

# ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi 110001

No.437/6/COMP/ECI/LET/FUNCT/MCC/2024

Dated:27.03.2024

## NOTICE

Whereas, the Election Commission of India vide its Press Note No. ECI/PN/23/2024, dated 16<sup>th</sup> March, 2024 has announced General Election to the Lok Sabha and Legislative Assemblies of Andhra Pradesh, Arunachal Pradesh, Odisha & Sikkim, 2024 and provisions of Model Code of Conduct for political parties and candidates have come into force from that very date; and

2. Whereas, Clause (2) of Part I 'General Conduct' of Model Code of Conduct for the Guidance of Political Parties and Candidates states that:

"Criticism of other political parties, when made, shall be confined to their policies and programme, past record and work. Parties and Candidates shall refrain from criticism of all aspects of private life, not connected with the public activities of the leaders or workers of other parties. Criticism of other parties or their workers based on unverified allegations or distortion shall be avoided."

3. Whereas, Para 3.8.2(ii) of Manual on Model Code of Conduct, 2019 provides that: -

(a) Clause 3.8.2 (ii): Nobody should indulge in any activities or make any statements that would amount to attack on personal life of any person or statements that may be malicious or offending decency and morality."

4. Whereas, the Commission's advisory issued to the political parties on 1<sup>st</sup> March 2024 regarding plummeting levels of political discourse. Inter-alia provides that: -

"9. iii. No aspect of the private life, not connected with the public activities, of the leaders or workers of other parties is to be criticized. Low level personal attacks to insult the rivals shall not be made."

5. Whereas, the Commission's above advisory further states that:

"9. v. The political parties and candidates to refrain from any deeds/action/utterances that may be construed as being repugnant to the honour and dignity of women."



6. Your attention is also drawn to the various judicial pronouncements from time to time expressing concern over the low level of criticism, personal attacks and vilification of political rivals-

The Hon'ble Supreme Court of India in its judgment titled as "Subramaniam Swamy Vs. Union of India & Ors.", (2016)-7 SCC 221 has observed that:

*"If freedom of speech and expression is protected by Article 19(1)(a) of the Constitution, the right to reputation is also considered to be an inextricable part of the right to life protected by Article 21 and balancing these two rights is a constitutional necessity."*

The Hon'ble Madras High Court in the case titled as "T.T.V. Dhinakaran Vs. City Public" observed that:

*"Merely because one has right of freedom of speech they cannot make any such allegation though it may not attract penal consequences or may not amounts to criminal defamation. Using scurrilous allegations, using harsh words, which is in the nature of serious criticism against particular individual also to be avoided. Therefore, this Court is of the view that irrespective of the political affiliation, when a person raised to the level of leader of a political party should show utmost respect to the others in public life. Of course, every citizen of a democratic country has a freedom of speech, but at the same time such criticism should not exceed affecting the sentiments of others also. The leaders of political parties should show their statesmanship and quality and healthy politics rather than accusing others by using vituperated language in political platform"*

The Hon'ble Supreme Court in *Guruji Shirhari Baliram Jivatode v. Vithalrao* reported in 1969 1 SCC 82 held:

*"The freedom of criticism may sometimes be misused, but the advantage gained from free criticism--though sometimes it may turn out to be irresponsible--in the long run outweighs the disadvantages. It is in the interests of democracy that such criticism should be allowed. However, democracy will be a farce if interested persons are allowed to freely indulge in character assassination during election. A political party may not be affected by passing winds but a campaign of slander against an individual is likely to create prejudice in the mind of the people against him. Section 123(4) is designed to achieve the dual purpose of protecting freedom of speech and prevention of malicious attack on the personal character and conduct of rivals."*

7. Whereas, the Commission has received a complaint dated 26<sup>th</sup> March, 2024 from the All India Trinamool Congress (copy enclosed) wherein it has been alleged that you made the following objectionable and disrespectful comment against Smt. Mamta Banerjee while addressing press, which was broadcasted and widely circulated by various news media channels:

English Transcript: *"Didi giye Goa te bole ami Goa r mey, Tripura tea mi Tripura r mey, baap to thik korun, jar tar mey howa thik noy"*

English translation: *"When Didi goes to Goa she becomes Goa's daughter, in Tripura she says I am Tripura's daughter, decide who is your father, this is not right"*.




8. Whereas, on careful examination, the comment has been found to be offensive, insulting and prima facie violative of the aforesaid provisions of the Model Code of Conduct and Commission's advisory dated 1<sup>st</sup> March 2024; and

9. Now, therefore, you are hereby called upon to show cause by **17.00 hrs of 29<sup>th</sup> March, 2024** as to why appropriate action for violation of Model Code of Conduct should not be taken against you.

10. In the event of no response from your side within the stipulated time, it will be presumed that you have nothing to say in the matter and the Election Commission will take appropriate action or decision in the matter without making any further reference to you.

By Order,

  
(Narendra N Butolia)  
Sr. Principal Secretary

To,

Shri Dilip Ghosh,  
Member of Parliament,  
Medinipur Constituency, West Bengal.  
(Through CEO, West Bengal)