

**MODEL CODE OF CONDUCT FOR OBSERVANCE BY POLITICAL PARTIES AND
CANDIDATES DURING ELECTIONS TO THREE TIER P. R. Is. IN ORISSA**

CHAPTER-I

GENERAL CONDUCT

- (1) No political party or candidate shall use any words either spoken or written, or commit any act or otherwise, which shall, on grounds of religion, sex, place of birth, residence, language, caste or community, create any disharmony or feelings of enmity or hatred or ill-will between different groups or communities.
- (2) No political party or candidate shall use, or encourage use, overtly or covertly, of criminal force or violence which is likely to cause fear or alarm or feeling of insecurity amongst any group of voters or disturb public peace or tranquility.
- (3) No place of worship, or building / offices / accommodation belonging to Government or educational institutions shall be used for election meeting /propaganda /workers' meet, etc.
- (4) No obstruction or intimidation shall be caused to a prospective candidate which shall prevent him in filing his nomination.
- (5) All political parties and candidates shall co-operate with officers on election duty.
- (6) All parties and candidates shall avoid scrupulously all activities which are corrupt practices and offences under the election-Law.

CHAPTER-II

Meeting & Procession : Canvassing & Propaganda

- (1) No political party or Candidate shall give any gratification to any voter or group of voters which may prevent the voter(s) from exercising their electoral right freely.
- (2) No election meeting shall be disturbed in any way by any rival political party or its candidate(s) or sympathisers.
- (3) Permission from competent authority shall be taken in advance to hold public meetings in public places and for taking out processions on public roads. Prohibitory orders in force in public places shall be respected. Permission to use public places for holding election meetings and to take out procession on public roads shall be given by the appropriate authority **on first come first serve basis**. Local police and Magistracy shall be kept informed of public meetings /processions and their directions/instructions/ restrictions shall be obeyed.
- (4) Character assassination of candidates / leaders which creates ill-feelings and tension, shall be avoided.
- (5) Burning of effigies of leaders of political parties is prohibited. Criticism of rival candidates on aspects of private life or of political parties on the basis of unverified allegations shall be avoided. No demonstration or picketing in any form before the residence of any individual or before Government offices shall be allowed.
- (6) Permission from competent authority shall be obtained for use of loudspeakers and in any case, such loudspeakers must not be used **between 8 P. M. of the night to 7 A. M. next morning**. Use of loudspeakers shall be completely **stopped 36 hours** before the beginning of the poll.

- (7) Display of posters / pamphlets / hoardings / banners or writings on the walls of Government buildings / Educational / Religious institutions/ Shrines / Public roads are prohibited. Such display and writings can however be made on private buildings or lands or space with the written permission of the owners concerned.
- (8) All printed materials connected with electioneering shall bear the name of the printer and publisher, so that responsibility can be fixed in case of publication of any documents containing illegal, offending and objectionable materials.
- (9) No party or candidate shall convene, hold or attend any public meeting in any polling area during the period of **thirty-six hours preceding** the time fixed for the commencement of the poll.

