

**OFFICE OF THE CHIEF ELECTORAL OFFICER, TELANGANA
GENERAL ADMINISTRATION (ELECTIONS) DEPARTMENT**

9th Floor, B.R.K.R Bhavan, Adharsh Nagar, Tank Bund Road, Hyderabad - 500 063

Memo No.2769/Elecs.D/2023-13

Dated: 11 .03.2024

Sub:- Elections - Election Commission of India Instructions – General Instructions to Lok Sabha, Legislative assembly and Bye Elections – Submitting Affidavit along with Nomination Paper by candidates in elections - Communicated – Regarding.

Ref:- ECI Letter No. 3/ER/2023/SDR/Vol.IV, Dt: 06.03.2024

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A Copy of the reference cited, wherein the ECI has issued certain instructions regarding affidavit to be filed along with nomination paper by candidates at election to the Lok Sabha and Legislative Assembly are sent herewith to the Commissioner GHMC & District Election Officer, Hyderabad and to all Collectors & District Election Officers and all Returning Officers of Parliamentary constituencies in the State for information and strict compliance, during forthcoming General Elections, 2024.

**VIKAS RAJ
CHIEF ELECTORAL OFFICER &
E.O. SPECIAL CHIEFSECRETARY TO GOVERNMENT**

To,

The Commissioner GHMC & District Election Officer, Hyderabad. (w.e.)

All the Collectors & District Election Officers in the State (w.e.)

All the Returning Officers of 119 ACs and 17 PCs (w.e.) (through the District Election Officers Concerned)

Copy to:

Sri. Chiranjeevi, PMIT, O/o. CEO, for information.

The SLA, for uploading on the CEO's website (w.e)

SF/SC

FORWARDED BY :: ORDER//


SECTION OFFICER

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 3/ER/2023/SDR/Vol.IV

Dated: 6th March, 2024

To,

The Chief Electoral Officers of
All States and Union Territories

Subject: Affidavit to be filed by candidates along with nomination paper- reg.

Ref:

- (i) No. 3/ER/2003/JS-II dated 27th March, 2003
- (ii) No. 3/ER/2003/JS-II dated 07th August, 2003
- (iii) No. 3/ER/2004/JS-II dated 09th March, 2004
- (iv) No. 3/ER/2004/JS-II dated 01st April, 2004
- (v) No. 3/ER/2004/JS-II dated 02nd June, 2004
- (vi) No. 3/ER/2005/JS-II dated 17th January, 2006
- (vii) No. 3/ER/2008/JS-II dated 04th July, 2008
- (viii) No. 3/ER/2009/SDR dated 21st March, 2009
- (ix) No. 3/ER/2009/SDR dated 3rd April, 2009
- (x) No. 3/ER/2011/SDR dated 23rd March, 2009
- (xi) No. 3/ER/2011/SDR dated 08th February, 2011
- (xii) No. 3/ER/2011/SDR dated 25th February, 2011
- (xiii) No. 3/ER/2011/SDR dated 16th March, 2011
- (xiv) No. 3/ER/2011/SDR dated 01st June, 2011
- (xv) No. 3/ER/2011/SDR dated 2nd June, 2011
- (xvi) No. 3/ER/2011/SDR dated 01st September, 2011
- (xvii) No. 3/ER/2011/SDR dated 11th January, 2012
- (xviii) No. 3/ER/2012/SDR dated 02nd July, 2012
- (xix) No. 3/4/2012/SDR dated 24th August, 2012
- (xx) No. 3/4/2012/SDR dated 26th September, 2012 (two letters)
- (xxi) No. 3/ER/2011/SDR dated 12th October, 2012
- (xxii) No. 576/3/2013/SDR dated 21st January, 2013
- (xxiii) No. 3/4/2012/SDR dated 20th February, 2013
- (xxiv) No. 3/ER/2013/SDR dated 12th June, 2013
- (xxv) No. 576/3/2013-SDR dated 30th September, 2013
- (xxvi) No. 576/3/2013/SDR dated 13th November, 2013
- (xxvii) No. 3/ER/2013/SDR Vol.-V dated 03rd March, 2014
- (xxviii) No. 3/ER/2014/SDR/Vol.I dated 19th March, 2014
- (xxix) No. 3/ER/2014/SDR/Vol.I dated 17th April, 2014
- (xxx) No. 509/11/2004-J.S.-I dated 4th February, 2016
- (xxxi) No. 3/ER/2016/SDR dated 31st May, 2016
- (xxxii) No. 3/ER/ECI/LET/FUNC/JUD/SDR/2016 dated 18.08.2016
- (xxxiii) No. 4/ECI/LET/FUNC/JUD/SDR/2017 dated 16th January, 2017
- (xxxiv) No. 576/3/2017-SDR dated 26th July, 2017
- (xxxv) No. 3/ER/ECI/LET/FUNC/JUD/SDR/Vol. IV/2017 dated 16th October, 2017
- (xxxvi) No. 576/3/2018/SDR dated 16th April, 2018
- (xxxvii) No. 3/4/2017/SDR/Vol.II dated 10th October, 2018 (Partially)
- (xxxviii) No. 3/4/2019/SDR-Vol.I dated 28th February, 2019
- (xxxix) No. 3/ER/2023/SDR-Vol.IV dated 19th March, 2020
- (xl) No. 3/ER/2020/SDR/Vol.III dated 01st October, 2020, and
- (xli) No. 3/ER/2022/SDR dated 26th February, 2022

