



The Model Code of Conduct

IIIDEM
Election Commission of India

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What is Model Code of Conduct

- A **set of norms** evolved with the consensus of political parties and **enforced by the ECI**.
- Helps ECI to conduct free and fair elections.
- Main objective is to provide a **level playing field for all parties and contesting candidates** during the elections.

- ✓ The general perception about MCC is that **the code is self-regulatory** and given to themselves by the political parties but the fact is that **its violation largely attracts penal action.**
- ✓ Further, **ECI is empowered** under para 16A of the Election Symbols (Reservation and Allotment) Order, 1968 either **to suspend or withdraw the recognition of party** after giving that party a reasonable opportunity to defend itself in the event of violation of Model Code of Conduct.

Enforcement of MCC

- **Duration of application-**

- ✓ Comes into operation with immediate effect **after announcement of election** schedule by ECI.
- ✓ Remains enforceable from date of announcement of election **till completion of election process.**
- ✓ **Date of announcement of election program** cannot be more than 3 weeks period anterior to **date of notification**, as per agreement reached between the Union Govt. and ECI on 16.04.2001.

- **Extent of Application-**

- ✓ During general election to House of People- Entire country
- ✓ During general election to State Assembly- State concerned

- ✓ During **bye-election** – **District** in which AC/PC going to bye-poll lies
- **Who are Covered-** All Organization/ Committees/ Corporation/ Commissions etc. **funded wholly or partially by** Central Government/State Government.
- **Whether election related campaign activities undertaken by persons other than political parties and candidates are covered under MCC-**
- *ECI has laid down the following in this context:*
 - ✓ Nobody should invoke **religion or religious grounds in any manner**;
 - ✓ **Nobody** should indulge in any activities or make any statement that would **amount to attack on personal life of any person**;
 - ✓ When persons and organizations seek permission to hold **public programmes**, they should be asked to give a declaration/undertaking; such programmes should be **closely monitored through videography**;

Legal Status of MCC

- MCC is **not enforceable by law**. However, certain provisions of the MCC have **corresponding provisions in** statutes such as **IPC 1860, CrPC 1973 and RPA 1951**.
- The following malpractices mentioned in MCC are listed as **'corrupt practices'** and **'electoral offences'** in the **IPC and the RPA, 1951:-**
 - ✓ Indulgence in any activity which may **aggravate existing differences or create mutual hatred or cause tension between different castes and communities, religious or linguistic-** *a corrupt practice under Section 123 (3A) of RPA, 1951.*

- ✓ Appeal to caste or communal feeling for securing votes and **use of places of worship as forum for election propaganda**- both a corrupt practice and an electoral offence under **Section 123 (3) and Section 125 of RPA ,1951**, respectively.
- ✓ **Bribery to voters**- both a corrupt practice and an electoral offence under **Section 123 (1) of RPA, 1951 and Section 171B of IPC**, respectively.
- ✓ **Intimidation of voters**- an electoral offence under **Section 135A (C) of RPA, 1951**.
- ✓ **Impersonation of voters**- an electoral offence under **Section 171D of IPC**.
- ✓ **Canvassing within 100 meters of polling stations**- an electoral offence under **Section 130 of RPA, 1951**.
- ✓ **Holding of public meetings** during the period of **48 hours ending** with the hour fixed for the close of the poll - an electoral offence under **Section 126 (1) of RPA, 1951**.

- ✓ **Transport and conveyance of voters to and from polling stations** - *both a corrupt practice and an electoral offence under S 123 (5) and S 133 of RPA, 1951, respectively.*(PWD & COVID Patient)
- ✓ **Creating obstruction in or breaking up meetings and processions of one political party by workers of other parties** OR creating disturbances at public meetings of one political party by workers or sympathizers of other political parties by putting questions orally or in writing or by distributing leaflets of their own party OR taking out processions by one party along places at which meetings are held by another party OR **removing posters** of one party by workers of another party is an *electoral offence under S 127 of RPA, 1951.*
- ✓ **Serving or distributing liquor on polling day and during the forty eight hours preceding it**- *an electoral offence under S 135 (c) of RPA, 1951.*