CHAPTER III

Polling Area & Polling Day

- (1) All political parties and candidates shall co-operate with the officers on Poll duty.
- (2) No party or candidate shall, on the date on which a poll is taken, commit any of the following acts within the polling stations or in any public or private place within a radius of one hundred meters of the polling station, namely :-
 - (a) canvassing for votes ;
 - (b) soliciting the vote of any elector ;
 - (c) persuading any elector not to vote for any particular candidate ;
 - (d) exhibiting any notice or sign (other than official notice) relating to election.
- (3) No obstruction, annoyance or intimidation shall be caused to the voters which will prevent them from exercising their free choice.
- (4) No liquor or intoxicant shall be served by any political party or candidate to their workers/supporters on the Polling Day and during **the 36 hours preceding** it.
- (5) All political parties and candidates shall supply to their authorised workers suitable badges or identity card.
- (6) Identity slips supplied by the political parties and candidates to voters shall be on plain white paper and shall not contain any symbol, name of the candidate or name of the party.
- (7) The camps set up by a candidate beyond 100 meters of the polling station shall not display any poster, flag, symbol or any other propaganda material. No eatables shall be served or crowds allowed at the camps.
- (8) All political parties and candidates shall co-operate with the authorities in complying with the restrictions to be imposed on the plying of vehicles on the Polling Day and obtain permits for them which should be displayed prominently on those vehicles. Conveyance of voters to and from a polling station by or on behalf of a party or candidate is prohibited.
- (9) Except the voters and authorised persons, no one else shall enter into any polling booth without permission from the State Election Commissioner/District Magistrate. Ministers, Ministers of State and Dy. Ministers, Chief Whip, Dy. Chief Whip, Leader of the Opposition, M.P., M.L.A., Presidents and Vice-Presidents of Zilla Parishads, Chair person and Vice-Chairpersons of Municipal Bodies shall not enter any polling

station or place of counting except in their capacity as a candidate or voter or authorised agent.

- (10) Any political party or candidate which/who faces any difficulty shall be free to approach the State Election Commission, the Election Observers (if any) in charge of the area or the Election Officer concerned for redressal of their grievances within the parameters of the existing Law.

CHAPTER-IV

Party/Parties in Power and Persons holding public offices

The Party/Parties in power whether in the Centre or in the State shall ensure that no cause is given for any complaint that it/they has/have used its/their official position for the purpose of its/their election campaign, and in particular—

- (1) Ministers, Ministers of State and Deputy Ministers, Government Chief Whip, Dy. Chief Whip and Leader of the Opposition, President and Vice-President of Zilla Parishad, M.Ps. & M.L.As. and persons holding public offices who are provided with official perquisites and transport, shall not combine their official visits with electioneering work and shall not also make use of the official machinery or personnel or transport or Circuit House, Dak Bungalows, etc. for election campaigning directly or indirectly.
- (2) Whenever the dignitaries specified in Para (1) above decide to address election meeting(s) in any area for political work connected with electioneering, the journey to such places shall not be performed in Government transport. The role of officials will be limited to maintenance of law and order and affording normal security to them.
- (3) Except for normal development works and programmes which have already commenced, relief and restoration works as a sequel to natural calamities and emergent nature of works, expenditure for which have been voted by the State Legislature, will continue ; no new schemes/ programmes/ works/projects of any kind shall be started nor any financial concession be promised or announced by Government or any official agency which would have the effect of influencing, directly or indirectly, the voters in favour of the candidate (s) of the party in power.
 - (i) No policy decision shall be taken or announced by the Government which will help the Party in power to influence the voters.
 - (ii) Any project sanctioned in the budget of any department of Government for which work orders have already been issued prior to Poll Notification but work not started shall not be taken up during the period of enforcement of Code of Conduct.

In case of doubt, all concerned are advised to seek a clarification from the Commission.

- (4) No "Bhumi Puja", . laying of foundation stones or inaugural ceremonies in respect of works/projects/programmes, funded partly or wholly by Government, or out of M.P/ M.L.A. LAD fund shall be undertaken by Ministers or any public dignitary in any constituency. Such functions and ceremonies, even if organised in urban areas, are prohibited if such works/projects/programmes are primarily intended for the benefit of the rural areas and to influence the rural voters.

