

Delhi Municipal Corporation (Election Of Councillors) Rules, 2012

CONTENTS

PART 1 :- PRELIMINARY

1. Short title and commencement
2. Interpretation
- 2A. Rule 2A

PART 2 :- SUPERINTENDENCE OF ELECTIONS AND ADMINISTRATIVE MACHINERY

3. Superintendence and control of election
4. Election Observers
5. Secretary of Election Commission
6. District Election Officer
7. Returning Officer and Scrutinizing Officers
8. Assistant Returning Officer
9. General duty of the Returning Officer
10. Polling stations for wards
11. Presiding Officers for polling stations
12. General duty of the Presiding Officer
13. Duties of a polling officer

PART 3 :- CONDUCT OF ELECTIONS

CHAPTER 1 :- NOMINATION OF CANDIDATES

14. Appointment of dates for nominations etc
15. Symbols
16. Public notice of election
17. Nomination of candidates for elections
18. Right to Information
19. Presentation of nomination paper and requirements for a valid nomination
20. Deposits
21. Notice of nominations and the time and place for their scrutiny
22. Scrutiny of nomination
23. Withdrawal of candidature
24. Preparation of list of contesting candidates
25. Publication of list of contesting candidates

CHAPTER 2 :- AGENTS

- 26. Appointment of Election Agent
- 27. Appointment of polling agents
- 28. Revocation of the appointment, or death of a polling agent
- 29. Candidates and agents to wear badges: functions of agents
- 30. Attendance of a candidate on polling station and performance by him of the functions of a polling agent or counting agent
- 31. Non-attendance of polling or counting agents

CHAPTER 3 :- GENERAL PROCEDURE AT ELECTIONS

- 32. Death of candidate before poll
- 33. Procedure in contested and uncontested elections

CHAPTER 4 :- THE POLL

- 34. Fixing time for poll
- 35. Adjournment of poll in emergencies
- 36. Fresh poll in the case of destruction etc. of Electronic Voting Machine
- 37. Adjournment of poll or countermanding of election on the ground of booth capturing
- 38. Voting Machines at Elections
- 39. Method of voting

CHAPTER 5 :- VOTING BY ELECTRONIC VOTING MACHINES

- 40. Design of voting machines
- 41. Preparation of voting machine by the returning officer
- 42. Arrangements at the polling stations
- 43. Admission to polling stations
- 44. Preparation of voting machine for poll
- 45. Marked copy of electoral roll
- 46. Facilities for woman electors
- 47. Identification of electors
- 48. Facilities for public servants on election duty
- 49. Challenging of identity
- 50. Safeguards against personation
- 51. Procedure for voting by voting machines
- 52. Maintenance of secrecy of voting by electors within the polling station and voting procedures
- 53. Recording of votes by blind or infirm electors
- 54. Elector deciding not to vote
- 55. Tendered Votes
- 56. Presiding Officers entry in the voting compartment during poll
- 57. Closing of poll
- 58. Account of votes recorded
- 59. Sealing of voting machine after poll
- 60. Sealing of other packets
- 61. Transmission of voting machines, etc., to the returning officer
- 62. Procedure of adjournment of poll
- 63. Closing of voting machine in case of booth capturing

CHAPTER 6 :- POSTAL BALLOT

- 64. Postal ballot for electors employed on duty at polling stations
- 65. Postal Ballot for Electors under Preventive Detention
- 66. Form of postal ballot paper
- 67. Issue of Postal ballot papers
- 68. Recording of votes on postal ballot paper
- 69. Assistance to illiterate electors
- 70. Re-issue of postal ballot paper
- 71. Return of postal ballot papers

CHAPTER 7 :- COUNTING OF VOTES

- 72. Definitions
- 73. Time and place for counting of votes
- 74. Appointment of counting agents and revocation of such appointments
- 75. Admission to the place fixed for counting
- 76. Maintenance of secrecy of voting
- 77. Scrutiny and inspection of voting machines
- 78. Counting of votes when E.V.Ms are used
- 79. Counting after fresh polls
- 80. Scrutiny and counting of postal ballot papers
- 81. Equality of votes
- 82. Sealing of voting machines
- 83. Declaration of result of election
- 84. Grant of certificate of election to returned candidates
- 85. Election to more than one seat
- 86. Custody of Voting Machines and papers relating to election
- 87. Production and Inspection of election papers
- 88. Disposal of election papers etc

PART 4 :- DISPUTE REGARDING ELECTIONS

CHAPTER 1 :- INTERPRETATIONS

- 89. Definition

CHAPTER 2 :- ELECTION PETITIONS

- 90. Additional contents of petition
- 91. Petition to be dismissed
- 92. Procedure before the court
- 93. Appearance before the Court
- 94. Powers of the court
- 95. Documentary evidence
- 96. Secrecy of voting not to be infringed
- 97. Order as to costs
- 98. Communication of order to the Commission and transmission of the records of the case
- 99. Deposit of security
- 100. Costs

101. Payment of costs out of security deposit and return of such deposits

PART 5 :- CORRUPT PRACTICES

102. Corrupt Practices

PART 6 :- ELECTION EXPENSES

103. Account of Election Expenses

104. Lodging of accounts with the Returning Officer

105. Particulars of Account of Election Expenses

106. Notice by Returning Officer for inspection of account

107. Inspection of account and the obtaining of copies thereof

108. Report by the Returning Officer as to the lodging of the account of election expenses and the decision of the Commission thereon

109. Maximum Election Expenses

110. Disqualification for failure to Lodge Account of Election Expenses

111. Removal or Reduction of Period of Disqualification

PART 7 :- MISCELLANEOUS

112. Extension of time for completion of election

113. Staff of Government and every local and statutory authority to be made available for election work

114. Control, superintendence and discipline of Election Commission over Election Observers, Returning Officers, etc

115. Requisitioning of premises, vehicle etc. for election purposes

**Delhi Municipal Corporation (Election Of Councillors) Rules,
2012**

PART 1 PRELIMINARY

1. Short title and commencement :-

(i) These rules may be called the Delhi Municipal Corporation (Election of Councillors) Rules, 2012.

(ii) They shall come into force with effect from the date of publication in Delhi Gazette.

2. Interpretation :-

In these rules, unless the context otherwise requires:-

(a) "Act" means the Delhi Municipal Corporation Act, 1957 (66 of 1957) read with the Delhi Municipal Corporation (Amendment) Act, 2011.

(b) "Commission" means the State Election Commission of Delhi

- (c) "Election Commissioner" means the State Election Commissioner of Delhi
- (d) "election" means an election of a Councillor to a notified Corporation
- (e) "elector" means any person entitled to vote at an election of Councillors
- (f) "electoral roll number" of a person means:-
- (i) the serial number of the entry in the electoral roll in respect of that person
- (ii) the serial number of the part of the electoral roll in which such entry occurs; and
- (iii) the number and name of the ward of the Municipal Corporation to which the electoral roll relates
- (g) "form" means a form appended to these rules and includes a translation thereof, in Hindi or Urdu;
- (h) "Government" means Government of National Capital Territory of Delhi.
- (i) "Municipal Corporation" means a Municipal Corporation of Delhi.
- (j) "marked copy of the electoral roll" means the copy of the electoral roll set apart for the purpose of the marking the names of the electors who are allow to cast their votes.
- (k) "polling station" means the place fixed for taking the poll at election to a ward.
- (l) "presiding officer" includes -
- (1) any polling officer performing any of the functions of a presiding officer under rule 11.
- (m) "returning officer" includes any assistant returning officer performing any function he is authorized to perform in the rule 8.
- (n) "section" means a section of the Act
- (o) "Voter ID card" means an identification card issued to an elector by the Chief Electoral Officer, Govt. of Delhi.
- (p) "Voting Machine" means any machine or apparatus whether operated electronically or otherwise used for giving or recording of votes.
- (q) "Ward" means a ward of a Municipal Corporation of Delhi.

2A. Rule 2A :-

Any expression which is not defined in these rules shall have the same meaning as in the Act and as in the provisions of the Delhi Municipal Corporation (Preparation of Electoral Rolls) Rules, 1975.

(2) For the purpose of these rules;

(i) 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 Returning Officer or the presiding officer or such other officer as may be specified in this behalf by the State Election Commission; and

(b) such officer on being satisfied as to his identity has attested the marks as being the mark of that person; and

(ii) any amendment, transposition or deletion of any entry made under Section 22 of the Representation of the People Act, 1950 and any direction for the inclusion of a name under Section 23 of the Representation of the People Act, 1950, in the electoral roll of an Assembly constituency/Municipal Ward, after the last date of making nominations and before the completion of an election shall be ignored.

PART 2 SUPERINTENDENCE OF ELECTIONS AND ADMINISTRATIVE MACHINERY

3. Superintendence and control of election :-

The Election Commissioner shall supervise, direct and control the conduct of elections to the notified Corporations.

4. Election Observers :-

(1) The Election Commissioner may nominate an Election Observer who shall be an officer of Government to watch the conduct of elections in a ward or a group of wards of a Corporation and to perform such other functions as may be entrusted to him by the Election Commissioner.

(2) The Election Observer nominated under sub-rule (1) shall have the power to direct the Returning Officer for a ward or for any of the wards for which he has been nominated, to stop the counting of votes at any time before the declaration of the result or not to declare result if, in the opinion of the Election Observer, booth capturing has taken place at a large number of polling stations or at the places fixed for the poll or counting of votes or the Electronic Voting Machine or Machines used at the polling station or in the counting of votes has/have been taken away or damaged or tampered with to the extent that the polling can not be continued or the result of election can not be ascertained.

