

MUNICIPAL CORPORATION OF HYDERABAD (ELECTIONS OF MAYOR, MEMBERS AND ELECTION PETITIONS) RULES, 1987

CONTENTS

1. Short title extent and commencement
2. Definitions
3. .
4. Filling up Nomination Paper
5. Declarations to accompany Nomination Paper
6. .
7. .
8. .
9. .
10. .
11. .
12. Preparation and Publication of List of contesting candidates
13. Publication of the list of contesting candidates in the case of an election at which a poll is to be taken
14. Appointment of Election Agent
15. Revocation of appointment of Election Agent and Appointment of another person
16. Appointment of Polling Agents
17. Appointment of Counting Agents
18. Revocation of appointment or death of Polling Agent
19. Revocation of appointment or death of Counting Agent
20. Admission to Polling Station
21. Arrangements for secrecy of voting and special facilities for Women voters at polling stations
22. Provision of ballot boxes and other election material at polling stations
23. Official mark on ballot papers
24. Ballot Boxes to be locked and sealed before the Commencement of poll
25. Special procedure for prevention of personation of voters
26. Procedure before recording of votes
27. Identification of voters
28. Casting of votes after the receipt of Ballot Papers
29. Recording of Votes of Blind or infirm Voters
30. Voter to be questioned in case of doubt as to his identity
31. Form of Ballot Paper
32. Tendered Votes
33. Challenged Votes
34. Spoilt and Returned Ballot Papers
35. Delivery of Ballot Boxes to the Returning Officer after the close

of the Poll

36. Account of Ballot Papers to be Prepared by the Presiding Officer after the close of the poll
37. Transport of Ballot Boxes and Packets and their Custody
38. Special Procedure for Voting by certain Class of Persons
39. Voting by Persons Subject to Preventive Detention
40. Voting by persons employed on duty at polling stations
41. Returning Officer to send Ballot Papers for Postal Voting
42. Recording of vote
43. Assistance to Illiterate or Infirm voters
44. Re-issue of Ballot Paper
45. Return of Ballot Papers
46. Safe custody of covers containing Postal Ballot Paper received by the Returning Officer
47. Appointment of time, place and date for the counting of votes
48. Admission to place fixed for counting
49. Procedure to be followed at the Counting of votes
50. Grounds for Rejection of Ballot Papers
51. Recommencement of counting after fresh poll
52. Recount of votes
53. Declaration of result of election and return of election
54. Grant of Certificate of Election to Returned Candidate
55. Custody and the Return of ballot boxes and papers Relating to Election
56. Production and inspection of election papers
57. Disposal of election papers
58. Time for giving notice under Section 67
59. Return of election Expenses
60. Declaration by election agent if any
61. Declaration by Candidates under Sub-section (3) Section 68
62. Maximum Election expenses
63. Number of persons who may be employed in connection with elections
64. Return of Election expenses to be certified
65. Notice that return of Election expenses has been lodged and Inspection and copy of such return
66. Decision of Government regarding persons who have defaulted in making the return of Election expenses and have thereby incurred disqualifications and Publication of the list of such persons
67. Notification of disqualifications
68. Place of Trial
69. Another person appointed as Tribunal
70. Attendance of Law Officers
71. Procedure before the Tribunal
72. Appearance before the Tribunal
73. Documentary Evidence
74. Secrecy of voting not to be infringed
75. Answering of criminating questions and certificate of identity
76. Expenses of witness
77. Recrimination when seat claimed

78. Withdrawal of Petition
79. Procedure for withdrawal of petitions before the tribunal
80. Procedure where the petitioner fails to appear
81. Abatement of election petitions
82. Abatement of petition
83. Substitution on death of Petitioner
84. Abatement of substitution on death of Respondent
85. Deposit Security
86. Further Security for Costs
87. Security for cost from a respondent
88. Costs
89. Payment of costs out of Security Deposits and Return of such Deposits
90. Execution of orders as to costs
91. Return or the forfeiture of candidates Deposit

MUNICIPAL CORPORATION OF HYDERABAD (ELECTIONS OF MAYOR, MEMBERS AND ELECTION PETITIONS) RULES, 1987

In exercise of the powers conferred by sub-section (1) of Section 585 read with Section 90 of the Hyderabad Municipal Corporation Act, 1955 (Hyderabad Act II of 1956) as amended by Act, No.33 of 1986 and Act No.9 of 1987 and in supersession of all the previous rules on the subject, the Governor of Andhra Pradesh hereby makes the following rules relating to the Election of Mayor, Members and Election Petitions, namely:-

1. Short title extent and commencement :-

- (i) These rules may be called the Municipal Corporation of Hyderabad (Election of Mayor, Members and Election Petitions) Rules, 1987.
- (ii) They shall extend to the areas comprised within the limits of the cities of Hyderabad and Secunderabad.
- (iii) They shall come into force from the date of the next ordinary elections to the Corporation.

2. Definitions :-

- (1) In these rules, unless the context otherwise requires:-
 - (a) 'Act' means the Hyderabad Municipal Corporations Act, 1955 (Hyderabad Act II of 1956);
 - (b) 'Ballot box' includes any box, bag or other receptacle used for the insertion of the ballot paper by a voter;

(c) 'Counterfoil' means the counterfoil attached to a ballot paper printed under the provisions of these rules;

(d) 'Electoral Roll' means the electoral roll for the Corporation prepared and published under Section 12;

(e) 'Election' means an election of a Member/Mayor;

*[(f) 'Election Authority' means such officer or authority as may be appointed by State Election Commissioner.]

(g) '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 name of the Ward/Corporation to which the electoral roll relates.

(h) 'Form' means a form appended to these rules and includes a translation thereof in Telugu or Urdu or Hindi;

*[(hh) Marked copy of the Electoral Rolls' means the copy of the electoral Rolls set a part for the purpose of marking the names of electors to whom ballot papers are issued at an election]

(i) 'Schedule' means the schedule annexed to the Act;

(j) 'Section' means a section of the Act;

* [(jj) 'State Election Commissioner' means State Election Commission constituted under Article 243k of Constitution of India;

(2) words and expressions used in these rules but not defined shall have the meaning assigned to them in the Act.

(3) For the purpose of these rules, a person who is unable to write his name shall, 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 Commissioner, the Returning Officer or the Presiding Officer or such other officer as may be specified in this behalf by the Commissioner; and

(b) the officer aforesaid on being satisfied as to his identity has

attested mark as being mark of that person.

3. . :-

x x x]

4. Filling up Nomination Paper :-

In filling up the nominate paper in Form 8 of Schedule A' the following instructions shall be followed

(i) In item No.3 the inappropriate alternative should be struck off. Husband's name is to be filled in all cases where the candidate is a married woman or a widow;

(ii) Item 6 is to be filled only in the case of a Ward where the seat to be filled is reserved for the Scheduled Tribes, Scheduled Castes or Backward Classes;

(iii) Where the Ward list is sub-divided into parts and separate serial numbers are assigned to the voter entered in each part, a description of the part in which the name of the person concerned is entered must also be given in items 8 and 10.

5. Declarations to accompany Nomination Paper :-

Every nomination paper delivered under Section 36 shall be accompanied by such declaration *[as are specified in Forms 1,2 and 2-A], provided that declaration in Form 2 shall be required--

(a) in the case of an election in a Ward where the seat to be filled is reserved for the Scheduled Tribes, Scheduled Castes or Backward Classes;

(b) the nomination papers to be presented by or on behalf of any candidate or accepted by the Returning Officer for election in the Ward under Sub-section (8) of Section 36 shall not exceed four;

(c) the nomination papers to be presented by or on behalf of any candidate or accepted by the Returning Officer for election to the office of Mayor shall not exceed four.

6. . :-

Any person who makes false declaration or gives information which he knows or believes to be false or does not believe to be true shall be liable to be punished under Section 191 and/or Section 182 of the Indian Penal Code.

7. . :-

The certificate required under Section 38 shall be in Form 3 and the

receipt for nomination and the notice of scrutiny shall be in Form 3-A.

