



D.O.Rc.No.4047/2013/CE-5

Dated:31.07.2013

Dear Thiru.

Sub : Election – Election of Members and Office Bearers of Boards of Co-operative Societies in the state – Furnishing of information under R.T.I Act - Regarding.

In the recent meeting of the State Election Officers held on 09.07.2013 the Commission was requested to issue certain clarification, in providing information in the matter of election to Co-operatives, to those who seek such information under the Tamil Nadu Right to Information Act, 1997 and The Right to Information Act, 2005.

All are aware that the Commission has been constituted under Section 33-A of the Tamil Nadu Co-operative Societies Act, 1983, and conducts election as provided under section 33(11) (b) of the same Act and as prescribed under rule 52, & 53, and with powers and functions as provided under rule 52-A of the Tamil Nadu Co-operative Societies Rules, 1988. Rule 52 (22)(a)(b) and (c) and Rule 53 (13) (a) (b) and (c), of the same rule speak about the handing over, custody and disposal of the election records. (Extract of these rules are enclosed for ready reference).

Some of the information sought for by these applicants, on matters related to election, *interalia*, include the following:

- (1) Number of nominations received by the Election Officer;
- (2) Names of the proposers and seconders;
- (3) Number of nominations rejected during scrutiny;
- (4) The reasons for rejection as recorded in each such rejected nomination;
- (5) copies of :-
 - (a) of all nominations received including those of rejected nominations
 - (b) list of valid nomination as published by the Election Officer.
 - (c) list of Final list of contesting candidates as published by the Election Officer.
 - (d) list of members as duly elected and as published by the Election Officer.
- (6) Reasons for rejection of each such rejected ballot paper rejected
- (7) Copies of such rejected ballot papers etc.,

All those information sought for by the applicants, relate to, may be available with and to be gathered from, the statutory documents and records etc., that were received, written, filled up and prepared during the various process and stages of election and which were all placed in a sealed container affixed with the seal of the Election Officer and more importantly with that of the candidates or their election agents and handed over to the District Election Officers or persons authorized by him as required under rule 52(22)(a) and 53 (13)(a)

The records so handed over by the Electoral Officers and Election Officers, have to be kept and preserved as required under 52(22)(b) and (c) and 53(13)(b) and (c).

As such, the District Election Officers and / or persons authorized by them, are in their fiduciary capacity, the custodians of these sealed container of election records.

The Election Commission considers that while the District Election Officers, not to lose sight of the noble object of the Right to Information Act **in making transparent and accountability in the working of every public authority**, they, in their fiduciary capacity as the custodians of these sealed containers of election records, have to take note of the fact that the above said rules (Rule 52 (22) (a)(b)(c) and Rule 53 (13) (a) (b) (c)) which make them as the custodians of election records, do not, at the same time, provide unto themselves, the authority to break open the sealed containers.

Accordingly the District Election Officers and / or persons authorised by them cannot furnish such of those information, which in their opinion, are available only in those sealed containers and which they could not break open and could not access lawfully.

I request you to issue suitable instructions accordingly.

**Yours Sincerely,
Sd./- M. R. MOHAN
Commissioner**

To

All State Election Officers