(3) When an Election Observer has directed the Returning Officer under this rule to stop counting of votes or not to declare the result, the observer shall forthwith report the matter to the Commission and thereupon the Commission shall, after taking all the material circumstances into account, issue appropriate directions for repoll in a polling station or stations, as the case may be, to the concerned Returning Officer and any further direction which is deemed fit by it in this context, under intimation to the Election Observer.

Explanation:- For the purpose of this rule, "Election Observer" shall include any such officer of Government as has been assigned the duties under this rule, of watching the conduct of election or elections in a ward or group of wards and also the counting of votes of a ward or wards, by the Commission.

5. Secretary of Election Commission :-

The Commission may assign to the Secretary of Commission any of the functions of the Commission or as provided in the rules.

6. District Election Officer :-

(1) The Commission may appoint as many District Election Officers as it may consider necessary, out of the officers working in the Commission, or from other officers of the Government. or from a Municipal Corporation of Delhi to look after the work of electoral rolls and conduct of elections in a ward or wards.

(2) The Direct Election Officers appointed under sub-rule (1) shall function subject to the superintendence, direction and control of the Commission.

7. Returning Officer and Scrutinizing Officers :-

For every ward the Commission shall :-

(a) designate or nominate a Returning Officer who shall be an officer of Government and

(b) appoint a Scrutinizing Officer for the purpose of scrutinizing nominations under rule 22 who shall be an officer of the Government:

Provided that nothing in this rule shall prevent the Commission from designating or nominating or appointing the same person to be the Returning Officer and the Scrutinizing Officer, as the case may be, for a ward or for a number of wards.

8. Assistant Returning Officer :-

(1) The Commission may appoint one or more persons to assist any Returning Officer in the performance of his functions provided that every such person shall be an officer of the Government.

(2) Every Assistant Returning Officer shall subject to the control of the Returning Officer, be competent to perform all or any of the functions of the Returning Officer:

Provided that no Assistant Returning Officer shall perform any of the functions of the Scrutinizing Officer which relate to the scrutiny of a nomination, unless the Scrutinizing Officer is unavoidably prevented from performing the said function;

(3) Reference in these Rules to the Returning Officer shall, unless the context otherwise requires, be deemed to include an Assistant Returning Officer performing any function, which he is authorized under these Rules or under sub-rule(2) above.

9. General duty of the Returning Officer :-

It shall be the general duty of the Returning Officer at any election to do all such acts and things as may be necessary for effectively conducting the election in the manner provided by the Act, rules and orders made thereunder.

10. Polling stations for wards :-

The Returning Officer of a ward shall provide a sufficient number of polling stations for the ward under his charge and shall publish in such manner as the Commission may direct in this behalf, the list showing the polling stations so provided and the polling areas and groups of voters for which they have respectively been provided.

11. Presiding Officers for polling stations :-

(1) The Returning Officer of a ward or wards shall appoint a Presiding Officer for each polling station and such polling officer or officers, as he thinks necessary, but he shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for a candidate in or about the election:

Provided that if a polling officer is absent from the polling station, the presiding officer may appoint any person who is present at the polling station other than a person who has been employed by or on behalf of, or has been otherwise working for a candidate in or

about the election, to be the polling officer during the absence of the former officer and inform the Returning Officer of a ward or wards accordingly: Provided further that nothing in this sub-rule shall prevent the Returning Officer from appointing the same person to be Presiding Officer for more than one polling station in the same premises.

(2) A polling officer shall, if so directed by the Presiding Officer, perform all or any of the functions of a Presiding Officer under these rules or orders made thereunder.

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

(4) References in the Act and these Rules to the Presiding Officer shall, unless the context otherwise requires, be deemed to include any person performing any function which he is authorized to perform under sub-rules (2) and (3) as the case may be.

(5) The Returning Officer shall pay to the Presiding Officers, polling officers and other polling staff such traveling allowance, honorarium etc., as is fixed by the Commission;

12. General duty of the Presiding Officer :-

It shall be the general duty of the Presiding Officer at a polling station to keep order thereat and to see that the poll is conducted in a free and fair manner.

13. Duties of a polling officer :-

It shall be the duty of the polling officer at a polling station to assist the Presiding Officer for such station in the performance of his functions.

PART 3 CONDUCT OF ELECTIONS

CHAPTER 1 NOMINATION OF CANDIDATES

14. Appointment of dates for nominations etc :-

As soon as the notification or notifications calling upon a ward or wards to elect a Councillor or Councillors is/are issued under the provisions of section 11, or sub-section (1) of section 12 of the Act, the Election Commissioner shall by notification in the Official

Gazette appoint :-

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

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

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

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

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

Explanation:-In this rule, public holiday means any day which is a public holiday for the purpose of section 25 of the Negotiable Instruments Act, 1881 (26 of 1881), or any day which has been notified by the Administrator to be a holiday for the Govt. offices in the National Capital Territory of Delhi. However, a Saturday shall not be a holiday for purpose of receipt of nominations, scrutiny of nominations, last date for withdrawal of candidatures, day of poll or the day of completion of elections.

15. Symbols :-

(1) For the purpose of election to a Municipal Corporation of Delhi, the National Parties and State Parties for the National Capital Territory of Delhi, as are recognized for the time being by the Election Commission of India in the National Capital Territory of Delhi, under section 29A of the Representation of the People Act, 1951 and the rules and procedure made thereunder, shall be recognized as such by the Commission. The Commission shall recognize the parties and adopt symbols subject to the following conditions, namely:-

(a) The National Parties and the State Parties recognized by the Election Commission of India shall be recognized under the very same name by the Commission.

(b) The National Parties and the State Parties recognized by the

Election Commission of India shall use only those very symbols which are reserved for them by the Election Commission of India and not any other symbol, and

(c) The facsimiles of the symbols thus allowed shall not be different from the facsimiles prescribed and recognized by the Election Commission of India.

(2) A candidate shall be deemed to have been set up by a political party only if the candidate has made a declaration to that effect in the nomination paper first filed by him and duly supported by all authorized to such effect by the party concerned.

(3) The Commission shall also adopt free symbols as have been notified by the Election Commission of India for the time being in respect of elections to Lok Sabha and Legislative Assembly for the National Capital Territory of Delhi.

(4) The Commission shall specify by notification in the official Gazette, the symbols that may be chosen by candidates and the restrictions to which their choice shall be subject.

(5) Where at any such election, more nomination papers than one are delivered by or on behalf of a candidates, the declaration as to symbols, made in the nomination paper first delivered, and no other declaration as to symbols, shall be taken into consideration under rule 24 even if that nomination paper has been rejected.

(6) A failure to complete, or a defect in completing the declaration as to symbols in a nomination paper shall not be deemed to be a defect of a substantial character within the meaning of sub-rule (4) of rule 22.

16. Public notice of election :-

On the issue of a notification under rule 14, the Returning Officer for the ward shall give public notice of the intended election in Form 1 which shall, subject to any directions of the Commission, be published in such manner as the Returning Officer thinks fit.

17. Nomination of candidates for elections :-

Any person may be nominated as a candidate for election to fill a seat if he is qualified to be chosen to fill that seat under the provisions of the Act, in form 2.

Provided that no person shall contest from more than two wards at a time from the same corporation.

18. Right to Information :-

(1) A candidate shall, apart from any information which he is required to furnish, under the Act or the rules made thereunder, in his nomination paper delivered under rule 19 also furnish the information as to whether -

(i) he is accused of any offence punishable with imprisonment for two years or more in a pending case in which a charge has been framed by the court of competent jurisdiction;

(ii) he has been convicted of an offence [other than any offence referred to in sub-section (1) or sub-section (2), or covered in sub-section (3), of section 8 of the Representation of the People Act 1951] and sentenced to imprisonment for one year or more.

(2) The candidate or his proposer, as the case may be, shall, at the time of delivering to the Returning Officer the nomination paper under rule 19, also deliver to him two affidavits in form 21 & 22 sworn by the candidate verifying the information specified in sub-rule (1).

(3) The returning officer shall, as soon as may be after the furnishing of information to him under sub-rule (1), display the aforesaid information by affixing a copy of each of the two affidavits, delivered under sub-rule (2), at a conspicuous place at his office for the information of the electors relating to a ward for which the nomination paper is delivered.

19. Presentation of nomination paper and requirements for a valid nomination :-

(1) On or before the date appointed under clause (a) of rule 14 each candidate shall, either in person or by his proposer, between the hours of eleven O clock in the forenoon and three O'clock in the afternoon, deliver to the Returning Officer at the place specified in this behalf in the notice issued under rule 16 a nomination paper completed in Form 2 and signed by the candidate and by an elector of the same ward as proposer

Provided that a candidate not set up by a recognized National Political party, shall not be deemed to be duly nominated for election from a ward unless the nomination paper is subscribed by ten proposers being electors of the same ward.

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

(3) In a ward where any seat is reserved for woman, a candidate shall not be deemed to be qualified to be chosen to fill that seat unless her nomination paper contains a declaration made by her that she is a woman.

(4) Where the candidate is a person who having held any office referred to in clause (k) of sub section (1) of section 9 has been dismissed and a period of four years has not elapsed since the dismissal, such person shall not be deemed to be duly nominated as a candidate unless his nomination paper is accompanied by a certificate issued by the Central/State Government, as the case may be, that the disqualification has been removed or by a certificate issued by the Commission to the effect that he has not been dismissed for corruption or disloyalty to the State.

(5) On the presentation of a nomination paper, the Returning Officer shall, satisfy himself that the names and electoral roll numbers of the candidates and his proposer(s) as entered in the nomination paper are the same as those entered in the electoral roll;

Provided that the Returning Officer shall permit any clerical or technical error in the nomination paper in regard to the said names or numbers to be corrected in order to bring them into conformity with the corresponding entries in the electoral rolls, and where necessary, direct that any clerical or printing error in the said entries shall be overlooked.

