

ELECTIONS IMMEDIATE

TELANGANA STATE ELECTION COMMISSION

1st Floor, DTCP Building, Opp: PTI Building, A.C. Guards, Hyderabad – 500 004.

C I R C U L A R

Cir.No.541/TSEC-ULBs/2015

Dated:01.08.2015

Sub: Elections to ULBs - Implementation of Model Code of conduct – Action against violators – Statement showing the provisions of law relating to offences and corrupt practices in connection with Urban Local Bodies - Instructions – Issued.

The Model Code of Conduct is implemented from the date of issue of election Notification till the completion of counting, in order to maintain the purity of elections and to create a level playing field for all political parties and contesting candidates.

In this context, attention of all the District Collectors-cum-District Election Authorities, Election Authority, GHMC and the Superintendents of Police/Commissioners of Police, is drawn to Sections 343-A to 343-T of A.P. Municipalities Act, 1965 and Section 17 and Sections 599 to 612 of GHMC Act, 1955 which deal with the electoral offences.

A statement showing the provisions of Law relating to electoral offences and corrupt practices in connection with conduct of elections to urban local bodies and the sections of enactments and Indian Penal Code, 1860 under which offenders are liable for prosecution and punishment is appended to this Circular.

The Election Authority, Additional Election Authorities, Dy. Election Authorities, Assistant Election Authorities, Election Officers, Returning Officers, Observers are requested to closely monitor compliance with the provisions of the Model Code of Conduct and wherever there is a violation, the Collectors and Superintendents of Police/Commissioners of Police, shall prosecute the violators under the relevant provisions of law. They need not obtain any specific permission of the State Election Commission for such prosecutions. All the violations fall within the scope of one penal provision or the other.

The Collectors and District Election Authorities, Election Authority, GHMC as well as the Superintendents of Police and Commissioners of Police, are therefore directed to enforce the various provisions of law in order to ensure complete compliance with the provisions of the Model Code of Conduct. The investigation and prosecuting authorities may be instructed suitably in this regard so as to maintain the purity of election process and to see that money and muscle power do not influence the poll outcome in any way.

Model Code of Conduct has to be enforced impartially. Utmost care has to be taken to ensure that **the law enforcement machinery not only acts fairly but also is perceived to be acting fairly.** The Commission will deal sternly with those law enforcement officials who are found implementing the Model Code of conduct in a selective or biased manner.

The number and nature of cases booked ULB wise shall be intimated to the Commission through Fax/e.mail (**sec-ts@nic.in** & **sec.telangana@gmail.com** / Fax No.040-29801522) on a daily basis by the Superintendents of Police/Commissioners of Police, in the enclosed proforma under intimation to the Collector and District Election Authorities concerned and in case of GHMC, the Commissioner, Special Officer & Election Authority, GHMC.

Sd/-M. Ashok Kumar
SECRETARY

To

The Commissioner, Special Officer & Election Authority, Greater Hyderabad Municipal Corporation.

All the Collectors & District Election Authorities in the State except Hyderabad.

All the Superintendents of Police in the State.

All the Commissioners of Police.

All the Observers.

The DGP, Telangana.

All the Commissioners of Municipal Corporations in the State.

All the Commissioners of Municipalities / Nagar Panchayats.

All the Deputy Commissioners of GHMC.

Copy to the EA & C&DMA., Telangana, Hyderabad.

// ATTESTED //

N. Jayaram Reddy
JOINT DIRECTOR
J
01/8/15

P R O F O R M A

**STATEMENT SHOWING THE NUMBER AND NATURE OF CASES BOOKED AGAINST THE VIOLATION OF MODEL
CODE OF CONDUCT IN CONNECTION WITH CONDUCT OF ELECTIONS TO URBAN LOCAL BODIES, 2015.**

Date:- _____

S. No.	Name of the District	Name of the Police Station	Name & Description of violation of MCC	Nature of violation	Party affiliation of the violator, if any	Section under which prosecution launched	Case No. & Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

