

The Rajasthan Panchayati Raj (Election) Rules, 1994

CHAPTER-I Preliminary

Rule 1. Short Title and Commencement. - (1) These rules may be called the Rajasthan Panchayati Raj (Election) Rules, 1994.

Rule 2. Definitions. - (1) In these rules, unless the subject or context otherwise requires -

- (i) "Act" means the Rajasthan Panchayati Raj Act 1994 (Rajasthan Act No. 13 of 1994);
- (ii) "Commission" means the State Election Commission as defined in the Act;
- (iii) "Constituency" means a constituency of a Panchayat Samiti or of a Zila Parishad;
- (iv) "District Election Officer (Panchayats)" means the officer nominated by the Commission as District Election Officer in consultation with the State Government for ¹[preparation of Electoral Roll and] conduct of election to Panchayati Raj Institutions;
- (v) "Form" means a form appended to these rules;
- (vi) "Registration Officer" means the Electoral Registration Officer of a ward or a constituency and includes Assistant Electoral Registration Officer to be nominated by the State Election Commission, in consultation with the State Government;
- (vii) "Returning Officer" means the officer appointed as such under these rules and includes an Assistant Returning Officer;
- (viii) "Section" means a section of the Rajasthan Panchayat Raj Act, 1994;
- (ix) "Voter List" means the list of voters of the village for which a Panchayat is to be established under Sec. 12 of the Act; and
- (x) "Ward" means a ward of a Panchyat.

(2) The words and expressions used but not defined in these rules have the same meaning as are respectively assigned to them in the Act.

CHAPTER-II Formation of Wards and Constituencies and Reservation

Rule 3. Matters to be taken into consideration in formation of wards and constituencies. - (1) A Panchayat Circle shall be divided into as many wards as may be fixed under Sec. 12.

- (2) A block shall be divided into as many territorial constituencies as may be fixed under Sec. 13.
- (3) Each Zila Parishad area shall be divided into as many territorial constituencies as may be fixed under Sec. 14.
- (4) While dividing a Panchayat Circle into wards under Sec. 12, the Officer authorised by the Government shall form, as far as practicable, a contiguous group of houses into a ward.
- (5) While dividing a Panchayat Samiti area into constituencies under Sec. 13, Officer authorized by the Government shall as far as practicable place contiguous Panchayats in a constituency:

Provided that a whole village comprising a part of a Panchayat Circle may be placed in a different constituency if it is necessary to do so to distribute the population in the constituencies as far as practicable equally.

- (6) While dividing Zila Parishad area into constituencies under Sec. 14, the Officer authorized by the Government shall place contiguous Panchayats into a constituency.
- (7) Each ward or constituency shall be assigned a separate serial number, starting from North-West corner following anti-clock-wise direction and assigning consecutive numbers to contiguous wards or constituencies, as far as possible.

Rule 4. Publication of wards or constituencies. - (1) The wards or constituencies formed under Rule 3 shall be notified by the Officer authorised by the Government by affixing statement thereof on the notice board of the office of the District Election Officer (Panchayats) and the office of Panchayat Samiti in respect of constituencies for Zila Parishads; on the notice board of the District Election Officer (Panchayats), the Panchayat Samiti and Panchayats in respect of constituencies for Panchayat Samiti; and on the notice board of the Panchayat and a conspicuous place in every village of the Panchayat in respect of wards of the Panchayats.

- (2) Any adult inhabitant of the Panchayn area/constituency may, if he objects to anything contained in the Statement affixed under sub-rule (1) pertaining to the ward or constituency related to the Panchayati Raj Institution of which he is a voter, submit his objection in writing to the officer authorised by the Government within seven days from the date of affixing of such statement.
- (3) All objection received under sub-rule (2) shall be affixed on the notice board of the office of the Officer authorised by the Government on the date of their receipt. After the time prescribed for receipt of objections is over, the Officer authorised by the Government under Rule 4 (2) shall forward all the statement of wards/constituencies formed under Rule 3 and the objections, if any, received under Rule 4 (?) alongwith his comments thereon to the State Government.

(4) The State Government, or any officer authorised by it, shall thereon consider the objection and other material before it including the comments of the Officer authorised by the State Government under sub-rule (2) and shall decide the objections and thereafter amend, if necessary, the statements accordingly, finally determine the wards and constituencies and shall notify the same by affixing the final statement of wards/constituencies and shall notify the same by affixing the final statement of wards/constituencies at the following places, namely:-

- (a) On the notice board of the office of District Election Officer (Panchayats) and the office of the Panchayat Samiti in respect of constituencies for Zila Parishad,
- (b) On the notice board of the District Election Officer (Panchayats) and the notice board of Panchayat Samiti and Panchayats in respect of constituencies of Panchayat Simiti,
- (c) On the notice board of the Panchayat and a conspicuous place in every village of the Panchayat in respect of wards.]

Rule 5. Reservation of seats for Scheduled Castes/Scheduled Tribes and Other Backward classes. - The number of wards of constituencies to be reserved for persons belonging to the Scheduled Castes/Scheduled Tribes or Other Backward Classes shall be determined by the Officer authorised by the Government in accordance with the provisions of the Act.

Birth records, entries in telephone application and voters list is not sufficient of proof of relegion of person professes.²

Rule 6. Reservation for women. - (1) One third of the seats reserved for the Scheduled Castes or the Scheduled Tribes or the Backwards Classes shall be reserved for the women belonging to such Castes, Tribes or, as the case may be, Classes.

(2) One-third, including the number of seats reserved under sub-rule (1) of the total number of seats shall be reserved for women.

(3) The Officer authorised by the Government shall determine the seats to be reserved for women.

Rule 7. Procedure for reservation. - (1) The Officer authorised by the Government shall for the purpose of reservation of seats for persons belonging to Scheduled Castes under Sec. 15 of the Act, first identify the wards or constituencies which consist of population of the Scheduled Castes and such wards or constituencies shall be serially arranged in the descending order of percentage of population of Scheduled Caste excluding the wards and constituencies where such percentage is less than five, and shall be assigned serial numbers as SC 1, SC 2 and so on.

(2) The serial number so assigned shall be known as special serial number for Scheduled Castes

- (3) The Officer authorised by the Government shall first allocate the number of seats reserved for SCs (including one-third of such seats reserved for women belonging to the Scheduled Castes) serially to the wards bearing special numbers for Scheduled Castes.
- (4) The Officer authorised by the Government shall for the purpose of reservation of seats for persons belonging to Scheduled Tribes under Sec. 15 of the Act, after the seats having been determined and allocated under the aforesaid section for SCs, proceed to identify the wards and constituencies which consist of population of Scheduled Tribes and such wards and constituencies shall be serially arranged in the descending order of percentage of population of Scheduled Tribes excluding the wards and constituencies where such percentage is less than five, and shall be assigned serial number of ST 1, ST 2 and so on.
- (5) The serial number so assigned shall be known as special serial numbers for Scheduled Tribes.
- (6) The Officer authorised by the Government shall, after having allocated the seats reserved for the Scheduled Castes under Sub-rule (3), allocate the seats reserved for Scheduled Tribes (including one-third of such seats reserved for women belonging to Scheduled Tribes) serially to the wards bearing special serial numbers for Scheduled Tribes.
- (7) The Officer authorised by the Government shall for the purpose of reservation of seats for persons belonging to Backward Classes under Sec 15 of the act, after having determined and allocated seats reserved for the persons belonging to the Scheduled Castes and the Scheduled Tribes (including one-third of the seats reserved for women belonging to such Castes and Tribes), proceed further to allocate such number of seats in the Panchayati Raj Institutions as are required to be reserved for persons belonging to Backward Classes (including one-third of such seats reserved for women belonging to Backward Classes) out of remaining seats by lot.
- (8) (a) The number of seats reserved for women belonging to the Scheduled Castes or the Scheduled Tribes or, as the case may be, the Backward Classes respectively shall be derived by dividing the seats to be reserved for the SCs or STs or as the case may be BCs by three.
 - (b) If only one seat each is reserved for SC, ST or BC in any Panchayati Raj Institution, one seat out of the three as determined by draw of lots shall be reserved for women.
- (9) The remaining number of seats reserved for women shall be determined by dividing the total number of seats by three and number so determined shall be reduced by the aggregate of the number of the seats derived for women belonging to the SCs, ST's and BCs under sub-rule (8)
- (10) The seats so reserved for women under Rule 6 shall be allocated by lot.

- (11) Wherever seats are to be reserved by draw of lots, the Officer authorised by the Government shall fix place, date and time for the purpose of drawing lots and inform the members of the Legislative Assembly of the constituencies or part of the constituency falling in the district. The lots shall be drawn in accordance with the procedures laid down by the Government in the presence of such members of Legislative Assembly who may choose to be present at the appointed time.
- (12) In every succeeding general election of the Panchayati Raj Institutions, the list of wards or constituencies bearing special serial number for Scheduled Castes or, as the case may be, Scheduled Tribes shall-
- (i) continue to be operated serially from special serial number following the special serial number where the allocation of seats reserved for the SCs or, as the case may be, the STs has ended in the preceding election.
 - (ii) be operated till it is exhausted, and
 - (iii) be re-operated from the beginning after it is exhausted.
- (13) Wards and constituencies reserved for Backward Classes and Women by draw of lots in the first general election shall be excluded while drawing lots for such reservation in succeeding election till the cycle is completed.

Rule 8. Reservation for SCs or STs. - Notwithstanding anything to the contrary contained in Rules 6 and 7 where a ward or constituency becomes common to be reserved for SCs/STs, then it will be reserved for SCs or STs, as the case may be, whichever has higher percentage of SCs or STs.

Explanation-While arranging wards or constituencies in descending order for the purpose of making reservation for persons belonging to SCs or STs, if a particular ward or constituency appears in both the lists, where the population of SCs is 14% and those of STs is 11%, in that case ward or constituency will be reserved for SCs.

Rule 9. Reservation of offices of Sarpanchas and Pradhans. - (1) The Officer authorised by the Government shall determine the number of office of Sarpanchas and Pradhans as required to be reserved in a Panchayat Samiti or in a Zila Parishad area for persons belonging to SCs, STs, or Backward Classes and women in accordance with the provisions of Sec. 16 of the Act.

- (2) The number of offices of Sarpanchas and Pradhans so reserved for SCs, STs, and OBCs shall be allocated by the Officer authorised by the Government to different Panchayats or Panchayat Samitis, as the case may be, by following the procedure as laid down in Rule 7.

- (3) The Officer authorised by the Government shall determine by draw of lots the offices of Sarpanchas and Pradhans to be reserved in the district for women.

Rule 10. Reservation of offices of Pramukhs. - (1) The Government shall determine the number of offices of Pramukhs to be reserved for SCs/STs/OBCs and Women.

- (2) The number of offices of Pramukhs reserved for SCs and STs shall be allocated by the Government to different districts by arranging them in descending order of the percentage of population of SCs or STs separately, excluding such districts where percentage of population of SCs or STs is less than five, and by following the procedure as laid down in Rule 7.
- (3) After having determined the offices of Pramukhs for SCs and STs, the Government shall allocate the offices of Pramukhs reserved for Backward Classes by drawing lots out of the remaining districts.
- (4) (a) One office of Pramukh out of the total number of offices of Pramukhs reserved for women shall be allocated to each Division as constituted under the Rajasthan Land Revenue Act, 1956 (Act No. 15 of 1956). The offices so allotted to a Division shall further be allocated by draw of lots to a District in the Division by the Government.
- (b) The remaining number of offices reserved for women shall be allocated by the Government by draw of lots to the districts remaining after the allocation under Clause (a).
- (5) The offices of Pramukhs reserved in the State for Backward Classes and Women by draw of lots in the first general election, shall be excluded while drawing lots for such reservation in the succeeding elections till the cycle is completed.

¹[CHAPTER-II Electoral Rolls

Rule 11. Preparation of electoral rolls. - (1) The Commission shall subject to the provisions of Sec. 18, cause to be prepared a ward or constituency-wise electoral roll in Hindi in Devnagri script for each Panchayati Raj Institution.

- (2) (a) The names of electors in a roll for a ward in the case of a Panchayat Circle shall be arranged in the order of the serial number of houses as may be comprised in each ward.
- (b) The electoral roll for constituency of Panchayat Samiti or Zila Parishad, shall consist of the electoral rolls for the wards or part thereof of Panchayat Circles which are comprised within the constituency concerned, which will be arranged Panchayat Circle-wise on the basis of list arranged under Clause (a) of this sub-rule.

- (3) Whenever limits of wards or constituencies of a Panchayat Circle or Panchayat Samiti or Zila Parishad are revised or when a Panchayat Circle or Panchayat Samiti or Zila Parishad is constituted or re-constituted, such roll may be prepared afresh and shall contain names of all persons entitled to be registered after enquiry as electors under the Act, as far as possible.
- (4) For the purpose of preparing any roll or deciding any claim or objection to a roll, the Electoral Registration Officers and any person employed by him, shall have access to any register of births and deaths and to the admission register of any educational institution and it shall be the duty of every person in charge of any such register to give to the said officer or person such information and such extracts from the said register as he may require.

Rule 12. Publication of rolls in draft. - (1) Electoral roll of each ward or constituency so prepared shall be published by exhibiting it-

- (a) in the case of a Panchayat at the office of the Panchayat,
- (b) in the case of a Panchayat Samiti, at the office of the Panchayat Simiti,
- (c) in the case of a Zila Parishad, at the office of the Zita Parishad,

and at one or two conspicuous places within the ward of the territorial constituency to which the roll pertains alongwith a notice inviting objections and fixing date and time by which objection shall be entertained.

- (2) All objections under this rule shall be entertained only when they are made or presented within a period of ten days of the publication of the electoral roll under this rule.
- (3) From the date of the notice referred to in sub-rule (1), the roll shall be open for inspection free of charge by the public for ten days during office hours at the offices of the Panchayati Raj Institutions mentioned in sub-rule (1) and the Electoral Registration Officer.

Rule 13. Claims and objections. - (1) Any person, whose name is not entered in the electoral roll or is entered at an incorrect place or in an incorrect manner or with incorrect particulars or any person whose name is entered in the roll and who objects to the inclusion of his own name or the name of any other person in that roll, may prefer a claim or objection personally or by sending it by post to the Electoral Registration Officer. All objections or claims shall be received within the period prescribed under sub-rule (2) of Rule 12 and no claim or objection received after that time shall be entertained.

