

Introduction

The experience of the conduct of the West Bengal assembly elections in April-May, 2006 has raised a number of issues which have a wider relevance for the conduct of elections in the country.

The Election Commission is a vital institution, which is entrusted with the responsibility for the conduct of elections, by the Constitution. The Polit Bureau of the Communist Party of India (Marxist) has prepared a document which deals with certain aspects of the functioning of the Election Commission. We present this document to all political parties, concerned institutions and the people for a public debate on the question so that steps can be evolved to reform the Election Commission.

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Election Commission: A Case for Reform

The recently-concluded assembly elections in West Bengal have raised serious questions about the manner of the Election Commission's functioning. Assertions by some political parties, as well as the EC itself, that the defeat of a certain party in the Bihar elections was proof of free and fair elections, imply subjectivism with strong political overtones.

Confronted with these experiences, the Communist Party of India (Marxist) has come to the conclusion that there is an urgent need for a broader discussion and debate at the national level on the functioning of the EC and its possible reforms. It is towards this end that we have prepared this Note, which can serve as a starting point for this important discussion.

STATUS AND ROLE OF THE EC

Parliamentary democracy is a basic feature of our Constitution. As we have moved towards advancing and reinforcing our parliamentary system, we have had to encounter new complexities. Parliament has had to enact a number of laws for ensuring the conduct of free and fair elections – striving to insulate our election procedure from manipulation by partisan influences.

The Constitution has assigned centrality to the Election Commission of India (EC) for conducting elections both to the parliament and the state legislatures. Key to this power is Article 324 of the Constitution which empowers the EC for superintendence, direction and control of these elections. Articles 325 to 329 elaborate these powers of the EC and set out the direction in which it will conduct elections. Subsequently, parliament enacted the Representation of the People Act (RPA). This has been amended a number of times to address the new complexities which elections have over time come to face.

While the constitutional and the statutory processes have been generally aimed at strengthening the process of parliamentary democracy and the democratic, free and fair

character of elections, the emphasis has been on strengthening the independence and autonomy of the EC.

There can be no question on this basic constitutional and statutory direction regarding the functioning and powers of the EC; but it is equally important to examine the constitutional and statutory standpoints for ensuring the accountability of the EC and the criteria by which this can be benchmarked. This is becoming increasingly important, because without properly defining this accountability, the EC as an institution can show a proneness to non-transparent, subjective and arbitrary behaviour. Such adverse tendencies can also result in a partisan approach and ultimately undermine its constitutionally assigned non-partisan and independent character.

THE ISSUE OF ELECTORAL ROLLS

On the basis of certain recent experiences in the conduct of elections by the EC, crucial questions have come to the fore, which raise serious apprehensions.

The first and foremost of these questions is – what is the basic objective to which the EC should be accountable? Surely, the exercise of their franchise by the largest possible number of eligible voters on the basis of an informed choice is the most essential prerequisite of a strong parliamentary democratic system.

Obviously, the first and foremost responsibility of the EC is to ensure this. According to the RPA, the basis for exercise of the voting right is the appearance of the name of the voter in the electoral rolls. The major reform which is necessary in the election process is a transparent and continuous process of the revision of our electoral rolls. Due to the size of our country, the diversity of its socio-economic realities, cultural specificities, regional characteristics, economic processes, and so on, human movement is a continuous phenomenon. Similarly, given the size of the population, a large number of young people attain the age of 18, when they are entitled to the voting right, while a number of deaths also take place. All these factors have to be taken into consideration while preparing electoral rolls.

There are four types of revision of electoral rolls as per the present practice. They are: (i) intensive; (ii) summary; (iii) partly summary and partly intensive; and (iv) special. In intensive revision, enumerators visit each house and note down the particulars of eligible voters of the house on an electoral card. In summary revision of rolls, there is no house-to-house enumeration. The existing rolls are published as draft, inviting claims and objections. In a partly intensive and partly summary revision, existing rolls are published in draft and enumerators are sent to each household to prepare a list of additions and deletions. If the EC considers that there are inaccuracies in the rolls, it may, after recording such reasons, order special revision of the roll of any constituency or part thereof. The procedure for carrying out special revision is determined by the EC. It can be intensive, summary, or partly intensive and partly summary. In many states, lakhs of eligible voters were removed from the voters' list on the basis of instructions from the EC. No notices were issued to the existing voters in the voters' list, nor any draft list published asking for claims and objections. This practice violates the provisions of law and established practices.

