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## **GUJARAT MUNICIPALITIES (CONDUCT OF ELECTION) RULES, 1994**

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## **GUJARAT MUNICIPALITIES (CONDUCT OF ELECTION) RULES, 1994**

Whereas the draft of the Gujarat Municipalities (Conduct of Elections) Rules, 1994 was published, as required by section 277 read with sub-section (5) of section 6 of Gujarat Municipalities Act, 1963 (Gujarat 34 of 1964), at pages 201-1 to 201-45 of the Gujarat Government Gazette, Extra Ordinary Part IA, dated 16th May, 1994, under Government Notification, Urban Development and Urban Housing Department No. KV-290 of 94-NPL-4594-1754-M dated 13th May, 1994, inviting objections and suggestions from all persons likely to be affected thereby within fifteen days from the date of publication of the said notification in the Official Gazette: AND WHEREAS objections and suggestions which were so received on the said draft have been considered by the Government: NOW, THEREFORE, in exercise of the powers conferred by subsection (1) of section 277 read with sub-section (5) of section 6 of the Gujarat Municipalities Act, 1963 (Gujarat 34 of 1964), the Government of Gujarat hereby makes the following rules, namely:-

### PART 1

#### PRELIMINARY

#### **1. Short title :-**

These rules may be called the Gujarat Municipalities (Conduct of Election) Rules, 1994.

#### **2. Definitions :-**

In these rules, unless the context otherwise requires,-

(a) "the act" means the Gujarat Municipalities Act, 1963 (Gujarat 34 of 1964);

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

(c) "Counting agent" means a person appointed by a candidate or his election agent as his counting agent under rule 53 of these rules to remain present at the time of counting of ballot papers after the poll:

(d) "district municipal election officer" means an officer appointed by the State Election Commission under rule 3;

(e) "election" means a general election to the municipality or a by-election to a seat or seats of any ward of the municipal borough;

(f) "election agent" means a person appointed by a candidate as his election agent under rule 18 of these rules;

(g) "municipal electoral roll" in relation to a municipal borough, means the collection of the Lists of Voters published by the Electoral Registration Officer for all the wards of the municipal borough;

(h) "form" means a Form appended to these rules <sup>1</sup>[and the forms prescribed by State Election Commission] and includes a translation thereof into any of the languages used for official purposes in the state of Gujarat;

**2** [(h)(i) "Observer" means an officer designated or nominated by the State Election Commission.]

(i) "polling agent" means a person appointed by a candidate or his election agent as his polling agent under rule 21 to remain present at a polling booth during the poll;

(j) "polling officer" means a person appointed by the Returning Officer under rule 23 as a polling officer to assist the presiding officer:

(k) "polling station" means a place fixed by the Returning Officer under rule 22 of these rules for taking the poll at an election;

(l) "presiding officer" means a person appointed by the Returning Officer under rule 23 and includes any polling officer performing any of the functions of the presiding officer under these rules;

(m) "returning officer" means a person appointed by the State Election Commission under rule 4 and includes an assistant returning officer;

(n) "section" means a section of the Act:

(o) "state election commission" means the commission referred to in Article 243K of the Constitution of India.

(p) "voter" in relation to an election to a ward, means any person who is entitled to vote at that election and whose name is included in the List of Voters for that ward published by the Electoral Registration Officer;

1. Added by Notfn. No. KV-156, dt. 13-11-1995, Pub. in Guj. Govt. Gaz. Ext. dt. 13-11-1995. P.19-1 dt. 13.11.1995.
2. Added by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1. dt. 25.11.1999.

## PART 2

### ELECTION PROCESS

#### **3. Appointment of District Municipal Election Officer :-**

(1) For the conduct of elections to the municipalities of a district, the State Election Commission shall appoint the Collector of the district in which the municipal boroughs are located as the District Municipal Election Officer;

(2) The District Municipal Election Officer shall, subject to the superintendence, direction and control of the State Election Commission, be in the overall charge of the conduct of elections to the municipalities in his district.

#### **4. Appointment of returning officers and assistant returning officers :-**

(1) For the conduct of elections to a municipality, the State Election Commission may, subject to the provisions of rule 72 of these rules, appoint as many returning officers and assistant returning officers as it may deem necessary.

(2) Subject to such restrictions as may be imposed by the returning officer, the assistant returning officer shall exercise all or any of the powers of the returning officer:

Provided that the powers exercisable by a returning officer under rules <sup>1</sup> [6, 8 to 10, 13, 15, 16, 49 to 52 and 60 to 68].

(3) The returning officers and the assistant returning officers shall work under the general direction and superintendence of the district municipal election officer.

1. Added by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999. ah corrected by Notfn. dated 11- 2-2000.

#### **4A. Appointment of Observer :-**

<sup>1</sup> (1) The State Election Commission may nominate or designate an observer who shall be an officer of the State Government to watch the conduct of election or elections in a municipality and to perform

such other functions as may be entrusted to him by the State Election Commission.

(2) The observer shall have power to direct the concern returning officer to stop the counting of votes at any time, before the declaration of the result or not to declare the result, if in the opinion of the Observer, both capturing has taken place at a large number of polling stations or at places fixed for the poll or counting of votes or any ballot papers used at a polling station or at a place fixed for the poll or unlawfully taken out of the custody of the returning officer or are accidentally or Intentionally destroyed or lost or are damaged or tampered with to such an extent that the result of the poll at that polling station or place cannot be ascertained.

(3) Where an Observer has directed the returning officer to stop counting of votes or not to declare the result, the Observer shall forthwith report the matter to the State Election Commission and thereupon State Election Commission shall, after taking all material circumstances into account, issue appropriate directions.]

1. Added by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999. ah corrected by Notfn. dated 11- 2-2000.

## **5. Public notice of Intended election :-**

(1) Subject to sub-rules (2) to (5) below, a public notice, in Form 1, of an intended election to a municipality shall be given by the State Election Commission mentioning therein the last date for filing of nominations, the date for scrutiny of the nominations, the last date for withdrawal of the candidature and the date of poll, if necessary;

(2) The last date for filing of nominations shall be the seventh day after the date of publication of the public notice under sub- rule (1) above or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(3) The date for scrutiny of the nominations shall be the <sup>1</sup>[second] day next to the last date for filing nominations:

(4) The last date for withdrawal of candidature shall be the second day after the date for scrutiny of nominations;

(5) The date of poll shall not be earlier than <sup>2</sup> [fourteen] days of

the last date for withdrawal of candidature.

(6) For the purposes of the election for which public notice is given, the municipal electoral roll which is in operation on the date of such public notice shall be relevant and no additions to such roll shall be permitted till the poll is over.

1. Added by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999.

2. Substituted by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999.

#### **6. Notice by the returning officer inviting nominations :-**

Immediately on the issue of a public notice under rule 5, the returning officer shall issue a public notice, in Form 2, inviting nomination of candidates for such election and specifying therein the time and the place at which the nomination papers are to be delivered, the time and the place for scrutiny of nominations, and the time and the place at which the notice of withdrawal of candidature are to be delivered.

#### **7. Nomination papers :-**

(1) Every nomination shall be made in form 3;

(2) Every nomination shall contain full particulars of the name, age, sex and address of the candidate, be subscribed by two persons one as the proposer and the other as the seconder - who are entitled to vote at the election to that ward and whose names are Included in the List of Voters for that ward and must bear the signature of the candidate in token of his willingness to be so nominated: <sup>1</sup>[Provided that a candidate not set up by a recognised political party shall not be deemed to be duly nominated for election from a ward unless the nomination paper is subscribed by ten proposer and ten seconder being electors of that ward.]

