

Office of the Sr. Supdt. of Police  
Law & Order, Pondicherry.  
No. : 2442  
Date : 15-9-16

MUTHIALPET CIRCLE  
No: 1304/MC/UR/16  
Date: 19/9/16

OFFICE OF THE IGP  
PUDUCHERRY  
No. 1616/CF-116  
Date: 14/09/16

GOVERNMENT OF PUDUCHERRY  
ELECTIONS DEPARTMENT

Villianur Main Road, Lawsthottam, Reddiarpalayam, Puducherry - 605 010

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No.E.1-2/2016/SSER,2017. 2535

Puducherry, dt

14 SEP 2016

To

The Deputy Inspector General of Police,  
Puducherry

OFFICE OF THE  
SUPDT. OF POLICE (EAST)  
No. 2990/SPE/EP/16  
Dated: 17/09/16

Sub: Revision of Electoral Rolls- Deletion of names  
of Electors declared as absconders, etc., -Reg  
  
Ref: Letter No. 464/BR-LA/2005 dt.10.08.2005  
Of the Election Commission of India.(copy enclosed)

Pursuant to the Orders of Hon'ble High Court of Patna, Election Commission of India had directed that the names of all those persons against Non-bailable Warrants (NBWs) could not be executed for more than six months should be deleted by the Electoral Registration Officers by taking suo-moto action under section 22 of RP Act,1950.

- In this connection, it is requested to furnish the list of NBWs to enable to delete their name in the Electoral Rolls after followed due procedures by the Electoral Registration Officers.
- This issues with the approval of Chief Electoral Officer.

Yours faithfully,  
*P.T. Rudra Goud*  
(P.T. RUDRA GOUD)  
JOINT CHIEF ELECTORAL OFFICER

Encl: as above

Copy to:

- The Inspector General of Police, Puducherry
- The District Election Officer(s), Puducherry/Karaikal
- The District Magistrates, Puducherry /Karaikal
- The Sub-Divisional Magistrates, Puducherry (North)/ South, Karaikal, Mahe & Yanam
- The EROs, Puducherry /Karaikal /Mahe /Yanam.
- The Superintendent of Police, Special Branch, Puducherry

All SDOs / ce. null & void

*P*  
17/9/16  
SUPDT. OF POLICE (EAST)  
PUDUCHERRY

*Pau*  
INSPECTOR OF POLICE  
MUTHIALPET CIRCLE  
PUDUCHERRY

*Urgent*  
*for nbs & report*  
*SP/LAO/14/19*  
*All SDOs*  
*for report within 3 days*

ITEM NO. 79

Election Commission's letter No.464/BR-LA/2005, dated 10.08.2005 addressed to the Chief Electoral Officers Of all States/UTs (Except Bihar) and copies sent to Chief Secretaries of all States/UTs for information and necessary action and DGPs of all States/UTs with the request to furnish the complete list of persons, giving full details of their residential addresses, against whom non-bailable warrants have remained unexecuted for more than six months to the concerned CEO latest by September 10, 2005

The undersigned is directed to enclose herewith a copy of the instructions contained in letter No. 464/BR-LA/2005/315-317 dated 5.8.2005 issued to the Chief Electoral Officer, Bihar for similar necessary action by you and to convey that the list of persons against whom non-bailable warrants are pending for more than six months in your State may be obtained from the Director General of Police of your State / Union Territory by September 10, 2005 and to complete the whole exercise in terms of instructions under reference by October 10, 2005.

COPY

Election Commission of India  
Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 464/BR-LA/2005 | 315 - 317

Dated: 5<sup>th</sup> August, 2005

To

The Chief Electoral Officer,  
Bihar,  
Patna.

**Subject: Deletion of names of electors declared as absconders, etc.**

As you know, in connection with the ensuing general election to the Bihar Legislative Assembly, the Commission has obtained information from the State Government of Bihar with regard to, inter alia, non-bailable warrants (NBWs) issued by various courts which have remained unexecuted and has instructed the State authorities to get them executed expeditiously. The information received from the State Government shows a very dismal position inasmuch as a very large number of NBWs have remained unexecuted. Of these, it is possible that some of them have remained unexecuted for quite a long period.