During the West Bengal elections, a very large number of names – approximately 22 lakh – were struck off the electoral rolls. This exercise became all the more controversial because out of these, about 9 lakh were struck off *after* the publication of the *final* electoral rolls (see Annexure 1). In a large number of cases, such deletions were not carried out following the well laid-down legal procedures of sending notices to the people whose names were being struck off. Our experience has been that to a large extent such deletions were carried out at the behest of the observers through oral instructions on the unsubstantiated complaints of political rivals. For example, two sitting MPs and a former MP were served with notices to the effect that they were Bangladeshi nationals. As it happened, these people's representatives produced official documents to counter these notices, but a large number of genuine Indian citizens – ordinary people – were in fact disenfranchised on this alleged Bangladeshi citizenship plea though they had documentary evidence to prove to the contrary. Much of this was taking place

after the publication of the final electoral rolls and in spite of the fact that we, as a party, had brought dozens of such complaints to the notice of the EC (see Annexure 2).

On April 3, 2006, a delegation of the Left parties met the Commission to point out this gross irregularity. We also drew the attention of the EC to the misinterpretation of the 'ordinary' resident status of a voter at a particular premise. The mistakes were not corrected in spite of an assurance from the EC. In fact, at no point of time, did the EC realise that the election machinery had neither the manpower nor the infrastructure to carry out rectification on such a large scale. The reason for this is simply that the EC had never in the past provided for any large-scale revision after the publication of the final rolls. Given these facts, serious questions arise about the Commission's intentions.

It appears that the EC was guided by a pre-conceived notion that the existing electoral rolls are vitiated by electoral malpractice and partisan politics. In such a situation, the revision process was bound to concentrate on the extent of revision rather than on the quality of the exercise based on the legally laid down procedures. It does not appear that the EC has evolved any transparent benchmark which could justify the huge number of deletions that have taken place in the recently-held elections – which include a large number of legitimate voters having verifiable documents to prove their bonafides. **Under no circumstances can the voting right of a citizen be compromised, notwithstanding the need for revision of rolls. Because of the course adopted by the EC, tens of thousands of genuine voters were deprived of their franchise in West Bengal during the assembly elections.**

The procedures and rules regarding preparation and revision of electoral rolls need drastic changes. It is better if a unique identity number or electoral registration number is given for each elector for his or her lifetime. This unique number shall be indicated in the electoral roll. This should be prepared after an intensive revision of electoral rolls in all the constituencies. It will then be possible to transfer the name from one roll to another while maintaining the integrity of all the rolls together. All citizens above the eligible age should be enrolled and given a

unique number for their lifetime. A unique identity number is necessary because every citizen above the eligible age should be enrolled in the voters' list, but no one can be an elector in more than one electoral roll simultaneously. A unique identity number will make it possible to detect any breach of this practice. On account of the inadequacy in the present system, even persons above the age of 18 years are enrolled as new entrants rather than transferees during the revision process. Exclusion of an eligible voter arbitrarily on the ground that she or he is not an ordinary resident, or non-inclusion in the electoral roll on the ground that she or he is only a temporary resident can be avoided by this system. All eligible voters will be enrolled in any of the constituencies.

When a draft list is published, at least one month's time should be given for filing objections and making claims. No name can be deleted without written notice and time for submission of objections. The EC and the electoral officers should act according to the provision of law.

Similarly, on the question of actual casting of votes, the election machinery should be facilitating the exercise of franchise. The choice of poll personnel, including the security forces, has to be mindful of the specific ground reality where the election is actually being held. In the past, there were instances where certain underprivileged sections of the electorate were not allowed to exercise their voting right. While conducting a free and fair poll, the EC has to ensure the elimination of money and muscle power to check such adverse influences which, in effect, disenfranchise the people. There have been complaints that deployment of central security forces who are completely ignorant of the local conditions and traditions have led to scaring away people – particularly the poor and underprivileged – from the polling booths. Instances are also officially recorded where the EC has questioned high voting percentages, even though all stipulated procedures have been strictly complied with and no specific observation of non-compliance has been recorded. This points towards preconceived subjective prejudices of the EC which undermines the very independence of the institution.

The question of the people exercising an informed choice involves, very crucially, the role of political parties. It is necessary for political parties to be able to reach the widest possible number of voters with their policies and programme, so that the choice is available to the voter. The specific socio-economic context in India makes it imperative that such communication takes place through the most cost-effective means. If this does not happen, it seriously compromises the voters' choice.