- (2) Every claim shall be in Form I and shall be signed by the person desiring his name to be included in the electoral roll.
- (3) Every objection to the inclusion of name in the electoral roll shall be in Form II and preferred by the person whose name is already included in the electoral roll of any ward or constituency comprised within the Panchayati Raj Institution concerned.
- (4) Every objection to a particular or particulars of entry in the electoral roll shall be in Form III and shall only be preferred by the person to whom such entry relates.
- (5) A claim or objection may be accompanied by the documents on which the claim and or objector relies.

Rule 14. Disposal of claims and objections. - (1) The Electoral Registration Officer before deciding whether or not to allow the claim or objection cause to be served-

- (a) in the case of a claim a notice on the claimant;
- (b) in the case of an objection a notice on the objector and on the person to the inclusion of whose name the objection relates; and
- (c) in the case of an objection to a particular or particulars in any entry, to the objector:

Provided that any claim or objection which is not lodged within period, or in the form and manner, as prescribed shall be rejected:

Provided further that it shall not be necessary to serve any such notice where the Electoral Registration Officer on being satisfied as to the validity of the claim or objection and decides to allow it without further inquiry :

Provided further also that a list containing the names and addresses of the persons applying for inclusion of their names shall be exhibited on the notice board of the office of the Electoral Registration Officer for 3 clear days before making an order on the claim.

- (2) A notice under Sub-rule (1) shall be given either personally or by registered post or by *** residence or last known residence within the ward or constituency
- (3) The Electoral Registration Officer, shall hold a summary inquiry into every claim or objection in respect of which notice has been given under Sub-rule (1) and record his decision thereon.
- (4) At the hearing, the claimant or, as the case may be, the objector and the person objected to and any other person who, in the opinion of the Electoral Registration Officer, is likely to be of assistance to him, shall be entitled to appear and be heard.

- (5) The Electoral Registration Officer may in his discretion-
- (a) require any claimant, objector or person objected to, to appear in person before him,
 - (b) require that the evidence tendered by any person shall be given on oath and administer an oath for the purpose.
- (6) No person shall be represented by any legal practitioner in any proceeding under this rule.
- (7) The Electoral Registration Officer shall also correct any clerical or printing errors which he may discover in the roll.

Rule 15. Inclusion of names inadvertently omitted. - If it appears to the Electoral Registration Officer that owing to inadvertence or error during preparation, the names of any electors have been left out of the roll and that remedial action should be taken under this rule, the Electoral Registration Officer shall-

- (a) prepare a list of the names and other details of such electors;
- (b) exhibit on the notice board of his office a copy of the list together with a notice as to the time and place at which the inclusion of these names in the roll will be considered, and also publish the list and the notice in such other manner as he may think fit; and
- (c) after considering any verbal or written objections that may be preferred, decide whether all or any of the names should be included in the roll.

Rule 16. Deletion of names of dead electors and persons who cease to be or are not, ordinarily residents. - If it appears to the Electoral Registration Officer at any time before the final publication of the roll that owing to inadvertence or error or otherwise, the names of dead persons or of persons who have ceased to be, or are not, ordinarily residents in the ward or constituency or of persons who are otherwise not entitled to be registered in that roll, have been included in the roll and that remedial action should be taken under this rule, the Electoral Registration Officer shall-

- (a) prepare a list of the names and other details of such elector.
- (b) exhibit on the notice board of his office a copy of the list together with a notice as to the time and place at which the question of deletion of these names from the roll will be considered, and also publish the list and the notice in such other manner as he may think fit, and

- (c) after considering any verbal or written objections that may be preferred, decide whether all or any of the names should be deleted from the roll:

Provided that before taking any action under this rule in respect of any person on the ground that he has ceased to be, or is not, ordinarily resident in the ward or constituency or is otherwise not entitled to be registered in that roll, the Electoral Registration Officer shall make every endeavour to give him a reasonable opportunity to show cause why the action proposed should not be taken in relation to him.

Rule 17. Final publication of roll. - (1) The Electoral Registration Officer shall thereafter-

- (a) prepare a list of amendments to carry out his decisions under Rules 14, 15 and 16 and to correct any clerical or printing errors or other inaccuracies subsequently discovered in the roll; and
 - (b) publish the roll together with the list of amendments, by making a complete copy thereof available for inspection and displaying a notice at his office and may also publish it in the office of the concerned Panchayati Raj Institution.
- (2) On such publication, the roll together with the list of amendments shall be the electoral roll of the ward or the constituency.
 - (3) Subject to such general or special directions as may be given by the State Election Commission, supply free of cost, one copy of the roll, as finally published, with the list of amendments, if any, to every political party which is recognized in the State under the Election Symbols (Reservations and Allotment) Order, 1968.
 - (4) Where the roll (hereafter in the sub-rule referred to as the basic roll), together with the list of amendments, becomes the electoral roll for a ward or constituency under sub-rule (2), the Electoral Registration Officer may, for the convenience of all concerned integrate, subject to any general or special directions issued by the State Election Commission in this behalf, the list into the basic roll by including the names of electors in the list together with all particulars relating to such electors in the basic roll itself, so however that no change shall be made in the process of such integration in the name of any elector or in any particulars relating to any elector as given in the list of amendments.
 - (5) Every member of the public shall have the right to inspect the electoral roll referred to in sub-rule (2) on payment of a fee or rupees two and attested copies of the same may be issued to the applicant on payment of such fee as may be fixed by the Commission.

Rule 18. Duration of electoral rolls. - Every electoral roll referred to in sub-rule (2) of Rule 17 shall continue to be in force until revised in accordance with Rule 19.

Rule 19. Revision of rolls. - (1) The roll for every ward or constituency shall be revised either intensively or summarily or partly intensively and partly summarily, as the State Election Commission may direct with reference to the qualifying date i.e., 1st January of the year in which it is so revised.

(2) Where the roll is to be revised intensively, it shall be prepared afresh under Rules 11 to 17 shall apply in relation to such revision as they apply in relation to the first preparation of a roll

(3) When the roll or any part thereof is to be revised summarily, the Electoral Registration Officer shall cause to be prepared a list of amendments to the roll on the basis of such information as may be readily available and publish the roll together with the list of amendments in draft; and the provisions of Rules 11 (4) and 12 to 17 shall apply in relation to such revision as they apply in relation to the first preparation of a roll.

(4) Where at any time between the publication of draft in a revised roll under sub-rule (2) or of the roll and list of amendments under sub-rule (3) and the final publication of the same under Rule 17, any names have been directed to be included in the roll for the time being in force under Rule 20, the Electoral Registration Officer shall cause the names to be included unless there is no illegal objection in his opinion.

(5) Notwithstanding anything contained in sub-rule (1) the State Election Commission may at any time for reasons to be recorded, direct a special revision of the electoral roll for any ward/wards or constituency/constituencies in such manner as it may deem fit:

Provided that the electoral roll as in force at the time of the issue of any such direction, shall continue to be in force until the completion of the special revision so directed.

The Election Commission should try to complete the electoral before the expiration of the duration of five years period stipulated. Any revision of electoral roll shall be carried out in time and if it cannot be carried out in time and if it could not be carried out within a reasonable time, the election has to be conducted on the basis of the then existing electoral rolls. In other words, the Election commission shall completed the election before the expiration of the duration of five year's period and not yield to situations that may be created by vested interests to postpone election from being held within the stipulated period.

The election has to be held on the basis of the electoral which are in force on the last date for making nomination.

The preparation of electoral rolls is a continuous process and in terms of Rule 19, the roll for any kind or constituency shall be revised intensively or summarily, or partly intensively and partly summarily as the Election Commission may direct with reference to qualifying date i.c. 1, January of that year in which it is so revised. Therefore, preparation of electoral roll of Panchayati Raj Institution has nothing to do with particular election.

Rule 20. Interim alterations. - (1) If the Electoral Registration Officer on his own motion or on the application made to him is satisfied after such enquiry as he thinks fit, that any entry in a electoral roll-

- (a) is erroneous or defective in any particular,
- (b) should be transposed to the electoral roll of another ward or constituency on the ground that the person concerned has changed his place of ordinary residence, or
- (c) should be deleted on the ground that the person concerned has changed his place of ordinary residence, or
- (d) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident of the ward/constituency or is otherwise not entitled to registered in the roll, he shall, subject to such general or special directions if any, given by the State Election Commission in this behalf, amend, transpose or delete the entry:

Provided that before taking any action under Clause (a) or Clause (b) or Clause (c) or any action under Clause (d) on the ground that the person concerned has ceased to be ordinarily resident in the ward/constituency or that he is otherwise not entitled to be registered in the electoral roll of that ward/constituency, the Electoral Registration Officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him,

- (2) Any person whose name is not included in the electoral roll of a wand/constituency, may apply to Electoral Registration Officer for inclusion of his name in that roll and the afore said officer, if satisfied that the applicant is entitled to be registered in such roll direct his name to be included therein.
- (3) A list of persons applying under Sub-rule (1) or (2) shall be exhibited on the notice board of the Electoral Registration Officer for a period of three clear days before making an order.

[(4) Deleted]

- (5) Where an application referred to in Sub-rule (2) is made at any time after the date of final publication of electoral roll under Sub-rule (1) of Rule 17 it shall be accompanied by a fee of one rupee payable by means of non-judicial stamps.

- (6) The Electoral Registration Officer may cause to be corrected any clerical error in the electoral roll at any time.
- (7) The electoral rolls altered in accordance with this rule shall be deemed to be the roll for the time being in force.
- (8) The applications referred to in Sub-rules (1) and (2) shall be in form I and II or III, as the case may be.

Rule 20 & Rule 21A bars appeal u/r 20 against order of deletion of name from electoral roll after issuance of notification for election and remedy of writ thereafter is available.

Rule 21. Appeals. - (1) An appeal shall lie to the Collector from an order made under Rule 14 or 20 by a Electoral Registration Officer, within a period of 15 days from the date of order: Provided that an appeal shall not lie where a person desiring to appeal has not availed himself of his right to be heard by or to make representation to the Electoral Registration Officer on the matter which is the subject of appeal.

- (2) Such appeal shall be-
 - (a) in the form of memorandum signed by the applicant;
 - (b) accompanied by a copy of the order appealed from and fee of rupees five shall be paid in non-judicial stamps; and
 - (c) presented to the Collector, or sent by registered post so as to reach him within the said period.
- (3) The presentation of an appeal under this rule shall not have the effect of staying or postponing any action to be taken by the Electoral Registration Officer under Rule 17 or 19: Provided that no injunction or stay order shall be issued in case where the subject of appeal is an order made under Rule 20.
- (4) Decision of the Collector shall be final, but in so far as it reverses or modifies the decision of Electoral Registration Officer it shall take effect only from the date of decision in appeal.

Order of deletion of name without notice to concerned person is liable to be quashed. Person concerned can apply for inclusion of name, to Election Registration Officer.²

¹**[21A. Restrictions of correction in electoral rolls.** - No amendment, transposition or deletion of any entry shall be made and no direction for the inclusion of a name in the electoral roll shall be given under Rule 20 and 21 after the issue of the public notice under Rule 23 or 58, as the case may be, and until completion of elections.]

Rule 22. Custody and preservation of rolls. - (1) After the roll for a ward or constituency has been finally published the following papers shall be kept in the office of the Electoral

- (i) One complete copy of the electoral roll duly authenticated by the Electoral Registration Officer,
 - (ii) All applications in regard to the preparation of draft electoral roll;
 - (iii) All manuscript copies prepared by the enumerating agencies and used for compiling the draft electoral roll;
 - (iv) All claims and objections to the draft electoral roll. (v) All decisions passed on the claims and objections.
 - (vi) Paper relating to appeals under Rule 21.
 - (vii) Application under Rule 20.
- (2) One complete copy of the roll for a ward or constituency duly authenticated by the Electoral Registration Officer shall also be kept in the office of the District Election Officer until the completion of the next intensive revision of that roll..
- (3) The papers referred to in [Sub-rule (1) and (2)] shall, on expiry of the period specified, therein, be disposed of in such manner as the State Election Commission may direct.
- (4) Copies of electoral rolls, until disposal under sub-rule (3), shall be made available for sale to public.

CHAPTER-IV

Election of Panchas

Rule 23. Notification of election. - (1) Subject to the general direction of the Commission as often as a general election of Panchas in a Panchayat Circle becomes necessary, or is required by the provisions of the Act to be held, the District Election Officer (Panchayats) shall by public notice:-

- (i) call upon wards in the Panchayat Circle to elect one Panch each within the time specified in the public notice; and
- (ii) appoint-
 - (a) a day on which and the hours between which nomination papers are to be presented;

- (b) a day not later than the day next succeeding the day fixed for the presentation of nomination papers, and the hours thereof, at which the scrutiny of such nomination papers shall be made;
 - (c) a day, not later than the day next succeeding the day fixed for the scrutiny of nomination papers, and the hour thereof by which nominations may be withdrawn;
 - (d) a day on which a poll shall, if necessary, be taken; and
 - (e) the hours within which such poll be taken.
- (2) The District Election Officer (Panchayats) shall appoint a person by name or by virtue of his office to act as Returning Officer for each Panchayat Circle.
- (3) The District Election Officer (Panchayats) may also authorise one of the Polling Officer appointed for booths of each Panchayat Circle or any other officer to Returning Officer in the event of the Returning Officer being unavoidably prevented from performing his functions.

¹[**Rule 24. Duties and powers of Returning Officer** - (1) In addition to the duties imposed and powers conferred on a Returning Officer by or under these rules, it shall be his general duty to do all such acts and things as may be necessary for conducting election effectively under these rules and he shall also see that the poll, if held, is fairly conducted at each polling station within his jurisdiction.]

¹**Rule 24A. Duties and powers of Polling Officer.** - The Polling Officer shall keep order at the polling booth, see that the election is fairly conducted and regulate the number of voters to be admitted at any one time inside the polling booth and shall exclude there from all persons other than:-

- (a) the Assistant Polling Officers;
- (b) the police and other public servants on duty, in connection with the election;
- (c) persons authorised by the State Election Commission;
- (d) the candidates;
- (e) a child in arms accompanying a voter; and
- (f) such other persons as he may admit for the purpose of identifying electors.]

