

COUNCIL ELECTIONS
MOST IMMEDIATE

GOVERNMENT OF ANDHRA PRADESH
GENERAL ADMINISTRATION (ELECTIONS: E) DEPARTMENT

MEMORANDUM NO. 3604/ ELECTIONS.E /2006-1,

DATED 14.09.2006

Council Rolls - Circular No.1

Sub:- Elections – Legislative Council – Formation – Preparation of Electoral Rolls for Graduates’ , Teachers’ and Local Authorities’ Constituencies – Preliminary Instructions – Issued.

Ref: D.O.Letter No. 2724 /Elections F/2006-18, dt.13.9.2006

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This is further to this office D.O. letter cited enclosing adequate copies of (i) Handbook for Electoral Registration Officers and (ii) Handbook for Returning Officers for State Legislative Council.

2. All the Collectors and District Election Officers are informed that the Andhra Pradesh Legislative Council Act, 2005 received the assent of President on 11-1-2006. The Act provides creation of a Legislative Council for the State of Andhra Pradesh.

3. According to section 3(2) of this Act, the proposed Council will have 90 seats of which 8 seats will be elected from graduates’ constituencies, 8 from the teachers’ constituencies, 31 from the local authorities’ constituencies, 31 by the Members of the Legislative Assembly and 12 by nomination by the Governor. Copy of the Act is placed at **Annexure-I**.

4. Under Article 171 (4) of the Constitution of India read with section 11 of the Representation of the People Act, 1950 and section 3(3) of the Legislative Council Act, 2005, the President by an order determines the extent of the territorial constituencies in each of the graduates’, teachers’ and local authorities’ constituencies and the number of seats to be allotted to each of the constituencies in them. The Presidential notification order is expected to be issued before September 30, 2006.

5. On the basis of the delimitation of these constituencies the Electoral Registration Officers, Assistant Electoral Registration Officers, Returning Officers and Assistant Returning Officers will be appointed by the Election Commission in consultation with this Government. Pending issue of formal orders delimitation of these constituencies and the appointment of Electoral Registration Officers, Assistant Electoral Registration Officers, Returning Officers and Assistant Returning Officers, all the concerned officers should familiarize themselves with the statutory provisions regarding preparation of electoral rolls for graduates’, teachers’ and local authorities’ constituencies. The relevant provisions of the Representation of the People Act, 1950 relating to

(Contd...P.2)

the qualifications of electors for those constituencies are reproduced in **Annexure-II** to this Memorandum. The following preliminary instructions are issued for the preparation of those draft electoral rolls.

Graduates' and teachers' constituencies:

— Subject to the disqualification law contained in Section 16 of the Representation of the People Act, 1950, the qualifications prescribed for a voter in a graduates' constituency are:

vide Chapter-IX – Paras 19, 20.1 & 20.2 of Hand Book for EROs).

- (i) Every person who is ordinarily resident in a Graduates' constituency and has, for at least three years before the qualifying date, been either a graduate of a university in the territory of India or in possession of any of the equivalent qualifications specified by the State Government concerned, shall be entitled to be registered in the electoral roll for that constituency .
- (ii) Every person, who is ordinarily resident in a Teachers' Constituency, and has, within six years immediately before the qualifying date for a total period of at least three years, been engaged in teaching in any of the educational institutions specified by the State Government concerned as not lower in standard than that of a secondary school shall be entitled to be registered in the electoral roll for that constituency. It is not necessary that the education institution in which an eligible elector is employed should also fall within the same constituency. The eligibility to be enrolled in a particular constituency shall be determined with reference to his place of ordinary residence and not the place of work.
- (iii) For the purpose of revision/enrolment of electoral rolls in the Graduates' and Teachers Constituency qualifying date shall be the Ist day of November of the year in which the preparation of electoral is commenced. For the current year the relevant date is 01-11-2006.

6. The standing as a graduate should be reckoned from the date on which the result of the qualifying degree examination was declared and published by the University or an authority concerned and not from the date of convocation. The qualifications other than the University Degrees which this Government considers as equivalent to that of a graduate of a University in India will be notified in Andhra Pradesh Gazette shortly. The educational institutions not lower in standard than that of a secondary school is also being notified in the Andhra Pradesh Gazette shortly.

vide Chapter-IX - Para 35 of Hand Book for EROs).

