

THE PONDICHERY MUNICIPAL COUNCILS
(CONDUCT OF ELECTION OF COUNCILLORS) RULES, 1974

1. Short title, extent and commencement.— (1) These rules may be called the Pondicherry Municipal Councils (Conduct of Election of Councillors) Rules, 1974

(2) They shall extend to the whole of Union territory of Pondicherry.

(3) They shall come into force at once.

2. Definitions.— (1) In these rules, unless the context otherwise requires:-

(a) "Act" means the Pondicherry Municipalities Act, 1973;

(b) "ballot box" includes any box, bag or other receptacle used for the insertion of ballot papers by electors;

(c) "contesting candidate" means a candidate whose nomination has been duly accepted under rule 14 and who has not withdrawn his candidature;

(d) "Election authority" means such authority not being the chairman or vice-chairman or a councillor, as the Government may, by notification, appoint;

(e) "electoral roll number of person" means -

(i) the serial number of the entry in the electoral roll in respect of that person;

(ii) the serial number of the part of the electoral roll in which such entry occurs; and

(iii) the number and name of the ward to which the electoral roll relates;

(f) "form" means a form appended to these rules;

(g) "returning officer" means the person appointed by the election authority under sub-rule (1) of rule 3 of these rules and includes any Assistant Returning Officer performing any function he is authorized to perform under sub-rule (3) of rule 3;

(h) "section" means a section of the Act.

(i) "ward" means a Municipal ward.

(2) For the purposes of the Act or these rules, a person who is unable to write his name unless otherwise expressly provided in these rules, be deemed to have signed an instrument or other paper if—

(a) he has placed a mark on such instrument or other paper in the presence of the returning officer or such officer as may be specified in this behalf by the election authority; and

(b) such officer, on being satisfied as to his identity has attested the mark as being the mark of that person.

3. Administrative machinery for the conduct of elections—Returning Officers and Assistant Returning Officers.- (1) For every municipal ward, for every election to the seat in the municipal council, the Election Authority shall, designate or nominate a Returning Officer who shall be an officer of the Government:

Provided that nothing in this sub-rule shall prevent the Election Authority from designating or nominating the same person to be the Returning Officer for more than one ward.

(2) The Election Authority may appoint one or more persons to assist any Returning Officer in the performance of his functions and every such person shall be an officer of the Government.

(3) Every Assistant Returning Officer shall be competent to perform all or any of the functions of the Returning Officer, if so authorized by Election Commission.

4. General duties of the returning officer:— (1) Subject to the superintendence, direction and control of the election authority, the returning officer shall be responsible for the proper conduct of the elections to the municipal council under the Act.

(2) It shall be the general duty of the returning officer to do all such acts and things as may be necessary for effectively conducting the election within his jurisdiction in the manner provided by the Act and the rules or orders made thereunder.

5. Provision of polling stations:— The returning officer shall provide sufficient number of polling stations for the poll to be taken for each ward for which an election is to be held and shall publish in such manner, as the election authority may direct, a list showing the polling stations so provided and the polling areas and groups of voters for each of them respectively.

6. Appointment of presiding officers for polling stations:—(1) The returning officer shall appoint a presiding officer for each polling station and such polling officer or officers as he thinks fit, but he shall not so appoint any person who is in the employ of municipal council or is a councillor or any person who has been employed by or on behalf of or has been otherwise working for a candidate in or about the election.

(2) If a polling officer is absent from the polling station, the presiding officer may appoint any person who is present at the polling station other than a person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election, to be the polling officer during the absence of the former officer, and inform the Returning Officer accordingly.

(3) Nothing contained in sub-rule (1) shall prevent the Returning Officer from appointing the same person to be the presiding officer for more than one polling station in the same premises.

(4) A polling officer, shall, if so directed by the presiding officer, perform all or any of the functions of a presiding officer under the provisions of these rules.

(5) If the presiding officer, owing to illness or other unavoidable cause, is obliged to absent himself from the polling station, his functions shall be performed by such polling officer as has been previously authorized by the Returning Officer to perform such function during any such absence.

7. General duty of the Presiding officer and polling officer:—(1) It shall be the general duty of the presiding officer at a polling station to keep order thereat and to see that the poll is fairly taken.

(2) It shall be the duty of the polling officers at a polling station to assist the presiding officer for such station in the performance of his functions.

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8. Notification for election to the municipal council:—(1) An election shall be held for the purpose of constituting a new municipal council on the expiration of the duration of the existing council or on its dissolution.

(2) For the said purpose, the Election Authority shall, by one or more notifications published in the Official Gazette on such date or dates call upon all the municipal wards to elect councillors in accordance with the provisions of these rules.

9. Appointment of dates for nominations etc:— As soon as the notification calling upon a municipal ward to elect a councillor is issued under rule 8, the Election Authority shall, by notification in the Official Gazette, appoint-

(a) the last date for making nominations, which shall be the seventh day after the date of publication of the first mentioned notification or if that day is a public holiday, the next succeeding day which is not a public holiday;

(b) the date for the scrutiny of nominations, which shall be the day immediately following the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(c) the last date for the withdrawal of candidatures, which shall be the second day after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(d) the date or dates on which a poll shall, if necessary, be taken which or the first of which shall be a date not earlier than the tenth day after the last date for the withdrawal of candidatures is; and

(e) the date before which the election shall be completed

10. Public notice of election:—(1) On the issue of notification under rule 9, the Election Authority shall direct the Returning Officer concerned to conduct the election accordingly.

(2) In pursuance of the direction of the Election Authority, the Returning Officer shall cause to be published in the Official Gazette a notice of an intended election in English and Tamil and also in any other language in which the electoral roll for the Municipality is published at least seven days before the last date for the presentation of nomination papers and also by affixing it at the municipal office and in two or more conspicuous places in each ward for which the election is to be held:

Provided that if it is not possible to cause the notice to be published before the time so specified, the returning officer shall address the election authority for suitably revising the dates of election and shall, on receipt of the revised programme of election, cause the same to be published in accordance with this rule.

(3) The notice of an intended election shall be in Form 1.

11. Presentation of nomination paper.—(1) The nomination of every candidate shall be made by means of a nomination paper in Form 2, which shall, on application, be supplied free of cost, by the Returning Officer concerned.

(2) On the date or dates specified in the notice issued under sub-rule (2) of rule 10 for the presentation of nomination papers, each candidate shall either in person or by his proposer, deliver to the returning officer at the place and during the hours specified in that behalf a nomination paper completed in Form 2 and signed by the candidate and by an elector of the ward as proposer:

Provided that no nomination shall be delivered to the returning officer on a day which is a public holiday.