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

(7) Nothing in this rule shall prevent any candidate from being nominated by more than one nomination paper;

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

20. Deposits :-

(1) A candidate shall not be deemed to be duly nominated unless he deposits or causes to be deposited a sum of five thousand rupees, or where the candidate is a member of a Scheduled Caste, a sum of two thousand five hundred rupees:

Provided that where a candidate has been nominated by more than

one nomination paper for election in the same ward, not more than one deposit shall be required of him under this sub-rule.

(2) Any sum required to be deposited under sub-rule (1) shall not be deemed to have been deposited under that sub-rule unless at the time of delivery of the nomination paper under sub-rule (1) of rule 19 the candidate has either deposited or caused to be deposited that sum in cash with the Returning Officer or enclosed with the nomination paper a receipt showing that the said sum has been deposited by him or on his behalf in a Government Treasury in the National Capital Territory of Delhi.

(3) If a candidate by whom or on whose behalf the deposit has been made withdraws his candidature under rule 23 or if the nomination of any such candidate is rejected, the deposit shall be returned to the candidate or if he dies before the commencement of the poll, to his legal representative.

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

(5) The deposit shall, where it is not forfeited under sub-rule (4) be returned to the candidate or if he is dead, to his legal representative, after the publication of the result of the election in the Official Gazette.

21. Notice of nominations and the time and place for their scrutiny :-

(1) The Returning Officer shall, on receiving the nomination paper under sub-rule (1) of rule 19, inform the persons delivering the same of the date, time and place fixed, and the Scrutinizing Officer appointed, for the scrutiny of nominations and shall enter on the nomination paper its serial number, and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him and shall as soon as may be, thereafter cause to be affixed in some conspicuous place in his office a notice in Form 3 of the nomination containing description similar to those contained in the nomination paper, both of the candidate and the proposer or the proposers, as the case may be.

(2) The Returning Officer shall cause all the nomination papers to be delivered to the concerned Scrutinizing Officer in sufficient time for being dealt with under rule 22.

22. Scrutiny of nomination :-

(1) On the date fixed for the scrutiny of nominations under rule 14, the candidate and two other persons duly authorized in writing by him but no other person, may attend at such time and place as has been specified in the notice issued under rule 16 and before such Scrutinizing Officer as the Commission has appointed under rule 7 and the Scrutinizing Officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and the manner laid down in rule 19.

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

(a) that on the date fixed for the scrutiny of nomination the candidate earlier is not qualified or is disqualified for being chosen as a councilor under the Act; or

(b) that there has been a failure to comply with any of the provisions of rules 18,19 and

(c) that the signatures of the candidate or the proposer(s) on the nomination paper is/are not genuine.

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

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

(5) The Scrutinizing Officer shall hold the scrutiny on the date appointed in this behalf under clause (b) of rule 14 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot, open violence or by causes beyond his control:

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

Provided further that if the Scrutinizing Officer/Returning Officer, observes himself or an objection has been raised at the time of scrutiny of nominations that a particular candidate is disqualified to be chosen under clause (f), (h), (i), (j), (k) or subsection (1) of section 9 of the Act and he seeks clarification or any information in this behalf from the Commissioner of Municipal Corporation concerned, the Commissioner shall supply the requisite information/clarification to the Returning Officer within such time as given by the Returning Officer.

(6) The Scrutinizing Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection;

(7) For the purpose of this rule, a certified copy of any entry in the electoral roll for the time being in force of a ward shall be conclusive evidence of the fact that the person referred to it in that entry is an elector for that ward unless it is proved that he is subject to a disqualification mentioned in section 16 of the Representation of the People Act, 1950.

(8) Immediately after all the nomination papers have been scrutinized and decision accepting or rejecting the same have been recorded, the Scrutinizing Officer shall prepare in Form 4 a list of validly nomination candidates, that is to say, candidates whose nomination have been found valid and forward the same alongwith all the nomination papers to the Returning Officer who shall countersign the list and affix it to his notice board.

23. Withdrawal of candidature :-

(1) Any candidate may withdraw his candidature by notice in writing in Form 5 which shall be subscribed by him and delivered before three O clock in the afternoon on the day fixed under clause (c) of rule 14 to the Returning Officer either by such candidate in person or by his proposer.

(2) On receipt of such notice, the Returning Officer shall note thereon the date and time at which it was delivered.

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

(4) The Returning Officer shall, on being satisfied as to the genuineness of a notice of withdrawal and the identity of the person delivering it under sub-rule (1) cause the notice to be

affixed in Form 6 in some conspicuous place in his office.

24. Preparation of list of contesting candidates :-

(1) Immediately after the expiry of the period within which candidature may be withdrawn under sub-rule (1) of rule 23, the Returning Officer shall prepare in Form 7 list of the contesting candidates; that is to say, candidates who were included in the list of validly nominated candidates, and who have not withdrawn their candidature within the said period. The said list shall be prepared in three different segments in consecutive order, that is to say, I- Candidates of recognized political parties at National Level, II- Candidates of State Parties for elections to Lok Sabha/Assembly in the National Capital Territory of Delhi, and III- Independents;

(2) The said list shall be prepared and printed in three languages, namely, (i) Hindi (ii) English, and (iii) Urdu. It shall contain the names in alphabetical order of Hindi script and the addresses of the contesting candidates as given in the nomination papers, etc. The alphabetical order, shall be determined with reference to the surnames of the candidates having surnames and the names proper of other candidates.

(3) Where a poll becomes necessary, the Returning officer shall consider the choice of symbols expressed by the contesting candidates in their nomination papers and shall, subject to any general or special direction issued in this behalf by the Election Commissioner:

(a) allot different symbol to each contesting candidate in conformity, as far as practicable, with his choice and

(b) if more contesting candidates than one have indicated their preference for the same symbol, decide by lot to which of such candidates the symbol will be allotted.

(4) The allotment by the Returning Officer of any symbol to a candidate shall be final except where it is inconsistent with any directions issued by the Commission in this behalf in which case the Commission may revise the allotment in such manner as it thinks fit.

(5) Every candidate or his election agent shall forthwith be informed of the symbol allotted to the candidate and be supplied with a specimen thereof by the Returning Officer.

25. Publication of list of contesting candidates :-

(1) The Returning Officer shall, immediately after its preparation

cause a copy of the list of contesting candidates to be affixed in some conspicuous place in his office and shall also supply a copy thereof to each of the contesting candidates or his election agent.

(2) If a poll becomes necessary under rule 33, the Returning Officer shall publish the list of contesting candidates in the official Gazette.

CHAPTER 2 AGENTS

26. Appointment of Election Agent :-

(1) A candidate at an election may appoint any one person other than himself to be his election agent; and such appointment shall be made in form 8;

(2) When any such appointment is made, notice of such appointment shall be given by forwarding in duplicate Form 8 duly filled up to the Returning Officer, who shall return one copy thereof to the election agent after affixing thereon his seal and signature in token of his approval of the appointment.

(3) Any election agent may perform such functions in connection with the election as are authorized by or under the Act or these rules to be performed by an Election Agent.

(3) Any person who is for the time being disqualified for being chosen as and for being, a councilor under Section 9 of the Act or rule 110 of these rules shall, so long as the disqualification subsists, also be disqualified for being an election agent at any election.

(4) Any revocation of the appointment of an election agent shall be made in Form 8-A, and shall be signed by the candidate, and shall operate from the date on which such form is lodged with the Returning Officer.

(5) In the event of such a revocation or of the death of the election agent whether that event occurs before or during the election, the candidate may appoint in the prescribed manner another person to be his election agent and when such appointment is made, notice of the appointment shall be given in the manner prescribed in sub-rule (2) above to the Returning Officer.

27. Appointment of polling agents :-

(1) A contesting candidate may appoint one agent and two relief agents to act as polling agents of such candidate at each polling station and every such appointment shall be made in Form 8-B and shall be made over to the polling agent for production at the polling station.

(2) No polling agent shall be admitted into the polling station unless he has delivered to the presiding officer the instrument of his appointment under sub-rule (1) after duly completing and signing before the presiding officer the declaration contained therein.

A polling agent may perform such function in connection with the poll as are authorized by or under the Act or of these rules to be performed by a polling agent.

28. Revocation of the appointment, or death of a polling agent :-

Any revocation of the appointment of a polling agent shall be signed by the candidate in Form 9 and shall operate from the date and time on which it is lodged with the presiding officer and in the event of such a revocation or of the death of a polling agent before the close of the poll, the candidate may appoint another polling agent at any time before the poll is closed and shall forthwith give a notice of such appointment to the presiding officer in the manner specified in rule 27.

29. Candidates and agents to wear badges: functions of agents :-

(1) The candidates and polling agents to be admitted inside the polling stations will be supplied by the Commission on, payment of such amount as he may fix distinguishing badges which shall be exhibited on shirts, blouse etc. for the purpose of identification. No candidate or polling agent shall be allowed to enter the polling stations unless he/she wears the official badge.

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

30. Attendance of a candidate on polling station and performance by him of the functions of a polling agent or counting agent :-

(i) At every election where a poll is taken, each contesting candidate at such election shall subject to the provisions of subrule (1) of rule 29 have a right to be present at any polling station provided under rule 10 for the taking of the poll.

(ii) A contesting candidate, may himself do any act or thing which

any polling agent or counting agent of such candidate, if appointed, would have been authorized by these rules to do or may assist any polling agent or the counting agent of such candidate appointed under rule 27 of these rules in doing any such act or thing.

31. Non-attendance of polling or counting agents :-

Where any act or thing is required or authorized by these rules to be done in the presence of the polling or counting agents the non-attendance of any such agent or agents at the time and place appointed for the purpose shall not if the act or thing is otherwise, duly done, invalidate the act or thing done.