**COMMISSIONER OF POLICE,
SUPERINTENDENT OF POLICE**

PROVISIONS OF LAW RELATING TO OFFENCES AND CORRUPT PRACTICES IN CONNECTION WITH ELECTIONS
TO URBAN LOCAL BODIES

Sl. No.	Brief Description of Offence	Related Sections in		Type of offence	Punishment
		APM Act, 1965 / other related Acts/ Rules	GHMC Act, 1955 / other related Acts/ Rules		
A)	ELECTORAL OFFENCES CONCERNING MEETINGS:				
1.	Promoting or attempting to promote enmity on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India.	Sections 343 B of APM Act, 1965 and 153 A of the Indian Penal Code	Section 599 of the GHMC Act, 1955 and <i>153 A + the Indian Penal Code</i>	Non-cognizable	Upto 3 years imprisonment or fine which may extend upto Rs.3000/- or both.
2.	Prohibition of public meetings during the period of 48 hours ending with the hour fixed for the conclusion of the poll :- No person shall - (a) convene, hold or attend, join or address any public meeting or procession in connection with an election; or (b) display to the public any election matter by means of cinematography, television or other similar apparatus; or (c) propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto, in any polling area during the period of forty eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.	Section 343 C APM Act, 1965	Section 600 of the GHMC Act, 1955	Non-cognizable	Upto 2 years imprisonment or fine or both.
3	Acting or inciting others to act in disorderly manner at a public meeting, for the purpose of disturbing the meeting.	Section 343 (D) of the APM Act, 1965	Section 601 of the GHMC Act, 1955	Cognizable	Upto 6 months imprisonment or with fine which may extend upto Rs.2,000/-.

B) OFFENCES CONCERNING VEHICLES				
1	If any person illegally hires or procures any vehicle for the free conveyance of any elector other than the candidate himself, members of his family or his agent, to or from any polling station commits an offence.	Section 343 A (7) read with Section 343 L of the APM Act, 1965	Section 17 (7) read with Section 607 of the GHMC Act, 1955	Non-cognizable 3 months imprisonment and fine.
C) CONCERNING OFFICERS/PERSONS INVOLVED IN ELECTION DUTY				
1	Every officer, clerk, agent, or other person who performs any duty in connection with the recording or counting of votes at and election shall maintain the secrecy of the voting. Its violation constitutes an offence.	Section 343 F of the APM Act, 1965	Section 602 of the GHMC Act, 1955	Non-cognizable Upto 3 months imprisonment or fine or both.
2	No official connected with conduct of elections shall do any act (other than giving of vote) for the furtherance of the prospects of election of any candidate.	Section 343 G of the APM Act, 1965	Section 603 of the GHMC Act, 1955	cognizable 6 months imprisonment or fine or both.
3	Breach of official duty, without reasonable cause, by any person involved in any duty in connection with an election.	Section 343 M of the APM Act, 1965	Section 610 of the GHMC Act, 1955	cognizable Fine upto Rs.500/-.
4	No person in the service of the State or Central Government or a Local authority or a Corporation owned or controlled by the State or Central Government act as an election agent or a polling agent or a counting agent of a candidate at an election.	Section 343 N of the APM Act, 1965	Section 607 A of the GHMC Act, 1955	Non-cognizable 3 months imprisonment or fine or both.
D) AT OR NEAR POLLING STATION ON THE DATE(S) OF POLL				
1	Prohibition on committing any of the following acts within the polling station or within a distance of 100 mtrs. of the polling station (on the date(s) of poll) :- (a) canvassing for votes ; or (b) soliciting the vote of any elector; or (c) persuading any elector not to vote for any particular candidate; or (d) persuading any elector not to vote at the election; or (e) exhibiting any notice or sign other than an official notice relating to the election.	Section 343 H of the APM Act, 1965	Section 604 of the GHMC Act, 1955	Cognizable Fine upto Rs.250/-.

2	Any person shouting in a disorderly manner or using loudspeakers, megaphones etc. so as to disturb the poll, in or around the polling station can be arrested and such apparatus seized by any police officer.	Section 343 I of the APM Act, 1965	Section 605 of the GHMC Act, 1955	On the orders of the Presiding Officer, Police can arrest the offender.	3 months imprisonment or fine or both
3	Misconduct by any person in the polling station, or disobedience of lawful directions of the presiding officer may result in that person being removed from the polling station by Presiding officer (or) by any police officer on duty. Any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer shall be punishable.	Section 343 J of the APM Act, 1965	Section 606 of the GHMC Act, 1955	Cognizable	3 months imprisonment or fine or both.
E)	AGAINST CARRYING OF ARMS:				
1	No person, other than the Returning Officer, any police officer or any other person appointed to maintain peace and order at the polling station who is on duty at the polling station, shall, on a polling day, go armed with arms. If he does so, he commits an offence.	Section 343 O of the APM Act, 1965	Section 607 B of the GHMC Act, 1955	Cognizable	Upto 2 years imprisonment or fine or both.
F)	AGAINST TAMPERING OF EVM BALLOT PAPERS				
1	Removal of Ballot Papers /EVM from Polling Station: 343 P (1) Any person who unauthorisedly takes or attempts to take a ballot paper or EVM out of polling station shall be punished. If the Presiding officer of a polling station has reason to believe that any person has removed ballot paper or EVM out of polling station, such officer may arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer.	Section 343 P of the APM Act, 1965	Section 608 of the GHMC Act, 1955	On the orders of the Presiding Officer, Police can arrest the offender.	Imprisonment upto 1 year and fine upto Rs.500/- or with both (Cognizable)
2	Booth capturing is an offence. 'Booth capturing' includes – 1. seizure of a polling station or a place fixed for the poll by any person making polling authorities surrender the ballot papers or voting machines;	Section 343 Q of the APM Act, 1965	Section 607 C of the GHMC Act, 1955	Cognizable	3 to 5 years imprisonment and fine, if offence committed by person in Govt. service, and 1

