

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi – 110 001

No.ECI/PN/06/2004/MSPS
,2004

Dated: 20th February,

PRESS NOTE

Sub:- General Elections to the Lok Sabha and State Legislative Assemblies –
Restrictions on eviction/demolition of unauthorized structures, etc.

A copy of the Commission's letter No. 437/6/3/2004-PLN-III, dated 19th February, 2004, issued by the Commission regarding restrictions on eviction/demolition of unauthorized structures, etc. in connection with forthcoming General Elections to Lok Sabha and certain State Legislative Assemblies, 2004 is enclosed for the information of the general public.

(S. K. KAURA)
SECRETARY

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 437/6/3/2004-PLN III

Dated : 19th February

2004

To

1. The Cabinet Secretary to the
Government of India
Rashtrapati Bhawan
New Delhi
2. The Secretary, to the Govt. of India
Ministry of Home Affairs
North Block,
New Delhi.
3. The Secretary to Govt. of India
Department of Urban Development,
Ministry of Urban Development & Poverty Alleviation,
Nirman Bhawan,
New Delhi.
4. The Chief Sectors of
all States and Union Territories
5. The Chief Electoral officers of
all States and Union Territories

Sub:- Restrictions on eviction/demolition of unauthorized structures, etc. regarding.

Sir,

As you are aware, the 13th Lok Sabha has been dissolved and the General Election to the Lok Sabha alongwith simultaneous election to some State Legislative Assemblies is to take place shortly.

2. The Commission has been made aware that different agencies of the Government, responsible for urban affairs and other developmental projects, have been undertaking eviction drives leading to demolition of unauthorized structures, jhuggi jhopadi(JJ) clusters and relocation of people from one area to another. Such steps, wherever taken up, no doubt may have been the resultant actions after following the due process of law by the concerned agencies and sometimes even implemented on directions of a

competent Court of law. While the Commission fully appreciates the objectives of the Government agencies responsible for such actions in the management of their affairs, in the context of the General Election to the Lok Sabha alongwith simultaneous election of some State Legislative Assemblies, the Commission is concerned about the impact that such dislocation of people may have on the fidelity of the electoral rolls to be used in the ensuing elections.

3. The electoral roll is the basic document for the conduct of any election as it is the one on which the whole electoral process is founded. When a constituency is called upon to elect a member to the Lok Sabha or to the Legislative Assembly of a State, it means, in fact, that those electors who have been enrolled in the electoral roll are called upon to elect a member of the Lok Sabha or of a Legislative assembly. Under Article 326 of the Constitution, every Indian citizen of the age of 18 years or above on the prescribed qualifying date is entitled to be registered as an elector in the electoral roll of the Parliamentary and Assembly constituency in which he is ordinarily resident (unless he suffers from a prescribed disqualification). But the right to vote in such constituency is conferred by Section 62 of the Representation of People Act, 1951 only on those persons whose names are entered in the electoral roll for the time being in force in the constituency. Therefore, the electoral roll of the constituency has to be as accurate and up-to-date as is humanly possible for the conduct of free and fair elections. The electoral rolls for the all States going to polls in future have been or are being finalized with reference to 1.1.2004 as the qualifying date and by now the electors ordinarily resident in any particular area are aware of inclusion of their names in the relevant part of the electoral roll of the Assembly constituency concerned. Thus, whenever any eviction or demolition drive is taken up by a civic agency leading to dislocation of existing electors from their ordinary place of residence, the relevant part of the electoral roll of the Assembly constituency necessarily gets affected and becomes defective in as much as a large number of such dislocated electors lose their right to vote at the polling stations to which they have been assigned. In many case, the electors so displaced as a result of the demolition or eviction drive get relocated in another area outside the assembly constituency in which they

were ordinarily resident and cannot be included in time in the electoral rolls of the area where they have been relocated. Any election held on the basis of these defective rolls would thus deprive a substantially large number of electors who have been displaced from their places of ordinary residence of their franchise. Besides, these defective electoral rolls may also give an opportunity to unscrupulous elements to resort to bogus voting in the names of voters who have been shifted out on account of demolition or eviction drives carried out in a particular polling area / constituency. These factors would not only vitiate the fair and free election but may even materially affect the result of election in the constituency concerned.

4. The Commission has, therefore, decided in the interest of free and fair elections, and to maintain the fidelity of electoral rolls, that any demolition / eviction drives shall be temporarily suspended and shall not be carried out by any Government / civic agencies between now and the completion of the General Election. Wherever there are any problems in the implementation of the above decision of the Commission because of any orders issued by any Court of law, the Government of the State or the Central Government, as the case may be, shall bring the matter to the notice of the Commission for appropriate directions to ensure due compliance with the Court's orders. In such cases of unavoidable dislocation, the Government shall place before the Commission all relevant facts, including a suitable rehabilitation plan, to enable the Commission to give appropriate orders in regard to the corrective steps to be taken by the electoral authorities concerned to ensure that such dislocated electors are not deprived of their voting rights.

