

NOMINATION TO WITHDRAWAL

1. Nomination, 2. Qualification & Disqualification, 3. Scrutiny
4. Withdrawal and Symbol allotment

IIIDEM

Election Commission of India



Notification

- Filing of nomination starts on the date of notification by the President/Governor under Section 14/15 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.
- Section 149 & 150 – Notification for Bye-election is issued by Election Commission



Case where the election notification was rescinded on account of improper public Notice.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) .
- Specify the ARO who will receive nomination paper in addition to RO. In normal circumstances, only one ARO should be so specified.
- 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 **11:00 AM** (time for commencement of nomination filing).
- Notice shall be in English and official language of the State.
- Notice to be displayed on the notice board of RO, AROs and in other prominent public offices. (O/o Panchayat Samiti, Gram Panchayat, etc.)



FORM 1

NOTICE OF ELECTION

Notice is hereby given that :-

(1) an election is to be held of a member to the House of the People
/.....

Legislative Assembly/.....Legislative Council in the
..... constituency;

OR



FORM 1

(1) an election is to be held of a member(s) to the Council of State / legislative Council/ by the elected members of theLegislative Assembly.

(2) nomination papers may be delivered by a candidate or any of his proposer to the Returning Officer or to Assistant Returning Officer, at between 11 A.M. and 3 P.M. on any day (other than public holiday) not later than the



FORM 1 Contd..

(3) forms of nomination paper may be obtained at the place and times aforesaid;

(4) nomination paper will be taken up for scrutiny at

..... on

..... at

(5) notice of withdrawal of candidature may be delivered either by a candidate or his proposer or his election agent 2[who has been authorised in writing by the candidate to deliver it] to either of the officers specified in paragraph (2) above at his office before 3 P.M. on the

.....



FORM 1 Contd..

(6) in the event of the election being contested, the poll will be taken on between the hours of and...
.....

Place

Date

.....Returning Officer.]



Restriction on Number of vehicles and people at the time of Filing of Nominations



- ✓ Maximum **three vehicles** in the convoy of a candidate or accompanying him to be allowed to come within a periphery of 100 meters of ROs/AROs Office
- ✓ Maximum **five persons** (including the candidate) can be allowed to enter the Office of ROs/AROs at the time of filing nomination.
- ✓ Any violation of this instruction at the time of filing nomination papers will be seriously viewed by the Commission and actions will be taken against DEO/RO or such other person including candidate and or his party responsible for violation.





Instructions on Videography

- 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.





Security Deposit



- 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-***no deposit 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.



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

- Form 2B for Legislative Assembly.
- To be presented before RO/ specified ARO only.
- Can only be filed at the 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.



Requirements for valid nomination contd.

- Nomination can be filed only by candidate or any of the proposers.
- Cannot be sent by post or filed through any other person.
- To be filed only at the prescribed place(s).
- Nomination to be signed by the candidate and the prescribed number of proposers.
- Cannot be filed on a public holiday.

[Guidelines for optional facility for candidates for online data entry of personal details in Nomination Form](#)



Prescribed number of proposers

Recognized Party*	For all other candidates*
One proposer**	10 proposers**

Note :

- ✓ ***Recognized Party**-Recognized National Parties or one of the recognized State Parties of the State concerned.
- ✓ ****Proposers should be electors of the constituency concerned.**
- ✓ **# Authorized person**- Administrative Officer not below the rank of SDO authorized by ECI.

Illiterate proposers:

- ✓ Proposers' thumb Impression to be affixed in front of and attested by the RO, ARO or an officer authorized# by ECI.



Proposers-clarifications

- Under rule 2 (2) of C.E. Rules, 1961, in case of proposers who are illiterate persons, their thumb Impression has to be attested by the RO or an officer authorized by ECI.
- Therefore Thumb Impression has to be affixed in the presence of the RO or the authorized officer (an Administrative Officer not below the rank of SDO has been authorized for the purpose by ECI) .
- Form of nomination paper – [Form 2A](#) for Lok Sabha and [Form 2B](#) for Legislative Assembly maybe seen for reference.



For 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.



Other Documents to be filed with Nomination Papers

1. For a person dismissed from an office under Govt. of India/any State Govt., to contest election within 5 years of dismissal:

Submit along with nomination paper, a certificate from ECI stating that the dismissal was not on account of corruption or disloyalty to State. [S. 33(3)]

2. Candidate who 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 as per *ECI direction dated 7th February, 2019.*



Affidavits by candidate

3. Affidavit:

Candidate is required to file affidavit in Form-26 (revised vide ECI letter dated ~~7th July 2017~~ & 28-02-2019.)

The affidavit to be filed along with nomination paper or up to 3:00 pm on the last date of filing nomination.

All the columns in the affidavit must be filled in. No column should be left blank

If candidate does not have information to be filled in a column, he/she should fill – Not Applicable / Nil/Not Known

The affidavit should be typed or written legibly and neatly.



Affidavits by candidate

- ✓ affidavit has been amended as commission's order dated 28-02-2019 related to rent, electricity water and telephone.
- ✓ If candidate was/ is in occupation of Govt. accommodation for the last 10 years then he had to file additional affidavit along with no dues from concerned authorities , that has been incorporated in for 26.
- ✓ Non- furnishing of affidavit is defect of substantial character.



Clarifications on Affidavits by candidate



- ✓ 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 the affidavit has not been filed with nomination, in that case notice to be given (as per check list).

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)



Action on Affidavits

- ✓ Copy 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.
- ✓ Copies to be supplied free of cost to whoever requests for it. Copy to be uploaded on website of CEO within 24 hours of filing.
- ✓ If anyone files affidavit pointing out false statements in any affidavit, that also to be displayed on notice board.
- ✓ RO is not required to conduct enquiry into correctness of statements in the affidavits.
- ✓ [Please see ECI letter Dated 26-04-2014](#) and 24.08.2021



Directions of Commission

- ✓ Format C1 for candidate
- ✓ Format C2 for Party
- ✓ Format C3 – reminder by RO/ARO
- ✓ Format C4 – report to RO By candidates
- ✓ Format C5 – report to CEO By Party
- ✓ Format C6 – report to Commission By CEO
- ✓ Format C7 – Publication by Party
- ✓ Format C8 – report to Commission by Party
- ✓ Format CA - report to Commission by CEO & RO
Declaration both in newspapers and TV channels
No Dues certificate: Mandatory if the prospective candidate has been in occupation of Government accommodation anytime in last 10 years- Ground for rejection



Photographs of Candidates

- ✓ As per revised Form (sent vide letter dated 7th July, 2017), each candidate has to affix a photograph on the nomination paper
- ✓ Photographs of candidates is to be printed on ballot paper
- ✓ Candidates required to submit stamp size photograph.(2 cm x 2.5 cm).