(3) Subject to the reservations in favour of Scheduled Castes, Scheduled Tribes, Other Backward Classes and Women, a person who is entitled to vote in the election to a municipality and whose name is included in the municipal electoral roll, can contest from any ward:

(4) More than one nomination paper may be filled on behalf of a candidate by different voters, but the total nomination papers filed on behalf of a candidate shall not exceed four per ward. In case more than four nominations are presented, only the first four

presented shall be considered and the rest summarily rejected;

**2**[(4-a) A candidate shall be prohibited for the nomination for election from more than two wards of a municipality;]

(5) A voter cannot nominate, either as a proposer or seconder, more than one candidate. Where a voter has signed on nominations, as a proposer or seconder, for more than one candidate, all such nominations other than the first one received by the returning officer shall be declared invalid;

(6) Every nomination paper subscribed and signed as aforesaid must be delivered to the returning officer in person by the candidate or **3**[any of the proposers or the seconders] during office hours but before three O'clock in the afternoon of the days fixed for the nomination of candidates at the place specified in this behalf in the notice issued by the returning officer under rule 6:

**1**[Provided that the nomination paper shall be delivered to the returning officer on a working day and not on a public holiday.]

(7) The returning officer shall, on receiving a nomination paper, enter in the nomination paper its serial number and shall sign thereon a certificate stating the date on which and the time at which the nomination paper has been delivered to him **2** [and shall as soon as may be thereafter cause to be affixed in some conspicuous place in his office, a notice of the nomination containing description similar to those contained in nomination paper, of the candidate, of the proposer and of the seconder]:

(8) A candidate who desires to be considered as a Scheduled Caste or Scheduled Tribe or Other Backward Class candidate, as the case may be, shall submit, along with his nomination paper, an authenticated Xerox copy of a caste/tribe/class certificate issued by a competent authority prescribed by the state government to issue such certificates;

In case any dispute regarding the status of a candidate being considered eligible to be elected against a reserved seat arises at the time of scrutiny of nominations, the returning officer may ask the candidate to produce the original of the certificate referred to above and or any other documents in support of the claim of the candidate. After scrutiny of such evidence, the returning officer shall declare whether the candidate's claim for being eligible to be

elected from a reserved seat Is accepted or not. If the claim Is not accepted the candidate shall be considered a general candidate and in that case, he shall deposit or cause to be deposited immediately the deficit in deposit as required under rule 17.

1. Added by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999. ah corrected by Notfn. dated 11- 2-2000.

2. Added by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999.

3. Substituted by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999.

### **8. Scrutiny of Nomination Papers :-**

On the date and time fixed for scrutiny of nomination papers under rule 5, the returning officer shall examine the nomination papers and decide all objections which may be made to any nomination and may, either on such objections or on his own motion, after such summary enquiry, if any, as he thinks necessary, declare invalid any nomination on any of the following grounds:

(i) that the candidate is not enrolled in the municipal electoral roll as a voter of the municipal borough:

(ii) that the candidate has not made or caused to be made the deposit referred to in rule 17:

(iii) that the candidate has not attained the minimum age required for being elected a councillor;

(iv) that the candidate is disqualified under any provisions of the Act from being a councillor:

(v) that <sup>1</sup>[any proposer or seconder] has not been enrolled as a voter of the ward for which the nomination as been filled;

(vi) that the signature of the candidate or <sup>2</sup>[any proposer or the seconder] on the nomination paper is not genuine;

(vii) that the signature of <sup>3</sup> [any proposer or the seconder on the nomination paper has been also affixed on another nomination paper which has been delivered to the returning officer prior to this nomination paper.

1. Added by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999. ah corrected by Notfn. dated 11- 2-2000.

2. Added by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt.

Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999.

3. Substituted by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999.

**9. Classification of validly nominated candidates :-**

The validly nominated candidates shall be classified into the following categories, namely:-

(a) "general woman candidate" one who is entitled to be elected against a seat reserved for a general woman and an unreserved seat but none other;

(b) "Scheduled Caste woman candidate" one who is entitled to be elected against a seat reserved for a general woman or a seat reserved for a Scheduled Caste woman or a seat reserved for Scheduled Castes and an unreserved seat but none other;

(c) "Scheduled Tribe woman candidate" One who is entitled to be elected against a seat reserved for a general woman or a seat reserved for a Scheduled Tribe woman or a seat reserved for Scheduled Tribe and an unreserved seat but none other;

(d) "Other Backward Class woman candidate" one who is entitled to be elected against a seat reserved for a general woman or a seat reserved for an Other Backward Class woman or a seat reserved for Other Backward Classes and an unreserved seat but none other;

(e) "Scheduled Caste male candidate" one who is entitled to be elected against a seat reserved for Scheduled Castes and an unreserved seat but none other;

(f) "Scheduled Tribe male candidate" one who is entitled to be elected against a seat reserved for Scheduled Tribes and an unreserved seat but none other;

(g) "Other Backward Classes male candidate" one who is entitled to be elected against a seat reserved for Other Backward Classes and an unreserved seat but none other;

(h) "general male candidate" one who is entitled to be elected against an unreserved seat but none other.

**10. List of validly nominated candidates :-**

Immediately after all the nomination papers have been scrutinized and decisions accepting or rejecting the same have been recorded, a list of validly nominated candidates along with their classification shall be prepared by the returning officer in Form 4 and displayed

for the information of the public in his office.

**11. Notice of Withdrawal :-**

Any candidate validly nominated may withdraw his nomination by a notice in writing in Form 5 and delivering it himself in person to the Returning Officer before three O'clock in the afternoon on the day fixed under rule 5(4) that he is not to contest the election. The Returning Officer shall note thereon the date and time at which it was delivered. A candidate who has tendered a notice of withdrawal in the aforesaid manner shall not be allowed to cancel the withdrawal:

Provided that where the candidate is on account of being in jail or in police custody, is unable to personally deliver his withdrawal application, he may cause it to be delivered on his behalf by any person authorized by him. <sup>1</sup> [The returning Officer shall on being satisfied as to the genuineness of notice of withdrawal and the Identity of the person delivering, it cause the notice to be affixed in some conspicuous place in his office.]

1. Added by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999. ah corrected by Notfn. dated 11- 2-2000.

**12. No Valid Nominations :-**

If, after the last date fixed for withdrawal of nominations is over, there is no valid nomination, it shall be deemed that no councillor has been elected and proceedings for filling the vacancy or vacancies shall be taken under section 18 of the Act.

**13. Uncontested Election :-**

If the number of valid nominations, after withdrawals. If any, is less than or equal to that of the vacancies, all the persons so nominated shall be deemed to be elected unopposed and for the remaining vacancy or vacancies, if any, it shall be deemed that no councillor has been elected and proceedings to fill such vacancy or vacancies shall be taken under section 18 of the Act.

Explanation.-For the purpose of this rule, it is hereby clarified that a person shall not be deemed to have been nominated to a reserved seat unless he is eligible to be elected against such reserved seat.

**14. Contested Election and Contesting Candidates :-**

If the number of valid nominations after withdrawals, if any,

exceeds that of the vacancies, the election of councilors shall be made from amongst the persons validly nominated and such election shall be termed a 'contested election' and such persons shall be termed 'contesting candidates';

**15. Symbols to contesting candidates :-**

(1) The State Election Commissions shall, by notification In the official gazette, specify the symbols that may be chosen by candidates at elections to the municipality and the restrictions to which their choice shall be subject to.

(2) The day immediately following the last date for withdrawal of the candidates, the returning officer shall proceed to allot symbols to the contesting candidates in the following manner.

(3) For the candidates set up by a party which is a recognized political party In the State of Gujarat under the : [State Election Commission Symbol (Reservation and Allotment) Order, 1995 as modified from time to time] the returning officer shall allot the symbol reserved for that party under the said order:

Provided that such a political party can set up only one candidate per seat in any ward. The party should specify clearly who its candidate is for the seat reserved for women, or Scheduled Castes, or Scheduled Tribes, or Other Backward Classes, or the first unreserved seat or the second unreserved seat, as the case may be.

Explanation.-To be considered a candidate set up by a recognized political party, a candidate should produce a letter to that effect signed by the president of the state unit of that party In Gujarat or any person authorized by him in this behalf before the last date for withdrawal of nominations specified in rule 11 is over.

(4) Where more nomination papers than one are delivered by or on behalf of a candidate, <sup>1</sup> [other than the candidate of a recognised political party] the choice of symbols made in the nomination paper first delivered, and no other choice of symbols, shall be taken into consideration even if that nomination paper has been rejected.