8. . :-

The notice of nomination to be affixed under Section 38 shall be in Form 4.

9. . :-

(1) After making endorsement on the nomination paper as required under sub-section (6) of Section 39, the Returning Officer shall sign thereon a certificate of scrutiny in Form 5.

(2) The list of validly nominated candidates referred to in Sub-section (8) of Section 39 shall be in Form 6.

(3) The name of every such candidate shall be shown in the list of validly nominated candidates as it appears in his nomination paper:

Provided that if a candidate considers that his name is incorrectly spelt or is otherwise incorrectly shown in his nomination paper or if different from the name by which he is popularly known, he may at any time before the list of contesting candidates is prepared furnish in writing to the Returning Officer, the proper form and spelling of his name and the Returning Officer shall on being satisfied as to the genuineness of the request, make the necessary correction or alteration in the list in Form 6 and adopt the form and spelling in the list of contesting candidates.

10. . :-

On receipt of the notice of withdrawal of candidature, the Returning Officer shall note thereon the date on which it was delivered. The receipt for notice of withdrawal to be handed over to the person, delivering the said notice shall be in Form 7.

11. . :-

The notice of withdrawal to be affixed under sub-section (3) of Section 40 shall be in Form 8.

12. Preparation and Publication of List of contesting candidates :-

The Returning Officer shall, immediately after the expiry of the period within which candidature may be withdrawn, shall cause the names of all contesting candidates to be prepared and published in the manner hereinafter specified.

(1) If in any Ward the number of contesting candidates exceeds more than one or more than one nomination paper has been received for the office of Mayor the Returning Officer shall before preparing the list of contesting candidates consider the choice as respects symbols expressed by the candidate in the declaration referred to in Rule 5 delivered by them along with their nomination papers, assign a different symbol to each candidate in conformity as far as practicable with his choice. If more candidates than one indicate their preferences for the same symbol, the Returning Officer shall decide by lot to which of those candidates the symbol will be assigned. The decision of the Returning Officer in assigning any symbol to a candidate under this sub-rule shall be final:

Provided that if more nomination papers than one are delivered by or on behalf of a candidate, the declaration as to symbols in the nomination paper first delivered shall alone be taken into consideration even if that nomination paper has been rejected;

Provided further that a candidate set up by a National Party for the office of Mayor in the Corporation or Members in a Ward shall choose and shall be allotted the symbol reserved for that party and no other symbol. A reserved symbol shall not be chosen by, or allotted to any candidate other than a candidate set up by a National Party for whom such symbol has been reserved or a candidate set up by a State party for whom such symbol has been reserved in the State. No reserved symbols be allotted to other candidates even if no candidate has been set up by such National or State Party for the office of Mayor in the Corporation or Members in a Ward. A symbol once assigned to a candidate shall not be altered after the list of contesting candidates has been published. Explanation A candidate shall be deemed to be set up by a National Party or a State Party, if the candidate has made a declaration to that effect in his nomination paper, and the said candidature by a notice in writing to that effect has not later than *[3.00 p.m. on the last day of withdrawal of candidatures] been delivered to the Returning Officer signed by the President. The secretary or such other office bearer authorised by the Party to send such notice and the name and specimen signature of the President, Secretary or such other office bearer are communicated in advance to the Returning Officer.

(2) The list of the contesting candidates shall be prepared in such language or languages as the *[State Election Commissioner] may

direct and shall contain the names in alphabetical order and address of the contesting candidates as given in the nomination paper. The alphabetical order shall be determined with reference to the surnames of candidates having surnames and the names proper of other candidates, and if the list is prepared in more than one language, the names of candidates there in shall be arranged in alphabetical order according to the script of such one of those languages as the *[State Election Commissioner] may direct. In the case of an election to the office of the Mayor in the Corporation or Members in a Ward to which the provisions of sub-rule (1) apply the list shall indicate the symbol assigned to each candidate.

(3) Every such list of contesting candidates shall be prepared in Form 9 and the Returning Officer shall immediately after its preparation cause a copy of the list so prepared to be affixed on some conspicuous place in his office.

(4) In every case where a symbol has been assigned to a candidate under Sub-rule (1), such candidate or his election agent, shall forthwith be informed of the symbol so assigned and be supplied with a specimen thereof by the Returning Officer.

13. Publication of the list of contesting candidates in the case of an election at which a poll is to be taken :-

If at an election the number of contesting candidates exceeds more than one for the office of the Members/Mayor to be filled, the Returning Officer shall publish *[in the District Gazette Andhra Pradesh Gazette] and in such other manner as the *[State Election Commissioner] may direct, the list of contesting candidates at such election in Form 9 together with all the particulars regarding such candidates mentioned in that form. In the case of an election, the list to be published under this rule shall specify the date or dates and the hours of polling at such election.

14. Appointment of Election Agent :-

The Appointment of an election agent under Section 43(1) shall be made in Form 10 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 candidate or the election agent after affixing thereon his seal and signature in token of his approval of the appointment.

15. Revocation of appointment of Election Agent and Appointment of another person :-

The revocation of appointment of an Election agent under sub-section

(1) of Section 45 shall be in Form 10-A. The procedure laid down in Rule 14 shall apply for appointment of another person to be an election agent under sub-section (2) of Section 45.

16. Appointment of Polling Agents :-

(1) The number of polling agents that may be appointed under Section 47 shall be one agent and two relief agents for each polling station.

(2) Every such appointment shall be made in duplicate in Form 11 and a copy of such appointment shall be given to the Returning Officer and a duplicate copy thereof shall be made over to the polling agent for production at the polling station or the place fixed for the poll, as the case may be.

(3) 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 (2) after duly completing and signing before the presiding officer the declaration contained therein.

17. Appointment of Counting Agents :-

(1) The number of counting agents that a candidate may appoint under Section 48 shall be one agent for each table plus one more at the table of the returning officer *[x x x] subject to the number of tables fixed by the election authority.

(2) Every such appointment shall be made in Form 11-A 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 of votes.

(3) No counting agent shall be admitted at the place fixed for counting, unless he has delivered to the returning officer the second copy of his appointment under sub-rule (2) 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.

18. Revocation of appointment or death of Polling Agent :-

(1) The revocation of the appointment of a polling agent under sub-section (1) of Section 49 shall be in Form 11-B and be lodged with the returning officer while sending a copy thereof to the presiding officer of the polling station at which the polling agent is appointed.

(2) In the event of any such revocation, the candidate/his election agent may at any time before the poll is closed make a fresh appointment in the manner specified in Rule 16 and the provisions of that rule shall apply to every such appointment.

19. Revocation of appointment or death of Counting Agent

:-

(1) The revocation of appointment of counting agent under Sub-section (2) of Section 49 shall be in Form 11-C and be lodged with the returning officer.

(2) In the event of any such revocation before the commencement of counting of votes, the candidate/election agent may make a fresh appointment in accordance with the provisions of Rule 17.

20. Admission to Polling Station :-

(1) The presiding officer shall regulate the number of voters to be admitted at any one time inside the polling station and shall exclude therefrom all other persons except:

(a) the polling officers;

(b) each candidate, his election agent, and one polling agent of each candidate;

(c) *[x x x] other public servants on duty;

(d) a child in arms accompanying a voter;

(e) the companions of blind or infirm voters who cannot move without help; and

(f) such other persons as the presiding officer may from time to time admit for the purpose of identifying voters or otherwise assisting him in taking the poll.

(2) The presiding officer shall close the polling station at the hour fixed in that behalf under Section 57 and shall not admit thereto any voter after that hour: Provided that all voters present within the polling station before it is so closed shall be entitled to have

their votes recorded.

(3) If any question arises as to whether any voter shall, for the purpose of the proviso to sub-rule (2) be deemed to be present within the polling station before it is closed, the question shall be referred for the decision of the presiding officer of such polling station and his decision shall be final.

21. Arrangements for secrecy of voting and special facilities for Women voters at polling stations :-

(1) Each polling station shall be furnished with a compartment (referred to in these rules as a voting compartment) in which voters can, one after another, cast their votes screened from observation and no voter shall be allowed to enter such voting compartment when another voter is inside the same for the purpose of recording his vote.