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.



Forms “A” and “B” by Pol. Parties

- ✓ Paragraph 13 of Symbols Order provide requirements for treating a candidate as a candidate set up by political party.
- ✓ 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 ink in original. Photocopy not acceptable. Form received through Fax / e-mail also not acceptable.



Forms 'A' & 'B'.....

- ✓ There is provision in Form B to cancel the notice given in favour of a candidate by submitting a fresh Form B (by 3 PM on last date of filing nomination) mentioning the name of the new candidate, and **specifically rescinding** the notice given earlier in favour of the first candidate.
- ✓ If you receive Form B from the same party in favour of more than one candidate, duly signed by the authorized office-bearer, and there is no cancellation/rescinding of Form B for any candidate, then among such candidates, the one who filed **nomination paper first** shall be treated as the candidate sponsored by that Party (Para 13A of Symbols Order).



All About Oath/Affirmation

- ✓ Oath had to be made and subscribed by the candidate in person **after** the submission of nomination paper to RO and by the day before the date of scrutiny of nominations. ***(Latest by mid-night of the date preceding the date of scrutiny)***
- ✓ One oath is sufficient for all nomination papers if candidate is contesting from same house.
- ✓ Two separate oaths are required for contesting to different houses (Lok Sabha/Legislative Assembly).
- ✓ Oath to be made only after filing nomination and before the day of scrutiny



All About Oath/Affirmation-Contd

- ✓ Candidate required to make oath or affirmation in the prescribed format in person. Certificate of oath to be given to the candidate without his applying for it.
- ✓ Onus is on candidate to produce Certificate of Oath before the RO (wherever taken before a different authority).
- ✓ RO/ARO are authorized authorities before whom oath can be made.
- ✓ Oath can also be taken before certain other authorities prescribed by ECI



Authorities before whom Oath or Affirmation to be made

AUTHORITIES BEFORE WHOM OATH OR AFFIRMATION TO BE MADE

- i. RO or any of the Assistant ROs of the constituency.
- ii. All stipendiary Magistrates of the first class, District Judges and persons belonging to judicial service of the State.
- iii. Superintendent of the prison if the candidate is confined in a prison.
- iv. Commandant of the detention camp if the candidate is under preventive detention.
- v. Medical Superintendent/Medical Practitioner attending to the candidate in case candidate is admitted in hospital.



Authorities before whom Oath or Affirmation to be made-Contd

AUTHORITIES BEFORE WHOM OATH OR AFFIRMATION TO BE MADE

- vi. Diplomatic or Consular Representative of India in the country, if the candidate is out of India.
- vii. Any other person nominated by the ECI, on application made to it.

Note:

1. Certificate of oath to be given to the candidate without his applying for it.
2. If taken before a different authority-Onus is on candidate to produce Certificate of Oath before the RO



Action by RO on receipt of nomination

Step 1: Enter date & time & initials.

Step 2: Give running serial number in order of presentation.

Step 3: Fill up Part-VI of nomination form & handover to candidate/proposer as acknowledgement.

Step 4: Give a notice of time, date & venue of allotment of symbol.

Step 5: Fill up check list (See ECI letter No. 576/3/ECI/LET/FUNC/JUD/SDR/2013 dated 12th January 2017) & 07-02-2019 handover copy to candidate/proposer filing nomination.



Action by RO on receipt of nomination

Step 6: Point out defects, specifically mention documents not filed and/or found defective in any manner in the second part of checklist as notice to candidate for filing the same within prescribed time limit.

Step 7: Obtain specimen signature of candidate

Step 8: Ask candidate to write down his name in the language in which ballot paper to be printed.

Step 9: Handover to candidate/proposer-

- i. **The Register prescribed for maintaining day-to-day account of election expenses with all connected documents & obtain acknowledgment.**
- ii. **An extract of Section 127A.**

Step 10: Advise the candidate to make and subscribe oath.



Check List

Original/Duplicate

(Original to be kept with nomination paper and duplicate to be handed over to candidate)

Check List of documents in connection with filing of nomination

Name of constituency :

Name of the candidate :

Date and time of filing nomination paper:

Sl.No. of nomination paper :



Check List Contd..

Sl. No	Documents	Whether filed (write Yes/No) [if there is any defect/shortcomings in the documents, the same should be specified]
1.	Affidavit in Form 26:- <ol style="list-style-type: none"> a) Whether all columns are filled up b) If not, which are blank columns(Please specify) c) Whether the affidavit is sworn before the oath commissioner/first class magistrate/ Notary Public 	



Check List Contd..

Sl. No	Documents	Whether filed (write Yes/No) [if there is any defect/shortcomings in the documents, the same should be specified]
2.	Certified extract of electoral roll (when candidate is an elector of a different constituency)	



Check List Contd..

Sl. No	Documents	Whether filed (write Yes/No) [if there is any defect/shortcomings in the documents, the same should be specified]
3	Form A and B (applicable in the case of candidates set up by political parties)	
4	Copy of caste certificate from competent authority, if the candidate claims to belong to SC/ST)	
5	Security deposit (whether made)	
6	Oath/affirmation (whether taken)	



Check List Contd..

The following documents which have not been filed should be filed as indicated below:

(a)should be filed latest by.....

(b) Above mentioned columns in the Affidavit in Form 26 have been left blank. You must submit a revised Affidavit with columns duly filled up before the commencement of scrutiny of nominations, failing which the nomination paper will be liable to be rejected

(c) should be filed latest by.....