CHAPTER 3 GENERAL PROCEDURE AT ELECTIONS

32. Death of candidate before poll :-

(1) If a candidate set up by a recognized political party defined in rule 15.

(a) dies at any time after 11.00 AM on the last date for making nominations and his nomination is found valid on scrutiny under rule 22; or

(b) whose nomination has been found valid on scrutiny under rule 22 and who has not withdrawn his candidature under rule 23, dies; and in either case, a report of his death is received at any time before the publication of the list of contesting candidates under rule 25; or

(c) dies as a contesting candidate and a report of his death is received before the commencement of the poll, the Returning Officer shall, upon being satisfied about the fact of the death of the candidate, by order, announce an adjournment of the poll to a date to be notified later and report the fact to the Commission and also to the appropriate authority: Provided that no order for adjourning a poll shall be made in a case referred to in clause (a) except after the scrutiny of all the nomination including the nomination of the deceased candidate.

(2) The Commission shall, on the receipt of a report from the Returning Officer under sub-rule (1), call upon the recognized political party, whose candidate has died, to nominate another candidate for the said poll within seven days of issue of such notice to such recognized political party and the provisions of rules 14 to 22 shall, so far as may apply in relation to such nomination as they would apply to other nominations:

Provided that no person who has given a notice of withdrawal of his candidature under rule 23 before the adjournment of the poll, shall be ineligible for being nominated as candidate for the election after such adjournment.

(3) Where a list of contesting candidates had been published under rule 25 before the adjournment of the poll under sub-rule (1), the Returning Officer shall again prepare and publish a fresh list of contesting candidates under rule 25 as to include the name of the candidate who has been validly nominated under sub-rule (2).
Explanation:- For the purpose of this rule, "recognized political party" means a political party recognized by the Commission under rule (1) of Rule 15.

33. Procedure in contested and uncontested elections :-

(1) If the number of contesting candidates is more than one a poll shall be taken.

(2) If there is only one contesting candidate the Returning Officer shall forthwith declare him to be duly elected immediately after the closing hour of withdrawal of candidatures fixed under rule 14 to fill the seat in the ward and sign the return of election in form 18. He will send copy of form 18 to the Commission immediately..

(3) Where a ward has failed to elect a person to fill the seat allotted to it, the Commission shall, by notification in the Official Gazette under sub-section (3) of section 11 of the Act call upon the ward to elect a person, if it is satisfied that on being called upon again there will be no such failure on the part of the ward.

CHAPTER 4 THE POLL

34. Fixing time for poll :-

The Commission shall fix the hours during which the poll will be taken and the hours so fixed shall be published by notification in the Official Gazette: Provided that the total period allotted on any one day for polling at an election in a ward shall not be less than eight hours.

35. Adjournment of poll in emergencies :-

(1) If at an election the proceedings at any polling station provided for a ward under rule 10 of these rules, are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling station on account of any

natural calamity or any other sufficient cause, the presiding officer for such polling station shall announce an adjournment of the poll to a date to be notified later, and forthwith inform the Returning Officer concerned and the Commission.

(2) Whenever a poll is adjourned under sub-rule (1), the Returning Officer shall immediately report the circumstances to the Commission and shall, as soon as may be, with the previous approval of the Commission appoint the day on which the poll shall recommence, and fix the polling station at which and the hours during which the poll will be taken and shall not count the votes cast at such election until such adjourned poll shall have been completed.

(3) In every such case as aforesaid the returning officer shall notify in the Official Gazette the date, place and hours of polling fixed under sub-rule (2).

36. Fresh poll in the case of destruction etc. of Electronic Voting Machine :-

(1) If at any election:-

(a) any electronic voting machine used at a polling station is unlawfully taken out of the custody of the presiding officer or is accidentally or intentionally destroyed or lost, or is damaged or tampered with to such an extent that the result of the poll at that polling station can not be ascertained, or

(b) any voting machine develops a mechanical failure during the course of recording of votes; or

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

(2) Thereupon, the Commission shall, after taking all material circumstances into account either

(a) declare the poll at that polling station to be void, appoint a day and fix the hours for taking a fresh poll at that polling station and notify the day so appointed and the hours so fixed in such manner as he may deem fit, or

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

(3) The provisions of these rules shall apply to every such fresh poll

as they apply to the original poll.

37. Adjournment of poll or countermanding of election on the ground of booth capturing :-

(1) if at any election:-

(a) booth capturing has taken place at a polling station in such a manner that the result of the poll at that polling station can not be ascertained; or

(b) booth capturing has taken place in any place for counting of votes in such a manner that the result of the counting at that place can not be ascertained, the Returning Officer shall forthwith report the matter to the Commission.

(2) The Commission shall, on the receipt of a report from the Returning Officer under sub-rule (1) and after taking all material circumstances into account, either-

(a) declare that the poll at that polling station shall be void, appoint a day, and fix the hours for taking fresh poll at that polling station and notify the date so appointed and hours so fixed in such manner as it may deem fit; or

(b) if satisfied that in view of the large number of polling stations or places involved in booth capturing, the result of the election is likely to be affected, or that booth capturing had affected counting of votes in such a manner as to affect the result of the election, countermand the election in that ward. Explanation:- In this rule "booth capturing" shall have the same meaning as in Section 29B of the Act.

38. Voting Machines at Elections :-

Notwithstanding anything contained in the rules, the giving and recording of votes by voting machines in such manner as prescribed, may be adopted in such ward or wards as the Commission may, having regard to the circumstances of each case, specify."

39. Method of voting :-

(1) At every election where a poll is taken votes shall be given by voting machine.

(2) Save as hereinafter provided, all electors voting at an election shall do so in person at the polling station provided for them under rule 10.

(3) No elector shall vote in more than one ward and if an elector votes in more than one ward, his votes in all such wards shall be void.

(4) No elector shall vote in the same ward more than once notwithstanding that his name may have been registered in the electoral roll for that ward more than once and if he does so vote, all his votes in that ward shall be void. Explanation- For the purpose of this rule "Voting Machine" means any machine or apparatus whether operated electronically or otherwise used for giving or recording of votes and any reference to a ballot box or ballot paper in the Act or the rules made thereunder shall, save as otherwise provided, be construed as including a reference to such voting machine wherever such voting machine is used at any election.

CHAPTER 5 VOTING BY ELECTRONIC VOTING MACHINES

40. Design of voting machines :-

Every voting machine (hereinafter referred to as the voting machine) shall have a control unit and a balloting unit and shall be of such design as may be approved by the Commission.

41. Preparation of voting machine by the returning officer :-

(1) The balloting unit of the voting machine shall contain such particulars and in such language or languages as the Commission may specify.

(2) The names of the candidates shall be arranged on the balloting unit in the same order in which they appear in the list of the contesting candidates.

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

(4) subject to the foregoing provisions of this rule, the returning officer shall-

(a) fix the label containing the names and symbols of the contesting candidates in the balloting unit and secure that unit with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same;

(b) set the number of contesting candidates and close the candidate set section in the control unit and secure it with his seal and the seals of such of the contesting candidates or their election

agents present as are desirous of affixing the same.

42. Arrangements at the polling stations :-

(1) Out-side each polling station there shall be displayed prominently-

(a) a notice specifying the polling area, the electors of which are entitled to vote at the polling station and, when the polling area has more than one polling station, the particulars of the electors so entitled; and

(b) a copy of the list of contesting candidates.

(2) At each polling station there shall be set up one voting compartment in which the electors can record their votes free from observation.

(3) The returning officer shall provide at each polling station such number of voting machines so as to accommodate and exhibit required particulars of all the contesting candidates of a ward and copies of relevant part of the electoral roll and such other election material as may be necessary for taking the poll. In case more than one machine are provided at a polling station, they shall be connected with each other so as to form it a single balloting unit at that polling station.

(4) Without prejudice to the provisions of sub-rule (3), the returning officer, may, with the previous approval of the Commission, provide one common voting machine for two or more polling stations located in the same premises.

43. Admission to polling stations :-

The presiding officer shall regulate the number of electors, to be admitted at any one time inside the polling station and shall exclude there from all persons other than-

(a) polling officers;

(b) public servants on duty in connection with election;

(c) persons authorized by the Commission;

(d) candidates, their election agent and subject to the provisions of rule 27, one polling agent of each candidate;

(e) a child in arms accompanying an elector;

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

(g) such other person as the returning officer or the presiding officer may employ under sub-rule (2) of rule 46 or sub-rule (1) rule 47.

44. Preparation of voting machine for poll :-

(1) The control unit and balloting unit of every voting machine used at polling station shall bear a label marked with

- (a) the serial number, if any, and the name of the ward; and the name of the municipal corporation concerned;
- (b) the serial number and name of the polling station or stations as the case may be;
- (c) the serial number of the unit; and
- (d) the date of poll.

(2) Immediately before the commencement of the poll, the presiding officer shall demonstrate to the polling agents and other persons present that no voter has been already recorded in the voting machine and it bears the label referred to in sub-rule (4) of rule 41.

(3) A paper seal shall be used for securing the control unit of the voting machine, and the presiding officer shall affix his own signature on the paper seal and obtain thereon the signature of such of the polling agents present as are desirous of affixing the same.

(4) The presiding officer shall thereafter fix the paper seal so signed in the space meant therefore in the control unit of the voting machine and shall secure and seal the same.

(5) The seal used for securing the control unit shall be fixed in such manner that after the unit has been sealed, it is not possible to press the "result button" without breaking the seal.

(6) The control unit shall be closed and secured and placed in full view of the presiding officer and the polling agents and the balloting unit placed in the voting compartment.