The inclination of the EC to ban graffiti and posters completely in West Bengal is a case in point. Invoking the West Bengal Prevention of Defacement of Property Act, 1976 – a law not specific to the conduct of the elections and limited to Kolkata and Howrah – the EC forced the state government to extend it to the whole state to ensure a blanket ban. In Tamil Nadu however, which went to polls at the same time, the Tamil Nadu Open Places Disfigurement Act, 1959, limited to the municipal areas, was not sought to be extended to the rest of the state. This specific instance raises two very important questions. **Is the EC really interested in reducing the expenditure on election and if so, why should it ban graffiti and posters, which are the cheapest means of communication? Is the EC interested in being objective and imposing uniform procedures for the whole of the country? If so, why should it adopt double-standards for West Bengal and Tamil Nadu?**

Therefore, while it is important for the government, the political parties and everybody concerned to ensure the independence of the EC in the conduct of the elections, is it not equally important that the EC ensures uniform national guidelines for conducting elections? After all, **it is ultimately the EC which is responsible for the widest, unfettered and informed exercise of voting rights by the people.**

Another major question that has emerged in the recent elections is on the question of use of voters' photo identity card to enable a voter to exercise his/her right. While the decision of the EC to issue such cards to eliminate the possibility of impersonation has been welcomed by all, it cannot be overlooked

that the basic right to vote is statutorily available to a voter, if his/her name appears on the electoral rolls. The absence of a voter ID card for reasons beyond the control of the voter cannot be a plea for disenfranchising him/her, especially when he/she possesses some identity card issued by government/appropriate authority to establish their bonafides. This is an example where rigid formalism is subordinating the basic democratic objective of the election process as enshrined in the Constitution.

SECURITY MATTERS & THE POWERS OF THE EC

The most arbitrary use of powers of the EC was witnessed in the sphere of deployment of the security forces. To start with, the sensitivity classification of the booths was not drawn up with any objective basis. Route marches by the central paramilitary forces were conducted in areas which the EC designated as sensitive. Many of these areas had no history of irregularity or violence, let alone booth capturing. Rather than reassuring the voters, this exercise was carried out to instil fear. That these booths eventually registered very high percentage of polling stood testimony to the peoples' high degree of awareness.

The other serious issue is the exclusive deployment of the Central Para Military Forces (CPMF) and the forces from other states within the polling booths and the poll premises. There were to be no state police deployed in the polling booths. This was an expression of no-confidence in the state police force. During the 3rd April meeting with the EC we pointed out that this decision could lead to avoidable communication breakdown due to the language factor. But notwithstanding such objections, the EC went ahead with such a course which smacked of premeditation, influenced by partisan propaganda of the opposition. That this went contrary to past record as certified by the EC in earlier elections was of no consideration to it. Nor was the EC concerned about the implicit infringement of the constitutional right of the elected state government on the law and order question. Oblivious of all legal and constitutional considerations, the EC decided to deploy state police, only beyond 200 metres of the polling premises.

So great was the extent of the EC's obsession with excluding polling personnel drawn from the state government employees, that personnel from the central government and central PSUs were made presiding officers even though many of them were not competent to discharge such duties. In many instances, the appointees from the lower categories actually complained publicly to the media and expressed their inability to discharge these responsibilities. But all this was to no avail, as the EC went ahead undeterred with a course of action fraught with severe ramifications of maligning the entire people of a state implying them to be partisan, not to speak of the state government.

The recently-held state assembly elections, then, have been marked by a lack of uniformity of standards, procedures and transparency. The extent and sequencing of different phases of elections, the deployment of polling personnel, observers, and security forces in a diverse country like India are issues which are fraught with extremely dangerous regional/emotive repercussions. For example, elections were held over five days in West Bengal, three days in Kerala but on a single day in Tamil Nadu, which is comparable in size to West Bengal. Why?

In the absence of patently justifiable and transparent parameters, questions about EC's jurisdiction will legitimately arise. Can states going to polls be subject to EC's governance in a most comprehensive manner including the question of law and order, development and financial expenditure? The Constitution is not specific on the EC's powers on all these questions. On the question of law and order, the Constitution's position is clearly contrary to what happened and the power of the state government is absolute.

ROLE OF OBSERVERS

Observers – their appointment, the role they play and the way they exercise their position – is another grey area which has to be taken note of. So far as the manner and the guidelines are concerned, there is an impression (based on convention and precedents) that Election Observers are special emissaries of the EC where elections are taking place.

However, the activities of a number of Observers raise major questions. While the Observers are not said to have executive powers, they are to act as 'eyes and ears' of the EC in the election situation. Their role is to act as bridges between the EC on the one hand, and the state's official election chain of command, on the other. Their function has to be carried out through persuasion and consultation with the election officials and the political parties, largely trying to build a consensus. In case differences crop up, they are to recommend actions to the EC while scrupulously avoiding issuing executive orders themselves.

In order to have Observers who are capable of maintaining this delicate balance, it is imperative to have utmost transparency in the process of their selection and appointment. But such an approach was conspicuous by its absence. So much so, that it was subsequently found out that officers against whom CBI investigations were pending were also appointed as observers.