Received:

.....

(Signature of candidate)

.....

Signature of RO/ARO

Date & Time :

Place:



Check List Contd..

N.B.:

1. The Affidavit in **Form 26**, **Forms A & B** have to be filed latest by 3.00 P.M. on the last date of filing nominations.
2. If columns have been left blank in the affidavit in **Form 26**, this should be specified against item 1, and candidate should be asked to submit an affidavit complete in all respect, latest by the time fixed for commencement of scrutiny of nominations. Failure to submit revised affidavit complete in all respects. Even after reminder by RO will be a ground for rejection of the nomination paper.
3. Oath has to be taken after filing nomination paper and before the date fixed for scrutiny.
4. Certified extract of electoral roll can be filed up to the time of scrutiny.



Acknowledgment/Notice



- ✓ Apart from acknowledgement in Part-VI of nomination form, checklist duly filled is a further acknowledgement.
- ✓ All notices for filing various documents shall be given in checklist itself.



Other documents to be handed over to candidates



- ✓ Handover the Register prescribed for maintaining day-to-day account of election expenses, alongwith all other connected documents.
- ✓ Obtain an acknowledgment from the candidate/proposer filing the nomination.
- ✓ Handover an extract of Section 127A (printing/ publishing of pamphlets, posters etc.)



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.(sec. 35 of RP Act 1951, R.7 of CE Rules 1961)
- ✓ Where 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.
- ✓ In case more than on nomination papers by one candidate, notice must be given for all of them.



Preparation of List of nominated candidates

- ✓ To be prepared after 3 PM on last day of filing, as per format given by ECI – Handbook . Ch-V
- ✓ 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 2nd category (registered unrecognized party).
- ✓ Even if more than one candidate has claimed to be set up by the same party, all such candidate may be included in relevant category.



Nomination Process



- Arrangements inside Hall
 - Copies of latest Form – 2B
 - Copies of Form – 26
 - Clock
 - CCTV/Videography
 - Counter for Security Depoist
 - Person for checking Affidavit
 - Slips for last hour of nomination



Nomination Process



- Arrangements inside Hall –
- Other Documents - Copy of oath, [Form C-1](#) and [C-3](#), Blank copy of Affidavit, Check list, Expenditure Register, Extract Section 127A, Format of declaration of photograph of candidate, Register for obtaining specimen signature, Separate notice for indicating date and time for allotment of symbols.



Nomination Process

- Documents required with Nomination Paper :-
 - Affidavit – [From 26](#)
 - No dues Certificate (if required)
 - Security deposit proof
 - Oath certificate
 - Certified Extract of Electoral Roll
 - SC/ST certificate (desirable)
 - [Form A](#) and [Form B](#) (for party candidates)
 - Certificate form ECI under section 9 of R.P. Act – 1951 (Only for dismissed govt. servant)
 - Photograph



Nomination Process

- Affidavit - [Form 26](#) :-
- Prescribed Format
- All columns to filled up
- NA/Nil/Not Known
- Signature and Notarization
- Notice in check list
- No dues Certificates
- Criminal Antecedents
- Display and uploading of Affidavits and counter affidavits
- Wide dissemination of Affidavit

Risks Associated with General Elections

RISK No 1: Incorrect notification about designation of RO may lead to legal complications.

- It must be doubly checked that the designation of the Returning Officer in all notifications and notices is the same as notified by the Election Commission in the State Gazette.
- It may be desirable to have a new office seal made if so required.



Risks Associated with General Elections



RISK No 2: Hasty receipt of nomination papers and documents may lead to avoidable rejections later.

- Every single nomination and accompanying documents should be checked at the time of submission.
- Deficiencies, if noticed, should be communicated to the candidate/proposer in writing, mentioning specific time and date before which the said defect must be got rectified to the satisfaction of the RO.



Risks Associated with General Elections

RISK No 3: Last hour rush on last date of nomination may lead to complaints about difficulty in access.

- Adequate security should be ensured in the entire campus of the office of the Returning Officer to control people and allow smooth entry of candidates/proposers.



Risks Associated with General Elections

RISK No 4: Frivolous complaints about non-receipt of forms, though claiming to be within time.

- The watch for public view in RO's office should be checked on the last day in particular.
- Videography should be done of the proceedings in the last half an hour, with photos of the people and officers including ECI Observer present at the time of the closure, with a clear view of the watch.



Risks Associated with General Elections



RISK No 5: Undue request to permit submission of documents beyond the hour prescribed.

- The RO must scrupulously follow the statutory rules and ECI guidelines about the time-limits for submitting forms and supporting papers.



**BEYOND
PRESCRIBED
HOURS**



Risks Associated with General Elections



RISK No 6: Lack of pre-check may lead to delay at the time of scrutiny..

- Following a prescribed check-list, all nomination forms and accompanying documents like Affidavit, electoral roll extract, caste certificate where needed, security deposit receipt, etc. must be checked after the nomination time closes.



Do's during nomination process



Do's

- ✓ Double check designation of RO in all Notifications & Notices-to be same as in State Gazette by ECI.
- ✓ Carefully check the documents received with nomination papers & communicate all deficiencies in writing in the checklist.
- ✓ Keep adequate security and arrangements for last day rush and videograph the process in the last hour.
- ✓ Maintain separate file for different candidates

Do's during nomination process-Contd



Do's

- ✓ Follow statutory rules and ECI guidelines and the prescribed checklist.
- ✓ Check every Form A and B at the time of receiving nominations with respect to the office address given in the list of registered political parties issued by the Commission before every general election.
- ✓ Keep all the nomination papers and connected documents filled by a candidate together and in safe custody of RO.

Don'ts during nomination process



Don'ts

- ✓ Hasty receipt of nomination papers.
- ✓ Inadequate arrangements for last day rush.
- ✓ Improper videography of the process.
- ✓ Not following statutory rules and ECI guidelines



SCRUTINY OF NOMINATIONS



Authority: Scrutiny of Nominations

Returning Officer is the only authorized person who can do the scrutiny of nomination papers.

