

23-समस्तीपुर (अ.जा.)
संसदीय निर्वाचन क्षेत्र एवं
बिहार विधान सभा का उप
निर्वाचन 2019

बिहार सरकार
निर्वाचन विभाग
मुख्य निर्वाचन पदाधिकारी, बिहार का कार्यालय
7, सरदार पटेल मार्ग (मैगल्स रोड), पटना-800015.

फैक्स/ई-मेल

दूरभाष सं०:- 0612-2217956
फैक्स:- 0612-2215611/2215978
ई-मेल:- ceo_bihar@eci.gov.in

पत्रांक : बी1-3-126/2019- 6815

पटना, दिनांक 25 सितम्बर, 2019 ई०।

प्रेषक,

एच० आर० श्रीनिवास,
मुख्य निर्वाचन पदाधिकारी, बिहार
-सह-सचिव।

सेवा में,

सभी प्राधिकारी,

1. समस्तीपुर, दरभंगा, किशनगंज, सहरसा, सिवान, भागलपुर एवं बांका जिलान्तर्गत सभी केन्द्रीय सरकार के सभी कार्यालय
2. समस्तीपुर, दरभंगा, किशनगंज, सहरसा, सिवान, भागलपुर एवं बांका जिलान्तर्गत सभी केन्द्रीय व राज्य सरकार के सभी उपक्रम
3. समस्तीपुर, दरभंगा, किशनगंज, सहरसा, सिवान, भागलपुर एवं बांका जिलान्तर्गत सभी स्थानीय प्राधिकार
4. समस्तीपुर, दरभंगा, किशनगंज, सहरसा, सिवान, भागलपुर एवं बांका जिलान्तर्गत सभी विश्वविद्यालय
5. समस्तीपुर, दरभंगा, किशनगंज, सहरसा, सिवान, भागलपुर एवं बांका जिलान्तर्गत केन्द्रीय/राज्य सरकार द्वारा पूर्णतः या सारतः वित्त पोषित सभी संस्थान

विषय:-

23-समस्तीपुर (अ.जा.) संसदीय निर्वाचन क्षेत्र तथा 54-किशनगंज, 76-सिमरी बख्तियारपुर, 109-दरौंदा, 158-नाथनगर एवं 163-बेलहर विधान सभा निर्वाचन क्षेत्र का उप निर्वाचन, 2019 के अवसर पर बिहार राज्य अन्तर्गत केन्द्रीय सरकार/केन्द्रीय सरकार के उपक्रम के पदाधिकारियों/कर्मचारियों की निर्वाचन कार्य में प्रतिनियुक्ति।

महाशय,

उपर्युक्त विषयक भारत निर्वाचन आयोग के पत्रांक 464/INST/2009/EPS दिनांक 18.02.2011 की छायाप्रति संलग्न करते हुए सूचित करना है कि 23-समस्तीपुर (अ.जा.) संसदीय निर्वाचन क्षेत्र तथा 54-किशनगंज, 76-सिमरी बख्तियारपुर, 109-दरौंदा, 158-नाथनगर एवं 163-बेलहर विधान सभा निर्वाचन क्षेत्र का उप निर्वाचन, 2019 के अवसर पर निर्वाचन कार्य में प्रतिनियुक्ति हेतु लोक प्रतिनिधित्व अधिनियम, 1951 की धारा-159 (यथा संशोधित 1998 की धारा 12) के अधीन मुख्य निर्वाचन पदाधिकारी के अनुरोध पर निम्नलिखित प्राधिकारी द्वारा संबंधित जिला निर्वाचन पदाधिकारी-सह-जिला पदाधिकारी को उतने कर्मचारी वृन्द उपलब्ध कराने का प्रावधान है जितने निर्वाचन कार्य सम्पादन हेतु आवश्यक हों :-

1. सभी स्थानीय प्राधिकारी।
2. केन्द्रीय, प्रान्तीय या राज्य अधिनियम द्वारा स्थापित या नियमित हर विश्वविद्यालय।
3. कम्पनी अधिनियम, 1956 (1956 का 1) की धारा 617 के अधीन परिभाषित सरकारी कम्पनी (बिहार राज्य अन्तर्गत)।
4. ऐसी कोई अन्य संस्था, समुत्थान (concern) या उपक्रम जो केन्द्रीय, प्रान्तीय राज्य अधिनियम द्वारा उनके अधीन स्थापित किया गया है, या जो केन्द्रीय सरकार या किसी राज्य सरकार द्वारा प्रत्यक्षतः या अप्रत्यक्षतः उपलब्ध कराई गई निधियों द्वारा पूर्णतः या सारतः नियंत्रित या वित्त पोषित हैं।

उक्त संशोधित अधिनियम के अनुसार केन्द्र सरकार व राज्य सरकार के कर्मियों के अलावा समस्तीपुर, दरभंगा, किशनगंज, सहरसा, सिवान, भागलपुर एवं बांका जिलान्तर्गत स्थानीय प्राधिकार, विश्वविद्यालय, राष्ट्रीयकृत बैंक, जीवन बीमा निगम, सरकारी उपक्रम के कर्मियों की सेवाएं भी निर्वाचन कार्य हेतु अधियाचित की जा सकती हैं।

अतः अनुरोध है कि संबंधित जिला निर्वाचन पदाधिकारी-सह-जिला पदाधिकारी की अधियाचना पर अपने अधीनस्थ कर्मियों की सेवाएं उन्हें निर्वाचन कार्य सम्पादन के लिए उपलब्ध करा दी जायें।