Madam/Sir,

I am directed to state that as per Section 33 of The Representation of the People Act, 1951 (herein after the Act) each candidate shall, either in person or by his proposer, between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon on or before the date appointed under Section 30(1) of the Act deliver to the Returning Officer a nomination paper completed in the prescribed form and signed by the candidate and his proposer(s). Rule 4 of the Conduct of Elections Rules, 1961 prescribes the form of the nomination paper.

2. Further, Section 33A (2) of the Act inter-alia provides that the candidate or his proposer shall at the time of delivering the nomination paper under the provisions of Section 33, referred to above, also deliver to the RO an affidavit in the prescribed form. Rule 4A of the 1961 Rules prescribes the form of affidavit, i.e., Form 26 which is to be sworn by the candidate before a Magistrate of the First Class or a Notary.

3. In the matter of filing of Nomination and affidavit by the candidate or his/her proposer, before the Returning Officer, the Commission has issued various instructions from time to time vide the letters listed above. For more clarity and convenience of all the concerned, these instructions have now been consolidated and exhaustive instructions are hereby issued in supersession of all 41 (forty-one) aforesaid instructions.

4. Right to Information: -

(a) As per Section 33A of the Act, a candidate shall, apart from any information which he is required to furnish in his nomination paper shall also furnish the information as to whether-

(i) he is accused of any offence punishable with imprisonment for two years or more in a pending case in which a charge has been framed by the court of competent jurisdiction;

(ii) he has been convicted of an offence [other than any offence referred to in sub-section (1) or sub-section (2), or covered in sub-section (3), of section 8] and sentenced to imprisonment for one year or more.

(b) Sub-section (3) of Section 33A further says that the returning officer shall, as soon as may be after the furnishing of information to him, display the aforesaid information by affixing a copy of the affidavit at a conspicuous place at his office for the information of the electors relating to a constituency for which the nomination paper is delivered.

(c) In this context, the Supreme Court vide its judgment dated 13.09.2013, in WP (C) No. 121 of 2008 titled *Resurgence India vs. Election Commission of India and others* in the matter of filing of incomplete affidavits by candidates held that the voter has the elementary right to know full

particulars of a candidate who is to represent him in the Parliament/ State Assemblies and such right to get information is universally recognized as a natural right flowing from the concept of democracy and is an integral part of Article 19(1)(a) of the Constitution of India.

(d) The Hon'ble Supreme Court also maintained that the candidates are required to fill up all columns in the affidavit and no column can be left blank. If no information to be furnished against any item, appropriate remarks such as 'NIL' or 'Not Applicable' or 'Not Known', as may be applicable, shall be indicated in such column.