(5) The returning officer shall consider the choice of symbols expressed by the contesting candidates in their nomination papers and shall,

(a) allot a 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 (including computerized random draw) to which of such candidates the symbol will be allotted.

(6) The symbol allotted to a woman candidate shall be enclosed in a circle;

(7) The symbol allotted to a candidate belonging to Scheduled Castes or Scheduled Tribes or Other Backward Classes shall be enclosed in a rectangle:

(8) The symbol allotted to a woman candidate belonging to Scheduled Castes or Scheduled Tribes or Other Backward Classes shall be enclosed in a circle inside a rectangle;

(9) Where in a ward election is taking place for more than one unreserved seat, the first candidate of a recognised political party shall be allotted the bare symbol reserved for that party and the second candidate that reserved symbol enclosed in a rectangle.

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

1. Added by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999.

## **16. List of Contesting Candidates :-**

(1) Immediately after the allotment of symbols to contesting candidates is over, the returning officer shall prepare, in Form 6, a list of contesting candidates, in alphabetical order in Gujarati language, giving the names of all the contesting candidates and the symbols allotted to them.

**1** [(a) For the purpose of listing the names, the candidates shall be classified as follow:-

(i) candidates of recognised political parties;

(ii) candidates of registered political parties other than those mentioned in sub-clause (i);

(iii) other candidates;

(b) the categories referred to clause in (a) shall be arranged in the order specified therein and the names of candidates in each category shall be arranged in Gujarati alphabetical order with addresses of the contesting candidates as given in the nomination papers together with particulars in Form 6 appended to these rules.]

(2) The name of every candidate shall be shown in said list as it appears in his nomination paper:

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

(4) The returning officer shall, as soon as practicable, supply a copy of the list of contesting candidates to each such candidate or his election agent.

(5) The returning officer shall, as soon as possible, cause the list of contesting candidates to be published in the official gazette and shall also cause it to be displayed in his office, the offices of the assistant returning officers, the municipality and such other places he may deem fit.

1. Added by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999. ah corrected by Notfn. dated 11- 2-2000.

## **17. Deposit and refund :-**

(1) On or before the last date for filing nominations fixed under sub-rule (2) of rule 5, each candidate shall deposit or cause to be deposited with the returning officer the sum of <sup>1</sup>[two thousand rupees] in cash, and no candidate shall be deemed to be duly

nominated unless such deposit has been made:

Provided that where the candidate is a woman or belongs to the Scheduled Castes or Scheduled Tribes or Other Backward Class the amount of deposit shall be reduced to two hundred and fifty rupees. Provided further that where a candidate's claim of belonging to scheduled caste or scheduled tribe or other backward classes has been rejected and he is declared to be a general candidate under clause (ii) of sub-rule (8) of rule 7, the candidate shall deposit or cause to be deposited Immediately with the returning officer, in cash, the deficit amount of rupees <sup>2</sup>[one thousand rupees],

(2) The deposit shall be returned if-

(i) the candidate is declared or is deemed to be duly elected: or

(ii) the candidate withdraws his nomination as per the provisions of these rules: or

(iii) the nomination of the candidate is declared invalid, or

(iv) the candidate dies before the commencement of the poll; or

(v) the candidate fails to be elected but secures valid votes in excess of the number specified in sub-rule 3.

(3) If a candidate is not elected, and if the number of valid votes polled by him does not exceed one sixth of the total number of valid votes polled divided by the number of councilors to be elected In the ward, his deposit shall be forfeited <sup>3</sup> [and shall be a part of municipal fund].

(4) The deposit shall, if it is not forfeited, be returned as soon as may be after the declaration of the result of the election under rule 63:

Provided that if a candidate is duly nominated at a general election in more than one ward, not more than one of the deposits made by him or on his behalf shall be returned and the rest shall be forfeited:

Provided further that where the candidate dies before the deposit is returned it shall be returned to his legal heirs.

1. Added by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999. ah corrected

by Notfn. dated 11- 2-2000.

2. Added by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999.

3. Substituted by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999.

### **18. Election agent :-**

(1) A contesting candidate may appoint any person as his election agent by giving a notice in Form 7. The notice of such appointment shall be given by forwarding the same in duplicate to the returning officer who shall return one copy thereof to the election agent after affixing thereon his seal and signature in token of his approval of the appointment.

(2) The revocation of the appointment of an election agent under sub-rule (1) shall be made in Form 8.

#### **PART 2A**

#### **Postal Ballot**

### **18A. Definitions :-**

In this part,-

(a) "service voter" means any person who is required to give his vote by postal ballot under clause (a) of section 60 of the Representation of the People Act, 1951:

(b) "special voter" means any person holding an office to which the provisions of sub-section (4) of section 20 of the Representation of the People Act, 1950 declared to apply or the wife of such person, if he or she has been registered as an elector by virtue of a statement made under sub-section (5) of the said section,

(c) "voter on election duty" means any polling agent any polling officer, presiding officer or other public servant, who is an elector in the municipality and is by reason of his being on election duty unable to vote at the polling station where he is entitled to vote.

### **18B. Persons entitled to vote by post :-**

The following persons shall, subject to their fulfilling the requirements hereinafter specified, be entitled to vote by post, namely:-

(i) special voters:

(ii) service voters:

(iii) voters on election duty; and

(iv) electors subjected to preventive detention;

**18C. Intimation by special voters :-**

A special voter who wishes to vote by post at an election shall send an intimation in Form 10-A to the returning officer so as to reach him at least ten days before the date of poll; and on receipt of the intimation, the returning officer shall issue a postal ballot paper to him.

**18D. Intimation by voters on election duty :-**

A voter on election duty who wishes to vote by post at an election shall send an application in Form 10-A to the returning officer so as to reach him at least seven days or such shorter period as the returning officer may allow before the date of poll: and if the returning officer is satisfied that applicant is a voter on election duty, he shall issue a postal ballot paper to him.

**18E. Electors under preventive detention :-**

(1) The State Government shall within fifteen days of the calling of an election, ascertain and intimate to the returning officer the names of the electors, if any, subjected to preventive detention together with their addresses and electoral roll numbers and the particulars about their places of detention.

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

(3) The returning officer shall issue a postal ballot paper to every elector subjected to preventive detention whose name has been Intimated to him under sub-rule (1) or an intimation under sub-rule (2) has been received.

**18F. Form of Postal ballot paper :-**

(1) Every postal ballot paper shall have a counterfoil attached thereto and the said ballot paper and the counterfoil shall be In such form, and the particulars therein shall be in such language or languages, as the State Election Commission may direct;

(2) The names of the candidates shall be arranged on the postal ballot paper in the order in which they appear in the list of

contesting candidates.

(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.

**18G. Issue of Postal Ballot Paper :-**

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

(a) a declaration in Form 10B,

(b) a cover in Form 10-C,

(c) a large cover addressed to the returning officer In Form 10- D, and

(d) instructions for the guidance of the elector in Form 10-B:

Provided that the returning officer may, in the case of a special voter or a voter on election duty, deliver the ballot paper and forms, or cause them to be delivered, to such voter personally:

(2) The returning officer shall at the same time-

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

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

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

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

(4) After ballot papers have been issued to all the electors entitled to vote by post the returning officer shall seal up in a packet that part of the marked copy of the electoral roll which relates to service voters and record on the packet a brief description of Its contents and the date on which it was sealed and send the other relevant parts of the marked copy to the several presiding officers or

marking the names of electors to whom ballot papers are Issued at the polling stations without however recording therein the serial numbers of the ballot papers Issued to the electors;

(5) The returning officer shall also seal up in a separate packet the counterfoils of the ballot papers issued to electors entitled to vote by post and record on the packet a brief description of its contents and the date on which it was sealed.

**18H. Recording of vote :-**

(1) An elector who has received a postal ballot paper and desires to vote shall record his vote on the ballot paper in accordance with the directions contained in Form 10-E and then enclose it in the cover in Form 10-C.