(2) Where a polling station is for both men and women voters, the presiding officer may direct that they shall be admitted into the polling station alternately in separate batches.

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

(4) The presiding officer may permit a voter to enter the voting compartment with a child in arms for the purpose of voting.

22. Provision of ballot boxes and other election material at polling stations :-

(1) There shall be displayed prominently outside each polling station

(a) a notice specifying the polling area, the voters of which are entitled to vote at the polling station, or the particulars of the voters so entitled ; and

(b) a copy of the list of contesting candidates for Mayor/Members in the same language or languages and in the same order in which the names of contesting candidates at the election are published under Rule 13.

(2) The returning officer shall provide for each polling station

- (a) as many ballot boxes as may be necessary;
- (b) a sufficient number of ballot papers and copies of the relevant part of the list of voters in respect of the polling area the voters whereof are entitled to vote at the polling station;
- (c) instruments for stamping the distinguishing mark on ballot papers and articles necessary for the voters to mark the ballot papers.

23. Official mark on ballot papers :-

(1) Every ballot paper before it is delivered to a voter at a polling station shall bear such official mark as the *[State Election Commissioner] may direct and it shall be kept secret.

(2) When any direction under sub-rule (1) has been issued by the *[State Election Commissioner], the returning officer shall provide at each polling station, instrument or instruments required for stamping official mark on the ballot paper.

(3) The presiding officer at each polling station shall sign his name in full on the back of each ballot paper before it is issued to the voter.

24. Ballot Boxes to be locked and sealed before the Commencement of poll :-

(1) Every ballot box shall be of such design and colour as have been previously approved of by the *[State Election Commissioner]. It shall be so constructing that ballot papers can be introduced therein but cannot be withdrawn therefrom without the box being unlocked and the seals being broken.

(2) The presiding officer at each polling station, shall, immediately before the commencement of Poll, allow the candidates, their election agents and their polling agents who may be present at such station to inspect each ballot box to be used at the poll and demonstrate to them that it is empty and bears the labels both inside and outside marked with,

(a) the serial number, if any, and name of the Ward;

(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 poll.

(3) When it is necessary to use a paper seal for securing the ballot box the Presiding Officer shall thereafter fix in the space meant therefor in each such box a paper seal provided for the purpose. He shall also affix on such paper seal his own signature or seal of such candidates or of such election of polling agents of the candidates as may be present and may desire to affix such signatures or seals. He shall then secure and seal each box in their presence in such manner that the slit in the box for insertion of ballot papers therein remains open.

(4) Where it is not necessary to use a paper seal for securing the ballot box, the Presiding Officer shall after complying with the provisions of sub-rule (2) secure and seal the box in such manner that the slit in the box for insertion of ballot papers therein remains open and shall also allow the candidates or their election or polling agents who may be present to affix their own seals on the space in the box meant therefor if they so desire.

(5) The paper seal or the other seals used for securing a ballot box shall be affixed in such a manner that after the box has been closed, sealed and secured then they shall be placed in full view of the presiding officer and the agents referred to in sub-rule (2).

25. Special procedure for prevention of personation of voters :-

(1) Subject to the other provisions of this rule every voter who applies for a ballot paper for the purpose of voting at a polling station shall, before receiving such paper *[x x x] allow:

(a) the inspection of his left fore-finger to the Presiding Officer or any Polling Officer; and

(b) an indelible ink mark to be put on his left fore-finger;

(2) If any such voter:-

(a) *[x x x]refuses to allow such inspection of his left fore-finger;

(b) refuses to allow an indelible ink mark to be put on his left fore-finger; or

(c) persists in doing any act with a view to remove such mark after it has been put he shall not be entitled to be supplied with any ballot paper or to record his vote at the election.

(3) No person who has already such a mark on his left fore-finger at the time he enters the polling station shall be supplied with any ballot paper and if any such person applies for a ballot paper he shall be liable to be arrested and prosecuted for personation.

(4) Any reference in this rule or in Rule 26 to the left fore-finger of a voter shall, in the case where the voter has his left fore-finger missing, be construed as a reference to any finger of his hand, and shall, in the case where all the fingers of his left hand are missing, be construed as a reference to the fore-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 such extremity of his left or right arm he possesses.

26. Procedure before recording of votes :-

(1) The voter on entering the polling station shall first have *[x x x] his left fore-finger to be inspected by a polling officer for the purpose of ascertaining if he/she already has any mark of indelible ink on that finger. If there is no such mark, such or any other polling officers

(a) shall ascertain the voter's name and address and such other particulars as appear on the list of voters and, after having checked these by reference to the list shall call out the number, name and description of the voter according to the entry in the list;

(b) shall thereafter cause the left hand fore-finger of the voter to be marked with indelible ink and then deliver a ballot paper. Before delivering the ballot paper to a voter where a direction has been issued in this behalf under Rule 23, the polling officer shall stamp the ballot paper and its counterfoil on the back with such official mark as may have been specified under that rule; and

(c) shall before delivering the ballot paper to a voter;

(2) record on its counterfoil the part number and the serial number of the voter in the list of voters as entered in the marked copy of the list of voters;

(i) obtain the signature or thumb impression of that voter on the said counterfoil; or

(ii) mark the name of the voter in the marked copy of the list of voters to indicate that the ballot paper has been issued to him without however recording therein the serial number of the ballot

paper issued to the voter; Provided that no ballot paper shall be delivered to voter unless he has affixed his signature or thumb impression on the counterfoil of that ballot paper. 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 counterfoil.

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

(4) In deciding the right of a person to obtain a ballot paper under this rule, the Presiding Officer at any polling station may interpret an entry in the list of voters so as to overlook merely clerical or printing errors, provided that he is satisfied that such person is identical with the voter to whom such entry relates.

27. Identification of voters :-

The presiding officer may employ at the polling station such persons as he thinks fit to assist him or any Polling Officer in identifying the voters.

28. Casting of votes after the receipt of Ballot Papers :-

(1) The voter on receiving the ballot paper shall forthwith:-

(a) proceed to one of the voting compartments;

(b) make a mark on the ballot paper with the instrument supplied for the purpose on or near the symbol of the candidate for whom 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;

(f) quit the polling station.

(2) Every voter shall vote without undue delay.

(3) No voter shall be allowed to enter a voting compartment, when another voter is inside it.,

(4) The Presiding Officer at a polling station shall, when he is so requested by a voter, explain to him the instructions contained in these rules for the recording of votes.

(5) If a voter 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 (1) 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 by a Polling officer under the directions of the Presiding Officer.

(6) 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.

(7) 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 word "ballot papers: voting procedure violated."

(8) Without prejudice to any other penalty to which voter from whom a ballot paper has been taken back under sub-rule (5) may be liable, the vote if any, recorded on such ballot paper shall not be counted.

29. Recording of Votes of Blind or infirm Voters :-

(1) If the Presiding officer is satisfied that owing to blindness or other physical infirmity (a voter is unable to read the names or recognise the symbols) on the ballot-paper or to make a mark thereon without assistance the presiding officer shall permit the voter to make with him a companion of not less than eighteen years age to the voting compartment for recording the vote on the ballot paper on this behalf and in accordance with his wishes and, if necessary for folding the ballot paper so as to conceal the vote and inserting it into the ballot box:

(2) Provided that no person shall be permitted to act as the companion of more than one voter at any polling station on the same day. Provided further that before any person is permitted to act as companion of a voter on any day under this rule, the person shall be required to declare, that he will keep secret the vote recorded by him on behalf the voter and that he has not already acted as companion of any other voter at any Polling station on that day.

(3) The Presiding Officer shall keep a record in Form 12 of all cases under this rule.

30. Voter to be questioned in case of doubt as to his identity :-

At any time before a ballot paper is delivered to a voter the Presiding Officer or a Polling Officer may of his own motion, if he has reason to doubt the identity of the voter or his right to vote at such election, and shall if so required by a candidate or polling agent, put to the voter the following questions:-

(1) Are you the person enrolled as follows:- (Regarding the whole entry from the Ward list.)