Exception:

- ✓ *Only under extremely rare instances of unavoidable circumstances which prevent RO from undertaking this function can one of the Assistant Returning Officers be authorized by RO in this behalf can do the scrutiny.*
- ✓ *If such situation occurs, record immediately the unavoidable reasons for such delegation as also written authority by RO in favour of one of the Assistant Returning Officers by name.*
- ✓ *Also intimate the District Election Officer about it before authorizing the ARO.*

Date, Time and Place of Scrutiny

- ✓ Date of scrutiny specified by the Commission in its programme notification and the RO has no discretion to change it;
- ✓ However, he has a discretion under the law to fix the time and place of scrutiny.
- ✓ The RO has to give notice about scrutiny both in public notice in Form-1 and also in the receipt which he has to give to each candidate in acknowledgement of receipt of nomination.





Scrutiny: A Quasi-Judicial Process

- ✓ Scrutiny of nominations is a quasi-judicial function of the RO but that does not give him the status of a Court. The enquiry into the question of validity or otherwise of a nomination paper is a summary enquiry.
- ✓ All present at time of scrutiny should be given reasonable opportunity of inspecting all nomination papers and their accompanying documents. They should not, however, be permitted to handle those papers.
- ✓ All nomination papers should be scrutinized one by one and decision accepting or rejecting should be recorded on each nomination paper separately.



Scrutiny: A Quasi-Judicial Process-Contd.



- ✓ Even if one of the nomination papers of a candidate is accepted, his remaining nomination papers must also be scrutinized individually.
- ✓ Where any objection is made against any nomination paper, RO must record his decision giving reasons for accepting or rejecting the objection.
- ✓ RO can raise objection to any nomination suo motu also.



Persons Who Can Be Present At Scrutiny Of Nominations



Candidate himself.

His election agent.

One of his proposers

One other person authorized by the candidate..

Note:

- ✓ Presence of a candidate or his representative not mandatory at the time of scrutiny.
- ✓ Even if none is present on behalf of a candidate, the nomination paper shall be scrutinized on merits and appropriate decision shall be taken.



Scrutiny: How to Conduct

- ✓ All nomination papers should be scrutinized **one by one** and decision accepting or rejecting should be recorded on each nomination paper separately.
- ✓ Even if one of the nomination papers of a candidate is accepted, his remaining nomination papers must also be scrutinized individually.
- ✓ Where any objection is made against any nomination paper, RO must record his decision giving reasons for accepting or rejecting the objection. RO can raise objection to any nomination suo motu also.



Scrutiny: How to Conduct

- ✓ If the nomination of a candidate has been objected to, he should be given reasonable opportunity of rebutting the same and, where necessary, scrutiny proceedings in relation to his nomination may be adjourned. ***Scrutiny proceedings in relation to other candidates should, however, continue.***
- ✓ Scrutiny can be adjourned maximum upto the 2nd day after the day of scrutiny which is normally the last date of withdrawal for candidatures. Scrutiny in such case has to be completed by 11 am on that day.
- ✓ If the nomination of any candidate is rejected, reasons for rejection should be recorded in brief and copy of the order should be furnished to the candidate urgently.



Grounds for Rejection of Nomination Papers

Not qualified or is disqualified on the date fixed for scrutiny of nominations;

Nomination paper not signed by candidate or subscribed by requisite number of proposers;

Requisite security deposit has not been made;

Certified extract of entry in the electoral roll not submitted, if candidate is contesting election from a different constituency;



Grounds for Rejection of Nomination Papers

If even after notice by RO to file Affidavit or fresh affidavit with all columns filled in, the same is not submitted by the candidate.

Any of the provisions of [section 33](#) not complied.

IMPORTANT NOTE:

- ✓ Nomination paper shall not be rejected on ground of defect which is not of substantial character, like, defect in declaration relating to symbols, or any other insignificant ground.
- ✓ Any wrong information in candidate's affidavits is not defect of substantial character. However, failure to furnish affidavit, even after notice by RO, is defect of substantial character entailing rejection of nomination.
- ✓ If any column is left blank in affidavit even after notice, nomination shall be rejected.



Preparation of list of validly nominated candidates

- ✓ **After the completion of scrutiny proceedings, RO should prepare a list of validly nominated candidates, i.e., candidates whose nominations have been found valid on scrutiny in FORM 4.**
- ✓ **Arrangement of names in Form 4 should be on the same lines as in the list of nominated candidates.**

STEP 1: Classification of Candidates as:

- i. Recognized National and State political parties (belonging to the state)
- ii. Registered un-recognized political parties including state parties of other states.
- iii. Independent candidates.



Preparation of list of validly nominated candidates

STEP 2: Arrangement of names in alphabetical order shall be made in each category separately.

OTHER CLARIFICATIONS:

Addition of titles:

- ✓ *No objection to the addition of any honorific, academic, hereditary, professional or any other title to the name of a candidate,*
- ✓ *However, such title should on no account be taken into consideration in the arrangement of names in alphabetical order.*



Preparation of list of validly nominated candidates

Language(s):

- ✓ **List is to be prepared in the language(s) specified in the Commission's direction dated 16-09-2008 for Assembly Constituencies and direction dated 06-02-2009 for Parliamentary Elections**
- ✓ **Category headings should not appear on the ballot papers.**



FORM 4

(See rule 8)

List of Validity Nominated Candidates Election to the*

.....

Serial	Name of candidate	Name of **father/mother/ husband]	Address candidate	@Party affiliation
1	2	3	4	5

- i. Candidates of recognized National and State Political Parties

- ii. Candidates of registered political parties (other than recognized National and State Political Parties).



FORM 4-Contd

iii. Other candidates.

_____ Place.....

Date

Returning Officer

*Appropriate particulars of the election to be inserted here. **Strike off the inappropriate alternative.

@Applicable in the case of candidates mentioned under categories (i) and (ii) above. N.B. Under Col. 1 above, the serial numbers of candidates of all the three categories shall be given consecutively and not separately for each category.]