Rule 25. Presentation of nomination papers. - (1) On the day appointed under Sub-clause (b) of Clause (ii) of Sub-rule (1) of Rule 23 for the presentation of nomination papers any person qualified under Sec. 19 for election as a Panch and desiring to seek such elections, hereafter in this

chapter referred to as a candidate, shall deliver in person to the Returning Officer his nomination paper in [Form IV along with Form IV D] duly filled in and signed by him or bearing his thumb impression:

Provided that if a candidate belonging SC, ST or Other Backward Class submits his nomination paper for a reserved ward, he shall attach a certificate to that effect issued by the Collector or any officer authorised by the State Government:

Provided further that a candidate belonging to SC or ST or Other Backward Class shall not be debarred to contest election from a general ward:

Provided also that no male candidate shall be eligible for filling nomination paper from a ward reserved for women.

(2) Any nomination paper not delivered as provided in Sub-rule (1) shall be rejected.

Rule 26. Procedure upon delivery of nomination papers. - Upon delivery of a nomination paper under Rule 23 the Returning Officer shall inform the person so delivering the same of the day, hour and place appointed for the scrutiny thereof and shall endorse thereon in his handwriting-

- (i) the serial number of the ward from which the candidate proposes to seek election,
- (ii) the serial number of the nomination paper for such ward,
- (iii) (m) the name of the person, delivering the nomination paper together with the name of the person if any, identifying such person, and
- (iv) (iv) the date on which and the hour at which, the nomination paper was delivered to him.

Rule 27. Scrutiny of nomination papers. - (1) On the day and the hour appointed under Sub-clause (c) of Clause (ii) of sub-rule (1) of Rule 23 for the scrutiny of nomination papers, the Returning Officer shall examine the same.

(2) At the time of such examination the candidates themselves and no other person may attend and the Returning officer shall afford each of them-

- (i) all reasonable facilities for examining the nomination papers delivered by them, and
- (ii) a reasonable opportunity of making objections to any of them.

(3) The Returning Officer shall decide all such objections and may either on the basis of such objection or on his own motion reject any nomination paper on any of the following grounds, namely:-

- (a) that the candidate is not qualified or is disqualified for election;

- (b) that he is not identical with the person whose number or name on the voters list is stated in the nomination paper to be the number or name of the candidate;
 - (c) that his signature or thumb impression is not genuine or has been obtained by fraud, coercion or undue influence;
 - (d) that there has been a failure in complying with the provisions of Rule [25].
- (4) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, in case of rejection, a brief statement of his reason for such rejection.
- (5) The scrutiny shall be completed on the same day and no adjournment of the proceeding shall be allowed.

The rejection or acceptance of nomination papers has to be taken as part of election process as has been said in N.P. Punnaswami's case. Any interference by High Court would cause delay and the statutory remedy would get frustrated. The Apex court in number of cases has expressed the opinion that contesting an election is a statutory right though it is a fundamental contour of democracy. When statutory remedy, albeit, an urgent one is available, irrefragably, disputed questions of facts are involved, it can be said with certitude that a petition under Article 226 of the Constitution of India should not be entertained.²

Nomination papers should not be rejected for such defects which cannot be said to be substantial in character not affecting the result of elections especially on incomplete information and when neither concerned candidate is not present and no objection is raised.³

Question of disqualification can be raised at the time of scrutiny of nomination papers.⁴

Rule 28. Withdrawal from candidature. - (1) Any candidate [may] withdraw his candidature by notice in writing in duplicate signed by him or bearing his thumb impression and delivered in person to the Returning Officer on the date and by the hour appointed under sub-clause (c) of Clause (ii) of Sub-rule (1) of Rule 23.

- (2) No notice of withdrawal shall be entertained after the day and hour referred to in sub-rule (1).
- (3) A candidate who has withdrawn his candidature shall not be allowed to cancel the notice of withdrawal.
- (4) The Returning Officer shall, on receiving a notice of withdrawal under Sub-rule (1), cause, as soon as may be, one copy thereof to be exhibited at some conspicuous place at the office of the Panchayat or in any conspicuous place at the headquarters of the Panchayat where no Panchayat office is established.

Rule 29. Subsequent procedure to be observed by Returning Officer. - (1) Immediately after the time fixed by Sub-rule (1) of Rule 23 has expired, the Returning Officer shall, for each ward cause to be prepared a list in form V showing the names of the candidates whose nomination papers have been accepted and have not been withdrawn.

(2) If there is only one candidate in a ward and his nomination has been accepted the Returning Officer shall declare him to be duly elected.

(3) If the number of candidates to be elected from a ward is more than one, the Returning Officer shall.

(i) assign a symbol to each such candidate out of the symbols specified by the State Election Commission :

Provided that in case the symbol is specified by the State Election Commission are found to be short of requirements, the Returning Officer may allot such other symbols in the manner laid down by the State Election Commission, but not reserved for a political party by the Election Commission of India and inform the State Election Commission and the District Election Officer (Panchayats) concerned.]

[(ii) have the names of all such candidates in Hindi alphabetical order published, alongwith the symbol of assigned to each, by being affixed at the conspicuous place in the ward and a copy of the list, so published, shall be given to each contesting candidate]

(iii) direct that a poll shall be taken on the date and between the hours appointed under sub-clause (d) and (e) respectively of Clause (ii) of Sub-Rule 23,

(iv) proceed to make further arrangements necessary for the holding of the poll.

(4) (a) The ballot papers shall be in such form as the Commission may direct and the particulars therein shall be written in Hindi in Devnagri script.

(b) The names of candidates shall be arranged on the ballot papers in the same order as they appear in the list in Form V.

(c) If two or more candidates bear the same name they shall be distinguished by addition of their father's or husband's names, as the case may be, or in some other manner, as the Returning Officer may deem fit.

Election Symbol reservation for political parties is not undemocratic

Rule 30. Polling Stations and Polling Booths. - (1) if a poll is to be held in any ward, the Returning Officer subject to any general or special order of the District Election Officer (Panchayats) shall select a suitable place for a polling station:

Provided that the place so selected shall not ordinarily be outside the place of the headquarters of the Panchayat to which the election is to be held.

- (2) The Returning Officer subject to any general or special order of the District Election Officer (Panchayats) may establish in each polling station as many polling booths as he may consider necessary and where more booths than one are so established he shall direct that the electors of the ward commencing from and ending with specific serial numbers on the voters list thereof, or electors of more than one ward shall be admitted to cast their votes in a particular booth.
- (3) A notice announcing the place of polling station shall be published at the office of Panchayat or if there is no office of Panchayat at the place selected for polling station at least a day before the elections are held.

Rule 31. Polling Officer and other staff. - (1) For each polling booth the Officer nominated by the District Election Officer (Panchayats) shall appoint, by name or by virtue of office, as many persons to act as Polling Officer/Assistant Polling Officer and such other staff as he thinks necessary to assist each Polling Officer and Returning Officer.

Provided that if a Polling Officer or any other member of the staff is absent from polling station or polling booth the Returning Officer may appoint any person to act in place of such absence and inform the District Election Officer (Panchayats) accordingly:

Provided further that no person who has been employed by or on behalf of or has been otherwise working for a candidate in or about the election, shall be appointed as Polling Officer or a member of the staff.

- (2) The Polling Officer and other staff appointed under sub-rule (1) shall perform such duties and exercise such powers as are imposed and conferred on them by these rules or as are entrusted to them by Returning Officer.

Explanation - The Polling Officer in Panchayat election shall function as Presiding Officer of a polling booth.

Rule 32. Supply of Election Material. - (1) Each Polling Station shall be provided with material, including ballot papers, copies of voters lists, instrument necessary for electors to mark the ballot papers and ballot boxes, sufficient for the purpose of enabling electors to cast their votes.

(2) In supplying such material, regard shall be had to the number of electors entitled to vote at the polling station and the number of polling booths established therein.

Rule 33. Ballot boxes. - (1) Every ballot box used at a polling station shall bear the name of Panchayat and the number of the ward of the Panchayat circle.

(2) Every ballot box shall be so constructed that ballot papers may be introduced therein but cannot be withdrawn therefrom without the box being unlocked.

34. Commencement of poll. - (1) The poll shall commence at the hour appointed for such commencement.

(2) Immediately before such commencement, each Polling Officer shall-

(i) show every ballot box to such of the candidates; as may be present at the time in verification of the fact that it is empty,

(ii) thereafter lock the same,

(iii) place a seal thereupon in such manner as to prevent its being opened or unlocked without breaking the seal, and

(iv) place it within his view.

¹[**Rule 35. Manner of voting at elections.** - At every election where a poll is taken, votes shall be given by ballot and in person in the polling station or in the polling booth provided under sub-rule (2) of rule 30, save as expressly provided under this rule, and the polling Officer shall not allow any vote to be cast by proxy:

Provided that the giving and recording of votes by to voting machine may be adopted in such wards/constituencies as the State Election Commission may, having regard to the circumstance of each case, specify.

Provided further that officers on election duty shall be entitled to vote by post in the manner as may be specified by the State Election Commission.

Explanation 1 : For the purpose of this rule, voting machine" means any machine or apparatus whether operated electronically or otherwise used for giving or recording of votes and any reference to a

ballot paper in these rules shall save as otherwise provided, be construed as including a reference to such voting machine wherever such voting machine is used at any election

Explanation 2 : Voter on election duty" means any polling Agent, any Polling Officer, Returning Officer or other public servant, who is an elector is unable to vote at the polling station where he is entitled to vote.]

- (2) No elector shall be admitted to cast his vote elsewhere than in the polling station or in the polling booth as directed under Sub-rule (2) of rule 30.

Rule 36. Arrangement for secrecy of voting. - (1) Each polling station or booth as the case may be shall contain a separate compartment in which electors can cast their votes screened from observation.

- (2) While elector is in such compartment, no other person shall subject to the provisions contained in Rule 41 enter it.
- (3) The Polling Officer may occasionally enter such compartment, alongwith the candidates, if they so desire, when no elector is in the compartment.

Rule 37. Identity of electors. - Immediately before the ballot paper is delivered to an elector, the Polling Officer shall satisfy himself as to the identity of the elector with reference to the entries relating to that elector in the voters list. He shall also hear and decide then and there any objection raised in this behalf. He may refuse to issue a ballot paper or papers to any person who declines to answer any reasonable question put to him for the purpose of ascertaining such identity or, whose identity is not established to his satisfaction, but issue of ballot paper shall not be refused merely on the ground of any typographical error or omission in the relevant entries of the voter's list if the identity of the elector is otherwise established.

Rule 38. Safeguard against impersonation. - (1) Every voter about whose iden tity the Returning Officer or the Polling Officer, as the case may be, is satisfied shall allow his left hand fore-finger to be inspected by the Returning Officer or the Polling Officer, and cause an indelible ink mark to be put on it.

- (2) If any voter refuses to allow his left fore-finger to be inspected or marked in accordance with Sub-rule (1) or has already such a mark on his left hand fore-finger, or does any act with view to removing the ink mark, he shall not be supplied with any ballot paper and shall not be allowed to vote.

Explanation - Any reference in this rule to the left hand fore-finger of a voter shall, in the case where voter has his left fore-finger missing be constructed as a reference to any other finger of his left hand and

shall in the case where all the fingers of his left hand are missing be construed as reference to the fore-finger or any other finger of his right, and shall in the case where all his fingers of both the hands are missing be construed as a reference to such extremity of his left or right arm as he possesses.

Rule 39. Ballot paper. - (1) Every ballot paper shall before issue to the elector be authenticated in such manner as may be directed by the Commission.

(2) At the time of issuing a ballot paper to an elector, the Polling Officer [or Assistant Polling Officer] shall record the serial number thereof against the entry relating to elector in the copy of voters list (marked copy) set apart for the purpose.

(3) Save as provided in sub-rule (2) no person in the polling station shall note down the serial number of ballot papers issued to particular electors.

Rule 40. Manner of casting votes. - ²[(1) An elector shall on, receiving the ballot paper issued to him, forthwith proceed to one of the polling compartments, there make a mark on the face of the ballot paper with the instrument supplied for the purpose on the symbol or the name of the candidate or in the column against the name and symbol printed in the space earmarked for the candidate for whom he intends to vote or NOTA (none of the above) in case he wishes to exercise the option of not voting for any candidate in the fray and then fold the ballot paper thus marked so as to conceal his vote and put the ballot paper so folded into the ballot box which shall be placed within the view of the Returning Officer or the Polling Officer.]

(2) Every elector shall record and cast his vote or votes without undue delay and shall quit the polling compartment, the polling booth and the polling station as soon as may be conveniently possible.

Rule 41. Assistance to blind and infirm electors. - If an elector, owing to blindness or physical infirmity is unable, to record his vote in the manner laid down in Rule 50, the Polling Officer shall do so according to the direction of the elector and fold it so as to conceal the vote and insert it into ballot box and make a brief note against the entry relating to such elector in the copy of voters list referred to in Rule 39, the reason for such action.

Rule 42. Spoiled ballot papers. - An elector who had inadvertently dealt with his ballot paper in such manner that it cannot conveniently be used as such may, on delivering it to polling officer and satisfying him of the inadvertence, obtain another ballot paper in place of the spoilt ballot paper and such spoilt ballot paper shall be marked by the Polling Officer as cancelled.

Rule 43. [Deleted]³

Rule 44. Tendered voters. - (1) If a person representing himself to be a particular elector applies for a ballot paper after another person has already voted as such elector, he shall on satisfactory answering such questions relating to his identity as the Returning Officer or any Polling Officer may ask, be entitled, subject to the following provisions of this rule, to mark a ballot paper (hereinafter in these rules referred to as a "tendered ballot paper") in the same manner as any other elector.

(2) Every such person shall, before being supplied with a tendered ballot paper, "sign his name against the entry relating to him in a list in Form VI.

(3) A tendered ballot paper shall be the same as the other ballot paper used at the polling booth except that it shall be -

(a) serially the last in the bundle of ballot papers issued for use at the polling station or booth; and

(b) endorsed on the back with the words "tendered ballot paper" by any Polling Officer in his own hand and signed by him.

