



**TAMIL NADU
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Part VI—Section 2

**Notifications or Orders of interest to a section of the public
issued by Heads of Departments, etc.**

NOTIFICATIONS BY HEADS OF DEPARTMENTS, ETC.

TAMIL NADU STATE ELECTION COMMISSION, CHENNAI.

[ELECTIONS - TAMIL NADU STATE ELECTION COMMISSION - LOCAL BODY ELECTIONS, 2011 - RIGHT TO
INFORMATION OF ELECTORS - NOTIFICATION - ISSUED.]

(S.O.No. 27/2011/TNSEC/EG.)

No. VI(2)/445(i)/2011.

WHEREAS the superintendence, direction and control of all elections to the Panchayats and Municipalities in the State are vested with the State Election Commission as per Article 243K and 243ZA of the Constitution of India:—

2. And Whereas, the Hon'ble High Court of Delhi, by its order dated 2nd November 2000 in Writ Petition No. 7257 of 1999 (Association for Democratic Reforms Vs. Union of India and Others) held that for making a right choice by electors in regard to the candidate at the election, it was essential that the past of the candidate should not be kept in dark, as it was not in the interest of the democracy and well-being of the country and directed the Election Commission of India to secure to voters the following information pertaining to each of the candidates contesting elections to Parliament and to the State Legislatures and the parties they represent:—

- (1) Whether the candidate is accused of any offence(s) punishable with imprisonment? If so, the details thereof;
- (2) Assets possessed by a candidate, his or her spouse and dependent relatives;
- (3) Facts giving insight to candidate's competence, capacity and suitability for acting as parliamentarian or legislators including details of his/her educational qualifications;
- (4) Information which the Election Commission considers necessary for judging the capacity and capability of the political party fielding the candidate for election to Parliament or the State Legislature;

3. And Whereas, the Union of India filed an appeal before the Hon'ble Supreme Court of India (Civil Appeal No. 7178 of 2001 – Union of India Vs. Association for Democratic Reforms and Another), contending that the High Court ought to have directed the writ petitioners to approach the Parliament for appropriate amendments to the law instead of directing the Election Commission of India to implement the same;

4. And Whereas, the Hon'ble Supreme Court of India has, by its order dated 2nd May, 2002, held as follows:—

- (1) *The jurisdiction of the Election Commission is wide enough to include all powers necessary for smooth conduct of elections and the word 'elections' is used in a wide sense to include the entire process of election which consists of several stages and embraces many steps.*
- (2) *The limitation on plenary character of power is when the Parliament or State Legislature has made a valid law relating to or in connection with elections, the Commission is required to act in conformity with the said provisions. In case where law is silent, Art 324 is a reservoir of power to act for the avowed purpose of having free and fair election. Constitution has taken care of leaving scope for exercise of residuary power by the Commission in its own right as a creature of the Constitution in the infinite variety of situations that may emerge from time to time in a large democracy, as every contingency could not be foreseen or anticipated by the enacted laws or the rules. By issuing necessary directions the Commission can fill the vacuum till there is legislation on the subject. In Kanhiya Lal Omar's case (AIR 1986 SC 111) the court construed the expressions 'superintendence, direction and control' in art 324(1) and held that a direction may mean an order issued to particular individual or a precept which may have to follow and it may be specific or a general order and such phrase should be construed liberally empowering the Election Commission to issue such orders.*
- (3) *The word 'elections' includes the entire process of election which consists of several stages and it embraces many steps, some of which have an important bearing on the process of choosing a candidate. Fair election contemplates disclosure by the candidate of his past including the assets held by him so as to give a proper choice to the candidate (sic) (elector) according to his thinking and opinion. As stated earlier, in Common Cause case [(1996) 2 SCC 752], the court dealt with a contention that elections in the country are fought with the help of money power which is gathered from black sources and once elected to power, it becomes easy to collect tons of black money, which is used for retaining power and for re-election. If on affidavit a candidate is required to disclose the assets held by him at the time of election, voter can decide whether he could be re-elected even in case where he has collected tons of money.*
- (4) *To maintain the purity of elections and in particular to bring transparency in the process of election, Commission can ask the candidates about the expenditure incurred by the political parties and this transparency in the process of election would include transparency of a candidate who seeks election or re-election. In a democracy the Electoral process has a strategic role. The little man of this country would have basic elementary right to know full particulars of a candidate who is to represent him in Parliament where laws to bind his liberty and property may be enacted.*
- (5) *The right to get information in democracy is recognised all throughout and it is natural right flowing from the concept of democracy. At this stage, we would refer to Art 19(1) and (2) of the international Covenant of Civil and Political Rights which is as under:—*
 - (1) *Every one shall have the right to hold opinions without interference.*
 - (2) *Every one shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*
- (6) *Cumulative reading of plethora of decisions of this court as referred to, it is clear that if the field meant for legislature and executive is left unoccupied detrimental to the public interest, this court would have ample jurisdiction under Art 32 read with Arts 141 and 142 of the Constitution to issue necessary directions to the executive to subserve public interest.*
- (7) *Under our Constitution, Art 19(1) (a) provides for freedom of speech and expression. Voters' speech or expression in case of election would include casting of votes that is to say, voter speaks out or expresses by casting vote. For this purpose, information about the candidate to be selected is must. Voter's (little man-citizen's) right to know antecedents including criminal past of his candidate contesting election for MP or MLA is much more fundamental and basic for survival of democracy. The little man may think over before making his choice of electing law breakers as lawmakers".*