(2) The elector shall sign the declaration in Form 10-B in the presence of, and have the signature attested by, a stipendiary magistrate or such other officer specified below, as may be appropriate, to whom he is personally known or to whose satisfaction he has been identified-

(a) in the case of a service voter, such officer as may be appointed in this behalf by the Commanding Officer of the unit, ship or establishment in which the voter or her husband,

(b) in the case of a special voter, an officer not below the rank of a Deputy Secretary to Government,

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

(d) in the case of an elector under preventive detention, the Superintendent of the Jail or the Commandant of the detention camp in which the elector is under detention, and

(e) in any other case, such officer as may be notified in this behalf by the State Election Commission.

**18I. Assistance to illiterate or infirm voters :-**

(1) If an elector is unable due to illiteracy, blindness or other physical infirmity to record his vote on a postal ballot paper and to sign the declaration, such elector shall take the ballot paper together with declaration and the covers received by him to an officer competent to attest his signature under sub-rule (2) of rule

18-H and request the officer to record his vote and sign the declaration on his behalf.

(2) Such officer shall thereupon mark the ballot paper in accordance with the wishes of the elector in his presence, sign the declaration on his behalf and complete the appropriate certificate contained in Form 10-B.

**18J. Re-issue of ballot paper :-**

(1) When a postal ballot paper and other papers sent under rule 18-G are for any reason returned undelivered, the returning officer may re-issue them by post under certificate of posting or deliver or cause to be delivered in the elector personally on a request being made by him.

(2) If any elector has inadvertently dealt with the ballot paper or any of the other papers sent to him under rule 18-G 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 spoiled papers and satisfied the returning officer of the inadvertence.

(3) The returning officer shall cancel the spoiled papers so returned and keep them in a separate packet after noting thereon the particulars of the election and the serial numbers of the canceled ballot papers.

**18K. Return of Ballot Paper :-**

(1) After an elector has recorded his vote and made his declaration under rule 18-H or rule 181, he shall return the ballot paper and declaration to the returning officer in accordance with the instructions communicated to him in Form 10-E so as to reach the returning officer before the hour fixed for the commencement of counting of votes.

(2) If any cover containing a postal ballot paper is received by the returning officer after the expiry of the time fixed in sub- rule (1), he shall note thereon the date and time of 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.]

**19. Poll :-**

In case of a contested election a poll shall be taken on the date mentioned under rule 5.

**20. Hours of poll :-**

The State Election Commission shall fix the hour at which polling shall commence and the hour at which it shall close. The hours fixed for poll shall be published by notification in the Official Gazette.

**21. Polling agents :-**

(1) A candidate or his election agent may, subject to such general or special direction as the State Election Commission may issue in this behalf from time to time, appoint at every polling station of the ward from which such candidate is contesting the election, polling agents to remain present on his behalf in the polling station at the time of the poll;

(2) The number of polling agents that may be appointed under sub-rule (1) shall be one agent and two relief agents per polling station;

(3) Every such appointment shall be made in Form 9 and shall be made over to the polling agent for production at the polling station.

(4) 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:

(5) The revocation of the appointment of a polling agent shall be made in Form 10 and lodged with the presiding officer.

**22. Polling stations :-**

The district municipal election officer shall, with the previous approval of the State Election Commission, select for each ward as many polling stations as he deems necessary and shall publish, a list of polling stations so selected and the respective polling areas covered by them.

**23. Presiding officers and polling officers :-**

(1) The returning officer shall, <sup>1</sup> [with the previous approval of the District Municipal Election Officer and] subject to the provisions of

rule 72 of these rules, appoint a "presiding officer" for each polling station and one or more polling officers to assist the presiding officer.

(2) Each polling officer may, if so directed by the presiding officer, perform all or any of the duties assigned to a presiding officer under these rules.

(3) If the presiding officer, owing to illness or other unavoidable cause, is obliged to absent himself from a polling station, his duties shall be performed by one of the polling officers, who has been duly authorized in this behalf by the returning officer.

1. Added by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999. ah corrected by Notfn. dated 11- 2-2000.

#### **24. Duties of presiding officers :-**

(1) The Presiding officer shall keep order at the polling station, see that the election is fairly conducted and regulate the number of voters to be admitted at any one time inside the polling station and shall exclude therefrom all persons other than-

(a) polling officers;

(b) public servants on duty in connection with the election:

(c) persons authorized by the State Election Commission:

(d) candidates, their election agents and subject to the provisions of sub-rule (4) of rule 21, one polling agent of each candidate appointed in writing by the candidate and authorized in this behalf by the returning officer, and

(e) a child in arms accompanying a voter;

(f) a person accompanying a blind or Infirm voter who cannot move without help; and

(g) such other persons as the presiding officer may from time to time admit for the purpose of identifying voters.

#### **25. Arrangements at polling station :-**

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

(a) a notice specifying the polling area the voters of which are entitled to vote at the polling station, the number of votes each

voter has. how he should mark the ballot paper and other instructions, if any, to the voter regarding how to vote: and

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

(2) At each polling station, there shall be set up one or more voting compartments in which the voters can record their votes screened from observation.

(3) The returning officer shall provide at each polling station sufficient number of ballot boxes, copies of the relevant part of the electoral roll, ballot papers, instruments for stamping the distinguishing mark on ballot papers and such other articles and materials necessary for voters to vote.

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

## **26. Ballot boxes :-**

Every ballot box shall be so constructed that the ballot papers can be introduced therein but cannot be withdrawn therefrom without the box being unlocked. It shall be of such design as may be approved by the State Election Commission.

## **27. Preparation of ballot boxes for poll :-**

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

(2) The presiding officer shall thereafter fix the paper seal so signed in the space meant therefore in the ballot box and shall then secure and seal the box in such manner that the slit for the insertion of ballot paper there into remains open:

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

(4) Where it is not necessary to use paper seals for securing the ballot boxes, the presiding officer shall secure and seal the ballot box in such manner that the slit for the Insertion of ballot papers remains open and shall allow the polling agents present to affix, if

they so desire, their seals.

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

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

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

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

(d) the date of poll.

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

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

**28. Marked copy of List of Voters :-**

Immediately before the commencement of the poll the presiding officer shall demonstrate to the polling agents and others present that the marked copy of List of Voters to be used during the poll does not contain any entry regarding the ballot papers issued to voters <sup>1</sup> [except those postal ballot papers issued under rule 18G].

1. Added by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999. ah corrected by Notfn. dated 11- 2-2000.

**29. Form of ballot paper :-**

(1) Every ballot paper shall have a counterfoil attached thereto, and the said ballot paper and the counterfoil shall be in Form 11:

(2) The names of the candidates shall be shown on the ballot paper in the same manner and arranged in the same order in which they appear in the list of contesting candidates.

(3) The particulars on the ballot paper shall be in Gujarati language;

(4) The ballot papers shall be serially numbered, the serial numbers being printed on the counterfoil and on the front of the ballot paper:

(5) The symbols allotted to the candidates under rule 15 shall be shown alongside the name of the candidate on the ballot paper.

(6) The space allotted to each candidate on the ballot paper shall have the same dimensions.

(7) The line, or the shaded area separating the space provided for different candidates shall be the same on the ballot paper.

**29A. Identity of voter :-**

At any time before a ballot paper is delivered to a voter, the presiding officer or polling officer may, on his own accord, if he has reason to doubt the identity of the voter or his right to vote at such polling station, and shall, if so required by a candidate or polling agent, satisfy himself by putting to the voter such questions as he may deem necessary, that such person is identical with the voter to whom such entry relates.]

**30. Procedure for issue of ballot paper to a voter :-**

(1) Every ballot paper before it is issued to a voter, and the counterfoil attached thereto shall be stamped on the back with such distinguishing mark as the State Election Commission may direct, and every ballot paper, before it is issued, shall be signed in full on its back by the presiding officer;

(2) At the time of issuing a ballot paper to a voter, the polling officer shall-

(a) record on its counterfoil the serial number of the voter in the List of Voters as entered in the marked copy of the List of Voters:

(b) obtain the signature or thumb Impression of that voter on the said counterfoil:

(c) mark the name of the voter in the marked copy of the List of Voters to indicate that a ballot paper has been issued to him, without however recording therein the serial number of the ballot paper Issued to that voter:

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

(3)(a) Before issuing a ballot paper to a voter, the presiding officer shall cause a mark to be put on the left forefinger of the voter with an indelible ink:

Provided that where such a mark already exists on the left forefinger of the voter, it shall be deemed that he had cast his vote already at the election and shall not be given any ballot paper;

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

(b) Any reference in this sub-rule to the left forefinger of a voter shall, in the case where the voter has his left forefinger missing, be construed as a reference to any other finger on his left hand, and shall, in the case where all the fingers of his left hand are missing, be construed as a reference to the forefinger of the right hand, and shall in case the fingers of both the hands are missing be construed as a reference to such extremity of the left or right arm as he possesses.

