

# Nomination

*Filing of nomination by candidates*

# Session Objective

## *Knowing about....*

- ✓ *Notification of election*
- ✓ *Requirements for a valid Nomination*
- ✓ *Affidavits to be submitted and action by RO*
- ✓ *Preliminary Examination of nomination papers by RO*
- ✓ *Procedures to be followed by RO while receiving nomination paper*

# Notification

- Filing of nomination starts on the date of **notification by the Governor** under Section 15 of the R.P. Act, 51.
- ECI also issues a notification u/s 30 of the act on the same day
- RO to issue **public notice of election** (under S. 31) in Form -1 (appended to CE Rules, 61)
- Public notice has to be under the **signature of the RO only.**

*Case where the election notification was rescinded on account of improper public Notice.*

- In a bye-election to the Lok Sabha in Uttar Pradesh, the Public Notice was issued by the DM whereas the ADM was the RO. When this error was noticed, the ECI cancelled the election notification and issued a fresh notification subsequently. (Akbarpur PC/ Ambedkar Nagar)

# Public Notice- Particulars to be specified [in Form 1]

- Specify the **election**.
- **Mention the place** at which nominations are to be filed (normally at the headquarters of RO) . Should be a spacious room.
- **Specify the ARO** who will receive nomination paper in addition to RO.
- Mention the **last date of filing nomination, date, time and place of scrutiny, withdrawal and date & hours of poll.**

# Public Notice-Publishing

- Public notice to be published in the morning of the date of notification well before 11 AM
- Public notice to be in English and the official language of the State.
- To be displayed on the notice board of RO, AROs and in other prominent public offices  
( O/o Panchayat Samiti, Gram Panchayat, etc.)

## Requirements for valid nomination [Sec. 33(1)]

- Form of nomination paper – Form **2A for Lok Sabha** and Form **2B for Leg. Assembly**.
- To be presented **before RO/ specified ARO only**.
- Can only be filed at the **specific place** mentioned in the public notice.
- Can be filed only between **11 AM and 3 PM** during the period for filing as per schedule notified by ECI u/s 30 of RP Act, 51.

# Continued.....

- Nomination can be filed only by **candidate** or any of the **proposers**.
- Cannot be sent by post or filed through any other person.
- Nomination to be **signed by** the **candidate** and the prescribed number of **proposers**.
- **Cannot** be filed on a **public holiday** (as defined under section 2(h) of the act)

# Proposers

- Recognized National or State Party of the State- **one Proposer**

*(Recognized Party means one of the National Parties or one of the recognized State Parties of the State concerned)*

- All other candidates (including those of registered unrecognized and even for recognized State Parties of other States)-  
**10 proposers**
- Proposers should be electors of the constituency concerned. No other qualification required

# Continued.....

- Proposer can sign papers of more than one candidates and more than one nomination paper of same candidate.
- Illiterate persons as proposers-  
their thumb Impression has to be attested by the RO/ARO or an officer authorized by ECI.

Rule 2 (2) of C.E. Rules

- Therefore Thumb Impression has to be affixed in the presence of the RO/ARO/authorized officer (an Administrative Officer not below the rank of SDO has been authorized for the purpose by ECI) .

**Honourable SC:** *Ram Dayal vs Brijraj Singh (AIR 1970 SC 110) held that attestation of TI cannot be allowed at the time of scrutiny.*

# Reserved Constituencies

- For reserved constituencies, candidates have to give a declaration specifying the caste/tribe to which he/she belongs. Such caste/tribe should be included in the list of SC/ST in that State [Sec.33 (2)]
- It is desirable to obtain certificate to prove SC/ST status.
- A person who may belong to SC/ST category in another State cannot contest from a reserved constituency in assembly election.

# Nomination..... Other provisions

- Person dismissed from an office under govt. of India/any State Govt. contesting election **within 5 years of dismissal**
  - ✓ Submit along with nomination paper, a **certificate from ECI** stating that dismissal was not on account of corruption or disloyalty to State. (Rajbahdur from Varansi – 2019)

[S. 33(3)]

- If candidate is an elector of a different constituency, certified extract of entries in the relevant roll to be submitted –

[S.33(5)]

- If not filed with nomination, this can be filed by the **time of scrutiny**

**RO to give a notice** - in the check-list in the format given, if not filed at the time of nomination.

# Certified copy of electoral roll

- No. of nomination papers that can be filed by a candidate in a constituency-

- **Maximum of four**

**Section 33(6)**

- No. of Constituencies for which one candidate can be nominated-

- **Not more than two**

**Section 33(7)**

## Other provisions / procedures

- Only one deposit is required for a candidate in a constituency.
- Oath to be made and subscribed only once.
- Similarly all other accompanying documents- only one original needed.
- If more than 4 nominations are filed, the fifth set onwards will be ignored. But, make sure this does not happen.

