) Provision of Rule 85 of the Rules ibid shall apply wherever applicable in this regard.
- (3) The control units sealed and kept in the custody of the Returning officer shall not be opened and shall not be inspected by or produced before any person or authority except under the orders of a competent court.”
- (4) The Voting Machines kept in the custody of the Returning Officer shall be retained intact for thirty days from the date of publication of the result and shall not be used at any subsequent elections without the previous approval of the State Election Commission.

You are requested to kindly adhere to these instructions in the interest of free fair and smooth conduct of elections to Urban Local Bodies in the State.


Yours faithfully


Secretary
State Election Commission
Himachal Pradesh.

Endst. No. SEC(F)2-6/2021-2076-80 dated the 11th April, 2023

Copy to:

1. The Principal Secretary (UD) Government of Himachal Pradesh for information please.
2. The Deputy Commissioner Kangra for information please.
3. The Sub-Divisional Officer (C) Shimla (Urban) & (Rural) District Shimla and Palampur District Kangra for information please.


Secretary
State Election Commission
Himachal Pradesh.