5. And Whereas, the Hon'ble Supreme Court, by its aforesaid order dated 2nd May 2002, has directed as follows and the same is reiterated in the judgement dated 13th March 2003:—

"The Election Commission is directed to call for information on affidavit by issuing necessary order in exercise of its power under Art 324 of the Constitution of India from each candidate seeking election to Parliament or a state legislature as a necessary part of his nomination paper, furnishing therein, information on the following aspects in relation to his/her candidature:—

- (1) *Whether the candidate is convicted/acquitted/discharged of any criminal offence in the past; if, any, whether he is punished with imprisonment or fine?*

- (2) *Prior to six months of filing of nomination, whether the candidate is accused in any pending case of any offence punishable with imprisonment for two years or more, and in which charge is framed or cognizance is taken by the court of law, if so, the details thereof.*
- (3) *The assets (immovable, movable, bank balances etc.) of a candidate and of his/her spouse and that of dependents.*
- (4) *Liabilities, if any, particularly whether there are any over dues of any public financial institution or government dues.*
- (5) *The educational qualifications of the candidate”*

6. And Whereas, for implementation of the above-mentioned order of the Supreme Court dated 2nd May 2002 the Election Commission of India has issued an Order No.3/ER/2002/JS-II/Vol-III, dated 28th June 2002 and the revised order No.3/ER/2003/JS-II, Dated 27th March 2003 issued on the subsequent judgement dated 13-5-2003 for conduct of elections to Parliament and State Legislatures. Eventhough, Supreme Court's order is regarding elections to the Parliament and State Legislatures, the same action is necessary in regard to election to the Panchayats and Municipalities in the State. It is also essential that electors of the local self governing institution should have knowledge about the criminal background of a candidate, if any, assets possessed by a candidate, his or her spouse and dependent relation. So also, information about the facts giving insight to the candidate's capability, capacity and suitability for serving as a member of the local self governing institution including his educational qualification etc.

7. And Whereas, in the absence of such provisions in the laws governing election to the Panchayats and Municipalities, the State Election Commission is duty bound to issue such instructions in the interest of purity of elections to the Panchayats and Municipalities till such amendments are made by the State Legislature in the laws governing election to the Panchayats and Municipalities and since Article 324 is identical to Articles 243K and 243ZA of the Constitution governing the elections to the Panchayats and Municipalities. Almost all the State Election Commissions except a few have already implemented the aforementioned Orders of the Hon'ble Supreme Court of India while conducting the elections to rural and urban local bodies, viz., the Panchayats and Municipalities being the institutions at the lower rungs of the democracy and stepping stones for bringing up the prospective leaders of the country, it is felt necessary by the Tamil Nadu State Election Commission, to have an in-built mechanism of ensuring purity, openness and transparency in the elections to the institutions at the grassroot level. Hence this Order.