(2) Have you already voted at the present election in this Ward

(3) Have you already voted at the present election in this general election in any other Ward And the voter shall not be supplied with a ballot paper if he refuses to answer any of these questions and unless he answers the first question in the affirmative, the second and the third question in the negative.

31. Form of Ballot Paper :-

(1) Every ballot paper to be used at an election shall have a counterfoil attached thereto and the said ballot paper and the counterfoil shall be in such colour, form and the particulars therein shall be in such language, or languages and the ballot papers at a simultaneous elections to the office of the Mayor and Members shall be in such different colours as the *[State Election Commissioner] may direct. It shall also contain the symbols allotted to the candidates.

(2) The ballot paper shall contain the name of candidates in the same order in which they appear in the list of contesting candidates.

(3) If two or more candidates bear the same name they shall be distinguished by the addition of their occupation or residence or in some other manner.

(4) The ballot papers shall be serially numbered and the counterfoils thereof shall have on their faces the same serial numbers as those contained on the faces of the ballot paper.

32. Tendered Votes :-

(1) If a person representing himself to be a particular voter applies for a ballot paper after another person has already voted as such

voter, 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 voter.

(2) Every such person shall be before being supplied with a tendered ballot paper; sign his name against the entry relating to him in a list in Form 13.

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

(a) such tendered ballot papers shall be serially the last in the bundle of ballot papers issued for use at the polling station; and

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

(4) The voter after making 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.

33. Challenged Votes :-

(1) Any polling agent may challenge the identity of a person claiming to be a particular voter by first depositing a sum of * [Rupees five] in cash with the presiding officer for each such challenge.

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

(a) warn the person challenged of the penalty for personation;

(b) read the relevant entry in the list of voters in full and ask him whether he is the person referred to in that entry;

(c) enter his name and address in the list of challenged votes in Form 14; and

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

(3) The presiding officer shall thereafter hold a summary enquiry in respect of 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 question 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 enquiry, 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 the Municipal Corporation of Hyderabad and in any other case he shall return it to the challenger at the conclusion of the enquiry.

34. Spoilt and Returned Ballot Papers :-

(1) A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a 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 and the counterfoil of such ballot paper shall be marked "Spoilt; cancelled" by the presiding Officer.

(2) If a voter after obtaining a ballot paper decides not to use it, he shall return it to the Presiding Officer, and the ballot paper so returned and the counterfoil of such ballot paper shall be marked as "returned; cancelled" by the Presiding Officer.

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

35. Delivery of Ballot Boxes to the Returning Officer after the close of the Poll :-

(1) The presiding officer of each polling station shall, as soon as practicable after the close of the poll, in the presence of any candidates or their election or polling agents who may be present, close the slit for insertion of ballot papers of each ballot box, or where the box does not contain any mechanical device for closing

the slit, seal up the slit, and seal and secure all the ballot boxes used at the polling station. The presiding officer shall allow the candidates or their election agents and their polling agents present at the polling station to fix their seals on the slit of the ballot box or boxes.

(2) After sealing and securing the ballot box or boxes in accordance with the provisions of sub-rule (1), the presiding officer shall cause each such ballot box wrapped with new cloth which shall be sealed on the seams with his seal and also with the seals of any candidates or their election or polling agents who may be present and desire to affix their seals thereon. He shall also put his signature, and allow those candidates or their election or polling agents who may be present and desire to do so, to put their signature on a piece of paper which shall be properly pasted on the cloth in which each such ballot box has been wrapped.

(3)

(i) The presiding officer shall also make up into separate packets;

(a) the unused ballot papers (i.e., those with the signature of the presiding officer and without the signature of the presiding officer);

(aa) Counterfoils of the used ballot papers;

(b) the covers containing the tendered ballot papers;

(c) the returned ballot papers (i.e., those cancelled under Rule 34 and for violation of voting procedure under rule 28);

(d) the marked copy of the list of voters;

(e) the cover containing the tendered ballot papers and the list in Form 13;

(f) the list of challenged votes; and

(g) any other papers directed by the returning officer to be kept in a sealed packet.

(ii) Each such packet shall be sealed with the seal of the Presiding Officer and also of such candidates or their election or polling agents as may be present and may desire to affix their seals thereon. He shall as soon as practicable deliver the ballot box or boxes and all such packets and all other papers used at the poll or cause them to be delivered to the returning officer at such place as

the returning officer may direct, subject to any general or special instructions issued in this behalf by the Commissioner.

36. Account of Ballot Papers to be Prepared by the Presiding Officer after the close of the poll :-

The packets referred to in rule 36 shall be accompanied by an account of ballot papers in Form 15 made by the presiding officer showing the total number of ballot papers entrusted to him, for the polling station and the number of ballot papers returned by him to the returning officer as un-used, tendered and returned ballot papers as also the number of ballot papers which should be found in the ballot boxes. The Presiding Officer shall furnish to every polling agent present at the close of the poll a true copy of the entires made in the ballot paper account after obtaining a receipt from the said polling agent thereof and shall also attest it as a true copy.

37. Transport of Ballot Boxes and Packets and their Custody :-

The returning officer shall make adequate arrangements for the safe transport of all ballot boxes, packets, and other papers referred to in Rule 35 and for their safe custody until the commencement of the counting of votes.

38. Special Procedure for Voting by certain Class of Persons :-

At an election in a Ward/corporation where a poll is taken, any member of the armed forces of the Union or a member of the armed police force of the State serving outside the state may give his vote by postal ballot and such person shall not be entitled to give his vote in any other manner.

39. Voting by Persons Subject to Preventive Detention :-

(1) Subject to the other provisions of this rule, a voter of a Ward may, if he is subjected to preventive detention under any law for the time being in force, give his vote by postal ballot at any election in such Ward where a poll is taken and such a voter shall not so long as he is subject to such detention, be entitled to give his vote in any other manner.

(2) As soon as possible after a notification calling upon to elect a Member/Mayor has been issued, the Commissioner shall ascertain if any voter for the Ward is subject to preventive detention under any law for the time being in force and shall within fifteen days from

the date of publications of such notification forward to the Returning Officer the names of such voters in that Ward who are under such detention together with their addresses and serial numbers in the list of voters and the particulars about their places of detention.

(3) Any voter of a Ward who is subject to preventive detention under any law for the time being in force may, within fifteen days from the date of publication of a notification calling upon that Ward to elect Members/Mayor apply to the returning officer of the Ward for permission to give his vote by postal ballot at such election. Every such application shall specify the name of the voter, his address, his serial number in the Ward list and the particulars regarding his place of detention.

(4) If the returning officer is satisfied that the person whose name has been forwarded under sub-rule (3) is under preventive detention and is a voter of the Ward to which the election relates and is entitled to vote at such election, he shall permit such persons to give his vote as the election by postal ballot.

(5) While granting any such permission the returning officer shall at the same time cause suitable notes to be recorded in each copy of the Ward list in which such person is registered and which is intended to be used at the polling station where such person would if he had not been under detention, have normally voted so as to indicate that such person has been permitted to give his vote at the election by postal ballot.

40. Voting by persons employed on duty at polling stations

:-

(1) Presiding Officer, polling officer, polling agent or public servant, who is a voter for any Ward and is by reason of his being on duty at a polling station unable to be present and to vote at the polling station where he is entitled to vote, may apply to the returning officer of the Ward for which he is a voter atleast seven days before the date or the first of the dates fixed for the poll at the Ward for permission to vote at the election by, postal ballot. Every such application which shall be in Form 15-A shall, specify the name of the voter, his address and his serial number in the Ward list.

(2) If such returning officer is satisfied that the claim is just and that the applicant is entitled to vote in the Ward, he shall allow the

application and permit the applicant to give his vote at the election by postal ballot and thereupon the applicant may give his vote at such election by postal ballot and shall not be entitled to give his vote thereat in any other manner.

(3) While allowing such an application the returning officer shall at the same time cause suitable notes to be recorded in each copy of the Ward list in which the applicant is registered and which is intended to be used at the polling station where the applicant would otherwise have normally voted so as to indicate that the applicant has been permitted to give his vote at the election by the postal ballot.