- (5) No assurance influencing voters nor any proposal for sanction of projects out of M.P./ M.L.A. LAD fund shall be given during the operation of model code of conduct.
- (6) Government accommodation, viz. Rest Houses, Inspection Bungalows, Circuit Houses or Guest Houses of Government undertakings (Central or State) and the like, whether in Urban or Rural areas, shall be afforded in fair manner to leaders of all political parties or their candidates as per respective occupation rules. But such accommodation facilities shall not be used or allowed to be used as a campaign office or for holding party workers' meeting for the purpose of election propaganda.
- (7) No advertisement or publication at the cost of Central or State Government/Public undertakings/Corporations/Co-operatives, etc. highlighting achievements, which will have the effect of influencing the voters in elections shall be issued/published.
- (8) Mass media viz. Radio/Television shall not be used to broadcast/telecast any news/ visuals which will have the effect of influencing the voters in favour of any political party/candidate.
- (9) The directions and restrictions contained in this Chapter shall also apply, *mutatis mutandis*, to Central and State Ministers so far as these relate to them/to non-official Chairpersons and non-official Directors of Government, Companies and Corporations, whether State or Central/Non-official Chairpersons and Vice-Chairpersons/Presidents and Vice-Presidents of Panchayati Raj Institutions and Urban Local Bodies/Presidents of Co-operative Societies including Apex Bodies and other Bodies and Authorities in which public funds are invested or to whom public funds are granted, notwithstanding the quantum of such funds.

The Model Code of Conduct shall become operational from the date of issue of election notification by the State Election Commission, Orissa and shall remain in force till completion of counting to the three-tier P.R.s.

CORRUPT PRACTICES

The following are the extracts from the relevant Panchayat Acts on corrupt practices during elections and penalties thereof.

I. ORISSA GRAMA PANCHAYAT ACT, 1964.

CHAPTER V

"Section 41—The following shall be deemed to be **corrupt practices** for the purposes of this chapter, namely :—

- (1) **bribery**, that is to say, any gift, offer or promise by a candidate or by any other person on his behalf or any gratification to any person whomsoever—
 - (i) with the object, directly or indirectly of inducing—
 - (a) a person to stand or not to stand as or to withdraw from being a candidate, or to retire from contest at such election ; or
 - (b) an elector to vote or refrain from voting at such election ; or
 - (ii) as reward to—
 - (a) a person for standing or refraining from standing as candidate, or for having withdrawn his candidature or for having retired from contest ; or
 - (b) an elector for having voted or for refraining from voting.

Explanation– For the purpose of this clause, the term gratification includes all forms of entertainment and all forms of employment for rewards but does not include the payment of any expenses incurred *bona fide* for the purpose of such election.

- (2) **Undue influence**, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or any other person on his behalf with free exercise of the electoral right of any person ;
- (a) without prejudice to the generality of the provisions of this clause, any such person as is referred to therein, who–
- (i) threatens any candidate or any elector or a person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and excommunication or of expulsion from any caste or community ; or
- (ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause ; and
- (b) a declaration of public policy or, a promise of public action or the mere exercise of a legal right without intent to interfere with an electoral right shall not be deemed to be interference within the meaning of this clause.
- (3) The **systematic appeal** by a candidate or by any other person on his behalf to vote or refrain from voting on grounds of caste, race, community or religion or of the use of national symbols such as the National Flag or the National Emblem, for the furtherance of the prospects of the candidate's election.
- (4) The **Publication** by the candidate or by any other person on his behalf of any statement of fact which is false and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal or retirement from contest of any candidate, being a statement reasonably calculated to prejudice the prospect of that candidate's election.
- (5) **The hiring or procuring** whether on payment or otherwise, of any vehicle or vessel by a candidate or by any other person on his behalf for the conveyance of any elector, other than the candidate or any member of his family to or from any polling station or place fixed for the poll.

Explanation–In this clause, the expression "vehicle" means any vehicle used or capable or being used for the purpose of road transport whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

- (6) The **obtaining or procuring** or abetting or attempting to obtain or procure by a candidate or by any other person on his behalf **of any assistance**, other than the casting of a vote, for the furtherance of the prospects of the candidate's election from any person in the service of the State Government or in the employ of the Local Authority.