45. Marked copy of electoral roll :-

Immediately before the commencement of the poll, the presiding officer shall also demonstrate to the polling agents and others present that the marked copy of the electoral roll to be used during the poll does not contain any remark made in pursuance of sub-rule (4) of rule 65 or any entry other than that made in pursuance of clause (a) of sub-rule (1) of rule 67.

46. Facilities for woman electors :-

(1) Where a polling station is for both men and women electors, the presiding officer may direct that they shall be admitted into the

polling station alternately in separate batches.

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

47. Identification of electors :-

(1) The presiding officer shall check the electors photo identity card (EPIC) of the voter and any other alternative document of identification permitted by the Commission and may employ at the polling station such person as he thinks fit to help in the identification of the electors or to assist him otherwise in taking the poll.

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

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

48. Facilities for public servants on election duty :-

(1) The provisions of rule 47 shall not apply to any person who produces at the polling station an election duty certificate in Form 13A and seeks permission to cast his vote at that polling station although it is different from the one where he is entitled to vote.

(2) On production of such certificate, the presiding officer shall -

(a) obtain thereon, the signature of the person producing it;

(b) have the persons name and electoral roll number as mentioned in the certificate entered at the end of the marked copy of the electoral roll; and

(c) permit him to cast his vote in the same manner as for an elector entitled to vote at that polling station.

49. Challenging of identity :-

(1) Any polling agent may challenge the identity of a person

claiming to be a particular elector by first depositing a sum of five rupees 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 electoral roll in full and ask him/her whether he/she is the person referred to in that entry;

(c) enter his name and address in the list of challenged votes in Form 10; and

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

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

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

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

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

(4) If, after the inquiry, the presiding officer considers that the challenge has not been established, he shall allow the person challenged to vote, and if he considers that the challenge has been established, he shall debar the person challenged from voting and hand that person over to the police personnel on duty to charge him under section 171F of IPC.

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

50. Safeguards against personation :-

(1) Every elector about whose identity the presiding officer or the polling officer, as the case may be, is satisfied, shall allow his left forefinger to be inspected by the presiding officer or polling officer and an indelible ink mark to be put on it.

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

(3) Any reference in this rule to the left forefinger of an elector

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

51. Procedure for voting by voting machines :-

(1) Before permitting an elector to vote, the polling officer shall-

(a) record the electoral roll number of the elector as entered in the marked copy of the electoral roll in a register of voters in Form 11A;

(b) obtain the signature or the thumb impression of the elector on the said register of voters; and

(c) mark the name of the elector in the marked copy of the electoral roll to indicate that he has been allowed to vote;

(d) give details of the documents produced by the elector in proof of his/her identification where such proof has been asked for; Provided that no elector shall be allowed to vote unless he has his signature or thumb impression on the register of voters.

(2) Notwithstanding anything contained in sub-rule (1) (b) of this rule, it shall not be necessary for any presiding officer or polling officer or any other officer to attest the thumb impression of the elector on the register of voters.

52. Maintenance of secrecy of voting by electors within the polling station and voting procedures :-

(1) Every elector who has been permitted to vote under rule 51 shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.

(2) Immediately on being permitted to vote, the elector shall proceed to the presiding officer or the polling officer incharge of the control unit of the voting machine who shall, by pressing the appropriate button on the control unit, activate the balloting unit for recording of electors vote.

(3) The elector shall thereafter forthwith-

(a) proceed to the voting compartment;

(b) record his vote by pressing the button on the balloting unit against the name and symbol of the candidate for whom he intends to vote; and

(c) come out of the voting compartment and leave the polling station.

(4) Every elector shall vote without undue delay.

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

(6) If an elector who has been permitted to vote under rule 51 or rule 55 refuses after warning given by the presiding officer to observe the procedure laid down in the said rules, the presiding officer or a polling officer under the direction of the presiding officer shall not allow such elector to vote.

(7) Where an elector is not allowed to vote under sub-rule (6), a remark to the effect that voting procedure has been violated shall be made against the electors name in the register of voters in Form 11A by the presiding officer under his signatures.

53. Recording of votes by blind or infirm electors :-

(1) If the presiding officer is satisfied that owing to blindness or other physical infirmities an elector is unable to recognize the symbol on the balloting unit of the voting machine or unable to record his vote by pressing the appropriate button thereon without assistance, the presiding officer shall permit the elector to take with him a companion of not less than eighteen years of age to the voting compartment for recording the vote on his behalf and in accordance with his wishes:-

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

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

(2) The presiding officer shall keep a record in Form 10A of all cases under this rule.

54. Elector deciding not to vote :-

If an elector, after his electoral roll number has been duly entered in the registered of voters in Form 11 A and has put his signature or thumb impression thereon as required under sub-rule (1) of the rule 51, decides not to record his vote, a remark to the effect shall be made against the said entry in form 11 A by the presiding

officer and the signature or thumb impression of the elector shall be obtained against such remark.

55. Tendered Votes :-

(1) If a person representing himself to be a particular elector seeks to vote after another person has already voted as such elector, he shall, on satisfactorily answering such questions relating to his identity as the presiding officer may ask, be, instead of being allowed to vote through the balloting unit, supplied with a tendered ballot paper which shall be of such design, and the particulars of which shall be in such language or languages as the Commission may specify.

(2) Every such elector shall, before being supplied with tendered ballot paper, write his name against the entry relating to him in Form 11 B.

(3) On receiving the ballot paper, he shall forthwith-

(a) Proceed to the voting compartment;

(b) record there his vote on the ballot paper by placing a cross mark X with the instrument or article supplied for the purpose on 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) Show to the presiding officer, if required, the distinguishing mark on the ballot paper;

(e) give it to the presiding officer who shall place it in a cover specially kept for the purpose; and

(f) leave the polling station.

(4) If, owing to the blindness or physical infirmities, such elector is unable to record his vote without assistance, the presiding officer shall permit him to take with him a companion, subject to the same condition and after following the same procedure as laid down in rule 53 for recording the vote in accordance with his wishes.

56. Presiding Officers entry in the voting compartment during poll :-

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

(2) If the presiding officer has reason to suspect that an elector who has entered the voting compartment is tampering or otherwise interfering with the balloting unit or has remained inside the voting

compartment for unduly long period, he shall enter the voting compartment and take such steps as may be necessary to ensure the smooth and orderly progress of the poll.

(3) Whenever the presiding officer enters the voting compartment under this rule, he shall permit the polling agents present to accompany him if they so desire.

57. Closing of poll :-

(1) The Presiding Officer shall close a polling station at the hour fixed in that behalf under rule 34 and shall not thereafter admit any elector into the polling station:

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

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

58. Account of votes recorded :-

The presiding officer shall, at the close of the poll, prepare an account of votes recorded in from 11C and put it in a separate cover with the words "Account of Votes Recorded" superscribed thereon.

59. Sealing of voting machine after poll :-

(1) As soon as practicable after the closing of the poll, the presiding officer shall close the control unit to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit.

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

(3) The polling agents present at the polling station, who desire to affix their seals, shall also be permitted to do so.

60. Sealing of other packets :-

(1) The presiding officer shall, then, make into separate packets: -

- a) the marked copy of the electoral roll;
- b) the register of voters in Form 11A;
- c) the cover containing the tendered ballot papers and the list in

Form 11B;

d) the list of challenged votes in Form 10;

e) the unused ballot papers kept for issue as tendered ballot paper; and

f) any other papers directed by the Commission to be kept in a sealed packet.

(2) Each such packet shall be sealed with the seal of the presiding officer and with the seal either of the candidate or of his election agent or of his polling agent who may be present at the polling station and may desire to affix his seal thereon.

61. Transmission of voting machines, etc., to the returning officer :-

(1) The presiding officer shall then deliver or cause to be delivered to the returning officer, at such place as the returning officer may direct-

(a) the voting machine;

(b) the account of votes recorded in Form 11C;

(c) the sealed packets referred to in rule 60; and

(d) all other papers used at the poll.

(2) The returning officer shall make adequate arrangements for the safe transport of the voting machine, packets and other papers for the safe custody until the commencement of the counting of votes.

62. Procedure of adjournment of poll :-

(1) if the poll at any polling station is adjourned under rule 35, the provisions of rules 58 to 61 shall, as far as practicable, apply as if the poll was closed at the hour fixed in that behalf under rule 34.

(2) When an adjourned poll is recommended under rule 35, the electors who have already voted at the poll so adjourned shall not be allowed to vote again.

(3) The returning officer shall provide the presiding officer of the polling station at which such adjourned poll is held, with the sealed packets containing the marked copy of the electoral roll, register of voters in Form 11 A and a new voting machine or machines, as the case may be.

(4) The presiding officer shall open the sealed packet in the presence of the polling agents present and use the marked copy of the electoral roll for marking the names of the electors who are allowed to vote at the adjourned poll.

(5) The provisions of rules 40 to 61 shall apply in relation to the

conduct of an adjourned poll before it was so adjourned.

63. Closing of voting machine in case of booth capturing :-

Where the presiding officer is of opinion that booth capturing is taking place at a polling station or at a place fixed for the poll, he shall immediately close the control unit of the voting machine to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit.

CHAPTER 6 POSTAL BALLOT

64. Postal ballot for electors employed on duty at polling stations :-

(1) A presiding officer, a polling officer, or any public servant who is an elector in a ward and is by reason of his being on election duty unable to vote at the polling station where he is entitled to do so may, on application, be allowed to record his vote in that ward by postal ballot.

(2) Service voters as defined in section 20 of the Representation of the People Act, 1950 and whose names are included in the last part of the electoral roll for elections to a Delhi Municipal Corporation , as prepared under section 7E(1) or the Assembly electoral roll relating to a ward adopted under the proviso to sub-section(1) of section 7E of the Act, shall also be entitled to vote at an election to the Delhi Municipal Corporation, if they happen to be in the ward on the day of poll or if they apply to the concerned Returning Officer of the ward in Form 13 in the manner as laid down in this rule.