7. The Government will issue a Press Note (tentatively scheduled for September 29th) calling upon all the graduates and teachers possessing the requisite qualifications to send their applications within the prescribed date in Form 18 or Form 19 as the case may be to the DROs who are proposed as the Electoral Registration Officers of the constituencies or to the RDOs, who

proposed as the Assistant Electoral Registration Officers of the constituencies for inclusion of their names in the electoral rolls. The applications received by the Electoral Registration Officer for the constituency should be sent to Assistant Electoral Registration Officer having territorial jurisdiction over the area in which the applicants resides. The Assistant Electoral Registration Officer should verify the claims so referred and also the claims received directly by them expeditiously and send a report for inclusion or rejection to the Electoral Registration Officer of the constituency. In respect of areas falling within the Municipal Corporation of Hyderabad limits, the Commissioner of Municipal Corporation of Hyderabad should arrange for the verification of the applications. After due verification the DROs and Commissioner of Municipal Corporation of Hyderabad (Elections) who are proposed as the Electoral Registration Officers should prepare a draft electoral roll. The Electoral Registration Officer will prepare draft electoral roll together with notice in Form 5, under rule 10 of the Registration of Electoral Rules, 1960 (Extract of Form 5 enclosed as **Annexure-III**).

8. Under Rule 31 of the Registration of Electoral Rules, 1960, the roll for every Graduates' or Teachers' Constituency shall be prepared in such form, manner and language or languages as the Election Commission may direct. The Election Commission has directed that the electoral roll shall, in respect of each elector, specify the particulars as far as may be available in the order specified in the Chapter-IX paras 24 & 26 of Hand Book for EROs, 1993.

*Vide Chapter-IX
Paras 25 & 27 of
Hand Book for
EROs, 1993*

9. The Election Commission has directed that the Electoral Rolls for the Graduates and Teachers constituencies shall be prepared in the States of Bihar and Uttar Pradesh in Hindi and in the other States in English i.e. in Andhra Pradesh the rolls of the said two constituencies shall be prepared in English. We have requested Election Commission for permission to print this roll in Telugu also. We are awaiting their orders.

10. It is proposed to supply adequate printed copies of Forms 18 and 19 referred to in paragraph 7 above prescribed under Rule 31 of the Registration of Electoral Rules, 1960. These forms are to be utilized for inclusion of names in the electoral rolls of graduates' and teachers' constituencies. In case of need the form can be downloaded from the web site www.ceoandhra.nic.in / copied from Manual of Election Law Vol.II.

Local authorities' constituencies:

11. The electorate of the local authorities' constituency consists of members of the following local bodies in Andhra Pradesh as per the Fourth Schedule of the Representation of People Act, 1950, as amended by Section 43 of the Legislative Councils Act, 2005.

1. Municipal Corporations.
2. Municipalities.
3. Nagar Panchayats.
4. Cantonment Boards.
5. Zilla Praja Parishads.
6. Mandal Praja Parishads.

12. Subject to the disqualification law contained in section 16 of the Representation of the People Act, 1950, under section 27(2) of the said Act every member of a constituent local authority referred to above within a local authorities' constituency is entitled to be registered in the electoral roll for that constituency, without reference to the qualifying date. Under Section 27 (2) (d) of the Representation of the People Act, 1950, it is the duty of the Electoral Registration Officer of the concerned local authorities' constituency to obtain and compile an updated list of members of the constituent local authority within his constituency from the Commissioners of the Municipalities/Chief Executive Officers of ZPP/ MPDO of MPP and the Executive Officer of Cantonment Board, Secunderabad. Pending appointment of Electoral Registration Officers, the RDOs/Sub-Collectors should prepare the list of the members of the local authorities referred to above within their jurisdiction may be and send it to the Joint Collector of the district. The Commissioner, Municipal Corporation of Hyderabad will obtain a list of members of the Cantonment Board, Secunderabad.

13. In order to enable the Electoral Registration Officer to maintain the electoral roll corrected up-to-date, the Chief Executive Officer of every Local Authority shall inform the Electoral Registration Officer about every change in the membership of that Local Authority immediately after its occurrence. The Electoral Registration Officer shall, on receipt of the information, strike off from the electoral roll the names of persons who have ceased to be, and include therein the names of persons who have become, members of that Local Authority.

