

Theme 4 - Withdrawal of Candidature

Guidance Plan:

1. The time for withdrawal of candidature starts immediately after scrutiny of nomination and ends at 3:00 PM on the last date specified in the Notification, i.e. usually the second day after the scrutiny. The RO should be clear w.r.t framework of withdrawal as any error would be a material defect likely to vitiate the electoral process. Accordingly, RO must be familiar with the statutory formats, the timelines and the key persona, other than the candidate who can be authorised to make a claim of withdrawal. Withdrawal notice to be in statutory format **(Form 5)** signed by the candidate.
2. RO to note that this notice can only be submitted by the candidate himself or by the election agent/a proposer after list of validly nominated candidates is prepared.
3. Also note that if election agent or proposer is delivering the withdrawal notice to the RO, there has to be a written authorization from the candidate, designating agent/proposer to deliver the notice. Hence, RO has to carefully verify the identity of the person delivering the withdrawal notice. There is past instance of RO accepting withdrawal notice delivered by unauthorized person which later led to the election being set aside by High Court in election petition.
4. Withdrawal notice, validly submitted, cannot be cancelled/rescinded.
5. Lastly the RO is expected to clearly understand the vital step of preparation of the list of contesting candidates **(Form 7A)**. The RO may note that prior to the finalizing of the said list, allotment of symbols has to be undertaken which is explained in the next thematic PPT.

Notice of **Withdrawal of Candidature** – **S 37, RPA 1951**

Once the scrutiny is completed and **Form 4** drawn, any validly nominated candidate can give notice of withdrawal to the RO in **Form 5 (COER 1961)** till 3 p.m. on the last date fixed for withdrawal.

- Last date of withdrawal is specified by ECI in its Notification. This will be the 2nd day after the day of Scrutiny unless that day happens to be a public holiday.
- Subsequent to publication of Form 4 in notice board, On the date of scrutiny and the next day, withdrawal notice can be submitted anytime during usual office hours
- The activities at the time of submission of withdrawal notice should be videographed

To receive notice and publish withdrawal of candidatures

- **Form 5: Notice of withdrawal**

Shall be *delivered* to RO/ARO by -

- a validly nominated candidate by himself, or
- a proposer of that candidate, or
- election agent of that candidate

NB 1: Proposer or Election agent to be authorized by the Candidate in writing to deliver the notice of withdrawal. There is no prescribed format for such authorization.

NB 2: Has to be delivered in person only by authorized persons

Contd...

To receive notice and publish withdrawal of candidatures – contd.

- **Form 5** contains receipt in bottom portion which is to be filled in by RO/ARO and handed over to person who delivers notice.

NB 1: Valid withdrawals cannot be cancelled as per S 37(2), RPA 1951

NB 2: Publish notice of withdrawal on notice board in Form 6.

Sample Question on withdrawal of candidature

- **Mr. X** is a validly nominated candidate. **Mr. Y** is a prominent personality in the area and known to have worked for **Mr. X** for the past 20 years. He is not his election agent nor proposer. Today is the last date for withdrawal of candidature but **Mr. X** is away from the constituency. He makes a telephone call to you (RO) that he intends to withdraw his candidature and is sending **Mr. Y** to deliver notice of withdrawal of his candidature in **Form 5** duly signed by him (**Mr. X**) in original.
- *What will you Do as an R.O. ?*

Answer: As per **S 37 RPA, 1951**, the withdrawal notice can be submitted by the candidate himself or by election agent/any of the proposers who are specifically authorised in writing by the candidate. Thus, **Mr. Y** is not competent to submit the withdrawal notice.

Conduct of Elections Rules, 1961
(Statutory Rules and Order)

FORM 5
[See rule 9(1)]

Form 5

NOTICE OF WITHDRAWAL OF CANDIDATURE

Election to the*

The Returning Officer,

I,....., a ¹[candidate validly nominated] at the above election do hereby give notice that I withdraw my candidature.

Place

Date

Signature of ¹[validly nominated candidate].

This notice was delivered to me at my office at(hour) on.....

(date) by.....(name), the+.....

Date.....

Returning Officer.

Receipt for Notice of Withdrawal

(To be handed over to the person delivering the notice)

The notice of withdrawal of candidature bya ¹[validly nominated candidate] at the election to the*.....was delivered to me by the+.....at my office at.....(hour) on (date).

Returning Officer.

Contd...

Form 5

*Here insert one of the following alternatives as may be appropriate:—

- (1) House of the People from the constituency.
- (2) Legislative Assembly from the.....constituency.
- (3) Council of States by the elected members of the Legislative Assembly of.....(State).
- (4) Council of States by the members of the electoral college of..... (Union territory).
- (5) Legislative Council by the members of the Legislative Assembly.
- (6) Legislative Council from the..... constituency.

+Here insert one of the following alternatives as may be appropriate:—

- (1) Candidate.
- (2) Candidate's proposer who has been authorised in writing by the candidate to deliver it.
- (3) Candidate's election agent who has been authorized in writing by the candidate to deliver it.

Form 6 (COER 1961): Form for publishing withdrawal by RO

FORM 6
[See rule 9(2)]

NOTICE OF WITHDRAWAL OF CANDIDATURES

*Election to the**

Notice is hereby given that the following ¹[validly nominated +candidate]/candidates at the above election withdraw +his candidature/their candidatures today.

Name of ¹ [validly nominated candidate]	Address of ¹ [validly nominated candidate]	Remarks
1.		
2.		
3.		
etc.		

Date.....

Returning Officer.