(3) In a ward where a seat is reserved, a candidate shall not be deemed to be qualified to be chosen to fill that seat unless his nomination paper contains a declaration by him specifying the particular caste of which he is a member of a Scheduled Castes.

(4) On the presentation of nomination paper, the returning officer shall satisfy himself that the names and electoral roll numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the electoral rolls:

Provided that no misnomer or inaccurate description or clerical, technical or printing error in regard to the name of the candidate or his proposer or any other person, or in regard to any place, mentioned in the electoral roll or the nomination paper and no clerical, technical or printing error in regard to the electoral roll numbers of any such person in the electoral roll or the nomination paper, shall affect the full

operation of the electoral roll or the nomination paper with respect to such person or place in any case where the description in regard to the name of the person or place is such as to be commonly understood; and the returning officer shall permit any such misnomer or inaccurate description or clerical, technical or printing error to be corrected and where necessary, direct that any such misnomer, inaccurate description, clerical, technical or printing error in the electoral roll or in the nomination paper shall be overlooked.

(5) Where the candidate is an elector of a different ward, a copy of the electoral roll of that ward or of the relevant part thereof or a certified copy of the relevant entries in such roll shall, unless it has been filed along with the nomination paper, be produced before the Returning Officer at the time of scrutiny.

(6) Nothing contained in this rule shall prevent any candidate from being nominated by more than one nomination paper:

Provided that not more than four nomination papers shall be presented by or on behalf of any candidate or accepted by the returning officer in the same ward.

(7) An elector shall sign only one nomination paper as a proposer. An elector who wishes to stand as a candidate for election to a seat shall not sign the nomination paper as proposer.

12 Deposits.— (1) A candidate shall not be deemed to be duly nominated for election from a ward unless at the time of delivery of nomination paper under sub-rule (2) of rule 11 he deposits or causes to be deposited with the returning officer concerned in cash a sum of rupees one thousand or where the candidate is a member of a Scheduled Caste, a sum of five hundred. A separate deposit shall be required in respect of each ward for which the candidate wishes to stand:

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

(2) Any sum required to be deposited under sub-rule (1) shall not be deemed to have been deposited unless at the time of delivery of the nomination paper the candidate has either deposited or caused to be deposited that sum with the Returning Officer in cash or enclosed with the nomination paper a receipt showing that the said sum has been deposited by him or on his behalf in the State Bank of India or in a Government treasury.

(3) The deposit made under sub-rule (1) shall unless forfeited to the Government under sub-rule (4) or (5) be returned as soon as practicable after the result of the election is declared either to the person by whom it was made or his legal representative:

Provided that where a candidate is not shown in the list of contesting candidates, or dies before the commencement of the poll, the deposit shall be returned as soon as practicable after the publication of the list or after his death as the case may be.

(4) If a candidate is not elected and the number of valid votes polled by him does not exceed one-sixth of the total number of valid votes polled, the deposit made by him or on his behalf shall be forfeited to the Government.

(5) Notwithstanding anything contained in sub-rules (3) and (4), if the candidate is a contesting candidate at an election in more than one ward, not more than one of the deposits made for his candidature under sub-rule (1) shall be returned and the others shall be forfeited to the Government.

13. Notice of nominations and the time and place for their scrutiny:— (1) The returning officer, shall on receiving a nomination paper under rule 11, inform the person delivering the same of the time and place fixed for the scrutiny of nominations and shall enter on the nomination paper its serial number and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him.

(2) On the last day for presentation of nomination papers after the expiry of the hours between which nomination papers should be presented, the returning officer shall cause to be affixed in some conspicuous place in his office, a list in Form 3 of the nomination papers delivered to him within the time and in the manner laid down in rule 11 and furnishing the date, time and place fixed for the scrutiny of nominations.

14 Scrutiny of nominations:— (1) On the date and hour fixed for the scrutiny of nominations, the candidates, one proposer of each candidate and one other person duly authorised in writing by each candidate but no other person shall attend at the place fixed for such scrutiny. The returning officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been specified in the notice under rule 13.

(2) The returning officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination paper and may, either on such objection or on his own motion after such summary inquiry, if any, as he thinks necessary, reject any nomination on any of the following grounds:-

(a) that on the date fixed for scrutiny of nominations, the candidate is either not qualified or is disqualified for being elected as a municipal councillor to fill the vacancy under any of the provisions of the Act;

(b) that there has been failure to comply with any of the provisions in rule 11 or 12; and

(c) that the signature of the candidate or the proposer on the nomination paper is not genuine.

(3) Nothing contained in clause (b) or (c) of sub-rule (2) shall be deemed to authorize the rejection of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4) The returning officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character.

Explanation:- For the purpose of this sub-rule, failure to complete, or any defect in completing the declaration as to symbols in a nomination paper shall not be deemed to be a defect of a substantial character.

(5) Where a person has signed as proposer a large number of nomination papers than one, those of the papers so signed which have been first received, shall be accepted if it is otherwise valid.

(6) The returning officer shall hold the scrutiny on the date specified in this behalf in the notice issued under sub-rule (2) of rule 10 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control:

Provided that in case any objection is raised by the returning officer or is made by any other person, the candidate concerned may be allowed time to rebut it not later than the next day but one following the date fixed for scrutiny, and the returning officer shall record his decision on the date to which the proceedings have been adjourned.

(7) The returning officer shall endorse on each nomination paper his decision accepting or rejecting the same, and if the nomination paper is rejected shall record in writing, a brief statement of his reasons for such rejection and furnish a copy of the same to the candidate concerned immediately on application made by him in this behalf.

(8) Immediately after all the nomination papers have been scrutinized and decisions accepting or rejecting the same have recorded, the returning officer shall prepare a list of validly nominated candidates, that is to say, candidates whose nominations have been found valid and affix it to his notice board.

15 List of validly nominated candidates :— the list of validly nominated candidates referred to in sub-rule (8) of rule 14 shall be in Form 4.

16 Withdrawal of candidature :— (1) Any candidate may withdraw his candidature, by notice in writing in Form 5 and subscribed by him and delivered to the returning officer before 3 O' clock in the afternoon on the second day after the day fixed for scrutiny of nominations or if that day is a public holiday, the next succeeding day, which is not a public holiday. The notice may be delivered either by such candidate in person or by the proposer who has been authorized in this behalf in writing, by such candidate.

(2) No person who has given notice of withdrawal of his candidature under sub-rule (1) shall be allowed to cancel the notice.

(3) The Returning Officer shall, on being satisfied as to the genuineness of the notice of withdrawal and the identity of the person delivering it under sub-rule (1) cause a notice in Form 6 to be affixed to some conspicuous place in his office.

17 Procedure in contested and uncontested elections :— (1) If the number of contesting candidates in a ward of the municipal council is more than one, a poll shall be taken.