While it is clear that observers ought to steer clear from sensationalism and speaking out in public and to the media, violations were in plenty. In West Bengal, from the process of revision of electoral rolls, observers moved around with mediapersons in tow. Many of them pressurised local officials to adopt courses which did not flow from appropriate legal provisions. A number of instances were witnessed where blatant exercise of executive power had taken place. In one instance, in Bihar, an observer ordered police firing. In another instance, in West Bengal, a raid for arms was conducted in one of our party offices (of course without any result) at the instance of the Observer at the behest of the opposition. The EC, however, cleared this observer after an enquiry. Such activities of the Observers undermine the impartiality of the EC.

POWERS OF THE EC

It is necessary that the powers and authorities of the Election Commission be clearly defined. There should be statutory instruments and methods to restrain an Election Commissioner if he or she transgresses statutory powers, usurps the powers of other constitutional authorities and governments and acts with

malafide intention. The only provision in the Constitution is Article 325, sub-clause 5. It states that the Chief Election Commissioner can be removed from his office only through impeachment proceedings as in the case of a Supreme Court Judge.

There is every possibility that some Election Commissioners may have political ambitions and that they may act on that basis. The Supreme Court had to once comment on this: "We may incidentally mention that the decision taken by the CEC from time to time postponing elections at the last moment have evoked mixed reactions . . . Some of his other decisions were so unsustainable that he could not support them when tested in court. His public utterances at times were so abrasive that this court had to caution him to exercise restraint on more occasions than one. This gave the impression that he was keen to project his own image . . . The CEC has addressed the press and is reported to have said that he would utilise the balance of his tenure to form a political party to fight corruption and the like. Serious doubt may arise regarding his decisions if it is suspected that he has political ambitions . . . CEC is, it would appear totally oblivious to the sense of decorum and discretion that his high office requires even if the cause is laudable." (T N Seshan CEC Vs Union of India and others (1995) 4 SCC 611).

This is not an exception. One Chief Election Commissioner joined three political parties one after another after his retirement, while another Chief Election Commissioner became a Member of Parliament (Rajya Sabha) on a party nomination.

There may arise differences between the governments and the Election Commission with regard to the exercise of their respective powers. At present, there is no mechanism to resolve such differences. There should be a statutory mechanism to resolve such differences. The Supreme Court also held: "The Election Commission of India is a high constitutional authority charged with the function and the duty of ensuring free and fair elections and of the purity of the electoral process. It has all the incidental and ancillary powers to effectuate the constitutional objective and purpose. The plenitude of the Commission's powers corresponds to the high constitutional functions it has

to discharge. In an exercise of the magnitude involved in ensuring free and fair elections in the vastness of our country, there are bound to be differences of perception as to the law and order situation in any particular constituency at any given time and as to the remedial requirements. Then again, there may be intrinsic limitations on the resources of the Central government to meet in full the demands of the Election Commission. There may again be honest differences of opinion in the assessment of the magnitude of the security machinery. There must, in the very nature of the complexities and imponderables inherent in such situations, be a harmonious functioning of the Election Commission and the governments, both state and central. If there are mutually irreconcilable viewpoints, there must be a mechanism to resolve them." (Election Commission of India V State of Tamil Nadu and others 1995(3) SCC 379).

An appropriate statutory mechanism should be constituted to resolve the differences. The powers of the Election Commission have to be codified. There should be a constitutional mechanism to monitor and check if Election Commission acts with political bias, usurps the powers of governments or does anything with malafide intention. Article 325 is not sufficient. The Election Commission should be made accountable for its commissions and omissions.

The invoking of the code of conduct (which sustains itself from voluntary acceptance by political parties and official authorities and not from the statute) to stop all legitimate developmental activity where elections are being conducted for over a month and additionally the code coming into force immediately after the elections being announced, underlines a change in the context. Stopping tube wells from being sunk in compliance of the code of conduct for such a long time on the eve of summer can lead to public health emergencies. This only betrays the overbureaucratization and procedural inflexibility which hamstring the approach of the EC, completely undermining the people-centric approach that the Constitution makers envisaged. Neither the Constitution nor the law empowers the EC to adopt such a course. When bye-elections for assembly and Lok Sabha seats take place, entire districts in

which the elections are to be held will come under the Model Code of Conduct. It is pertinent to point out that the Model Code of Conduct does not have a legal backing. Across the spectrum, political parties have mutually agreed to accept this code and leave the manner of its enforcement to the EC. Therefore, while enforcing the code, unless the EC does not remain alive to the compelling requirement of the people for development and other social welfare programmes, the basic objective of democracy will be defeated (see Annexure 3).