List of Contesting Candidates

- Immediately after 3 PM (and after allotment of Symbol) on last day for withdrawal draw up **Form 7A (COER, 1961)** (list of contesting candidates), *whose nomination papers were valid and who have not withdrawn their candidatures.*
- Names of the candidates in **Form 7A** to be provided in the same manner as the List of validly nominated candidates (**Form 4**), *alphabetically arranged under 3 categories respectively (Recognized National / State Political Party; Registered Unrecognized Political Party (RUPP); Independent Candidates)*

NB: No hierarchy between National and State Party for this purpose

- Photo of the candidate will also be there in addition to Party affiliation & symbol.

Contd...

List of Contesting Candidates - contd

FORM 7A

[See rule 10(1)]

LIST OF CONTESTING CANDIDATES

Election to the House of the People/Legislative Assembly from the
..... constituency

Sl. No.	Name of candidate	Address of candidate	*Party affiliation	Symbol allotted	Photograph of the Candidate
1	2	3	4	5	6

Candidates of recognised National and State Political Parties.

- (i) Candidates of registered political parties (other than recognised National and State Political Parties).
- (ii) Other candidates.

Place.....

Date.....

Returning Officer

*Applicable in the case of candidates mentioned under categories (i) and (ii) above.

N.B.- Under Col. 1 above, the serial numbers of candidates of all the three categories shall be given consecutively and not separately for each category.

To publish and supply/distribute the list of Contesting Candidates **(S 38, RPA 1951; R 10 & 11 COER 1961)**

- Publish list at conspicuous/prominent place in RO's Office
- Supply copy of list to **contesting candidates**/**election agent**
- This list will be published outside each polling station (on day of poll)
- Send copy to CEO immediately (by fastest means of communication)
- Delay will affect printing of ballot papers
- Send copy of list with English **translation** to ECI

Contd...

To publish and supply/distribute the list of Contesting Candidates – contd.

- Publish list of Contesting Candidates in Official Gazette as per **R 11(2) COER, 1961**
- Arrange for such publishing through CEO

NB 1: Publish notification as notification by ECI (notification format as annexed in RO Handbook Aug. 2023 – Annexure 17 or 18 as the case may be)

NB 2: Prepare the list even if a case of uncontested election but not necessary to publish in Official Gazette (R 11 COER, 1961)

NB 3: As per R 8 , COER, 1961, candidate may request RO to modify his/her name if it is incorrectly shown or is different from the name by which he/she is popularly known. Such request has to be made before preparation of list in **Form 7A. If RO is satisfied that the request is genuine, he shall allow the correction**

Importance of **Form 7A** for subsequent electoral steps - listing

- **Generating ETPBs based on **Form 7A** for Service Voters through Electronically Transmitted Postal Ballot Management System (ETPBMS)**
 1. **Printing of Ballot Paper and Postal Ballot paper for other categories, is based on candidate details contained in **Form 7A****
 2. ****Form 7A** becomes the reference document for preparing the declaration of results and certificate of election**
 3. **It informs all IT Platforms and Apps of the ECI, when reflecting the details of that particular candidate**
 4. **The address of candidate mentioned in **Form 7A** is used for future communications, e.g., notice regarding election expenditure account etc.**

NB: RO should take utmost care to ensure that all details appearing in **Form 7A are correct and complete. Errors/mismatch in names/order of names / symbols/ photograph of candidates will have serious consequences**

Sample questions on withdrawal of candidature

- **Milan Raj**, President of different NGOs & Leader of his community is a candidate of a registered political party in Faridpur assembly constituency.
- **Neeta Pahva**, an advocate by profession, is a candidate of a recognized political party (state) in the same constituency.
- They are distant relatives but some long pending social issues are there between the respective families.

The Election program is like this:

Last date of nomination	10 November
Scrutiny	11 November 11.00 AM at R.O.'s office
Last date of withdrawal	13th November not later than 3.00 PM

Contd...

Sample questions on withdrawal of candidature – contd.

- On the date fixed for the scrutiny, RO starts scrutiny of the nomination papers one by one. Process was going smoothly as there were nominations of only recognized parties and non-recognized parties. There was no independent candidate.
- As RO starts scrutinizing the nomination of **Neeta Pahva**, **Milan Raj** challenged the candidature by raising objection.
- **Neeta Pahva** also raises her objection against the nomination of **Milan Raj**
- Both the candidates apply for the adjournment to rebut the objection raised against them.
- RO adjourns the hearing on the following day, which was a working day.

Contd...

Sample questions on withdrawal of candidature - contd.

- Meanwhile, same day, a meeting was arranged by the well wishers and family friends of both the candidates, where after some negotiations/discussions, they ultimately reached an amicable solution of their family dispute.
- As a part of the solution, **Neeta Pahva** has to withdraw her nomination. So as soon as the meeting is over, **Neeta Pahva** rushes to the office of the RO to withdraw her candidature, because next 2 days she would be out of station. It was 3.10 PM when she offered her withdrawal notice in **Form 5**.

What could be the situation / discussion / argument in RO's office?

Answer: Candidature can be withdrawn only after scrutiny is completed by RO and list of validly nominated candidate is drawn. No candidate can seek withdrawal midway through the process.

ENCORE entries

- Digitization of nomination forms to create a database of candidate to be used in various election process.
- Upload candidates affidavits within 24 hours of receiving and upload counter affidavits (if any).
- List of validly nominated **(Form 4)** and contesting candidates **(Form 7A)** after marking in ENCORE.



THANK YOU