(2) If the number of contesting candidates in a ward of the municipal council is only one, the Returning Officer shall forthwith declare such candidate to be duly elected to fill the seat.

18 Assignment of symbols :— After the expiry of the period within which candidatures may be withdrawn, if a poll is found to be necessary, the returning officer shall subject to such directions as may be issued by the Election Commission in that behalf, assign a distinctive symbol to each contesting candidate. These symbols shall be free symbols. Every candidate or his proposer shall forthwith be informed of the symbol allotted to the candidate in such manner as the Election Commission may direct and be supplied with a specimen thereof.

Explanation :— For the purpose of this rule, a free symbol is a symbol other than a symbol which is reserved for a National Party in Table I or State Parties in Table II of the Notification No. 56/96/Jud.-II, dated 5th February, 1996 of the Election Commission of India, in pursuance of paragraph 17 of the Election Symbols (Reservation and Allotment) Order, 1968, in the Union territory of Pondicherry and subsequent notifications issued by the Election Commission amending Table I or II from time to time.

19 Preparation and publication of list of contesting candidates :— (1) The returning officer shall prepare a list of all contesting candidates in Form 7 and shall contain the particulars set out therein and shall be prepared in English and Tamil and also in any other language as the Election Authority may direct;

(2) If the list is prepared in more languages than one, the names of candidates therein shall be arranged alphabetically according to the script of such one of those languages;

(3) The Returning Officer shall, immediately after its preparation publish it on the notice board in his office and of the municipal office and in two or more conspicuous places in each ward for which the election is to be held. He may also supply a copy thereof to each of the contesting candidates or his election agent.

(4) If a poll becomes necessary, the Returning Officer shall publish the list of contesting candidates in the Official Gazette.

20. Death of candidate before poll :— If a candidate whose nomination has been found valid on scrutiny under rule 14 and who has not withdrawn his candidature under rule 16 dies and a report of his death is received before the publication of the list of contesting candidates under rule 19, or if a contesting candidate dies and a report of his death is received before the commencement of the poll, 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 election authority and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election:

Provided that no further nomination shall be necessary in the case of a person who was a contesting candidate at the time of countermanding of the poll:

Provided further that no person who has given a notice of withdrawal of his candidature under sub-rule (1) of rule 16 before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding:

21 Fixing time for poll :— The Election Authority shall fix the hours during which the poll will be taken and the hours so fixed shall be published by notification in the Official Gazette:

Provided that the total period allotted on any one day for polling at an election in a municipal ward shall not be less than eight hours.

22 Polling officers to be appointed before poll :— If a poll has to be taken, the returning officer shall in accordance with rule 6 appoint forthwith a presiding officer for each polling station and such polling officer or officers as he thinks necessary.

23 Admission to polling stations :— The presiding officer shall ensure that votes are recorded at the polling station with absolute secrecy and he shall regulate the number of electors to be admitted at any one time inside the polling station and shall exclude therefrom all persons other than-

(a) polling officers;

(b) the contesting candidates, election agents and one agent of each contesting candidate at a time (hereinafter referred to as the polling agent) appointed in writing, by the candidate in the manner provided in rule 24;

(c) public servants on duty in connection with elections;

(d) a child in arms accompanying an elector;

(e) a person accompanying a blind or infirm elector who cannot move without help; and

(f) such other persons as the returning officer or the presiding officer may admit for the purpose of helping him in the identification of the electors or in searching women electors or of assisting him otherwise in taking the poll.

24. Appointment of election agents and polling agents :— (1) A candidate at an election may appoint in Form 8 any one person other than himself to be his election agent and the notice of such appointment shall be given by forwarding the same in duplicate to the returning officer who shall return one copy thereof to the election agent after affixing thereon his seal and signature in token of his approval of the appointment.

(2) An election agent may perform such functions in connection with the election as are authorized by or under these rules to be performed by an election agent.

(3) The revocation of the appointment of an election agent under sub-rule (1) shall be made in Form 9.

(4) Each contesting candidate or his election agent may appoint one agent and two relief agents to act as the polling agents at each polling station. Every such appointment shall be made in Form 10 and shall be handed over to the polling agent for production at the polling station or the place fixed for the poll, as the case may be.

(5) A polling agent may perform such functions in connection with the poll as are authorized by or under these rules to be performed by a polling agent.

(6) No polling agent shall be admitted into the polling station or the place fixed for the poll unless he has delivered to the presiding officer the instrument of his appointment under sub-rule (4) after duly completing and signing before the presiding officer the declaration contained therein.

(7) The revocation of the appointment of a polling agent under sub-rule (4) shall be made in Form 11 and lodged with the presiding officer. In the event of any such revocation, the candidate or his election agent may, at any time before the poll is closed, make a fresh appointment in the manner specified in sub-rule (4) and the provisions of that sub-rule shall apply to every such agent.

25. Arrangements at polling stations :— (1) At each polling station, there shall be set up one or more voting compartments in which electors can record their votes screened from observation.

(2) The returning officer shall provide at each polling station as many as ballot boxes as may be necessary with reference to the number of electors assigned to it. He shall also provide copies of the electoral roll or such part thereof as contains the names of the electors entitled to vote at the polling station, ballot papers, instruments for stamping the distinguishing mark on ballot papers and articles necessary for electors to mark the ballot papers and other papers, stationery and forms as may be necessary.

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

(4) Outside each polling station there shall be displayed prominently a notice specifying the polling area, the electors of which are entitled to vote at the polling station, and if the polling area has more than one polling station, the particulars of the electors so entitled.

(5) The ballot papers and all other election materials shall be delivered to the presiding officer by the returning officer or other person authorized by him, sufficiently early before the hour fixed for the commencement of the poll.

26. Preparation of ballot boxes for poll :— (1) Where a paper seal is used for securing a ballot box, the presiding officer shall affix his own signature on the paper seal and obtain thereon the signatures of such of the polling agents present as are desirous of affixing the same.

(2) The presiding officer shall thereafter affix the paper seal shall sign in the space meant therefor in the ballot box and shall then secure and seal the box in such manner that the slit for the insertion of the ballot paper therein remains open.

(3) The seals used for securing a ballot box shall be affixed in such manner that after the box has been closed it is not possible to open it without breaking the seals.

(4) Every ballot box used at a polling station shall bear labels both inside and outside, marked with-

(a) the number of the municipal ward and the name of the municipal council;

(b) the serial number and name of the polling station;

(c) the serial number of the ballot box (to be filled in at the end of the poll on the label outside the ballot box only; and

(d) the date of the poll.