1. Subs. by Notifn. No. S.O. 558(E), dated 9/8/96.



Follow Up Steps After Scrutiny

Note:

- ✓ Two copies of the list of validly nominated candidates should be sent to the Chief Electoral Officer by the next available post or by Fax/E-mail or by special messenger.
- ✓ One copy of the list along with an English translation should be forwarded to the Election Commission.
- ✓ The list of validly nominated candidates should be sent by you immediately on the very day on which scrutiny of all nomination papers is completed, so that it may reach the Commission before the last date for the withdrawal of candidatures.



Do's during Scrutiny of Nominations



Do's

- ✓ The RO has to be guided by his/her own judgement, based on the position of law and applicable rulings, without any apparent outside influence.
- ✓ Give reasonable opportunity and time for resolving a particular objection or deficiency. If specifically requested by a candidate/ agent, time may be granted for replying to objection, by adjourning scrutiny.
- ✓ Clarify all doubts through Legal Division of the Election Commission much before the start of scrutiny.
- ✓ Give benefit of doubt to the candidate in case of doubt.

Don'ts during Scrutiny of Nominations



Don'ts

- ✓ Under no circumstances should the RO be in telephonic consultation during the scrutiny.
- ✓ Not giving reasonable opportunity.
- ✓ Perceived non- application of mind by RO.
- ✓ Wrongful rejection of a nomination.
- ✓ No special treatment for any candidate.



QUALIFICATION & DISQUALIFICATION



Introduction

Any person aspiring to be Member of Lok Sabha/ Legislative Assembly, whether by election or by nomination, must be qualified and must not be disqualified under the Constitution or under any law for such membership.

Crucial date for determining whether a candidate is qualified or disqualified is not the date of filing nomination paper but the date fixed for the scrutiny of nominations.



Constitutional Qualifications

(Articles 84 and 173 of the Constitution)

The constitutional qualifications as per the **Articles 84 (for becoming a member of Parliament) and 173 (for becoming a member of State Legislative assembly)** of the Constitution are:

1. Citizenship of India.

2. Oath or affirmation to bear true faith and allegiance to the Constitution.

Constitutional
Qualifications

3. Minimum qualifying age.

4. Any other qualification prescribed by Parliament



All About Oath or Affirmation

Purpose of Oath:

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.***

Oath to be made by:

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.



All About Oath or Affirmation-Contd.

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.

Oath or affirmation by a candidate contesting election from more than one constituency :

- ✓ Making and subscribing of requisite oath or affirmation in one constituency is sufficient if the candidate is contesting for the same house.
- ✓ Separate Oath or affirmation is required if candidate is contesting elections both to the House of the People and to a State Legislative Assembly at a simultaneous election.



All About Oath or Affirmation-Contd.

Authorities Before Whom Oath Or Affirmation To Be Made:

- RO or any of the Assistant ROs 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 the candidate is under preventive detention.
- Medical Superintendent/Medical Practitioner attending to the candidate in case candidate is admitted in hospital.



All About Oath or Affirmation-Contd.

Authorities Before Whom Oath Or Affirmation To Be Made:

- Diplomatic or Consular Representative of India in the country, if the candidate is out of India.
- Any other person nominated by the ECI, on application made to it.

Note:

- 1. Certificate of oath to be given to the candidate without his applying for it.**
- 2. If taken before a different authority-Onus is on candidate to produce Certificate of Oath before the RO**



Age qualification-[Articles 84(3) and 173(b)]



- ✓ A person shall not be qualified to be chosen to fill a seat in the Lok Sabha/State Legislative Assembly, unless he is of 25 years of age.
- ✓ Age qualification should be fulfilled by the candidate on the date fixed for the scrutiny of nominations [section 36 (2) (a) of 1951-Act].



Statutory Qualification (Sec. 5)

Qualifications for election to a State Legislative Assembly (section- 5) :

- ✓ In the case of the constituencies reserved for SCs or STs, the candidate should be a member of any of those castes or tribes, and an elector for any Assembly Constituency in the State;
- ✓ In the case of any other constituency in any State should be an elector for any Assembly Constituency in that State.



Constitutional Disqualifications

[Articles 102 (1) & 191(1)]

The constitutional disqualifications as per the Articles 102 (1) (for becoming and being a member of Parliament) and 191(1) (for becoming and for being a member of State Legislative assembly) of the Constitution are:

Holding an Office of profit under the Government.

Unsoundness of mind

Un-discharged insolvent.

Non-citizenship of India or acknowledgement of allegiance or adherence to a foreign State.

Any other disqualification prescribed by Parliament.

Constitutional Disqualifications

Office of profit under the Government

[Articles 102 (1a) and 191(1)(a)]

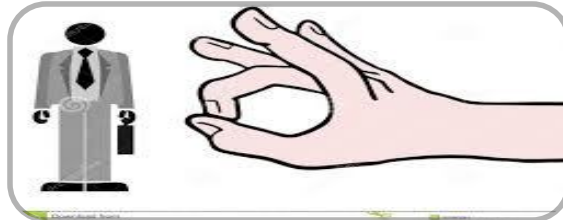
What does 'Office of profit under the Government' mean?:

All questions whether a particular person is holding an office of profit under the government or not have to be decided by applying the following tests to the facts and circumstances of each case in the light of Supreme Court decision in **Shivamurthy Swami Inamdar Vs. Agadi Sanganna Andanappa [(1971) 3 SCC 870]** and in several other cases:



Test-1

Whether the government makes the appointment



Test-2

Whether the government has the right to remove or dismiss the holder



Test-3

Whether any remuneration is paid



Office of profit under the Government [Articles 102 (1a) and 191(1)(a)]



- ✓ However, Parliament and all State Legislatures have passed Acts removing disqualification in respect of certain offices mentioned therein.
- ✓ Please refer to **Removal of Disqualification Act of the concerned state.**



Unsoundness of mind

[Articles 102 (1)(b) 191 (1) (b)]:

- ✓ **A person is disqualified if he is of unsound mind and stands so declared by a competent court.**
- ✓ **Mere allegation not sufficient – such person should be so declared by a competent court under the Indian Lunacy Act, 1912.**





Un-discharged insolvent [Articles 102 (1)(c) & 191 (1) (c)]:

