

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. ECI/PN/48/2013

Dated: 28th October, 2013

Press Note

Subject - Supreme Court's judgement for "None of the Above" option on EVM
- clarification.

The direction in the judgment dated 27th September, 2013 of the Hon'ble Supreme Court is to provide a NOTA option on the EVM and ballot papers so that the electors who do not want to vote for any of the candidates can exercise their option in secrecy. The Supreme Court held that the provisions of Rule 49-O under which an elector not wishing to vote for any candidate had to inform the Presiding Officer about his decision, are ultra vires Article 19 of the Constitution and Section 128 of the Representation of the People Act, 1951. As per the provisions of clause (a) of Rule 64 of Conduct of Elections Rules, 1961, read with Section 65 of the Representation of the People Act, 1951, the candidate who has polled the largest number of valid votes is to be declared elected by the Returning Officer. Therefore, even if the number of electors opting for NOTA option is more than the number of votes polled by any of the candidates, the candidate who secures the largest number of votes has to be declared elected.

Under the provisions of Section 53(2) of RP Act, 51, if the number of contesting candidates is equal to the number of seats to be filled, the Returning Officer has to declare all the contesting candidates to be duly elected. In the case of elections to the Lok Sabha and Legislative Assemblies, in cases where there is only one contesting candidate in the fray, the Returning Officer has to, in accordance with the provisions of the said Section 53(2), declare the sole contesting candidates as elected. The provision of NOTA option which is an expression of decision not to vote for the contesting candidates is not relevant in such cases.

(Dhirendra Ojha)
Director