(5) Immediately before the commencement of the poll, the presiding officer shall demonstrate to the contesting candidates, election agents, polling agents and the persons present that the ballot box is empty and bears the labels referred to in sub-rule (4).

(6) The ballot box shall then be closed, sealed and secured and placed in full view of the presiding officer and the polling agents.

27. Facilities to women electors :— (1) Where a polling station is for both men and women electors the presiding officer may direct that they shall be admitted into the polling station alternatively in separate batches.

(2) The returning officer or the presiding officer may appoint a woman to serve as an attendant at any polling station to assist women electors and also to assist the presiding officer generally in taking the poll in respect of women electors and in particular to help in searching any woman elector in case it becomes necessary.

28. Identification of electors :— (1) the presiding officer may employ at the polling station such persons as he thinks fit to help in the identification of the electors or to assist him otherwise in taking the poll.

(2) As each elector enters the polling station, the presiding officer or polling officer authorized by him in this behalf shall check the elector's name and other particulars with the relevant entry in the electoral roll and then call out the serial number, name and other particulars of the elector.

(3) In deciding the right of a person to put in a ballot paper, the presiding officer or the polling officer, as the case may be, shall overlook merely clerical or printing errors in an entry in the electoral roll, if he is satisfied that such person is identical with the elector to whom such entry relates.

29. Safeguards against personation. :— (1) Every elector about whose identity the presiding officer or polling officer, as the case may be, is satisfied, shall allow his left little finger to be inspected by the presiding officer or polling officer; and an indelible ink mark to be put on the back of left little finger immediately above the root of the nail on the skin;

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

(3) Any reference in this rule to the left little finger of an elector shall, in the case where the elector has his left little finger missing, be construed 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 a reference to the little finger or any other finger of his right hand, 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.

30. Ballot papers :— (1) Every ballot paper shall have a counterfoil attached thereto, and the said ballot paper and the counterfoil shall be in such form, and the particulars therein shall be in such language or languages, as the Election Commission may direct.

(2) Before every ballot paper is issued to an elector, the counterfoil attached thereto shall be stamped on the back with such distinguishing mark as the Election Commission may direct and shall be signed in full on its back by the presiding officer.

31. Issue of ballot papers and voting procedure :— (1) At the time of issuing a ballot paper to an elector the polling officer shall

(a) record on its counterfoil the electoral roll number of the elector as entered in the marked copy of the electoral roll.

(b) mark the name of the elector in the marked copy of the electoral roll to indicate that a ballot paper has been issued to him, without, however, recording therein the serial number of the ballot paper issued to that elector.

(2) No person in the polling station shall note down the serial numbers of the ballot papers issued to particular electors.

(3) The elector on receiving the ballot paper shall forthwith

(a) proceed to the voting compartment, and if there are more than one voting compartment, to one of the voting compartments;

(b) there, make a mark on the ballot paper with the instrument supplied for the purpose on or near the symbol for which he intends to vote.

(c) fold the ballot paper so as to conceal his vote;

(d) if required, show to the presiding officer the distinguishing mark on the ballot paper;

(e) insert the folded ballot paper into the ballot box; and

(f) quit the polling station.

(4) No elector shall be allowed to enter a voting compartment when another elector is inside it.

(5) Every elector shall vote without undue delay. He shall not place anything except a ballot paper in the ballot box. Anything other than ballot papers found in the box at the time of counting of votes, shall be forfeited to the Government.

(6) If an elector to whom a ballot paper has been issued refuses, after warning given by the presiding officer, to observe the procedure as laid down in sub-rule (3), the ballot paper issued to him shall, whether he has recorded his vote thereon or not, be taken back from him by the presiding officer or a polling officer under the direction of the presiding officer.

(7) After the ballot paper has been taken back, the presiding officer shall record on its back, the words "cancelled: voting procedure violated" and put his signature below those words;

(8) All the ballot papers on which the words "cancelled: voting procedure violated" are recorded, shall be kept in a separate cover which shall bear on its face the words "Ballot papers : voting procedure violated".

(9) Without prejudice to any other penalty to which an elector from whom a ballot paper has been taken back under sub-rule (6), may be liable, the vote, if any, recorded on such ballot paper shall not be counted.

32. Persons entitled to vote by post :— The following persons shall, subject to their fulfilling the requirements hereinafter specified, be entitled to vote by post at an election in a municipal ward, namely:

(i) service voters;

(ii) voters on election duty; and

(iii) electors subject to preventive detention.

33. Intimation by voters on election duty :— A voter on election duty who wishes to vote by post at an election shall send an application in Form 13 to the returning officer so as to reach him at least seven days, or such shorter period as the returning officer may allow before the date of poll, and if the returning officer is satisfied that the applicant is a voter on election duty, he shall issue a postal ballot paper to him.

34. Electors under preventive detention :— (1) The Election Authority shall, within 15 days of the calling of an election as certain and intimate to the Returning Officer the names of electors, if any, subjected to preventive detention together with their addresses and electoral roll numbers and the particulars about their places of detention.

(2) Any elector subjected to preventive detention may, within 15 days of the calling of an election, send an intimation to the Returning Officer that he wishes to vote by post, specifying his name, address, electoral roll number and place of detention.

(3) The Returning Officer shall issue a postal ballot paper to every elector subjected to preventive detention whose name has been intimated to him under sub-rule (1) or under sub-rule (2).

35. Form of postal ballot paper :— A postal ballot paper shall be in the same form as the ordinary ballot paper with the words "postal ballot paper" stamped on the reverse. Every postal ballot paper shall have a counterfoil attached thereto and the said ballot paper and the counterfoil shall be in such form and the particulars therein shall be in such languages as the Election Authority may direct.

36. Issue of ballot paper :— (1) A postal ballot paper shall be sent by post under certificate of posting to the elector together with

- (a) a declaration in Form 14;
- (b) a cover in Form 15;
- (c) a large cover addressed to the Returning Officer in Form 16; and
- (d) Instructions for the guidance of the election in Form 17:

Provided that the Returning Officer may, in the case of a voter on election duty deliver the ballot paper and forms, or cause them to be delivered, to such voter personally.

(2) The Returning Officer shall at the same time-

(a) record the serial number of each ballot paper against the entry relating to that elector in the marked copy of the electoral roll, and

(b) ensure that the election is not allowed to vote at a polling station.

(3) Every officer under whose care or through whom a postal ballot paper is sent shall ensure its delivery to the addressee without delay.

(4) After ballot papers have been issued to all the electors entitled to vote by post, the Returning Officer shall seal up in a packet that part of the marked copy of the electoral roll which relates to service voters and record on the packet a brief description of its contents and the date on which it was sealed and send the other relevant part of the marked copy to the several presiding officers for recording the serial numbers of ballot papers issued to the electors at the polling stations.

