

**State Election Commission
Arunachal Pradesh, Itanagar**

No. AP/SEC-317/2012/1333

Dated Itanagar, the 28th April, 2013

ORDER

WHEREAS, it has come to the notice of the Commission that in II-Doimukh Anchal Samiti from the II-Doimukh Zilla Parishad Constituency, which is reserved constituency for women, two persons viz. (1) Smti Chukhu Nake and (2) Smti Tana Yayo had filed their nominations for contesting the elections to the said seat.

AND WHEREAS, it has also been reported that on the day of scrutiny the Returning officer rejected the nominations of (1) Smti Chuku Nake on grounds of not mentioning sub-part of the electoral roll.

AND WHEREAS, this ground is not tenable in rules because there is no column for providing any such information in the nomination form, and therefore the rejection is arbitrary and cannot be justified.

AND WHEREAS, this action also leaves only one candidate in the fray and therefore completely vitiates the process of election, rendering polling unnecessary.

AND WHEREAS, pursuant to the explanation called by the Commission on 27-04-2013 on the above incident, the Returning Officer Smti M. Padung Doke *inter alia* explained that "during the scrutiny of nomination papers of the above said candidates, it was found that Smti Chuku Nake (Independent) had not filled/mentioned sub-part number of her proposer, whereas Smti Tana Yayo had filled/mentioned her sub-part number of her proposer. Therefore, the nomination papers of Smti Chuku Nake (Independent) was rejected."

AND WHEREAS, no substantial defect or reasonable ground for rejection has been mentioned in the letter as it is evident from the explanation letter of the Returning Officer.


AND WHEREAS, as per the provisions contained in Rule-12(4) of the Arunachal Pradesh Panchayati Raj (Conduct of Election) Rules, 2001, "The Returning Officer shall not reject any nomination paper on the ground of any defect which is not of substantial character".

AND WHEREAS, the Commission after careful examination of the explanation of Returning Officer has come to the conclusion without any doubt that the explanation is not defensible in law and the nomination papers have been rejected incorrectly, which amounts to miscarriage of justice by the quasi judicial power vested in the Returning Officer.

AND WHEREAS, there is no provision in the relevant Act and Rules applicable for review of the decision of the Returning Officer by the Commission and also no provision exists for appellate authority to remedy such gross negligence / misuse / abuse of powers vested in the Returning Officer.

AND THEREFORE, in order to prevent the abuse of the election process and to promote the ends of justice, perforce the Commission under the powers vested in it by Article 243(K) of the Constitution of India, hereby directs the Returning Officer Smti M. Padung Doke to conduct the scrutiny once again to review her decision after informing all the candidates not later than 12 noon on 29-04-2013.

The outcome of such scrutiny should be intimated to the Commission not later than 2 pm on 29-04-2013.

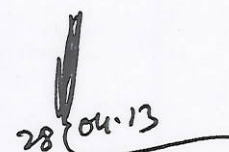

(K.D. Singh)
State Election Commissioner
Arunachal Pradesh, Itanagar

To,
Smti M. Padung Doke, Returning Officer,
II-Doimukh Anchal Samiti.

Memo No. AP/SEC-317/2012
Copy to :

Dated Itanagar, the 28th April, 2013.

1. The Deputy Commissioner cum District Election Officer, District Papumpare, Yupia for information.
- ✓ 2. Office Copy.


28/04/13
(Kanto Peyang)
Secretary
State Election Commission
Itanagar