(4) It shall not be necessary for any presiding officer or polling officer or any other officer to attest the thumb impression of the voter on the counterfoil.

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

### **30A. Procedure of identification of voters :-**

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

(2) When voter enters the polling station, the presiding officer or the polling officer shall check the voter's name and other particulars with the relevant entry in the electoral roll and then call out the serial number, name and other particulars of the voter:

(3) Where the polling station is situated in a ward of municipality, the voters of which have been supplied with identity cards under the provisions of the Registration of Electors Rules, 1960, prescribed under the Representation of Peoples Act, 1950 the voter shall produce his Identity card before the presiding officer or the polling officer authorised by him in this behalf:

(4) In deciding the right of a person to cast his vote, the presiding officer or the polling officers, 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 voter to whom such entry relates.]

### **31. Voting :-**

Save as hereinafter provided, all voters voting at an election shall do so in person at the polling station provided for them under the rules.

(b) Vote shall be given in person and no vote shall be given through a proxy.

(c) No vote shall be received from any person whose name is not enrolled in the list of voters as a voter of the ward to which the election is being held.

### **32. Procedure for voting and Secrecy of voting :-**

(1) Every voter to whom a ballot paper has been issued shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.

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

(a) proceed to one of the voting compartments;

(b) there make mark on the ballot paper with the instrument supplied for the purpose on or near the symbol of the candidate, or, where the election is being held for more than one seat in the ward, the candidates, to whom he Intends to vote;

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

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

(e) Insert the folded ballot paper into the ballot box: and

(f) quit the polling station.

(3) Every voter shall vote without undue delay.

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

(5) If a voter to whom a ballot paper has been issued, refuses, after warning given by the presiding officer, to observe the procedure as laid down in sub-rule (2), the ballot paper issued to him shall, whether he has recorded his vote thereon or not, be taken back from him by the presiding officer or a polling officer under the direction of the presiding officer.

(6) After the ballot paper has been taken back, the presiding officer

shall record on its back the words "Canceled voting procedure violated" and put his signature below those words.

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

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

### **33. Recording of votes of blind or infirm voters :-**

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

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

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

(2) The presiding officer shall keep a record in Form 12 of all cases under this rule.

### **34. Assistance to voter :-**

The presiding officer shall give such assistance as may be required to any voter who is by reason of Infirmity or, illiteracy unable to vote in the manner prescribed.

### **34A. Facilities for women electors :-**

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

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 women voters and also to assist the presiding officer generally in taking the poll in respect of women voters, and in particular, helping or frisking any woman voter in case it becomes necessary.]

**35.** . :-

**<sup>1</sup>** [x x x]

1. Added by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999.

**36. Closing of Poll** :-

(1) The presiding officer shall close a polling station at the hour fixed in that behalf under rule 20 and shall not thereafter admit any voter into the polling station:

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

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

**37. Number of votes** :-

Every voter shall be entitled to give as many votes as there are councilors to be elected at such election for such ward.

**38. Challenged votes** :-

(1) Any polling agent may challenge the identity of a person claiming to be a particular voter by first depositing a sum of Rs. 20/- in cash to 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 election roll in full and ask whether he is the person referred to in that entry:

(c) enter his name and address in the list of challenged votes in Form 13: and

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

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

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

(b) put to the person challenged any question necessary for the purpose of establishing his identity and require him to answer 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 the challenge has been established, he shall debar the person challenged from voting.

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

1. Added by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999. ah corrected by Notfn. dated 11- 2-2000.

### **39. Tendered Votes :-**

(1) If a person representing himself to be a particular voter applies for a ballot paper after another person has already voted as such voter, he shall on satisfactorily answering such questions relating to his identity as the presiding officer may ask, be entitled, subject to the following provisions of this rule to mark a ballot paper (hereinafter in these rules referred to as "a tendered ballot paper") in the same manner as any other voter.

(2) Every such person shall, before being supplied with a tendered ballot paper, shall sign his name against the entry relating to him in a list in Form 14.

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

(a) such tendered ballot paper shall be serially the last in the

bundle of ballot papers issued for use at the polling station; and

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

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

#### **40. Spoilt and returned ballot papers :-**

(1) A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot conveniently be used as a ballot paper may, on delivering it to the presiding officer and satisfying him of the inadvertence, be given another ballot paper and the ballot paper so returned and the counterfoil of such ballot paper be marked as "Spoilt: canceled" by the presiding officer.

(2) If any voter after obtaining the ballot paper decides not to use it, he shall return it to the presiding officer and the ballot paper so returned and the counterfoil of such ballot paper shall be marked as "returned: canceled" by the presiding officer.

(c) All the ballot papers canceled under sub-rules (1) and (2) above shall be kept in a separate packet.

#### **41. Voting by officers on election duty :-**

(1) A presiding officer, polling officer or any other person who is on duty at a polling station at which he is not entitled to vote may make an application to the returning officer In Form 15 to allow him to vote at the polling station at which he is on duty. If on such application the returning officer certifies, in Form 16, that the applicant is entitled to vote at the election for the ward in connection with which he is employed or for any other ward, he be allowed to record his vote at that polling station. The name of the polling station at which he would otherwise have been entitled to vote shall be entered in the counterfoil of the ballot paper together with his number in the election roll for that ward in which that polling station is situated <sup>1</sup> [The Presiding Officer shall also enter the name and electoral number as mentioned in Form 16 at the end of the marked copy of the electoral roll].

(2) Such ballot paper shall be placed in an envelop and sealed by

the presiding officer and returned with the certificate referred to in sub-rule (1) to the Returning Officer who shall cause such ballot paper to be included among the valid ballot papers of the appropriate ward.

1. Added by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999. ah corrected by Notfn. dated 11- 2-2000.

#### **42. Sealing of ballot boxes :-**

(1) As soon as practicable after the closing of the poll, the presiding officer shall close the slit of the ballot box, and where the box does not contain any mechanical device for closing the slit, he shall seal up the slit and also allow any polling agent present to affix his seal.

(2) The ballot box shall thereafter be sealed and secured.

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

#### **43. Sealing of polling materials and other papers :-**

The presiding officer of each polling station, as soon as practicable after the close of the poll, shall in the presence of any candidates or polling agents who may be present make up into separate packets and seal with his seal and the seal of such candidates or agents as may decided to affix their seals:-

- (a) the unused ballot papers,
- (b) the tendered ballot papers,
- (c) the spoilt and returned ballot papers,
- (d) the marked copy of the list of Voters,
- (e) the counterfoils of the ballot papers,
- (f) the tendered votes,
- (g) the list of challenged votes,
- (h) the votes by officers on election duty.

The presiding officer shall after sealing all the packets endorse on each packet a description of its contents.

#### **44. Accounts of ballot papers :-**

(1)(a) The presiding officer shall, at the close of the poll, prepare the ballot paper account in Form 17 showing the number of ballot papers given to him, and accounting for them under the heads of ballot papers-

(i) in the ballot box,

(ii) unused,

(iii) spoilt and returned, and

(iv) tendered.

(b) The presiding officer shall place the ballot paper account in a separate envelope and endorse on it the words "ballot paper account".

(2) Where any ballot papers are given to him for use by election duty staff at his polling station who are voters of a different ward, the presiding officer shall, at the close of the poll, also prepare a ballot paper account in Form 18 showing the number of ballot papers given to him for use by election duty staff, and accounting for them under the heads of ballot papers given, ballot papers used and ballot papers returned. The presiding officer shall place this ballot paper account in a separate envelope and endorse on it the words "ballot paper account for staff on election duty". He shall transmit this envelope to the Returning Officer of the ward to which the ballot paper relates:

Provided that he shall prepare separate accounts for ballot papers separate wards.