41. Returning Officer to send Ballot Papers for Postal Voting

:-

(1) The returning officer shall, in the case of every voter, who is authorised under Rule 38 or who has been permitted under sub-rule (4) of Rule 39 to give his vote at the election by postal ballot as soon as may be after the publication under Rule 12 of the list of contesting candidates at the election and in the case of every voter who has been permitted under sub-rule (2) of Rule 40 to give his vote at the election by postal ballot as soon as may be after such permission has been granted send by post under certificate of posting to each such voter a ballot paper in Form 16 "postal ballot paper". The names of the candidates shall be arranged on the postal ballot paper, in the order in which they appear in the list of contesting candidates. If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner. The returning officer shall at the same time:

(a) record on the counterfoil of the ballot paper the electoral roll number of the voter as entered in the marked copy of the electoral roll;

(b) mark the name of the voter 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 voter; and

(c) ensure that voter is not allowed to vote at a polling station.

(2) A postal ballot paper shall be sent to the voter by post under certificate of posting together with.

- (a) a declaration in Form 17;
 - (b) an envelope in Form 17-A with the number of ballot paper entered on its face;
 - (c) a large cover addressed to Returning Officer himself in Form 17-B; and
 - (d) instructions for guidance of voter in Form 18.
- (3) The ballot paper together with the cover, envelope and letter shall be sent:
- (a) in the case where the voter is a member of the armed forces of the union to the address of the voter as shown in the Ward list;
 - (b) in the case where the voter is a person subject to preventive detention to such voter at the place of his detention; and
 - (c) in the case where the voter is a person, who has been permitted under sub-rule (2) of Rule 40 to give his vote by postal ballot, to such voter at the address given in the application made by him under sub-rule (1) of that rule.
- (4) After all the ballot papers have been issued under this rule, the returning officer shall seal up in a packet the counter foils of all such ballot papers and record on such packet the description of its contents and the name of the Ward and the date of the election to which it refers.
- (5) No election shall be invalidated by reason that a voter has not received his ballot paper provided that a ballot paper has been issued to him in accordance with these rules.

42. Recording of vote :-

- (1) A voter 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 I of Form 18 and then enclose it in the cover in Form 17-A.
- (2) The voter shall sign the declaration in Form 17 in the presence of and have the signature attested by a stipendiary or honorary magistrate or such other officer specified below as may be appropriate, to whom he is personally known, or to whose satisfaction he has been identified;
- (a) in the case of member of the armed force; of the Union of an

armed police force of the State but is serving outside the state, such officer as maybe 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;

(b) in the case of a voter on election duty, any Gazetted Officer,

(c) in the case of a voter under preventive detention, the superintendent of the jail or the commandant of the detention camp in which the voter is under detention.

43. Assistance to Illiterate or Infirm voters :-

(1) If a voter 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 paper together with the declaration and the covers received by him to an officer competent to attest his signature under sub-rule (2) of Rule 42 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 voter in his presence, sign the declaration on his behalf and complete the appropriate certificate contained in Form 17.

44. Re-issue of Ballot Paper :-

(1) When a postal ballot paper and other papers sent under Rule 41 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 voter personally on a request being made by him.

(2) If any voter has inadvertently dealt with the ballot paper or any of the other papers sent to him under rule 41 in such a manner that they cannot conveniently be used, a second set of papers shall be issued to him after he has returned the spilt papers satisfied the returning officer of the inadvertence.

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

45. Return of Ballot Papers :-

(1) After a voter has recorded his vote and made his declaration

under Rule 42 or Rule 43, 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-18, so as to reach the returning officer before the hour fixed for the commencement of counting of votes.

(2) If any cover containing a postal ballot paper is 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 the 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 cover containing postal ballot papers received by him.

46. Safe custody of covers containing Postal Ballot Paper received by the Returning Officer :-

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 under Rule 42 or Rule 44.

47. Appointment of time, place and date for the counting of votes :-

(1) At an election of Members/Mayor in a Ward where a poll is taken, the returning officer shall appoint a date or dates which shall be as soon as practicable after the completion of the poll throughout the Ward for the counting of votes and shall fix the place and time at which the votes shall be counted on the date or each of the dates so appointed; Provided that the place at which the ballot papers contained in any ballot box shall be counted shall be fixed by the Returning Officer in accordance with such general or special directions as may be issued in that behalf by the Commissioner.

(2) The Returning Officer shall give notice of each such date, time and place in writing to all the candidates or their election agents.

(3) If, at the time so appointed for the counting of votes at any such place all the ballot boxes containing the ballot papers which are to be counted at such place under the proviso to sub-rule (1) have not been received by the Returning Officer or, if for any other unavoidable cause he is unable to proceed with the counting of votes at the time and date appointed under sub-rule (1) the returning officer may postpone the counting *[and fix the date and time of counting as per the directions of State Election

Commissioner] and may fix, if necessary, another place for the counting of votes on the date to which the counting has been so postponed, and shall give notice thereof in writing to all the candidates or their election agents.

48. Admission to place fixed for counting :-

(1) The Returning Officer shall exclude from the place fixed for counting of votes all persons except:-

(a) such persons to be known as counting supervisors and counting assistants as he may appoint to assist him in the counting;

*[(b) the persons authorised by the State Election Commissioner or by the Election Authority];

(c) public servants on duty in connection with the election; and

(d) 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 authorised in this behalf by the Returning Officer.

49. Procedure to be followed at the Counting of votes :-

(1) On the date and at the time and place appointed under Rule 47, the Returning Officer shall before he commences to count the votes read the provisions of Section 602 to such persons as are present. He shall then deal with respective ballot boxes as follows:

(i) All the ballot boxes placed for the counting of votes shall be counted and checked and the Returning Officer shall satisfy himself that all such ballot boxes as contain the ballot papers which are to be counted at such places have been received and accounted for;

*[(ii) The Returning Officer shall have the ballot box or boxes used at more than one Polling Station in a ward opened and the ballot papers found in such box or boxes shall be mixed and counted. In case simultaneous elections to the Office of the Mayor and Members the ballot papers shall be taken out from the ballot box or boxes and shall be separated each for Mayor elections and of the Members and transferred to the Corresponding Tables for counting. Ballot papers so transferred shall be mixed separately and arranged in convenient bundles after completion of counting of all ballot papers contained all the ballot boxes used at a polling station.]

(iii) The returning officers shall then allow the candidates, their election agents and counting agents present at the counting an opportunity to inspect the ballot boxes and their seals for satisfying themselves that they are in order;

(iv) The returning officer shall also satisfy himself that none of the boxes has in fact been tampered with. If any ballot box is found by the returning officer to have been tampered with or destroyed or lost, the returning officer shall postpone the counting of votes and shall follow the procedure laid down in Section 59 and shall, after the fresh poll under that section has been completed, recommence the counting on the date and at the time and place appointed by him in this behalf of which notice has been previously given to the candidates, their election agents and counting agents;

(v) If the returning officer is satisfied that all such boxes as contained the ballot papers which are to be counted to such place have been, received and are in order, he shall take up the counting of ballot papers contained in the ballot boxes;

(vi)(a) The counting of votes of Elections to the Officer of the Mayor and Members shall be done on separate set of tables.

(b) To enable the counting of ballot papers for both the Elections to the Office of the Mayor and of Members side by side in the same counting centre, the Returning Officers of the Wards who are also the Assistant Returning Officers for the election to the office of the Mayor shall use the same place of counting of votes of the Elections to the office of the Mayor and the votes shall be counted on separate set of tables. The Returning Officers of the Wards (who are the Assistant Returning Officers for the Elections to the Office of the Mayor) are competent to do the counting independently and also decide doubtful ballot papers and reject them wherever

necessary.

