

Elections / Most Immediate

TELANGANA STATE ELECTION COMMISSION

5th Floor, DTCP Building, Opp: PTI Building, A.C. Guards, Hyderabad – 500 004.

ORDER

No.392/TSEC-ULBs/2015

Date:21.07.2015

Sub:- TSEC – Ordinary/Casual elections to Urban Local Bodies – Election Expenses – Maintenance and scrutiny of accounts of election expenses by the contesting candidates – Orders – Issued.

Section 617 B (1) of GHMC Act, 1955 (in respect of Municipal Corporations) and Section 343 ZC (1) of APM Act, 1965 (in respect of Municipalities & Nagar Panchayats) stipulates that every candidate, at any election held under these Acts shall, either by himself/herself, or by his/her election agent, keep a separate and correct account of all expenses incurred in connection with the election, between the date on which the candidate concerned has been nominated, and the date of declaration of the result of the election, both dates inclusive (hereinafter in this order referred to as 'election expenses'). Section 617 B (2) of GHMC Act, 1955 and Section 343 ZC (2) of APM Act, 1965 stipulates that the account of election expenses shall contain such particulars, as may by order, be specified by the State Election Commission. Section 617 B (3) of GHMC Act, 1955 and Section 343 ZC (3) of APM Act, 1965 stipulates that the total of the said expenses shall not exceed such amount, as may by order, be specified by the State Election Commission.

Section 617 C of GHMC Act, 1955 and Section 343 ZD of APM Act, 1965 stipulates that every contesting candidate at an election shall, within forty five days from the date of declaration of the result of the election, lodge with the competent Authority an account of his/her election expenses, which shall be a true copy of the account kept by him/her, or by his/her election agent, under Section 617 B of GHMC Act, 1955 and Section 343 ZC of APM Act, 1965. The District Election Authority is the competent Authority in case of all the Urban Local Bodies excepting GHMC and the Commissioner, GHMC shall be the competent Authority in case of GHMC.

Under Section 20 B of GHMC Act, 1965 and 15 B of APM Act, 1965 the State Election Commission is empowered to declare a candidate by an order to be ineligible for a period of three years from the date of the said order to contest any election held for any office under this Act; and to have ceased to hold office, in case he/she is elected for failure to lodge an account of election expenses within the time and in the manner required by the said Acts.

In exercise of the powers conferred under Article 243 K and 243 ZA of the Constitution of India and also under Section 617 B (2) of the Greater Hyderabad Municipal Corporation Act, 1955 and Section 343 ZC (2) of the AP Municipalities Act, 1965, the State Election Commission, Telangana hereby, issues the following orders in connection with the maintenance of account of election expenses for the office of Ward Member of a Municipal Corporation or a Municipality or a Nagar Panchayat in the ordinary/casual elections.

1. **Accounts to be in the proforma specified:-** The day to day account of election expenses of the contesting candidates shall be maintained and submitted in Proforma I and the periodical abstract of election expenses / Final return shall be submitted in Proforma II, which are appended to this orders by each of the contesting candidate. The account of election expenses in the said two proformae shall be submitted for scrutiny on demand to the Returning Officers / Election Officers as the case may be or other authorities designated by the State Election Commission.
2. a) The 'day-to-day' basis true account of election expenses incurred by contesting candidate or his/her Election Agent and also by his/her supporters, any political party or body or association or other individuals supporting the candidature or for furthering chances of the candidate in the election shall be recorded in Proforma I.

All documents such as vouchers, receipts, acknowledgements, etc., in support of the expenditures incurred or authorized shall be obtained from day to day as the expenditure is incurred or authorized and shall be maintained in the correct chronological order along with the above mentioned Register showing day-today account:

- (1) the account of election expenses to be kept by a candidate or his election agent shall contain the following particulars in respect of each item of expenditure from day to day, namely:-
 - a. the date on which the expenditure was incurred or authorized;
 - b. the nature of expenditure (as for example; transportation, cost of printing, publicity materials, wages to the workers, allowances to cadre, Rentals for offices, meeting venues, decoration hoardings, posters, advertisements in print and electronic media and the like);
 - c. the amount of expenditure –
 - i. the amount paid;
 - ii. the amount outstanding;
 - d. the date of payment;
 - e. the name and address of the payee;
 - f. the serial number of vouchers, in case of amount paid;
 - g. the serial number of bills, if any in case of amount outstanding;
 - h. the name and address of the person to whom the amount outstanding is payable.
- (2) A voucher shall be obtained for every item of expenditure unless from the nature of the case, such as postage, travel by rail and the like, it is not practicable to obtain a voucher.
- (3) All vouchers shall be lodged along with the account of election expenses, arranged according to the date of payment and serially numbered by the candidate or his election agent and such serial numbers shall be entered in the account under item (f) of sub-rule(1).
- (4) It shall not be necessary to give the particulars mentioned in item (e) of sub-rule (1) in regard to items of expenditure for which vouchers have not been obtained under sub-rule (2).