Vide Chapter IX
para 15 of Hand
Book for EROs.

14. The Election Commission has directed that Except in the State of Karnataka the Electoral Rolls for the Local Authorities constituencies shall be prepared in the regional language of the State i.e. in Andhra Pradesh the rolls shall be prepared in Telugu.

Vide Chapter IX
paras 22 (v) of
Hand Book for
EROs

15. It should be noted that a person cannot be registered more than once in any constituency or in more than one constituency under the same category. But a person can, if duly qualified, be registered as a voter in constituencies of different categories namely Graduates', Teachers' and local authorities' constituencies as these are treated as falling under different category. For example, a graduate teacher with requisite qualifications will be entitled to be registered both in graduates' constituencies and also in the teachers' constituency. Similarly a graduate who is also a member of a constituent local authority will be entitled to be registered as voter both in graduates' and local authorities' constituencies.

16. This right is clarified by Section 62 (3) & 62 (4) of the Representation of People Act, 1951 which stipulates that no person shall vote more than once in a constituency of the same class. Graduates, Teachers and Local authority constituencies are deemed to be different classes as per Section 2 (2).

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17. All the Collectors in the State and Commissioner, Municipal Corporation of Hyderabad are requested to follow the above instructions scrupulously.

18. The receipt of this Memorandum should be acknowledged immediately in the form attached.

V.BHASKAR
CHIEF ELECTORAL OFFICER &
PRL.SECRETARY TO GOVERNMENT.

To

All the Collectors & District Election Officers in the State.

All the Joint Collectors in the State.

All the DROs in the State through Collectors & District Election Officers.

All Revenue Divisional Officers through Collectors & District Election Officers in the State.

The Commissioner, Municipal Corporation of Hyderabad.

Additional Commissioner (Elections), Municipal Corporation of Hyderabad

Copy to file

Copy to all officers and Sections in G.A.(Elections) Department.

रजिस्ट्री से डी एल—(एन)04/0007/2006—08 REGISTERED NO. DL—(N)04/0007/2006—08


भारत का राजपत्र
The Gazette of India.

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं 1] नई दिल्ली, बुधस्वतिवार, जनवरी 12, 2006 / पीच 22, 1927
No. 1] NEW DELHI, THURSDAY, JANUARY 12, 2006 / PAUSA 22, 1927

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 12th January, 2006/Pausa 22, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 11th January, 2006 and is hereby published for general information:—

THE ANDHRA PRADESH LEGISLATIVE COUNCIL ACT, 2005
No. 1 of 2006

[11th January, 2006.]

An Act to provide for the creation of Legislative Council for the State of Andhra Pradesh and for matters supplemental, incidental and consequential thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Andhra Pradesh Legislative Council Act, 2005.

Short title.

2. In this Act, unless the context otherwise requires, each of the words and expressions used herein and not defined but defined in the Representation of the People Act, 1950, shall have the same meaning as in that Act.

Definitions.

3. (1) As from such date as the President may by order appoint, there shall be a Legislative Council for the State of Andhra Pradesh; and as from that date, in sub-clause (a) of clause (1) of article 168, after the words "States of", the words "Andhra Pradesh," shall be inserted.

Creation of
Legislative
Council for
Andhra
Pradesh.

(2) In the said Council, there shall be 90 seats of which—

(a) the numbers to be filled by persons elected by the electorates referred to in sub-clauses (a), (b) and (c) of clause (3) of article 171 shall be 31, 8 and 8 respectively;

(b) the number to be filled by persons elected by the members of the Legislative Assembly of Andhra Pradesh in accordance with the provisions of sub-clause (d) of the said clause shall be 31; and

(c) the number to be filled by persons nominated by the Governor of Andhra Pradesh in accordance with the provisions of sub-clause (e) of that clause shall be 12.

(3) As soon as may be after the commencement of this Act, the President, after consultation with the Election Commission, shall, by order, determine—

(a) the constituencies into which the State of Andhra Pradesh shall be divided for the purpose of elections to the said Council under each of the sub-clauses (a), (b) and (c) of clause (3) of article 171;

(b) the extent of each constituency; and

(c) the number of seats to be allotted to each constituency.

(4) As soon as may be after such determination, steps shall be taken to constitute the said Council in accordance with the provisions of this Act, the Representation of the People Act, 1950 and the Representation of the People Act, 1951.

