

(21)

R-1339/P dt 31-5-13.



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28-05-13
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Government of West Bengal
Department of Panchayats & Rural Development
Jessop Building (1st Floor), 63 Netaji Subhas Road, Kolkata - 700 001

No.2092/PN/O/1E-6/12 Part-I)

Dated: 27.05.2013

From: D.K. Pal
Special Secretary to the
Government of West Bengal

To : The Secretary
West Bengal State Election Commission
18 Sarjoni Naidu Sarani, Kolkata-17

Sub: Eligibility for contesting the 8th Panchayat General Elections, 2013

Sir,

I am directed to refer to the letter No.696-SEC/6D-9/2010 dated 08.05.2013 of the Commission and to draw your kind attention to the following facts in respect of eligibility of persons, who are engaged in some specific posts/certain specific works, to contest in the Panchayat General Elections, 2013 as has been raised by district authorities of Uttar Dinajpur & Burdwan :

1. The provisions related to disqualification for contesting Panchayat General Elections are laid down under sections 8, 97 and 142 of the West Bengal Panchayat Act, 1973 as well as under section 7 of the West Bengal Panchayat Elections Act, 2003.
2. According to clause (b) of the said sections, a person shall not be qualified to be a member of GP, PS and ZP, as the case may be, if s/he is in the service of the Central or a State Government or a Gram Panchayat or a Panchayat Samiti or a Zilla Parishad or the Mahakuma Parishad.
3. Clause (c) of the afore-mentioned sections of the Act states that a person shall also not be qualified to be a member of a Gram Panchayat, Panchayat Samiti and Zilla Parishad, as the case may be, if he has directly or indirectly by himself or by his partner or employer or an employee, any share or interest in any contract with, by or on behalf of, the Gram Panchayat or the Panchayat Samiti of the Block comprising the Gram concerned or the Zilla Parishad of the district, or the Mahakuma Parishad.

NO.1260(17)-SEC/6D-9/2010
Date : 29.05.2013

1. Copy forwarded for information and necessary action to the District Panchayat Election Officers & District Magistrate (ALL)



O.S.D & E.O. Joint Secretary
W.B. State Election Commission

AS
07-DPEERS
P. Commision.
ADM
S.D.O. or B.D.O
M.O. Nominations
C.D.
31/5/13

Sp. Officer
to be arranged
to forward the
same to all the
D.P.E.O.s

31/5/13

4. This Department had issued clarification vide No.1213(17)/PN/O/I/IE-4/2003 dated 02.04.2003 that the persons not working under State or Central Government or Panchayat bodies as a regular or part time employee on payment of fixed salary/remuneration are eligible to contest Panchayat Elections.
5. In the light of the above, I am further directed to clarify the issues relating to eligibility of the following categories of persons as mentioned in the letters of the District Panchayat Election Officer and District Magistrate, Uttar Dinajpur and Additional District Magistrate (Panchyat), Burdwan for contesting Panchayat General Elections 2013 as stated below:
 - i. A VLE (Village Level Entrepreneur) engaged under MGNREGS at Gram Panchayat level is neither a regular nor a part time employee of any Gram Panchayat and as such s/he does not receive any fixed salary or remuneration from the Gram Panchayat. Actually, s/he works as an entrepreneur on the principle of no work no remuneration. Besides, since there is also no contract of any nature between any Gram Panchayat and a VLE, the VLEs are eligible to contest Panchayat Elections.
 - ii. A GRS (Gram Rozgar Sevak) engaged at GP level is a contractual employee of GP and s/he gets fixed remuneration from the Gram Panchayat and as such, s/he is not eligible to contest Panchayat Elections.
 - iii. An STP (Skilled Technical Person) engaged under MGNREGS at GP level is eligible to contest Panchayat Elections in the same analogy cited under Sl. No.(i) above.
 - iv. Supervisors engaged under MGNREGS at GP level is eligible to contest Panchayat Elections in the same analogy cited under Sl. No.(i) above.
 - v. Regarding Para Legal Volunteers posted at Gram Panchayat level on contractual basis by any District Judge's Court, this is not clear as to between which parties the contract has been made. This is also not clear whether there is any contract between Para Legal Volunteer and the Gram Panchayat. However, the issue may be resolved in the light of the provisions and explanations given in this letter.
 - vi. Regarding eligibility of ASHA (Accredited Social Health Activists), the matter was referred to the National Rural Health Mission under the Health & Family Welfare Department, Government of West Bengal vide No.2071/PN/O/I/IE-6/2012 dated 24.5.2013. The State Mission Director, NRHM has only communicated vide her letter No. HFW/NRHM/20/06/1822 dated

27.05.2013 (also referring to the letter No. HFW/NRHM/20/06/871 dated 28.10.2010) that "no peoples' representative will be eligible to be engaged as ASHA".

- vii. Members of labour cooperative societies enlisted with Zilla Parishads and Panchayat Samitis are not eligible to contest the elections in terms of the provisions of clause(c) of the sections of the Act mentioned before.

It is also clarified that from the date of filing nomination for Panchayat Elections in any tier, no person will be able to continue as VLE, STP or Supervisor under MGNREGS in the same Gram Panchayat or Panchayat Samiti or Zilla Parishad, as the case may be. If they are not elected in the said election, there would be no bar to their being engaged as VLE, STP or Supervisor.

Copies of the following letters issued earlier by this Department to clarify similar issues relating to eligibility for contesting Panchayat Elections are also enclosed for ready reference.

- a) No.1213/(17)/PN/O/1/IE-4/2003 dated 2.4.2003
b) No.1311-PN/O/III/2A-17/94 dated 15.4.98
c) 2367 PN/O/1/O-1/2003 dated 14.7.2004

Enclosure: As stated

Yours faithfully,

(D.K.Pal)

[Signature] 27/5/2013

Memo. No. 549(33) /P/P&E'13

Dt. 31/05 '2013

Copy forwarded for information & taking n/a to:-

- 1-3) The A.D.M (G)/ADM (LR)/ADM (ZP), Malda.
4-5) The S. D. O. (S)/Chanchal, Malda.
6) The o/c, Nomination cell & Dy. PD (M), DRDC, Malda.
7) The DIO, NIC, Malda. He is requested to arrange for uploading the data in the Dist. website.
8-22) The Block Dev. officer _____ (All) Dev. Block, Malda.
23-31) The President/Secretary _____ (All) Political Par. Malda Dist. Unit.
32) The C. A. to the D.M., Malda.
33) Guard File of this section.

[Signature]
District Panchayat &
Rural Dev Officer Malda
31/5/13

