

ELECTORAL OFFENCES

AND ELECTION DISPUTES



सत्यमेव जयते

STATE ELECTION COMMISSION

ARUNACHAL PRADESH

ITANAGAR

2018

**ELECTORAL OFFENCES AND ELECTION DISPUTES AS
ENSHRINED IN ARUNACHAL PRADESH PANCHAYAT RAJ ACT,
1997.**

(Act No. 5 of 2001)

- Prohibition of
Canvassing in or near
polling station**
123. (1) No Person shall, on the date or dates on which a poll is taken in any polling stations commit any of the following acts within the polling station or in any public or private place within a distance of one hundred metres of the polling station, namely –
- (a) canvassing for votes; or
 - (b) soliciting the vote of any voter; or
 - (c) persuading any voter not to vote for any particular candidate; or
 - (d) persuading any voter not to vote at the election; or
 - (e) exhibiting any notice or sign (other than an official notice relating to the election).
- (2) Any Person who contravenes the provisions of sub-section (1), shall, on conviction, be punished with fine which may extend to rupees five hundred.
- (3) An offence punishable under this section shall be cognizable.
- Penalty for disorderly
conduct in or near
polling station**
124. (1) No Person shall on the date or dates on which a poll is taken at any polling Station:-
- (a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loudspeaker; or
 - (b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof, so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.
- (2) Any person who contravenes or wilfully aids or abets the contravention of the provisions of sub-section (1) shall, on conviction, be punished with imprisonment which may extend to three months or with fine or with both.
- (3) If the presiding officer of a polling station has reasons to believe, that any person is committing or has committed an offence punishable under this section he may direct any police officer to arrest such person and thereupon the police officer shall arrest him.
- (4) Any police officer may take such steps and use such force as may be reasonably necessary for preventing any contravention of the provisions of subsection (1) and may seize any apparatus used for such contravention.
- Penalty for
misconduct at polling
station**
- 125 (1) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer, may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorized in this behalf by such presiding officer.

- (2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.
- (3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine, or with both.
- (4) An offence punishable under sub-section (3) shall be cognizable.
- Maintenance of secrecy of voting** 126. (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or cutting of votes at any election shall maintain and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorized by or under any law) communicate to any person any information calculated to violate secrecy.
- (2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine or with both.
- Officers etc. at elections not to act for candidate or influence voting** 127. (1) No Person who is a returning officer or a presiding officer or a polling officer at any election or any officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall, in the conduct of the management of the election, do any act (other the giving of a voter) for the furtherance of the prospects of the election of a candidate.
- (2) No such person as aforesaid, and no member of a police force, shall endeavour,
 (a) to persuade any person to give his vote at an elections; or
 (b) to dissuade any person from giving his vote at an election; or
 (c) to influence the voting of any person at an election in any manner.
- (3) Any Person who contravenes the provisions of sub-section (1) or subsection (2) shall on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.
- (4) An offence punishable under sub-section (2) shall be cognizable.
- Breaches of official duty in connection with elections.** 128. (1) If any Person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall on conviction, be punished with fine which may extend to five hundred rupees.
- (2) An offence under sub-section (1) shall be cognizable.
- (3) No suit or other legal proceedings shall lie against such person for damages in respect of any such act or omission as aforesaid.
- (4) The persons to whom this section applies are the returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with the receipt or nominations or withdrawal of candidatures or the recording or counting of votes at an election; and the expression " official duty" shall for the purpose of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.
- Removal of ballot papers from polling station to be an offence.** 129. (1) Any person who at any election fraudulently takes, or attempts to take a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine or with both.

- (2) If the presiding officer of a polling station has reason to believe that any person is committing an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer;

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

- (3) Any ballot paper found upon the person arrested on search shall be made over in safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

- (4) An offence punishable under sub-section (1) shall be cognizable.

Other offences and penalties thereof 130.

- (1) A person shall be guilty of an offence if at any election, he,

- (a) fraudulently defaces, or fraudulently destroys any nomination paper; or
 or
 (b) fraudulently defaces, destroys or removes any list, notice or other documents affixed by or under the authority of a Returning Officer; or
 (c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or
 (d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; or
 (e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorized by law to put in; or
 (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or
 (g) fraudulently or without due authority as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

- (2) Any person guilty of an offence under the section shall,
 (a) If he is a Returning Officer or Presiding Officer of a polling station or any other officer or clerk employed on official duty in connection with the election, on conviction, be punished with imprisonment for a term which may extend to two years or with fine or with both;
 (b) If he is any other person, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both;

- (3) For the purpose of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act in connection with such election.

- (4) An offence punishable under clause (b) of sub-section (2) shall be cognizable.

Promotion of enmity between classes in connection with election. 131.

Any person who in connection with an election under this Act, promotes or attempts to promote on grounds of religion, race, caste, community or language feelings of enmity or hatred between different classes of the

- citizens of India shall, on conviction, be punished with imprisonment for a term which may extend to three years, or with fine or with both.
- Prohibition of public meetings on the day preceding the election day and on the election day.** 132. (1) No person shall convene, hold or attend any public meeting, within any polling area within forty eight hours before the commencement of the poll or on the date or dates on which poll is taken for an election in that polling area.
- (2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred fifty rupees.
- Power of Deputy Commissioner to prohibit fairs etc on election day.** 133. The Deputy Commissioner may in order to ensure free and fair election, prohibit any fair (including cattle fairs) or shandies in a Panchayat area on the day of election to the gram Panchayat or such area.
- Disturbance at election meetings.** 134. (1) Any person, who at a public meeting held in connection with an election under this Act, acts or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called shall, on conviction, be punished with fine which may extend to five hundred rupees.
- (2) If any Police Officer reasonably suspects any person of committing an offence under sub-section (1), he may if requested so to do by the Chairperson of the meeting require that person to declare to him immediately his name and address and if that person refuses or fails to declare his name and address or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.
- Restrictions on the printing of pamphlets, posters etc.** 135. (1) No Person shall print or publish, or cause to be printed or published any election pamphlet or poster which does not bear its face the names and addresses of the printer and the publishers thereof.
- (2) No person shall print or cause to be printed any election pamphlet or poster.
- (a) unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known is delivered by him to the printer in duplicate; and
- b) unless within a reasonable time after the printing of the documents one copy of the declaration is sent by the printer together with one copy of the document to the Deputy Commissioner.
- (3) For the purposes of this section -
- (a) any process for multiplying copies of a document, other than copying it by hand shall be deemed to be printing and the expression 'printer' shall be construed accordingly; and
- (b) Election pamphlets or poster means any printed pamphlet, hand bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates or any placard or poster having reference to an election but does not include any hand bill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instruction to election agents or workers.

- (4) Any person who contravenes any of the provisions of sub-section (1) or sub-section (2) shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty on illegal hiring or procuring of conveyance at election 136.

If any person is guilty of any such corrupt practice as is specified below or in connection with an election, he shall, on conviction, be punished with fine which may extend to five hundred rupees, the hiring or procuring whether on payment or otherwise, any vehicle, or vessel by a candidate or his agent or by any other person with the consent of a candidate or his agent, or the use of such vehicle or vessel for the free conveyance of any voter (other than the candidate himself, the members of his family or his agents) to or from any polling station provided in accordance with the rules made under this act;

Provided that the use of any public transport vehicle or vessel or railway carriage by any voter at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation: In this clause the expression 'vehicle' means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise whether used for the drawing of other vehicles or otherwise.

Prosecution in certain offences 137.

No court shall take cognizance of an offence punishable under clause (a) of sub-section (2) of section 130 unless there is a complaint made by an order of or under authority from the Deputy Commissioner.