(e) Accordingly, the Commission has issued directions to the Returning Officer to check whether all columns of the affidavit being filed are filled up or not and in case no information is to be furnished by the candidate, the remarks such as 'NIL' or 'Not Applicable' or 'Not Known', as may be applicable, shall be indicated in such column. The Returning Officer may take the assistance of one suitable officer exclusively to check the affidavit. If any column is left blank in the said Affidavit or the information given is vague or illegible then the same should be pointed out immediately through the prescribed checklist specifically pointing out the defects and asking the candidate to file fresh affidavit rectifying the defects and with all columns completely filled in.

5. Time of Filing of Affidavit: - The requirement of the election laws referred to above is that the affidavit should be filed along with nomination paper latest by 3.00 pm on the last date of making nominations. The failure to submit the affidavit by the aforesaid date and time shall be considered a defect of substantial nature entailing rejection of the nomination at the time of scrutiny. In case the candidate had filed affidavit and the Returning Officer has pointed out, through check list, defect(s) in that affidavit, the fresh affidavit can be filed upto the time of commencement of scrutiny. If, even after such reminder, a candidate fails to submit fresh affidavit or files incomplete affidavit by the time of commencement of scrutiny, the nomination of such candidate shall be liable to be rejected by the Returning Officer at the time of scrutiny of nominations.

6. Affidavits to be filed on stamp papers: - In pursuance of the judgment of Madras High Court, in a writ petition (No. 8682 of 2011 and M.P, No. 1 of 2011), the Commission has directed that the affidavits filed by the candidates should be on stamp paper of such denomination as prescribed under the State Law of the respective State. The minimum denomination of stamp paper, however, may vary as the value of stamp paper for affidavits is prescribed under the State Law.

7. Check List containing defects in Nomination: - Apart from affidavit, the candidate has to submit other documents to support his nomination. In order to ensure transparency and

accountability and to streamline the procedure of filing of nomination and scrutiny of nomination, the Commission directs that on each occasion of filing of nomination paper or supportive documents including affidavit by the candidate, the Returning Officer should check the documents and the affidavit and point out the defects in the CHECK LIST attached herewith. The Returning Officer shall specifically mention the kind of defect and the time by which such defects have to be rectified by the candidate. The Returning Officer shall obtain the signature of the candidate or the proposer, as the case may be, and give one copy of check list to such person and keep original with him for records.

8. Statutory requirement of display of Affidavit:

(a) In pursuance to the provisions contained in Section 33A read with Rule 4A, referred to above, the Commission has directed that copies of affidavits filed by the candidates should be displayed on the notice board of the Returning Officer/Assistant Returning Officer of the constituency concerned. Copies should also be supplied freely and liberally to all other candidates and representatives of media by the Returning Officer. The District Election Officer shall compile all the affidavits pertaining to the constituencies within the district and supply them, on demand, on payment of standard copying charges. This fee may be obtained in cash, for convenience, against proper receipt etc. It may also be noted that copies of the affidavits, and counter affidavits, if any, should be supplied on demand to any individual, political party, organization, agency, etc. without any discrimination.

(b) If anyone furnishes information countering the statements made by any candidate in his affidavit by means of a duly sworn and notarized affidavit (counter affidavit), such counter affidavit shall also be disseminated along with the affidavit of the candidate concerned and supplied in the same manner, i.e. by displaying copy on the notice boards and furnishing the same on demand.

(c) In cases where the offices of the AROs are outside the headquarters of the RO but within the boundary of the constituency, copies of the affidavits should also be displayed in the offices of such AROs.

(d) In those cases where the offices of the ROs and AROs both are situated outside the boundary of the constituency, one set of copies of affidavits should be displayed on the notice board of the RO and another set should be displayed in some public premises accessible to the general public within the constituency. It is clarified that in such cases, the copies of affidavits

should be displayed in the office of the BDO or in a Panchayat Office within the constituency that are widely known to the public.

