

**THE PONDICHERY MUNICIPALITIES
(INQUIRY OF ELECTION PETITIONS) RULES, 1977.**

1. Short title, extent and commencement.— (1) These rules may be called the Pondicherry Municipalities (Inquiry of Election Petitions) Rules, 1977.

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

(3) They shall come into force at once.

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

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

(b) 'candidate' means a person who has been or claims to have been duly nominated as a candidate at election and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate;

(c) 'corrupt practice' means any of the offences referred to in section 25 of the Act;

(d) 'costs' means all costs, charges and expenses of, or incidental to an inquiry of, an election petition;

(e) 'electoral right' means the right of a person to stand or not to stand as, or to withdraw or not to withdraw from being a candidate or to vote or refrain from voting at an election;

(f) 'Form' means a Form appended to these rules;

(g) 'pleader' means any person entitled to appear and plead for another in a civil court and includes an advocate, a vakil and an attorney of a High Court;

(h) 'returned candidate' means a candidate whose name has been declared elected by the returning officer under rule 17(2) or rule 59 of the Pondicherry Municipal Councils (Conduct of Election of Councillors) Rules, 1974.

(i) 'section' means a section of the Act.

Form of affidavit

3. The form of affidavit under the proviso to clause (c) of sub-section (1) of section 50 shall be in the form appended to these rules.

Inquiry of election petitions

4.(1) The Election Tribunal shall dismiss an election petition which does not comply with the provisions of section 48 or section 49 or rule 16.

Explanation: An order of the Election Tribunal dismissing an election petition under this sub-rule shall be deemed to be an order made under clause (a) of section 54 of the Act.

(2) As soon as may be after an election petition has been presented to the Election Tribunal, it shall take up the petition for the inquiry.

(3) Where more election petitions than one are presented to the Election Tribunal in respect of the same election, it may, in its discretion, enquire into them separately or in one or more groups.

(4) Any candidate not already a respondent shall, upon application made by him to the Election Tribunal within fourteen days from the date of commencement of the inquiry and subject to any order as to security for costs which may be made by the Election Tribunal be entitled to be joined as respondent.

Explanation: For the purposes of this sub-rule and of rule 10, the inquiry of a petition shall be deemed to commence on the date fixed for respondents to appear before the Election Tribunal and answer the claim or claims made in the petition.

(5) The Election Tribunal may, upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective inquiry of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.

(6) The inquiry of an election petition shall, so far as is practicable consistently with the interests of justice in respect of the inquiry be continued from day to day until its conclusion, unless the Election Tribunal finds adjournment of the inquiry beyond the following day to be necessary for reasons to be recorded.

(7) Every election petition shall be inquired into as expeditiously as possible and endeavour shall be made to conclude the inquiry within six months from the date on which the election petition is presented to the Election Tribunal for inquiry.

Procedure before the Election Tribunal

5. (1) Subject to the provisions of these rules, every election petition shall be enquired into by the Election Tribunal as nearly as may be in accordance with the procedure followed by a civil court for the inquiry of suits:

Provided that the Election Tribunal shall have the discretion to refuse, for reasons to be recorded in writing, to examine any witness or witnesses if it is of the opinion that the evidence of such witness or witnesses is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings.

(2) The provisions of the Indian Evidence Act, 1872, shall, subject to the provisions of these rules, be deemed to apply in all respects to the inquiry of an election petition.

(3) As soon as the Election Tribunal receives the petition, it shall serve on each respondent a Notice in inquiry such form as it thinks fit directing the respondent to appear before the Election Tribunal and answer the claim made in inquiry the petition on a day to be specified therein.

Appearance before the Election Tribunal

6. Any appearance, application of act before the Election Tribunal may be made or done by the party in person or by a pleader duly appointed to act on his behalf:

Provided that it shall be open to the Election Tribunal to direct any party to appear in person whenever the Election Tribunal considers it necessary.

Documentary evidence

7. Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence at the inquiry of an election petition on the ground that it is not duly stamped or registered.

Secrecy of voting not to be infringed

8. No witness or other person shall be required to state for whom he has voted at an election.

Expenses of witnesses

9. The reasonable expenses incurred by any person in attending to give evidence may be allowed by the Election Tribunal to such person and shall, unless the Election Tribunal otherwise directs, be deemed to be part of the costs.

Recrimination when seat claimed

10. (1) When in an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election.

Provided that the returned candidate or such other party, as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the date of commencement of the inquiry, give notice to the Election Tribunal of his intention to do so and has also given the security and the further security referred to in rules 16 and 17 respectively.

(2) Every notice referred to in sub-rule (1) shall be accompanied by the statement and particulars required by section 50 in the case of an election petition and shall be signed and verified in like manner.

Withdrawal of election petition

11. (1) An election petition may be withdrawn only by leave of Election Tribunal.

(2) Where an application for withdrawal is made under sub-rule (1), notice thereof fixing a date for the hearing of the application to be given to all other parties to the petition and shall be published in the Official Gazette.

Procedure for withdrawal of election petitions

12. (1) If there are more petitioners than one, no application to withdraw an election petition shall be made except with the consent of all the petitioners.

