



**भारत निर्वाचन आयोग सचिवालय**  
**SECRETARIAT OF THE ELECTION COMMISSION OF INDIA**

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**Sub: Withdrawal of recognition of status of National Party and status of State Party in West Bengal and Odisha of the Communist Party of India under Para 6 of the Election Symbols (Reservation & Allotment) Order, 1968.**

1. Whereas, Communist Party of India (hereinafter referred to as "the Party"), was recognized as a National Party with effect from 17.08.1989 by the Commission's order dated 22.08.1989 issued under Section 29A of the Representation of the People Act, 1951. The continued recognition by the Commission, posterior to General Election to Lok Sabha, 2014, flowed directly from an amendment dated 22.08.2016 to the Election Symbols (Reservation & Allotment) Order, 1968 (hereinafter referred to as 'Symbols Order'). The said amendment replaced the erstwhile Para 6C and inserted a new Para 6C to the Symbols Order and its Short Title and Commencement itself provided in Para 1(ii) that "It shall be deemed to have come into force with effect from 1<sup>st</sup> January, 2014 and shall always be deemed to have been so effective".

2. Whereas, the party was a state recognized party as on 1.1.2014 in the states of Kerala on the basis of General Election to Legislative Assembly (GELA), 2011; Odisha on the basis of General Election to Lok Sabha (GELS)2009, Tamil Nadu on the basis of GELA, 2011 and West Bengal on the basis of GELS, 2009. This status, as on 1.1.2014, underwent change posterior to the General Election to Lok Sabha (GELS),2014, in which, the Party continued to be qualified to be a State recognized party in Kerala and also became recognised in Manipur. The party was set to lose status of State recognized party in Odisha and West Bengal.

3. Whereas the Party got benefit under the amended Para 6 C of the Symbols Order which was given effect from 1.1.2014 and the party continued to enjoy status of State recognised party in Odisha and West Bengal despite its failure to fulfil the specified conditions for recognition in these States on the basis of GELS 2014. Therefore, this was the above combination of facts and provisions of newly inserted Para 6C, which were given effect from 01.01.2014 i.e., the Commission counted the recognition of the State recognized party in Kerala, Manipur and Tamil Nadu (all based on actual performance) and Odisha & West Bengal by virtue of extending benefit of provisions of Para 6 C.

4. Whereas, the party having been given the benefits of Para 6C i.e., granting continued recognition in Odisha and West Bengal was accordingly assessed by the Commission to be qualified as a National Party by virtue of Para 6 B (iii) of the Symbol Order. Thus, the continued recognition of the Party as National Party flowed from the benefit extended by Para 6C, which was made effective from 1.1.2014.

5. Whereas, in pursuance of the provisions of Paragraph 6A, 6B and 6C of the Symbols Order, a review of the poll performance of every recognized political party is required to be made by the Election Commission after every general election to the House of the People or to the State Legislative Assembly, or as the case may be;

#### **Review conducted in 2014**

6. Whereas, the poll performance of the Party at the General Election to the House of the People held in 2014 and the General Election held to the State Legislative Assemblies cumulatively upto 2104, was reviewed by the Election Commission in terms of Paragraph 6A and 6C of the Symbols Order, and

7. Whereas, the poll performance of the Party, in terms of the percentage of votes polled and the number of seats won, at the General Election to the House of the People, 2014 in the states of Kerala, Manipur, Odisha, Tamil Nadu and West Bengal is given below:-

**TABLE-I: House of the People, 2014**

<b>Name of the State</b>	<b>% of Votes polled</b>	<b>No. of seats won, if any</b>
<b>Kerala</b>	<b>7.68 %</b>	<b>1</b>
<b>Manipur</b>	<b>14.05 %</b>	<b>0</b>
Tamil Nadu	0.55 %	0
Odisha	0.31%	0
West Bengal	2.36%	0

8. Whereas, the poll performance of the Party, in terms of the percentage of votes polled and the number of seats won, at the General Elections to the Legislative Assemblies of Kerala (2011), Tamil Nadu (2011), West Bengal (2011), Manipur (2012) and Odisha (2014) is given below-