ORDER

NOW, THEREFORE, in exercise of the powers conferred by Articles 243K and 243ZA of the Constitution of India read with relevant sections of Tamil Nadu Panchayat Act, 1994 (Tamil Nadu Act 21 of 1994) Madras City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919) Madurai City Municipal Corporation Act, 1971 (Tamil Nadu Act XV of 1971), Coimbatore City Municipal Corporation Act, 1981 (Tamil Nadu Act XXV of 1981), Tiruchirapalli City Municipal Corporation Act, 1994 (Tamil Nadu Act 27 of 1994) Tirunelveli City Municipal Corporation Act, 1994 (Tamil Nadu Act 28 of 1994) Salem City Municipal Corporation Act, 1994 (Tamil Nadu Act 29 of 1994), Tiruppur City Municipal Corporation Act, 2008 (Tamil Nadu Act 7 of 2008), Erode City Municipal Corporation Act, 2008 (Tamil Nadu Act 8 of 2008), Vellore City Municipal Corporation Act, 2008 (Tamil Nadu Act 26 of 2008), Thoothukudi City Municipal Corporation Act, 2008 (Tamil Nadu Act 27 of 2008) and Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920) and all other powers enabling it in this behalf, the Tamil Nadu State Election Commission issues in supersession of the S.O. No. 43/2006/TNSEC/EG, Dt. 1-9-2006 the following orders in respect of conduct of elections to rural and urban local bodies in the State:—

1. Every candidate at the time of filing his / her nomination paper for any election or casual election for electing a Member or Members or Chairperson or Chairpersons of any Panchayat or Municipality, shall furnish full and complete information in regard to all the five matters referred in paragraph 5 of the preamble, in an Affidavit or Declaration, as the case may be, in the format annexed hereto:

Provided that having regard to the difficulties in swearing an affidavit in a village, a candidate at the election to a Ward Member of Village Panchayat under the Tamil Nadu Panchayats Act, 1994 shall, instead of filing an Affidavit, file before the Returning Officer a declaration in the same format annexed to this order:
2. The said affidavit by each candidate shall be duly sworn before a Magistrate of the First Class or a Notary Public or a Commissioner of Oaths appointed by the High Court of the State or before an officer competent for swearing an affidavit. *The affidavit shall be prepared in a twenty Rupees (Rs. 20/-) Non judicial stamped paper.*
3. Non-furnishing of the affidavit or declaration, as the case may be, by any candidate shall be considered to be violation of this order and the nomination of the candidate concerned shall be liable for rejection by the returning officer at the time of scrutiny of nomination for such non-furnishing of the affidavit/declaration, as the case may be.
4. *If more than one nomination has been filed by a candidate for an election the affidavit shall be fixed along with the first nomination and no need to furnish the affidavit with the other nomination papers.*
5. The information so furnished by each candidate in the aforesaid affidavit or declaration as the case may be, shall be disseminated by the respective returning officers by displaying a copy of the affidavit on the notice board of his office and also by making the copies thereof available to all other candidates on demand and to the representatives of the print and electronic media.

6. If any rival candidate furnished information to the contrary, by means of a duly sworn affidavit, then such affidavit of the rival candidate shall also be disseminated along with the affidavit of the candidate concerned in the manner directed above.
7. All the Returning Officers shall ensure that the copies of the affidavit/declaration, prescribed herein by the Tamil Nadu State Election Commission in the Annexure shall be delivered to the candidates along with the forms of nomination papers as part of the nomination papers.
8. In view of the penal provisions contained in Section 177 of Indian Penal Code (Procedure contemplated in Section 195 of Code of Criminal procedure) The Returning Officer concerned may initiate action after providing reasonable opportunity to the party concerned in case of false information, if any, confirmed at a later date.

This order shall come into force with effect from 11th September 2011.

(By Order of the Tamil Nadu State Election Commission)

Chennai-600 106,
11th September 2011.

V.M. XAVIER CHRISSE NAYAGAM,
Secretary,
Tamil Nadu State Election Commission.

ANNEXURE

AFFIDAVIT/DECLARATION TO BE FURNISHED BY CANDIDATE ALONG WITH NOMINATION PAPER BEFORE THE RETURNING OFFICER.

(Please read the contents of the Annexure carefully and strike the contents not applicable to you.)

For election to the office of Ward Member/Councillor of Ward Number..... of Village Panchayat/
Panchayat Union / District Panchayat / Town Panchayat / Third Grade Municipality / Municipality / City Municipal Corporation in
..... District

For election to the office of President of Village Panchayat of Panchayat
Union in District

For election to the office of Chairman ofTown Panchayat/Third Grade Municipality/Municipality

For election to the office of Mayor ofCity Municipal Corporation

(the offices not applicable may be struck off)

I, son/daughter/wife of aged years, resident of
.....(Mention full postal address) and a candidate at the above election, do hereby

solemnly affirm and state on oath as under:—

(Strike out whichever is not applicable)

(1) Details of PAN and status of fitting of Income Tax return:

Sl.No	Names	Permanent Account Number (PAN)	The financial year for which the last Income tax return has been filed	Total income shown in Income Tax Return (in Rupees)
1.	Self			
2.	Spouse			
3.	Dependent 1			
4.	Dependent 2			
5.	Dependent 3			

(2) The following case(s) be / are pending against me to which cognizances has been taken by the court :

Sl.No	Offence	Description
(1)	The details of cases where the court has taken cognizance, Sections of the Act and description of the offences for which cognizance taken:	
(2)	Name of the court, Case No and Date of order taking cognizance:	
(3)	Details of Appeal(s) / Application(s) for revision (if any) filed against the above order(s).	