MCC: ECI's Jurisdiction

- ECI functions as a **quasi-judicial body** in the matter related to election and election disputes. **However, its decision is subject to Judicial Review by High Courts and the Supreme Court while acting on election petitions.**
- By necessary implication, **the decision of ECI on the violation of MCC cannot be challenged in High Court and Supreme Court during subsistence of election process but can be challenged in election petition after declaration of election result.**

Broad areas of application of MCC

- MCC for Party in Power

- **Visits-**

- ✓ No **minister** will mix his official travelling with personal visit.
- ✓ No **govt. official** shall be called to attend **any private meeting by the minister.**
- ✓ The Ministers have been permitted to take **one non-gazetted official** to accompany them during their private visits to attend to urgent official work.
- ✓ The CEO shall be kept informed, in advance, of visits proposed to be undertaken by any minister(s) of the Central govt by the DEO. CEO shall communicate it to the Commission.

- ✓ No **arrangements** on private meetings by Government servant.
- ✓ **Expenses** on private meetings/journeys will be borne privately.
- ✓ Ban on use of **official vehicles/pilot car** for campaigning.
- ✓ PM is exempted from above restrictions.
- ✓ Meetings/Tours on emergency situations in Constituency -allowed.

➤ **Announcement of Projects-**

- ✓ **Announcement of new project/programme/financial grant which have effect of influencing the voters** is prohibited.
- ✓ Following types of existing works can be continued without reference to the Commission.
 - ❖ Work projects already started on ground before MCC, after obtaining necessary sanction,
 - ❖ Benefits to beneficiaries already identified by name, under schemes like MGNREGA, etc.
 - ❖ Release of amount/remaining amount of the completed project,
- ✓ Commission's prior approval needed for announcement of relief programmes.
- ✓ Emergency relief work can be taken up.

➤ **Administrative Matters-**

- ✓ Regular recruitment/promotion through UPSC/SSC- allowed.
- ✓ Regular promotions on the basis of DPCs permitted.
- ✓ Prior clearance required for recruitment through non-statutory bodies.

➤ **Publicity**

- ✓ No hoarding/advertisement **at the cost of public exchequer**, though there is no objection to publication of photographs/messages related to departed leaders.

- The Govt. advertisements of various kinds including the ones on accomplishments and achievements on special occasions like Republic Day, Independence day, etc., shall be regulated as follows:-
 - ✓ Advertisement of general nature in connection with specific occasions of importance may be published. However, such publishing shall be restricted to the dates coinciding with the special occasion only, and it shall not be published on other days.
 - ✓ The advertisement shall not bear photographs of any Minister and other political functionaries.
- All references to Ministers, Politicians or Political Parties available on such State Government /Central Government 's official websites, shall be taken off/purged of.

• MCC for Political Parties/Candidates in general

- ✓ Criticism of other parties/candidates shall be confined to policies/programmes/past record,
- ✓ No criticism of private life/unverified allegation,
- ✓ No appeal to caste/communal feelings,
- ✓ Corrupt practices like bribery, intimidation, impersonation, canvassing within 100 meters of polling stations, holding public meetings during the period of 48 hours, transport/conveyance of voters to and fro polling stations should be avoided,
- ✓ No picketing/demonstration in front of houses of individuals,
- ✓ No obstruction in meetings/processions organized by other parties.

- ✓ Restriction on use of official vehicles for campaigning ,
- ✓ Only three vehicles will be allowed within periphery of 100 meters of RO/ARO office.
- ✓ Each contesting candidates will be permitted only three vehicles on the poll day.
- ✓ No limit for own vehicles which a candidate may use for electioneering purpose though, he has to furnish details of all such vehicles to DEO, to enable expenditure observer to check expenditure.
- ✓ Vehicles deployed for election campaigning by candidate should not be requisitioned by district administration.
- ✓ Recognized political parties may be given permission for one vehicle per 25 ACs for distribution of publicity materials to their offices.