(4) The elector, after making a tendered ballot paper in the voting compartment or any Polling Officer who shall place it in a cover specially kept for the purpose. and folding it, shall, instead of putting it into the ballot box, give it to the Returning Officer

Rule 45. Removal from polling station for misconduct. - (1) If any person mis-conducts himself at a polling station, or fails to obey the lawful orders of the Returning Officer or any Polling officer appointed therefor, the Returning Officer or such Polling Officer as the case may be, shall immediately remove, or order any Police Officer present thereat to remove, from the polling station the person so misconducting himself and such person shall not be allowed again to enter the polling station without the permission of the Returning Officer or the Polling Officer.

(2) No removal from a polling station shall be ordered under Sub-rule (1) so as to prevent an elector, entitled to cast his vote thereat, for having an opportunity of casting the votes.

Rule 46. Closing of poll. - (1) The Polling Officer shall close the polling station at the hour appointed for such closure so as to prevent the entry therein of any elector after that hour.

(2) Any elector who has been admitted thereto before that hour shall however, be allowed to cast votes even after that hour.

Rule 47. Procedure on closing of poll. - (1) As soon as practicable after the close of the poll, the Polling Officer shall, in the presence of such candidates as may be present there:-

- (i) examine each ballot box used at the polling station to see that it is unopened and has not been tampered with,
 - (ii) affix his seal thereon,
 - (iii) make up into separate packets-
 - (a) the envelopes containing Tendered Votes,
 - (b) the unused ballot papers,
 - (c) the spoiled ballot papers,
 - (d) the ballot papers returned and cancelled under Rule 43,
 - (e) the marked copy of the voters list, and
 - (iv) affix his seal to every such packet.
- (2) Subject to any directions given by the Officer nominated by the District Election Officer (Panchayats), or the Returning Officer in that behalf, the ballot boxes and packets referred to in Sub-rule (1) shall be forwarded by the Polling Officer to the Returning Officer.

Rule 48. Adjournment of poll. - (1) The Returning Officer may, in emergencies such as a likely disturbance of the public peace, close the poll and announce an adjournment thereof to a subsequent day to be notified by District Election Officer (Panchayats) or Officer nominated by him.

- (2) The circumstances leading to such closure and adjournment shall be reported by the Returning Officer forthwith to the District Election Officer (Panchayats) or Officer nominated by him.

[Rule 48. A. Fresh poll in the case of destruction, etc. of ballot boxes. - (1) if at any election-

- (a) any ballot box used at a polling station or at a place fixed for the poll is unlawfully taken out of the custody of the Presiding Officer or the Returning Officer, or is accidentally or intentionally destroyed or lost, or is damaged or tampered with, to such an extent that the result of the poll at that polling station or place cannot be ascertained, or
- (b) any voting machine develops a mechanical failure during the course of the recording of votes; or
- (c) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll,

the returning officer shall forthwith report the matter to the Election Commission.

- (2) Thereupon the Election Commission shall, after taking all material circumstances into account either-
 - (a) declare the poll at that polling station or place to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the day so appointed and the hours so fixed in such manner as it may deem fit, or
 - (b) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election or that (the mechanical failure of the voting machine or) the error or irregularity in procedure is not material issue such directions to the Returning Officer as it may deem proper for the further conduct and completion of the election.
- (3) The provisions of the Act and of any rules or orders made there under shall apply to every such fresh poll as they apply to the original poll.

Notes - By Noti. No. F.4 (2) (1) PE/S/94/659 dated 25-1-95 power have for the purpose of election of Panchas and Sarpanchas been delegated under Rule 48A to District Election Officers (Panchayat) Collectors by the Rajasthan State Election Commission.

Rule 48B. Adjournment of poll or countermanding of election on the ground of booth capturing. - (1) If at any election-

- (a) booth capturing has been taken place at a polling station or at a place fixed for the poll (hereafter in this (rule), referred to as a place) in such a manner that the result of the poll at that polling station or place cannot be ascertained, or
 - (b) booth capturing takes place in any place for countering of votes in such a manner that the result of the counting at that place cannot be ascertained, the Returning Officer shall forthwith report the matter to the Election Commission.
- (2) The Election Commission shall on the receipt of a report from the Returning Officer under Sub-rule (1)) and after taking all material circumstances into account, either
 - (a) declare that the poll at that polling station or place be void, appoint a day, and fix the hours, for taking fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit, or

- (b) if satisfied that in view of the large number of polling stations or places involved in booth capturing the result of the election is likely to be affected, or that booth capturing had affected counting of votes in such a manner as to affect the result of the election, countermand the election in that constituency.

Explanation - For the purpose of this ²[rule] "booth capturing" includes, among other things, all or any of the following activities, namely:-

- (a) seizure of a polling station or a place fixed for the poll by any person or persons making polling authorities surrender the ballot paper or voting machines and doing of any other act which affects the orderly conduct of election;
- (b) taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from voting;
- (c) threatening any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;
- (d) seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes;
- (e) doing by any person in the service of Government, of all or any of the aforesaid activities or aiding or conniving at, any such activity in the furtherance of the prospects of the election of candidate.]

Notes

By Noti. No. F. 4(2) (1) PE/1/94/659 dated 25-1-95 powers for the purpose of election of Panchas and Sarpanch in a Panchayat Circle have been delegated 4/r 48B to District Election Officer (Panchayat) (Collector) by the Rajasthan State Election Commission.

³[**Rule 48 C.** The powers vested in Election Commission in Rule 48 (A) and 48(B) may be delegated by the Election Commission to the District Election Officer (Panchayat) or to any other officer subordinate to the Election Commission].

Rule 49. Counting of votes. - (1) The counting of votes shall commence on such date and at such time and place as the Returning Officer may appoint.

- (2) Such date, time and place shall be communicated to all the candidates.

- (3) Votes shall be counted by or under the supervision of the Returning Officer and each candidate shall have a right to be present at the time of counting.
- (4) No other person shall be allowed to be present at the counting of votes except Polling and Assistant Polling Officers and such other persons as the Returning Officer may permit to assist him in the task.
- (5) The Returning Officer shall allow each candidate a reasonable opportunity to inspect, without handling the ballot papers which he considers to be liable to rejection.
- (6) Any candidate present at the counting may, at any time during the counting of votes, request the Returning Officer in writing, to recount the ballot papers relating to the ward and the Returning Officer may for reasons to be recorded either reject the request or order recounting of votes.
- (7) The Returning Officer may, in his discretion recount the ballot papers of all or any of the candidates once or more than once, if he is not satisfied as to the accuracy of the immediately preceding count.
- (8) Every ballot paper which is not rejected under Rule 50 shall be deemed to be valid and shall be counted as one valid vote.
- (9) The Returning Officer shall count all valid votes given to such candidate and make candidate wise packets of counted ballot papers and those of rejected ballot papers and then all such packets shall be sealed properly.

Order for recounting of votes cannot be passed on ground of equally and natural justice. Election petition has to make out prima case for recounting on basis of particulars averred in election petition and evidence led in that behalf.

Power of recount cannot be delegate by Election Tribunal to panel of officers who were not part of election process.

²[49 A. **Destruction, loss, etc. of ballot papers at the time of counting.** - (1) If at any time before the counting of votes is completed any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the Returning Officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with, to such an extent that the result of the poll at that polling station or place cannot be ascertained, the Returning Officer shall forthwith report the matter to the Election Commission.

- (2) Thereupon, the Election Commission shall, after taking all material circumstances into account, either-
- (a) direct that the counting of votes shall be stopped, declare the poll at that polling station or place to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as at may deem fit, or
 - (b) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, effect the result of the election, issue such directions to the Returning Officer as it may deem proper for the resumption and completion of the counting and for the further conduct and completion of the election in relation to which the votes have been counted.
- (3) The provisions of the act and of any rules or orders made there under shall apply to every such fresh poll as they apply to the original poll.]

Notes By Notification No. F. 4(2)(1) PE/S/94(659) dated 25-1-1995 powers to act under Rule 49A have been delegated to the District Election Officers (Panchayat) (Collectors) for the purpose of election of Panch and Sarpanch in a Panchayat Circle.

³[**Rule 49B.** The powers vested in Election Commission in Rule 49(A) may be delegated by the Election Commission [to the District Election Officer (Panchayats) or to any other officer subordinate to the Election Commission.]

Rule 50. Rejection of Ballot papers. - (1) A ballot paper shall be liable to rejection-

- (i) if it bears any mark by which the elector can be identified,
- ⁵[(ii) if it bears marking for more than one candidate or a candidate and NOTA (none of the above)]
- (iii) if no vote is recorded on the face of the ballot paper or the vote is recorded on the back of the ballot paper or it is recorded otherwise than with the instrument supplied for the purpose,
- (iv) if the ballot paper of the vote recorded thereon is void for uncertainty, or
- (v) if it is spurious ballot paper, or
- (vi) if it is so damaged or mutilated that its identity as genuine ballot paper cannot be established.

- (2) No ballot paper shall be rejected otherwise than on any of the grounds enumerated in sub-rule (1).
- (3) The Returning Officer shall record in brief on every ballot, paper which he rejects the reasons for such rejection.
- (4) The decision of the Returning Officer as to the validity, or otherwise of the ballot paper shall be final.

Rule 51. Equality of votes. - In case of equality of votes, the result shall be declared by drawing of lot in the manner which the Returning Officer may think proper.

Rule 52. Result of election. - (1) When the counting of votes has been completed the Returning Officer shall-

(a) make up separate packets of-

- (i) the counted valid ballot papers, and
- (ii) the ballot papers rejected at the counting,

(b) affix his seal to each such packet,

¹[(c) prepare and certify a return in form VII setting forth therein:-

- (i) the names and addresses of the candidates who have been declared under sub-rule (2) of Rule 29 to have been elected unopposed;
- (ii) the names and addresses of the candidates for whom valid votes have been cast;
- (iii) the number of valid votes cast for each candidate;
- (iv) the number of valid votes given to NOTA (none of the above);
- (v) the number of votes rejected as invalid; and
- (vi) the result of the lot, if any, drawn under Rule 51]

(d) declare the candidate who has secured the largest number of votes as a result of the poll or the lot drawn under Rule 51 to be elected, and

(e) specify the wards which have failed to elect the Panchas.

(2) As soon as may be possible the Returning Officer shall forward-

- (i) One copy of the return prepared under sub-rule (1) to the office of the Panchayat, if any,

- (ii) One such copy each to the officer-in-charge of Panchayats, and to the newly elected Sarpanch,
- (iii) One copy thereof alongwith all papers relating to the election, to the District Election Officer (Panchayats),
- (iv) One such copy to the Panchayat Samiti of the Block within which the Panchayat Circle lies.
- (v) One such copy to Director, Rural Development and Panchayati Raj, Rajasthan, Jaipur.

Rule 53. Custody, production, inspection and destruction of election papers. - (1) All papers relating to elections shall remain in the custody of the District Election Officer (Panchayats).

- (2) The packet of used ballot papers whether valid, tendered or rejected, and the marked copies of the voters lists shall not be opened and their contents shall not be inspected or produced except, under the orders of a Court of competent jurisdiction.
- (3) Subject to any direction to the contrary given by the Commission or by a competent Court-
 - (a) packets of used ballot papers shall be retained for a period of six months and shall thereafter be destroyed in such manner as the Commission may direct;
 - (b) the other packets or papers referred to in Sub-rule (2) shall be retained for a period of one year and shall thereafter be destroyed:

Provided that the packets containing the counter foils of used ballot papers shall not be destroyed except with the previous approval of the Commission;

- (c) all other papers relating to the election shall be retained for such period as the Commission may direct.

Rule 54. Notification of names of Panchas. - The names of all Panchas elected under Rule 52 shall be notified by the Commission in the Official Gazette of the State.

Rule 55. Bye election. - Whenever the office of a Panch falls vacant and a bye election is required to be held under Sec. 42, provisions of Rules 25 to 54 shall mutatis mutandis apply to every bye-election for filling such vacancy.

Chapter-IVA

Voting and counting of votes by electronic Voting Machines for election of Panchas.

- 55A. Voting and counting of votes by voting machines.** - In relation to voting and counting of votes, custody, inspection and disposal of election papers etc., where voting machine is used,-
- (a) the provisions of CHAPTER IV, except rules 32, 33, 34, 36 to 44,47,49, 50, 52 and 53 shall, so far as may be, mutatis mutandis apply and any reference in those provisions to ballot paper shall be construed as including a reference to such voting machine.
 - (b) in lieu of rules 32, 33, 34, 36 to 44, 47, 49, 50, 52 and 53, the following rules of this chapter shall apply, namely: -
- 32A. Supply of Election Material** - (1) At each polling station, there shall be set up one or more voting compartments in which the voters can record their votes free from observation.
- (2) The Returning Officer shall provide at each polling station one electronic voting machine, copies of the relevant part of the electoral roll and such other articles and materials necessary for voters to vote.
 - (3) In supplying such material, regard shall be had to the number of electors entitled to vote at the polling station and the number of polling booths established therein.
- 33A. Design of Electronic Voting Machines.** - Every electronic voting machine (here in after referred to as the voting machine) shall have a control unit and a balloting unit and shall be of such designs as may be approved by the State Election Commission.
- 33B. Preparation of Voting Machine by the Returning Officer.** - Subject to the provisions of rule 39A, the Returning Officer shall,-
- (a) fix the ballot paper containing the names and symbols of the contesting candidates in the balloting unit and secure that unit with his seal and the seals of such of the contesting candidates present as are desirous of affixing the same,
 - (b) set the number of contesting candidates and close the candidate set section in the control unit and secure it with his seal and the seals of such of the contesting candidates present as are desirous of affixing the same.
- 34A. Preparation of voting machine for poll.** - (1) For securing the control unit of voting machine the Presiding Officer shall affix his own signature on the paper seal and obtain thereon the signature of such of the candidates, present as are desirous of affixing the same.
- (2) The Presiding Officer shall thereafter fix the paper seal so signed in the space meant therefore in the control unit of voting machine and shall secure and seal the same.

- (3) The seal used for securing the control unit of voting machine shall be fixed in such manner that after the unit has been sealed, it is not possible to press the "result section" without breaking the seal.
- (4) Every control unit and balloting unit of the voting machine used at a polling station shall bear labels, both inside and outside marked with,
 - (a) the serial number of the ward and name of Gram Panchayat;
 - (b) the serial number and name of the 'polling station;
 - (c) the serial number of the unit; and
 - (d) the date of poll.
- (5) Immediately before the commencement of the poll, the Presiding Officer shall demonstrate to the polling agents and other persons present that no vote has been already recorded in the voting machine and it bears the labels referred to in sub-rule (4).
- (6) The control unit shall then be closed, sealed and secured and placed in full view of the Presiding Officer and the candidates present and the balloting unit placed in the voting compartment.