(3) Cases to which I have been convicted by a court of law (other those referred to in Form 26):

- The details of cases, Sections of the Act and description of the offence for which convicted :
- Name of the Court(s), Case No. and Date(s) of order(s) :
- Punishment imposed :

(4) That I give herein below the details of the assets (movable and immovable etc.) of myself, my spouse and all dependents:**A. Details of movable assets :**

(Note :

- Assets to joint name indicating the extent of joint ownership will also have to be given.
- In case of deposit / investment, the details including Serial Number, Amount, Date of Deposit, the Scheme, Name of Bank / Institution and Branch are to be given.
- Value of Bonds / Share / Debentures as per the current market value to Stock Exchange to respect of listed companies and as per Books in case of non-listed companies should be given.
- Dependent here means a person, substantially dependent on the income of the candidate.
- Details including amount is to be given separately in respect of each investment.

<i>Sl.No.</i>	<i>Description</i>	<i>Self</i>	<i>Spouse</i>	<i>Dependent-I</i>	<i>Dependent-II</i>	<i>Dependent-III</i>
(i)	Cash in hand					
(ii)	Details of Deposits in Bank accounts (FERs, Term Deposits and all other types of Deposits with Financial Institutions, Non Banking Financial Companies and Co-operative societies and the amount in each such deposit.					
(iii)	Details of investment in Bonds, Debentures/shares and units to companies / Mutual Funds and others and the amount.					
(iv)	Details of investment in NSS, Postal Savings, Insurance Policies and investment in any Financial Instrument in Post Office or Insurance Company and the amount.					
(v)	Personal loans/advance given to any person or entity including firm, Company, Trust etc., and other receivables from debtors and the amount.					
(vi)	Motor Vehicles/Aircrafts/Yachis/Ships (details of Make, Registration No. etc.) Year of Purchase and amount.					
(vii)	Jewellery, bullion and valuable thing (give details of weight and value)					
(viii)	Any other assets such as value of Claims / interest					
(ix)	Gross Total Value					

B. Details of Immovable assets :

(Note: 1. Properties in joint ownership indicating the extent of joint ownership will also have to be indicated.

2. Each land or building or apartment should be mentioned separately in this format.)

<i>Sl.No.</i>	<i>Description</i>	<i>Self</i>	<i>Spouse</i>	<i>Dependent-I</i>	<i>Dependent-II</i>	<i>Dependent-III</i>
(1)	Agricultural Land					
	Location(s)					
	Survey number(s)					
	Area (Total measurement in acres)					
	Whether inherited property (Yes (or) No)					
	Date of purchase in case of self acquired property					
	Cost of Land (in case of purchase) at the time of purchase.					
	Any Investment on the land by way of development, construction etc.					
	Approximate Current market value					

Sl.No.	Description	Self	Spouse	Dependent-I	Dependent-II	Dependent-III
(ii)	Non-Agricultural Land					
	Location(s)					
	Survey number(s)					
	Area (Total measurement in sq.ft.)					
	Whether inherited property (Yes or No).					
	Date of purchase in case of self acquired property					
	Cost of Land (in case of purchase) at the time of purchase.					
	Any Investment on the land by way of development, construction etc.					
	Approximate Current market value					
(iii)	Commercial Buildings					
	(including apartments)					
	Location(s)					
	Survey number(s)					
	Built up Area (Total measurement in sq.ft)					
	Whether inherited property (Yes or No)					
	Date of purchase in case of self acquired property					
	Cost of property (in case of purchase) at the time of purchase.					
	Any Investment on the property by way of development, construction etc.					
	Approximate Current market value					
(iv)	Residential Buildings					
	(including apartments)					
	Location(s)					
	Survey number(s)					
	Area (Total measurement in sq.ft)					
	Built up Area (Total measurement in sq.ft)					
	Whether inherited property (Yes or No)					
	Date of purchase in case of self acquired property					
	Cost of property (in case of purchase) at the time of purchase.					
	Any Investment on the land by way of development, construction etc.					
	Approximate Current market value					
(v)	Others (such as interest in property).					
(vi)	Total of Current Market Value of (i) to (v) above.					
(6)	I give herein below the details of liabilities / dues to public financial institutions and government :—					
	(Note: Please give separate details of name of Bank, Institution, entity or individual and amount for each item).					