(3) Every such application shall be made in Form 13 and shall be sent to the Returning Officer of the ward concerned so as to reach him atleast seven days before the date of poll or in such shorter period as the Returning Officer may allow before the date of poll.

(4) If the Returning Officer is satisfied that the applicant is entitled to vote by postal ballot under sub-rule (1) he shall issue a ballot paper to him.

(5) These provisions shall not apply to any person who produces at the polling station an election duty certificate in Form 13 A and asks for the issue of a ballot paper to him although the polling station is different from the one where he is entitled to vote.

(6) On production of such certificate the presiding officer shall: -

(a) obtain thereon the signatures of the person producing it;

- (b) have the persons name and electoral roll number as mentioned in the certificate entered at the end of the marked copy of electoral roll; and
- (c) Permit him to vote, in the same manner as for an elector entitled to vote at that polling station.

65. Postal Ballot for Electors under Preventive Detention :-

- (1) The Government shall, within fifteen days of the calling of an election, ascertain and intimate to the Commission, the names of the electors, if any, subject to preventive detention together with their addresses and electoral roll numbers and the particulars about their places of detention.
- (2) Any elector subjected to preventive detention may, within fifteen days of the calling of an election, send an intimation to Commission that he wishes to vote by post, specifying his name, address, electoral roll number and place of detention.
- (3) The Commission shall through the Returning Officer of the ward concerned, get a postal ballot paper issued to every elector subjected to preventive detention whose names and applications have been sent to the Commission under sub-rule (1) of this rule .
- (4) The Returning Officer on issue of a ballot paper to the person under preventive detention, put a note as "POSTAL BALLOT PAPER" on the back of each such ballot paper in ink or with the help of a rubber stamp keep a separate record of each such ballot paper polling station-wise and ward-wise with the particulars of each such person and the number of ballot paper issued to him the name of every such person shall be scored out in the relevant copy of electoral roll being supplied for the polling station, to the Presiding Officer concerned, with a brief remark " PBP ISSUED" to prevent double voting. Such remarks shall also be made on the counter-foil of each such ballot paper".

66. Form of postal ballot paper :-

- (1) A postal ballot paper shall be in such form and shall be in such language or languages, in whole or in part, as the Election Commissioner may direct.
- (2) The names of the candidates shall be arranged in the 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.

67. Issue of Postal ballot papers :-

(1) The Returning Officer shall, as soon as practicable, deliver or cause to be delivered by post a postal ballot paper to each elector entitled to vote by postal ballot and shall at the same time: -

(a) record in such manner as he thinks fit the serial number of each ballot paper against the entry relating to that elector in the copy of the electoral roll set apart for the purpose, hereinafter referred to as the marked copy of the electoral roll; and

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

(2) Alongwith the ballot paper, the Returning Officer shall send to the elector: -

a) a declaration in Form 14-A;

b) a cover in Form 14-B;

c) a large cover addressed to the returning Officer in Form 14-C; and

d) instructions for the guidance of the elector in Form 14-D.

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

(4) After ballot papers have been issued to all the electors entitled to vote by postal ballot the returning officer shall seal up in a packet the marked copy of the electoral roll used in connection with the issue of postal ballot papers and record on the packet a brief description of its contents, the name of the Corporation ward and the date on which it is sealed.

(5) No election shall be invalidated by reason that an elector has not received his ballot paper, provided that a ballot paper has been issued to him in accordance with these rules.

68. Recording of votes on postal ballot paper :-

(1) An elector who has received a postal ballot paper and desires to vote shall record his vote on the ballot paper in accordance with the directions contained in Part I of Form 14-D; and then enclose it in the cover in Form-B.

(2) The elector shall sign the declaration in Form 14-A, in the presence of , and have the signature attested by, a stipendiary Magistrate or a Gazette Officer to whom he is personally known or to whose satisfaction he has been identified.

69. Assistance to illiterate electors :-

(1) If any elector is unable through illiteracy, blindness or other physical infirmity to record his vote on a Postal ballot paper and sign the declaration in Form 14-A, he shall take the ballot paper together with the declaration and the cover received by him to an officer referred to in sub-rule (2) of rule 68 and request such officer to record his vote and sign his declaration on his behalf.

(2) such Officer shall thereupon mark the ballot paper in accordance with the wishes of the elector in his presence and sign the declaration on behalf of the elector and complete the certificate contained in Form 14-A.

70. Re-issue of postal ballot paper :-

(1) when a postal ballot paper and other papers sent under rule 67 are for any reasons returned undelivered, the Returning Officer may re-issue them by post under certificate of posting or deliver these or cause these to be delivered to the elector personally on a request being made by him.

(2) If any elector has inadvertently dealt with his ballot paper or any of other paper sent to him under rule 67 in such a manner that they cannot conveniently be used, a second set of the papers shall be issued to him after he has returned the spoilt papers and satisfied the Returning Officer of the inadvertence.

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

71. Return of postal ballot papers :-

(1) After an elector has recorded his vote and made his declaration under rule 68 or rule 69, he shall return the postal ballot paper and declaration to the Returning Officer of the ward in which the elector is entitled to vote, in accordance with the instructions communicated to him Form in 14-D so as to reach the Returning Officer before 08.00 a.m. on the date or the last of the dates fixed for the counting of votes of that ward.

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

(3) The Returning Officer shall keep in safe custody until the commencement of the counting of votes all covers containing postal

ballot papers received by him.

CHAPTER 7 COUNTING OF VOTES

72. Definitions :-

In this Chapter, unless the context otherwise requires: -

- (a) "candidate" means a contesting candidate;
- (b) "Counting agent" means a counting agent duly appointed under rule 74 and includes a candidate when present at the counting

73. Time and place for counting of votes :-

(1) Where a poll is taken, votes shall be counted by, or under the supervision or direction of, the Returning Officer and each candidate and his counting agent shall have a right to be present at the time of counting.

(2) The returning officer shall at least one week before the date, or the first of the dates fixed for the poll, appoint the place or places, where the counting of votes will be done and the date and time at which the counting will commence and shall give notice of the same in writing to each candidate or his election agent :

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

74. Appointment of counting agents and revocation of such appointments :-

(1) The number of counting agents that a candidate may appoint shall, subject to such general or special direction as the Election Commission may issue in this behalf, not exceed sixteen at the place or each of the place fixed for counting under rule 73.

(2) Every such appointment shall be made in form 15 in duplicate together with a photo of each such agent 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 before 6.P.M on the day immediately preceding the date fixed for counting under rule 73. A counting agent may perform such function in connection with the counting of votes as are authorized by or under the Act or by these rules to be performed by a counting agent.

(3) No counting agent shall be admitted into the place fixed for

counting unless he has delivered to the returning officer the second copy of his appointment under sub-rule (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

(4) Any revocation of the appointment of a counting agent shall be signed by the candidate in Form 16 and shall operate from the date on which it is lodged with the returning officer and in the event of such a revocation or of the death of a counting agent before the commencement of the counting of votes, the candidate may appoint another counting agent in accordance with sub-rule (2) at any time before the counting of votes is commenced and shall forthwith give notice thereof to the returning officer.

75. Admission to the place fixed for counting :-

(1) The returning officer shall exclude from the place fixed for counting of votes all persons except -

- (a) such persons as he may appoint to assist him in the counting;
- (b) candidates and their counting agents;
- (c) persons authorized by the Election Commission; and
- (d) public servant on duty in connection with the election.

(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) sub-rule (1).

(3) The returning officer shall decide which counting agent or agent 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 direction of the returning officer may be removed from the place where the votes are being counted by the returning officer or by police officer on duty or by any person authorized in this behalf by the returning officer.

76. Maintenance of secrecy of voting :-

The returning officer shall, before he commences the counting of votes, read out the provisions of section 23 of the Act to such persons as may be present.

77. Scrutiny and inspection of voting machines :-

(1) The returning officer may have the control units of the voting

machines used at more than one polling stations taken up for scrutiny and inspection and votes recorded in such units counted simultaneously.

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

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

(4) If the returning officer is satisfied that any voting machine has in fact been tampered with, he shall not count the votes recorded in that machine and shall follow the procedure laid down in rules 36 and 79 as may be applicable in respect of the polling station where that machine was used.

78. Counting of votes when E.V.Ms are used :-

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

(2) As the votes polled by each candidate are displayed on the control unit, the returning officer shall have,-

(a) The number of such votes recorded separately in respect of each candidate in part-II on Form 11C:

(b) Part II of Form 11C completed in other respects and signed by the counting supervisor and also by the candidates or their counting agents present: and

(c) corresponding entries made in a result sheet in Form 17 and the particulars so entered in the result sheet announced.

79. Counting after fresh polls :-

(1) If a fresh poll is held under rule 36, the returning officer shall, after completion of that poll recommence the counting of votes on the date and at the time and place which have been fixed by him in that behalf and of which notice has been previously given to the candidates and their election agents. The provisions of rules 73 to

78 shall apply so far may be to such further counting.

80. Scrutiny and counting of postal ballot papers :-

(1) Before the counting, has been completed, the returning officer shall deal with the postal ballot papers in the manner hereinafter provided.

(2) No cover in Form 14-C 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.

(3) The other cover shall be opened one after another and as each cover is opened, the returning officer shall first scrutinize the declaration in Form 14-A contained therein.

(4) If the said declaration is not found, or has not been duly signed and attested, or is otherwise defective or if it differs from the serial number endorsed on the cover in Form 14-B, that cover shall not be opened and after making an appropriate endorsement thereon, the returning officer shall reject the postal ballot paper herein contained.