37. Recording of vote :— (1) An elector who has received a postal ballot paper and desires to vote shall record his vote on the ballot paper in accordance with the directions contained in Part 1 of Form 17 and then enclose it in cover in Form 15.

(2) The elector shall sign the declaration in Form 14 in the presence of, and have the signature attested by the stipendiary magistrate or such other officer specified below, as may be appropriate, to whom he is personally known or to whose satisfaction he has identified:-

(a) In the case of a service voter, such officer as may be appointed in this behalf by the Commanding Officer of the unit, ship or establishment in which the voter or her husband, as the case may be, is employed or such officer as maybe appointed in this behalf by the diplomatic or consular representative of India in the country in which such voter is resident;

(b) in the case of a voter on election duty, any Gazetted Officer or the presiding officer of the polling station at which he is on election duty;

(c) in the case of an elector under preventive detention, the Superintendent of the Jail in which the elector is under detention; and

(d) in any other case, such officer as maybe notified in this behalf by the Government.

38. Re-issue of ballot paper :— (1) When a postal ballot paper and other papers sent under rule 36 are for any reason returned undelivered, the Returning Officer may re-issue them by post under certificate of posting or deliver them or cause them to be delivered to the elector personally on a request being made by him.

(2) If any elector has inadvertently dealt with the ballot paper or any of the other papers sent to him under rule 36 in such manner that they cannot conveniently be used, a second set of the papers shall be issued to him after he has returned the spoilt papers and satisfied the Returning Officer of the inadvertence.

(3) The Returning Officer shall cancel the spoilt papers so returned and keep them in a separate packet after noting thereon the particulars of the election and the serial numbers of the cancelled ballot papers.

39. Assistance to illiterate or infirm voters;— (1) If an elector is unable through illiteracy, blindness or other physical infirmity to record his vote on a postal ballot paper and sign the declaration, he shall take the ballot papers together with the declaration and the covers received by him to an officer competent to attest his signature under sub-rule (2) of rule 37 and request the officer to record his vote and sign his declaration on his behalf.

(2) Such officer shall thereupon mark the ballot paper in accordance with the wishes of the elector in his presence, sign the declaration on his behalf and complete the appropriate certificate contained in Form 14.

40. Return of ballot paper :— (1) After an elector has recorded his vote and made his declaration under rule 37 or rule 39, he shall return the ballot paper and declaration to the Returning Officer in accordance with the instructions communicated to him in Part II of Form 17 so as to reach the Returning Officer the hour fixed for the close of the poll on the date or the last of the dates fixed for the poll.

(2) If any cover containing a postal ballot paper received by the Returning Officer after the expiry of the time fixed in sub-rule (1), he shall note thereon the date and time of its receipt and shall keep all such covers together in a separate packet.

(3) The Returning Officer shall keep in safe custody until the commencement of the counting of votes all covers containing postal ballot papers received by him.

41. Recording of votes of blind or infirm electors :— (1) If the presiding officer is satisfied that owing to blindness or other physical infirmity an elector is unable to recognize the symbols on the ballot paper or to make mark thereon without assistance, the presiding officer shall permit the elector to take with him a companion of not less than eighteen years of age to the voting compartment for recording the vote on the ballot paper on his behalf and in accordance with his wishes, and if necessary, for folding ballot paper so as to conceal the vote and inserting it into the ballot box:

Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day:

Provided further that before any person is permitted to act as the companion of an elector on any day under this rule, the companion shall be required to declare in Form 18 that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any polling station on that day.

(2) The presiding officer shall keep a record in Form 19 of all cases under this rule.

42. Challenge of identity :— (1) Any contesting candidate, election agent or polling agent may challenge the identity of a person claiming to be a particular elector by first depositing a sum of rupees two in cash with the presiding officer for each such challenge.

(2) On such deposit being made, the presiding officer shall-

(a) read the relevant entry in the electoral roll in full and ask him whether he is the person referred to in that entry;

(b) enter his name and address in the list of challenged votes in Form 20; and

(c) require him to affix his signature in the said list.

(3) The presiding officer shall thereafter hold a summary inquiry into the challenge and may for that purpose

(a) require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identity;

(b) put to the person challenged any questions necessary for the purpose of establishing his identity and require him to answer them on oath; and

(c) administer an oath to the person challenged and any other person offering to give evidence.

(4) If, after the inquiry, the presiding officer considers that the challenge has not been established, he shall allow the person challenged to vote; and if he considers that the challenge has been established, he shall debar the person challenged from voting.

(5) If the presiding officer is of the opinion that the challenge is frivolous or has not been made in good faith he shall direct that the deposit made under sub-rule (1) be forfeited to Government, and in any other case, he shall return it to the challenger at the conclusion of the inquiry.

43. Tendered Votes :— (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 satisfactorily answering such questions relating to his identity as the presiding 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 21.

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

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

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

(4) The elector, after marking a tendered ballot paper in the voting compartment and folding it, shall, instead of putting it into the ballot box, give it to the presiding officer who shall place it in a cover specially kept for the purpose.

Explanation:- In cases falling under this rule to which rule 42 is applicable the provisions of this rule as well as rule 42 shall be followed.

44. Spoilt and returned ballot papers :— (1) An elector who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as ballot paper may, on returning it to the presiding officer and on satisfying him of the inadvertence, be given another ballot paper, and the ballot paper so returned shall be marked "spoilt: cancelled" by the presiding officer.

(2) If an elector after obtaining a ballot paper decides not to use it, he shall return it to the presiding officer and the ballot paper so returned shall be marked as "returned: cancelled" by the presiding officer.

(3) All ballot papers cancelled under sub-rule (1) or sub rule (2) shall be kept in a separate packet.

45. Adjournment of poll in emergencies :— (1) If at an election, the proceedings at any polling station are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling station on account of any natural calamity or any other sufficient cause, the presiding officer for such polling station shall stop the poll pending the receipt of the orders of the election authority. The fact that the poll has been so stopped shall be immediately announced by the presiding officer to the persons present at the polling station.

(2) Where a presiding officer stops a poll under sub-rule (1) he shall observe the procedure laid down in rule 47 and forthwith make a full report of the circumstances to the returning officer who shall report the matter to the election authority. The Returning Officer thereupon shall not count the votes cast at such election until such poll shall have been completed.

(3) The election authority shall thereupon order-

(a) that the poll be resumed at the polling station for the number of hours for which it was not held on the previous occasion; or

(b) that the proceedings of the poll held at the polling station on the previous occasion be ignored, and that a fresh poll be held at such polling station for the full number of hours for which it should have been held on the previous occasion;

An order passed by the election authority under this sub-rule shall be final.