**1** [(3) The Presiding Officer shall furnish to every polling agent present at the close of the poll a true copy of the entries made in Form 17 and Form 18 after obtaining a receipt from the said polling agent therefor and shall attest it as a true copy.]

1. Added by Notfn. No. KV-181, dt. 25-11-1999, Pub. in Guj. Govt. Gaz. Ext. dt. 25-11-1999. P.101-1., dt. 25.11.1999. ah corrected by Notfn. dated 11- 2-2000.

#### **45. Transmission of ballot boxes 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:

- (i) the ballot boxes,
- (ii) the ballot paper account,
- (iii) the sealed packets under rule 43,
- (iv) all other papers used at the poll.

(2) The returning officer shall make adequate arrangements for the safe transport of all the ballot boxes, packets and other papers and for their safe custody until the conclusion of the counting of votes.

**46. Removal from polling station for misconduct :-**

If any person misconducts himself at a polling station, or fails to obey the lawful orders of the presiding officer or polling officer performing the duties of the presiding officer, he may immediately, by order of the presiding officer or such polling officer, be removed from the polling station by any police officer or by any other person authorized in writing by the presiding officer or such polling officer to remove him, and the person so removed shall not, except with the permission of the presiding officer or such polling officer, be allowed again to enter the polling station during the day:

Provided that this power shall not be exercised so as to prevent any voter who is otherwise entitled to vote at any polling station from having an opportunity of voting at such polling station.

**47. Postponement of poll in emergencies :-**

The State Election Commission may, for sufficient cause to be recorded in writing, postpone the date or extended the period fixed for polling in case of emergencies such as disturbance of the public peace, natural calamity etc. Where a poll is so postponed, the State Election Commission shall endeavor to conduct the poll as soon as practicable.

**48. Adjournment of poll :-**

(1) If at any election it is not possible to take the poll at any polling station, or the proceedings at any polling station are interrupted or obstructed by riot, violence, disturbance of the public peace, natural calamity, or any other sufficient cause, the presiding officer for such polling station shall forthwith inform the returning officer concerned.

(2) On receipt of a report from the presiding officer under sub- rule (1) the returning officer shall immediately proceed to the polling

station and, on being satisfied that the poll could Notification No. to be continued, shall announce adjournment of the poll to a date to be notified later and shall report the circumstances to the State Election Commission.

(3) The returning officer shall, as soon as may be, with the previous approval of the State Election Commission, announce the date on which, the hours during which and the polling stations at which the poll shall recommence and shall not count the votes cast at any such election until such adjourned poll shall have been completed.

#### **49. Procedure on adjournment of poll :-**

(1) If the poll at any polling station is adjourned under rule 48, the provisions of rules 42 to 45 shall, as far as practicable, apply as if the poll was closed at the hour fixed in that behalf under rule 20:

(2) When an adjourned poll is recommenced under sub-rule (3) of rule 48, the voters 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 packet containing the marked copy of the List of Voters and new ballot boxes:

(4) The presiding officer shall open the sealed packet in the presence of the polling agents present and use the marked copy of the List of Voters for marking the names of the voters to whom the ballot papers are issued at the adjourned poll, without however recording therein the serial number thereof.

(5) The provisions of rules 19(2), 20 to 46 shall apply mutatis mutandis in relation to the conduct of an adjourned poll as they apply in relation to the poll before it was so adjourned.

#### **50. Fresh poll in case of obstruction or damage of ballot boxes :-**

(1) The Returning Officer shall forthwith report the matter to the State Election Commission, if at any election-

(a) any ballot box 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 damaged, or tampered with to

such an extent that the result of the poll at that polling station cannot be ascertained, or

(b) any such error or irregularity in procedure is likely to vitiate the poll is committed at a polling station.

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

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

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

(3) Where a report has been sent to the State Election Commission under sub-rule (1), the returning officer shall not commence counting of votes till he gets a clearance to do so from the State Election Commission.

(4) The provisions of rules 19(2), 20 to 46 shall apply mutatis mutandis in relation to the conduct of a re-poll as they apply in relation to the originally scheduled poll.

#### **51. Countermanding of poll on the death of candidate before poll :-**

If a candidate, set up by a recognised political party:-

(a) dies at any time after 11 A.M. on the last date for making nominations and his nomination is found valid on scrutiny under rule 8; or

(b) whose nomination has been found valid on scrutiny under rule 8 and who has not withdrawn his candidature under rule 11, 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 16: or

(c) dies as a contesting candidate and a report of his death is received before the commencement of the poll, the State Election Commission shall, upon being satisfied about the fact of the death

of the candidate, by order, countermand the poll in the ward and shall commence all proceedings with reference to the election a new in all respects as if for a new election:

Provided that no order for countermanding a poll should be made in a case referred to in clause (a) except after the scrutiny of all the nominations including the nomination of the deceased candidates:

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

Provided also that no person who has given a notice of withdrawal of his candidature under rule 11 before the countermanding of the poll shall be Ineligible for being nominated as a candidate for the election after such countermanding.

Explanation.-For the purposes of this rule "recognised political party" means a political party recognized by the Election Commission under the Election Symbols (Reservation and Allotment) Order, 1968 for the State of Gujarat.

#### PART 3A

#### VOTING BY ELECTRONIC VOTING MACHINES

##### **51A. Design of Electronic Voting Machines :-**

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

##### **51B. 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 State Election 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 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.

**51C. Arrangements at the Polling Stations :-**

(1) Outside 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 or more voting compartments in which the electors can record their votes free from observation;

(3) The returning officer shall provide at each polling station one voting machine and copies of relevant part of the electoral roll and such other election material as may be necessary for taking the poll;

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

**51D. Admission to Polling stations :-**

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

(a) polling officers:

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

(c) persons authorised by the State Election Commission:

- (d) candidates, their election agents and subject to the provisions of sub-rule (4) of rule 21, 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 presiding officer may from time to time admit for the purpose of identifying voter.

**51E. 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, and the name, of the ward if any of the municipality;
- (b) the serial number and name of the polling station or stations;
- (c) the serial number of the unit: and
- (d) the date of poll.

(2) The presiding officer shall, immediately before the commencement of the poll, demonstrate to the polling agents and other persons present that no vote has been already recorded in the voting machine and it bears the label referred to, in sub- rule (1);

(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 desirous of affixing the same;

(4) The presiding officer shall thereafter fix the paper seal so signed in the space meant 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 an 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.

**51F. Procedure for voting by voting machines :-**

(1) The Polling Officer shall before permitting an elector to vote,-

(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 17-A,

(b) obtain the signature or the thumb impression of the elector on the said register of votes; 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:

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

(2) It shall not be necessary for any presiding officer or polling officer or any other officer to attest the thumb impression of the elector on the register of voters.

**51G. 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-L 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 elector's 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-F, or rule 51-J 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 elector's name in the register of voters in Form 17-A by the presiding officer under his signature.

**51H. Recording of votes of 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 12 of all cases under this rule.

**51I. Elector deciding not to vote :-**

If an elector, after his electoral roll number has been duly entered in the register of voters in Form 17-A and has put his signature or thumb impression thereon as required under sub- rule (1) of rule 51-F, decides not to record his vote, a remark to this effect shall be made against the said entry in Form 17-A by the presiding officer and the signature or thumb Impression of the elector shall be obtained against such remark.

**51J. 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 State Election 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 14.

(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 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 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 conditions and after following the same procedure as laid down in rule 51-N for recording the vote in accordance with his wishes.

**51K. 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.

**51L. Account of votes recorded as per voting machine. :-**

(1) The presiding officer shall at the close of the poll prepare an account of votes recorded as per voting machine in Form 17-B and enclose it in a separate cover with the words "Account of Votes Recorded" super scribed thereon.

(2) The Presiding Officer shall furnish to every polling agent present at the close of the poll a true copy of the entries made in Form 17-B after obtaining a receipt from the said polling agent therefor and shall attest it as a true copy.

