



GOVERNMENT OF 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

[LOCAL BODIES ELECTIONS - TNSEC - CONCESSION TO POLITICAL PARTIES - CERTAIN AMENDMENTS TO THE
TAMIL NADU LOCAL BODIES ELECTION SYMBOLS (RESERVATION AND ALLOTMENT) ORDER 2011 - ISSUED.]

(S.O. No. 44/2011/TNSEC/EG2.)

No. VI(2)/457(k)/2011.

READ: 1. S.O. No. 25/2011/TNSEC/EG2, dated 9th September 2011.
2. S.O. No. 26/2011/TNSEC/EG2, dated 10th September 2011.

ORDER:

An order to provide for specifications, reservation choice and allotment of symbols on elections to Local Bodies in the State of Tamil Nadu and for matters connected therewith issued by the Tamil Nadu State Election Commission in the Statutory Order first read above.

Whereas, the commission in the Statutory Order second read above notified the list of Recognised Political Parties and the symbols reserved for them in TABLE I, the list of Registered – Unrecognised Political Parties who are entitled to have preference over independents in the allotment of free symbols in TABLE I - A and the list(s) of free symbols in tables 2 to 5 in accordance with the rule 33, 34 & 35 of the Tamil Nadu Panchayats (Elections) Rules, 1995 and rule 31, 32 & 33 of the Tamil Nadu Town Panchayats, Third Grade Municipalities, Municipalities and Corporations (Elections) Rules, 2006.

Whereas, the list of Recognised Political Parties and their symbols were notified based on the notification issued by the Election Commission of India under the Election Symbols (Reservation & Allotment) Order, 1968 as per the provisions made in the said election Rules pertaining to Local Bodies Election in Tamil Nadu.

Whereas, the Election Commission of India *vide* its notification No. 56/2000/Judl.III, dated 01-12-2000 inserted a provision under para 10-A in the Elections Symbols (Reservation & Allotment) Order, 1968, which provides a concession to candidates set up by an unrecognised party which was earlier recognised as a National or State Party.

Whereas, the said provision made under para 10A of the Elections Symbols (Reservation & Allotment) Order, 1968 provides as follows:—

“10-A. CONCESSION TO CANDIDATES SET UP BY AN UNRECOGNISED PARTY WHICH WAS EARLIER RECOGNISED AS A NATIONAL OR STATE PARTY”

If a Political Party, which is unrecognised at present but was a Recognised National or State Party in any State or Union Territory not earlier than six years from the date of notification of the election sets up a candidate of an election in a constituency in any State or Union Territory or not, then such candidate may, to the exclusion of all other candidates in the Constituency, be allotted the symbol reserved earlier for that party when it was a Recognised National or State party, notwithstanding that such symbol is not specified in the list of free symbols for such state or Union Territory, on the fulfilment of each of the following conditions, namely:—

(a) that an application is made to the Commission by the said party for the exclusive allotment of that symbol to the candidate set up by it, not later than the third day after the publication in the official Gazette of the notification calling the election;

(b) that the said candidate has made a declaration in his nomination paper that he has been set up by that party of the election and that the party has also fulfilled the requirements of clauses (b), (c), (d) and (e) of paragraph 13 read with paragraph 13A in respect of such candidate; and

(c) that in the opinion of the Commission there is no reasonable ground for refusing the application for such allotment.

Provided that nothing contained in the paragraph shall apply to a candidate set up by the said party at an election in any constituency in a State or Union territory where the same symbol is already reserved for some other National or State Party in that State or Union Territory”.

Whereas, No such provisions were provided in the Tamil Nadu Local Body Election Symbols (Reservation & Allotment) Order, 2011, however the Local Bodies elections rules provide for adopting the parties which are Recognised as a National Party or as a State party in the State of Tamil Nadu as per the Election Commission of India's Symbol Order, 1968 as recognised parties for the purpose of Local Body Elections in Tamil Nadu.

Whereas, Now a political party viz., Marumalarchi Dravida Munnetra Kazhagam which was earlier Recognised as a State Party in Tamil Nadu has represented to this Commission to incorporate similar concession as under para 10A of the Symbol Order in the Election Commission of India in the Symbol orders issued by the Tamil Nadu State Election Commission and allot their party symbol “TOP” to the candidates set up by the said party in the ensuring Local Body Elections.