# Affidavits by candidate

- Candidate is required to file affidavit in Form-26
- Affidavit to be sworn before **notary public/oath commissioner/magistrate of the first class.**
- Affidavit to be typed or **written legibly and no columns to be left blank.**
- If not filed with nomination, affidavit can be filed **till 3 PM on last date of filing nomination.**
- Notice to be given (as per check list) if affidavit is not filed with nomination paper or in the event of columns left blank or for any other defect.

## Continued.....

- Copies of affidavits to be displayed on notice board of RO and also notice board of ARO if his office is in a different place.
- If office of both RO and AROs are outside the boundary of constituency, one set of copies of affidavits to be displayed in a prominent public place within constituency limits.
- If anyone files affidavit pointing out false statements in any affidavit, that also to be displayed on notice board.

## Continued.....

- Copies to be supplied to those who request for it.
- Copy to be uploaded on website of CEO within 24 hours of filing.
- If any candidate submits copies of documents such as Aadhar, Commission has directed that such documents should NOT be uploaded on the website.
- If anyone files affidavit pointing out false statements in any affidavit, that is also to be displayed on notice board.

# Amendments made to form 26

- Public Interest Foundation Vs UOI & Lok Prahari Vs UOI
- Court order:
  - ✓ Details of criminal cases to be put up in BOLD letters in form 26
  - ✓ Candidate to inform the political party about criminal cases
  - ✓ Political party to mandatorily put the details on its official website
  - ✓ Both candidate and political party to issue declaration in widely circulated newspapers in the concerned area (at least thrice after filing nomination papers). Candidates and political parties also to publish the details on TV channels on three occasions.

- Directions of Commission
  - ✓ Format C1 for candidate
  - ✓ Format C2 for party
  - ✓ Format C3- reminder by RO/ARO
  - ✓ Report also to be sent by RO in Form CA(Pl refer to ECI letter No. 3/4/2020/SDR-Vol III, dated 19-03-2020.
  
- Declaration both in newspapers and TV channels
- Please refer to ECI circular letter No. 3/4/2017/Vol II, dated 10-10-2018.
- No Dues certificate to be attached to the Affidavit: If the candidate has been in occupation of Government accommodation anytime in last 10 years-

## Security Deposit (Section 34)

- Rs.25,000 for Lok Sabha election. & Rs. 10,000 for Assembly election.
- Half the amount for SC/ST candidates (even in general constituencies).
- To be made either in cash before the RO/ARO or in RBI/ Treasury-  
Not acceptable by cheque or Bank draft.
- Deposit to be made when filing the first set of nomination or prior to it.
- No question of submitting at the time of Scrutiny.

# Forms “A” and “B” by Pol. Parties

- Paragraph 13 of Symbols Order provides requirements for treating a candidate as a candidate set up by political party.
- Candidate to declare party affiliation in Part III of nomination paper.
- Forms A and B to be filed latest by 3 PM on the last day of filing nomination.
- Both Forms A and B to be submitted to RO.
- Forms A & B to be signed in original. Photocopy not acceptable. Form received through Fax / e-mail also not acceptable.

# Important issues that may arise

- **Party wishes to change the name of candidate:**

Issue fresh Form B (by 3 PM on last date of filing nomination) in favour of 2<sup>nd</sup> candidate and **specifically rescinding** the notice given earlier in favour of the first candidate.

- **Form B from the same party issued in favour of more than one candidate but no cancellation/rescinding of Form B for any candidate:**

One who filed **nomination paper first** shall be treated as the candidate sponsored by that Party

(Para 13A of Symbols Order)

# Preliminary Examination

- Preliminary examination from technical standpoint at the time of receiving nomination paper.

[ S. 33(4) ]

- Entries relating to electoral roll details to be compared.
- Clerical errors in names, Sl. No. etc. can be allowed to be corrected or even ignored.
- Defects, if any, to be pointed out to candidate.

# Action by RO on receipt of nomination

- Enter **date and time** of filing nomination and put **initials** thereon.
- Give **running serial number** to nomination papers. If more than one set of nomination is filed by one candidate, give serial number in the order in which they are presented/dealt with.
- Clearly **mention the presenter**- Candidate/ Proposer with name

- Examine if affidavits, duly filled, signed and notarised, have been attached. If not enter discrepancies in check list.
- Examine for security deposit, reserved category certificate, extract of electoral roll(if candidate is enrolled in another AC) and Forms A and B.
- Any defect has to be pointed out in the check list.
- Also, if candidate does not make and subscribe Oath, mention to be made in check list.