**51M. (1) The presiding officer shall closing of the poll as soon as practicable after the close the control unit to ensure that no further votes can be recorded and shall detach the balloting unit from control unit. :-**

(2) The control unit and the balloting unit shall thereafter be sealed, and secured separately in such manner as State Election 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.

**51N. 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 17A;

(c) the cover containing the tendered ballot papers and the list in Form 14;

(d) the list of challenged votes: and

(e) any other papers directed by the State Election Commission to be kept in a sealed packet.

(2) Each 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.

**51O. 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 17-B. (c) the sealed packets referred to in rule 51-N, 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 their safe custody until the commencement of the counting of votes.

**51P. Procedure on adjournment of poll. :-**

(1) If the poll at any polling station is adjourned under rule 48, the provisions of rules 51-L to 51-O shall, as far as practicable, apply as if the poll was closed at the hour fixed in that behalf under rule 20.

(2) When an adjourned poll is recommended under sub-rule (3) of rule 48, 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 packet containing the marked copy of the electoral roll. register of voters in Form 17-A and a new voting machine.

(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 51-A to 51-O shall apply in relation to the conduct of an adjourned poll before it was so adjourned.

**51Q. 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, and shall forthwith inform the Returning Officer.]

#### PART 4

#### SCRUTINY AND COUNTING OF VOTES AND DECLARATION OF RESULTS

### **52. Appointment of date, time and place of counting of votes. :-**

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

Provided that If for any reason that returning officer thinks 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.

### **53. Counting agents. :-**

(1) A candidate, or his election agent may, subject to such general or special direction as the Election Commission may issue in this behalf from time to time, appoint counting agents to remain present on his behalf at the time of counting of ballot papers.

(2) The number of counting agents that a candidate may appoint under the above sub-rule shall not exceed the number of counting tables provided by the returning officer at the place of counting.

(3) Every appointment of a counting agent shall be made in Form 19 in duplicate, one copy of which shall be forwarded to the returning officer while the other copy shall be made over to the counting agent for production before the returning officer not later than one hour before the time fixed for counting under rule 52.

(4) 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.

(5) The revocation of appointment of a counting agent made under sub-rule (1) shall be made in Form 20 and lodged with the returning officer.

(6) In the event of any such revocation before the commencement of the counting of votes, the candidate or his election agent may make a fresh appointment in accordance with sub-rule (2).

**54. Appointment of Counting Supervisors and counting assistants. :-**

(1) Subject to the provisions of rule 72 of these rules, the returning officer may, with the previous approval of the district municipal election officer, appoint as many counting supervisors and counting assistants as may be needed by him to assist him in the counting.

(2) No person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election shall be appointed under clause (a) of sub-rule (1).

**55. 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) counting supervisors and counting assistants, (b) persons authorized by the stated Election Commission, (c) public servants on duty in connection with the election, (d) candidates, their election agents and not more than one counting agent per counting table.

(2) The returning officer shall decide which counting agent or agents shall watch the counting at any particular counting table or group of counting tables.

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

**56. Maintenance of Secrecy of voting. :-**

(1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes of an election shall maintain and aid in maintaining the secrecy of voting and shall not (except for a purpose authorized by or under any law)

communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-rule (1) above, shall on conviction be punished in accordance with the provisions of the law.

### **57. Scrutiny and opening of ballot boxes. :-**

(1) The returning officer may have the ballot box or boxes used at more than one polling station opened and the ballot papers found in such boxes counted simultaneously.

(2) Before any ballot box is opened at a counting table, the counting agents present at that table shall be allowed to inspect the paper seal or such other seal as might have been affixed thereon to satisfy themselves that it is intact.

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

(4) If the returning officer is satisfied that any ballot box has in fact been tampered with, he shall not count the ballot papers contained in that box and shall follow the procedure laid down in rule 50.

### **58. Counting and scrutiny of votes. :-**

(1) The ballot box or boxes relating to each polling station or the envelopes containing the ballot papers, as the case may be, shall be opened one after another and the ballot papers therein taken out and counted and the number thereof recorded in a statement.

(2) The Returning Officer shall not open the sealed packets of the tendered votes, the marked copy of the List of Voters, or the counterfoils of the ballot papers. The returning officer shall verify the statement submitted by the presiding officer under rule 44 in Form 17 and Form 17 and Form 18, if any, be by comparing it to the number of counted ballot papers, spoilt and returned ballot papers, ballot papers dealt with under rule 41, the unused ballot papers in his possession and the tendered votes list. He shall then re-close and re-seal each packet which has been opened by him and shall record on each packet the description of its contents and the date of election to which they relate.

(3) The Returning Officer shall then mix together all the ballot papers so taken out and distribute them in convenient bundles to

the counting supervisors and counting assistants for counting:

Provided that no envelope containing the tendered ballot papers shall be opened and no such votes shall be counted.

(4) After the ballot papers have been so distributed, they shall be scrutinized and counted. The candidates or his counting agent may be given a reasonable opportunity to inspect the ballot papers without actually handling them.

**59. Rejection of ballot papers. :-**

(1) The Returning Officer shall reject the ballot paper if-

(i) it bears any mark or writing by which the voter can be identified, (ii) it is void for uncertainty, (iii) no vote is recorded thereon, (iv) the number of votes recorded thereon exceeds the number of seats to be filled, (v) it bears the mark elsewhere than the space provided, (vi) It bears a mark made otherwise than with the instrument supplied for the purpose, (vii) the mark indicating the vote thereon is placed in such a manner as to make it doubtful to which candidate the vote has been given, (viii) it is a spurious ballot paper, (ix) it is so damaged or mutilated that its identity as genuine ballot paper cannot be established: (x) it bears a serial number or is of the design different from the serial number or as the case may be, design of the ballot paper authorized for use at a particular polling station, (xi) it does not bear both the mark and the signature which it should have borne under the provisions of rule 30:

Provided that if the returning officer is satisfied that any such defect as is mentioned in (x) and (xi) has been caused by any mistake or failure on the part of the presiding officer or polling officer the ballot paper shall not be rejected merely on the ground of such defect:

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

(2) Before rejecting any ballot paper under sub-rule (1), the returning officer shall allow each counting agent present a reasonable opportunity to inspect the ballot paper but shall not

allow him to handle any ballot paper.

(3) The returning officer shall endorse on every ballot paper which he rejects the word 'rejected' and the grounds of rejection in abbreviated form either in his own hand or by means of a rubber stamp and shall initial such endorsement.

(4) All ballot papers rejected under this rule shall be bundled together.

(5) The decision of the returning officer as to the rejection of ballot paper or otherwise shall be final.

(6) Every ballot paper which is not rejected under this rule shall be counted as valid vote.

**60. Counting to be continuous. :-**

The returning officer shall as far as practicable proceed continuously with the counting and shall during any interval when the counting has to be suspended keep the ballot paper packets and all other papers relating to election sealed with his own seal and the seal of such candidate or election agent as may desire to affix their seal and take sufficient precaution for their safe custody during such interval.

**61. Preparation of result sheet. :-**

After the completion of the counting, the Returning Officer shall prepare in Form 21 the result sheet containing-

(i) the names of the candidates for whom valid votes have been given; (ii) number of valid votes given for each candidate; (iii) number of votes declared invalid; (iv) number of tendered votes given.

**62. Announcement of results and recounting of votes. :-**

(1) After the preparation of the result sheet as per rule 61 the returning officer shall announce the total number of votes polled by each candidate.

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

(3) On such application being made the returning officer shall decide the matter and may allow the application in whole or in part

or may reject it in to if it appears to him to be frivolous and unreasonable.

(4) Every decision of the returning officer under sub-rule (3) shall be in writing and containing the reasons there for;

(5) If the Returning Officer decides under sub-rule (3) to allow the recounting of votes either wholly or in part he shall do recounting according to rule 54 and amend the result sheet to the extent necessary after such recounting and announce the amendment so made by him.

(6) After the total number of votes polled by each candidate has been announced under sub-rule (1), or under sub-rule (5) In case a recount has been ordered under sub-rule (3), returning officer shall complete and sign the result sheet and no application for recounting shall be entertained thereafter:

Provided that no step under this sub-rule shall be taken on the completion of the counting until the candidates and election agents present at the completion thereof have been given a reasonable opportunity to exercise their right conferred by sub- rule (2).