43 of 1950
43 of 1951.

Amendment of Third Schedule and Fourth Schedule of Act 43 of 1950.

4. In the Representation of the People Act, 1950,—

(a) in the Third Schedule, before entry No. 2 relating to Bihar, the following entry shall be inserted, namely:—

“1. Andhra Pradesh 90 31 8 8 31 12”;

(b) in the Fourth Schedule, before the heading “BIHAR”, the following heading and entries shall be inserted, namely:—

“ANDHRA PRADESH

1. Municipal Corporations.
2. Municipalities.
3. Nagar Panchayats.
4. Cantonment Boards.
5. Zila Praja Parishads.
6. Mandal Praja Parishads.”

Amendment of section 15A of Act 43 of 1951.

5. In section 15A of the Representation of the People Act, 1951, for the words and figures “under the Legislative Councils Act, 1957”, the words and figures “under the Andhra Pradesh Legislative Council Act, 2005” shall be substituted.

37 of 1957.

T.K. VISWANATHAN,
Secy. to the Govt. of India.

ANNEXURE - II

EXTRACT FROM THE REPRESENTATION OF THE PEOPLE ACT, 1950

Section 16: DISQUALIFICATIONS FOR REGISTRATION IN AN ELECTORAL ROLL:-

- (1) A person shall be disqualified for registration in an electoral roll if he—
 - (a) is not a citizen of India; or
 - (b) is of unsound mind and stands so declared by a competent court; or
 - (c) is for the time being disqualified from voting under the provisions of any law relating to corrupt (and illegal) practices and other offences in connection with elections.
- (2) The name of any person who becomes so disqualified after registration shall forthwith be struck off the electoral roll in which it is included:

(Provided that the name of any person struck off the electoral roll of a constituency by reason of a disqualification under clause (c) of sub-section (1) shall forthwith be reinstated in that roll if such disqualification is, during the period such roll is in force, removed under any law authorizing such removal.)

Section 17: NO PERSON TO BE REGISTERED IN MORE THAN ONE CONSTITUENCY:___

No person shall be entitled to be registered in the electoral roll for more than one constituency (in the same State).

Section 18: NO PERSON TO BE REGISTERED MORE THAN ONCE IN ANY CONSTITUENCY:

No person shall be entitled to be registered in the electoral roll for any constituency more than once.

Section 20: MEANING OF "ORDINARY RESIDENT". –

- (1) A person shall not be deemed to be ordinarily resident in a constituency on the ground only that if he owns, or is in possession of, a dwelling house therein.
- (1A) A person absenting himself temporarily from his place of ordinary residence shall not be reason thereof cease to be ordinarily resident therein.

- (1B) A member of Parliament or of the Legislature of a State shall not during the term of his office cease to be ordinarily resident in the constituency in the electoral roll of which he is registered as an elector at the time of his election as such member, by reason of his absence from that constituency in connection with his duties as such member.
- (2) A person who is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness, or who is detained in prison or other legal custody at any place, shall not by reason thereof be deemed to be ordinarily resident therein
- (3) Any person having service qualification shall be deemed to be ordinarily resident on any date in the constituency in which, but for his having such service qualification, he would have been ordinarily resident on that date.
- (4) Any person holding any office in India declared by the President in consultation with the Election Commission to be an office to which the provisions of this sub-section apply, shall be deemed to be ordinarily resident on any date in the constituency in which, but for the holding of any such office, he would have been ordinarily resident on that date.
- (5) The statement of any such person as is referred to in sub-section (3) or sub-section (4) made in the prescribed form and verified in the prescribed manner, that but for his having the service qualification} or but for his holding any such office as is referred to in sub-section (4) he would have been ordinarily resident in a specified place on any date, shall, in the absence of evidence to the contrary, be (accepted as correct).
- (6) The wife of any such person as is referred to in sub-section (3) or sub-section (4) shall if she be ordinarily residing with such person be deemed to be ordinarily resident on in the constituency specified by such person under sub-section (5).
- (7) If in any case a question arises as to where a person is ordinarily resident at any relevant time, the question shall be determined with reference to all the facts of the case and to such rules as may be made in this behalf by the Central Government in consultation with the Election Commission.
- (8) In sub-sections (3) and (5) "service qualification" means—
- (a) being a member of the armed forces of the Union; or
 - (b) being a member of a force to which the provisions of Army Act, 1950 (46 of 1950), have been made applicable whether with or without modifications; or
 - (c) being a member of an armed Police force of a State, who is serving outside that State; or
 - (d) being a person who is employed under the Government of India, in a post outside India.