(5) Each cover so endorsed and the declaration received with it shall be placed in the cover in Form 14-C and all such covers in Form 14-C shall be kept in a separate packet which shall be sealed and on which shall be recorded the name of the ward the date of counting and a brief description of its contents.

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

(7) The covers in Form 14-B not already dealt with under the foregoing provisions of this rule shall then be opened one after another and the returning officer shall scrutinize each postal ballot paper and decide the validity of the vote-recorded thereon.

(8) A postal ballot paper shall be rejected

(a) if no vote is recorded thereon or

(b) if votes are given on it in favour of more candidates than one;
or

(c) if it is spurious ballot paper or

(d) if it is damaged or mutilated that its identity as a genuine ballot paper cannot be established and

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

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

(10) A vote recorded on a postal ballot paper shall not be rejected merely on the grounds 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 ballot paper is marked.

(11) The returning officer shall count all the valid votes given by postal ballot in favour of each candidate, record the total thereof in the result sheet in Form 17 and announce the same.

(12) Thereafter all the valid postal ballot papers and all the rejected postal ballot papers shall be separately bundled and kept together in a packet which shall be sealed and on which shall be recorded the name of the Municipal Corporation, name of the ward, the date of counting and a brief description of its contents.

81. Equality of votes :-

If equality of votes is found to exist between candidates and the addition of one vote will entitle any of those candidates to be declared elected, the returning officer, shall decide between those candidates by draw of lot and proceed as if the candidate on whom the lot falls had received an additional vote.

82. Sealing of voting machines :-

(1) After the result of voting recorded in a control unit has been ascertained candidate-wise and entered in Form 17 under rule 78, the returning officer shall reseal the unit with his seal and the seals of such of the candidates or their election agents as are present who may desire to affix their seals thereon so however that the result of voting recorded in the unit is not obliterated and the unit retains the memory of such result

(2) The control unit so sealed shall be kept in a specially prepared boxes on which the returning officer shall record the following particulars , namely-

(a) the name of the Municipal Corporation

(b) the name of the Ward

(c) the particulars of polling station or stations where the control unit has been used

(d) serial no. of the control unit

- (e) date of poll, and
- (f) date of counting.

83. Declaration of result of election :-

The returning officer shall, subject to the provisions of rule 81 if and so far as it applies to the particular case, declare to be elected the candidate to whom the largest number of valid votes had been given, complete and certify the return of election in Form 18 and send signed copies thereof to the Commission.

84. Grant of certificate of election to returned candidates :-

As soon as may be after a candidate has been declared by the returning officer under rule 83 to be elected, the returning officer shall grant to such candidate a certificate of election in Form 19 and obtain from the candidate an acknowledgement of its receipt duly signed by him and immediately send the acknowledgement to the Commission.

85. Election to more than one seat :-

If a person is elected to more than one seat then unless within three days from the date of publication of result of election under section 14 of the Act, he resigns from one seat by writing under his hand addressed to the Commission, all the two seats shall become vacant.

86. Custody of Voting Machines and papers relating to election :-

All the Voting Machines used at an election shall be kept in such custody as the Commission may direct. The Returning Officer shall keep in safe custody, subject to any general or special direction of the Commission, the packets of used ballot papers whether valid, tendered or rejected and other papers relating to the election.

87. Production and Inspection of election papers :-

(1) While in the custody of the Returning Officer:-

- (a) the packets of unused ballot papers;
- (b) the packets of used ballot papers whether valid, tendered or rejected;
- (c) the packets of the marked copy of the electoral rolls;

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

(e) the voting machines viz. control units and balloting units both as used at the polling stations in a ward ; and

(f) the register of voters in form 11A in respect of all polling stations in a ward where voting machines have been used. shall not be opened and their contents shall not be inspected by, or produced before, any person or authority except under order of a competent court.

(2) All other papers relating to the election shall be open to public inspection for a period of six months from the date of publication of the result under section 14 of the Act subject to such conditions and to the payment of such fee, if any, as the Election Commissioner may direct.

(3) Copies of the returns prepared at an election by the Returning Officer under rule 83 shall be furnished to any person by the Returning Officer on payment of a fee of Five Rupees for each such copy. The fee so prescribed shall be paid by means of court-fee stamps.

88. Disposal of election papers etc :-

Subject to any direction to the contrary given by a competent court, the packets and other papers and all data, results and other information recorded and stored in the memory of the voting machines referred to in rule 87 shall be retained for a period of six months from the date of publication of the results of election under section 14 of the Act and shall thereafter be destroyed or data erased from the voting machines, as the case may be as per directions of the Commission :

Provided that if an election petition is filed in the court of the District Judge of Delhi, the packets, other papers and all data and information stored in the voting machines referred to in this rule shall not be destroyed or erased, as the case may be, until the petition is finally disposed of.

PART 4 DISPUTE REGARDING ELECTIONS

CHAPTER 1 INTERPRETATIONS

89. Definition :-

In this part, unless the context otherwise requires:-

(a) Candidate means a person who has been or claiming to have

been duly nominated as a candidate at any election and any such person shall be deemed to have been a candidate as from the time when with the election in prospect he began to hold himself out as a prospective candidate;

(b) cost means all costs, charges and expenses of, or incidental to, a trial of an election petition.

(c) Court means the Court of District Judge of Delhi.

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

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

(f) returned candidate means a candidate whose name has been published under section 14 of the Act.

CHAPTER 2 ELECTION PETITIONS

90. Additional contents of petition :-

(1) Where the petitioner alleges any corrupt practice, an election petition shall, in addition to complying with the provision of section 18 also set forth full particulars of that corrupt practice including as full a statement as possible of names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each corrupt practice and shall also be accompanied by an affidavit in the prescribed form in support of such corrupt practice and the particulars thereof.

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

91. Petition to be dismissed :-

If the provisions of section 15 or rule 99 are not complied with the prescribed authority shall dismiss the petition ; Provided that the petition shall not be dismissed without giving the petitioner an opportunity of being heard.

92. Procedure before the court :-

(1) As soon as the court receives the petition, it shall serve on each respondent a notice in such form as it thinks fit directing the respondent to appear before the Court and answer the claim made in the petition on a day to be specified therein.

(2) Any candidate not already a respondent shall, upon an application made by him to the court within fourteen days from the date fixed for the respondents to appear and subject to the provisions of rule 99, entitled to be joined as a respondent.

93. Appearance before the Court :-

Any appearance, application or act before the court may be made or done by the party in person or by a pleader duly appointed to act on his behalf;

94. Powers of the court :-

The court shall have the powers which are vested in a civil court when trying a suit in respect of the following matter:-

- (a) discovery and inspection;
- (b) enforcing the attendance of witnesses and requiring the deposit of their expense;
- (c) compelling the production of documents;
- (d) examining witnesses on oath;
- (e) granting adjournments;
- (f) reception of evidence taken on affidavit, and
- (g) issuing commissions for the examination of witnesses.

95. Documentary evidence :-

Notwithstanding anything contained in any other law 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.

96. 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.

97. Order as to costs :-

The court may, while making an order under section 19 also fix thereby total amount of costs payable;

Provided that where a petition is dismissed under clause (a) of sub-section (1) of section 19, the returned candidate shall be entitled to the costs incurred by him in contesting the petition and accordingly the court shall make an order for costs in favour of the returned

candidate.

98. Communication of order to the Commission and transmission of the records of the case :-

The court shall, after announcing the order made by it under section 19 send a copy of the order and the records of the case to the Commission.

99. Deposit of security :-

(1) the petitioner shall enclose with the petition receipt showing that a deposit of five thousand rupees has been made by him with the Commission or any officer designated by him for the purpose as security for the costs of the petition.

(2) No person shall be entitled to be joined as a respondent unless he has given such security for costs as the court may direct.

100. Costs :-

Costs, including pleaders fee, shall be in the discretion of the Court and shall be paid out of the security deposit provided for in rule 99.

101. Payment of costs out of security deposit and return of such deposits :-

(1) If in any order as to costs under the provisions of this part 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 security deposit made by such party under this part on an application made in writing in that behalf within a period of six months from the date of the order of the Court to the Commissioner by the person in whose favour the costs have been awarded.

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

PART 5 CORRUPT PRACTICES

102. Corrupt Practices :-

In addition to the corrupt practice specified in section 22 of the Act, the following shall be deemed to be corrupt practice:-

The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or by any other person with the consent of a candidate any assistance (other than the giving of vote) for the furtherance of the prospects of that candidates election from any person:-

- (a) in the service of a Corporation; or
- (b) in the service of the Government and belonging to any of the following classes; namely;-
 - (i) gazetted officers;
 - (ii) stipendiary judges and magistrates;
 - (iii) members of the armed forces of the Union;
 - (iv) members of the police force;
 - (v) excise officers;
 - (vi) revenue officers other than village revenue officers known as lambardars, malaguzars or by any other name whose duty is to collect land revenue and who are remunerated by a share of or commission on the amount of land revenue collected by them but who do not discharge any police functions; and
 - (vii) such other class or persons in the service of the Government as may be notified by the Government.

Explanation.- For purposes of this rule, a person shall be deemed to assist in the furtherance of the prospects of a candidates election if he acts as a polling agent or a counting agent of that candidate.

PART 6 ELECTION EXPENSES

103. Account of Election Expenses :-

Every candidate at an election to a ward shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election, incurred or authorized by him or by his election agent between the date on which he has been nominated and the date of declaration of the result.

Explanation.- For the removal of doubt, it is hereby declared that any expenditure incurred in respect of any arrangement made, facilities provided or any other act or thing done by any person in the service of the Govt. or the Corporation and belonging to any of

the classes mentioned below, in the discharge or purported discharge of his official duty as mentioned in the following proviso shall not be deemed to be expenditure in connection with the election incurred or authorized by a candidate or by his election agent for the purpose of this rule.