Kindly acknowledge receipt.

Yours faithfully,

(Sharan Pal Singh)

Secretary

Copy to : Principal Secretaries/Secretaries for follow up action.

BEFORE THE HONOURABLE NATIONAL GREEN TRIBUNAL

(Southern Zone)

Original Application No.50 of 2017 (SZ)

(W.P.No.43839 of 2016 transferred to the National Green Tribunal from the file of the Hon'ble High Court of Judicature at Madras)

IN THE MATTER OF

Arappor Iyakkam
Represented by Jayaram Venkatesan,
Managing Trustee
140 A, Rukmini Laksmipathy Salai,
Egmore, Chennai.

... Applicant(s)

Versus

1. Government of Tamil Nadu,
Represented by its Secretary to Government,
Public Works Department,
Secretariat,
Chennai - 600009.

2. Principal Secretary,
Municipal Administration & Water Supply Department,
Government of Tamil Nadu,
Secretariat,
Chennai - 600 009.

3. Managing Director,
Chennai Metropolitan Water Supply and Sewerage Board,
No.1, Pumping Station Road,
Chindadripet,
Chennai - 600 002.

4. The Commissioner
Greater Chennai Corporation,
Ripon Building,
Chennai - 600 003.

5. The Managing Director
Chennai Metro Rail Limited,
Admin Buildings, CMRL Depot,
Poonamallee High Road,
Koyambedu,
Chennai - 600 107.

... Respondents


REGIONAL JOINT COMMISSIONER (Central)
Greater Chennai Corporation.

**ADDITIONAL REPORT FILED ON BEHALF OF
GREATER CHENNAI CORPORATION**

I, P.N.Sridhar, I.A.S., Son of Mr.P.Sundara Rao, Hindu aged about 37 years, the Regional Joint Commissioner (Central), Greater Chennai Corporation, having office at No.36B, Pulla Avenue, Shenoy Nagar, Chennai - 600 030, do hereby solemnly affirm and sincerely state as follows:-

1. I am the Regional Joint Commissioner (Central), Greater Chennai Corporation and as such am well acquainted with the facts of the case from the available records and I am filing this joint inspection report on behalf of Greater Chennai Corporation as per the order of this Hon'ble Tribunal.

2. I submit that the earlier report filed on behalf of Greater Chennai Corporation may be read as part and parcel of this joint inspection report.

3. I submit that when the above case came up for hearing on 23.02.2021 this Hon'ble Court has passed an order as follows:-

"...10. The Greater Chennai Corporation is also directed to file a further report regarding the action taken for removal of encroachments in 2.5 Acres of land which is said to be under encroachment so as to add that portion also into the water body for restoring the water body to its original position.

11. They are directed to submit the report to this Tribunal on or before 19.03.2021 by e-filing in the form of Searchable PDF/OCR Supportable PDF and not in the form of Image PDF along with necessary hardcopies to be produced as per Rules.

12. The Registry is directed to communicate this order to the committee members and also to the official respondents by e-mail immediately so as to enable them to comply with the direction.

13. For consideration of further report, post on 19.03.2021...."


REGIONAL JOINT COMMISSIONER (Central)
Greater Chennai Corporation

4. I submit that in year 2016, the Chennai Metro Water Supply and Sewerage Board had handed over 27.5 acres of land i.e. Villivakkam Lake and out of which 24.64 acres was in the form of Lake and the remaining 2.5 acres have been found to be occupied by the encroachers. Further with respect to removal of encroachments made in the above said area it is submitted that the Greater Chennai Corporation has already informed the encroachers and boards were placed that the encroachment would be removed as per due process of law.
5. I submit that the Greater Chennai Corporation has also requested the Tamil Nadu Slum Clearance Board to allot tenements for resettlement of the encroachers of the Villivakkam Lake. Further the Greater Chennai Corporation has paid a sum of Rs.15,22,00,000/- (Rupees Fifteen Crores and Twenty Two Lakhs) to the Tamil Nadu Slum Clearance Board on 17.12.2020 under the Smart City Project.
6. I submit that since the General Elections to Tamil Nadu Legislative Assembly 2021 Model code of conduct is in force the permission has to be obtained from the Election Commission of India for removal of encroachment. The instruction of the Election Commission in Instruction Vide No.437/06/03/2004- PLN III dated 19.2.2004 is extracted below for sake of convenience;

“... 4. The Commission has, decided in the interest of free and fair elections, and to maintain the fidelity of electoral rolls, that any demolition/eviction drives shall be temporarily suspended and shall not be carried out by any Government/civic agencies between now and the completion of the General Election. Wherever there are any problems in the implementation of the above decision of the Commission because of any orders issued by any Court of Law, the

BEFORE THE HONOURABLE
NATIONAL GREEN TRIBUNAL

(Southern Zone)

Original Application No.50 of 2017 (SZ)

ADDITIONAL REPORT FILED
ON BEHALF OF
GREATER CHENNAI CORPORATION

P.T.RAMADEVI
Counsel for Chennai Corporation