36A. Procedure for voting and secrecy of voting. - (1) Every voter who has been permitted to vote under Rule 40A shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure here-in-after laid down.

- (2) Immediately on being permitted to vote, the voter shall proceed to the Presiding Officer or the Polling Officer in charge of the control unit of the voting machine who shall, by pressing the appropriate button on the control unit activate the balloting unit, for recording of the voter's vote.
- (3) The voter shall thereafter forthwith,-
 - (a) proceed to one of the voting compartments;
 - ¹[(b) record his vote by pressing the button on the balloting unit against the name and symbol of the candidate for whom he intends to vote or NOTA (none of the above) in case he wishes to exercise the option of not voting for any of the candidate in the fray.]
 - (c) come out of the voting compartment and quit the polling station.
- (4) Every voter shall vote without undue delay.
- (5) No voter shall be allowed to enter a voting compartment when another voter is inside it.

- (6) If a voter who has been permitted to vote under Rule 40-A or 44-A, refuses after warning given by the Presiding Officer, to observe the procedure as laid down in sub-rule (3), the Presiding Officer or a Polling Officer under the direction of Presiding Officer shall not allow such voter to vote.
- (7) Where a voter is not allowed to vote under sub-rule (6), a remark to the effect that voting procedure has been violated, shall be made against the name of voter in the register of voters in Form XII by the Presiding Officer under his signature.

36B. Presiding Officer's entry in the voting compartment during poll. - (1) The Presiding Officer may whenever he considers it necessary to do so, enter the voting compartment during poll and take such steps as may be necessary to ensure that the balloting unit is not tampered or interfered with in any way.

- (2) If the Presiding Officer has reason to suspect that a voter who has entered the voting compartment is tampering or otherwise interfering with the balloting unit or has remained inside the voting compartment for unduly long period, he shall enter the voting compartment and take such steps as may be necessary to ensure the smooth and orderly progress of the poll.
- (3) Whenever the Presiding Officer enters the voting compartment under this rule, he shall permit the candidates present to accompany him if they so desire.

37A. Identity of voter. - At any time before permitting the voter to vote the Presiding Officer or Polling Officer may of his own accord, if he has reason to doubt the identity of the voter or his right to vote at such polling station and shall, if so required by a candidate or polling agent, satisfy himself by putting to the voter such questions as he may deem necessary that such person is identical with the Voter to whom such entry relates.

38A. Safeguard against impersonation. - Before permitting a voter to vote, the Polling Officer shall cause a mark to be put on the left forefinger of the voter with an indelible ink:

Provided that where such a mark already exists on the left forefinger of the voter, it shall be deemed that he had cast his vote already at the election and shall not be permitted to vote.

Provided further that no voter shall be allowed to vote unless he has allowed a mark to be put on his left forefinger with an indelible ink.

Explanation-Any reference in this rule to the left forefinger of a voter shall in the case where the voter has his left forefinger missing, be construed as a reference to any other finger on his left hand and shall in the case where all the fingers of his left hand are missing, be construed as a reference to the forefinger of

the right hand and shall, in case the fingers of both the hands are missing, be constructed as a reference to such extremity of the left or right arm as he possesses.

¹[39A. Form of ballot paper. - (1) Every ballot paper shall be in such form as may be prescribed by the State Election Commission.

- (2) The name of the candidates shall be shown on ballot paper in the same manner and arranged in the same order in which they appear in the list of contesting candidates and NOTA (none of the above) shall also be shown on ballot paper.
- (3) The particulars on the ballot paper shall be in Hindi in Devnagari script.
- (4) The symbol allotted to the candidates shall be shown alongside the name of the candidate on the ballot paper and symbol fixed for NOTA (none of the above) shall also be shown alongside the NOTA (none of the above) on the ballot paper.
- (5) The space allotted to each candidate and for NOTA (none of the above) on the ballot paper shall have the same dimensions.
- (6) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residences or in some other manner.]

40A. Procedure for voting by voting machines. - (1) Before permitting a voter to vote, the Polling Officer shall.-

- (a) record the electoral roll number of the voter as entered in the marked copy of the electoral roll in a register of voters in Form XII;
- (b) obtain the signature or thumb impression of that voter on the said register of voters; and
- (c) mark the name of the voter in the marked copy of the electoral roll to indicate that he has been allowed to vote:

Provided that no voter shall be allowed to vote unless he has put his signature or thumb impression on the register of voters.

- (2) It shall not be necessary for any Presiding Officer or Polling Officer or any other officer to attest the thumb impression of the voter on the register of voters.

41A. Assistance to blind or infirm electors. - (1) If an elector owing to blindness or other physical infirmity, is unable to recognize the symbols on the balloting unit of the voting machine or

unable to record his vote by pressing the appropriate button thereon without assistance, the Polling Officer shall do so for recording the vote on his behalf and in accordance with his wishes.

- (2) The Polling Officer shall, for all cases under this rule, shall make a brief note against the entry relating to such elector in the copy of voters list and the reason of such action.

¹[43A. Deleted]

44A. Tendered Votes. - (1) If a person representing himself to be a particular voter seeks to vote after another person has already voted as such voter, he shall on satisfactorily answering such question relating to his identity as the Presiding Officer may ask, be, supplied with a tendered ballot paper which shall be of such design as the State Election Commission may specify, instead of being allowed to vote through the balloting unit.

- (2) Every such person shall, before being supplied with a tendered ballot paper, write his name against the entry relating to him in a list in Form XIII.

- (a) proceed to voting compartment;
- (b) record there his vote on the ballot paper by placing a cross mark 'X' with the instrument or article supplied for the purpose on the symbol or the name of the candidate or in the column against the name and symbol printed in the space earmarked for the candidate for whom he intends to vote or NOTA (none of the above) in case he wishes to exercise the option of not voting for any of the candidate in the fray.]
- (c) fold the ballot paper so as to conceal his vote;
- (d) show to the Presiding Officer, if required, the distinguishing mark on the ballot paper,
- (e) give it to the presiding officer who shall place it in a cover specially kept for the purpose; and
- (f) leave the polling station.

47A. Sealing of voting machine after close of poll. - (1) As soon as practicable as may be present there, close the control unit to ensure that no further votes can be after the closing of the poll, the Presiding Officer shall, in the presence of such candidates recorded and shall detach the balloting unit from control unit.

- (2) The control unit and balloting unit shall thereafter be sealed and secured separately in such manner as the State Election Commission may direct and the seal used for securing them shall be so fixed that it will not be possible to open the units without breaking the seals.

47B. Sealing of Polling materials and other papers. - (1) The Presiding Officer of each polling booth, as soon as practicable after the close of the poll, shall in the presence of any candidate who may be present, make up into separate packets and seal with his seal and the seal of such candidates as may desire to affix their seals,-

- (a) the marked copy of the electoral roll;
- (b) the tendered ballot papers;
- (c) the list of tendered votes;
- (d) the list of challenged votes;
- (e) the certificate produced by officers on election duty;
- (f) the register of voters in Form XII; and
- (g) any other papers directed by the State Election Commission to be kept in a sealed packet.

(2) The Presiding Officer shall after sealing all the packets, endorse on each packet a description of its contents.

47C. Accounts of votes recorded. - (1) The Presiding Officer shall at the close of the poll, prepare an account of votes recorded in Form XIV.

(2) The Presiding Officer shall place the account of votes recorded in a separate envelope and endorse on it the words "Account of Votes Recorded".

47D. Transmission of voting machines etc., to the Returning Officer. - (1) The Presiding Officer shall deliver or cause to be delivered to the Returning Officer at such place as the Returning Officer may direct,-

- (i) the voting machine;
- (ii) the account of votes recorded in Form XIV;
- (iii) the sealed packets under Rule 47B; and
- (iv) all other papers used at the poll.

(2) The Returning Officer shall make adequate arrangements for the safe transportation of the voting machine, packets and other papers and for their safe custody until the conclusion of the counting of votes.

49C. Scrutiny and inspection of voting machines. - (1) The Returning Officer may have the control units of the voting machines used at more than one polling station taken up for scrutiny and inspection and votes recorded in such units counted simultaneously.

(2) Before the votes recorded in any control unit of a voting machine are counted under sub-rule (1), the candidate at the counting table shall be allowed to inspect the paper seal and such other vital seals as might have been affixed on the unit, and to satisfy themselves that the seals are intact.

(3) The Returning Officer shall satisfy himself that none of the voting machines has, in fact, been tampered with.

(4) If the Returning Officer is satisfied that any voting machine has, in fact, been tampered with he shall not count the votes recorded in that machine and shall follow the procedure laid down in rule 49B, in respect of the polling station where that machine was used.

49D. Counting of votes. - (1) The counting of votes shall commence on such date and at such time and place as the Returning Officer may appoint.

(3) Votes shall be counted by or under the supervision of the Returning Officer and each candidate shall have a right to be present at the time of counting.

(4) No other person shall be allowed to be present at the counting of votes except,-

(a) Polling and Assistant Polling Officers;

(b) such other persons as the Returning Officer may permit to assist him in the task, and

(c) person authorized by State Election Commission.

(5) After the Returning Officer is satisfied that a voting machine has, in fact, not been tampered with, he shall have the votes recorded therein counted by pressing the appropriate button marked "Result" provided in the control unit whereby the total votes polled and votes polled for each candidate shall be displayed in respect of each such candidate on the display panel provided for the purposes in the unit.

(6) As the votes polled for each candidate are displayed on the control unit, the Returning Officer shall have,-

(a) the number of such votes recorded separately in respect of each candidate in Part-II of Form XIV;

- (b) Part II of Form XIV completed in other respects and signed by the counting supervisor and also by the candidates or their election agents or their counting agents present; and
 - (c) corresponding entries made in a result sheet in Form VII and the particulars so entered in the result sheet announced.
- (7) No envelope containing the tendered ballot papers shall be opened and no such votes shall be counted.

50A. Counting and rejection of postal ballot papers. - (1) Subject to general or specific direction given in this behalf by the State Election Commission, the provisions under rule 50 shall apply in relation to rejection of postal ballot papers received from the officers on election duty referred to in rule 35.

- (2) The Returning Officer shall record the result of counting of votes received by post, if any, in the result sheet in Form VII and announce the same.
- (3) The Returning Officer shall make up packets of the counted votes and affix his seal to each such packet.

52A. Sealing of voting machines after counting of votes and result of election. - (1) After the result of voting recorded in a control unit has been ascertained candidate wise and entered in Part 11 of Form XIV and Form VII under Rule 49D, the Returning Officer shall re-seal the unit with his seal and the seals of such of the candidates present who may desire to affix their seals thereon so however that the result of voting recorded in the unit is not obliterated and the unit retains the memory of such result.

- (2) The control unit so sealed shall be kept in specially prepared boxes on which the Returning Officer shall record the following particulars, namely :-
 - (a) the name of the Gram Panchayat with ward number;
 - (b) the particulars of polling station where the control unit has been used;
 - (c) serial number of the control unit;
 - (d) date of poll; and
 - (e) date of counting.
- (3) When the counting of votes has been completed under rule 49-D and 50A, the Returning Officer shall-

- (a) prepare and certify a return in Form VII setting forth therein :-
 - (i) the name and addresses of candidates who have been declared under sub-rule (2) of rule 29 to have been elected unopposed,
 - (ii) the names and addresses of the candidates for whom valid votes have been cast, and the number of votes cast for each candidate,
 - (iii) the number of votes rejected as invalid under rule 50A, and
 - (iv) the result of the lot, if any, drawn under rule 51.
 - (b) declare the candidate who has secured the largest number of votes as a result of the poll or the lot drawn under rule 51 to be elected, and
 - (c) specify the wards which have failed to elect the panchas.
- (4) As soon as may be possible the Returning Officer shall forward-
- (i) one copy of the return prepared under sub-rule (1) to the office of the Panchayat, if any;
 - (ii) one such copy each to the officer-in-charge of Panchayats, and to the newly elected Sarpanch;
 - (iii) one copy thereof alongwith all papers relating to the election, to the District Election Officer (Panchayats);
 - (iv) one such copy to the Panchayat Samiti of the Block within which the Panchayat circle lies; and
 - (v) one such copy to Commissioner, Panchayati Raj, Rajasthan, Jaipur.

53A. Custody, Production and inspection of election papers. - (1) All papers relating to election shall remain in the custody of the District Election Officer (Panchayat).

- (2) While in the custody,
- (a) the packets of unused postal ballot papers,
 - (b) the packets of used postal ballot papers whether valid, rejected or cancelled.
 - (c) the packets of used or unused tendered ballot papers,
 - (d) the packets of the marked copy of electoral roll,
 - (e) the packets containing register of voters in Form XII, and

(f) the packets of the declaration by electors and attestation of their signatures.

shall not be opened, inspected or produced except under the orders of a competent court.

- (3) The control units sealed under rule 52A and kept in the custody of the District Election Officer (Panchayat) shall not be opened, inspected or produced except under the orders of a competent court.
- (4) Subject to such conditions and to the payment of such fee as the State Election Commission may direct, all other papers relating to the election shall be open to public inspection and copies thereof shall, on application, be furnished.

53B. Disposal of election papers etc.. - Subject to any direction to the contrary given by the State Election Commission or by a competent court .-

- (a) the packets of used and unused ballot papers and tendered ballot papers shall be retained for a period of six months and shall thereafter be destroyed in such manner as the State Election Commission may direct;
- (b) the voting machines kept in custody of the District Election Officer (Panchayat) under sub-rule (3) of rule 53-A, shall be retained intact for such period as the State Election Commission may direct;
- (c) the other packets or papers referred to in sub-rule (2) of rule 53-A shall be retained for a period of one year and shall thereafter be destroyed:

Provided that the packets containing the counterfoil of used postal ballot papers shall not be destroyed except with the previous approval of the State Election Commission; and

- (d) all other papers relating to the election shall be retained for such period as the State Election Commission may direct."

CHAPTER V

Election of Sarpanch

Rule 56. Simultaneous election of Sarpanch & Panchas. - (1) On every occasion of a general election referred to in Sub-rule (1) of Rule 23, the election of the Sarpanch of a Panchayat under Sub-sec. (1) of Sec. 26 shall be held simultaneously with the election of Panchas therefor.