b) For the purpose of clarity, the explanations given under Section 343 ZC(1) of the AP Municipalities Act, 1965 and under Section 617 B (1) of Greater Hyderabad Municipal Corporation Act, 1955 for the election expenses are reproduced below :-

Explanation-I. 'Election expenses' for purpose of these Acts shall mean all expenses in connection with the election,-

(a) incurred, or authorized by the contesting candidate, or by his/her election agent;

(b) incurred by any association, or body of persons, or by any individual (other than the candidate or his/her election agent), aimed at promoting or procuring the election of the candidate concerned; and

(c) incurred by any political party, by which the candidate is set up, so as to promote or procure his/her election:

Provided that any expenses incurred by any political party as part of its general propaganda, (which is distinguishable from its election campaign, for the promotion or procuring the election of a particular candidate), by words, either written or spoken, or by signs or visible representations, or by audio-visual devices, or through print or electronic media or otherwise, shall not constitute 'election expenses' for purposes of these Acts.

Explanation-II:- (1) *For the removal of doubts, it is hereby declared that any expenses incurred in respect of any arrangements made, facilities provided or any other act or thing done by any person in the service of the Government and belonging to any of the classes mentioned in clause (9) of Section 17 (1) B of GHMC Act, 1955 and clause (9) of Section 343 A of APM Act, 1965 in the discharge or purported discharge of his/her official duty as mentioned in the proviso to that clause shall not be deemed to be expenses in connection with the election incurred or authorized by a candidate or by his/her election agent for the purposes of this sub-section.*

3. The day to day expenses accounts so maintained shall be supported by proper vouchers, failing which it will not be treated as "true" account of expenses save in cases where it is not feasible to obtain vouchers.
4. Each of the supporting vouchers, enclosed with the account of election expenses, shall bear the signature in full of the contesting candidate or his/her election agent.

5. All expenses incurred/authorized by the political parties, other associations, body of persons and individuals of campaigners (leaders) of political parties – shall be included in the account of the candidate.

If a public meeting/rally is organized by a leader/campaigner of a party the expenditure shall be booked in election expenditure of that candidate. If more than one contesting candidates of that party participate that meeting/rally, the expenditure shall be apportioned to the election expenditure of all such candidates.

6. Expenditure with regard to board and lodging / traveling expenses of campaigners in the constituency where they campaign for any candidate shall be included in the expenditure account of that particular candidate, provided that –

- (a) the campaigners have actually campaigned for the candidate, and
- (b) the campaigners have incurred such board and lodging / travelling expenditure while remaining in a commercial hotel or lodge for the purpose of election campaign of the candidate irrespective of the fact whether the payment is made by such candidate or not.

The market value of such commercial boarding and lodging is to be calculated towards the election expenditure of the candidate, even if the boarding and lodging is provided as complimentary.

7. The candidate or his/her authorized agent shall prepare an abstract of the expenses periodically during the campaign period in the proforma II appended to this Order and the same shall be duly signed by the candidate or his/her election agent certifying its correctness and shall be submitted to the Returning Officer / Election Officer as the case may be or other authorities designated by the SEC for inspection and scrutiny.
8. If a candidate contests elections from more than one Ward, he has to keep and also lodge a separate return of election expenses for each election for which he contests. The election for each Ward is a separate election.
9. The attention of all political parties and contesting candidates is, hereby, drawn to the provisions of Section 171 H of the Indian Penal Code which reads as follows:

"171 H. Illegal payments, in connection with an election:- whoever, without the general or special authority in writing of a candidate, incurs or authorises expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees:

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority, obtains, within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he/she shall be deemed to have incurred, such expenses with the authority of the candidate".

Thus, from the above provision of law, it may be noted that the expenses incurred by the supporters in connection with election of a candidate, without the knowledge or consent of the contesting candidate, is a criminal offence under the above law and persons, supporters, political parties, body or associations who commits such offence are liable for prosecution. And if such expense has been incurred with the knowledge or with the consent of the candidate, then the same should be included in the account of election expenses of the candidate.