Financial expenditure during elections is a serious issue. To have a free and fair election, which is a cornerstone of a healthy democracy, the justification of such expenditure should also be transparent. In fact, the EC has very rightly taken an initiative for putting a cap on the expenditure by candidates/parties and a discussion on funding such expenditures by the State is also underway. At this point, the expenditure incurred by the EC for the holding of elections should also have to be accounted for, because it has to come from the public exchequer. It is also from this standpoint that the five-phased election held in West Bengal has come under critical scrutiny – given the very high costs of holding such a long drawn out election, was it at all necessary to do it in five phases? All public expenditure in this country takes place after it is budgeted and approved by the legislature. Additionally, there is an audit of the expenditures which also addresses the issue of justification. Whether there has to be a reform on the procedures adopted on the expenditure during election incurred by and at the behest of the Election Commission is an issue which has to be discussed with all seriousness.

THE REFORM OF THE ELECTION COMMISSION

Finally, summing up all these experiences, a case for the reform of the institution of EC comes out very strongly. The need for reform is felt largely in four areas to ensure that the constitutional objective of holding elections to strengthen democracy in a manner where the widest possible informed choice of the voters can be ensured. These four areas consist of the following:

i) The composition and the modality for appointment and removal of members of the EC, including the CEC.

ii) Jurisdiction of the EC.

iii) The definition and the role of election observers.

iv) The law and order question and the deployment of central forces.

These are important issues not only from the standpoint of holding free and fair elections, but also considering India's diversity and federal structure. Given this context, we suggest the following:

i) The composition and the modality for appointment and removal of members of the EC, including the CEC: Initially, the EC was a one-member body. Subsequently, the size of the EC was expanded to three with special provisions for the removal of the CEC. In so far as the appointment procedure is concerned, the members may be appointed by the President on the advise of a committee consisting of the Prime Minister, the leader of the Opposition and Chief Justice of Supreme Court or anyone of his brother judges from the apex court. However, the ECs must be legally debarred from enjoying any office after their retirement either under the government or as a Governor or as Members of Parliament to eliminate any possible conflict of interest. There should be a constitutional mechanism to monitor and check if Election Commission acts with political bias, usurps the powers of governments or does anything with malafide intention. Article 325 is not sufficient. The Election Commission should be made accountable for its commissions and omissions.

ii) Jurisdiction of the EC: This question has emerged as a major issue. Certain orders of the EC during the elections on the ground that these are necessary for holding free and fair polls are being openly questioned as they implicitly encroach into constitutional powers of the executive and the legislature. The EC's decision to

discipline officials under the central and the state governments even before the actual notification of the dates for election, the wholesale exclusion of the employees of a state entirely from crucial polling duties are fraught with upsetting federal sensitivities. The EC's decision to question the legislative initiative of the executive subsequent to legislative decisions taken prior to the enforcement of the code of conduct implies encroachment in legislative autonomy and is prone to subjective interpretation. The EC's method of budgeting and actually incurring expenditure stands in sharp contrast to the budgetary process otherwise followed. Since ultimately the expenditure comes from the public exchequer, unless transparent, verifiable and justifiable procedure is ensured, this may actually lead to wasteful expenditure without any element of accountability. The recent decision of the EC to disenfranchise people even though their name existed in the electoral roll for not having the photo identity card is a complete reversal of the legal position. Therefore, it is in these areas of EC's jurisdiction that clarity and amplification is needed through legislative action.

iii) The definition and the role of election observers: In spite of a number of queries, the EC has not been able to clarify whether the observers are vested with executive powers or not. Though the EC documents suggest that observers' powers are essentially recommendatory in nature and persuasive in practice through the regular Election Commission hierarchy, the observers were actually found to be exercising executive power, mostly through oral instructions. Some actions of some of the observers were so blatantly high-handed and partisan that even the EC had to remove them (see Annexure 4 on complaints on observers). The method of appointment of observers is also flawed and does not have the requisite level of transparency commensurate with the recently enacted Right to Information Act. In some blatant instances, the EC has appointed observers against whom there are pending CBI proceedings. Therefore, on this question as well, the RPA must be very specific and the EC's functioning has to be regulated by the legal provision.

iv) **The law and order question and the deployment of central forces:** Law and order is the exclusive prerogative of the state government as per the provision of the Constitution. The Constitution does not have any saving clause which can override this power even during the election. In the past, these issues had been amicably settled. But, currently, a unilateral approach is being pursued by the EC which underlines a contempt and mistrust towards elected state governments questioning their commitment in defending the Constitution. The friction between the EC and an elected state government – both constitutional bodies – is not only undesirable but in a federal situation potentially dangerous. Therefore, this issue also has to be resolved through appropriate legislation by the Parliament. An amendment to Article 325 can bring about some mechanism for amicable resolution of such frictions.