- (2) A candidate at an election may appoint as many polling agents as there are polling stations in the Panchayat and when any such appointment is made, notice of the appointment shall be given in writing to the Returning Officer.

- (3) The provisions of Rules 23 to 54 shall, so far as may be, apply mutatis mutandis to such election except that the nomination paper of Sarpanch will not be valid unless accompanied with a security deposit of Rs. 500/- in the case of general candidates and Rs. 250/- in the case of women candidates and candidates belonging to Scheduled Caste, Scheduled Tribes and Other Backward Classes. The security shall be refundable except that it shall stand forfeited in the case of such candidates [who is not elected and fails] to secure at least one sixth of the total valid votes polled in the election:

Provided that where a candidate has been nominated by more than one nomination paper for election, not more than one deposit shall be required under this sub-rule.

[Provided further that at the elections where voting machines are used the provisions of Chapter IV-A instead of the provisions of rule 32, 33, 34, 36 to 44, 47, 49, 50, 52 and 53 shall, so far as may be, apply mutatis mutandis to such election.]

- (4) (a) The polling compartment and the ballot box provided for the casting of votes by electors in relation to the election of the Panch may be used for the casting of votes by electors in relation to election of the Sarpanch also unless a separate polling compartment or a separate ballot box is provided for the same.
- (b) In case one ballot box is provided or used for the election of Panch and Sarpanch, the ballot box shall bear the ward "Sarpanch" besides other particulars mentioned in Rule 33 (1).
- (c) In case a separate ballot box is provided or used for the election of Sarpanch then that ballot box shall bear the name of Panchayat and the word "Sarpanch".
- (5) Every elector qualified to vote at polling booth for election of a Panch shall be issued, another ballot paper [xxx] for the election of the Sarpanch.
- (6) In case a Panchayat circle has failed to elect a Sarpanch, the fact shall be forthwith reported by the Returning Officer to the District Election Officer (Panchayats) who shall inform the Commission and the State Government. Thereupon the State Government shall appoint a person as Sarpanch under Sub-sec. (2) of Sec. 26.

Rule 57. Bye-election of Sarpanch. - Whenever the office of a Sarpanch falls vacant and a bye-election is required to be held under Sec. 42, provisions of Rule [23] to [56] shall mutatis mutandis apply to every bye-election for filling such vacancy.

CHAPTER VI

Election of Members of Panchayat Samitis/Zila Parishads

Rule 58. Election of members of Panchayat Samiti/Zila Parishad. - (1) In accordance with the time Schedule determined by the Commission, the District Election Officer (Panchayats) shall, by notification, call upon the constituencies of the Panchayat Samitis in the district and the constituencies of Zila Parishad to elect one member each and appoint-

- (a) the date on which and the hours between which nomination papers are to be presented to the Returning Officer/Assistant Returning Officer,
 - (b) the day following the last day appointed for the presentation of nomination papers and the hours thereof, at which the scrutiny of such nomination papers shall be made;
 - (c) the day not later than the following day fixed for the scrutiny of nomination papers and the hours thereof between which the nomination may be withdrawn;
 - (d) the day which shall not be earlier than 7 days after the date fixed for withdrawal of nomination, on which a poll shall, if necessary, be taken;
 - (e) the hours within which such poll be taken;
 - (f) the place, date and time at which counting of votes shall commence.
- (2) The District Election Officer (Panchayats) shall appoint a Returning Officer for each Panchayat Samiti for election of its members and may also appoint Assistant Returning Officer to assist him.
- (3) The Commission shall appoint Returning Officer for election of members of the Zila Parishad and also Assistant Returning Officers to assist him.
- (4) It shall be general duty of the Returning Officer/Assistant Returning Officers to perform functions mentioned in Rule 24 for conducting effectively election of the members of Panchayats Samitis and Zila Parishads under these rules.

¹[(5) In the case where ballot boxes are used, the provisions of rule 24-A to 54 shall mutatis mutandis apply, and in the case where voting machines are used the provisions of rule 24-A to 31, 35, 45, 46, 48, 48A, 48B, 48C, 49A, 49B, 51 and 54 and Chapter-IV-A shall mutatis mutandis apply, so far as may be, to such election of members of Panchayat Samities/Zila Parishads:]

²[Provided that-

- (a) a candidate shall not be deemed to be duly nominated for election from a constituency, unless he deposits a sum of Rupees 500/- or where the candidate is a women or member of SC/ST/OBC, a sum of Rs. 250/-
- (b) the security deposit shall stand forfeited in the case of such candidates who is not elected and fails to secure one sixth of the total valid votes polled in the Constituency election.
- (c) Where a candidate has been nominated by more than one nomination paper for election not more than one deposit shall be required of him in this rule.
- (d) For the purpose of listing the names under Clause (ii) of Sub-rule (3) of rule 29, the candidates shall be classified in two categories namely (1) candidates set up by recognized political parties and (ii) other candidates, and shall be arranged in that order. Further the names of candidates in each category shall be arranged in Hindi alphabetical order.
- (e) A candidate set up by a recognized political party, shall not be deemed to be duly nominated from a constituency unless the nomination paper is subscribed by one proposer being elector of the same constituency.

Explanation- A candidate who desires to be considered as candidate set up by a recognized political party, shall produce letter to that effect signed by the president or head of the state unit of that party or any person authorized by him in this behalf on or before 3 PM on the last day for making nominations specified in notification under Sub-rule (1) of Rule 58.

- (f) a candidate not set up by a recognized political party, shall not be deemed to be duly nominated for election from a constituency unless the nomination paper is subscribed by 5 proposers being electors of the same constituency.]
- [(g) A voter cannot nominate, as a proposer more than one candidate, Where a voter has signed on nominations, for more than one candidate, all such nominations other than the first one received by the Returning Officer shall be declared invalid.]

- 2[(6) (a) The State Election Commission shall, by notification in the official gazette, specify the symbols that may be chosen by candidates at elections of the members of Panchayat Samiti and members of Zila Parishad and the restrictions to which their choice shall be subject to.
- (b) For the candidates set up by a party which is a recognized political party in the State under the Election Symbols (Reservation and Allotment) Order, symbols re-served for that party under the

said order shall be allotted, provided that such a political party set up only one candidate per constituency.

[xxx]

- (c) [Subject to any general or special direction issued by the State Election Commission under Clause (a), where at any such election more nomination papers than one are delivered by a candidate, the choice of symbols made in the nomination paper first delivered, and no other choice of symbols, shall be taken into consideration even if that nomination paper has been rejected.
- (d) The candidate shall present his nomination paper in Form IV-A [alongwith Form IV-D] to the Returning officer and indicate his choice of symbol.
- (e) The Returning Officer shall consider the choice of symbols expressed by the contesting candidates in their nomination papers and shall; (subject to any general or special direction issued by the State Election Commission under Clause (a)):
 - (i) allot a different symbol to each contesting candidate in conformity, as far as practicable with his choice; and
 - (ii) if more contesting candidates than one have indicated their preference for the same symbol, decide by lot (including computerized random draw) to which of such candidates the symbols will be allotted.
- (f) The allotment by the Returning Officer of any symbol to a candidate shall be final except where it is inconsistent with any directions issued by the State Election Commission in this behalf in which case the State Election Commission may revise the allotment in such manner as it thinks fit.]

⁵[**Rule 58A. Bye election of members of Panchayat Samiti or Zila Parishad.** - Whenever the office of a member of Panchayat Samiti or Zila Parishad falls vacant and a bye-election is required to be held under Sec. 42, provisions of Rule 58 shall mutatis mutandis apply to every such bye-election for filling such vacancy.]

"CHAPTER - VII"

Election of Pradhan and Up-Pradhan of Panchayat Samiti and Pradhan and Up-Pramukh of Zila Parishad

Rule. 59. Election of Pradhan - (1) The Pradhan of a Panchayat Samiti shall be chosen by the elected members of the Panchayat Samiti from amongst themselves.

(2) The meeting of elected members for election of a Pradhan shall be held at the office of the Panchayat Samiti on the day and the time fixed by the State Election Commission and the meeting shall be presided over by the Returning Officer.

Explanation - For the purpose of this rule "Returning Officer" means an officer appointed by the District Election Officer.

(3) The Returning Officer shall affix notice of the meeting on the notice board of the Panchayat Samiti stating therein the time schedule fixed by the State Election Commission for election of Pradhan.

¹[Provided that the Returning Officer may declare the poll as finally concluded earlier in case all the members holding office have voted.]

(4) (a) The nomination of every candidate shall be made by means of a nomination paper in Form IV B.

(b) Every nomination paper shall be signed by a member as proposer and the candidate shall sign a declaration on it expressing his willingness to stand for the election.

(c) Each candidate shall be nominated by a separate nomination paper.

(d) Every nomination paper shall be presented by the candidate or his proposer on the date, at the place and during the hours specified in the notice for filing nomination paper.

(e) Immediately after the time for receipt of nomination papers is over, the Returning Officer shall cause to be published a list containing the names of the candidates whose nominations have been received.

(5) (a) At the time appointed for scrutiny of nominations, the candidate or his proposer may attend at such place and time as is specified in the notice for the scrutiny of nomination papers and the Returning Officer shall give such person all reasonable facilities to examine the nomination papers of all the candidates which have been received as aforesaid.

(b) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made at the time to any nomination and may, either on such objection or on his own motion, and after such summary enquiry, if any, as he may deem necessary, reject any nomination on any one or more on the following grounds:-

- (i) that the proposer is a person who is not a member of the Panchayat Samiti;
- (ii) that any of the provisions of clauses (a) to (d) of sub-rule (4) have not been complied with:

Provided that the nomination of a candidate shall not be rejected merely on the ground of incorrect description of his name or of the name of his proposer or of any other particulars relating to the candidate or his proposer, if the identity of the candidate or proposer as the case may be can otherwise be established beyond reasonable doubt.

- (c) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and if the nomination paper is rejected he shall record in writing a brief statement of reason for such rejection.
- (6) The Returning Officer shall cause to be published a list containing the names of the validly nominated candidates in Form IV-C by affixing it on the notice Board of the Panchayat Samiti.
- (7) (a) Any candidate may withdraw his candidature by a notice in writing before the time fixed under Sub-rule (3) and deliver the same to the Returning Officer personally.
 - (b) No person who has given a notice of withdrawal of his candidature under clause (a) shall be allowed to cancel the notice.
 - (c) The Returning Officer shall arrange the names of contesting candidates in Hindi in alphabetical order, and prepare the list of contesting candidates in Form V-A in Hindi Language written in Devnagri script and affix it on the notice board of the Panchayat Samiti.

Explanation - Alphabetical arrangement shall be made with reference to the names of candidates and not with reference to their surnames, if any.

- (8) (a) If there is only one candidate, there shall be no poll and the candidate so nominated shall be declared to have been duly elected as the Pradhan in Form VII-A.
 - (b) If there are two or more contesting candidates, an election shall be held by secret ballot and votes of the members present at the meeting shall be taken. No member shall be allowed to vote by post or proxy.
 - (c) If there is no validly nominated candidate, all proceedings in relation to election shall be commenced afresh on the date and time fixed by the State Election Commission for the purpose.

- (9) If poll is to be taken, the Returning Officer shall assign symbol to each contesting candidate according to Sub- rule (10) and the decision of the said officer in the allotment of symbols shall be final.
- (10) (a) The State Election Commission shall by notification in the official gazette, specify the symbols that may be chosen by candidates at elections of Pradhan the restriction to which their choice shall be subject to.
- (b) For the candidates set up by a party which is a recognized Political Party in the State under the Election Symbols (Reservation & Allotment) Order, 1968, symbols reserved for that party under the said order shall be allotted provided such a political party sets up only one candidate per office.

Explanation:- To be considered a candidate set up by a recognized political party, a candidate should produce a letter to that effect signed by the president of the State unit of that party or any person authorized by him in this behalf before the time and date fixed for withdrawal of nomination is over.

- (c) Where at any such election more nomination papers than one are delivered by a candidate, the choice of symbol made in the nomination paper first delivered, and no other choice of symbol, shall be taken into consideration even if that nomination paper has been rejected.
- (d) The candidate shall present his nomination paper in Form IV-B to the Returning Officer and indicate his choice of symbol.
- (e) The Returning Officer shall consider the choice of symbol expressed by the contesting candidates in their nomination papers and shall;
- (i) allot a different symbol to each contesting candidate in conformity, as far as practicable with his choice; and
- (ii) if more than one contesting candidates have indicated their reference for the same symbol decide by lot to which of such candidates the symbol will be allotted.
- (11) Immediately after allotment of symbols, the Returning Officer shall announce the names of the contesting candidates on the basis of list of contesting candidates prepared by him in Form V-A in Hindi language written in Devnagri script and a copy of the said list of contesting candidates along with symbols shall be supplied to each candidate.
- (12) (a) The ballot paper for the election shall be in such form as the Commission may direct and the particulars therein shall be in Hindi written in Devnagri script.

- (b) The names of candidates shall be typed or legibly written on ballot papers in the same order as they appear in the list of contesting candidates.
 - (c) If two or more candidates bear the same name, they shall be distinguished by addition of their father's or husband's name, as the case may be, or in such other manner as the Returning Officer may deem fit.
- (13) (a) The Returning Officer shall cause such arrangement to be made as will ensure the secrecy of the ballot paper.
- (b) Returning Officer will be assisted by Polling Officer to be appointed by District Election Officer (Panchayats).
 - (c) The ballot paper shall be duly authenticated by the seal and signature of the Returning Officer. The names of the candidates shall be arranged on the ballot paper in the same order in which they appear in the list of contesting candidates. If two or more candidates bear the same name this shall be distinguished by addition of their father's or husband's name, as the case may be, or in such other manner as the Returning Officer may deem fit.
 - (d) The Polling Officer shall tick mark the entry in the list of members before issuing ballot paper.
 - ¹[(e) Every member wishing to vote shall place a cross-mark 'X' on the ballot paper against the name of the candidate whom he wants to vote or NOTA (none of the above) in case he wishes to exercise the option of not voting for any candidate in the fray by means of the instrument supplied for the purpose by the Returning Officer.]
 - (f) He shall then fold up the ballot paper so as to conceal his vote and deposit the same in a ballot box placed in the view of the Returning Officer.
 - (g) If a voter to whom a ballot paper has been issued, does not conceal his vote, the Returning Officer shall take back the ballot paper and cancel it recording orr its back the words "cancelled-voting procedure" and put his signature below those words.
 - (h) If the voter in unable to place a mark on the ballot paper owing to blindness or other physical infirmity the Returning Officer shall record the vote on the ballot paper in accordance with the wishes of the voter and fold it up so as to conceal the vote and the voter shall then himself or with the assistance of the Returning Officer insert the ballot paper into the ballot box.