10. With a view to curb on the incurring or authorising of expense, in violation of the statutory provisions of the above-referred Section 171 H of the Indian Penal Code and in the interests of free and fair electors, the State Election Commission, hereby, directs as follows:
 - (i) No political party or any other association, body or individual, shall put up any cut-outs, hoardings, wall paintings, flags, banners, buntings, advertisements in newspapers, electronic media etc., without the general or special authority (in writing) of the candidate whose election is sought to be promoted by such cut-outs, hoardings, etc., as is statutorily and mandatorily required under Section 171 H of the Indian Penal Code. Strict penal action, against those offending the above provisions of law, will be taken by the police authorities and prosecutions launched against them.
 - (ii) Subject to clause (iii) below, a political party or association or body may put up any cut-outs, hoarding, etc., referred in para 7 (i) above as part of its general propaganda, which is distinguishable from its election campaign for the promotion the election of a particular candidate. For example if the poster, banner etc. appeals to the voter to vote for a party in words or picture or photo of party office bearers only then it is a case of general publicity. But if a poster, banner etc. also appeals to vote for a particular candidate in words or picture or photo then the cost thereof should be counted towards the expenses of that candidate.
 - (iii) No political party, association, body or individual shall put up any cut-outs, hoarding etc., either under clause (i) or under clause (ii) above, unless prior written permission of the concerned Government authorities or local authorities like Corporations, Municipalities, Zilla Parishads, Town Area Committees, Panchayat Samities etc. has been obtained under the relevant local laws before putting up such cut-outs, hoarding etc.
 - (iv) Before granting any permission as envisaged in clause (iii) above, the concerned Government authorities or the local authorities mentioned above shall thoroughly examine the applications of the parties, association, bodies or individuals with a view to satisfying themselves that the putting up of such cut-outs, hoardings etc., on the proposed site does not compromise the safety and security of the general public and does not result in traffic and other hazards in any manner whatsoever. Such authorities shall also examine whether any authorisation from a particular candidate is required by the applicant in terms of clause (i) above and, if so, whether such authorisation has been obtained by the applicant.

- (v) It shall be the responsibility of the Government authorities and local authorities mentioned above to ensure that no cut-outs, hoardings etc., are put up by any political party, association, body or individual on any highways, road-sides, traffic intersection and crossings, government buildings and property, like electricity and telephone poles, etc., without prior written permission of the concerned department or local body and the written authorisation of the candidate, where required, as mentioned above. Any cut-out, hoardings, etc. which have been put up without the required permission and authorisation should be got removed/demolished forthwith at the cost of the party, association, body or individual responsible for the unauthorised putting up of the same.
 - (vi) Penal action shall also be initiated forthwith against such defaulting parties, associations, bodies or individuals by the aforementioned authorities under section 171 H, IPC and Section 4 and 5 of "A.P. Prevention of Disfigurement of Open Places and Prohibition of Obscene and Objectionable posters and Advertisements Act, 1997 (Act 28 of 1997)" the provisions whereof have been violated by the putting up of such unauthorized cut-outs, hoardings etc.
 - (vii) If any such instances either come, or are brought, to the notice of the Election Expenditure Observer, General Observer, Election Authority & Commissioner, GHMC/District Election Authority, Returning Officer / Election Officer or other authorities concerned with the conduct of elections, including the Police authorities, they shall take up forthwith the matter with the concerned authorities for prompt action as directed in clauses (v) and (vi) above.
11. The Commission, hereby, warns all the concerned that any violation of the above directions will be viewed by the Commission with the utmost gravity and most stringent action possible under the law will be taken against the parties, associations, bodies or individuals responsible for such violations.
 12. If any Officer is found to have failed to take prompt and expeditious action as envisaged above, he/she will render himself liable for strict disciplinary action for failure to discharge the official duty.
 13. The State Election Commission directs that the day to day basis true account of expenses in the proforma I and the periodical abstract of expenses in the proforma II appended to this Order should be submitted by the contesting candidates to the authorities designated by the State Election Commission as specified below at least three times during the campaigning period. However, it shall be ensured that there is a gap of about 4 (four) days in between each inspection and first inspection may be on or after the third day from the last date for withdrawal of candidature.

14. In connection with ordinary/casual elections to Municipal Bodies in the State the Commission, hereby, designate the following authorities for the inspection and scrutiny of the day to day expenses and the periodical abstract of expenses during the campaign period:

| Name of the office of election | Authority designated |
|--|--|
| Ward Members of Municipal Corporations, Municipalities and Nagar Panchayats. | Returning Officer in respect of Municipal Corporations, Election Officer in respect of Municipalities & Nagar Panchayats concerned |

The Observers appointed by the Commission are authorized to inspect and scrutinize the expenses accounts maintained by the candidates, on dates as prescribed.