(c) The ballot papers shall be arranged in convenient bundles scrutinized and counted initially with the assistance of the counting supervisors and assistants appointed for this purpose. The Returning Officer shall cause the entries made in the Result Sheet in Form 19 and announce the particulars thereof. The Result sheet in Form 19 in respect of the Election to the Office of the Mayor after announcing the particulars thereof shall be sent by the Returning Officer of the Ward and also the Assistant Returning Officer for the Election of the Mayor to the Returning Officer appointed for election to the Office of the Mayor.

(vii) The returning officer shall allow the candidates and their election agents and counting agents who may be present reasonable opportunity to inspect all ballot papers, which in the opinion of the returning officer are liable to be rejected but shall not allow them to handle these or any other ballot papers. The returning officer shall on every ballot paper which is rejected endorse the word "rejected." If any candidate or his election or counting agent questions the correctness of the rejection of any ballot paper, the returning officer shall also record briefly on such ballot paper the ground for its rejection.

(viii) After counting of all ballot papers polled in a Ward the returning officer, shall cause the valid votes of each candidate and reject votes of each round of each table, shall be put into separate, packets and sealed. All the sealed packets of each round of each table shall be put in a bigger packet and that packet shall also be sealed. These packets shall also be sealed with the seal of the returning officer and such of the candidates, their election agents or counting agents, as may desire to affix their seals thereon. On the packets so sealed the following particulars shall be recorded:-
Date of counting: Place of counting: Number and name of the Ward: Round number: Table number: Name of the Candidate: Number of valid votes polled: Number of rejected votes* (*Strike off if not applicable) Supervisor. Returning Officer.

(ix) After the counting of ballot papers contained in all the ballot boxes used at the polling station in the Ward has been completed, the returning officer shall deal with the postal ballot papers in the manner hereinafter provided:

(a) No cover in Form 17-B received by the returning officer after

the expiry of the time fixed in that behalf shall be opened and no vote contained in any such cover shall be counted.

(b) Other covers shall be opened one after another and as each cover is opened the returning officer shall first scrutinise the declaration in form 17 contained therein.

(c) If the said declaration is not found or has not been duly signed, 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 17-A, that cover shall not be opened, and after making an appropriate endorsement thereon, the returning officer shall reject the ballot paper therein contained.

(d) each cover so endorsed and the declaration received with it shall be replaced in the cover in Form 17-B and all such covers in Form 17-B shall be kept in a separate packet, on which shall be recorded the name of the Ward, the date of counting and brief description of its contents.

(e) The returning Officer shall then place all the declarations in form 17 which he has found to be in order in a separate packet which shall be sealed before any cover in Form 17-A is opened and on which shall be recorded the particulars referred to in sub-rule (d).

(f) The covers in Form 17-A not already dealt with under the foregoing provisions of this rule shall then be opened one after another and the returning officer shall scrutinise each ballot paper and decide the validity of the vote recorded thereon.

(g) A postal ballot paper shall be rejected.

(i) if it bears any mark (other than the mark to record the vote) or writing by which the voter can be identified; or

(ii) if no vote is recorded thereon: or

(iii) if voters are given on it in favour of more candidates than one;

(iv) if it is a spurious ballot paper; or

(v) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established; or

(vi) if it is not returned in the cover sent along with it to the voter by the returning officer.

(h) 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.

(i) 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.

(j) 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 19 and announce the same.

(k) 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 returning officer and of such of the candidates, their election agents, counting agents as may desire to affix their seals thereon and on the packet so sealed shall be recorded the name of the Ward, the date of counting and a brief description of its contents.

(2) The returning officer shall as far as practicable proceed continuously with the counting of the votes and shall during any intervals when the counting has been suspended keep the ballot papers, packets and other documents relating to election sealed with his own seal and the seals of such candidates or election or counting agents as may desire to affix their seals and shall cause adequate precautions to be taken for their safe custody.

50. Grounds for Rejection of Ballot Papers :-

(1) The returning officer shall reject a ballot paper if

(a) it bears any mark or writing by which the voter can be identified, or

(b) to indicate the vote, it bears no mark at all or bears a mark made otherwise than with the instrument supplied for the purpose, or

(c) votes are given on it in favour of more than one candidate, or

(d) the mark indicating the votes thereon is placed in such manner as to make it doubtful to which candidate the votes has been

given, or

(e) it is a spurious ballot paper; or

(f) it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established or

(g) it bears a serial number, or is of a design different from the serial numbers, or, as the case may be design of the ballot papers authorised for use at the particular polling station; or

(h) does not bear the mark which it should have borne under the provisions of sub-rule (1) of Rule 23.

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 the 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 that the vote shall be for a particular candidate clearly appears from the way the paper is marked; or

(2) Before rejecting any ballot paper under Sub-rule (1) the returning officer shall allow the counting agents present, a reasonable opportunity to inspect the ballot paper but shall not allow them to handle it or any other ballot paper. The returning officer shall record on every ballot paper which he rejects the letter "R" and the ground of rejection in abbreviated form either in his own hand or by means of rubber stamp and shall initial such endorsement. All ballot papers rejected shall be bundled together. Every ballot paper which is not rejected under this rule shall be counted as one valid vote provided that no cover containing "Tendered ballot paper" shall be opened and no such paper shall be counted.

(3) After the counting of all papers contained in all the ballot boxes used in a Ward has been completed, the returning officer shall make the entries in a result sheet in Form 19 and announce the particulars.

(4) The decision of the returning officer as to the validity of a ballot paper contained in ballot box or of a postal ballot paper or of a vote

given on a postal ballot paper shall be final subject to any decision to the contrary given by a tribunal on the trail of an election petition calling in question the election.

51. Recommencement of counting after fresh poll :-

(1) If a fresh poll is held, under Section 59, returning officer shall after completion of the poll recommence counting of votes on the date and at the time and the place which have been fixed by him in that behalf and of which notice has been previously given to the candidates and their election agents.

(2) The provisions of Rules 49 and 50 shall apply so far as may be to such further counting.

52. Recount of votes :-

(1) After completing of the counting, the returning officer shall record in the result sheet in Form 19 the total number of votes polled by each candidate and announce the same.

(2) After such announcement has been made, a candidate or in his absence, his election agent or any of his counting agents may apply in writing to the returning officer to recount the votes either wholly or in part stating the grounds on which he demands such recount.

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

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

(5) If the returning officer decides under sub-rule :-

(6) To allow a recount of the votes either wholly or in part, he shall

(a) do the re-counting in accordance with Rule 52.

(b) amend the result sheet in Form 19 to the extent necessary after such recount ; and

(c) announce the amendments so made by him.

(7) After the total number of votes polled by each candidate has been announced under Sub-rule (1) or Sub-rule (5) the returning officer shall complete and sign the result sheet in form 19 and no

application for a recount shall be entertained thereafter: Provided that no steps under this sub-rule shall be taken on the completion of the counting, until the candidates and election agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by Sub-rule (2).

53. Declaration of result of election and return of election :-

The returning officer shall subject to the provisions of Sections 64 and 65 and so far they apply to any particular case, then

(a) declare in Form 24 the candidate to whom the largest number of valid votes have been given, to be elected under Section 65 and send a signed copy thereof to the *[State Election Commissioner and the Commissioner]; and

(b) complete and certify a return of election in Form 20 and send signed copies thereof to the *[State Election Commissioner and the Commissioner] ; or

(c) the Returning Officer for the election to the Office of the Mayor shall consolidate the particulars contained in Form 19 received from all the Wards in Form 20-A and declare results in Form 24 and certify the Return of Election in Form 20 and send the signed copies thereof to the *[State Election Commissioner and the Commissioner].

54. Grant of Certificate of Election to Returned Candidate :-

As soon as may be after a candidate has been declared by the returning officer under the provisions of Section 65 to be elected, the returning officer shall grant to such candidate a certificate of election in Form 25 and obtain from the candidate an acknowledgment of its receipt duly signed by him and immediately send the acknowledgment to the Municipal Secretary.

55. Custody and the Return of ballot boxes and papers Relating to Election :-

(1) The returning officer shall, after reporting the result of the election under Section 66 forward the return to the *[State Election Commissioner and the Commissioner]

(2) All ballot boxes used in the election shall be kept in such custody as the Commissioner may direct.