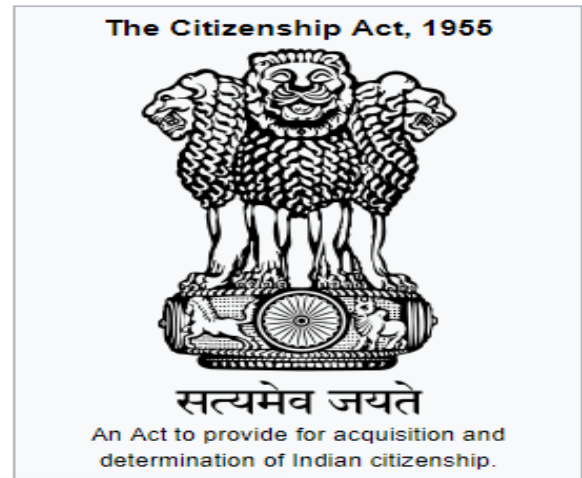
- A person **adjudged insolvent by a competent insolvency court** under the Provincial Insolvency Act, 1920 (**insolvency and bankruptcy code, 2016**) and **has not been discharged from insolvency** under the provision of that Act, **is disqualified for contesting** an election to Parliament/State Legislature.
- Mere commission of acts of insolvency not a ground for disqualification.
- Disqualification on this account ceases to be operative, if the insolvent is discharged from insolvency by the competent court.



Non-citizenship of India or acknowledgement of allegiance or adherence to a foreign State [Articles 102(1) (d) and 191 (1) (d)]:



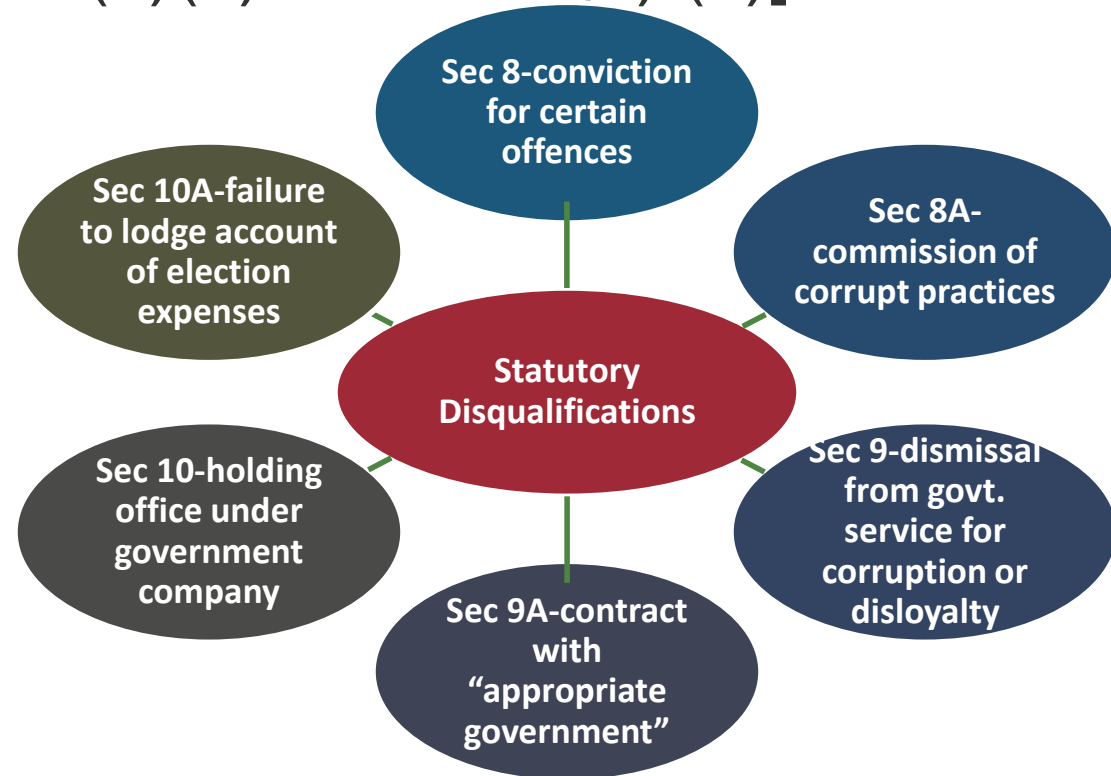
- Citizenship of India a fundamental and essential qualification – additionally a person shall be disqualified for being chosen as, and also for being a Member of Parliament/State Legislature if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State or is under any acknowledgement of allegiance or adherence to a foreign State.



Statutory disqualifications

[Articles 102(1)(e) and 191 (1) (e)]

Parliament is empowered to make statutory laws prescribing disqualifications for membership for both Parliament and State Legislatures.





Disqualification on conviction for certain offences (s 8)

- ✓ Section 8 details the offences the conviction for which leads to disqualification.

Conviction by Trial Court attracts disqualification.

Release on bail does not remove disqualification, unless conviction is also stayed during pendency of appeal.



Disqualification on conviction for certain offences (s 8)

- I. Disqualification commences from date of conviction, and shall continue during the period of imprisonment till further period of six years since release from prison.
- II. Offences and period of imprisonment for disqualification -
 - (a) On conviction for offences mentioned u/s8(1)-Disqualification for six years even if there is no sentence of imprisonment.
 - (b) On conviction, for offences mentioned u/s 8(2) – Disqualification only if there is sentence or imprisonment for minimum 6 months
 - (c) On conviction for any other offences (Sec 8(3)) minimum imprisonment of 2 years only will result in disqualification



Disqualification on conviction for certain offences (s 8)

- III. Release on bail does not remove disqualification unless conviction is also stayed during pendency of appeal
- IV. In case of conviction for more than one offence in a common trial and with the sentences of imprisonment to run consecutively, for the purposes of Sec. 8(3), the period of sentence of imprisonment for each offence should be added and if the total length of time is two years or more, the convicted person shall be disqualified u/s 8(3) of RP Act, 1951.