- (i) The ballot box shall be so constructed that the ballot papers can be introduced therein but cannot be withdrawn.
- (14) (a) The Returning Officer shall scrutinise the ballot papers in the meeting and separate those which in his opinion are valid from those which in his opinion are invalid, endorsing on the later the word "rejected" and the ground of rejection.
- (b) A ballot paper shall be invalid on the following grounds:-
- (i) that it bears any mark or signature by which an elector can be identified, or
 - (ii) that the mark is placed against more than one name, or
 - (iii) that no mark is recorded on the face of the ballot paper or it is marked on the back of ballot paper or the mark is so placed that it could not be ascertained for whom the vote has been casted or the mark is made by an instrument other than the one supplied for the purpose by the Returning Officer, or
 - (iv) that it is a spurious ballot paper, or
 - (v) that voter has failed to conceal his vote, or
- (c) Every ballot paper which is not rejected shall be counted as one valid vote.
- (d) If after the counting of the votes is completed, an equality of votes is found between any candidates and the addition of one vote will entitle any of those candidate to be declared elected, the Returning Officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.
- (e) The candidate who secures the largest number of votes shall be declared elected.
- (f) The declaration of result of election shall be made in the Form VII-A.
- (g) Immediately after the declaration of the result in Form VII-A the Returning Officer shall cause to be affixed a copy of the same on the notice board of the Panchayat Samiti and supply copy to the elected candidate, to the State Election Commission for publication of name of elected candidate in the Official Gazette, to the District Election Officer (Panchayats) and to the Director. Panchayati Raj Department.

Rule 60. Packing, preservation, production and inspection of election record. - (1) The Returning Officer shall then make up into packets the ballot papers and other papers relating to the election, seal

up the packets and note thereon a description of the contents and the election to which it relates.

- (2) The packets shall be retained in safe custody of the District Election Officer (Panchayats) concerned for a period of six month and shall then unless otherwise directed by the competent court be destroyed.
- (3) While in the custody of the District Election Officer (Panchayats) the packets of the election papers shall not be opened and their contents shall not be inspected by or produced before any person or authority except under the order of a competent court.

Rule 61. Election of Up-Pradhan. - The election of Up-Pradhan shall be held on the day immediately succeeding the day on which the result of election of Pradhan is declared in accordance with the provisions of foregoing rules contained in this chapter subject to the reference therein to "Pradhan" wherever it occurs shall be construed as reference to Up-Pradhan:

Provided that the State Election Commission, may for reasons to be recorded in writing, direct that the election of Up-Pradhan to be held on some other day and time as it deems fit.

Rule 62. Election of Pramukh and Up-Pramukh. - (1) The Returning Officer shall conduct the election of Pramukh in accordance with the procedure laid down in the foregoing rules contained in this chapter subject to the following variations, namely:-

- (a) The references therein to 'Pradhan', wherever they occur, shall be construed to be references to 'Pramukh'.
 - (b) The references therein to "Panchayat Samiti", wherever they occur, shall be construed to be references to "Zila Parishad".
2. The election of Up-Pramukh shall be held on the day immediately succeeding the day on which the result of election of Pramukh is declared in accordance with the provisions of foregoing rules contained in this chapter subject to the following variations, namely:-
- (a) The references therein to 'Pradhan', wherever they occur, shall be construed to be references to "Up-Pramukh",
 - (b) The reference therein to "Panchayat Samiti", wherever they occur, shall be construed to be references to "Zila Parishad":

Provided that State Election Commission may for reasons to be recorded in writing, direct that the election of Up-Pramukh to be held on some other day and time as it deems fit.

Explanation:- For the purpose of this rule the Returning Officer means an officer appointed by the State Election Commission.

Rule 63. Filling up of vacancies of Pradhan, Up-Pradhan, Pramukh and Up-Pramukh. - (1) Any vacancy occurring otherwise than by efflux of time shall be filled by holding bye-election in accordance with the provisions of the foregoing rules contained in this chapter and the person so elected as Pradhan, Up-Pradhan, Pramukh, or Up-Pramukh shall hold office for the residue of the tenure of the Panchayati Raj Institution concerned:

Provided that a person who has been removed from the office of Pradhan, or Up-Pradhan or Pramukh or Up-Pramukh under Sub-section (1) of Section 38 of the Act, shall be ineligible for re-election to such office for the remaining term.

(2) The date for such bye-election along with notice period to elected members of the Panchayat Samiti or Zila Parishad, as the case may be, shall be fixed by the State Election Commission.]

CHAPTER-VIII

Election of Members of Standing Committees of Panchayat Samitis and Zila Parishads¹

Rule 64. Standing Committees of Panchayat Samiti and Zila Parishad. - (1) The Panchayat Samiti or Zila Parishad, as the case may be, in a meeting called for this purpose, shall elect, from amongst the elected members of the Panchayat Samiti or Zila Parishad, as the case may be, members for each of the Standing Committees constituted under Secs. 56 and 57 of the Act, respectively. Such meetings for election of the members of Standing Committees shall be presided over by Pradhan in the case of Panchayat Samiti and Pramukh in the case of Zila Parishad.

(2) Save as provided in Secs. 56 and 57 the members of the Standing Committees shall also elect Chairman of the Standing Committee in its first meeting.

(3) If such Standing Committees are not constituted within a period of three months from the date of constitution or re-constitution of the Panchayat Samiti or Zila Parishad, as the case may be, the Collector of the District or Officer authorised by him shall convene a meeting of the members of the Panchayat Samiti or Zila Parishad, as the case may be, for election of members of the Standing Committee. The Collector or officer authorised by him in this behalf, shall preside over such meeting and exercise all the functions of Pradhan or Pramukh, as the case may be, for constituting a Standing Committee except that he shall have no power to vote.

CHAPTER-IX

Election of Up-Sarpanch

Rule 65. Election of Up-Sarpanch. - (1) Election of Up-Sarpanch shall be held on the day following the date of election of Ward Panchas and Sarpanch: Provided that the ²[Returning Officer] for reasons to be recorded in writing may provide that election of Up-Sarpanch be held on some later day.

- (2) The ²[Returning Officer] shall after the declaration of result of Ward Panch, convene a meeting of the newly elected Panchas and Sarpanch for the election of the Up-Sarpanch and the notice specifying the time and place of the meeting shall be affixed not less than two hours before the poll on notice board of the office of Panchayat and where no such office is established or where election is to be held at a place other than the Hqrs. of the Panchayat at some conspicuous place, and shall also inform the Sarpanch and the Panchas present at such time and place of the meeting for such election.

³[Explanation - Returning Officer means an officer appointed under Sub-rule (2) of Rule 23].

Rule 66. Procedure for election. - (1) At the meeting, each Panch or the Sarpanch present thereat may propose in writing the name of any Panch (hereinafter referred to as candidate) for election as Up-Sarpanch:

Provided that all such proposals shall be made within an hour of the commencement of the meeting and no proposal shall be entertained or received thereafter.

- (2) If the candidate is not present at the meeting his acceptance in writing of the proposals shall be submitted along with the proposal:

Provided that in case the candidate for such election is present at such meeting, his written acceptance shall not be necessary, if he signifies such acceptance orally,

- (3) The [Returning Officer] shall read out the names of the candidates and examine the proposals one by one, afford a reasonable opportunity to the Sarpanch and Panchas present to examine the same and raise objections thereto and shall then decide all such objections and may, either on such objection or on his own motion reject any proposal on any of the following grounds:-

- (a) that the candidate is not eligible for election as Up-Sarpanch under the provisions of the Act; or
- (b) that there has been a failure in complying with the provisions of this rule.

- (4) If any proposal is rejected the [Returning Officer] shall record a brief statement of the reason for such rejection.
- (5) The names of all the candidates whose nominations are found to be in order shall be read out by the [Returning Officer].
- (6) If there is only one candidate, he shall be declared to be duly elected as Up-Sarpanch.
- (7) If the number of candidates exceeds one, votes shall be taken by secret ballot and the procedure laid down in Rules 59 and 60 mutatis mutandis shall apply.
- (8) If there is no candidate and the Panchayat fails to elect an Up-Sarpanch, the [Returning Officer] shall inform the officer-in-charge Panchayats and the Collector, who in turn shall inform the Government for appointment of Up-Sarpanch under Sec. 26(2) of the Act.
- (9) [Returning Officer] shall draw summary proceedings of election of Up-Sarpanch.

Rule 67. Bye-election of Up-Sarpanch. - As and when a bye-election of Up-Sarpanch becomes necessary under Sec. 20 of the Act, the [Returning Officer] shall convene a meeting of Sarpanch and Panchas after serving on them notice specifying the date time and place of such meeting and the provisions of Rules 65 and 66 shall apply, so far as may be.

CHAPTER X

Candidates and their Agents

- Rule 68. Appointment of election agent and revocation of such appointment** - (1) if a candidate seeking election to a Panchayat Samiti or Zila Parishad desires to appoint an election agent such appointment shall subject to the provisions of sub-rule (2) and (3), be made in Form VIII either at the time of delivering the nomination paper or at any time before election.
- (2) The appointment of the election agent may be revoked by the candidate at any time by a declaration in writing signed by him and lodged with the Returning Officer. Such revocation shall take effect from the date on which it is lodged. In the event of such revocation or in the event of the election agent dying before or during the period of the election, the candidate may appoint a new election agent in accordance with the provisions of sub-rule (1).
 - (3) No person, who is for the time being disqualified under the Act from being elected or from voting at any election of Panchayat shall, so long as the disqualification subsists, be appointed as an election agent.

Rule 69. Appointment of polling agent. - (1) At an election at which poll is to take place for the office of Sarpanch or members of Panchayat Samiti or Zila Parishad, any contesting candidate, or his election agent, may appoint one agent to act as polling agent of each candidate of such polling station. Such appointment shall be made by a letter in writing in duplicate in Form IX signed by the candidate or his election agent.

(2) The candidate or his election agent shall deliver the duplicate copy of the letter of appointment to the polling agent who shall, on the date fixed for the poll present it to, and sign the declaration contained therein, before the Presiding Officer. The Presiding Officer shall retain the duplicate copy presented to him in his custody. No polling agent shall be allowed to perform any duty at the polling station unless he has complied with the provisions of this sub-rule.

Rule 70. Appointment of counting agent. - (1) Each candidate contesting election to the office of Sarpanch may appoint not more than 2 counting agents by a letter in writing in duplicate in Form X signed by the candidates.

(2) Each candidate or his election agent seeking election as member of a Panchayat Samiti or Zila Parishad may appoint [as many counting agents as] the number of tables provided for counting of votes by the Returning Officer, one for the table of Returning Officer and one relief agent by a letter in writing in duplicate in Form X signed by the candidates or his election agent.

(3) The candidate or his election agent shall also deliver the duplicate copy of the letter of appointment to the counting agent who shall on the date fixed for counting of votes, present it to, and sign the declaration contained therein before the Returning Officer or such other officer authorised by him under Rule 58. Such Officer shall retain the duplicate copy presented to him in his custody. No counting agent shall be allowed to perform any duty at the place fixed for the counting of votes, unless he has complied with the provisions of this sub-rule.

Rule 71. Revocation of the appointment on death of polling agent. - (1) The appointment of the polling agent may be revoked by the candidate at any time before the commencement of the poll by a declaration in writing signed by him.

(2) Such declaration shall-

(a) in the case where the appointment is revoked [not less than seven days before] the commencement of the poll be lodged with the Returning Officer,

(b) in any other case, be lodged with the Returning Officer or the Presiding Officer of the polling station where the polling agent was appointed for duty.

- (3) If the polling agent of a candidate dies before the commencement of the poll, the candidate or his election agent shall forthwith report in writing the fact of such death-
 - (a) in case where the death takes place less than seven days before the commencement of the poll, to the Returning Officer, and
 - (b) in any other case to the Returning Officer or the Presiding Officer of the polling station where the polling agent was appointed for duty.
- (4) Whenever the Returning Officer receives any declaration or report made under Sub-rule (1) or (2) he shall forthwith communicate such declaration or report, as the case may be, to the Presiding Officer of the polling station where such polling agent was appointed for duty.
- (5) Where the appointment of polling agent is revoked under Sub-rule (1) or where the polling agent dies before the close of the poll, the candidate or his election agent may, at any time before the poll is closed, appoint a new polling agent in accordance with the provisions of Sub-rule (1) of Rule 69:

Provided that the letter appointing new polling agent shall:

- (a) in the case where such appointment is made not less than seven days before the commencement of the poll be given to the Returning Officer, and
 - (b) in any other case, be given to the Returning Officer or the Presiding Officer of the polling station where the new polling agent is appointed.
- (6) The provisions of Sub-rule (2) of Rule 69 shall apply in relation to a polling agent appointed under Sub-rule (5) as they apply in relation to a polling agent appointed under Sub-rule (1) of Rule 69.

Rule 72. Revocation of the appointment on death of the counting agent. - (1) The appointment of the counting agent may be revoked by the candidate at any time before the commencement of the counting of votes by a declaration in writing signed by him. Such declaration shall be lodged with the Returning Officer or such other officer authorized by him under Rule 49.

- (2) If the counting agent of a candidate dies before the completion of the counting of votes, the candidate or his election agent shall forthwith report the death in writing to the Returning Officer or such other officer authorised by him under Rule 49.

- (3) Where the appointment of counting agent is revoked under Sub-rule (1) or where the counting agent dies before the completion of the counting of votes, the candidate or his election agent may appoint a new counting agent in the manner laid down in Sub-rule (1) of Rule 70.
- (4) The provisions of Sub-rules (2) and (3) of Rule 70 shall apply in relation to counting agent appointed under Sub-rule (3) as they apply in relation to counting agent appointed under Sub-rule (1) of Rule 70.