### **63. Declaration of results. :-**

(1) When the counting of votes has been completed, the returning officer shall proceed to declare the result of the election in the following manner.

(2) He shall first decide the result of the seat reserved for women by declaring elected to that seat the woman who has secured the greatest number of valid votes amongst women eligible to be elected to that seat.

(3) He shall then decide the result of the seat reserved, if any, for Scheduled Castes or Scheduled Tribes or Other Backward Classes in that order by declaring elected to that seat the person, other than the person who has already been declared elected to the seat reserved for women, who has secured the highest number of valid votes amongst persons eligible to be elected to that reserved seat.

(4) He shall then decide the result of the unreserved seat or seats as the case may be, by declaring elected the person or, where there are more than one such seat, the persons not exceeding the number of such seats, other than the persons who have already been declared elected to the reserved seats, who has or have

secured the highest number of valid votes.

**64. Equality of votes. :-**

Where equality of votes is found to exist between any candidates and the addition of a vote would entitle any one of these candidates to be declared elected, the determination of the person or persons to whom such addition vote shall be deemed to have been given, shall be made by lots to be drawn in the presence of the returning officer.

**65. Election from more than one ward. :-**

(1) If a person is elected or deemed to be elected councillor from more than one ward, he shall within 24 hours after receipt of a written notice thereof from the district municipal election officer choose in writing signed by him and delivered to the district municipal election officer which ward he wishes to represent. In case no such choice is made within the stipulated time, the district municipal election officer shall declare that the candidate shall represent that ward in which he had received the highest number of votes and the choice or declaration so made shall be conclusive.

(2) The choice or declaration made under sub-rule (1) shall be conveyed forthwith by the district municipal election officer to the returning officers, concerned. Immediately thereupon, the returning officers, of the wards which such person is not to represent shall proceed to modify the declaration of the result made by them under rule 63 in the following manner.

(3) The votes recorded for the candidate aforesaid in any ward for which he was not to serve, shall be deemed not to have been given and the candidate, if any, who, but for the said votes would have been declared to have been elected for such ward shall be deemed to have been elected for the same:

Provided that the results of the candidates who have already been declared elected under rule 63 for the other seats in the ward shall not be altered.

**66. Destruction or loss of ballot papers at the time of counting. :-**

(1) If at any time before the counting of votes is completed, any ballot papers used at the polling station are unlawfully taken out of the custody of the returning officer or accidentally or intentionally

destroyed or lost or damaged or tampered with to such an extent that the result of the poll of that polling station cannot be ascertained, the returning officer shall forthwith report the matter to the State Election Commission.

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

(i) direct that the counting of votes shall be stopped, declare a re-poll at the polling stations concerned, appoint the day and fix the hour for taking the re-poll and notify the date so appointed and hour so fixed in such a manner as it may deem fit, or

(ii) 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, issue such directions to the returning officer as it may deem proper for resumption and completion of the counting and for the further conduct and completion of the election in relation to which the votes have been counted. (3) Provisions of these rules shall apply to every such fresh poll as they apply to the original poll.

**67. Grant of certificate to the elected candidate. :-**

As soon as may be after a candidate is deemed to have been declared elected under rule 13, or has been declared to have been elected under rule 63 to 65, the returning officer shall grant to such a candidate a Certificate of Election in Form 22, obtain from the candidate an acknowledgment of its receipt duly signed by him and immediately send it to the State Election Commission.

**68. Publication of results. :-**

The names of the persons elected as councilors shall be published by the returning officer in the Official Gazette.

**69. Custody of ballot papers and other papers relating to election. :-**

The Returning Officer shall, after declaring the result, keep in safe custody the used ballot papers and other papers related to the election in separate packets which shall be sealed with the seal of the returning officer and of such candidates or election agents or counting agents as may desire to affix their seal thereon.

**70. Production and Inspection of election papers. :-**

While in the custody of the returning officer the packets of ballot papers, whether counted, rejected or tendered, of the counterfoils thereof, and of the marked copy of the list of voters shall not be

opened, inspected, or produced except under the orders of a competent court, but all other documents relating to the election shall be open to public inspection subject to such conditions and got the payment of such fees as may be decided by the State Election Commission and any person on compliance with such condition and on payment of such fees shall be entitled to obtain a copy or copies thereof or any part thereof.

**71. Disposal of election papers. :-**

The packets referred to in rule 69 and all other documents relating to the election shall, except where an election petition is pending before any competent authority, be retained for a period of one year and shall thereafter be destroyed in such a manner as may be directed by the State Election Commission and subject to any direction given by a competent court.

**PART 4A**

**SCRUTINY AND COUNTING OF VOTES AND DECLARATION OF RESULTS VOTING BY ELECTRONIC VOTING MACHINES**

**71A. Counting of votes where electronic voting machines have been used. :-**

In relation to counting of votes at a polling station, where voting machine has been used.-

(1) The provisions of rules 52 to 56 shall apply and

(2) for rules 57, 58 and 69, the following rules shall apply, namely.-

**71B. Scrutiny and inspection of voting machines. :-**

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

(2) Before the votes recorded in any control unit of a voting machine are counted under sub-rule (1), the candidate or his election agent 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) Where the returning officer is of the view that any voting machine has been tampered with, he shall not count the votes recorded in that machine and shall follow the procedure laid down in rule 48 or 64, as may be applicable in respect of the polling station where that machine was used

**71C. Counting of votes. :-**

(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-

(a) record the number of such votes separately in respect of each candidate in Form 17-B of Part-11;

(b) complete Part II of Form 17-B in other respects and signed by the counting supervisor and also by the candidates or their election agents or their counting agents present; and

(c) make corresponding entries in a result sheet in Form 21 and the particulars so entered in the result sheet announced.

**71D. Sealing of Voting machines. :-**

(1) After the result of voting recorded in a control unit has been ascertained candidate-wise and entered in Part II of Form 17-A and Form 21, the returning officer shall reseal the unit with his seal and the seals of such of the candidates or their election agents present who may desire to affix their seals thereon so however that the result of voting recorded in the unit is not obliterated and the unit retains the memory of such result.

(2) The control unit so sealed shall be kept in specially prepared boxes on which the returning officer shall record the following particulars, namely:- (a) the name of the ward of municipality, (b) the particulars of polling station or stations where the control unit has been used, (c) serial number of the control unit, (d) the date of poll, and (e) the date of counting.

(3) The provisions of rules 60 to 64 shall, so far as may be, apply in relation to voting by voting machines and any reference in these rules to,- (a) "ballot paper" shall be construed as including a reference to such "voting machine," (b) any rule shall be construed as a reference to the corresponding rule in rule 71-B, 71-C or 71-D.]

#### PART 5

#### GENERAL PROVISIONS

#### **72. Employees of the Municipality not to be associated with election process. :-**

No officer or employee of a municipality shall be appointed as the returning officer or assistant returning officer, presiding officer, polling officer, counting supervisor or counting assistant, or assigned any other work in connection with the conduct of election to the municipality:

Provided that the returning officer may appoint persons employed as teachers in the primary schools run by the municipality as presiding or polling officers.

#### **73. Prohibition of public meetings on the day proceeding the election day and on the election day. :-**

(1) No person shall convene, hold or attend any public meeting in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable in accordance with the provisions of the law.

#### **74. Printing and Clerical errors in Lists of Voters. :-**

If a question arises for the decision of the returning officer or a presiding officer under these rules whether an entry in the List of Voters relates to a particular person, the returning officer or the presiding officer as the case may be, may, for reasons to be recorded in writing, decide that the entry does or does not relate to the said person, notwithstanding any clerical or printing error there in.

#### **75. Removal of difficulties. :-**

If any difficulty arises as to the holding of any election under the Act, the returning officer may, subject to such directions, if any, the State Election Commission may give, do any thing not

inconsistent with the Act or rules which appears to him to be necessary for the proper holding of the election.

**76. Repeal of corresponding rules. :-**

The Municipal Election Rules 1964 are hereby repealed.