अनु०:- यथा उपर्युक्त।

विश्वासभाजन

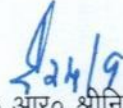
5/24/9
(एच० आर० श्रीनिवास)
मुख्य निर्वाचन पदाधिकारी, बिहार
-सह-सचिव।

ज्ञापांक:- बी1-3-126/2019- 6815

पटना, दिनांक 25 सितम्बर, 2019 ई०

प्रतिलिपि :-मुख्य सचिव, बिहार/ प्रमंडलीय आयुक्त, पूर्णिया प्रमंडल, पूर्णिया/कोशी प्रमंडल, सहरसा/सारण प्रमंडल, छपरा/भागलपुर प्रमंडल, भागलपुर/दरभंगा प्रमंडल, दरभंगा/जिला निर्वाचन पदाधिकारी-सह-जिला पदाधिकारी, समस्तीपुर, दरभंगा, किशनगंज, सहरसा, सिवान, भागलपुर एवं बांका को अनुलग्नक की प्रति के साथ सूचना एवं आवश्यक कार्रवाई हेतु प्रेषित।

अनु०:- यथा उपर्युक्त।


(एच० आर० श्रीनिवास)
मुख्य निर्वाचन पदाधिकारी, बिहार
-सह-सचिव।

ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001.

No.464/INST/2009/EPS

Dated: 18th February,

2011

To,

The Chief Electoral Officers of
All States and Union Territories.

Subject: Requisition of Staff for election purpose – regarding.

Sir/Madam,

I am directed to refer to Section 159 of the Representation of the People Act, 1951, which deals with requisitioning of staff for election work. It has been provided that the authorities mentioned in sub-section(2) of the said Section 159 shall make available to the Returning Officers such staff as may be necessary for the performance of any duty in connection with an election, on request made by the Chief Electoral Officer of the State.

2. The following authorities have been so specified under the said sub-section(2) of the section 159:

- (i) every local authority;
- (ii) every university established or incorporated by or under a Central, Provincial or State Act;
- (iii) a Government company as defined in section 617 of the Companies Act, 1956;
- (iv) any other institution, concern or undertaking which is established by or under a Central, Provincial or State Act, or which is controlled, or financed wholly or substantially by funds provided, directly or indirectly, by the Central Government or a State Government.

3. Section 26 of the Representation of People Act, 1951 empowers the District Election Officers to appoint Presiding Officers and Polling Officers for polling stations falling in his district. Further, under section 20A of the Representation of the People Act, 1951, the District Election Officer is required to coordinate and supervise all work in the District in connection with conduct of elections. Therefore, by convention and for convenience, the

District Election Officers have been requisitioning staff for conduct of election under Section 159 of the R. P. Act, 1951.

4. During the general election to the Legislative Assembly of Maharashtra, in 2009, the orders of requisitioning of staff issued by the DEOs and Collectors. of Thane district and Mumbai sub-urban district were quashed by the Hon'ble Bombay High Court in Writ Petition Nos. 8052 of 2009, No. 8039 of 2009, No. 8089 of 2009, No. 8111 of 2009, on the ground that the action on the part of the DEOs in issuing of requisition orders by invoking sections 26 of R. P. Act, 1951 and 13AA of the R.P. Act, 1950, without giving due regard to the provisions of Section 159 of the R.P. Act, 1951 were improper. The Hon'ble High Court held that the power under Section 159 is of the Chief Electoral Officer, and the CEO should requisition the staff keeping in mind the guidelines issued by the Commission. The High Court has also made an observation that while requisitioning staff, all the organizations should be considered so that some institutions are not picked up selectively ignoring the fact that deployment of large number of staff from a few institutions would be likely to result in hardships in the business of such institutions.

5. The Hon'ble High Court further observed that the Chief Electoral Officer should issue legal and valid requisition orders under Section 159 of the R. P. Act, 1951, for requisitioning of staff from the organizations covered by section 159 of the R. P. Act, 1951 in accordance with the law.

A copy of the common order dated 25th September, 2009 passed by Hon'ble High Court of Bombay in W. P. Nos. 8052, 8039, 8089 and 8111 of 2009 is enclosed herewith.

6. In view of the above, it may be ensured that the orders for requisitioning staff for election work are issued by the Chief Electoral Officer under section 159(1) of R.P. Act, 1951, requesting the authorities mentioned in sub-section(2) of section 159 of Representation of the People Act,1951 to make available to Returning Officer such staff as may be necessary for performance of duties in connection with elections. Appointments of staff so seconded to Returning Officer should , however, be made by the District Election Officer under Section 26 of the Representation of the People Act, 1951.

7. The following guidelines should be kept in mind:

- (a) Based on the availability of staff in the institutions covered under Section 159(2), and the requirement of staff, the staff may be requisitioned from such institutions.
- (b) The Commission has exempted certain offices/institutions for the purposes of election duty in view of the essential nature of duties/services discharged by the institutions. This should be kept in mind.
- (c) Employees of banks, LIC may be drafted on election duty to the minimum extent possible, only in a constituency where sufficient numbers of govt. employees are not available or in emergent circumstances such as strike etc. by the Govt. employees. Care should be taken to ensure that normal functioning of banks, LIC are not interrupted. Care should further be taken to ensure that minimum numbers of employees of such institutions is requisitioned so that the business of these institutions is not hampered.

8. It is reiterated that while requisitioning of the staff for conduct of future elections, their rank, salary etc. should be kept in mind while making appointment and assigning duties to them.

9. The instructions in the earlier letter No. 464/INST/2009/EPS, dated 30th December, 2009, shall be treated as superseded by the instructions in the present letter.

10. These instructions may be brought to the notice of all concerned.

Yours faithfully,

SUMIT MUKHERJEE
(UNDER SECRETARY)