Rule 73. Death of candidates before poll. - Poll shall not be countermanded due to death of a contesting candidate before the commencement of poll. But if as a result of death of a contesting candidate for any seat there remains only one contesting candidate, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to the Commission through the District Election Officer (Panchayats) and all proceedings with reference to the election shall be commenced again as if for a new election in accordance with the rules herein before:

Provided that -

- (i) no further nomination shall be necessary in case of a person who was a contesting candidate at the time of the countermanding of the poll; and
- (ii) no person who has given a notice of withdrawal of his candidature under Sub-rule (1) of Rule 28 before the countermanding of the poll, shall be ineligible for being nominated as a candidate for the election after such countermanding.

CHAPTER-XI

Oath or Affirmation

Rule 74. Publication of Election Result. - The names of persons elected as member of a Panchayati Raj Institution or as Chairpersons or Deputy Chairpersons shall be published in the official gazette.

Rule 75. Oath or affirmation. - Oath or affirmation to be made under Sec. 24 by a Panch, Sarpanch, Pradhan, Up-Pradhan, Pramukh, Up-Pramukh and member of Panchayat Samiti and Zila Parishad shall be in Form XI.

Rule 76. Time and manner of making oath or affirmation. - (1) The oath or affirmation shall be made by all members or chairperson and Dy. Chairperson of a Panchayati Raj Institution at any time within 3 months after the declaration of his result.

- (2) Subject to the provisions contained in Sub-rule (1) such oath or affirmation may be made at any time after the declaration of the result-
- (i) before the Returning Officer; or
 - (ii) before the Tehsildar concerned or any officer appointed in this behalf by the Collector; or
 - (iii) in the case of Panch before the Sarpanch; or
 - (iv) at any meeting of the Panchayat, Panchayat Samiti or Zila Parishad, as the case may be, the forms of oaths or affirmations subscribed at the time of making them shall be sent to or retained in the office of the District Election Officer (Panchayats) for a period of 5 years upon the expiry of which they shall be destroyed.

CHAPTER-XII

Prohibited Acts and Corrupt Practices

- Rule 77. Servants of Panchayati Raj Institutions not to canvass.** - A servant of the Panchayati Raj Institution shall not canvass or otherwise interfere or in any way, use influence in election or members of any Panchayati Raj Institutions.
- Rule 78. Penalties.** - Any person contravenes the provisions of Rule 77 shall on conviction be punishable with fine which may extend to Rupees two hundred.
- Rule 79. Corrupt Practice.** - The following shall be deemed to be corrupt practices for the purposes of an election under these rules, namely:-
- (1) Bribery, that is to say, any gift, offer or promise by a candidate or by any other person or any gratification to any person whomsoever with the object directly or indirectly, of including-
 - (a) a person to stand or not to stand as, or to withdraw from being a candidate or to retire from contest at an election; or
 - (b) an elector to vote or retrain from voting at an election or as a reward to-
 - (i) a person of having so stood or not stood or for having withdrawn his candidature, or
 - (ii) an elector for having voted or refrained from voting.

Explanation - For the purpose of this clause the term "gratification" is not restricted to pecuniary gratification or gratification estimable in money, and it includes all forms of entertainment and all forms of

employment for reward but it does not include the payment of any expenses bonafide incurred at, or for the purpose of any election.

- (2) Undue influence that is to say, any direct or indirect interference on the part of a candidate or of any other person with the free exercise of right to vote:

Provided that-

- (a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who-
 - (i) threatens any candidate or any other elector or any person in whom a candidate or an elector is interested with injury of any kind including social ostracism and excommunication or of expulsion from any caste or community; or
 - (ii) induces or attempts to induce a candidate or an elector to believe that he or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure;

shall be deemed to interfere with the free exercise of the right of such candidate or elector to vote within the meaning of this clause;

- (b) a declaration of public policy, or a promise of public action or the mere exercise of a legal right without intent to interfere, with the right to vote shall not be deemed to be interference within the meaning of this clause.
- (3) The systematic appeal by a candidate or any other person to vote or refrain from voting on grounds, of caste, race, community or religion or the use of, appeal to the religious symbols or the use of or appeal to national symbols, such as the national flag or the national emblem for the furtherance of the prospects of that candidate's election.
 - (4) The publication by a candidate or by any other person of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate or in relation to the candidature or withdrawal from contest of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.
 - (5) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or by any other person on behalf of the candidate for the conveyance of the elector other than the candidate himself or any member of his family to or from any polling station or place fixed for the poll:

Provided that the hiring of a vehicle or vessel by any elector or by several electors at their joint cost for the purpose of conveying him or them to or from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or vessel or any trammer or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place shall not be deemed to be a corrupt practice under this clause.

Explanation In this clause the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

- (6) The incurring or authorizing by a candidate or by any other person of expenditure in contravention of the provision of any rule or order relating to election.
- (7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or by any other person any assistance other than the giving of vote for the furtherance of the prospects of the candidate's election from any person in the service of the Government or any local authority) and belonging to any of the following clauses, namely:-
 - (a) Gazetted Officers;
 - (b) Stipendiary Judges and Magistrates;
 - (c) Members of the armed forces of the Union;
 - (d) Members of the police force;
 - (e) Excise Officers;
 - (f) Revenue Officers including village accountants such as Patwaris and the like but excluding other village officers;
 - (g) Such other class of persons in the service of the Government as may be notified;
 - (h) Members of the Rajasthan Panchayat Samiti and Zila Parishad Service, Rajasthan Panchayat Samiti and Zila Parishad (Class IV) Service and persons placed on deputation under Secs. 79 and 82 the Rajasthan Panchayati Raj Act, 1994, and
 - (i) Employees of other local authority.

Explanation The word "candidate" means for the purpose of this rule and Rules 80 to 89 the person who stood for, or was nominated for, the election to which an election petition pertains.

[(8) The propagation of the practice or the commission of sati or its glorification by candidate or his agent or any other person with the consent of the candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

Explanation - For the purposes of this clause "sati" and "glorification" in relation to Sati shall have the meanings respectively assigned to them in the Commission of Sati (Prevention) Act, 1987.]

CHAPTER-XIII

Election Disputes

Rule 80. Manner of challenging an election under the Act. - An election under the Act or under the Rules may be called in question by any candidate at such election by presenting a petition to the District Judge having jurisdiction within thirty days from the date on which the result of such election is declared, on any one or more of the following grounds-

- (a) that on the date of election a returned candidate was not qualified or was disqualified for such election, or
- (b) that any corrupt practice was committed by a candidate or by any other person with the consent or connivance of the candidate, or
- (c) that any nomination was improperly rejected, or
- (d) that the result of the election in so far as it concerns the returned candidate was materially affected-
 - (i) by the improper acceptance of any nomination, or
 - (ii) by any corrupt practice committed in the interest of the candidate by a person other than that candidate or by a person acting with the consent or connivance of such candidate, or
 - (iii) by improper reception, refusal or rejection of any vote or the reception of any vote which was void, or
 - (iv) by any non-compliance with the provisions of the Act or of these rules, or
- (e) that in fact the petitioner or some other candidate received a majority of the valid votes, or

- (f) that but for votes obtained by the returned candidate by corrupt practices. the petitioner or some other candidate would have obtained a majority of the valid votes.

Rule 81. Who may present election petition. - (1) A petition under Rule 80 may be presented by any candidate at such election.

Explanation - The petition shall be deemed to have been duly presented, if it is delivered by the person making the petition.

- (2) No petition shall be deemed to have been presented under these rules unless the petitioner deposits a sum of Rs. 500/- alongwith the petition by way of security for the costs of the opposite party.
- (3) The petitioner shall also send a copy of the petition under a certificate of posting to the District Election Officer (Panchayats) concerned.

Rule 82. Contents and verification of election petition. - (1) The petition shall contain a concise statement of the material facts on which the petitioner relies and shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Central Act V of 1908), for the verification of pleadings.

- (2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified by him in the same manner as the petition.

Rule 83. Parties to the petition. - The person whose election is challenged, and where the petition claims that any other candidate shall be declared as elected in place of such person,

Rule 84. Appearance and acts. - Any appearance, application or act before the Judge may be made or done by the party in person or by a pleader duly appointed to act on his behalf.

Rule 85. Hearing of petition. - The procedure provided in the Code of Civil Procedure, 1908 (Central Act V of 1908) in regard to suits, shall, in so far as it can be made applicable, be followed in the hearing of the petition:

Provided that-

- (a) any two or more petitioners relating to the election of the same person shall be heard together;
- (b) the Judge shall not be required to record evidence in full but shall only make a memorandum thereof sufficient in his opinion for the purpose of deciding the petition;

- (c) the petitioner may at any stage of the proceeding be asked to give further security for the payment of the costs likely to be incurred by any respondent;
- (d) the Judge, shall only be bound to require the production of, or to receive so much evidence, oral or documentary as he considers necessary; and
- (e) no witness or other person shall be required to state for whom he has voted at an election.

Rule 86. Powers of Court hearing petition. - The Judge hearing a petition shall have the same powers and privileges as a Judge of a Civil Court when trying a suit and may for the purpose of serving any notice or issuing any process or doing any other thing employ an officer, clerk or peon attached to his Court:

Provided that no injunction or stay order shall be issued restraining the person, whose election is questioned, from exercising the power and performing the duties under the Act and rule made there under.

Rule 87. Order of the Court. - (1) Upon the conclusion of the hearing the Judge shall make an order:

- (a) dismissing the petition, or
- (b) declaring the election of all or any of the returned candidates to be void, or
- (c) declaring the election of all or any of the returned candidates to be void and the petitioner or any other candidate to have been duly elected.

¹[(d) Where any charge is, made in the petition of any corrupt practice having been committed at the election, record-

- (i) a finding whether any corrupt practice has or has not been proved to have been committed at the election, and the nature of that corrupt practice; and
- (ii) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice;

Provided that a person who is not a party to the petition shall not be named in the order under sub-clause (ii) of Clause (d) above, unless-

- (i) he has been given notice to appear before the Court and to show cause why he should not be so named; and

- (ii) if he appears in pursuance of the notice, he has been given an opportunity of cross examining any witness who has already been examined by the Court and has given evidence against him, of calling evidence in his defense and of being heard.]
- (2) The Judge after pronouncing the order made under sub-rule (1), shall send a copy thereof to the District Election Officer (Panchayats) for taking further necessary action in pursuance thereof.

Rule 88. Execution of order as to costs. - Any order with regard to costs passed by the Judge shall be executed by him on application made in that behalf in the same manner and by the same procedure as if it were a decree for the payment of money made by himself in a suit.

Rule 89. General power of transfer or withdrawal. - (1) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of his own motion, without such notice, the District Judge within whose jurisdiction the place or headquarters of the Panchayat Samiti or Zila Parishad, as the case may be, is situated, may at any stage of the proceeding withdraw any petition pending in the Court of any Judge sub-ordinate to him; and

- (i) try or dispose of the same, or
 - (ii) transfer the same for trial or disposal to the Court of any other Judge within his jurisdiction, or
 - (iii) re-transfer the same for trial or disposal to the Court from which it was withdrawn.
- (2) Where any petition has been withdrawn or transferred under Sub-rule (1), the Court which thereafter tries such petition may subject to any special directions contained in the order of transfer, either retry it or proceed from the point at which it was withdrawn or transferred.

CHAPTER XIV

Miscellaneous

Rule 90. Manner of serving the order of requisition of vehicles etc. - The order of requisition under Sub-sec. (2) of Sec. 116 shall be served-

- (a) Where the person to whom such order is addressed is a corporation or firm, in the manner provided for the service of summons in Rule 2 of Order XXIV or Rule 3 of Order XXX as the case may be, in the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908); and
- (b) Where the person to whom such order is addressed is an individual:-
 - (i) personally by delivering or tendering the order.

- (ii) by registered post, or
- (iii) if the person cannot be found by leaving an authentic copy of the order with any adult member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or personally worked for gain.

Rule 91. Time for application. - The time within which the owner of vehicles, vessel or animal who is aggrieved by the amount of compensation determined under Sub-sec. (1) of Sec. 116 may make an application, to the Commissioner in this behalf, shall be fourteen days from the date of receipt of intimation of determination of the amount of such compensation.

²[**Rule 91A. Removal of difficulties** - If any difficulty arises in the implementation of the rules, the State Election Commission or any authority directed by it, may by an order in writing give the directions as may appear necessary to it for the removal of any such difficulty.]

Rule 92. Supersession of existing rules. - On these rules coming into force, the Rajasthan Panchayat Election rules, 1960 shall in respect of the matter, covered by these, stand superseded.

Rule 93. General provisions. - (1) Save as otherwise provided in the Act or in these rules, no act done or proceeding taken under or with reference to the foregoing rules shall be called in question by means of suit or otherwise in a Court of law.

(2) Any public building within the Panchayat Circle selected by the Returning Officer or the District Election Officer (Panchayats), as the case may be, or the location of polling station for the purpose of conducting elections shall be placed at his disposal with effect from such day as the Returning Officer or the District Election Officer (Panchayats), as the case may be, direct.

(3) If the Collector considers it necessary that educational institutions within the Panchayat Circle shall remain closed on the day of poll he may by an order in writing declare such day as Holiday for the educational institutions with the Panchayat circle.

¹[FORM - 1

[See rules (2)]

Application for inclusion of name in electoral roll

To
The Electoral Registration Officer
Panchayat Samiti

Sir,

Space for pasting
one Recent Passport
Size Photograph (3.5
Cm x 3.5 Cm)
Showing Frontal
View of full face
within this box

or

*My name may have been included in the electoral roll for ward No. serial number in voter list in which I was ordinarily resident earlier at the address mentioned above and if so, I request that the same may be deleted from that electoral roll.

Place :

Date :

Signature or thumb impression of the applicant

Note - Any person who makes a statement or declaration which is false and which he either knows or believes to be false or does not believe to be true, is punishable under Section 18-A of the Rajasthan Panchayat Raj Act, 1994.

Details of action taken on Application

Remarks of Field Level Officers (e.g. Investigation Officer, Designated Officer, Supervisory Officer)

To be filled by Electoral Registration Officer of the constituency

The application of Shri/Smt./Km for inclusion of name in the electoral roll in Form-I has been accepted*/rejected*

Detailed reason for acceptance or rejection [under sub-rule (3) Rule 14]

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