Whereas, the Commission conducted hearings with the representative of the said Political Party on 14-09-2011 and perused all the relevant records and documents produced by the party.

Whereas, it is came to know that the State Election Commission, Pondicherry in its Order No.SEC /I-1 /Civic Ele/2006, dated 08-06-2006 reserved the symbol “TOP” to Marumalarchi Dravida Munnetra Kazhagam Party in the Local Body Elections, in the Said Union Territory as provided in para 10 A of Election Symbols (Reservation & Allotment) Order, 1968 of the Election Commission of India, even though the said Party was not a recognised party in the said Union Territory.

Whereas, while bringing the said provision under para 10 A for extending a concession to the political parties, the Election Commission of India in its Press Note No MCS /PN /22/2000, dated 02-12-2000 interalia considered that a party that loses its recognition shall not lose its symbol immediately but shall be given that facility to use that symbol for sometime to try or retrieve its status.

Whereas, it is also pertinent to mention that in the judgment dated 23-09-2008 of the Hon'ble Supreme Court of India in Civil Appeal No. 5803/2008 filed against the Election Commission of India challenging the sanctity of para 10-A of Symbol Order of the Election Commission of India, the Hon'ble Court dismissed the Appeal and upheld the orders of the Commission and thereby allowed to extend the provision 10-A enabling the political parties which lose their statue of recognition to avail their exclusive symbols for a period of six years from the date of such de-recognition.

Whereas, considering the above, it has become expedient for the Commission to extend such concession to the Political Parties which were earlier recognised as a National Party or State Party in the State of Tamil Nadu to avail their Party's symbols in the Local Body Elections also for a period of six years from the date of de-recognition ordered by the Election Commission of India duly incorporating the similar provisions in the Symbol Order with required changes to suit the requirement for Local Bodies Elections in the State.

Now, Therefore, in exercise of the powers conferred under Articles 243 K and 243 ZA of the Constitution of India read with relevant sections of the Acts and rule 33, 34 & 35 of the Tamil Nadu Panchayats (Elections) Rules, 1995, rule 31, 32 & 33 of the Tamil Nadu Town Panchayats, Third Grade Municipalities, Municipalities and Corporations (Elections) Rules, 2006 and as per the clause 11 of the Tamil Nadu Local Body Election Symbols (Reservation & Allotment) Order, 2011 the following amendments are ordered in the Symbol Order issued by the Commission *vide* S.O.No. 25/2011/TNSEC/EG2, dated 9-9-2011:—

I. After para (1), the following may be inserted.

“7 (1)A. CONCESSION TO CANDIDATES SET UP BY AN UNRECOGNISED PARTY WHICH WAS
EARLIER RECOGNISED AS A NATIONAL OR STATE PARTY”

If a Political Party, which is unrecognised at present but was a Recognised National or State Party in the State of Tamil Nadu not earlier than six years from the date of notification of the election sets up a candidate at an election in a ward in any Local body / Panchayat at an election for the office of Chairman / Mayor in any Urban Local Body which were held on party basis then such candidate may, to the exclusion of all other candidates in the said election, be allotted the symbol reserved earlier for that party when it was a Recognised National or State Party in Tamil Nadu notwithstanding that such symbol is not specified in the list of free symbols for such election, on the fulfilment of each of the following conditions, namely:—

(d) that an application is made to the Commission by the said party for the exclusive allotment of that symbol to the candidate set up by it, not later than the third day after the publication in the official Gazette of the notification calling the election;

(e) that the said candidate has made a declaration in his nomination paper that he has been set up by that party of the election and that the party has also fulfilled the requirements of clauses (b), (c), (d) and (e) of paragraph 8 and

(f) that in the opinion of the Commission there is no reasonable ground for refusing the application for such allotment.

Provided that nothing contained in the paragraph shall apply to a candidate set up by the said party at an election in any Ward/ Local Body where the same symbol is already reserved for some other National or State Party.

(By Order of the Tamil Nadu State Election Commission)

Chennai-600 106,
16th September 2011.

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