	2.or allowing only his or their own supporters to exercise their right to vote and prevent/coerce others from free exercise of their right to vote; 3. seizure of a place for counting of votes etc.				to 3 years and fine for others.
3	<p>If any person fraudulently defaces or fraudulently destroys any ballot paper / EVM or the official mark on any ballot paper/EVM or puts into any ballot box anything other than the ballot paper, or pastes any paper, tapes etc. on the symbol/names/ballot button of EVM for the purpose of the election commits an offence.</p> <p>(1) A person shall be guilty of an electoral offence if at any election he, --</p> <p>(a) fraudulently defaces or fraudulently destroys any nomination paper; or</p> <p>(b) fraudulently defaces or destroys or removes any list, notice or other documents affixed by or under the authority of a Election Officer, or</p> <p>(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark or any ballot paper or any declaration of identity or official envelope used in connection with voting by postal ballot paper; or</p> <p>(d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; or</p> <p>(e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorized by law to put in; or</p> <p>(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or</p> <p>(g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or willfully aids or abets the doing of any such acts.</p>	Section 343 S of the APM Act, 1965	Section 611 of the GHMC Act, 1955	Cognizable	Upto 2 years imprisonment or fine or both, if offence committed by any officer or clerk employed on election duty, and 6 months imprisonment or fine or both for others.

G)	CHECKING THREAT/INDUCEMENT OF VOTERS:		Section 3(1) (vii) of the Scheduled castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.	Section 3(1) (vii) of the Scheduled castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.	Cognizable	
1	Whoever forces or intimidates a member of SC/ST not to vote or to vote a particular candidate or to vote in a manner other than that provided by law commits an offence.					
2	<p>Bribery. (1) Whoever— <i>(i)</i> gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or <i>(ii)</i> accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right, commits the offence of bribery: Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.</p> <p>(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.</p> <p>(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.</p>	Sections 171-B / 171-E of the Indian Penal Code	Sections 171-B / 171-E of the Indian Penal Code	Non-Cognizable		1 year imprisonment or fine or both
3	<p>Undue influence at election – (1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.</p> <p>(2) (a) Without prejudice to the generality of the provisions of this clause, whoever— <i>(i)</i> threatens any candidate or voter, or any person in</p>	Sections 171 C / 171 F of the Indian Penal Code	Sections 171 C / 171 F of the Indian Penal Code	Non-Cognizable		1 year imprisonment or fine or both.

	whom a candidate or voter is interested, with injury of any kind, or (ii) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1). (iii) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.				
4	Personation at elections. —Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election: Provided that nothing in this section shall apply to a person who has been authorised to vote as proxy for an elector under any law for the time being in force in so far as he votes as a proxy for such elector.	Sections 171-D /171-F of the Indian Penal Code.	Sections 171-D /171-F of the Indian Penal Code.		1 year imprisonment or fine or both.
5	Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false in relation to the personal character or conduct of any candidate commits a crime.	Section 171-G of the Indian penal Code.	Section 171-G of the Indian penal Code.		Fine
6	Whoever without the general or special authority in writing of a candidate incurs or authorizes 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	Section 171-H of the Indian Penal Code	Section 171-H of the Indian Penal Code	Non-cognizable	Punishment with fine which may extend to five hundred rupees.

	promoting or procuring the election of such candidate. 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 shall be deemed to have incurred such expenses with the authority of the candidate.				
7	Statements creating or promoting enmity, hatred or ill-will between classes – Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished.	Section 505 (2) of the Indian Penal Code	Section 505 (2) of the Indian Penal Code	Cognizable	Imprisonment upto 5 years and fine
H)	AGAINST HARMING A PUBLIC SERVANT ON DUTY:				
1	Whoever voluntarily causes simple or grievous hurt or assaults to deter a public servant from discharging his duty.	Sections 332/333/353 of the Indian Penal Code	Sections 332/333/353 of the Indian Penal Code	Cognizable	Imprisonment from 2 to 10 years and fine.
I)	CONCERNING PAMPHLETS / POSTERS / HANDBILLS / PLACARDS:				
	Whoever prints or publishes any election pamphlets, poster, handbills or placards which does not bear on its face the name and the address of the printer and the publisher commits an offence.	Section 343E of the APM Act, 1965	Section 601 A of the GHMC Act, 1955	Non-cognizable	Six months imprisonment or fine upto Rs.2000/- or both.