Section 39 (1) –The Civil Judge (Junior Division) shall declare the election of a returned candidate void, if he is of the opinion–

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- (b) **that corrupt practice has been committed by the candidate"**

ORISSA PANCHAYAT SAMITI ACT, 1959

CHAPTER VI-A

"Section 44-N—The following shall be deemed to be **corrupt practices** for the purposes of this Chapter, namely :—

- (1) **bribery**, that is to say, any gift, offer or promise by a candidate or by any other person on his behalf or any gratification to any person whomsoever—
 - (i) with the object, directly or indirectly of inducing—
 - (a) a person to stand or not to stand as or to withdraw from being a candidate ; or to retire from contest at such election ; or
 - (b) an elector to vote or refrain from voting at such election ; or
 - (ii) **as a reward** to —
 - (a) a person for standing or refraining from standing as a candidate, or for having withdrawn his candidature or for having retired from contest ; or
 - (b) an elector, for having voted or for refraining from voting.

Explanation—For the purpose of this clause, the term "gratification" includes all forms of entertainment and all forms of employment for rewards ; but it does not include the payment of any expenses bona fide incurred for the purposes of such election ;

- (2) **undue influence**, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or any other person on his behalf, with the free exercise of the electoral right of any person ;

Provided that—

- (a) without prejudice to the generality of the provisions of this clause, any such person as is referred to therein, who—
 - (i) threatens any candidate or any elector or a person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or of expulsion from any caste or community ; or
 - (ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to be interference with the free exercise of the electoral right of such candidate or elector within the meaning of this clause ; and
 - (b) a declaration of public policy, or a promise of public action or mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause ;
- (3) the **systematic appeal** by candidate or by any other person on his behalf to vote or refrain from voting on ground of caste, race, community or religion or of the use of national symbols, such as, the National Flag or the National Emblem, for the furtherance of the prospects of the candidate's election ;
 - (4) the **publication** by the candidate or by any other person on his behalf of any statement of fact which is false and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal or retirement from contest of any candidate, being a statement reasonably calculated to prejudice the prospect of that candidate's election ;

- (5) the **hiring or procuring** whether on payment or otherwise of any vehicle or vessel by a candidate or by another person on his behalf for the conveyance of any elector, other than the candidate or any member of this family to or from any polling station or place fixed for the poll : provided that the hiring of vehicle or vessel by an elector or by several electors at their joint cost for purpose of conveying him or them to or from any such polling station or place fixed for the poll, shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power :

Provided further that the use of any public transport vehicle or railway carriage by an elector at his own cost for the purpose of going to or coming from any polling station or place, shall not be deemed to be a corrupt practice under this clause.

Explanation– In this clause the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise ;

- (6) the obtaining or procuring or abetting or attempting to obtain or procure by a candidate or by any other person on his behalf of any assistance, other than the casting of a vote for the furtherance of the prospects of the candidate's election from any person in the service of the Government or in the employ of any Local Authority."

"Section 44-L. Grounds for declaring election void ; (1) The Civil Judge (Senior Division) shall declare the election of returned candidate void, if he is of the opinion–

- (a) **that such person committed during or in respect the election proceedings a corrupt practice as specified in Section 44-N....."**

III. ORISSA ZILLA PARISHAD ACT, 1991

CHAPTER-V

"Section 32 (1) No election of a person either as a member or as the President or Vice-President of a Parishad held under this Act shall be called in question except by an election petition presented before the District Judge having jurisdiction over the place at which the office of the Parishad is situated.

- (2) For the purposes of sub-section (1), the provisions contained in Chapter VI-A (hereinafter referred to in this Section as the said Chapter) of the Orissa Panchayat Samiti Act, 1959 shall *mutatis mutandis* apply....."

ELECTION OFFENCES

The following are the extracts of the relevant Panchayat Acts/Indian Penal Code, 1860 on Election offences and penalties thereof.