**TABLE-II: Legislative Assemblies**

<b>Name of the State</b>	<b>% of Votes polled</b>	<b>No. of seats won, if any</b>
<b>Kerala (2011)</b>	<b>8.72 %</b>	<b>13 out of 140</b>
<b>Tamil Nadu (2011)</b>	1.97 %	<b>9 out of 234</b>
West Bengal (2011)	1.84%	2 out of 294
Manipur (2012)	5.78 %	0
Odisha (2014)	0.51%	0

9. Whereas, from the above tables I and II, it is observed that: -

- a) the party had fulfilled the criteria of recognition as a state party (as laid out in Para 6A of the Symbols Order) in the state of Kerala both at general election to the Legislative Assembly, 2011 and also at the general election to the House of the People, 2014;

- b) the party had fulfilled the criteria of recognition as a state party (as laid out in Para 6A of the Symbols Order) in the state of Tamil Nadu during general election to the Legislative Assembly, 2011;
- c) the party did not fulfil the criteria of recognition as a state party (as laid out in Para 6A of the Symbols Order) in the state of West Bengal at general election to the Legislative Assembly, 2011 and at the general election to the House of the People, 2014;
- d) the party had fulfilled the criteria of recognition as a state party (as laid out in Para 6A of the Symbols Order) in the state of Manipur at the general election to the House of the People, 2014;
- e) the party did not fulfil the criteria of recognition as a state party (as laid out in Para 6A of the Symbols Order) in the state of Odisha at the general election to the Legislative Assembly, 2014 and at the general election to the House of the People, 2014; and
- f) the party thus fulfilled the criteria for recognition (under Para 6A of the Symbols Order) as a State Party only in the states of Kerala, Manipur and Tamil Nadu;

10. Whereas,

- a) in Odisha, as per the poll performance at the General Election to the House of People-2014, the party failed to fulfil the criteria for recognition (under Para 6A of the Symbols Order) as a State Party in the state of Odisha in 2014.
- b) in West Bengal as per the poll performance during the General Election to the House of People-2014, the party failed to fulfil the criteria for recognition (under Para 6A of the Symbols Order) as a State Party in the state of West Bengal.

11. Whereas, this deficit or loss of status of State recognised party in Odisha and West Bengal was made good due to application of Para 6C as per amendment in the Symbols Order notified on 22.08.2016.

12.A Whereas the said Para 6C was inserted in the Symbols Order in August 2016, which provided that:

*"1. Short Title and Commencement i. This Order shall be called the Election Symbols (Reservation and Allotment) (Amendment) Order, 2016. ii. It shall be deemed to have come into force with effect from 1 " January, 2014, and shall always be deemed to have been so effective.*

*2. Amendment of Paragraph-6C. The existing Paragraph-6C of the Election Symbols (Reservation and Allotment) Order, 1968 shall be substituted as follows: -*

***Conditions for continued recognition as a National or State Party. –***

*(1) Notwithstanding anything in Paragraph 6A and Paragraph 6B, if a political party recognized as a State Party or National Party fails to fulfil the conditions of Paragraph 6A or, as the case may be, Paragraph 6B, at the next General Election to the House of the People or, as the case may be, to the Legislative Assembly of the State, following the General Election to the House/Assembly concerned on the basis of which it got recognition (hereinafter referred to as "the next election"), it shall continue to be treated as recognized State Party or National Party, as the case may be*

*(2) If a recognised political party continues to be treated as recognised National Party or State Party after the next election to the House of the People or, as the case may be, to the Legislative Assembly of the State under the provisions of sub-Paragraph ( 1), the question whether it shall further continue to be so recognised after any subsequent General Election to the House of the People or, as the case may be, to the Legislative Assembly of the State concerned, shall be subject to the fulfilment by the party of the conditions specified in Paragraph-6A or 6B, as the case may be."*

12 B. The new Para 6C clearly gave benefit of one additional notional "pass over" for purposes of review of status of national/state party by fixing 01.01.2014 as a start date and accounting for failure "to fulfil the conditions" of Para 6A and 6B. The "next General Election" becomes any General Election posterior to 01.01.2014 and in effect became the General Election to Lok Sabha, 2014 which was notified on 14.03.2014 and, the various General Elections to legislative assemblies which were notified simultaneous to Lok Sabha or notified thereafter. The nexus of reading of "next

General Election” is provided for each case with the phrase “following the General Election to house/assembly concerned on the basis of which it got recognition.”

13. Whereas, w.r.t. review of Poll Performance of the party held in 2016 after General Election 2014, the Party was extended the benefits and was treated for continued recognition as State Party in the states of Odisha and West Bengal as per the provisions of sub-para (1) of the Para 6C of the Symbols Order, which was deemed to be effective from 1.1.2014;
14. Whereas, the party which was recognized in the states of Kerala, Manipur and Tamil Nadu on the basis of poll performance and, by virtue of Para 6 C was considered as deemed recognized party in the states of Odisha and West Bengal and the combined effect was that after getting the benefit of deemed recognition in Odisha and West Bengal, it got qualified for recognition as national party as per the provisions of Para 6B (iii) of the Symbols Order.

**Review after GELS, 2019**

15. Whereas, the poll performance of the Party after the General Election to the House of People held in 2019 and the General Elections to the State Legislative Assemblies cumulatively upto (2019), has been reviewed by the Commission in terms of Paragraph 6B and sub- para (2) of Paragraph 6C of the said Symbols Order;

16. Whereas, the poll performance of the Party, in terms of the percentage of votes polled and the number of seats won, at the General Election to the House of the People (2019) and, the General Elections to the Legislative Assemblies of Kerala, Manipur, Odisha, Tamil Nadu and West Bengal cumulatively upto (2019), is given below: -

**TABLE-III: House of the People, 2019**

Name of the State	% of Votes polled	No. of seats won, if any
Kerala	6.05%	0
<b>Manipur</b>	<b>8.27%</b>	0
<b>Tamil Nadu</b>	<b>2.43 %</b>	<b>2 out of 39</b>
Odisha	0.25%	0
West Bengal	0.40%	0

**TABLE-IV: Legislative Assemblies**

Name of the State and year of election	% of Votes polled	No. of seats won, if any
<b>Kerala (2016)</b>	<b>8.12 %</b>	<b>19 out of 140</b>
Tamil Nadu (2016)	0.79%	0
West Bengal (2016)	1.45%	1 out of 294
Manipur (2017)	0.74%	0
Odisha (2019)	0.12%	0

**TABLE-V: Performance in GELA in relevant States after 2019 and upto 2022 where the party has contested:**

Elections	Year	States	Total Seats	Seats Won	% of Secured Votes
<b>Lok Sabha</b>	<b>2019</b>	Other States	-	0	-
<b>Legislative Assembly</b>	<b>2021</b>	West Bengal	294	0	0.2%
<b>Legislative Assembly</b>	<b>2021</b>	Tamil Nadu	234	2	1.09%
<b>Legislative Assembly</b>	<b>2021</b>	<b>Kerala</b>	<b>140</b>	<b>17</b>	<b>7.58%</b>
<b>Legislative Assembly</b>	<b>2022</b>	Manipur	60	0	0.06

17. Whereas, from above tables III, IV & V, it is observed that: -

- a) as per the provisions of sub-para (2) of Para 6C of the Symbols Order, the party has not fulfilled criteria of recognition during the General Elections to the Lok Sabha and also to Legislative Assembly of Odisha held during 2014 & 2019, both held after 01.01.2014, which is the deemed effective date of commencement of provisions of Para 6C;
- b) as per the provisions of sub-para (2) of Para 6C of the Symbols Order, the party has not fulfilled criteria of recognition during the General Elections to the Lok Sabha- 2014 & 2019 and also to Legislative Assembly of West Bengal held during 2016 (& even in 2021), held after 01.01.2014, which is the deemed effective from the date of commencement of provisions of Para 6C;
- c) As per provision of sub para (1) of Para 6C of the Symbols Order, despite non-performance in Odisha as at (a) above and in West Bengal as at (b) above, the party got entitlement to be continued to be treated as a recognised party in Odisha and West Bengal.
- d) the Party has not fulfilled the criteria of recognition as laid down under para 6A of the Symbols Order except in the states of Kerala, Manipur and Tamil Nadu; and

18. Whereas, the Commission based on the above facts, issued a Show Cause Notice on 18.07.2019 wherein the party was advised to submit its comments as to why the recognition/ status as a National Party should not be withdrawn from the party; and

19. Whereas, the Party vide letter dated 05.08.2019 submitted that: -

- a) The methodology for determining recognition as a National Party is based on the percentage of votes and number of seats won by a party across states in India. This reflects the party's electoral following at a particular point or period of time, which is transient and subject to change;



- b) The Election Commission will need to consider the upcoming Legislative Assembly elections, during which the party's electoral performance is expected to change;
- c) The vibrancy of a political democracy necessitates the hearing of every political voice. Political parties exist to bolster democratic principles, and the CPI is one such party;
- d) In August 2016, the Commission amended the rule, extending the review of national and state status of political parties from every five years to every ten years. Therefore, the current status of national and state parties will remain unchanged until 2026; and

20. Whereas, the Commission scheduled a hearing on 09.09.2019 (Monday) at 04:00 PM wherein the representatives of the party reiterated the party's submission dated 05.08.2019. The Commission informed the Party that the matter will be treated as part-heard and will be taken up for further consideration later and until then, the status quo will continue;

21. Whereas, the review process of the poll performance of political parties was put on hold due to the on-going COVID-19 pandemic;

22. Whereas, the Commission vide letter dated 14.12.2021 resumed the process of hearing and scheduled a personal hearing of the party on 20.12.2021 at 3:00 pm.;

23. Whereas, during the hearing and through their representation dated 20.12.2021, the party reiterated that as per the amendment in Symbols Order made in August 2016, the review of the status of National and State Parties are to be done in ten years instead of five years, therefore, the present status of the party shall remain intact till 2026; and

24. Whereas, the Commission vide letter dated 06.03.2023 scheduled the next hearing of the party in the matter on 21.03.2023, wherein the following submission were made:

- a) That CPI is the only political party to have contested all General Elections since 1952 on the same electoral symbol and has maintained uninterrupted presence in the Lok Sabha and several States Assemblies.
- b) That CPI was the first non-Congress Party to form government in any of the State and it has been part of Government in number of States.
- c) That CPI continues to further the ideals of freedom, equality and constitutional morality to the national agenda. CPI's acceptance among various sections of the society remains considerable and it continues to be a pan India party with units in all the States and districts.
- d) That CPI also has representation in Rajya Sabha and in the legislative council of Bihar. CPI's members also have presence in local bodies in many States.
- e) Election Commission of India itself on 22<sup>nd</sup> August, 2016 decided to review the performance of recognised political parties every 10 years instead of 5 years window to assess the performance of the political parties.
- f) The year of 2023 is crucial for the country and the CPI as 9 States will go for assembly elections this year before the General Elections of 2024. Making changes in the position of the political party before assembly and general elections would not be fair and will breach the 10 year timeline for reviewing of political party's performance determined by the ECI itself.

28. The submissions made on behalf of CPI *vide* representations dated 20.12.2021 and 21.03.2023 have been given careful consideration by the Commission. At the outset, the contention of the Party that its recognition should continue on the grounds made in the above submission, is liable to be rejected. It is stated that Paragraph 6B of the Election Symbols (Reservation and Allotment) Order, 1968 (hereinafter 'Symbols Order') provides for specific conditions to be fulfilled by a political party to be recognised as a national party. Further, Paragraph 6C of the Symbols Order (inserted *vide* Gazette Notification dated 22nd August,

2016 which came into with effect from 1st January, 2014) provides for conditions to be fulfilled for continued recognition as a state party or a national party. The same methodology on the basis of which the Party got the recognition as a National Party cannot now be criticised by it when the conditions prescribed are unable to be fulfilled by the Party. A Party which enjoyed the benefit of recognition provided under the Symbols Order for more than two decades cannot be allowed to question the methodology of grant of recognition when the Party is on the brink of losing it.

29. Moreover, the power of the Commission to withdraw recognition of political parties due to failure to fulfil conditions prescribed under the Symbols Order has been affirmed by the Hon'ble Courts in a catena of judgments. In the matter of *Janata Dal (Samajwadi) v. Election Commission of India*, (1996) 1 SCC 235, the Hon'ble Supreme Court, relying on Section 21 of the General Clauses Act 1897, held that the Commission has the power to rescind the recognition of a National Party if that Party failed to fulfil the conditions prescribed under the Symbols Order. Relevant extract of the judgment is reproduced here below:

*“6. It is true that there is no specific provision under the Symbols Order vesting power in the Election Commission after having recognised a political party as a national party to declare that such political party has ceased to be a national party, not being entitled to the exclusive use of the symbol allotted to it. But at the same time, it cannot be conceived that a political party having been recognised as a national party or a State party, as the case may be, on having fulfilled the conditions prescribed in paragraph 6(2) shall continue as such in perpetuity although it has forfeited the right to be recognised as a national party or a State party. In paragraph 2(2) of the said Symbols Order it has been specifically provided that the General Clauses Act, 1897 shall as far as may be applicable in relation to the interpretation of the said order as it applies in relation to the interpretation of a Central Act. Section 21 of the General Clauses Act provides that where by any Central Act or Regulation, a power to issue notifications, orders, rules, or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction, and conditions if any to add to, amend, vary or rescind any notifications, orders, rules or bye-laws so issued. As paragraph 2(2) of the Order in clear and unambiguous term makes provision of the General Clauses Act applicable to the Symbols Order, it need not be impressed that provisions of Section 21 of the*

General Clauses Act also become applicable vesting power in the Election Commission which had issued the aforesaid order dated 16-4-1991 recognising the appellant as a national party to rescind the said order as the appellant in the elections to the Legislative Assemblies of the States mentioned above ceased to fulfil the conditions prescribed in paragraph 6(2) of the Order read with paragraph 7(1) thereof.”

(Emphasis supplied)

30. Furthermore, the Hon'ble Supreme Court in the matter of **Subramanian Swamy v. Election Commission of India** [(2008) 14 SCC 318] had considered the argument as to whether a symbol reserved for a Party due to grant of recognition under the Symbols Order becomes a part of its identity in the minds of the voters and therefore, should not be taken away due to subsequent derecognition. The Hon'ble Court rejected such contention and held that the Commission had every right to deprive a political party of its symbol due to its dismal performance in the elections. Relevant extract of the judgment is as follows:

*“21. Paras 6-A, 6-B and 6-C provide for the condition of recognition of a political party on the national and/or State level. We need not, at this stage, go into the intricacies of Paras 6-A, 6-B and 6-C but suffice it to say that in order to have that status, the said political party must be an effective political party in the sense that it must share a particular percentage of votes in the national or the State-level elections or it must have certain number of elected representatives in Lok Sabha or the State Legislatures. It is this concept which introduces that in order to be a recognised political party, it must perform well in the elections and thereby pass the acid test of “following”. Therefore, unless there is a following of the nature provided in Paras 6-A, 6-B and 6-C, the political party does not remain a recognised political party.”*

*“32. It may be that a recognised political party would have a right of exclusive use of the symbol but the Symbols Order makes it very clear that such right to use the symbol can be lost with the dismal performance of the party.”*

*“34. A symbol is not a tangible thing nor does it generate any wealth, it is only the insignia which is associated with the particular political party so as to help the millions of illiterate voters to properly exercise their right to franchise in favour of the candidate of their choice belonging to a particular party. In the election process it is not merely the individual candidate's personality or his identity that weighs with the voters. It is undoubtedly a very relevant factor but along with it the voter also can and does vote in favour of the party. It is under such circumstances that the symbol becomes relevant and important. However, all that it provides for is the essential association that it has with a particular party. The party concerned would have a legal right to exclusively use the same*

but that is not, in our considered opinion, a property of the party and, therefore, the Election Commission which is required to ensure free, fair and clean elections have every right to deprive a particular party with a dismal performance of that symbol. The Election Commission puts a clamp on the right of such a political party to use the symbol rightfully. We are, therefore, not in a position to accept the argument that symbol is a property of a party and, therefore, such property cannot be taken away from that political party."

(Emphasis supplied)

31. Again, the Hon'ble Supreme Court in the matter of **DMDK v. Election Commission of India** [(2012) 7 SCC 340], while dealing with the issue of derecognition of DMDK as a State Party in Tamil Nadu, held that the benchmark set by the Commission for recognition of a political party was not unreasonable. Relevant extract of the judgment is as follows:

*"51. The evolution of the law relating to the criteria for a political party to be recognised as a State party clearly indicates that the Election Commission, in its wisdom, was of the view that in order to be recognised as a political party, such party should have achieved a certain benchmark in State politics. Nothing new has been brought out in the submissions made on behalf of the writ petitioners which could make us take a different view from what has been decided earlier."*

*"53. The Election Commission has set down a benchmark which is not unreasonable. In order to gain recognition as a political party, a party has to prove itself and to establish its credibility as a serious player in the political arena of the State. Once it succeeds in doing so, it will become entitled to all the benefits of recognition, including the allotment of a common symbol."*

32. It is also pertinent to mention that the Commission amended Para 6C, as mentioned above, to give a notional 'pass over' to recognised political parties who failed to fulfil the conditions prescribed for recognition under the Symbols Order at the General Election held subsequent to their recognition. Thus, the cycle for calculation starts as on 01.01.2014 for all political parties which were under review, when the ECI took decision of amending the Symbols Order by insertion of Para 6C. The Party, gained the benefit of this very interpretation by the ECI and obtained a national status and so now, cannot be allowed to seek a complete reversal of interpretation of Para 6C.

33. (a) Further, after the qualifying date of 1.1.2014 for availing benefit of 6C, in case of Odisha, CPI did not qualify for the status of recognised state party on the basis of its performance in GE to LS & LA held in 2014 & 2019.

(b) Further, after the qualifying date of 1.1.2014 for availing benefit of 6C, in case of West Bengal, CPI did not qualify for the status of recognised state party on the basis of its performance in GE to LS held in 2014 & 2019 & GE to LA held in 2016 & 2021.

(c) CPI has, thus fully enjoyed and exhausted the benefits of Para 6C.

34. Furthermore, the Commission finds no merit in the submission that the achievements and contribution made by CPI should be taken into consideration for reviewing the continuity of its recognition as a National Party. When the grant of such recognition is based upon a set of conditions prescribed under the Symbols Order, the Commission cannot deviate from the same while reviewing the continuity of recognition.

35. On the other point made by the CPI, i.e. to be given an extended opportunity to satisfy the criteria, it is noted that posterior to the date of show cause notice issued on 18.07.2019 and upto December, 2022, as many as 18 General Elections to various State Legislative Assemblies have been held. Records reflect that CPI participated in 18 of these 21 General Elections to Legislative Assemblies. Thus, the disjointness of timeline of review, triggered by Covid, in effect has provided ample further opportunities to CPI to “regain” the impugned status as state party and consequently as a national party. In any case, as electoral cycles progress, nothing prevents CPI to regain its status as mandated under Para 6A and 6B. The amendment of Para 6C in 2016 was in the nature of an exception carrying forward a previous success of a General Election, to overcome failure in next General Election. CPI in the fact of its own case, has without doubt fully enjoyed and exhausted the benefits of Para 6C.

36. Therefore, in consideration of totality of facts, bare provisions of Symbols Order and Poll Performance, the Commission, in pursuance of the provision of Para 6 of the Election Symbols (Reservation & Allotment) Order, 1968, withdraws the state party status with regard to States of West Bengal and Odisha. Consequently, the National Party recognition of the CPI also stands withdrawn. The party will continue to be treated as State recognised party in the States of Kerala, Manipur and Tamil Nadu.

By orders,



(Jaydeb Lahiri)  
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