Annexure 1

Comparative Study of No. of Voters, 14th West Bengal Legislative Assembly Election, 2006

| | |
|--|-----------------|
| Electors as on 01.01.2006 (Draft Rolls) | 4,80,95,009 |
| Electors as on 22.2.2006 | 4,88,95,141 |
| Electors as on date of Election | 4,79,96,053 |
| Total no. of genuine voters' name deleted | 8,99,088 |

| <i>S.No.</i> | <i>District</i> | <i>Voters as on 22.2.2006</i> | <i>Voters as on date of Election</i> | <i>Remarks +/-</i> |
|--------------|---------------------|-----------------------------------|--|------------------------|
| 1 | Cooch Behar | 1519475 | 1503640 | -15835 |
| 2 | Jalpaiguri | 1934292 | 1907369 | -26923 |
| 3 | Darjeeling | 924173 | 979651 | +55478 |
| 4 | Uttar Dinajpur | 1218044 | 1229770 | +11726 |
| 5 | Dakshin Dinajpur | 821722 | 816271 | -5451 |
| 6 | Maldah | 1726706 | 1727495 | +789 |
| 7 | Murshidabad | 3289459 | 3208348 | -81111 |
| 8 | Nadia | 2738389 | 2719245 | -19144 |
| 9 | Uttar 24 Parganas | 5218667 | 5010573 | -208094 |
| 10 | Dakshin 24 Parganas | 4383439 | 4312870 | -70569 |
| 11 | Kolkata | 3080867 | 3029966 | -50901 |
| 12 | Howrah | 2813241 | 2719511 | -93730 |
| 13 | Hooghly | 3378436 | 3301808 | -76628 |
| 14 | Purba Medinipur | 2645350 | 2554759 | -90591 |
| 15 | Paschim Medinipur | 3292197 | 3244364 | -47833 |
| 16 | Purulia | 1594000 | 1558846 | -35154 |
| 17 | Bankura | 2045422 | 2004832 | -40590 |
| 18 | Burdwan | 4461333 | 4382407 | -78926 |
| 19 | Birbhum | 1809929 | 1784328 | -25601 |
| Total | | 48895141 | 47996053 | -899088 |

Annexure 2

Sample of Names of Genuine Voters Which Were Deleted and Not Restored

PURBA MEDINIPUR DISTRICT

202 TAMLUK LEGISLATIVE ASSEMBLY

| <i>Part no.</i> | <i>Serial no.</i> | <i>Name of the Voter</i> | <i>Epic Card no.</i> |
|-----------------|-------------------|--------------------------|----------------------|
| 48 | 646 | Mamoni Das | WB/30/202/1635865 |
| 48 | 881 | Sunil Bhoumick | WMF2512432 |
| 48 | 946 | Bindubala Mondal | WB/30/202/165405 |
| 48 | 687 | Sunita Das | WMF2512150 |
| 34 | 653 | Sudhangsu Chakraborty | WB/30/202/120879 |
| 34 | 654 | Bhagabati Chakraborty | WB/30/202/120602 |
| 34 | 655 | Saroj Chakraborty | WB/30/202/120281 |
| 34 | 656 | Moli Chakraborty | WB/30/202/20603 |
| 34 | 105 | Pratima Jana | WB/30/202/MMF2425510 |
| 34 | 199 | Sankar Panja | WB/30/202/120036 |
| 34 | 200 | Jayanti Rani Panja | WB/30/202/120492 |
| 34 | 201 | Biplab Panja | WB/30/202/120579 |
| 34 | 203 | Biman Panja | WB/30/202/MMF2491959 |
| 27 | 122 | Sukdeb Das | MMF2484319 |
| 27 | 144 | Satyapada Das | MMF2483154 |
| 27 | 987 | Amalesh Mudli | |
| 27 | 1086 | Lakshmi Kanta Samanta | |

SOUTH 24 PARGANAS DISTRICT

108, JADAVPUR ASSEMBLY CONSTITUENCY

| <i>Part</i> | <i>Serial</i> | <i>Name</i> | <i>Father/ Husband's Name</i> | <i>Age</i> | <i>Address</i> |
|-------------|---------------|------------------|-----------------------------------|------------|-------------------------------|
| 80 | 164 | Ganesh Das | Suren Das | M 36 | Mukundapur |
| 130 | 1350 | Swapna Dey | Tarun Dey | F 41 | Kondua |
| 17 | 204 | Jyoti Prosad Roy | Biman Roy | M 77 | Rajdanga, P. Majumdar Road |
| 181 | 269 | Biswajit Das | Parimal Das | M 24 | Bansdrani (Prafullanagar) |
| 187 | 492 | Usha Rani Poddar | Mantu | F 61 | Sarat Pally |

| | | | | | |
|-----|-----|----------------------|-------------------|------|------------------------------|
| 187 | 493 | Bikash Poddar | Mantu | M 41 | Sarat Pally |
| 187 | 494 | Tapati Poddar | Bikash | F 33 | Sarat Pally |
| 187 | 495 | Biswajit Poddar | Mantu | M 31 | Sarat Pally |
| 181 | 266 | Parimal Das | Laxmikanta Das | M 45 | Prafullanagar (Bansdrani) |
| 181 | 267 | Anjana Das | Parimal Das | F 40 | Prafullanagar (Bansdrani) |
| 181 | 268 | Sanjoy Das | Parimal Das | M 25 | Prafullanagar (Bansdrani) |
| 178 | 540 | Sukhranjan Biswas | Kartick Biswas | M 57 | Kalitala |