• Star Campaigners

- ✓ If any star campaigner is issued notice for violation of MCC, notice will also be issued to political party concerned,
- ✓ Political party is supposed to brief its star campaigner to ensure compliance of MCC,
- ✓ Campaign of star campaigner is to be meticulously tracked by CEO/DEO/RO/Observer,
- ✓ Any violation to be reported to the Commission immediately for follow up at the level of the Commission in order to give visibility to the action taken against star campaigner,
- ✓ CEO/DEO/RO to maintain party wise register with details of MCC violation cases by star campaigners and action taken against them,
- ✓ These details are to be put in public domain with special attention to media for deterrence for the candidates/political party against indulging in any violation,

• Election Manifestos

- ✓ SC maintained in Subrahmaniam Balaji that though election manifesto cannot be construed as corrupt practice under Section 123. However, as distribution of freebies bound to influence people,
- ✓ The court directed to the Commission to frame guidelines under MCC for election manifestos,
- ✓ The Commission's guidelines are –
 - Election Manifestos shall not contain anything repugnant to principles and ideals of Constitution and to be consistent with letter and spirit of MCC,
 - Political party should avoid promises for welfare measures. Trust of voters should be sought only on those promises which are possible to be fulfilled,
 - Manifesto to reflect rationale for promises and broadly indicate wage and means to meet financial requirements,
- ✓ Manifesto shall not be released during silence period,

• MCC on Government Officials

✓ Transfer/Posting

- Ban on transfer of officials involved in election work in any capacity without Commission's prior approval,
- **Officers not allowed to continue in present posting within the district if (district here means revenue district and not election district or police district) –**
 - (i) If she/he is posted in her/his home district;
 - (ii) If she/he has completed three years in that district during last four years or would be completing 3 years on or before the last day of the month in which the tenure of the house is due to expire, for which general election is done.

- ❖ These instructions cover ROs/AROs and other officers viz. Deputy/Assistant Collectors, SDM, *Tehsildars* and BDOs.
- ❖ Even IAS/PCS who do not fall under ambit of district administration viz. officers posted in municipal or development authorities are covered under this policy.
- ❖ Officers appointed as Sector Officers, though directly involved in election duties will not be covered under these instructions as their duties are such that they are deployed in field duties where their knowledge of the area/terrain is crucial to their effective performance.
- ❖ As far as officer in the Police Department are concerned, these instructions shall be applicable to the Sub-Divisional Head of Police, Dy.SPs/Circle Officers, Inspectors, Sub-Inspectors or equivalent ranks posted in the field within the Assembly Constituency Limit.
- ❖ Police Sub-Inspectors if he is in-charge of Thana, who have completed 03 years period should be transferred out to a police sub-division which does not fall in the same AC. If that is not possible due to small size of districts, then he should be posted out of the district.

- ***Categories of officers not covered under transfer policy-***
 - ✓ Officers posted in state headquarters of the department.
 - ✓ Any officer who is due to retire within coming six months.
 - ✓ No officer shall be associated with election related work if a criminal case is pending in any Court of Law or against whom Commission has recommended disciplinary action or who have been charged for any lapse in any election or election related work in the past.
 - ✓ Officers not directly connected with elections (like, doctors, engineers, teachers etc.)
 - ✓ Officers appointed as sector officer/zonal magistrates.
 - ✓ DEO to collect declaration regarding transfer policy from election related work.

• Meetings

- ✓ No video conferencing with Minister of Union/State Government.
- ✓ Only in event of natural calamity of significant scale, VCs are allowed with certain conditions such as :
 - ❖ Prior approval from CEO/Commission
 - ❖ Only DM or senior officers to attend
 - ❖ No issue other than the natural calamity to be discussed
 - ❖ No publicity
 - ❖ No media attention
 - ❖ Proceedings to be recorded and copy of the same to be given to CEO
- Restriction on tour/station leave whose spouse are active in politics.

• MCC on other Public Servants/Heads of Autonomous Bodies

- ✓ The Commission has directed that except in emergence situation, members of the Commissions/Boards to a poll going state may be deferred,
- ✓ In unavoidable situation, if visits to such states is necessary, CEO to be intimated,
- ✓ The members are to ensure that no political activity such as meeting with politicians/ministers or holding public hearing etc. is undertaken,
- ✓ Any proposal for appointment of members to be cleared from the Commission,
- ✓ The Commission has taken serious view on various instances of MCC violation by such dignitaries.