2. The non-execution of an NBW implies that the person, against whom that NBW has been issued, is not available at the address given in that warrant and that the police authorities and the court agencies have not been able to contact that person at the given address for execution of that warrant against him. If an NBW remains unexecuted for quite

a long period, the presumption is that the person concerned was not available at his given address despite repeated visits of the agencies entrusted with the task of execution of those warrants. In many cases, the persons against whom the NBWs could not be executed for long periods have even been proclaimed by the courts concerned as absconders under the provisions of Sections 82 and 83 of the Code of Criminal Procedure 1973.

3. It is common knowledge that many of these proclaimed offenders/absconders have been contesting elections. At the time of the last elections in Bihar, the Hon'ble Patna High Court gave a direction that if any such proclaimed offender/absconder turns up for filing his nomination papers, the police authorities should arrest them from the office of the Returning Officer and produce them before the court concerned. Pursuant to this direction of the Hon'ble High Court, several persons were arrested by the police when they came to file their nominations; but, in many other cases, these absconders evaded arrest by getting their nomination papers filed through their proposers.

4. The whole matter has been carefully examined by the Commission. One of the essential qualifications for contesting an election to Parliament or State Legislatures is that the person aspiring to be a candidate must be registered as an elector in a constituency (see Sections 3 to 6 of the Representation of People Act, 1951). And one of the essential conditions to be eligible for enrolment as an elector in any constituency is that he must be ordinarily resident in that constituency [see Section 19(b) of the Representation of People Act 1950]. A person who is absent from his given address for long periods and is not available to, or traceable by, the police authorities and the agencies entrusted with the task of executing NBW against him can, as a logical consequence, be presumed to be not ordinarily resident at that address. If his name is registered as an elector at that given address, the presumption that he is ordinarily resident at that place is no longer valid in his case and thereby the basic essential eligibility condition for enrolment under Section 19(b) of the Representation of People Act 1950 is missing in his case. In such a case, the person concerned cannot validly claim that his name should continue to be registered in the electoral roll at the abovementioned address.

5. Under Section 22 of the Representation of People Act 1950, the name of a person who has ceased to be ordinarily resident in the constituency can be deleted by the Electoral Registration Officer (ERO) at any time before the last date for the nomination of candidates at an election from the constituency. This deletion of name under Section 22 can be done by the ERO even *suo motu*, after giving a reasonable opportunity to the person concerned of being heard in respect of the action proposed to be taken in relation to him.

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6. Having regard to the above legal position, the Commission has decided that the names of all those persons against whom NBWs could not be executed **for more than six months**, which would mean that those persons are not ordinarily resident at least for the last six months at their given addresses, should be deleted by the EROs concerned by taking *suo motu* action under Section 22 of the Representation of People Act 1950, after following the procedure laid down therein. In order to enable the EROs to take necessary action under said Section 22, the State Government may be asked to furnish you with a complete list of persons giving the full details of their residential addresses, against whom the NBWs have remained unexecuted for more than six months. Such list should be furnished by the State Government latest by **19<sup>th</sup> August, 2005 (Friday)**. This list so obtained from the State Government should then be made available by you to the concerned District Election Officers latest by **24<sup>th</sup> August, 2005**. It will then be the responsibility of the District Election Officers concerned to ensure that the concerned EROs under them take immediate remedial action under Section 22 of the Representation of People Act 1950 to delete the names of such persons from the electoral rolls if they are registered as electors in their rolls. It must, however, be ensured that before deleting any name under the said Section 22, the ERO must comply with the requirements of the said section of giving a reasonable opportunity of being heard in relation to the action proposed to be taken against him. **For that purpose, a draft notice to be issued by the EROs to the persons concerned is enclosed**. This notice should be sent to the person concerned by registered post and also under certificate of posting and, in addition, it should be got served personally in the normal course as in the case of service of other notices under the Registration of Electors Rules 1960. This whole process of deletion of names under Section 22 should be completed by the EROs latest by **19<sup>th</sup> September, 2005 (Monday)**.

7. A very early action in the matter is requested and the Commission should be kept duly informed of the developments in this regard on weekly basis.

Kindly acknowledge receipt.

Yours faithfully,

(R.K. SRIVASTAVA)  
SECRETARY