

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. ECI/PN/57/2021

Dated: April 27, 2021

PRESS NOTE

ECI's statement on compliance of COVID norms during the poll process

1. On 26.4.2021, petitioner Vijaybhaskar prayed before Hon'ble High Court Madras: "...to ensure a fair counting of votes which is scheduled to be held on 2.5.2021 at the 135-Karur LA Constituency by taking effective steps and proper arrangements with COVID-19 protocol ..",
2. Hon'ble Court's Order after examining the submission of ECI, in its operative para, directed:

"8. Similar appropriate measures have to be adopted at every counting centre and it is only upon maintaining regular sanitization, proper hygienic conditions, mandatory wearing of mask and adherence to the distance norms, should any counting begin or be continued. The State Health Secretary and the Director of Public Health should be consulted by the Election Commission and the Chief Electoral Officer responsible in the State, to put appropriate measures in place immediately."

3. Thus, the statements being attributed to the Hon'ble High Court in certain sections of media do not find mention in the order finally passed.
4. While the Commission will comply with all directions of the HC, on 30.4.2021 it will apprise all steps already taken by the ECI for free, fair and safe election to the HC.
5. Similar anxieties concerning COVID-19 compliant behaviour during the ongoing elections were filed by different petitioners, which had already been responded to by the ECI with following legal and factual positions:

(a) Enforcement of COVID 19 measures is the responsibility assigned to the State Disaster Management Authority (like lockdown, restriction/curtailment on public gatherings etc.) and its Officers under the Disaster Management Act, 2005. The State Disaster Management Authority didn't stop public gatherings under the DM Act 2005 during this period. Whatever was prescribed, EC directed all to adhere to it and in case of violation to book under the DM Act 2005. EC continuously directed the State/District authorities to enforce the extant instructions of the NDMA/SDMA.

(b) In 2020, amidst the NDMA/SDMA prescribed lockdown and other enforcement measures under the Disaster Management Act, 2005, the Commission completed electoral exercise in Bihar. **The enforcement under 2005 Act has to be ensured by the concerned SDMA and notified authorities under the Act. The Commission has always emphasised in its 21.8.2020 and all subsequent instructions that the State authorities shall ensure**

COVID compliance in the matter of public gatherings etc. for campaign purposes. At no occasion, the Commission takes over the task of SDMA for enforcement of COVID-19 instructions.

(c) It would be recalled that the Commission reiterated its instructions on 26.2.2021 while announcing the poll in five States/UT including State of Tamil Nadu. The campaign ended on 4.4.2021. Fortunately, the second wave of COVID-19 was yet to be visible fully by that time. Polling was conducted following all prescribed COVID appropriate measures on 6.4.2021, which witnessed good electoral participation with full compliance of norms by all concerned.

6. These submissions were made to different High Courts (wherever opportunity was afforded to the ECI) and found favour in the orders of these Courts.

(a) Hon'ble High Court Calcutta, taking all these legal frameworks in view, on 23.4.2021 ordered:

“There is no way for any department or institution of governance to excuse itself from obeying the commands of the Election Commission of India and not complying and cooperating with the Election Commission of India’s directions. This shall be taken as part of the mandatory command of this Court in support of what the Election Commission is carrying forward.”

(b) On 26.4.2021, Hon'ble High Court Madhya Pradesh dismissed a petition for issues concerning poll conducted on 6.4.2021 being infructuous.

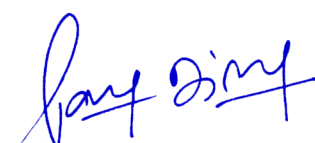
(c) In similar matter on COVID precautions during the counting, Hon'ble High Court Kerala recorded the measures put in by the EC and directed the State to submit its measures on 27.4.2021. And on 27.4.2021, Hon'ble Court in the counting of votes cases, expressed that it is satisfied with the steps taken by ECI and State Government and observed that there is nothing more to be added in the matters and accordingly closed all writ petitions

7. The Commission has been regularly interacting with State/UT Chief Secretary and Health Secretary concerned and the Chief Electoral Officers to ensure that all COVID-19 measures shall be ensured at all counting centres without exceptions for counting on 2.5.2021. On 27.4.2021, the Commission has already ordered that:

a. No victory procession after the counting on 2.5.2021 shall be permissible.

b. Not more than two persons shall be allowed to accompany the winning candidate or his/her authorized representative receive the certificate of election from the Returning Officer concerned.

8. Tamil Nadu State ordered lockdown restrictions in view of COVID second surge (assessment of this is in the domain of NDMA/SDMA or concerned State Govt only) from 20 April 2021, 16 days after the campaign period was already over in the State.



**PAWAN DIWAN)
UNDER SECRETARY**