

STATE ELECTION COMMISSION

No.8-SEC/Civic Election /2021 /670

Puducherry, Dt.16 -09-2021

NOTIFICATION

Whereas, the superintendence, direction and control of all elections to Municipal / Commune Panchayat Councils in the Union Territory of Puducherry are vested with the State Election Commission by the Constitution of India and the Puducherry Municipalities Act, 1973 and Puducherry Village and Commune Panchayats Act, 1973 .

Whereas, it is necessary and expedient to provide in the interest of purity of elections to the Municipal / Commune Panchayat Councils in the Union Territory of Puducherry and in the interest of the conduct of such elections in a fair and efficient manner, for insertion of "NOTA" symbol in the Ballot Papers / Ballot Papers used in the Balloting Units and for matters connected therewith.

Whereas, the Hon'ble Supreme Court, in its judgment dated 27th September, 2013, in Writ Petition (C) No. 161 of 2004 (People's Union for Civil Liberties & Another Vs Union of India & Another), has directed that the Election Commission should make necessary provision in the ballot papers/EVMs for "None of the Above (NOTA)" option so that the electors who do not wish to vote for any of the candidates can exercise their right "not to vote" for any candidate 'without violation of the secrecy of their decision'.

Whereas, in view of the above mentioned judgment of the Hon'ble. Supreme Court, the provision made for noting the number of voters deciding not to record their votes under rule 49-O entry in Form 21A of the Pondicherry Municipal Councils (Conduct of Election of Councillors) Amendment rules, 2002 and under rule 35-O entry in Form 15A of the Pondicherry village and Commune Panchayat (Conduct of Election of Members of Commune Panchayat Councils and Presidents and Members of Village Panchayat) Amendment Rules, 2002 has become otiose. The above said rules read with concerned Forms, which treats a voter who decides "not to cast his vote differently" and allows "Hi-Secrecy" to be violated, is arbitrary, unreasonable and violative of Article 14, 19(1)(a) and 21 of the Constitution of India and section 128 of the Representation of Peoples Act, 1951 as per the direction of the Hon'ble. Supreme Court of India.

And Whereas, the State Election Commission, Puducherry issues this Notification to comply with order of the Hon'ble Supreme Court of India with regard to application of "NOTA" option in Electronic Voting Machines (EVMs) to the Local Body Elections in the Union Territory of Puducherry to allow the Voters to indicate their disapproval of all of the Candidates in a Voting System.

Now, therefore in exercise of the powers conferred under clause (1) of Article 243-K and 243-ZA of the Constitution of India and Section 9A of the Puducherry Village and Commune Panchayats Act, 1973 and Section 15A of the Puducherry Municipalities Act, 1973 and all other powers enabling in this behalf, the State Election Commission hereby makes the following order:-

ORDER

1. Short title, extent, application and commencement:- (1) This may be called the Puducherry Local Bodies Elections (Insertion of NOTA in Recording of Votes) Order, 2021.

(2) They shall extend to the whole of the Union Territory of Puducherry.

(3) They shall come into force with immediate effect.

2. Definitions and interpretations:- (1) In this Order, unless the context otherwise requires-

(a) "election" means an Local Bodies Elections where poll is taken in the Union Territory of Puducherry;

(b) "fictional electoral candidate" means NOTA imagined as a one of the candidate.

(c) "NOTA" means "None Of The Above"

(d) "Regional Language" means Mother Tongue of the particular region.

(e) "symbol" means the design approved by the State Election Commission of Puducherry .

(f) "State Election Commission" means the State Election Commission of the Union Territory of Puducherry constituted under article 243-ZA of the Constitution of India read with section 15A of the Puducherry Municipalities Act 1973 and Section 9A of the Puducherry Village and Commune Panchayats Act 1973.

(2) Words and expressions used but not defined in this Order but defined in the Representation of Peoples Act, 1950 or the rules made there under or in the Representation of Peoples Act, 1951 or the rules made there under or the Puducherry Municipalities Act, 1973 and Puducherry Village and Commune Panchayats Act, 1973 as amended from time to time or the rules made there under shall have the meaning respectively assigned to them in those Acts and Rules.

3. Insertion of NOTA and its symbol:- The State Election Commission, Puducherry has decided to use a symbol for 'None Of The Above' in the Ballot Papers/ Ballot Papers used in

the Balloting Units of the Electronic Voting Machines (EVMs) and the design of the symbol approved by the State Election Commission of Puducherry is enclosed for necessary action. The symbol shall be printed in addition to "None of the Above" in the row of symbols.

The Word NOTA shall be written in respect of the same colours used for printing of Ballot Papers in CAPITAL LETTERS in English.

The symbol approved is hereunder

(Exact Version of "None Of The Above " in Regional Language)



None Of The Above (NOTA)

4. Language of the NOTA:- The 'depiction' will remain the same in all Ballot Papers/ Ballot Papers used in the Balloting Units of the Electronic Voting Machines (EVMs), whatever be the languages of ballot paper. The Union Territory of Puducherry has the multi-lingual practising electors, people in regions of Puducherry and Karaikal practising "Tamil language", people in regions of Mahe practising "Malayalam" Language and people in regions of Yanam practising "Telugu". The 'exact translated version' of the "None of the above" or "NOTA" in their regional language shall be printed in the Ballot Papers / Ballot Papers used in the Balloting Units of the EVMs as follows:-

- (i) Tamil (Puducherry and Karaikal) இவர்களில் எவருமில்லை
- (ii) Malayalam (Mahe) ഇവരിൽ ആരുമില്ല
- (iii) Telugu (Yanam) పైనవి యేనియా కాదు

5. Return of Security Deposit:- The votes polled against the NOTA option cannot be treated as valid votes. Under Section 158 of the Representation of the Peoples Act, 1951, it is the total number of valid votes polled for all the contesting candidates that is to be taken into account for calculating the one-sixth of votes secured by each candidate for return of 'Security Deposit'. Thus, it is clarified that the votes polled against the NOTA option is not to

be taken into account while calculating the total valid votes secured by the contesting candidates for the purpose of return of Security Deposit.

6. Procedure for Declaring Results:-

(i) NOTA shall be treated as a "Fictional Electoral Candidate" while declaring the election results.

(ii) In case, a contesting and the "Fictional Electoral Candidate" i.e. NOTA receives highest equal number of valid votes then the contesting candidate (not NOTA) shall be declared as 'elected'.

(iii) If in any election, all the contesting candidates individually receive lesser votes than the "Fictional Electoral Candidate" i.e. NOTA, then none of the contesting candidates will be declared as 'elected'.

(iv) In case of situation arising under the above item No.(iii), re-election shall be held for the said seat. Further, all such contesting candidates who secured 'less votes' than NOTA shall not be eligible to re-file the nomination /contest the 're-election'.

(v) In re-election, if NOTA again get 'higher votes', then further election will not be conducted and contesting candidate with highest votes (excluding NOTA) shall be declared as elected.

(vi) If a Returning Officer, upon completion of counting but before declaration of result, finds that NOTA has received higher valid votes than all other contesting candidates individually, then Returning Officer shall not declare the result for that particular seat/s and shall immediately send his report to State Election Commission for further decision / orders on this score.

(vii) Upon receipt of such report, the State Election Commission shall after satisfaction, declare the 'Fresh Election Programme' for the said seat/s.

✓

ROY P THOMAS
STATE ELECTION COMMISSIONER

5/1