(3) The returning officer shall keep in his own custody the packets of ballot papers and all other papers relating to the election.

56. Production and inspection of election papers :-

While in custody of the returning officer

(a) the packets of unused ballot papers with the counterfoil attached thereto;

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

(c) the packets of counterfoils of used ballot papers;

(d) the packet of marked copy of voters list;

(e) the packets of the declaration by voters and attestation of their signatures; and

(f) the counterfoils of the postal ballot papers shall not be opened and their contents shall not be inspected by or produced before any person of authority except under the order of a competent Court or of a tribunal.

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

(3) Copies of the returns by the returning officer forwarded under Sub-rule (1) of Rule 55 shall be furnished by the Commissioner or any officer authorised by him in this behalf on payment of a fee of two rupees for each such copy.

57. Disposal of election papers :-

(1) The packets referred to in Sub-rule (1) of Rule 56 shall be retained for a period of one year and shall thereafter be destroyed subject to any direction to the contrary given by the *[State Election Commissioner] or by a competent Court or by a tribunal.

(2) All other papers relating to the election shall be retained for a period of two years from the date of publication of the result of election under Section 66 and shall thereafter be destroyed subject to any direction to the contrary given by the *[State Election Commissioner] or by a competent Court or by a tribunal.

58. Time for giving notice under Section 67 :-

If a person is elected by more than one Ward he shall within ten days from the date of publication of the result of election under Section 66 and where such publication has been made on different

dates within ten days from the last of those days by notice in writing signed by him and delivered to the Commissioner choose any of the Ward which he shall serve.

59. Return of election Expenses :-

The return of election expenses under Section 68 shall be in Form 21 and shall contain the particulars in Form 21-A.

60. Declaration by election agent if any :-

(i) In case where an election agent is appointed the return of the election expenses lodge under Sub-section (1) of Section 68 shall be accompanied by a declaration by the election agent in Form-22.

(ii) The declaration made by the candidate under Sub-section (2) of Section 68 and the election agent, if any, under Sub-rule (i) shall be written on paper stamped with non-judicial stamps of the value of *[ten rupees] each.

61. Declaration by Candidates under Sub-section (3) Section 68 :-

The declaration made by a candidate under Sub-section (3) of Section 68 shall be in Form 23.

62. Maximum Election expenses :-

(1) No expenses exceeding such amount, as may be specified by the State Election Commission, by notification, from time to time, shall be incurred or authorised to be incurred by a contesting candidate or his election agent, if any, or on account of or in connection with the conduct and management of an election to the office of Mayor or Member of a Ward.

(2) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct day to day account of all expenditure in connection with the election, incurred or authorised to be incurred by him or his election agent between the date on which he has been nominated and the date of declaration of the result thereof both dates inclusive.

(3) It shall be competent for the State Election Commission to issue such instructions, as they may deem necessary, for the purposes of carrying out the provisions of sub-rules (1) and (2) thereof.]

63. Number of persons who may be employed in connection with elections :-

No person other than or in addition to those specified in Form 23-A shall be employed for payment by a candidate or his election agent if any, in connection with an election under the Act.

64. Return of Election expenses to be certified :-

At the time when any return of election expenses is lodged with the returning officer he shall note on the return the date on which it is lodged and shall also certify thereon whether or not in his opinion the return has been lodged within the time and in the manner required by these rules. In the case where a candidate owing to absence from India was unable to sign the return and to make the required declaration, the returning officer shall not endorse thereon the certificate referred to above until the declaration made under Sub-section (3) of Section 68 has been lodged with him.

65. Notice that return of Election expenses has been lodged and Inspection and copy of such return :-

When any return and the declaration in respect thereof including in the case of a candidate, who owing to absence from India was unable to sign the return and to make the required declaration, the declaration made by such candidate under Sub-section (3) of Section 68 have all been lodged with the returning officer, the returning officer shall, within two days from the date of the receipt of such return and the declarations cause a notice of the date or dates on which the return and declarations in question have been lodged, and of the time and place at which they can be inspected, to be fixed in some conspicuous place in his office and shall, as soon as may be, cause such notice to be published in the Andhra Pradesh Gazette and any person shall, on payment of a fee of one rupee be entitled to inspect any such, return and declarations and on payment of such fee as may be fixed by the Commissioner in this behalf, be entitled to obtain attested copies thereof or of any part thereof.

66. Decision of Government regarding persons who have defaulted in making the return of Election expenses and have thereby incurred disqualifications and Publication of the list of such persons :-

(1) Within ten days from the expiration of the time specified in Sub-section (1) of Section 68 for the lodging of the return of election expenses of candidates at any election, the returning officers shall submit for the information of the Commissioner a statement containing the name of all candidates together with a

report whether they have lodged their returns of election expenses and, if so, the respective dates on which such returns have been lodged and shall in the said report invite attention to returns which in his opinion have not been lodged within the time and in the manner required by the Act and these rules.

(2) As soon as may be, after the expiration of the time specified in Sub-section (3) of Section 68 in the case of every candidate to whom the provisions of the said sub-section apply, the returning officer shall also forward for information of the Commissioner a statement containing the name of such candidate and also containing a report whether any declaration under the said sub-section has been lodged by the candidate after his return to India and if so, the date on which the said declaration has been lodged and shall, in the said report invite attention to every such declaration which in his opinion has not been lodged within the time and in the manner required by the Act and these rules.

(3) Immediately after the submission of the statement referred to in Sub-rule (1) or in Sub-rule (2), the returning officer shall publish a list by affixing a copy thereof in some conspicuous place in his office notifying therein the names of all candidates who have been reported by him under Sub-rule (1) or Sub-rule (2) as the case may be, to have failed to lodge their returns of election expenses within the time and in manner required.

(4) As soon as may be on the receipt of the statement referred to in Sub-rule (1) or Sub-rule (2), the Commissioner shall, after considering the report of the returning officer decide whether any candidate has failed to lodge the return of election expenses within the time and in the manner required by these rules and the candidate has thereby incurred disqualifications under Clause (i) of Section 22.

(5) Not later than forty days from the expiration of the time specified in Sub-section (1) of Section 68 for the lodging of the return of election, expenses or of the time specified in Sub-section (3) of Section 68 for the lodging of the declaration by the candidate after his return to India as the case may be, the Commissioner shall cause to be published in the Andhra Pradesh Gazette and in such other manner as he may think fit a list containing the names of all candidates who have according to the decision given by the Commissioner under Sub-rule (4), failed to lodge the returns of election expenses within the time and in the manner required by

the Act and these rules, and have thereby incurred the disqualifications referred to in that sub-rule.

(6) A disqualification under Clause (i) of Section 22, shall not take effect until the expiration of two months from the date by which the return of election expenses ought to have been lodged or of such longer period as the Government may in any particular case allow.

(7) Any candidate whose name is included in the list referred to in Sub-rule (5) may within fifteen days from the date of publication of the list in the Andhra Pradesh Gazette submit a representation in writing to the Government for the removal of the disqualification referred to in Sub-rule (4) incurred by such candidates with an explanation as to why default has been made in making the return of election expenses, and shall at the same time send a copy thereof to the returning officer. Along with such copy the candidate shall, if he has not already done so, submit a return of election expenses to the returning officer in the manner required by the Act or these rules. The returning officer shall within five days of the receipt thereof forward to the Commissioner the said copy return (if any) with such comments thereon as he wishes to make thereon who shall immediately forward it to the Government with his comments thereon.

(8) As soon as may be on receipt of the representation under Sub-rule (6) and after such inquiry as it thinks fit, the Government shall decide whether or not, the disqualification incurred by the candidate should be removed.

67. Notification of disqualifications :-

As soon as may be after the expiration of the period of two months referred to in Sub- rule (6) of Rule 64 or such longer period as the Government may in any particular case allow under the said sub-rule, the Government shall cause the names of all candidates who have been notified under Sub-rule (5) of Rule 64 as having incurred disqualifications under Clause (j) of Section 22 and whose disqualification have not upto that time been removed by the Government, to be published in the Andhra Pradesh Gazette.

