



Date:29/11/2022

Synopsis and FAQ of Election (Gujarat) Circular

Dear Sir / Madam,

Please find the attached circulars regarding special paid holiday on the day of poll for the General election to the legislative assembly of Gujarat, 2022, Advice to give leave to working people for voting.

The Labor Commissioner of the state states in a list that Gujarat Legislative Assembly General Election-2022, Election Commission of India, New Delhi in two phases respectively on Thursday 01/12/2022 and Monday 05/12/2022.

In that case, a special leave has to be granted so that the laborers/employees of the establishments registered under the Gujarat Shops and Establishments (Regulation of Employment and Conditions of Service) Act-2019 or The Factories Act, 1948 can exercise their right to vote. No deduction shall be made from the salary of the employee. According to this provision daily/casual workers will also be entitled to leave and wages on polling day. Any owner who behaves against the provision will be subject to fine and punishment.

The following notes to be considered and follows as per the circular of the Election Commission of INDIA according to The Representation of the People Act, 1951;

135 B. Grant a paid holiday to employees on the day of the poll.

(i) Every person employed in any business, trade, industrial undertaking or any other establishment and entitled to vote at election to the House of the People or the Legislative Assembly of a State shall, on the day of poll, be granted a holiday.

(ii) No deduction or abatement of the wages of any such person shall be made on account of a holiday having been granted in accordance with sub-section (i) and if such person is employed on the basis that he would not ordinarily receive wages for such a day, he shall nonetheless be paid for such day the wages he would have drawn had not a holiday been granted to him on that day.

(iii) If an employer contravenes the provisions of sub-section (1) or sub-section (2), then such employer shall be punishable with fine, which may extend to five hundred rupees.



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(iv) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged."

3. The above provisions require that all the electors who are employees of establishments and shops including those which work on shift basis shall be granted a paid holiday on the day of poll in the Constituency where the general election is to be held. Further, there may be cases where a person is ordinarily resident of the Constituency and registered as an elector, may be serving/employed in an industrial undertaking or an establishment located outside the Constituency having a bye-election. It is clarified that in such a situation, even those electors including casual workers working outside the constituency concerned would be entitled to the benefit of a paid holiday extended under the Section 135B(1) of the Representation of the People Act, 1951.

4. The daily wage/casual workers are also entitled for a holiday and wages on poll day as provided in Section 135B of the R.P. Act, 1951.

The purpose of declaring the paid holiday on Election Day 1/12/2022 & 5/12/2022 is only with a view that every employee/worker/daily wagers of the Gujarat State to exercise their Voting Rights. Hence it is the duty and responsibility of the Employer to see that all the employees who are entitled to Vote must be given Paid Holiday on the day of election to exercise their Voting Rights.

Our Suggestion on following points are as under;

1. Is it compulsory to give Holiday with pay needs to be given on the Date of Election 1st Dec, 2022 or 5th December, 2022.

Answer: Yes, Every person employed in any business, trade, industrial undertaking or any other establishment and entitled to vote at election, be granted a paid holiday.

2. What if the employees who are coming from the place/territory where the election declared on 1st December, 2022?

Answer: Yes they are eligible for Paid Holiday for voting on that day. Company/Factory/Establishment has to give the Paid holiday to exercise their voting rights at their home town.

3. If they have taken the Leave on 1st December, 2022, can the Company take the work on 5th December, 2022?



Answer: Yes, companies can take the work from them in the office/Factory on 5/12/2022.

4. What if the employees are working in such a position where his absence may cause danger or substantial loss in respect of the employment in which he is engaged?

Answer: In such case Company has to give the 3 to 4 hours break to employees/workers to avail their voting rights. It is the duty of the employer to see that due to the absence of an employee/worker they may face huge financial losses and dangerous occurrences. If there is any complaint and the employer cannot prove in such cases the department will take the action as per the details mentioned in the circular.

5. Does the employer have to pay the Full Salary?

Answer: Yes, the employer has to pay the full salary.

6. Can an employee file the complaint? If yes to whom?

Answer: The department may decide the team as station wise where employees having the grievances may file the complaint verbally/in writing and accordingly the authority (concern officer/incharge) may visit and investigate the matter and they may take the action against the responsible person of the business.

7. Is the noncompliance of the circular is punishable?

Answer: Any owner/employer who behaves against the provision will be subject to fine and punishment.

8. Is it applicable to employees working from Home?

Answer: Yes if they are entitled to Vote.

9. What if the employees are taking Holiday to avail the Voting Rights but not utilized it by voting?

Answer: As per our opinion the Paid Holiday declared by the Government only to exercise the fundamental rights of voting, if any of the employees not utilized it in such a case employer can issue the show cause notice and take the necessary actions.



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If you have any further questions please connect with Sharad Jain on 9825975832.

Thanks and Regards

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