



**Circular No – 026/2024**

Date:23.03.2024

To

All Members of the Association

## **GENERAL ELECTION TO LOKSABHA 2024**

### **ELECTION COMMISSION OF INDIA DIRECTS STATES TO DECLARE PHASEWISE PAID HOLIDAY ON POLLING DAYS**

1. Election Commission of India has announced Election to Lok Sabha. Polling in Karnataka will be held in two stages i.e., on 26.04.2024 (Friday) and 07.05.2024 (Tuesday) to all Lok Sabha Constituencies of the State. Copy of the letter no.78/EPS 2024 dated 16.04.2024 of Election Commission of India is enclosed.
2. The paid holiday on the polling day shall have to be allowed to the employees who are eligible to vote in the forthcoming elections to Loksabha in accordance with the provisions of the Section 135-B of the Representation of People Act 1951 and read along with Section 3-A of the Karnataka Industrial Establishments (National and Festival Holidays) Act.
3. Section 135-B of Representation of People Act 1951 provides as under:
  - 1) Every person employed in any business, trade, industrial undertaking or any other establishment and entitled to vote at an election to the House of the People or the Legislative Assembly of a State shall, on the day of poll, be granted a holiday.
  - 2) 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.

- 3) 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.
  - 4) 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.
4. The above provisions will be applicable to all establishment whether factory or commercial establishment.
  5. Earlier, the Election Commission of India had issued the following clarification by its Notification at Para-4 dated 6.4.1999.

“Further, there are industrial undertakings/establishments which are working on shift basis. A doubt has been raised whether paid holiday is to be declared only for the period/shift during which a poll is to be taken and not for other shifts which may commence after the conclusion of the poll. It is clarified that a holiday may be declared only for the shift during which a poll is to be taken. However, it should be ensured that there should be sufficient time gap between the close of poll and commencement of the shift duty. “

6. The above instructions have been revised by the Election Commission by its letter dated 07.04.2004 which was issued after decision of the High Court of Bombay at Panaji (Goa),

wherein the Hon'ble High Court had struck down above para-4 of the notification dated 06.04.1999. Under the guidelines issued on 7.4.2004 the Election Commission has clarified that all the employees working should be given paid holiday on the polling day. Accordingly, the company shall have to declare holiday. Therefore, it is mandatory to give holiday on the day of Polling.

7. Sub – section (4) of 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 or a few number of employees and not to all the Employees working in the Establishment. There may be situation where an employee is employed in such operation if it is stopped, it would take long time to restart the same and thus there will be a loss to the Organization as well as the Employees themselves on account of delay in restarting the operations. There may be another situation where some employees or the entire shift itself is attending to the requirement of overseas clients or other critical work which shall have to be attended without interruptions. 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 on the day of polling. Wherever this provision is applicable, the employees who were on duty may be given time off which is reasonable to cast their vote and return to duty or wherever feasible, they may be allowed to leave the establishment before the close of shift to enable them to cast their vote. The employees who attend duty should be paid one day additional wages in accordance with Section





- 3A of the Karnataka Industrial Establishment (National & Festival) Holidays Act read with Section 5(2) of the Act.
8. 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 or to the State Legislative Assembly. The said provision should be read along with the clarification as given above.
  9. In respect those employees whose working hours commences after the end of polling hours, they may be asked to attend such shifts. However, they may be paid one day additional wages in accordance with Section 3A of the Karnataka Industrial Establishment (National & Festival) Holidays Act read with Section 5(2) of the Act.
  10. The daily wage/casual workers are also entitled for a holiday and wages on poll day as provided in Section 135B of R.P Act 1951.
  11. The holiday on polling day is mandatory and not compensatory. The Management shall have to declare holiday with wages on the date of election. If the establishments want to work on any other day they can do so, but without calling that as a compensatory working day.
  12. The member establishments may also get a similar direction from the State Electoral Officer, Government of Karnataka and Department of Labour. All the guidelines should be kept in view while declaring holiday on the polling day.