# Documents to handover to Candidate/ Proposer?

- Filled up Part-VI of nomination form as an acknowledgement.
- Fill up check list and handover a copy to candidate/proposer filing nomination. - Original in file.
- Acknowledgement of Oath.
- For documents not filed or found defective in any manner, specific mention should be made in the second part of checklist as notice to candidate for filing the same within prescribed time limit.

# Other documents to be handed over to candidates:

- Notice of time, date and venue of allotment of symbol.
- Register prescribed for maintaining day-to-day account of election expenses, along with all other connected documents.
- Extract of Sec 127A of RPA 51 (printing of pamphlets, etc).
- Letter inviting attention to various expenditure related directions- See annexure 19 of RO Manual -Expenditure maintenance register
- Notice in format C3 (If applicable)

# What to Obtain from Candidate/Proposer?

- Obtain signature on both copies of the checklist
- Obtain an acknowledgment from the candidate/proposer filing the nomination for all documents handed over.
- Obtain specimen signature of candidate.
- Ask the candidate to write down his name in the language in which ballot paper is to be printed.

## Continued.....

- Contact details
- Details of the separate bank account- Opened ideally one day before filing nomination
- Photograph, as per specifications, along with declaration to that effect ( for ballot paper).

# Oath or Affirmation under the Constitution of India

[Articles 84 (a) and 173 (a)]

- Every candidate has to **make and subscribe** either an oath in the name of God or a solemn affirmation **in the form prescribed** for the purpose in the Third Schedule to the Constitution.
- The real purpose of this oath or affirmation is that the person undertakes to bear true faith and allegiance to the Constitution and uphold the sovereignty and integrity of India.

- **Persons before whom oath or affirmation to be made :**

- ✓ Returning Officer or any of the Assistant Returning Officers of the constituency.

- ✓ All stipendiary Magistrates of the first class, District Judges and persons belonging to judicial service of the State.

- ✓ Superintendent of the prison if the candidate is confined in a prison.

- ✓ Commandant of the detention camp if under preventive detention.
- ✓ Medical Superintendent/Medical Practitioner in case candidate is confined to bed.
- ✓ Diplomatic or Consular Representative of India in the country, if the candidate is out of India.
- ✓ Any other person nominated by the Election Commission, on application made to it.

- Oath or Affirmation – when to be made?

- ✓ Oath or affirmation must be made **after** the nomination paper has been submitted to RO.
- ✓ It must be made **before** the commencement of the date of scrutiny of nominations, i.e., latest by mid-night of the date preceding the date of scrutiny.

# Videography of Nomination Process

- Process of filing nomination to be videographed.
- Continuous/unedited Videography in the last hour of filing nomination (2 PM onwards on the last day )
- Keep all papers securely. Avoid misplacing.
- RO/Specified ARO to be available at the place of filing throughout the nomination filing period.

# Notice of nomination

- RO to publish on Notice Board a notice in **FORM-3A** regarding nominations received up to 3 PM of each day during the nomination filing period.
- If the Specified ARO receives nomination in a different place such ARO should also publish such notice in FORM-3A and keep the RO informed on a daily basis.

## List of nominated candidates

- After 3 PM on last day of filing, list of nominated candidates to be prepared, as per prescribed format
- Candidates to be classified in 3 categories-
  - (i) Recognized parties, (ii) Registered unrecognized parties and (iii) independents.
- Within each category, names of candidates shall be arranged alphabetically.
- Recognized parties of other States will be included in the 2<sup>nd</sup> category (registered unrecognized party)

## Presentation of Nomination Papers- Restrictions

- A maximum of **three vehicles only** can be allowed in the convoy of a candidate to come within a periphery of 100 meters when he comes to file nomination paper, and
- The maximum **number of persons** who can be allowed to enter the room on behalf of a candidate for filing nomination is **five (including the candidate)**.

# Let's Recap

- Notification:
  - ✓ Issued by whom?
  - ✓ Role of RO?
- Nomination form format for AC
- Who can file nomination?
- Number of proposers?
  - ✓ Recognised party candidate?
  - ✓ Registered unrecognised party?
  - ✓ Recognised in other state?
  - ✓ Independents?

- Proposer can be from different constituency? T/F
- Time frame for documents/events
  - ✓ Nomination papers?
  - ✓ Affidavit
  - ✓ Security deposit
  - ✓ Form A & B
  - ✓ Oath/Affirmation
- Number of vehicles permitted within 100m?
- Number of persons permitted inside RO/ARO room?

*Thank you*