Disqualification on conviction for certain offences (s 8A)



**Only those persons are disqualified
whose list is circulated by ECI from time
to time.**





Disqualification for dismissal from government service for corruption or disloyalty (s 9)



Dismissal from
Govt. service

- A candidate dismissed from government service within the last five years must produce a certificate from ECI that he was not dismissed for corruption or disloyalty

Filing of
certificate

- Such certificate must be filed with the nomination paper
- Otherwise nomination shall be rejected [Section 33(3)]



Disqualification for contract with appropriate government (s 9A)

‘Appropriate government’ means Central Government in the case of election to Parliament, and State Government in the case of election to State Legislature

Contract should be subsisting on the date of scrutiny of nominations;

Contract should be either for supply of goods to the govt or for execution of works.

Contract should be with ‘appropriate government’;



Disqualification for holding office under government company (s 10)

Who

Who can be disqualified under Sec 10

- Only Secretary, Manager or Managing Agent of government company is disqualified

What

What is 'Government company'

- 'Government company' means any company, corporation, etc., in which appropriate government has not less than 25% share and **does not** include cooperative society.

What

What is 'Appropriate Government'

- 'Appropriate government' means Central Government in the case of election to Parliament, and State Government in the case of election to State Legislature.

Disqualification for failure to lodge account of election expenses (s 10A)

- ✓ Only those persons are disqualified whose list is circulated by ECI from time to time.
- ✓ Disqualification U/s 10A is for specific period of 3 years. Pl. go through the list of disqualified persons in respect of your State carefully.





Risks Associated with General Elections

Risk Matrix for Qualification and Disqualification

Identified Risk	Lack of pre-check	Apparent consultation at scrutiny time
Consequences	Leads to delay at the time of scrutiny	Leads to avoidable complaints
Mitigation Measures/ Action points	Following a prescribed check-list, all nomination forms and accompanying documents like Affidavit, electoral roll extract, caste certificate where needed, security deposit receipt, etc. must be checked after the nomination time closes.	Each and every case of doubt must be got clarified through Legal Division of the ECI much before the start of scrutiny. Under no circumstances should the RO be in telephonic consultation during the scrutiny.



Risks Associated with General Elections

Risk Matrix for Qualification and Disqualification

Identified Risk	Not giving reasonable opportunity	Wrongful rejection of a nomination
Consequences	Leads to avoidable election petitions.	Can become a valid ground for setting aside the whole election.
Mitigation Measures/ Action points	Even when the RO is very clear that there is no need to give time for resolving a particular objection or deficiency, it is prudent to give some reasonable opportunity, if specifically requested by a candidate/ agent.	After doing adequate scrutiny and analysis, in case of any doubt, the guiding principle should be to give the benefit of doubt to the candidate, as wrongful acceptance may not vitiate an election, but wrongful rejection can certainly become a ground for challenging the election.



Risks Associated with General Elections

Risk Matrix for Qualification and Disqualification

Identified Risk	Perceived non- application of mind
Consequences	Can lead to election petition and also be a ground for doubting the validity of election.
Mitigation Measures/ Action points	<p>The RO may consult the Legal Division of the ECI, or the office of the CEO or the Observer present on the occasion, but he/she must apply his/her own mind on the facts and circumstances of the matter in question and arrive at a reasoned conclusion, with a speaking order, without any mention of such extraneous consultations.</p> <p>The RO has to be guided by his/her own judgement, based on the position of law and applicable rulings, without any apparent influence of outside opinion.</p>



WITHDRAWAL OF NOMINATION



What will know

- Relevant legal provisions
- Who can withdraw?
- When withdrawal can be made ? i.e. Period for withdrawal of candidature ?
- How withdrawal can be made ?
- Who can submit notice of withdrawal ?
- Whether notice once given can be taken back?
- Steps to follow once Notice is received.
- What if withdrawal is not accepted?
- Preparation of List of contesting candidate (Form 7A)



Relevant legal provisions

- **Withdrawal of candidature**
 - Section 37 of the Representation of the People Act, 1951
 - Rule 9 of the Conduct of Election Rules, 1961
 - Form 5 , appended to the Conduct of Election Rules, 1961
 - Form 6, appended to the Conduct of Election Rules, 1961
- **Preparation of list of contesting candidate**
 - Section 38 of the Representation of the People Act, 1951
 - Rule 10 of the Conduct of Election Rules, 1961
 - Form 7A, appended to the Conduct of Election Rules, 1961



Who & When

- **Validly nominated candidate**
- **After Scrutiny process is over and before 3 o'clock** in the afternoon of the **last date fixed for such withdrawal.**
- **Not on public holiday.**
- On any intervening day during **normal working hours of the Office of RO** and **not necessarily upto 3.00 pm** on those days.
- Any withdrawal **after the last hour is invalid** and has no legal effect may withdraw his candidature.
- No provision for retirement from contest after last date fixed for withdrawals;



How is notice of withdrawal given by candidate



- In **form -5**, Signed by the candidate.
- To be submitted **only in person** by-
 - The candidate.
 - any of his proposers.
 - Election agent of the candidate.
- Between working hours and latest by 3 pm on the last date for withdrawal.
- if notice is submitted by Proposers or election agent then alongwith the withdrawal notice there **must be written authorization letter from the candidate** authorizing the proposer or the election agent to submit the notice.
- Notice of withdrawal of candidature is irrevocable.



Steps to follow once form-5 is received



NOTE: A VALID WITHDRAWAL CANNOT BE CANCELLED & IS IRREVOCABLE.

Check the validly received withdrawal form-5.

Handover the filled detachable receipt towards the end of the form to the person who

Fill in the other particulars in the notice of withdrawal below the signature of the candidate

A Valid notice of withdrawal has to be published as notice thereof in Form 6 on RO notice board.

Case Study

- Mr. x is a validly nominated candidate. Mr.Y is a prominent personality in the area and known to have worked for Mr. X for the past 20 years. He is not his election agent nor proposer. Today is the last date for withdrawal of candidature but Mr. X has gone far in the State for canvassing purposes. He makes a telephone call to you (RO) that he intends to withdraw his candidature and is sending Mr. Y to deliver notice of withdrawal of his candidature in Form 5 duly signed by the him (Mr. X) in original.

Question : What will you Do as a R.O.





