

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. ECI/PN/62/2021

Dated: 4th May, 2021

PRESS NOTE

Matter of Recounting in Nandigram AC: RO is the Final Authority under Law

Certain sections of media have reported about the matter of recounting in Nandigram AC. Returning Officer (RO) of an Assembly Constituency performs statutory functions under the RP Act, 1951 in quasi-judicial capacity independently. Whether it is nomination, polling or counting, the RO acts strictly in accordance with the extant electoral laws, instructions and guidelines of the ECI.

2. As far as the media reporting on 'recount' concerning Nandigram AC is concerned, as per Rule 63 of the Conduct of Election Rules, 1961, which lays down the process of dealing with recount request, it, inter alia, states,

On such an application being made the returning officer shall decide the matter and may allow the application in whole or in part or may reject it in toto if it appears to him to be frivolous or unreasonable.

In the light of the above, the RO takes a decision which can only be challenged through Election Petition under **section 80** of the RP Act, 1951, which provides that,

No election shall be called in question except by an election petition presented in accordance with the provisions of this Part.

3. After the counting in Nandigram AC, the election agent of a particular candidate requested for recount, which was rejected by the RO, **through a speaking order, on the basis of material facts available before him in accordance with the provisions of Rule 63, as above, and declared the result.** In such a case, **only legal remedy is to file an EP before the High Court.**

4. CEO West Bengal, in this matter of Nandigram AC, has made available a copy of the Order of the RO and other relevant material related to counting. General Observer for the AC has also furnished a report in the matter. From the available material before the Commission, following facts reveal in respect of counting held on 2 May, 2021 in Nandigram AC:

- I. Each counting table had one micro observer. Their reports never indicated any impurity of counting process on their respective table.
- II. The RO caused the entries of votes polled by each candidate after each round to be written on the display board which could be easily seen by the counting agents. No doubt was raised on the result of round-wise counting. This enabled the RO to proceed uninterruptedly with the counting of votes.
- III. On the basis of Form-17C duly completed by the counting supervisors, Returning Officer prepared a round-wise statement. In addition, on the computer installed in the Counting Hall, parallel tabulation work was also done in an Excel sheet to counter check any human error.
- IV. A copy of each of the rounds' results was shared with all the counting agents.
- V. After every round, counting agents signed the result sheets.

5. Election related Officers on ground perform in extremely competitive political environment diligently with full transparency and fairness and therefore attribution of any motive in such cases is not desirable.

6. On the basis of media reports on undue pressure on the RO Nandigram, Commission directed the Chief Secretary West Bengal on 3 May 2021 to provide adequate security, which State Government has now provided.

7. The Commission has further directed CEO West Bengal to ensure the safe custody of all election records including polled EVM/VVPAT, videorecording, statutory papers, counting records etc. strictly in accordance with laid down guidelines/instructions of the Commission. He will also coordinate with the State Government for additional security measures at such locations, if required.


(PAWAN DIWAN)
UNDER SECRETARY