15. With a view to minimize the possibility of contesting candidates, their supporters, political parties, bodies or associations incurring expenses in excess of the ceilings prescribed by the State Election Commission, it is felt necessary that the daily returns and the periodical returns of expenses should be made transparent by making them available to the public and the other contesting candidates, who, can help the State Election Commission to effectively check the veracity of the returns with actual expenses being incurred by the contesting candidates and their supporters. It is, therefore, decided that the Returning Officers / Election Officers, should make photo copies of these returns available to other contesting candidates, any member of the public or Non-Governmental Organization, on demand and on payment of xeroxing charges or a certified copy as per Section 76 of the Indian Evidence Act, 1872 and to the media, free of cost, so as to enable them to assist the State Election Commission in effectively implementing the ceilings imposed on the expenses to be incurred by the contesting candidates for various offices. The Commission is of the considered opinion that this exercise intended to bring transparency in election expenses will enhance the purity of elections and help in conduct of free and fair elections.

The Returning Officers/Election Officers are authorized to nominate officers to receive the accounts filed by the candidates in each ward and also notify the place where candidates or their election agents can file the election expenditure accounts in each ward. The nominated officers shall be available on the date and time indicated above at the places notified and shall receive, inspect and scrutinize the accounts submitted by the candidates and give consolidated report to the Returning Officer and to the Election Expenditure Observer.

The Election Expenditure Observers will also undertake inspection and scrutiny of all the expenditure accounts whenever they feel convenient on the said dates and they may also summon the expenditure accounts of any candidate from the officers nominated by the Returning Officers.

16. The final return of election expenses including the abstract shall be submitted by the contesting candidates to the District Election Authority for all Urban Local Bodies except GHMC or Election Authority & Commissioner, GHMC for GHMC as the case may be within 45 days from the date of declaration of results of the Office for which they had contested through the Commissioners/Dy. Municipal Commissioners of concerned Municipal Corporation or Municipal Commissioners concerned as the case may be. The Zonal Commissioners of GHMC/Regional Directors-cum-Appellate Commissioners of Municipal Administration shall monitor the process keeping in view of the out limit and to comply with the provisions of Municipal Acts. The District Election Authority or Election Authority & Commissioner, GHMC as the case may be, shall make these returns public, in the manner indicated in the preceding para and shall conduct such further enquiry as he/she deems necessary and shall forward the return along with the result of such enquiry, to the Commission.
17. a) As soon as may be, after the expiration of the time specified in Section 617C of the GHMC Act, 1955 and 343 ZD of APM Act, 1965 for the lodging of the accounts of election expenses at any election, the District Election Authority or Election Authority & Commissioner, GHMC as the case may be, shall, report to the State Election Commission, -
- (i) the name of each contesting candidate;
 - (ii) whether such candidate has lodged his/her account of election expenses, and if so, the date on which such account has been lodged; and
 - (iii) whether in his/her opinion such account has been lodged within the time and in the manner required by the Act and these rules.
- b) Where the District Election Authority or Election Authority & Commissioner, GHMC as the case may be is of the opinion that the account of election expenses of any candidate has not been lodged within the due date or in the manner prescribed in the Act and the Rules as required by the Law, he/she shall make a report to the State Election Commission and with every such report, forward the account of election expenses of that candidate and the vouchers lodged along with it, if any.
- c) Immediately after the submission of the above report the District Election Authority or Election Authority & Commissioner, GHMC as the case may be shall publish a copy thereof affixing the same on his/her notice board.
18. The attention of the contesting candidates is also invited to Section 171-I of Indian Penal Code, according to which, the non-submission of returns on election expenses is a criminal offence.

19. The State Election Commission intends to super check the accounts, thus filed through the above procedure and shall hold the candidates personally responsible for any defect or mis-representation or suppression of information.
20. The Election Authority & Commissioner & Director of Municipal Administration, Telangana, Hyderabad and Election Authority & Commissioner, GHMC / District Election Authority / Additional Election Authority / Deputy District Election Authority, Municipal Commissioners and other officers relating to Municipal elections are directed to furnish the copy of these instructions to the contesting candidates under proper acknowledgement.
21. A copy of this order may also be supplied to the Election Expenditure Observers and Observers appointed by the State Election Commission.