(e) Part B of Form 26 (abstract of the details given in the affidavit) filed by the candidates shall be displayed at specified additional public offices such as (1) Collectorate, (2) Zila Parishad Office, (3) SDM Office, (4) Panchayat Samiti office (i.e. Block Office), (5) office of Municipal Body or bodies in the constituency (6) Tahsil/Taluka office, and (7) Panchayat Office. This shall be done within 5 days of date of withdrawal of candidature. In the Collectorate and Zila Parishad Office, abstracts of affidavits of all candidates pertaining to all the constituencies in the District shall be displayed. The abstracts of all the candidates of one constituency should be displayed together for ease of access. Similarly, if there is more than one constituency in a Sub-Division, abstracts of all the candidates in such constituency shall be displayed in SDM's office.

9. Uploading of Affidavit on the Chief Electoral Officer's website:

(a) The Commission has directed that the affidavits in respect of all the candidates, whether set up by the recognized political parties or unrecognized political parties or independents, shall be put up on the CEO's website soon after the candidates file the same and strictly within 24 hours of filing the affidavits. Even if any candidate withdraws his candidature, the affidavit already uploaded on the website shall not be removed.

(b) If anyone furnishes information countering the statements made by any candidate in his affidavit by means of a duly sworn and notarized affidavit, the same may also be uploaded, along with the affidavit of that candidate, within 24 hours of receiving it. All the affidavits and counter affidavits received on the last date of making nominations shall be uploaded on the same day.

(c) At every election, press releases should be issued at the State and District level stating that affidavits of the candidates and counter affidavits, if any, are available for the electors to see and clearly mentioning in the press release of the DEO, place(s) at which copies of the affidavits have been displayed. The press releases should also make it clear that the affidavits can also be viewed on the website, and the path to locate them on the website should also be mentioned.

10. Multiple affidavits:

(a) Section 33(6) of the Act states that any candidate may be nominated by more than one nomination paper. A candidate can file maximum four nomination papers for a constituency. Such facility is given under the law enabling him to have options to file his nomination as a candidate sponsored by political party(ies) or as an independent candidate with same or different proposers.

(b) The requirement of law, as provided in sub-section 3 of section 33A of the Representation of the People Act, 1951, is that the electors of the constituency get the information about the candidates contesting in that constituency. The requirement of filing affidavit is complete when a candidate himself or through his proposer submits, before the Returning Officer, a completely filled in, duly sworn and notarized affidavit in prescribed form i.e. latest Form 26, within prescribed time limit i.e. by 3:00 PM on the last date of making nominations.

(c) It shall be noted that in case a candidate has filed more than one affidavit in a constituency, the Returning Officer shall check all such affidavits. In case either of the affidavits conforms to the requirement of proper filing of affidavit, the Returning Officer shall take into consideration this fact while deciding his candidature at the time of scrutiny of nominations. If one of the affidavits meets the requirement of filing affidavit and other affidavits are found defective, the Returning Officer shall not issue notice to the candidate in respect of the defective affidavits as the legal requirement of filing an affidavit has already been met in such case.

(d) The Returning Officer shall display all the affidavits pertaining to that candidate at the notice boards across all places as specified in abovementioned paras and upload on the website with a note that the candidate has filed two or more, as the case may be, affidavits indicating therein the dates of filing affidavits.

(e) If a candidate has filed more than one affidavit and neither of the affidavits is complete in all respect, the Returning Officer in such case shall give notice, in checklist, pointing out defects in all such individual affidavits and give time for filing revised affidavit by the time of commencement of scrutiny. The defects in each affidavit shall be pointed out clearly in different checklists.

(f) There may be some instances where the status of the candidate, so far as it relates to the information in the affidavit, get changed or he himself discovers that some information needs to be revised. In such case if the candidate files revised affidavit in supersession of his earlier filed affidavit(s), on his own volition, the candidate shall give an undertaking to the Returning Officer, that the affidavit being submitted is in supersession of the earlier affidavit(s) and that the revised affidavit shall be taken into consideration. The Returning Officer shall take into consideration the latest affidavit accompanied with above said undertaking submitted by the candidate and proceed for scrutiny of nominations accordingly. Such affidavit shall also be displayed and uploaded on the CEO's website along with the undertaking. The earlier filed affidavit(s), shall however not be removed.

