

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. ECI/PN/42/2020

Dated: 16th June, 2020

PRESS NOTE

A meeting of full Election Commission comprising Chief Election Commissioner Shri Sunil Arora and two Election Commissioners Shri Ashok Lavasa and Shri Sushil Chandra, assisted by senior officers of the Commission, was held today. Amongst other issues, the Commission discussed the matter of taking cognizance of complaints of false affidavits filed by some candidates along with their nominations, which adversely affects the rights of voters as well as impinges on the purity of electoral process.

The exercise of informed franchise is a foundational requirement for free and fair elections. In *People's Union for Civil Liberties v. Union of India* (2003) 4 SCC 399 (PUCL case), Hon'ble Supreme Court observed: **"..the foundation of a healthy democracy is to have well-informed citizens-voters."** In this case, the Apex Court further observed: **"A little man - a citizen - a voter is the master of his vote. He must have necessary information so that he can intelligently decide in favour of a candidate who satisfies his criterion of being elected as an MP or MLA."** The voter has a fundamental right under Article 19(1)(a) of the Constitution to know about the candidates at an election. The genesis of the disclosure requirements, now incorporated in Form 26, appended to the Conduct

of Election Rules, 1961 was the case of *Union of India v. Association of Democratic Reforms* (2002) 5 SCC 294.

In his/her affidavit, a candidate discloses (i) criminal antecedents; (ii) assets and liabilities; and (iii) educational qualifications. Subsequently, Commission in 2013, decided that the assets and liabilities of the candidates, as filed in their affidavits, would be verified by Central Board of Direct Taxes(CBDT).

Filing of false affidavits by candidates during the nomination process, in terms of false or incomplete information, is a key challenge as it undermines the rights of voters to be fully informed about their political representatives. Supreme Court in catena of judgments (*Resurgent India v. Election Commission of India*, 2014 14 SCC 189; *Rambabu Singh Thakur v. Sunil Arora* 2020 SCC online SC178) has held the truthful disclosure of all relevant information by a candidate as integral to the electoral process and any denial or false disclosure would tantamount to vitiating the integrity of elections.

Commission views the erosion of this fundamental right as an affront to the democratic ideals which underpin the system of government. Furnishing false information in election affidavits is a devious design to defeat the right of the voter to be informed and transparency in elections. **The Commission has today decided to robustly address this challenge to further ensure free, fair and ethical elections in the country.**

Commission has been receiving complaints regarding furnishing of false information in the affidavits of some candidates. As per the extant provision, individuals are filing such complaints in the competent court under section 125A of the Representation of People Act, 1951. Now, Commission has reviewed this position and decided that, in pursuit of a level-playing field, it will take cognisance of complaints, which indicate serious omission on the part of the candidate, and refer such matters to the relevant investigating authorities on a case-to-case basis.



(PAWAN DIWAN)
UNDER SECRETARY