

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.576/3/2013/SDR

Date: 21 January, 2013

To,

The Chief Electoral Officers of
All States/Union Territories.

Subject: Filing of nominations and scrutiny of nomination papers- additional measures to ensure transparency/accountability.

Sir/Madam,

The Commission has prescribed a format of CHECK LIST of seven documents required to be filed by a candidate along with the nomination paper vide its letter No.576/3/2009/SDR dated 10-02-2009 in order to ensure transparency and accountability and to streamline the procedure of filing of nomination and scrutiny of nomination papers. Consequent upon modification of the format of Affidavit filed in FORM- 26 appended to C.E. Rules, 1961 with effect from 01-08-2012 as notified by the Ministry of Law & Justice, candidates are now required to file only one affidavit (in Revised Form 26) with the nomination paper and hence the total number of documents in the CHECK LIST would now be six (6). The format of the revised CHECK LIST is reproduced in Para 5.31 of Chapter-V (Nominations) of the Handbook for Returning Officers (2012 edition). The Handbook is also uploaded on the Commissions website.

A Division Bench of the Hon'ble Supreme Court in a judgment passed on 09-12-2011 in Civil Appeal No.4956 of 2010-- Ramesh Rout Vs. RavindraNath Rout [2012 (1) SCJ 567] has observed that once the returning officer records in the CHECK LIST prepared by him at the time of presentation of the nomination paper that a particular document/requirement has been filed/fulfilled he cannot later take the stand that the document was not in order. In that particular case before the Hon'ble Supreme Court, the R.O. at the time of scrutiny of nomination rejected the nomination paper of a candidate sponsored by a recognized Party on the ground that Forms "A" and Form "B" furnished by the candidate were photocopies and not originals after having recorded in the Check List earlier that these Forms had been filed. The Supreme Court has not

approved of the rejection of the nomination paper on the above ground by the returning officer and declared the election of the returned candidate as void. The Hon'ble Supreme Court has held that in case the RO had noticed that the original Form "A" and Form "B" filed along with the nomination paper were not duly signed in ink then he should have made an endorsement to that effect in the CHECK LIST itself before handing over a copy thereof to the candidate.

In order to prevent recurrence of such cases, the Commission has directed that henceforth the R.O/A.R.O. while checking the documents filed with nomination paper and filling up the Check List, should also make an endorsement about defect, if any, noticed in the documents filed with the nomination papers.

A modified format of the Check List is sent herewith. Please replace the existing Format of Check List in the ROs handbook as well in other records where the Check List is kept.

In cases where a candidate put up by a political party has either not filed Forms "A" and "B" , or the Forms filed are not as per the requirements (not properly filled up or are not signed in original, etc.) while preparing Form 3A (Notice of Nominations) a mention to this effect shall be made under Column 6 with respect to such candidate.

A copy of this letter alongwith the enclosed format of Check List may also be forwarded to all the ROs and AROs for parliamentary and assembly constituencies in your State/UT.

Kindly acknowledge receipt.

Yours faithfully,

(K.F. Wilfred)
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	
2.	Certified extract of electoral roll(when candidate is an elector of a different constituency)	
3.	Forms A and B (applicable in the case of candidates set up by political parties).	
4.	Copy of cast certificate (if the candidate claims to belong to SC/ST)	
5.	Security deposit (whether made)	
6.	Oath/ affirmation (whether taken)	

The following documents which have not been filed should be filed as indicated below:

(a) _____ should be filed latest by _____.
(b) _____ should be filed latest by _____.
.....

Received.

.....

(Signature of candidate)

.....

Signature of RO/ARO

Date & time:

Place:

N.B

1. The affidavit in Form 26 and Forms A& B have to be filed latest by 3.00 P.M on the last date of filing nominations.
2. Oath has to be taken after filing nomination paper and before the date fixed for scrutiny.
3. Certified extract of electoral roll can be filed up to the time of scrutiny.
4. Security deposit should be made either before filing of nomination paper or at the time of filing of nomination paper. Therefore, there is no question of issuing notice for making the security deposit.

