


Tamil Nadu State Cooperative Societies Election Commission

From
Thiru. M.R. Mohan, I.A.S., (Retd.)
Commissioner,
Tamilnadu State Cooperative Societies
Election Commission,
273, Anna Salai,
Teynampet, Chennai-18.

To
The State Election Officers

Rc.No.3944/2013/CE-5

Dated:29.07.2013

Sir,

Sub : Election – Election of Members and Office Bearers of
the Boards of Co-operative Societies in the state –
Preservation of Election records – Instructions issued.

Ref : The Commission's letter even number dated
17.07.2013.

In the reference cited, guidelines have been issued for the preservation of election records which were handed over to the District Election Officer or to the person authorised by the District Election Officer in a sealed container.

Now certain State Election Officers and District Election Officer have raised certain difficulties in giving due effect to these rules as stated under:-

- (1) Whether the term '**any person**' as occurs in rule 52 (22) (b) & 53 (13) (b) means any individual, the District Election Officer, may choose to his choice, irrespective of the fact whether such an individual is an officer of the government, or officer subordinate to him or officers and employees of Co-operative Societies or local authorities or undertakings owned by the state or central government or educational institutions or otherwise.
- (2) As to when the sealed container, as mentioned under rule 52(22) and rule 53(13) can be opened, by whom and under what circumstances.

The Commission examined these points carefully and considers it necessary to clarify those points raised, for the purpose of giving due effect to these rules and in removing the difficulty, as envisaged under rule 52-A(9) & (10).

Point-1

Rule 52(22) and 53 (13) deal with the securing, handing over, and preserving of the records. It is needless to say that preserving of election records is a matter of high importance, combined with utmost responsibility as there is every possibility of any election dispute and which will be decided only by the designated authority before appropriate forum under Section 90 of the Tamil Nadu Co-operative Societies Act, 1983. And with this intent, the rule specifically mentions about the securing of the records and the period over which the records to be preserved taking into account the possibility of any dispute that may be raised. The reference, therefore to the word 'any person authorised' as mentioned under rule 52 (22) (b), and Rule 53 (13) (b) in these context and in all probabilities and possibilities should invariably mean **any person of responsibility or any responsible person**.

Accordingly, the Commission directs that the sealed container of elections records mentioned under rule 52(22)(a) and Rule 53(13)(a) shall be handed over by the Electoral Officer and Election Officer as the case may be only to the District Election Officer or any officer subordinate to him **not below the rank of a Senior Inspector in the Co-operative Department or not below such rank in other departments and as duly authorised by the concerned District Election Officer in this behalf**.

In cases, where this procedure have not already been followed suitable instructions should be issued.

Point-2

Rule 52 (22) (b) and (c) and Rule 53 (13) (b) and (c) clearly say that the election records shall be preserved by the person who is incharge of those records for a period of one year from the date of election if there is **no election dispute** and if there is an **election dispute** till the date of final disposal of the **said dispute** which ever is later. And thus the period of preservation is linked and related to **an election dispute**. In other words the records kept in the container **may be required only** at the time of deciding an **election dispute** by the designated authority.

From this it can be safely concluded that the necessity of opening the sealed container arises only for the purpose of deciding an election dispute and if so required by the authority to whom the dispute is referred.

Section 90 of the Tamil Nadu Co-operative Societies Act, 1983, read with Rule 107 of the Tamil Nadu Co-operative Societies Rules, 1988 empower the Registrar **'to require the production of all books and documents relating to the matter of the dispute' and without any exemption to election dispute and election records**. The Commission, accordingly directs, that the District Election Officer or the person authorised by him and who is incharge of the election record, when required by the 'Registrar' Arbitrator or Arbitrator or other person deciding the dispute, shall, if in his opinion the container contains all such records, break open the sealed container in the presence of the authority who required the same under section 90 of the Tamil Nadu Co-operative Societies Act and Rule 107 of the Tamil Nadu Co-operative Societies Rules, 1988, and for that matter any other competent court or lawful authority and after the perusal records is over, place the records back in the container, which shall be affixed by his seal and also of those parties to the dispute who desire to affix their seal before the same authority and shall be kept under his custody as laid down under the rules mentioned above.

Commissioner