MCC on NGOs/Persons other than Political Parties/Candidates

- ✓ The Commission has been receiving complaints against various social, cultural or religious organizations about making appeals to electors amounting to election campaigns in favour of a particular candidate/political party by holding events.
- ✓ The Commission has laid down following guidelines incase of such NGOs-
 - ❖ Nobody should invoke, in any activity to create disharmony among different classes,
 - ❖ Nobody should indulge in any activity/make any statement to attack personal life of any person,
 - ❖ Prior permission to be taken to hold such public programmes,
 - ❖ District administration to closely monitor such public programme through videography,
 - ❖ Expenditure on such programmes to be monitored under Section 171H of IPC

Use/Requisition of Vehicles (Section 161)

- ✓ Exemption from Requisition –
 - Vehicles being lawfully used by candidate/agent.
 - Vehicles belonging to wildlife sanctuaries/national parks/BSNL/AIR/DD
 - Vehicles of WHO/UNICEF/UNO Organs
- ✓ Ban on use of official vehicles by political functionaries-
- ✓ Official vehicles means all vehicles belonging to central government, state government, PSUs of central/state government, local bodies, marketing boards, operative societies, autonomous district council (in which public funds are invested)
- ✓ Ban on use of vehicles will be equally apply to vehicles in the non poll going states,
- ✓ Only exception PM and Leaders who require high security cover,

- ✓ Restriction does not apply in case of President, Vice-President, Speaker/Deputy Speaker of Lok Sabha and Deputy Chairman of Rajya Sabha visiting the state
- ✓ Movement of convoys of not more than 5 vehicles, excluding security vehicles-
 - Vehicles being used by recognized political party- DEO to issue permit for one vehicle to be used by district level office bearer,
 - For states having more than 100 ACs, CEO to issue permit of maximum of 5 vehicles for use of state level office bearers of recognized political party. In other states, maximum 3 vehicles to a recognized political party

- Expenditure in this regard to be booked against political party
- ✓ Use of Vehicles on Poll Day during LA election - One vehicle for candidate, one vehicle for election agent and one vehicle for other party workers.
- ✓ Bulletproof vehicle to leaders covered by Z+ security- Bulletproof vehicle may be allowed to such leaders with condition cost of propulsion of vehicle to be borne by person concerned. If he is star campaigner, expenditure to be borne by political party.
- ✓ Use of spare multiple vehicle, if prescribed in such case, would be allowed at government cost.
- ✓ No objection to personal staff/any other political functionary/candidate accompanying the SPG protectee in said vehicle.

- **Use of schoolground /public property –**

- ✓ Use of maidan/parks/playground on equitable basis,
- ✓ Use of space in public properties for wall writing, displaying election material/banners/ flags/hoardings prohibited,
- ✓ State transport buses/government owned vehicles shall not be used for political advertisement,

- **Party flags / banners at private residence/vehicle –**

- ✓ Maximum 3 flags of a party/candidate to be displayed. If someone wants to display flags of more than one party or candidate, it should be restricted to only one flag of each party/candidate
- ✓ On vehicles, one flag of maximum size of 1 ft. X ½ ft. with a pole/stick of not more than 3 ft., allowed
- ✓ No banner allowed on any vehicle. During road show, a banner of maximum size of 6 ft. X 4 ft. allowed to be carried out with hand.
- ✓ 1 or 2 small stickers of appropriate size permitted on a vehicle.
- ✓ No spot focus /flashing/search light /hooter allowed on a vehicle.

● Defacement of private property

- ✓ Flag/banners in private premises with voluntary permission of the occupant.
- ✓ Where specific state /local law exists, provisions of the same will be applied.
- ✓ On private vehicle, flags and stickers can be put by owner in the manner, they do not cause any inconvenience to other road users.
- ✓ On commercial vehicles, display of election material not permitted, unless vehicle is validly being used for election campaign.
- ✓ Timeline for removal of unauthorized defacement- From government property within 24 hours from announcement of election. From public place within 48 hours. From private property within 72 hours.

