



Circular No – 046 / 2023

Date: 12-04-2023

To
All Members of The Association

ELECTION TO KARNATAKA ASSEMBLY
DECLARATION OF PAID HOLIDAY ON POLLING DAY

1. Election to State Legislature Assembly is scheduled to be held on Wednesday 10-5-2023.
2. In this regard the Election Commission of India has vide it letter No 78 /EPS /2023 Dated 31-03-2023 has directed the State Chief Secretary and Election Commissioner regarding declaration of paid holiday on the Election Day i.e Wednesday, 10-05-2023.
3. In this regard, Section 135-B of Representation of People Act, (R.P. Act for short) mandates that every person employed in any business trade, industrial and taking or any other establishments and entitled to vote at an election to the house of the people or Legislative Assembly of the State shall on the day of polling be granted a holiday. There shall be no deduction or abatement of wages of any such persons on account of holiday granted for polling day. Contravention of these statutory provisions shall be punishable with a fine which may be extended to Rs.500/-. This statutory provision will not apply to any elector whose absence may cause any danger or substantial loss in respect of the employment in which he is engaged.

4. The Election Commission of India has earlier issued the following clarifications by its Notification dated 6.4.1999.
 - In case of those electors including casual workers working outside the constituency concerned would be entitled to the benefit of holiday extended under Section 135-B (1) of RP Act, 1951.
 - In case of those Industrial undertakings Establishment which are working on shift basis, a holiday may be declared only for the shift working which a poll is to be taken. It should be ensured that there should be a sufficient gap between the close of poll and commencement of shift duty.
 - Daily wage and casual workers are also entitled for a holiday and wages on poll day as provided in Section 135 B of RP Act, 1951.
5. The combined reading of the provisions of Section 135 - B and the clarification issued by the Election Commission would mean that the Industrial Establishments/undertakings should take following actions on the day of poll in the constituency in which the said Industrial Establishments/undertakings is situated and if it is not otherwise holiday for the establishment.
 - The Industrial Establishments / Undertakings which are working only one shift should declare a paid holiday to all categories of employees including casual or temporary employees on the day of polling i.e., on 10-5-2023.
 - The Industrial Establishments / Undertakings which work on more than one shift basis should declare a paid holiday for the shift during which a poll is to be taken and there should be a sufficient time gap

between the close of the poll and the commencement of the next succeeding shift duty. Wages shall be payable for the holiday so declared to all categories of employees including casual and temporary employees.

- In cases where those electors including casual workers working outside the constituency concerned should also be given the benefit of paid holiday irrespective of the fact that whether they are casual or temporary employees. The Establishment is entitled to insist on necessary proof in order to ensure that the statutory benefit is not mutualised.
- Certain industries are declared as Public Utility Services (or essential services) by Notification of the appropriate Government in accordance with Section 2 (n) read with First Schedule of Industrial Disputes Act, 1947. Such notification is only for the purpose of Section 22 of Industrial Disputes Act (ie., for prohibition of strike and lockout) and the said notification is not relevant for the purpose of the Section 135 - B of RP Act, 1952.
- Section 135-B (4) of RP Act clearly stipulates that the Section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged. This exception is applicable to an individual employee and not to all the Employees working in the Establishment. There may be a situation where an employee is employed in such an operation if it is stopped, it would take a long time to restart the same and thus there will be a loss to the Organisation as well as the Employees



themselves on account of delay in restarting the operations. This proviso should be utilized having regard to the facts and circumstances of each job or employment and the exception cannot be utilized for not declaring the holiday for the entire establishment during the poll timings. In such cases, it is sufficient if the employee concerned is given 2-3 hours' time off to enable him to cast his vote.

- 6) Section 3A of Karnataka Industrial Establishment (National and Festival Holidays) Act, 1963 also mandates the grant of holidays on the polling day for house of people is to the State Legislative Assembly.
- 7) A copy of the letter No 78 /EPS /2023 Dated 31-03-2023 issued by the Election commission New Delhi is attached for information. . The State Government may also issue notifications under the above Act shortly. The members should ensure that the terms and conditions as stipulated thereof should be complied with.

For KARNATAKA EMPLOYERS' ASSOCIATION
Sd/
[B C Prabhakar]
President

भारत निर्वाचनआयोग
ELECTION COMMISSION OF INDIA

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Ashoka Road, New Delhi-110001.

78/EPS/2023

Dated: 31st March, 2023

To

1. The Secretary to the Govt. of India, M/o Personnel Public Grievances & Pensions, Department of Personnel and Training North Block, New Delhi.
2. The Chief Secretary of Karnataka.
3. The Chief Electoral Officer of Karnataka.

Subject: General Election to the Legislative Assembly of Karnataka, 2023 - Grant of paid holiday to employees on the day of poll - Reg.

Sir,

I am directed to refer to the subject cited and to inform that the Commission has announced General Elections to the Legislative Assembly of Karnataka, 2023 vide it's Press Note dated 29th March, 2023, which is available at Commission's website <https://eci.gov.in> under head 'Press Releases' at URL <https://eci.gov.in/files/file/14863-general-election-to-legislative-assembly-of-karnataka-2023/>. The date of poll has been fixed on **10.05.2023 (Wednesday)** in poll going State Karnataka.

2. In this regard, your attention invited to Section 135B of the Representation of the People Act, 1951 which provides for the grant of paid holiday to the employees on the day of poll. The Section 135B is reproduced below:-

"135B. Grant of paid holiday to employees on the day of poll.

(a) Every person employed in any business, trade, industrial undertaking or any other establishment and entitled to vote at election to the House of the People or the Legislative Assembly of a State shall, on the day of poll, be granted a holiday.



(b) No deduction or abatement of the wages of any such person shall be made on account of a holiday having been granted in accordance with sub-section (1) and if such person is employed on the basis that he would not ordinarily receive wages for such a day, he shall nonetheless be paid for such day the wages he would have drawn had not a holiday been granted to him on that day.

(c) If an employer contravenes the provisions of sub-section (1) or sub-section (2), then such employer shall be punishable with fine, which may extend to five hundred rupees.

(d) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged."

3. The above provisions require that all the electors who are employees of establishments and shops including those which work on shift basis shall be granted a paid holiday on the day of poll in the Constituency where the general election is to be held. Further, there may be cases where a person is ordinarily resident of the Constituency and registered as an elector, may be serving or employed in an industrial undertaking or an establishment located outside the Constituency having a bye-election. It is clarified that in such a situation, even those electors including casual workers working outside the constituency concerned would be entitled to the benefit of a paid holiday extended under the Section 135B(1) of the Representation of the People Act, 1951.

4. The daily wage/casual workers are also entitled for a holiday and wages on poll day as provided in Section 135B of the R.P. Act, 1951.

5. The Commission desires that suitable instructions should be issued to all concerned and a copy thereof be endorsed to the Commission for its information and record.

6. The receipt of this letter may please be acknowledged.

Yours faithfully



31/3/2023
(Sanjeev Kumar Prasad)
Secretary

Copy to concerned Zonal Sections