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

By Speed Post/Email

भारत निर्वाचन आयोग  
**ELECTION COMMISSION OF INDIA**

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**No.78/EPS/2024**

**Dated: 16<sup>th</sup> March, 2024**

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 Secretaries of All States and UTs
3. The Chief Electoral Officers of All States and UTs



**Subject: General Election to Lok Sabha, 2024 and Bye-elections to ACs of various States - PHASE WISE PAID HOLIDAY - regarding.**

Madam/Sir,

I am directed to refer to the subject cited and to inform that the Commission has announced General Election to Lok Sabha, 2024 and Bye-elections to ACs of various States vide its Press Notes No. ECI/PN/23/2024 and No. ECI/PN/24/2024 respectively dated 16.03.2024 available on the Commission's website under URL <https://elections24.eci.gov.in/docs/press-note-no-23.pdf>

2. In this regard, your attention is 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. Section 135B of Representation of the People Act, 1951 is reproduced below:

**Section 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 an election to the House of the People or the Legislative Assembly of a State shall, on the day of poll, be granted a holiday.

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- 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 she/he would not ordinarily receive wages for such a day, she/he shall nonetheless be paid for such day the wages she/he would have drawn had not a holiday been granted to her/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 employee 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 Elections to Lok Sabha and bye-elections are 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 General poll. 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 shall be issued to all concerned for **all phase wise election schedules as mentioned in the Commission's Notification(s) for respective State/UT** and a copy thereof be endorsed to the Commission for its information and record.

The receipt of this letter may kindly be acknowledged.

Yours faithfully

  
(BREJESH KUMAR)  
UNDER SECRETARY

(5) "Inspector" means an Inspector appointed under sub-section (1) of section 6;

(6) "notification" means a notification published in the official Gazette;

(7) "wages" means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to an employee in respect of his employment or of the work done by him in such employment, and includes,—

(i) such allowances (including dearness allowance) as the employee is for the time being entitled to;

(ii) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of foodgrains or other articles;

but does not include,—

(a) any bonus;

(b) any contribution paid or payable by the employer to any pension fund or provident fund, or for the benefit of the employee under any law for the time being in force;

(c) any gratuity payable on the termination of his service;

(d) any sum paid to an employee to defray special expenses entailed on him by the nature of his employment;

(e) any travelling concession.

**3. Grant of National and festival Holidays.**—(1) Every employee shall be allowed in each calendar year, a holiday of one whole day on the 26th January, 15th August, 2nd October and five other holidays each of one whole day for such festivals as the employer may specify, from out of the list of festivals specified in the Schedule appended to this Act in consultation with the trade unions or in the absence of any trade union in consultation with the employees or their authorised representatives in such manner as may be prescribed:

Provided that except in the case of Industrial establishments owned or controlled by the Government of India, the number of such other holidays shall be seven including first day of May and first day of November.

(2) Whenever there is any disagreement between the employer and employees or the trade Unions concerned as to the festivals to be allowed as holidays during each calendar year the employer or the employees of the concerned Trade Union shall refer the dispute to the Inspector, having jurisdiction over the area in which the Industrial establishment is situated, for his decision and his decision shall be final.

**3A. Grant of Holidays on the polling day, for House of the People or to the State Legislative Assembly.**—Notwithstanding anything contained in section 3, when a general election to the House of the People or to the State Legislative Assembly or an election to fill up any casual vacancy in the House of the People or the State Legislative Assembly is held under the Representation of the People Act, 1951 (Central Act 43 of 1951), every employee (other than an employee in an Industrial establishment owned or controlled by the Government of India) whose name is included in the electoral roll of the constituency where such election is held, shall be allowed on the polling day, a day's paid holiday to enable him to exercise his franchise.]<sup>1</sup>

1. Section 3 and 3A substituted by Act 28 of 1997 w.e.f. 30.9.1997