● Use of government guest house

- ✓ Not permitted for political leaders while campaigning except those covered by security Z or Z+ security.

• Temporary campaign office of political parties/candidates

- ✓ Not to be setup in an encroached property,
 - ✓ Not to be opened in a religious place,
 - ✓ Not to be in a place contiguous to any hospital/educational institution,
 - ✓ Not to be within 200 meters of an existing polling station,
 - ✓ Only one party flag/banner with party symbol/photograph to be displayed at such office,
 - ✓ Size of banner shall not exceed 4 ft X 8 ft subject to condition of local laws,
 - ✓ Expenditure observer to monitor and book expenditure in the account of candidate.
- Restriction of use of animals for election campaigning.
 - Restriction on use of photographs of defense forces/personnel.
 - Restriction on engagement of child labour in election related activities.
 - Restriction to use plastic/polythene during electioneering.

Modification in instructions on campaigning in wake of Covid-19

- 1) Door to Door Campaign- a group of 5 (five) persons including candidates, excluding security personnel.
- 2) Road Shows - The convoy of vehicles should be broken after every 5 (five) vehicles
The interval between two sets of convoy of vehicles should be half an hour instead of gap of 100 meters.
- 3) Election Meetings - Public gatherings/ rallies may be conducted subject to adherence to extant COVID-19 guidelines.
 - (a) DEO should, in advance, identify dedicated grounds for public gathering with clearly marked Entry/Exit points.
 - (b) Nodal District Health Officer should be involved.
 - (c) Number of attendees does not exceed the limit prescribed by State Disaster Management Authority.

- (d) Depute Sector Health Regulators to oversee.
 - (e) Ensure that all COVID-19 related requirement like face masks, sanitizers, thermal scanning etc. are fulfilled during each of these activities.
 - (f) Non-compliance of Instructions – Anybody violating instructions on COVID-19 measures will be liable to proceeded against as per the provisions of Section 51 to 60 of the Disaster Management Act, 2005, besides legal action under Section 188 of the IPC.
- 4) Allocation of public spaces must be done using Suvidha app.

Supreme Court on MCC

- The Apex Court has also held that Article 324 gives plenary power to ECI.
- The Supreme Court has also consistently held (in the cases - Mohinder Singh Gill Vs. Chief Election Commissioner (1978) 1 SCC 405: AIR 1978 SC 851), A.C. Jose Vs. Sivan Pillai and Ors (1984) 2 SCC 656) and Kanhiyalal Omar Vs. R.K. Trivedi and Ors (1985) 4 SCC 628: AIR 1986 SC 111) that the ECI has residuary power under the Constitution to act in appropriate manner in the matter of conduct of election where the enacted laws are silent or insufficient to deal with a given situation.
- In *S. Subramaniam Balaji case*, the Supreme Court held that the ECI, in order to ensure level playing field between the contesting parties and candidates in elections and also in order to see that the purity of election process does not get vitiated, has been issuing instructions under MCC. The fountainhead of the powers under which the ECI issues these orders is Article 324 of the Constitution.

SPL Measures taken by ECI to enforce MCC

- Transfer/posting of election related officers.
- A clear cut protocol of communication between ECI and Union/State Government on Model Code:
 - ✓ Model Code related **direction shall be issued only by ECI.**
 - ✓ Cabinet Secretary or Committee of Cabinet shall coordinate references from various departments of Union Governments.
 - ✓ Subordinate offices/PSUs to make references through their main Ministry.

• **Directions to State Governments:-**

- Constitution of **Screening Committee** headed by **CS** and consisted of Secy./Principal Secy. of Co-ordination Department/General Admin. Department and Secy./Principal Secy. of the Department for sending the proposal for approval of the ECI.
- CEO shall forward only such proposal which have been cleared by Screening Committee, with his specific comments. The concerned department shall not send the original file to CEO office but only a self-contained reference. CEO shall not send any reference to the ECI in cases where clear cut instructions exist to deal with.
- Advisory to Political parties and candidates and do's and don'ts for electioneering to be followed by them.



Thank You

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