Section 27 of Representation of the People Act, 1950

27. Preparation of electoral roll for Council constituencies.--(1) In this section, "local authorities' constituency", "graduates' constituency" and "teachers' constituency" mean a constituency for the purpose of elections to a Legislative Council under sub-clause (a), sub-clause (b) and sub-clause (c), respectively, of clause (3) of article 171.

(2) For the purpose of elections to the Legislative Council of a State in any local authorities' constituency—

- (a) the electorate shall consist of members of such local authorities exercising jurisdiction in any place or area within the limits of that constituency as are specified in relation to that State in the Fourth Schedule;
- (b) every member of each such local authority within a local authorities' constituency shall be entitled to be registered in the electoral roll for that constituency;
- (c) the electoral registration officer for every local authorities' constituency shall maintain in his office in the prescribed manner and form the electoral roll for that constituency corrected upto-date;
- (d) in order to enable the electoral registration officer to maintain the electoral roll corrected up-to-date, the chief executive officer of every local authority (by whatever designation such officer may be known) shall immediately inform the electoral registration officer about every change in the membership of that local authority; and the electoral registration officer shall, on receipt of the information, strike off from the electoral roll the names of persons who have ceased to be, and include therein the names of persons who have become, members of that local authority; and
- (e) the provisions of sections 15, 16, 18, 22 and 23 shall apply in relation to local authorities' constituencies as they apply in relation to assembly constituencies.

(3) For the purpose of elections to the Legislative Council of a State in the graduates' constituencies and the teachers' constituencies, the State Government concerned may, with the concurrence of the Election Commission, by notification in the Official Gazette, specify—

- (a) the qualifications which shall be deemed to be equivalent to that of a graduate of a university in the territory of India, and
- (b) the educational institutions within the State not lower in standard than that of a secondary school.

(4) The provisions of sections 15, 16, 18, 21, 22 and 23 shall apply in relation to graduates' constituencies and teachers' constituencies as they apply in relation to assembly constituencies.

(5) Subject to the foregoing provisions of this section, —

(a) every person who is ordinarily resident in a graduates' constituency and has, for at least three years before the qualifying date, been either a graduate of a University in the territory of India or in possession of any of the qualifications specified under clause (a) of subsection (3) by the State Government concerned, shall be entitled to be registered in the electoral roll for that constituency; and

(b) every person who is ordinarily resident in a teachers' constituency, and has, within the six years immediately before the qualifying date for a total period of at least three years, been engaged in teaching in any of the educational institutions specified under clause (b) of sub-section (3) by the State Government concerned shall be entitled to be registered in the electoral roll for that constituency.

(6) For the purposes of sub-sections (4) and (5) the qualifying date shall be the 1st day of November of the year in which the preparation or revision of the electoral roll is commenced.

ANNEXURE – III

Form 5
(See rule 10)

Notice of publication of electoral roll in draft

To
The Electors of the _____
Constituency.

Notice is hereby given that the electoral roll has been prepared in accordance with the registration of Electors Rules, 1960, and a copy thereof is available for inspection at my office, and at _____ during office hours.

The qualifying date for the preparation of the electoral roll is
01-11-2006 .

If, with reference to the above said qualifying date, there be any claim for the inclusion of a name in the roll or any objection to the inclusion of name or any objection to particulars in any entry, it should be lodged on or before the _____ 2006 _____ in Form 17, 18 & 19. as may be appropriate.

Every such claim or objection should either be presented in my office or to _____ or sent by post to the address given below so as to reach me not later than the aforesaid date.

Date

Electoral Registration Officer
Address

ACKNOWLEDGEMENT SLIP

The receipt of the Government Memorandum No. 3604/Elections.E /2006-1, General Administration (Elections.E) Department, Dated 14.09.2006 (Council Rolls - Circular No.1) together with its enclosures is hereby acknowledged.

Place:
Date:

Signature:
Designation

To
The Chief Electoral Officer and
Prl.Secretary to Government,
General Administration (Elections.E) Department,
Hyderabad.