11. The requirement of law as contained in Section 33(A) is met when the affidavits are displayed at conspicuous places by the Returning Officer. As aforesaid, wider dissemination of affidavits i.e. uploading on website additional to the requirements of law and consistent with the Commission's policy of making the process transparent and informative. Any one may obtain certified copies of the affidavits from the office of the Returning Officer or the District Election Officer by depositing the requisite fee in this regard.

12. Each page of the Affidavits should be signed by the deponent concerned. In addition, the affidavits should bear on each page the stamp of the Notary/Oath Commissioner/Magistrate before whom the Affidavit is sworn. It would be for the Returning Officer to decide the validity of the affidavit in Form 26.

13. No Dues Certificates:

(a) The Delhi High Court in its order dated 07.08.2015 in W.P.(C) number 4912/1998 (Krishak Bharat Vs. Union of India and others), had directed that every candidate at the time of filing nomination paper shall also file an additional affidavit along with the "No Dues Certificates" issued from the agencies providing electricity, water, telephone and accommodation, in case he/she had been in occupation of any government accommodation during the last ten years. Failure to file the additional affidavit along with "No Dues Certificate" would be treated as a defect of substantial nature for the purpose of Section 36 of the Representation of the People Act, 1951.

(b) The Election Commission, in pursuance to the above order of the High Court had issued directions for filing of additional affidavit along with "No Dues Certificates" at the time of filing of nomination by the candidates.

(c) The Form 26 has now been amended and the provision related to "No Dues Certificates" has been incorporated in Form 26 (under item 8). Therefore, there is no requirement to file additional affidavit, however, the candidate is required to furnish requisite information at the relevant column together with the "No Dues Certificates" from the concerned authorities along with Form 26 before the Returning Officer. No Dues Certificates are required to be furnished only by those candidates who have been in occupation of accommodation provided by the government at any time during the last ten years before the date of notification of the current election. The date of the "No Dues Certificate" should be the last date of the 3rd month prior to the month in which the election is notified or any date thereafter. It is reiterated that failure to submit to the Returning Officer, "No Dues Certificate" from the agencies concerned shall be treated as defect of substantial

nature for the purpose of section 36 of the Representation of the People Act, 1951. The cut-off time for submitting "No Dues Certificates" is 3:00 PM on the last date of making nominations.

14. E-Filing of Affidavit:

(a) In order to minimize scope of mistakes in filling details in the affidavit (Form-26), the Commission has decided to provide an optional facility to the candidates for making online data entry of personal details in the nomination paper and in the affidavit. This facility will be available for the candidates through the Election Commission's Suvidha portal <https://suvidha.eci.gov.in>. The online facility for data entry will, however, be closed one day prior to the last date of making nominations.

(b) **Physical submission of affidavit filed online-** It is to be noted that the online entering of data in the affidavit is to ensure that all the columns in the affidavit are filled up properly and is complete in all aspect. The affidavit populated with information using the Suvidha portal will be treated duly submitted only when it's printout with QR Code is taken and completed in all respects viz signed in ink, notarized etc, and then hard copy is delivered, physically by the candidate or his proposer, to the Returning Officer concerned. It shall be delivered to the Returning Officer between the hours of 11:00 o'clock in the forenoon and 3:00 o'clock in the afternoon on the appointed date and place, specified by the Returning Officer. For the sake of clarity, it is clarified that, only physical Form of affidavit is a statutory document and on-line facility is to enhance ease of filing affidavit.

(c) **Function of Returning Officer-** The Returning Officer after receiving the affidavit filed physically by the candidate or his proposer, as the case may be, shall follow the standard protocol of preliminary checking and issuing of notice in the checklist if defects are found. Thereafter, the affidavit shall be uploaded on the website in the ENCORE portal against the name of that candidate and also on the CEO's website.