NADIA DISTRICT

82, CHAKDAHA ASSEMBLY CONSTITUENCY

| <i>No. Part</i> | <i>Serial</i> | <i>Name of the candidates</i> | <i>Epic</i> |
|-----------------|---------------|-------------------------------|------------------|
| <i>no.</i> | <i>no.</i> | | <i>no.</i> |
| 1 | 196 | 367 Sohan Sarkar | CRZ 1997170 |
| 2 | 196 | 304 Arani Sarkar | CRZ 2846137 |
| 3 | 210 | 9 Birendra Singh | WB/12/082/804504 |
| 4 | 210 | 6 Midul Kanti Das | CRZ/2002/749 |
| 5 | 210 | 43 Brata Shyam Acharjee | WB/12/082/804656 |
| 6 | 210 | 44 Nilima Acharjee | WB/12/082/804652 |
| 7 | 210 | 45 Somnath Acharjee | CRZ/2238830 |
| 8 | 210 | 46 Antra Acharjee | CRZ/2862639 |
| 9 | 210 | 78 Amar Ranjan Das | WB/12/082/804699 |
| 10 | 210 | 79 Anima Das | WB/12/082/804897 |
| 11 | 210 | 81 Abhijit Das | CRZ 2239093 |
| 12 | 210 | 82 Binapani Sarkar | WB/12/082/804493 |
| 13 | 210 | 83 Bidiya Prasad | WB/12/082/804098 |
| 14 | 210 | 87 Rama Jana | WB/12/082/804212 |
| 15 | 210 | 100 Sikha Ghosh | WB/12/082/804019 |
| 16 | 210 | 101 Pijus Ghosh | CRZ2862845 |
| 17 | 210 | 90 Sova Das | WB/12/082/804273 |
| 18 | 210 | 165 Harihar Chowdhury | CRZ 3274115 |
| 19 | 210 | 174 Sabitri Ghosh | CRZ 2864793 |
| 20 | 210 | 175 Falguni Ghosh | CRZ 2899342 |
| 21 | 210 | 186 Asha Banerjee | WB/12/082/804840 |
| 22 | 210 | 188 Dasu Mondal | CRZ 3274149 |

Annexure 3

COMMUNIST PARTY OF INDIA (MARXIST)

WEST BENGAL STATE COMMITTEE

MUZAFFAR AHMAD BHAVAN

31, ALIMUDDIN STREET, KOLKATA 700016

Telephone: 22176633-40

Fax: 22440721

E-mail: cpimwb@vsnl.com

19 July 2006

URGENT

Chief Election Commissioner
Election Commission of India
Nirvachan Sadan
New Delhi

Sub: Model Code of Conduct and its Application

Dear Sir,

1. This is to bring to your urgent notice that in view of the upcoming Lok Sabha/Assembly bye-elections the Model Code of Conduct will again be in force, in West Bengal as in other states where such bye-elections will be held. This involves some important issues of relevance.
2. As a matter of practice, on the day when election is announced, the Model Code of Conduct becomes operative and all developmental works come to a standstill. From the experience of the last Assembly election in our state, it was noticed that in a few cases, even *ongoing projects* were stopped.
3. Also, the Model Code of conduct as per your regulations, apply to the entire district where whole or a part of any Assembly or Lok Sabha constituency goes for bye-election. This we first experienced in 2005. It was enforced through your Press note No ECI/PN/34/2005 dated 17 August 2005.
4. This compounds the problem of even urgent developmental programmes adversely.
5. We also have had the experience that with elections being held continually throughout the year for such electoral institutions as Panchayats, Municipalities, Assembly and Lok Sabha, developmental work is an important casualty.
6. In view of the above, based on the West Bengal experience, we request you to ensure at the all-India level that:
 - ✓ The Model Code of Conduct is made to be in force not for whole districts but for the particular constituency/constituencies where such elections/bye-elections are being/ shall be held. In case of Parliamentary election, the concerned Assembly segment may be considered for this purpose.