J)	CORRUPT PRACTICES:			
1	Bribery-	Section 343A(1) of the APM Act, 1965	Section 17 (1) of the GHMC Act, 1955	Corrupt practices can be agitated in an Election Petition before the Election Tribunal.
	<p>(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate, or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing-</p> <p>(a) a person to stand or not to stand as, or (to withdraw or not to withdraw) from being a candidate at an election, or</p> <p>(b) an elector to vote or refrain from voting at an election, or as a reward to –</p> <p>(i) a person for having so stood or not stood, or for (having withdrawn or not having withdrawn) his candidature; or</p> <p>(ii) an elector for having voted or refrained from voting;</p> <p>(B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward-</p> <p>(a) by a person for standing or not standing as, or for (withdrawing or not withdrawing) from being, a candidate; or</p> <p>(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate (to withdraw or not to withdraw) his candidature.</p>			

2	<p>Undue influence - Any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent, with the free exercise of any electoral right:</p> <p>(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who -</p> <p>(i) threatens any candidate or any elector, or any person in whom a candidate or an elector interested, with injury of any kind including social ostracism and ex-communication of expulsion from any caste or community; or</p> <p>(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;</p> <p>(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.</p>	Section 343-A (2) of the APM Act, 1965	Section 17(2) of the GHMC Act, 1955	Corrupt practices can be agitated in an Election Petition before the Election Tribunal.
3	<p>The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to, religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate:</p>	Section 343-A (3) of the APM Act, 1965	Section 17 (3) of the GHMC Act, 1955	Corrupt practices can be agitated in an Election Petition before the Election Tribunal.

4	The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.	Section 343-A (4) of the APM Act, 1965	Section 17 (4) of the GHMC Act, 1955		Corrupt practices can be agitated in an Election Petition before the Election Tribunal.
5	The propagation of the practice or the commission of sati or its glorification by a candidate or his agent or any other person with the consent of the candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.	Section 343-A (5) of the APM Act, 1965	Section 17 (5) of the GHMC Act, 1955		Corrupt practices can be agitated in an Election Petition before the Election Tribunal
6	The publication by a candidate or his agent or by any other person 4[with the consent of a candidate or his election agent], of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.	Section 343-A (6) of the APM Act, 1965	Section 17 (6) of the GHMC Act, 1955		Corrupt practices can be agitated in an Election Petition before the Election Tribunal
7	The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his election agent, or the use of such vehicle or vessel for the free conveyance of any elector other than the candidate himself, the members of his family or his agent to or from any polling station.	Section 343-A (7) of the APM Act, 1965	Section 17 (7) of the GHMC Act, 1955		Corrupt practices can be agitated in an Election Petition before the Election Tribunal
8	The incurring or authorizing of expenditure in contravention of Section 343 ZC of APM Act, 1965 / 617B of the GHMC Act, 1955.	Section 343-A (8) of the APM Act, 1965	Section 17 (8) of the GHMC Act, 1955		Corrupt practices can be agitated in an Election Petition before the Election Tribunal

9	<p>The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person with the consent of a candidate or his election agent, any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the State, Central Government, Local Authority or a Corporation owned or controlled by the State or Central Government.</p>	Section 343-A (9) of the APM Act, 1965	Section 17 (9) of the GHMC Act, 1955	Corrupt practices can be agitated in an Election Petition before the Election Tribunal
10	<p>Booth capturing by a candidate or his agent or other person.</p> <p>(1) In this section, the expression "agent" includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate.</p> <p>(2) For the purposes of clause (9), a person shall be deemed to assist in the furtherance of the prospects of a candidate's election if he acts as an election agent of that candidate.</p> <p>(3) For the purposes of clause (9), notwithstanding anything contained in any other law, the publication in the Official Gazette of the appointment, resignation, termination of service, dismissal or removal from service of a person in the service of the Central Government (including a person serving in connection with the administration of a Union territory) or of a State Government shall be conclusive proof—</p> <p>(i) of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, and</p> <p>(ii) where the date of taking effect of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, is stated in such publication, also of the</p>	Section 343-A (10) of the APM Act, 1965	Section 17 (10) of the GHMC Act, 1955	Corrupt practices can be agitated in an Election Petition before the Election Tribunal

<p>fact that such person was appointed with effect from the said date, or in the case of resignation, termination of service, dismissal or removal from service, such person ceased to be in such service with effect from the said date.</p> <p>(4) For the purposes of sub-sec.8, "booth capturing" shall have the same meaning as in section 224 of the A.P.P.R. Act, 1994.</p>				
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