(4) An order passed under sub-rule (3) shall

(a) state-

(i) the date on which and the hours between which the resumed poll or fresh poll, as the case may be, shall be held; and

(ii) the date on which and the place and hour at which the returning officer shall commence the counting of votes under rule 50; and

(b) be published in the manner laid down in sub-rule (2) of rule 10 not less than seven days before the date fixed for the resumed poll or fresh poll, as the case may be.

(5) (a) Where an order is passed under clause (a) of sub-rule (3) for the resumption of the poll, the returning officer shall proceed afresh under rule 22 and return to the presiding officer appointed under that rule, all the packets received by him under sub-rule (2) of this rule.

(b) The presiding officer shall open the packets just before the commencement of the resumed poll in the presence of such persons as may be present at the polling station and commence such poll precisely at the hour fixed therefore in the order passed by the Election Authority under clause (a) of sub-rule (3).

(c) At the resumed poll, presiding officer shall allow only such electors to vote as did not vote on the previous occasion.

(6) Where an order is passed under clause (b) of sub-rule (3) for holding a fresh poll, the returning officer shall proceed afresh under rule 22 and a fresh poll shall be held at the polling station concerned in accordance with the provisions of these rules in all respects, as if it were being held at such polling station for the first time:

Provided that there shall be no fresh nomination in cases falling under this sub-rule.

(7) Notwithstanding anything contained in this rule, if a contesting candidate dies at any time before orders are passed by the election authority under sub-rule (3) or at any time after the passing of such orders but before the commencement of the resumed poll or fresh poll, as the case may be, the returning officer shall upon being satisfied of the fact of death of the contesting candidate, stop all further proceedings in connection with the election and inform the election authority who shall thereupon start election proceedings afresh in all respects as if it were a new election to the ward concerned:

Provided that for the election proceedings so started, no fresh nomination shall be necessary in the case of the remaining contesting candidates.

46. (1) Fresh poll in the case of destruction etc., of ballot boxes :— (1) If at an election :-

(a) any ballot box used at a polling station 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 cannot be ascertained, or

(b) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station, the returning officer shall forthwith report the matter to the election authority.

(2) Thereupon, the election authority shall, after taking all material circumstances into account, either:-

(a) declare the poll at the polling station to be void, appoint a day and fix the hours for taking a fresh poll at that polling station and direct the day so appointed and the hours so fixed be published in the manner laid down in sub-rule (2) of rule 10; or

(b) if satisfied that the result of a fresh poll at that polling station will not, in any way, affect the result of the election or that the error or irregularity in procedure is not material, issue such directions to the returning officer as he may deem proper for the further conduct and completion of the election.

(3) The provisions of these rules or orders made thereunder shall apply to every fresh poll as they apply to the original poll.

47. Closing of poll :— (1) The presiding officer shall close the polling station at the hour fixed in that behalf under rule 21 or sub-rule (4) of rule 45 or clause (a) of sub-rule (2) of rule 46, as the case may be, so as to prevent the admission thereto of any elector after that hour:

Provided that all electors present at the polling station before it is closed shall be allowed to cast their votes.

(2) If any question arises whether an elector was present at the polling station before it was closed, it shall be decided by the presiding officer whose decision shall be final.

48. Sealing of ballot boxes :—(1) The presiding officer of each polling station as soon as practicable after the close of the poll, shall close the slit of the ballot box and where the box does not contain any mechanical device for closing the slit, he shall seal up the slit and also allow any candidate, election agent or polling agent present to affix his seal.

(2) Where it becomes necessary to use a second ballot box by reason of the first ballot box getting full, the first ballot box shall be closed and sealed as provided in sub-rule (1) before another ballot box is put into use.

(3) The presiding officer shall then make up into separate packets and seal with his own seal and seals of such candidates or agents as may desire to affix their seals:-

- (i) the marked copy of the electoral roll;
- (ii) the counterfoils of the used ballot papers;
- (iii) the ballot papers signed in full by the presiding officer under sub-rule (4) of rule 30 not issued to the voters;
- (iv) any other ballot papers not issued to the voters;
- (v) the ballot papers cancelled for violation of voting procedure under rule 31;
- (vi) any other cancelled ballot papers;
- (vii) the cover containing the tendered ballot papers and the list in Form 21;
- (viii) the list of challenged votes; and
- (ix) any other papers directed by the Election Authority to be kept in a sealed packet.

(4) Each packet shall be numbered and shall bear a note as to its contents, the number and name of the polling station and the number of the ward. Where no vote has been recorded at any polling station, the polling station shall submit a nil report together with the statement in Form 22 referred to in sub-rule (5).

(5) The packets shall be accompanied by a statement in Part I of Form 22 made by the presiding officer showing the number of ballot papers entrusted to him and accounting for them under the heads of ballot papers received, not used, issued to voters, cancelled and tendered ballot papers and enclosed in a separate cover with the words "Ballot Paper Account" superscribed thereon.

49. Transmission of ballot boxes etc., to the returning officer :— The presiding officer shall then deliver or cause to be delivered to the returning officer at such place as the returning officer may direct:-

- (a) the ballot boxes;
- (b) the ballot paper account;
- (c) the sealed packets referred to in rule 48;
- (d) all other papers, and marking or stamping articles used at the poll; and
- (e) cash, if any, collected under sub-rule (1) of rule 42.

Counting of votes

50. Time and place of counting :— The Returning Officer shall, at least one week before the date, or the first of the dates fixed for the poll, appoint the place or places where the counting of votes will be done and the date and time at which the counting will commence and shall give notice of the same in writing to each candidate or his election agent:

Provided that if for any reason the Returning Officer finds it necessary so to do, he may alter the date, time and place or places so fixed, or any of them, after giving notice of the same in writing to each candidate or his election agent.

51. Admission to the place fixed for counting, appointment of counting agents and revocation of such appointments :— (1) The Returning Officer shall exclude from the place fixed for counting of votes all persons except:-

- (a) such persons as he may appoint to assist him in the counting;
- (b) public servants on duty in connection with the election; and
- (c) candidates, their election agents and counting agents.

(2) 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 under clause (a) of sub-rule (1).

(3) The Returning Officer shall decide which counting agent or agents shall watch the counting at any particular counting table or group of counting tables.

(4) Any person who during the counting of votes misconducts himself or fails to obey the lawful directions of the Returning Officer may be removed from the place where the votes are being counted by the Returning Officer or by any police officer on duty or by any person authorized in this behalf by the Returning Officer.

(5) A contesting candidate or his election agent may appoint one or more persons to be present as his counting agent or agents at the counting of votes. Every such appointment shall be made in Form 23 in duplicate, one copy of which shall be forwarded to the Returning Officer while the other copy shall be made over to the counting agent for production before the Returning Officer not later than one hour before the time fixed for counting under rule 50.