Thanking you,



Yours truly,

Biman Basu

Secretary

West Bengal State Committee
Communist Party of India (Marxist)

Copy to:

Chief Electoral officer, West Bengal

General Secretary, Communist Party of India (Marxist)

Annexure 4

Complaints Against the Election Observers in 14th West Bengal Legislative Assembly Election

DATE, OFFICIAL, AND CONTENT OF ALLEGATIONS

- 1 9.03.06 & 21.03.06 R N Dash, Observer of Burdwan Dist.
Politically motivated activities. He visited different places with AITC leaders and INC leaders.
- 2 9.03.06 Dipak Prosad, Observer of Purba Medinipur District
 - i) *Harassment to the voters and illegal instruction to Panchayat to stop ongoing Projects;*
 - ii) *Instruction to Police to pull down trade union flags from their offices;*
 - iii) *Repeatedly instructed DEO verbally to delete names of 1,50,000 voters after the publication of final voters list.*
- 3 3.03.06 & 4.04.06 Lingaraj Panigrahi, Observer of 251 Bankura A/C
Violation of election norms by tearing of election posters of CPI(M) candidates from three wheeler cattle operated vehicles.
- 4 5.04.06 Manmohan Singh, Observer of 219 Keshpur (SC) A/C Paschim Medinipur Dist.
Raid conducted in the CPI(M) Keshpur Zonal Committee Office and residences of some Party workers illegally with the CPMF personnel accompanied by AITC leaders.
- 5 14.04.06 Observer of Uttarpara A/C Hooghly District.
Not conducting Mock demonstration of all EVMs in presence of candidates violating the mandatory procedure 'Check and verified' procedure of EVM.
- 6 7.04.06 Observer of 78 Santipur A./C
Verbally ordered for deletion of specific numbers of genuine voters of different parts of the electoral rolls.
- 7 7.04.06 Observers of Paschim Medinipur, Purulia and Bankura
Verbally instructed the officials of the three districts to delete specific numbers of genuine voters.

- 8 10.04.06 Observer of Howrah District
Instructed the ERO to delete the names of thousands of genuine voters from final voters list.
- 9 14.04.06 Observer of 138 Dum Dum A/C North 24 Parganas District
Verbal instruction to police officials to enter the CPI(M) Offices at mid-night of 11th April,2006 and threw away election materials and pulled down party flags.
- 10 19.04.2006 Shri Sumar Singh Gurjar election observer 72 Kaligunge A/C Nadia District
Misuse of government vehicles – Sri Gurjar went to visit Sundarban on 13th April 2006 and back to Nadia on 15.04.06. Again on 16th he went to Darjeeling in the government car and came back on 17th April 2006 to Nadia.
- 11 25.04.06 Expenditure observer Shri H Bhim Sankar of 139 Belgachia East A/C North 24 Parganas
Politically motivated comments about the A/C to media persons stating that the constituency is ‘notorious’.
- 12 26.04.2006 Shri Durgacharan Shaw, Observer of 139 Belgachia A/C North 24 Parganas
Politically motivated comments to electronic media ‘Star Ananda’ stating that if required repoll will be conducted at 139 Belgachia East.
- 13 27.04.2006 Shri T. Vijay Kumar and Naresh Penumaka, observers of 138 Dum Dum A/C, North 24 Parganas
Both observers flouted ECI’s instruction, threatening to halt the poll process, until CPI(M) polling agents do not remove their badges with name of the Candidate.
- 14 27.04.2006 Observer of 271 Burdwan South A/C
Politically motivated action. Direction was given to SDO, Sadar to raid house of Shri Modhu Sudan Banerjee. Raid resulted in ‘nil’ seizure list.
- 15 27.04.2006 Smt. Smita Chanda Gati, observer of 157 Vidyasagar A/C, Kolkata
She snatched away the identity badges of CPI(M) polling agents of different booths (only the names of the candidates were in the badges). She misbehaved with CPI(M) polling agents and forcibly took away all the papers of CPI(M) polling agents including metal seal of our Party.

16 29.04.06 S. Joseph, Expenditure observer of 3 Matghabhanga (SC) A/C and 2 Sitalkuchi A/C of Cooch Behar On 27th April 2006
Uncalled for and politically motivated behaviour towards voters. He asked voters to whom they cast their votes. Observers can not ask such questions to voters.

17 10.04.2006 Observers of Nadia and other districts
Instructed the ERO to delete the names of thousands of genuine voters from final voters list.

18 8.05.2006 Observer of 44 Araidanga A/C, Maldah District
Violated the election norms; asked CPI(M) polling agents about their political identity.

19 On the date of poll 8th May Observer of 40 Gajal (ST) A/C
Ordered to close booth camp office of CPI(M) candidate though the camp office was as per Election Commission specifications.

20 8th May Observer of 14th Madarihahat (ST) A/C
Directed Police to arrest CPI(M) polling agent of Booth No.25 on the plea that the CPI(M) agent entered into the booth without his identity card though the said polling agent handed over his appointment letter to the Presiding Officer earlier.