

No.25/59/52-ests.  
Government of India  
Ministry of Home Affairs.

New Delhi-2, the 30th June, 1955.

OFFICE MEMORANDUM

SUBJECT:- Proposing or seconding by Government servants of candidature of persons for elections to the Legislature.

Attention is invited to rule 4(4) of the Central Civil Service (Conduct) Rules which lays down that a Government servant should not canvass or otherwise interfere or use his influence in connection with, or take part in, any election to a legislative body. There is, however, no bar against a Government servant who is qualified to vote at such election exercising his right to vote, provided that, if he does so, he does not give any indication of the manner in which he proposes to vote or has voted.

2. The above rule clearly prohibits proposing or seconding by a Government servant of a candidate for election, as such action would constitute "taking part in any election" within the meaning of rule 4(4), proposing or seconding being an essential preliminary to an election. The Supreme Court decided recently in a case that the mere proposing, seconding by Government servants of nominations of candidates at elections is not forbidden under the Election Law. The question has been raised whether this decision of the Supreme Court implies that Government servants are free to propose or to second the candidature of any one standing for an election. The position is that the Supreme Court has only decided the question whether the election of a candidate whose nomination paper has been proposed and/or seconded by a Government servant can be declared void merely for that reason. They have held that as Government servants are not in the excluded category, it follows that so far as section 123(8) of the Representation of the People Act, 1951, is concerned, they are not disqualified from proposing or seconding a candidate's nomination. The question before them was whether section 123(8) took away from Government servants that which section 33(2) of the Act had given to them. On a construction of the Act, they held that it did not. That decision in no manner affects the obligations of Government servants under rule 4 of the Government Servants Conduct Rules. The correct position is that, though a Government servant proposing or seconding the nomination of a candidate at an election or acting as a polling agent may not vitiate the election, he, nevertheless, commits thereby a breach of the Central Civil Service (Conduct) Rules for which he may be suitably penalised in accordance with the rules.

3. It is requested that the position stated above should be brought to the notice of all concerned.

*K. N. Subbanna*  
(K.N. Subbanna)

Deputy Secretary to the Government of India.

To

\*with usual no.  
of s/cs.

S/cs will  
follow.

\*All Ministries of the Government of India including Ministry of Finance (Defence) (Revenue) and (I&C) Divisions; Department of Economic Affairs; Department of Parliamentary Affairs; Cabinet Secretariat; Prime Minister's Secretariat;

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Partition Secretariat; Lok Sabha Secretariat; Director Intelligence Bureau; Director General Resettlement and Employment; Director of Co-ordination (Police Wireless); Director Secretariat Training School; Principal, Indian Administrative Service Training School; Commandant, Central Police Training College, Mount Abu; Inspector General, Special Police Establishment; Union Public Service Commission; Office of the Election Commission; Military Secretary to the President; Establishment Officer to the Government of India; Comptroller and Auditor General; Planning Commission; Supreme Court; Rajya Sabha Secretariat; Backward Classes Commission; Registrar General; Commissioner for Scheduled Castes and Scheduled Tribes; Community Projects Administration; Commandant, National Fire Service College, Rampur; Treasury Officer, Central Government Treasury, Trivandrum; I.G.P., Delhi; Atomic Energy Commission, Bombay.

Copy to all sections.

KC/28.6.1955