(6) No counting agent shall be admitted into the place fixed for counting unless he has delivered to the Returning Officer the second copy of his appointment under sub-rule (5) after duly completing and signing the declaration contained therein and receiving from the Returning Officer an authority for entry into the place fixed for counting.

(7) The revocation of appointment of a counting agent shall be made in Form 24 and lodged with the Returning Officer.

(8) In the event of any such revocation before the commencement of the counting of votes, the candidate or his election agent may make a fresh appointment in accordance with sub-rule (5).

52. Maintenance of secrecy of voting :— The Returning Officer shall, before he commences to count the votes, read the provisions of section 26 of the Act, to such persons as may be present.

53. Counting of votes received by post :— (1) the Returning Officer shall first deal with the postal ballot papers in the manner hereinafter provided;

(2) No cover in Form 16 received by the Returning Officer after the expiry of the time fixed in that behalf shall be opened and no votes contained in any such cover shall be counted;

(3) The other covers shall be opened one after another and as each cover is opened, the Returning Officer shall first scrutinize the declaration in Form 14 contained therein.

(4) If the said declaration is not found, or has not been duly signed and attested, or is otherwise substantially defective or if the serial number of the ballot paper as entered in it differs from the serial number endorsed on the cover in Form 15, that cover shall not be opened and after making an appropriate endorsement thereon the Returning Officer shall reject the ballot paper therein contained;

(5) Each cover so endorsed and the declaration received with it shall be replaced in the cover in Form 16 and all such covers in Form 16 shall be kept in a separate packet which shall be sealed and on which shall be recorded the ward number, the name of the municipal council, the date of counting and a brief description of its contents;

(6) The Returning Officer shall then place all the declarations in Form 14 which he has found to be in order in a separate packet which shall be sealed before any cover in Form 15 is opened and on which shall be recorded the particulars referred to in sub-rule (5);

(7) The covers in Form 15 not already dealt with under the foregoing provisions of this rule shall then be opened one after another and the Returning Officer shall scrutinize each ballot paper and decide the validity of the vote recorded thereon;

(8) A postal ballot paper shall be rejected:-

- (a) if no vote is recorded thereon; or
- (b) if votes are given on it in favour of more candidates than one; or
- (c) if it is a spurious ballot paper; or
- (d) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established; or
- (e) if it is not returned in the cover sent along with it to the elector by the Returning Officer.

(9) A vote recorded on a postal ballot paper shall be rejected if the mark indicating the vote is placed on the ballot paper in such manner as to make it doubtful to which candidate the vote has been given.

(10) A vote recorded on a postal ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked;

(11) The Returning Officer shall count all the valid votes given by postal ballot in favour of each candidate, record the total thereof in the result sheet in Form 25 and announce the same;

(12) Thereafter, all the valid ballot papers and all the rejected ballot papers shall be separately bundled and kept together in a packet which shall be sealed with the seals of the Returning Officer and of such of the candidates, their election agents or counting agents as may desire to affix their seals thereon and on the packet so sealed shall be recorded the ward number, the name of the municipal council, the date of counting and a brief description of its contents.

54. Scrutiny and opening of ballot boxes :— (1) The ballot boxes relating to each of the polling stations provided under rule 5 for each ward shall be taken up separately for counting. The returning officer may in his discretion have the ballot boxes used at more than one polling station opened and their contents counted simultaneously.

(2) Before any ballot box is opened at a counting table the counting agents present shall be allowed to inspect the seal on the ballot box and to satisfy themselves that it is intact.

(3) The returning officer shall satisfy himself that none of ballot boxes has in fact been tampered with.

(4) If the returning officer is satisfied that any ballot box has in fact been tampered with, he shall not count the ballot papers contained in that box and shall follow the procedure laid down in rule 46 in respect of that polling station.

(5) (a) If a fresh poll is held under rule 46, the returning officer shall, after completion of that poll recommence the counting of votes on the date and at the time and place which have been fixed by the election authority in that behalf and of which notice has been previously given to the contesting candidates and their election agents.

(b) The provision of rules 50 to 69 (both inclusive) shall apply so far as may be to such further counting.

55. Scrutiny and rejection of ballot paper :— (1) The returning officer shall allow the candidates and their agents reasonable opportunities to inspect, without handling all ballot papers which in his opinion are liable to be rejected under rule 56. He shall endorse on every ballot paper which is rejected the letter "R" and the ground of rejection in abbreviated form either in his own handwriting or by means of a rubber stamp.

(2) The Returning Officer shall, as far as practicable, proceed continuously with the counting of the votes and shall during any necessary intervals during which the counting has to be suspended, place the ballot papers, packets and other documents relating to the election under his own seal and the seals of such candidates or agents as may desire to affix them, and shall cause adequate precautions to be taken for their custody.

(3) He shall verify the statement submitted by the presiding officer under rule 48 (5) by comparing with the number of accepted ballot papers and of rejected ballot papers and the unused ballot papers in his possession.

56. Rejection of ballot papers :— (1) A ballot paper shall be rejected:-

- (a) if it bears any mark or writing by which the elector can be identified ;or
- (b) if it bears no mark at all or bears a mark made otherwise than with the instrument supplied for the purpose; or
- (c) if votes are recorded on or near both the symbols; or
- (d) if the mark indicating the vote thereon is placed in such manner as to make it doubtful to which candidate the vote has been given, or
- (e) if it is a spurious ballot paper, or
- (f) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established, or
- (g) if it bears a serial number, or is of a design different from the serial number, or as the case may be, the design of the ballot paper authorized for use at the particular polling station, or
- (h) if it does not bear the distinguishing mark which it should have borne under sub-rule (2) of rule 30:

Provided that where the Returning Officer is satisfied that any such defect as is mentioned in clause (g) or clause (h) has been caused by any mistake or failure on the part of a presiding officer or polling officer, the ballot paper shall not be rejected merely on the ground of such defect:

Provided further that a ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention of the voter clearly appears from the way the paper is marked.

(2) All ballot papers taken out of ballot box used at a polling station and rejected under this rule shall be made into a separate bundle.

(3) The decision of the returning officer shall be final subject only to the decision of the court on an election petition.

57. Counting of valid votes and sealing of used ballot papers :— (1) The vote recorded in every ballot paper which is not rejected under rule 56 shall be counted:

Provided that no cover containing the tendered ballot papers shall be opened and no vote recorded in such paper shall be counted.

(2) After the counting of the votes recorded in all ballot paper contained in all the ballot boxes used at a polling station has been completed, the returning officer shall have the result of such counting entered in part II of Form 22 and it shall be signed by the counting supervisor and the returning officer. The returning officer shall, then make the entries relating thereto in a result sheet in Form 25 and announce the particulars.