(BY ORDER AND IN THE NAME OF STATE ELECTION COMMISSIONER)

**Sd/-M. Ashok Kumar
Secretary**

To

1. The Election Authority & Commissioner and Special Officer, GHMC, Hyderabad.
2. The E A & Commissioner & Director of Municipal Administration, Telangana, Hyderabad.
3. All the District Collectors & District Election Authorities in the State.
4. All the Commissioners of Municipal Corporations in the State.
5. All the Deputy Commissioners of GHMC.
6. All the Municipal Commissioners of Municipalities and Nagar Panchayats in the State.
7. The Regional Directors-cum-Appellate Commissioners of Municipal Administration, Hyderabad and Warangal.

Copy to the Principal Secretary to Government, MA & UD Dept., Telangana, Secretariat, Hyd.

// ATTESTED //

N. Jayasindhu feloy
JOINT DIRECTOR

21/6/15

PROFORMA - I

PROFORMA FOR THE MAINTENANCE OF DAY TO DAY ACCOUNT OF ELECTION EXPENSES

Name of the Candidate :
No. and Name of the Ward from :
which he / she contested
Date of Nomination :
Date of Declaration of the result :

(From the date of nomination to the date of declaration of result of election, both dates inclusive)

| Date | Item of Expense | Amount of Expense | Date of Payment | Name & address of payee or to whom payable | Serial No. of voucher in case of amount paid | Serial No. of bill in case of an amount outstanding | Remarks |
|------|-----------------|-------------------|-----------------|--|--|---|---------|
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) |

Signature of the Candidate / Election Agent

Certified that this is a true copy of the account kept by me/my Election Agent.

Signature of the Contesting Candidate

(Acknowledgement)

(FOR OFFICIAL USE ONLY)

The account of election expenses of..... (Candidate) from.....(No & Name of the Ward)
result of which declared on.....filled by him/or on his/her behalf by.....has been received by me today,
the.....(date).....(month).....(year).

Returning Officer / Election Officer

PROFORMA – II

ABSTRACT OF ELECTION EXPENSES ACCOUNT

Name of the Candidate: _____ No & Name of the Ward from which he contested: _____ Date of declaration of the result: _____

Political Party: _____ expenses as on _____ / Final return.*

| Sl. No. | Item of Expenses | Expenses incurred or authorized to incur by the candidate or his/her election agent | | Expenses by Political Party/ Parties for promoting his/her candidature | | Expenses incurred by his/her supporters, (individuals / body / associations etc.) | | Total Expenses | |
|----------|--|---|------------------------|--|------------------------|---|------------------------|----------------|------------------------|
| | | Paid | Committed but not paid | Paid | Committed but not paid | Paid | Committed but not paid | Paid | Committed but not paid |
| 1 | 2 | 3 | | 4 | | 5 | | 6 | |
| 1. | Expenses on Printing of election Campaign material | | | | | | | | |
| 2. | Expenses on pasting of posters and distribution of handbills | | | | | | | | |
| 3. | Expenses on hoardings, Wall Paintings, cutouts etc. | | | | | | | | |
| 4. | Expenses on advertisements in print & electronic media and supporters for campaign | | | | | | | | |
| 5. | Expenses on propaganda for public meetings. | | | | | | | | |

| | | | | | |
|-----|--|--|--|--|--|
| 6. | Hiring charges for campaign office & office establishment | | | | |
| 7. | Hiring charges for vehicles, cost of petrol, oil, lubrication charges etc. for vehicle use | | | | |
| 8. | Hiring charges of loud-speakers | | | | |
| 9. | Expenses on production & use of audio & video Cassettes, films slides etc. | | | | |
| 10. | Expenses on gates, arches & visits of VIPs and Party leaders for campaign | | | | |
| 11. | Expenses on refreshments given to supporters, polling agents, counting agents and to those for doing house to house campaign | | | | |
| 12. | Travel expenses by candidate or his agent or supporters etc authorised by him | | | | |
| 13. | Expenses on rallies, etc. organised by the candidate. | | | | |

| | | | | | |
|-----|---|--|--|--|--|
| 14. | Expenses incurred by other individuals, body, association supporters etc., towards election campaigns | | | | |
| 15. | Value of the publicity material supplied by political party / parties to the candidate | | | | |
| 16. | Misc. expenses not covered in above items. | | | | |
| | Total: | | | | |

Declaration:

Certified that the particulars given above are true and correct to the best of my knowledge.

Signature of contesting candidate

N.B:-

The account shall be countersigned by the candidate, if it is lodged by his/her election agent and should be certified by the candidate to be correct copy of the account kept.

* Strike off which ever is not applicable.