(2) No application for withdrawal shall be granted, if in the opinion of the Election Tribunal, such application has been induced by any bargain or consideration which ought not to be allowed.

(3) If the application is granted

(a) the petitioner shall be ordered to pay costs of the respondents theretofore incurred or such portion thereof as the Election Tribunal may think fit, and

(b) the Election Tribunal shall direct that the notice of withdrawal shall be published in the Official Gazette and in such other manner as it may specify and thereupon the notice shall be published accordingly.

(c) a person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing and upon compliance with the conditions, if any, as to security shall be entitled to be so substituted and to continue the proceedings upon such terms as the Election Tribunal may deem fit.

Report of withdrawal by the election tribunal to the Election Authority

13. When an application for withdrawal is granted by the Election Tribunal and no person has been substituted as petitioner under clause (c) of sub-rule (3) of rule 12 in place of the withdrawing, the Election Tribunal shall communicate the fact to the Election Authority and thereupon the Election Authority shall publish the report in the Official Gazette.

Abatement of election petition

14. (1) An election petition shall abate only on the death of sole petitioner or of the survivor of several petitioners.

(2) Where an election petition abates under sub-rule (1), the Election Tribunal shall cause the fact to be published in such manner as it may deem fit.

(3) Any person who might himself have been a petitioner may within fourteen days of such publication, apply to be substituted as petitioner and upon compliance with the conditions, if any, as to security shall be entitled to be so substituted and to continue the proceedings upon such terms as the Election Tribunal may deem fit.

Abatement or substitution on death of respondents

15. If before the conclusion of the inquiry of an election petition, the said respondent dies or given a notice that he does not intend to oppose the petition or any of the respondents dies or given such notice and there is no other respondent who is opposing the petition, the Election Tribunal shall cause notice of such event to be published in the official Gazette and thereupon any person who might have been a petitioner may, within fourteen days of such publication, apply to be substituted in place of such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the Election Tribunal may think fit.

Security for costs

16. (1) At the time of presenting an election petition, the petitioner shall deposit in the Election Tribunal a sum of two hundred and fifty rupees in cash as security for the costs of the petition.

(2) During the course of the inquiry of an election petition, the Election Tribunal may, at any time, call upon the petitioner to give such further security for costs as it may direct.

Security for costs from a respondent

17. No person shall be entitled to be joined as a respondent under sub-rule (4) of rule 4 unless he has given such security for costs as the Election Tribunal may direct.

Costs

18. Costs shall be in the discretion of the Election Tribunal:

Provided that where a petition is dismissed under clause (a) of section 54, the returned candidate shall be entitled to the costs incurred by him in contesting the petition and accordingly the Election Tribunal shall make an order for costs in favour of the returned candidate.

Payment of costs out of security deposits and return of such deposits

19. (1) if in any order as to costs under the provisions of rules there is a direction for payment of costs by any party to any person, such costs shall, if they have not been already paid, be paid in full or so far as possible, out of the security deposit and the further security deposit, if any, made by such party, on an application made in writing in that behalf within a period of one year, from the date of such order to the Election Tribunal by the person in whose favour the costs have been awarded.

(2) If there is any balance left on any of the said security deposit after payment under sub-rule (1) of the costs referred to in the sub-rule, such balance or where no costs have been awarded or no application aforesaid had been made within the said period of one year, the whole of the said security deposit may, on an application made in that behalf in writing to the Election Tribunal by the person by whom the deposits have been made, or if such person dies after making such deposits by the legal representatives of such person, be returned to the said person or to his legal representative, as the case may be.

Execution of orders as to costs

20. Any order as to costs under the provisions of these rules may be produced before the Principal Civil Court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business and such Court shall execute the order or cause the same to be executed in the same manner and by the same procedure as if it was a decree for the payment of money made by itself in a suit:

Provided that where any such costs or any portion thereof maybe recovered by an application made under sub-rule (1) of rule 19 no application shall lie under this rule within a period of one year from the date

of such order unless it is for the recovery of the balance of any cost which has been left unrealized after an application had been made under that sub-rule owing to the insufficiency of the amount of the security deposits referred to in that sub-rule.

Form of affidavit

See section 60(1)(c) proviso

I.....the petitioner in the accompanying election petition calling in question the election of Thiru/Thirumati.....(respondent No...in the said petition) make solemn affirmation/oath and say-

(a) that the statements made in paragraphs.....of the accompanying election petition about the commission of the corrupt practice of*.....and the particulars of such corrupt practice mentioned in paragraphs.....of the same petition and in paragraphs.....of the Schedule annexed thereto are true to my knowledge;

(b) that the statements made in paragraphs.....of the said petition about the commission of the corrupt practice of*..... and the particulars of such corrupt practice given in paragraphs..... of the said petition and in paragraphsof the Schedule annexed thereto are true to my information.

(c)

(d)

etc.,

*Here specify the name of the corrupt practice.

Solemnly affirmed /sworn by Thiru/Thirumati.....at.....this.....day of19..

Before me

Magistrate of the First Class/Notary

Commissioner of oaths