<i>Sl.No.</i>	<i>Description</i>	<i>Self</i>	<i>Spouse</i>	<i>Dependent-I</i>	<i>Dependent-II</i>	<i>Dependent-III</i>
(1)	Loan or dues to Bank/Financial Institution(s)					
	Name of Bank or FI					
	Amount outstanding					
	Nature of loan					
	Loan or dues to any individuals / Entity other than mentioned in (i) above.					
	Name(s)					
	Amount outstanding					
	Nature of loan					
	Any other liability					
	Grand total of Liabilities					
(ii)	Government Dues:					
	Dues to departments dealing with government accommodation					
	Dues to departments dealing with supply of water					
	Dues to departments dealing with supply of electricity					
	Dues to departments dealing with supply of telephones / mobiles					
	Dues to departments dealing with government transport (including aircrafts and helicopters)					
	Income Tax Dues					
	Wealth Tax Dues					
	Service Tax Dues					
	Municipal/Property Tax Dues					
	Sales Tax Dues					
	Any other dues					
(iii)	Grand total of all Govt. dues					
(7)	Details of profession or occupation:					
	a. Self.....					
	b. Spouse.....					
(8)	My educations qualification is as under :					
	(Give details of highest School / University education will full form of the certificate/diploma/degree course)					
	(Name of the School/College/University and the year in which the course was completed)					

(9) ABSTRACT OF THE DETAILS GIVEN IN (1) TO (8) ABOVE

1. Name of the candidate Sh./Smt /Kum.
2. Full Postal address
3. Number and Name of the constituency and state
4. Name of the Political party which set up the candidate (otherwise write 'Independent')
5. (a) Number of cases in which conviction order passed (other than those referred to in Form 26)
(b) Total number of Pending cases where the court(s) have taken cognizance
6. **PAN of** Year for which last Income Tax Total Income Shown
Return filed
- (a) Candidate
- (b) Spouse
- (c) Dependents

7. Details of Assets and Liabilities to rupees

	<i>Self</i>	<i>Spouse</i>	<i>Dependent I</i>	<i>Dependent II</i>	<i>Dependent III</i>
A. Movable Asset (Total Value)					
B. Immovable Asset					
(i) Purchase Price and Development Cost of Immovable Property (Total value)					
(ii) Approximate Current Market Price of Asset (Total Value)					
8. Liabilities					
(i) Government dues (Total)					
(ii) Loans from Bank Financial Institutions and others (Total)					
9. Higher educational qualification					
(Give details of School/University education with full form of the certificate/diploma/degree course) (Name of the School/College/University and the year in which the course was completed).					

VERIFICATION

I, the deponent, above named, do hereby verify and declare that the contents of this affidavit are true and correct to the best of my knowledge and belief, no part of it is false and nothing material has been concealed these from. I further declare that:

- (a) there is no case of conviction or pending case against me other than those mentioned in items 3 and 4 above,
- (b) I, my spouse, or my dependents do not have any asset or liability, other than those mentioned in items 5 and 6 above and
- (c) I am aware that the Returning Officer may initiate legal action in case of false information is given by me which may be found out on a later date, as per the provisions contained in Sec. 177 of Indian Penal Code (Procedure contemplated in Sec. 195 of Code of Criminal Procedure and under other relevant acts and rules.

Verified at..... this the.....day of2011.

DEPONENT

- Note** :-1. Affidavit should be filed latest by 3.00 PM on the last date of filing nominations.
2. Affidavit should be sworn before on Oath Commissioner or Magistrate of the First Class or before a Notary Public.
 3. All columns should be filled up and no column to be left blank. If there is no information to furnish in respect of any item, either 'Nil' or 'Not applicable', as the case may be, should be mentioned.
 4. The affidavit should be either typed or written legibly and neatly.

(By Order of the Tamil Nadu State Election Commission)

Chennai-600 106,
11th September 2011.

V.M. XAVIER CHRISSE NAYAGAM,
Secretary,
Tamil Nadu State Election Commission.