68. Place of Trial :-

The trial of election petitions shall be held at such place as the Government may appoint: Provided that a tribunal may, in its discretion sit for any part of the trial at any other place in which the

election to which the petition relates has taken place.

69. Another person appointed as Tribunal :-

If during the course of the trial the person appointed under Section 75 as an election tribunal, is for any reason unable to perform his functions the Government shall appoint another person as election tribunal in accordance with the provisions of Section 75 and the trial shall thereafter be continued as if he has been appointed as the tribunal from the commencement of the trial:

Provided that the tribunal so appointed may if it thinks fit recall and re-examine any of the witnesses already examined.

70. Attendance of Law Officers :-

(1) The tribunal may require the Advocate General or some person acting under his instruction attend at the trial.

(2) The Advocate General or the person acting under his instructions shall when so required, attend at the trial and shall take such part therein as the tribunal may direct.

71. Procedure before the Tribunal :-

(1) Subject to the provisions of the Act and these rules every election petition shall be tried by the tribunal as nearly as may be in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Act V of 1908) to the trial of suits:

Provided that the 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 their evidence is not material for the decision the petition or that the party tendering such witness or witnesses in doing so on frivolous grounds or with a view to delay the proceedings.

(2) The provisions of the Indian Evidence Act, 1872 (1 of 1872) shall subject to the provisions of these rules be deemed to apply in all respects to the trial of an election petition.

(3) The tribunal shall dismiss an election petition which does not comply with the provisions of Sections 71, 72 or Rule 85.

(4) Any candidate not already a respondent shall upon application made to the tribunal within fourteen days from the commencement of the trial and subject to the provisions of Rule 87 be entitled to be joined as respondent. Explanation For the purpose of this Sub-

rule and of Rule 77 the trial of petition shall be deemed to commence on the date fixed for the respondents to appear, before the tribunal and answer the claim or claims made in the petition.

(5) The tribunal may upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt or illegal 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 trial of the petition, but shall not allow any amendment to the petition which will have the effect of introducing particulars of a corrupt or illegal practice not previously alleged in the petition.

72. Appearance before the Tribunal :-

Any appearance, application or act before tribunal may be made or done by the party in person or by a pleader duly appointed to act in his behalf: Provided that it shall be open to the tribunal to direct any party to appear in person.

73. Documentary Evidence :-

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

74. Secrecy of voting not to be infringed :-

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

75. Answering of criminating questions and certificate of identity :-

(1) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in the trial of an election petition upon the ground that the answer to such question may criminate or may tend to criminate him, or that it may expose or may tend to expose him to any penalty or forfeiture : Provided that

(a) a witness who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the tribunal.

(b) An answer given by a witness to a question put by or before the tribunal shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be admissible in evidence against him in any civil or criminal proceedings.

(2) When a certificate of indemnity has been granted to any witness it may be pleaded by him in any Court and shall be a full and complete defence to or upon any charge under Chapter XL-A of the Indian Penal Code (Act XL-A of 1860) or under Sections 17, 18, 19 and 599 to 612 (both inclusive) or the Act arising out of the matter to which such certificate relates but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by the Act or any other law.

76. Expenses of witness :-

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

77. Recrimination when seat claimed :-

(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 trial, given notice to the tribunal of his intention to do so and has also given the security and the further security referred to in Rules 85 and 86 respectively.

(2) Every notice referred to in sub-rule (1) shall be accompanied by the statement and particulars required by Section 73.

78. Withdrawal of Petition :-

(1) An application for withdrawal of an election petition may be made before the tribunal and such election petition may be withdrawn only by leave of the tribunal.

(2) Where an application for withdrawal is made under Sub-rule (1) notices thereof fixing a date for the hearing of the application shall be given to all other parties to the petition.

79. Procedure for withdrawal of petitions before the tribunal :-

(1) If there are more petitions 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 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 the costs of the respondent therefor incurred or such portion thereof as the tribunal may think fit;

(b) notice of withdrawal shall be published in the Andhra Pradesh Gazette by the tribunal;

(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 of Rule 85 as to security shall be entitled to be so substituted and to continue the proceedings upon such terms as the tribunal may think fit.

80. Procedure where the petitioner fails to appear :-

(1) Where the petitioner fails or if there are more petitioners than one all the petitioners fail to appear at any stage during the trial of the petition the tribunal may on the application of any other person who might himself have been a petitioner and if satisfied that it is necessary for ends of justice so to do, instead of dismissing the petition for default order that person to be substituted for the original petitioner or petitioners upon such terms as it thinks just.

(2) When a petition is dismissed for default, the notice of dismissal, shall be published in the Andhra Pradesh Gazette by the tribunal.

81. Abatement of election petitions :-

An election petition shall abate only on the death of a sole petitioner or of the survivor or several petitioners.

82. Abatement of petition :-

Where an election petition abates under Rule 81 notice of abatement shall be published in the Andhra Pradesh Gazette by the tribunal.

83. Substitution on death of Petitioner :-

After a notice of abatement of an election petition is published under Rule 82 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 condition of Rule 85 as to security shall be entitled to be so substituted and to continue the proceedings upon such terms as the tribunal may think.

84. Abatement of substitution on death of Respondent :-

If before the conclusion of the trial of an election petition the sole respondent dies or gives notice that he does not intend to oppose the petition or any of the respondent dies or give such notice and there is no other respondent who is opposing the petition the tribunal shall cause notice of such event to be published in the Andhra Pradesh Gazette and there upon any person who might have been a petitioner may within fourteen days of such publication apply to be substituted in place of such respondent oppose the petitions and shall be entitled to continue the proceedings upon such terms as the tribunal may think fit.

85. Deposit Security :-

The petitioners shall enclose with the petition a Government treasury receipt showing that a deposit of rupees one thousand has been made by him either in a Government treasury or in the State Bank of Hyderabad/State Bank of India in favour of the Commissioner, Municipal Corporation of Hyderabad as security for the costs of the petition.

86. Further Security for Costs :-

During the course of the trial of an election petition the tribunal may at any time call upon the petitioner to give such further security for costs as the tribunal may direct and may if he fails to do so dismiss the petition.

87. Security for cost from a respondent :-

No person shall be entitled to be joined as a respondent under Sub-rule (4) of Rule 71, unless he has given such security for costs as the tribunal may direct.

88. Costs :-

(1) Costs including pleader's fee shall be in the discretion of the tribunal.

(2) The tribunal may allow interest on costs at rate not exceeding

three per cent per annum and such interest shall be added to the costs.

89. Payment of costs out of Security Deposits and Return of such Deposits :-

(1) If, in any order as to costs, 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 six months from the date of pronouncement of the order of the tribunal unless an appeal is preferred therefrom in which case from the date of pronouncement of the order of the High Court to the Commissioner by the person in whose favour the costs have been awarded.

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

90. Execution of orders as to costs :-

Any order as to costs 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 were a decree for the payment of money made by itself in a suit:

Provided that where any such costs or any portion thereof may be recovered by an application made under Sub-rule (1) of Rule 89 no application shall lie under this rule within a period of six months from the date of pronouncement of the order of the tribunal unless an appeal is preferred therefrom in which case from the date of announcement of the order of the High Court unless it is for recovery of the balance of any costs which has been left unrealised

after an application has been made under the sub-rule owing to the insufficiency of the amount of the security deposits referred to in that sub-rule.

91. Return or the forfeiture of candidates Deposit :-

(1) The deposit made under Section 37 shall either be returned to the person making it or his legal representative or be forfeited to the Municipal Corporation of Hyderabad in accordance with the provisions of this rule.

(2) Except in cases hereinafter mentioned in this rule the deposit shall be returned as soon as practicable after the result of the election is declared.

(3) If the candidate is not shown in the list of contesting candidates or if he 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) Subject to the provisions of Sub-rule (3), the deposit shall be forfeited if at an election where a poll has been taken, the 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 by all the candidates.

(5) Notwithstanding anything in Sub-rules (2), (3) and (4) if at a general election the candidate is a contesting candidate in more than one Ward not more than one of the deposits shall be returned and other shall be forfeited.