I. ORISSA GRAMA PANCHAYAT ACT, 1964

CHAPTER V

"Section 28 : No person who is in the service of the State Government or of any local authority shall, by canvassing on behalf of any candidate or otherwise, interfere or in any way use his influence in an election and a breach of the provisions of this Section shall render the person **liable to have his services terminated.**

Section 29 : A person shall be guilty of an election offence, if he ;

- (a) fraudulently defaces, or otherwise alters or tampers or destroys any nomination paper or ballot papers ; or
 - (b) fraudulently defaces, injures, disturbs, destroys or removes any list, notice or other documents affixed or otherwise published in accordance with the provisions of this Act and the rules made thereunder ; or
 - (c) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper ; or
 - (d) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in ; or
 - (e) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot paper then in use for the purposes of the election ; or
 - (f) obstructs or in any way interferes in the performance of the duties of any officer or servant appointed or employed for the purpose of holding and conducting elections ; or
 - (g) being required by the provisions of this Act and the rules made thereunder to do any act or take any proceedings, neglects, or refuses to do any such act or to take any such proceedings.
- (2) **Any person guilty of an election offence under this Section shall be punishable on conviction with fine which may extend to rupees one hundred and when the offence is a continuing one, with a further fine which may extend to five rupees for every day after the date of the first conviction, during which the offender is proved to be a persistent committer of the offence."**

II. ORISSA PANCHAYAT SAMITI ACT, 1959

CHAPTER III

"Section 16-B (2) : In the absence of any provision in this Act or the rules made thereunder the provisions contained in the Representation of the People Act, 1950 and the Representation of People Act, 1951 shall *mutatis mutandis* apply for the purposes of election to Samitis in the following matters, namely :-

- (i) preparation, revision and updating of electoral roll ;
- (ii) appointment of Electoral Registration Officers, Presiding Officers and Polling Officers ;
- (iii) qualifications and disqualifications for registration as voters;
- (iv) such other matters which have to be or may be required to be, dealt with for the purpose of conduct free and fair election.

III. ORISSA ZILLA PARISHAD ACT, 1991

CHAPTER-II

Section 6 (4) (b) : In the absence of any provision in this Act or the rules made thereunder the provisions contained in the Representation of the People Act, 1950 and the Representation of People Act, 1951 shall *mutatis mutandis* apply for the purposes of election to Samitis in the following matters, namely :-

- (i) preparation, revision and updating of electoral roll ;

- (ii) appointment of Electoral Registration Officers, Presiding Officers and Polling Officers ;
- (iii) qualifications and disqualifications for registration as voters;
- (iv) such other matters which have to be or may be required to be, dealt with for the purpose of conduct free and fair election.

IV. INDIAN PENAL CODE, 1860

CHAPTER IX-A

Offences Relating to Elections

171-A. "Candidate" "Electoral right" defined— For the purposes of this Chapter "candidate" means a person who has been nominated as a candidate at any election ;

- (b) "electoral right" means the right of a person to stand, or not to stand as, or to withdraw from being a candidate or to vote or refrain from voting at an election.

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171-B. Bribery (1) Whoever— (i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right ; or

- (ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right,

commits the **offence of bribery** :

Provided that a declaration of public policy or a promise of publication shall not be an offence under this Section.

- (2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.
- (3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept, a gratification, and a person who accepts a gratification, as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as reward.

171-C. Undue influence at elections—(1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the **offence of undue influence** at an election.

- (2) Without prejudice to the generality of the provisions of sub-section (1), whoever—
 - (a) **threatens any candidate or voter**, or any person in whom a candidate or voter is interested with injury of any kind, or
 - (b) **induces or attempts to induce** a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of divine displeasure or of spiritual censure ;
 shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).

- (3) A declaration of public policy or a promise of publication or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this Section.

171-D. Personation at elections—Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the **offence of personation** at an election.

171-E. Punishment for bribery—Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both :

Provided that bribery by treating shall be punished with fine only.

Explanation—"Treating" means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

171-F. Punishment for undue influence or personation at an election—Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or both.

171-G. False statement in connection with an election—Whoever with intent to affect the result of an election makes or publish any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

171-H. Illegal payment in connection with an election—Whoever without the general or special authority in writing of a candidate incurs or authorizes expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication, in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees :

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

171-I. Failure to keep election accounts—Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees.