

Note on Model Code of Conduct

1. **What is Model Code of Conduct:** Model Code of Conduct (MCC) for political parties and candidates is a set of norms evolved with the consensus of political parties and enforced by the Election Commission. The provisions of this Code have been, by and large, adhered to by political parties and it helps the Election Commission to conduct free and fair elections. The main objective of the Code is to provide a level playing field for all parties and contesting candidates during the elections.

2. **Key provisions of the Model Code of Conduct** - The MCC contains eight provisions which are as follows -
 - i. *General Conduct:* Criticism of political parties must be limited to their policies and programmes, past record and work. Activities such as: (a) using caste and communal feelings to secure votes, (b) criticising candidates on the basis of unverified reports, (c) bribing or intimidation of voters, and (d) organising demonstrations or picketing outside houses of persons to protest against their opinions, are prohibited.
 - ii. *Meetings:* Parties must inform the local police authorities of the venue and time of any meeting in time to enable the police to make adequate security arrangements.
 - iii. *Processions:* If two or more candidates plan processions along the same route, organisers must establish contact in advance to ensure that the processions do not clash. Carrying and burning effigies representing members of other political parties is not allowed.
 - iv. *Polling day:* All authorised party workers at polling booths should be given identity badges. These should not contain the party name, symbol or name of the candidate.
 - v. *Polling booths:* Only voters, and those with a valid pass from the Election Commission, will be allowed to enter polling booths.
 - vi. *Observers:* The Election Commission will appoint observers to whom any candidates may report problems regarding the conduct of the election.

- vii. *Party in power*: The MCC incorporated certain restrictions in 1979, regulating the conduct of the party in power. Ministers must not combine official visits with election work or use official machinery for the same. The party must avoid advertising at the cost of the public exchequer or using official mass media for publicity on achievements to improve chances of victory in the elections. Ministers and other authorities must not announce any financial grants, or promise any construction of roads, provision of drinking water, etc. Other parties must be allowed to use public spaces and rest houses and these must not be monopolised by the party in power.
- viii. *Election manifestos*: Added in 2013, these guidelines prohibit parties from making promises that exert an undue influence on voters, and suggest that manifestos also indicate the means to achieve promises.

3. **Evolution of MCC**: For the first time Model Code of Conduct was adopted for Assembly Election of Kerala way back in 1960. In 1962, on the eve of third General Election, the Election Commission circulated that code amongst all recognised political parties and to State Governments with an advisory to discuss the code with political parties in their States for giving their consent and acceptance to it. Political parties generally accepted and followed the provisions of code in that General Election. In 1991, the code was consolidated by the Election Commission and from that time the Commission has been ensuring its strict compliance in letter and spirit for conduct of peaceful, free and fair election.

4. **Guidelines on Election Manifesto**: Until 2013 MCC had seven paragraphs which include general conduct for parties and candidates and also parties in power. In 2013, the Supreme Court in its judgment dated 5th July, 2013 in SLP(C) No. 21455 of 2008 (S. Subramaniam Balaji Vs Govt. of Tamil Nadu and Others) directed the Election Commission to include guidelines regarding election manifestos in MCC. Consequently, ECI framed guidelines on Election Manifesto after having consultation with political parties and included it in the MCC as eighth para in 2014.

5. **Objectives of MCC –**

- MCC aims to provide level playing field to political parties and contesting candidates and comes into operation from the day ECI announces the program for election in your constituency and will be in force till the completion of the election
- Developed for maintaining a healthy and peaceful atmosphere conducive to the conduct of smooth elections.

6. Rationale behind MCC –

- A visible and rigorous enforcement of Model Code of Conduct enhances the credibility of the elections and gives confidence to the stakeholders/voters.
- It ensures that official machinery for the electoral purposes is not misused.
- It ensures that electoral offences, malpractices and corrupt practices such as bribing and inducement of voters, threat and intimidation to the voters, are prevented by all means.

7. Period of Enforcement: Election Commission of India announces the schedule of election in a press conference a few days and sometimes few weeks before the formal process of election is set in motion by it. Thereafter, the Election Commission of India issues a notification for the election and thereby the actual process of election starts. MCC comes into operation with immediate effect after announcement of election schedule by ECI. The date of announcement of election schedule cannot be more than three weeks anterior to the date of notification, which has been settled by the Apex Court while disposing Special Leave Petition by Union of India against the judgement of Punjab and Haryana High Court in the case of Harbans Singh Jalal vs. Union of India and others pronounced by the latter on 27th May, 1997. The Apex Court, while disposing aforesaid Special Leave Petition, took note of the agreement reached by the Government of India and Election Commission of India to the effect that MCC shall be enforced from the date of announcement of election and the announcement of election will not ordinarily be more than three weeks before the date of notification. The MCC remains enforceable from the date of announcement of election till the completion of election process after announcement of election results.

In general election to Lok Sabha, the MCC applies throughout the country and in the case of election to Legislative Assemblies/Councils, the code applies within the State concerned. During bye-elections MCC applies to whole district(s) consisting of the constituency where bye-election is being held. However, in case of State capital/metropolitan cities etc. it may be restricted to AC/PC only.

8. Legal status of MCC -

- i. The MCC is not enforceable by law. However, certain provisions of the MCC may be enforced through invoking corresponding provisions in other statutes such as the Indian Penal Code, 1860, Code of Criminal Procedure, 1973, and Representation of the People Act, 1951.
- ii. The [Election Commission](#) has argued against making the MCC legally binding; [stating](#) that elections must be completed within a relatively short time (close to 45 days), and judicial proceedings typically take longer, therefore it is not feasible to make it enforceable by law.
- iii. On the other hand, in 2013, the Standing Committee on Personnel, Public Grievances, Law and Justice, recommended making the MCC legally binding. In a [report on electoral reforms](#), the Standing Committee observed that most provisions of the MCC are already enforceable through corresponding provisions in other statutes, mentioned above. It recommended that the MCC be made a part of the Representation of the People Act, 1951.
- iv. MCC is self-regulatory: The general perception about the MCC is that the code is self-regulatory and given to themselves by the political parties but the fact is that its violation largely attracts penal action. Further, the Election Commission of India is empowered under para 16A of the Election Symbols (Reservation and Allotment) Order, 1968 either to suspend or withdraw the recognition of party after giving that party a reasonable opportunity to defend itself in the event of violation of Model Code of Conduct. Most of the provisions of the code in paras - I, II, III and IV are relatable to provisions contained in one of the three Statutes - Indian Penal Code, 1860, Code of Criminal Procedure, 1973 and Representations of People Act, 1951. Only a few

provisions in the Model Code of Conduct do not have statutory backing.

9. **ECI's Jurisdiction on MCC:** ECI functions as a quasi-judicial body in the matter related to election and election disputes. However, its decision is subject to Judicial Review by High Courts and the Supreme Court while acting on election petitions. The jurisdiction of High Court under Article 226 and 227 is excluded during election period in view of Article 329 (b) of the Constitution. By judicial interpretation, the word 'election' under Article 329 (b) connotes the entire election process commencing with the issue of notification calling the electorate to elect their representatives and culminating with the declaration of election result. By necessary implication, the decision of ECI on the violation of MCC cannot be challenged in High Court and Supreme Court during subsistence of election process but can be challenged in election petition after declaration of election result.

10. **Supreme Court on MCC:** The Apex Court has also held that Article 324 gives plenary power to Election Commission of India but that constitutional provision is supplemented by laws enacted by Parliament. The Supreme Court has also consistently held (in the cases - Mohinder Singh Gill Vs. Chief Election Commissioner (1978) 1 SCC 405: AIR 1978 SC 851), A.C. Jose Vs. Sivan Pillai and Ors (1984) 2 SCC 656) and Kanhiyalal Omar Vs. R.K. Trivedi and Ors (1985) 4 SCC 628: AIR 1986 SC 111) that the ECI has residuary power under the Constitution to act in appropriate manner in the matter of conduct of election where the enacted laws are silent or insufficient to deal with a given situation.

11. Broad areas of application of MCC

- i. MCC on Government Officials
 - a) Transfer/Posting
 - ✓ Ban on transfer of officials involved in election work in any capacity without Commission's prior approval
 - ✓ Officers not allowed to continue in present posting if posted –

- ❖ in home District
- ❖ 3 years during last four years.
- ❖ Posted in the same station during last assembly general/bye election

✓ No officer shall be associated with election if a criminal case is pending

b) Conduct of officials

✓ No meeting/VC with Ministers/Political functionaries on private tours/visits

✓ Restrictions on tour/leave of officers whose spouses are active in politics

ii. MCC on Ministers/Chairmen/Members of Commission

a) No Government official will be called for a meeting

b) No arrangements on private meetings by Government servant

c) Expenses on private meetings/journeys will be borne privately.

d) An official tour shall not be mixed with private tour

e) No owners at any Republic Day function

f) Ban on use of official vehicles/pilot car for campaigning

g) CM/Union Cabinet Minister allowed only one non-gazetted personal staff during their visits

h) PM is exempted from above restrictions

i) Meetings/Tours on emergent situations in Constituency allowed

j) No sanction of grant/payment out of discretionary fund.

iii. MCC for political parties/candidates

a) Criticism of other parties/candidates shall be confined to policies/programmes/past record.

- b) No criticism of private life/unverified allegation
 - c) No appeal to caste/communal feelings
 - d) Corrupt practices like bribery, intimidation, impersonation, canvassing within 100 meters of polling stations, holding public meetings during the period of 48 hours, transport/conveyance of voters to and fro polling stations should be avoided
 - e) No picketing/demonstration in front of houses of individuals
 - f) No use of any individuals land/premises for election hearing without his permission
 - g) No obstruction in meetings/processions organized by other parties
 - h) Holding of meeting/rally/loud speaker/vehicles/public grounds/guest house with proper permission from concerned Government department.
- iv) MCC for use of official vehicles
- a) Restriction on use of official vehicles for campaigning
 - b) Only three vehicles will be allowed within periphery of 100 meters of RO/AERO office.
 - c) Each contesting candidates will be permitted three vehicles only
- v) MCC for State/Central Government
- a) Announcement of new project/programme/financial grant which have effect of influencing the voters is prohibited
 - b) Commission's prior approval needed for announcement of relief programmes
 - c) Works already started on the ground are allowed
 - d) Emergency relief work can be taken
 - e) Regular recruitment/promotion through UPSC/SSC allowed

f) No holding/advertisement at the coast of public exchequer, though there is no objection to publication of photographs/messages related to departed leaders.

vi) MCC for election manifestos

The election manifestos shall not contain anything repugnant to the ideals and principles enshrined in the Constitution and further that it shall be consistent with the letter and spirit of other provisions of the Model Code of Conduct.