- (a) gazetted officers ;
- (b) stipendiary judges and Magistrates ;
- (c) members of the Armed Forces of the Union ;
- (d) members of the Police Forces ;
- (e) excise officer ;
- (f) officers and staff of the Corporation ;
- (g) revenue officers other than village revenue officers known as lambardars, malgujars or by any other name, whose duty is to collect land revenue and who are remunerated by a share of, or commission on, the amount of land revenue collected by them but who do not discharge any police functions ; and
- (h) such other class of persons in the service of Government and a Corporation as may be prescribed :

Provided that where any person, in the service of the Govt. or the Corporation, as the case may be, and belonging to any of the classes aforesaid in the discharge or purported discharge of his official duty makes any arrangements or provides any facilities or does any other act or thing for, to, or in relation to, any candidate or his agent or any other person acting with the consent of the candidate or his election agent (whether by reason of the office held by the candidate or for any other reason), such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidates election.

104. Lodging of accounts with the Returning Officer :-

(1) Every contesting candidate at an election of a ward shall, within ten days from the date of election of the returned candidate, lodge with the Returning Officer an account of his election expenses which shall be a true copy of the account kept by him or by his election agent.

(2) Every contesting candidate at an election to a ward shall also file an affidavit in Form 20 in token of authenticity of the account of election expenses as maintained & submitted by him.

105. Particulars of Account of Election Expenses :-

(1) The account of election expenses to be kept by a candidate or

his election agent under rule 103 shall contain the following particulars in respect of each item of expenditure from day to day namely:-

- (a) the date on which the expenditure incurred or authorized ;
 - (b) the nature of the expenditure (as for example, traveling, postage or printing and the like) ;
 - (c) the amount of the expenditure :-
 - (i) the amount paid ;
 - (ii) the amount outstanding ;
 - (d) the date of payment ;
 - (e) the name and address of the payees ;
 - (f) the serial number of vouchers in case of amount paid ;
 - (g) the serial number of bills, if any, in case of amount outstanding ;
 - (h) the name and address of the person to whom the amount outstanding is payable. Form to be prescribe
- (2) A voucher shall be obtained for every item of expenditure unless from the nature of the case, such as postage, travel by rail and the like, it is not practicable to obtain a voucher.
- (3) All vouchers shall be lodged along with the account of election expenses, arranged according to the date of payment and serially numbered by the candidate or his election agent and such serial numbers shall be entered in the account, under item (f) of sub-rule (1).
- (4) It shall not be necessary to give the particular mentioned in item (e) of sub-rule (1) in regard to items of expenditure for which vouchers have not been obtained under sub-rule (2).

106. Notice by Returning Officer for inspection of account :-

The Returning Officer shall, within two days from the date on which the account of election expenses has been lodged by a candidate under rule 104, cause a notice to be affixed on his notice board specifying:-

- (a) the date on which the account has been lodged ;
- (b) the name of the candidate ; and
- (c) the time and place at which such account can be inspected.

107. Inspection of account and the obtaining of copies thereof :-

Any person shall on payment of a fee of ten rupee be entitled to inspect any such account and on payment of such fee as may be

fixed by the Commission in this behalf be entitled to obtain attested copies of such account or of any part thereof.

108. Report by the Returning Officer as to the lodging of the account of election expenses and the decision of the Commission thereon :-

(1) As soon as may be after the expiration of the time specified in rule 104 for the lodging of the accounts of election expenses at any election to a ward, the Returning Officer shall report to the Commission:-

(a) the name of each contesting candidate ;

(b) whether such candidate has lodged his account of election expenses and if so, the date on which such account has been lodged ; and

(c) whether in his opinion such account has been lodged within the time and in the manner required by these rules.

(2) Where the Returning Officer is of the opinion that the account of election expenses of any candidate has not been lodged in the manner required by these rules, he shall with every such report forward to the Commission the account of election expenses of that candidate and the vouchers lodged alongwith.

(3) Immediately after the submission of the report referred to in sub-rule (1) the Returning Officer shall publish a copy thereof by affixing the same to his notice board.

(4) As soon as may be after the receipt of the report referred to in sub-rule (1) the Commission shall consider the same and decide whether any contesting candidate has failed to lodge the account of election expenses within the time and in the manner required by these rules.

(5) Where the Commission decides that a contesting candidate has failed to lodge his account of election expenses within the time and in the manner required by these rules it shall by notice in writing call upon the candidate to show cause why he should not be disqualified under rule 110 for the failure.

(6) Any contesting candidate who has been called upon to show cause under sub-rule (5) may within twenty days of the receipt of such notice submit in respect of the matter a representation in writing to the Commission, and shall at the same time send to the Returning Officer a copy of his representation together with a complete account of his election expenses if he had not already furnished such an account.

(7) The Returning Officer shall, within five days of the receipt thereof, forward to the Commission the copy of the representation and the account, if any, with such comments as he wishes to make thereon.

(8) If after considering the representation submitted by the candidate and the comments made by the Returning Officer and after such inquiry as it thinks fit, the Commission is satisfied that the candidate has no good reason or justification for the failure to lodge his account, it shall declare him to be disqualified under rule 110 for a period of six years from the date of the order, and cause the order to be published in the Official Gazette.

109. Maximum Election Expenses :-

(1) The total of the expenditure of which account is to be kept under rule 103 and which is incurred or authorized in connection with an election to a ward shall be fixed by the Commission.

(2) the incurring or authorizing of expenditure in contravention of sub-rule (1) shall amount to corrupt practice within the meaning of section 22 of the Act.

110. Disqualification for failure to Lodge Account of Election Expenses :-

If the Commission is satisfied that a person:-

(a) has failed to lodge an account of Election expenses within the time and in the manner required by these rules, and

(b) has no good reason or justification for the failure, the Commission shall, by order published in the Official Gazette, declare him to be disqualified and any such person shall be disqualified for a period of six years from the date of the order.

111. Removal or Reduction of Period of Disqualification :-

The Commission may, for reasons to be recorded remove any disqualification under this part or reduce the period of any such disqualification.

PART 7 MISCELLANEOUS

112. Extension of time for completion of election :-

It shall be competent for the Commission for reasons, which he considers sufficient, to extend the time for the completion of any

election by making necessary amendments in the notification issued by him under rule 14.

113. Staff of Government and every local and statutory authority to be made available for election work :-

Every officer of the Government and every local and statutory authority in the National Capital Territory of Delhi shall, when so requested by the Election Commissioner make available to him such staff as may be necessary for the performance of any duties in connection with an election.

114. Control, superintendence and discipline of Election Commission over Election Observers, Returning Officers, etc :-

The Election Observers, Returning Officers, Assistant Returning Officers, Presiding Officers, Polling Officers and any other officials appointed by the Commission for the purpose of preparation of the electoral rolls and holding the election shall be deemed to be on deputation to the Commission from the date of their appointment till the assigned work is completed and shall, during that period, be subject to the control, superintendence and discipline of the Commission, in respect of work assigned to them by the Commission.

115. Requisitioning of premises, vehicle etc. for election purposes :-

(1) If it appears to the Commission that in connection with an election under these rules:-

(a) any premises are needed or likely to be needed for the purpose of being used as a polling station or any other purpose in connection with the election; or

(b) any vehicle, vessel or animal is needed or is likely to be needed for the purpose of transport of EVMs, ballot papers and other election material to or from any polling station or transport of any officer or other person performing any duty in connection with such election or transport of members of the police force for maintaining order during the conduct of such election;

The Election Commissioner may by order in writing addressed to the person who in his opinion is the owner or is in possession of the property and served in the manner laid down in Section 444,

requisitions such premises, or such vehicle, vessels or animals, as the case may be, and may make such further order as may appear to him to be necessary or expedient in connection with the requisition:

Provided that no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this rule.

(2) Whenever any property is requisitioned under sub-rule (1), the period of such requisition shall not extend beyond the period for which the property is required for any of the purpose mentioned in that sub-rule.

(3) Where any premises have been requisitioned under sub-rule (1), the owner or the person in possession of the premises shall deliver possession thereof to the Commission or to any person authorized by him in this behalf at the time specified for the purpose in the order of requisitioning and if any person refuses or fails to deliver possession, the Commission may take possession of premises and may for that purpose use such force as may be necessary.

(4) Whenever any premises or any vehicle, vessel or animal are requisitioned under this rule, there shall be paid to the person in actual possession of the premises immediately before the requisition or where no person was in actual possession to the owner of the premises or as the case may be, to the owner of the vehicle, vessel or animal, such compensation as the Commission deems reasonable:

Provided that where any person does not accept the amount of compensation as reasonable, the Commission shall refer the matter to an arbitrator for his decision and the decision of the arbitrator shall be final.

(5) Any premises requisitioned under this rule shall be released from requisition immediately on expiry of the period for which it was requisitioned and the possession thereof shall be delivered to the person from whom the possession was taken or if there were no such person, to the person who in the opinion of the Commission is the owner and such delivery of the possession shall be full discharge of the Commission from all liabilities in respect of such delivery:

Provided that where the person to whom the possession of any premises is to be given under this rule can not be found or has no agent or any other person to accept delivery on his behalf, the Commission shall cause a notice declaring that such premises are

released from requisition to be affixed on some conspicuous part of the premises and thereupon the premises shall cause to be subject to requisition and be deemed to have been delivered to the person entitled to possession thereof.

(5) The Government may by order in writing direct that any powers conferred or any duty imposed on the Commission by this rule shall under such conditions, if any, as may be specified in the direction be exercised or discharged by such officer or class of officers as may be so specified.