

Convicts cannot contest: EC

NEW DELHI, Aug 28 (PTI) — The Election Commission today ordered that no convict would be allowed to contest elections regardless of the fact that an appeal against the conviction was pending in a higher court.

The far-reaching order was passed by the three-member commission headed by Dr M. S. Gill to combat the "serious problem of criminalisation of politics".

However, sitting members of Parliament and state legislatures, who had been convicted, would not be covered by the order which came into force today.

The commission's decision will apply to eight assembly elections scheduled for next year in Nagaland, Tripura, Mizoram, Himachal Pradesh, Meghalaya, Delhi, Madhya Pradesh and Rajasthan.

Although Section 8 of the representation of People Act, 1951, provides that no convict would stand disqualified from contesting elections to Parliament and state legislatures for six years, those on bail and who had appealed against such conviction were being allowed to contest.

Today's order makes it mandatory for returning officers to take note

of the legal position at the time of the scrutiny of nominations and decide accordingly about their validity.

Addressing a press conference, Dr Gill said the commission while passing the order took into account the orders of high courts, including the Madhya Pradesh High Court in the Purshottam Kaushik vs Vidya Charan Shukla case, the Allahabad High Court in the Sachindra Nath Tripathi vs Doodnath case and the Himachal Pradesh High Court in Vikram Anand vs Rakesh Singha case.

In its directive to the chief electoral officers of all states and union territories, the commission observed: "The disqualification of candidature for elections under Section 8 of the Representation of People Act, 1951, would commence from the date of conviction, regardless of whether the person intending to be a candidate is out on bail or not (except, of course, those candidates who are covered under Section 8 (4) of the said Act".

Section 8 (4) of the Act states that none of the disqualification will take effect in case of a person who on the date of conviction is a member of Parliament or a state legislature, till three months have elapsed from that date or, if within that period an appeal or application for revision is brought in respect of the conviction or sentence, until that appeal or application

is disposed of by the court.

To make the order operational, the commission asked the returning officers to get affidavits from candidates mentioning whether the contestant had been ever convicted in any case by a court of law, the date of conviction, the nature of the offence, the punishment imposed, the period of imprisonment and other details.

The candidates would have to furnish information in a prescribed form, Dr Gill said.

Taking serious note of the presence of criminals in legislatures, he said that the commission was of the view that: "A law-breaker cannot become a law-maker".

The Chief Election Commissioner said that he would be writing to the government in the next few days for the "recasting and tightening" of Section 8 of the Representation of People Act as part of electoral reforms.

"The commission will also make specific suggestions to the government to make the electoral laws more effective", the Chief Election Commissioner said.

Before passing the order, the three-member commission comprising Dr Gill and the other two commissioners, Mr G. V. G. Krishnamurthy and Mr J. M. Lyngdoh, had a detailed meeting.