Instructions on drawing list of contesting candidates



- ✓ Allotment of symbols has to be made before drawing the list of contesting candidates. Such list is prepared in [Form 7A](#)
- ✓ At an election to House of Parliament, the list is published in the Gazette of India and is also re-published in the official gazette of state concerned.
- ✓ For any election to a **state legislature**, it is published in the **official Gazette of the State** concerned.
- ✓ Copy of the list is to be furnished to each of the contesting candidates besides displaying it in the notice board and copies sent to Election Commission of India and CEO.
- ✓ Copy is also required to be displayed outside Polling Stations on the day of poll.

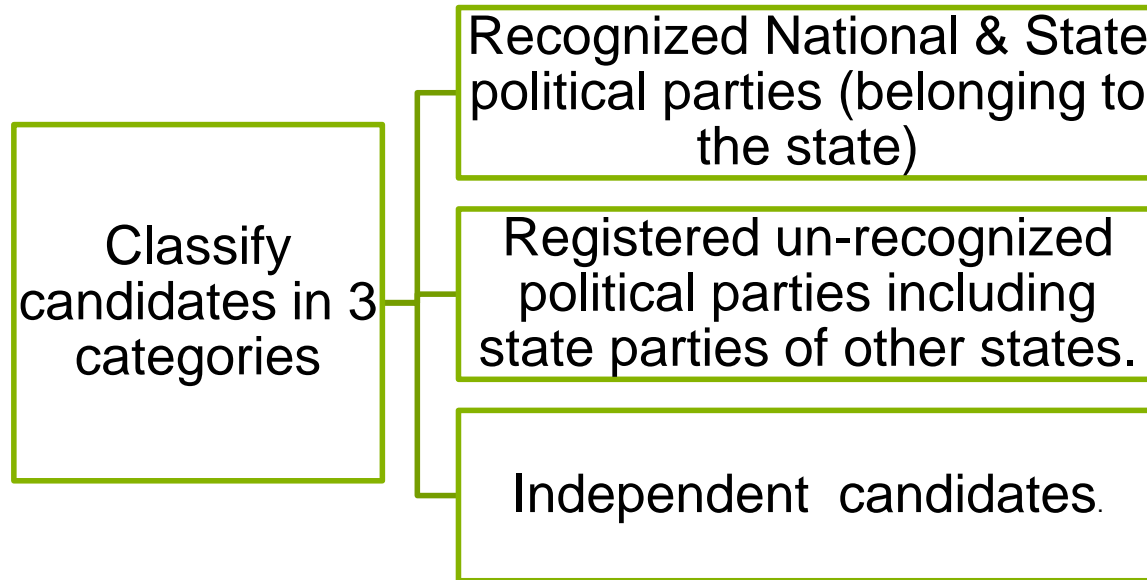
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Instructions on drawing list of contesting candidates



Step 1: Classification of candidates.





Instructions on drawing list of contesting candidates



Step 2: Arrangement of names shall be done in alphabetical order of names in each category separately; but serial numbers of names shall be run-on.

- ✓ List is to be prepared in the language(s) specified in the Commission's direction dated 16-09-2008 for Assembly Constituencies and direction dated 06-02-2009 for Parliamentary Elections
- ✓ Such determination shall be made with reference to the first letter of the name of the candidate as given by him in his nomination paper irrespective of whether the name given is the proper name or surname. Initials prefixed to a name shall be ignored.
- ✓ Election Commission has directed that in cases of same names of candidates, for distinguishing the names, "S/o-,D/o-,W/o- " shall be added to the name of the candidates concerned. In such case the arrangement of names of such candidates will be with reference to the distinguishing names of the candidates if in same category.



Instructions on drawing list of contesting candidates



Other Clarifications:

- ✓ No objection to the addition of any honorific, academic, hereditary, professional or any other title to the name of a candidate,
- ✓ However, such title should on no account be taken into consideration in the arrangement of names in alphabetical order.
- ✓ The Commission has directed that photographs of candidates shall also be printed against their names in Form-7A or 7B. ([see ECI letter No. 576/3/ /2017/SDR/ dated 18th October 2017](#))
- ✓ Category headings should not appear on the ballot papers.

Preparation of list of contesting candidates.

Allot symbols first

- Allotment of symbols has to be made before drawing the list of contesting candidates

Prepare in form 7A

- In Form 7A.

Arrangement of names

- To be in accordance with the instructions as mentioned in the previous section.

Publishing of the list

- For election to House of Parliament -the Gazette of India and is also re-published in the official gazette of state concerned.
- For election to a state legislature-official Gazette of the State concerned.

Candidate Permitted To Show His Name by Which Popularly Known .

- ✓ Normally, the name of each candidate in the list of validly nominated candidates shall be shown as it appears in his nomination paper (Rule 8(2), 1961-Rules).
- ✓ If a candidate considers that his name is incorrectly spelt or is otherwise incorrectly shown in his nomination paper or is different from the name by which he is popularly known, he may furnish in writing to the RO, the proper form and spelling of his name and the RO shall, if satisfied as to the genuineness of the request, make the necessary correction or alteration in the name of the candidate in the list of validly nominated candidates and also adopt that form and spelling in the list of contesting candidates.



Candidate Permitted To Show His Name by Which Population Known



- ✓ Request for correction or alteration must be made to the RO before preparation of the list of contesting candidates.
- ✓ Any request after this not to be entertained.
- ✓ Further, in order to be satisfied about the genuineness of the request, he can require the candidate to produce such evidence in support of the request as may be considered appropriate by him.



Follow Up Steps After Preparation Of The List Of Contesting Candidates.



Distribution

- Copy of the list is to be furnished to each of the contesting candidate.
- Design of the symbol allotted to the candidate also to be given to the candidate concerned.

Display of Form 7A

- At the notice board
- Outside Polling Stations on the day of poll.

Official distribution

- Copies sent to Election Commission of India and CEO.

Suggested reading materials

- Returning Officers Handbook
- Representation of the People Act, 1951
- Conduct of Election Rules, 1961
- Instructions of the Commission's uploaded in Commission's website at eci.nic.in- recent instructions



*Thank
you*