15. The Commission directs that no document other than affidavit, which has not been prescribed in the Commission's instructions, shall be uploaded on the Commission's portal or disseminated anywhere. Attention is invited to the provisions of Section 37 of THE AADHAAR (TARGETED DELIVERY OF FINANCIAL AND OTHER SUBSIDIES, BENEFITS AND SERVICES) ACT, 2016. It is also directed that all such uploaded documents which may contain Aadhaar details shall be identified and the related details shall be either removed or masked in the Commission's portal so that such details are not seen by the public at large.

16. Period of retention of affidavit:

(a) The Commission has directed that all the affidavits pertaining to an election, whether general or bye-election, filed before the Returning Officer shall be retained, in physical form, for a period of six years after the completion of election or till the disposal of election petition, if any or any other suit/ petition in any court in which any of the declaration made, whichever is later.

(b) The facility of uploading of affidavits on the website is over and above the statutory requirement under section 33A of the Act, and therefore, it stands at a different footing. However, the affidavits uploaded on the website shall also be retained for a period of six years after the completion of election or till the disposal of election petition, if any or any other suit/ petition in any court in which any of the declaration made, whichever is later.

17. The above directions shall be brought to notice of all the District Election Officers, Returning Officers and all other election related authorities and all the registered political parties having address in the State, including State units of recognized National and State parties, and also to the contesting candidates, for their information and compliance.

Yours faithfully,


(S.B. JOSHI)

PRINCIPAL SECRETARY

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

Sl. no.	Documents	Whether filed (Write Yes/No) (if there is any defect/shortcoming in the documents, the same should be specified)
1.	Affidavit in Form 26 - (a) Whether filed in correct Format? (b) Whether all columns filled up? (c) If not, which column(s) are blank (Please specify) (d) Whether the affidavit is sworn before an Oath Commissioner or Magistrate of First Class or before a Notary Public? (e) Whether each page is signed by deponent? (f) Whether each page bears stamp of Notary or Oath Commissioner? (g) Whether "No Dues" certificates from agencies concerned in respect of rent, electricity charges, water charges and telephone charges have been produced. (Only in case of candidate who has been allotted govt. accommodation during last 10 years)?	
2.	Certified extract of electoral roll (when candidate is an elector of a different constituency)	
3.	Form A and B (applicable in the case of candidates set up by political parties)	
4.	Copy of caste certificate (if the candidate claims to belong to SC/ST)	
5.	Security deposit (whether made)	
6.	Oath or affirmation (whether taken)	

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 _____

Signature of RO/ARO)

Received by me

.....
(Signature/Thumb impression of candidate/ Proposer)

Date & time:

Place:

N.B.

1. The Affidavit in Form 26 to be filed latest by 3.00 P.M. on the last date of filing nominations.
2. If the affidavit is filed in pre-revised/ incorrect format, the candidate should be asked to submit affidavit in correct format complete in all respect, latest by 3:00 pm on the last date of filing nominations.
3. If columns have been left blank in the affidavit in Form 26, this should be specified against Sr. No. 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.
4. Oath has to be taken after filing nomination paper and before the date fixed for scrutiny.
5. Certified extract of electoral roll can be filed up to the time of scrutiny.
6. In case of candidates set up by Political Parties, Form A & Form B have to be filed by 3:00 PM on the last date of making nominations. Both the Form A and Form B should bear original signature in ink. Photocopies shall not be acceptable. In case candidate submits photocopies of Form A or Form B or both, the same should be pointed out at Sr. No. 3 and the candidate should be asked to file original Form A and Form B, signed in ink, latest by 3:00 PM on the last date of making nominations.
7. If "No Dues" certificate from agencies concerned in respect of rent, electricity charges, water charges and telephone charges have not been produced alongwith affidavit, the candidate shall be asked to submit them by the time fixed for commencement of scrutiny of nominations. Failure to submit "No Dues" Certificate shall be defect of substantial nature.