(3) The valid ballot papers of each candidate and the rejected ballot papers shall thereafter be bundled separately and the several bundles made up into a separate packet which shall be sealed with the seals of the Returning Officer and of such of the candidates, their election agents or counting agents as may desire to affix their seals thereon and on the packets so sealed shall be recorded the following particulars, namely :-

- (a) the number of the ward and the name of the municipal council;
- (b) the particulars of the polling station where the ballot papers have been used;
- (c) the date of counting.

58. Recount of votes :— (1) After the completion of the counting and before the declaration of the result of the election, a contesting candidate or, in his absence his election agent may apply in writing to the returning officer for a recount of all or any of the votes already counted stating the grounds on which he demands such recount.

(2) On such application being made, the returning officer shall decide the matter and may allow the application in whole or in part, or may reject in toto if it appears to him to be frivolous or unreasonable.

(3) Every decision of the returning officer under sub-rule (2) shall be in writing and contain the reasons therefor.

(4) If the returning officer decides under sub-rule (2) to allow an application either in whole or in part, he shall-

- (a) count the votes again in accordance with his decision;
- (b) amend the result sheet in Form 25 to the extent necessary after such recount;
- (c) announce the amendments so made by him.

(5) After the total number of votes polled by each candidate has been announced under sub-rule (2) of rule 57 or under sub-rule (4) of this rule, the returning officer shall complete and sign the result sheet in Form 25 and no application for a recount shall be entertained thereafter:

Provided that no step under this sub-rule shall be taken on the completion of the counting until the candidates and the election agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by sub-rule (1).

59. Declaration of result of election :— (1) After the returning officer has completed the scrutiny and counting of votes, he shall declare to be elected the contesting candidate to whom the largest number of valid votes have been given, complete and certify the return in Form 26 and send the signed copy thereof to the election authority.

(2) If there is an equality of votes between two or more contesting candidates, and the addition of one vote will entitle any of these candidates to be declared elected, the Returning Officer shall decide between those candidates by lot and the candidate on whom the lot falls shall be deemed to have received an additional vote. The Returning Officer shall then declare the result accordingly.

60. Grant of certificate of election to returned candidate :— As soon as may be after a candidate has been declared by the Returning Officer, he shall grant to such candidate a certificate of election in Form 27 and obtain from the candidate an acknowledgment of its receipt duly signed by him and immediately send the acknowledgment by registered post to the Commissioner of the concerned municipal council.

61. Date of election of the candidate :— For the purposes of these rules, the date on which a candidate is declared by the Returning Officer under the provisions of rule 17 or rule 59, to be elected to a municipal council shall be the date of election of that candidate.

62. Resignation of seats in case of election to more than one seat :— (1) If a person is elected to more than one seat in one or more municipal councils, the time within which he may resign all but one of the seats to which he has been elected shall be

- (a) where the date of declaration of his election to more than one seat is on the same day, fourteen days from that date; and
- (b) where the date of declaration of his election to more than one seat are different, fourteen days from the last of such dates.

(2) Such resignation shall be addressed to the Election Authority within the time specified under sub-rule (1).

(3) Where the resignation has been addressed to the Election Authority under sub-rule (2) the Election Authority shall, as soon as may be, after the receipt of the resignation, send a copy thereof to the concerned municipal council.

63. Publication of results of election :— Where an election is held for the purpose of constituting a new municipal council, there shall be notified by the Election Authority in the Official Gazette, as soon as may be after the date originally fixed for the completion of the election under clause (e) of rule 9, the names of the members elected for the various wards of each municipal council and upon such notification that municipal council shall be deemed to be duly constituted.

64. Custody of ballot boxes and papers relating to election:— (1) All ballot boxes used at an election shall be kept in such custody as the Election Authority may direct.

(2) The Returning Officer shall keep in safe custody or cause to be deposited in the custody of such other officer as may be specified by the Election Authority the packets of unused ballot papers, the packets of used ballot papers, whether valid, tendered or rejected and all other papers relating to the election.

65. Production and inspection of election papers:— (1) While in custody of the Returning Officer or as the case may be, in the custody of the officer specified by the Election Authority

(a) the packets of unused ballot papers;

(b) the packets of used ballot papers whether valid, tendered or rejected;

(c) the packets of the marked copy of the electoral roll ;and

(d) the packets or the declarations by electors and the attestation of their signatures

shall not be opened and their contents shall not be inspected by or produced before any person or authority except under the orders of the Election Authority or of a competent court or tribunal.

(2) All other papers relating to the elections shall be open to public inspection subject to such conditions and to the payment of such fee, if any, as the Government may direct.

(3) Copies of returns by the Returning Officer forwarded under rule 59 shall be furnished by the Election Authority on payment of a fee of rupees two for each such copy.

66. Disposal of election papers :— subject to any direction to the contrary given by the Election Authority or by a competent court or tribunal-

(a) the packets of unused ballot papers shall be retained for a period of six months and shall thereafter be destroyed by the Returning Officer or as the case may be, by the officer specified by the Election Authority;

(b) the other packets referred to in sub-rule (1) of rule 65 shall be retained for a period of one year and shall thereafter be destroyed;

(c) all other papers relating to the elections shall be retained for such period as the Election Authority may direct.

67. Interpretation of these rules by Government :— (1) If any question arises as to the interpretation of these rules, otherwise than in connection with an inquiry held under the rules for the decision of disputes as to the validity of an election, the question shall be referred to the Government whose decision shall be final.

(2) Pending the decision of the Government on any such reference made to them or the issue of final orders on any inquiry which the Government may institute upon receipt of information that an election is being or about to be held in contravention of the rules, it shall be lawful for the Government to direct the stay of election proceedings at any stage thereof prior to the declaration of the results. Any election held or continued in contravention of the orders of the Government under this rule shall be void and be of no effect whatsoever.

(3) Unless it is otherwise ordered by the Government, election proceedings stayed under this rule shall, on cancellation of the stay order, be continued from the stage at which they were stayed and on fresh dates if any, to be fixed.

68. Fixing other dates of election for special reasons :— Notwithstanding anything contained in the foregoing rules, the election authority may, for special reasons, fix dates and periods other than those specified or fixed by or under these rules for all or any of the stages of any election under the Act.

69. Removal of difficulties, if any, by Government :— (1) The Government may, issue such general or special directions as may in their opinion be necessary for the purpose of giving due effect to these rules, or holding any election under the Act.

(2) If any difficulty arises in giving effect to the provisions of these rules, or in holding any election, the Government as occasion may require, may by order, do anything which appears to them necessary for the purpose of removing the difficulty.