

Gujarat Panchayats Elections Rules, 1994

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Gujarat Panchayats Elections Rules, 1994

WHEREAS certain draft rules framing the Gujarat Panchayats Election Rules, 1994 were published as required by sub-section (5) of section 274 read with sub-section (2) of section 15 of the Gujarat Panchayat Act, 1993 (Guj. 18 of 1993), at page 207-1 to 207-103 of Gujarat Government Gazette, Part I-A dated the 20th May, 1993 under the Government Notification, Panchayats and Rural Housing Department No. KP/149 of 1994/ELC/1094/2647/G, dated the 20th May, 1994, inviting objections and suggestions from all persons likely to be affected thereby till the 20th June, 1994; AND WHEREAS objections and suggestions received with respect to the said draft rules were considered by the Government; NOW, THEREFORE, in exercise of the powers conferred by sub-section (5) of section 274 read with sub-section (2) of section 51 of the Gujarat Panchayats Act, 1993 (Guj. 18 of 1993) the Government of Gujarat hereby makes the following rules namely :

PART 1

Preliminary

1. Short title :-

These rules may be called the Gujarat Panchayats Elections Rules, 1994.

2. Interpretation :-

(1) In these rules, unless the context otherwise requires,

(a) "Act" means the Gujarat Panchayats Act, 1993;

(b) "Assistant Returning Officer" means any person appointed under sub-rule (2) of rule 5 to assist the Returning Officer in the performance of his functions;

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

(d) "Counterfoil" means counterfoil attached to the ballot paper printed under the provisions of these rules;

(e) "District Election Officer" means an officer of the State

Government or of a Panchayat designated or nominated by the Election Commission to be the District Election Officer.

(f) "Election" means an election to elect a member or members of a village panchayat, a taluka panchayat or, as the case may be a district panchayat and includes an election to elect Sarpanch of a Village Panchayat;

(g) "Election Commission" means the State Election Commission.

(h) "Form" means a form appended to these rules ;

(i) "List of Voters" means a list of voters of an electoral division maintained under Section 17 for the purpose of elections of members of a village panchayat, a Taluka panchayat or, as the case may be a district panchayat and in relation to election of a Sarpanch means a list of voters of all electoral divisions of a village;

(j) "Marked" copy of the list of voters" means the copy of the list of voters set apart for the purpose of making the names of voters to whom ballot papers are issued at an election;

(k) "Presiding Officer's" includes any polling officer performing the functions of the Presiding Officer, which he is authorised to perform under these rules;

(l) "Public holiday" means any day which is a public holiday for the purpose of section 25 of the Negotiable Instruments Act, 1881;

(m) "Returning Officer" means any officer designated or nominated under rule 5 by the Election Commission as returning officer in respect of an electoral division and includes an assistant returning officer performing the functions of the returning Officer, which he is authorised to perform under these rules ;

(n) "Section" means the section of the Act;

(o) "Specified officer" means the specified officer referred to in sub-section (2) of section 20.

(p) "Voters" means a person qualified to vote at an election under sub-section (1) of section 28.

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

(a) he has placed a mark on such instrument or other paper in the

presence of the returning officer or the presiding officer or such other officer as has been entrusted any work in connection with the elections; and

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

(3) The Bombay General Clauses Act, 1904 shall apply for the interpretation of these rules as it applied for the interpretation of a Gujarat act.

PART 2

List of Voters

3. Manner of publication of list of voters :-

(1) The list of voters referred to sub-section (2) of section 20 alongwith a notice in Form 1 and the list of voters referred to in sub-section (7) of the said section 20 shall be published

(a) in respect of elections to a village panchayat or, election of a Sarpanch of a village panchayat, by affixing the list of voters at the office of the concerned village panchayat or the concerned village Chavdi or at other conspicuous place, if any;

(b) in respect of elections to a taluka panchayat by affixing the list of voters at the office of the taluka panchayat and by affixing the extract of the list at the office of the village panchayat so far as it relates to the voters, residing within the limits of the village;

(c) in respect of elections to a district panchayat by affixing the list of voters at the office of the district panchayat and by affixing the extract of the list at the office of the taluka panchayat and village panchayat in so far as the extract relates to the voters residing within the limits of the taluka or, as the case may be village;

4. Custody of list of voters :-

(1) The specified officer shall authenticate two copies of the list of voters maintained in accordance with the provisions of the section 17 of the Act.

(2) One complete copy of the list of voters duly authenticated by the specified officer shall be kept in the office of the specified officer.

PART 3

General Provisions

5. Returning Officer :-

(1) For every electoral division and for every election the Election Commission shall designate or nominate a returning officer who shall be an officer of the State Government or of a panchayat: Provided that nothing in this rule shall prevent the Election Commission from designating or nominating the same person to be a returning officer for more than one electoral division.

(2) The Election Commission may appoint one or more persons to assist any returning officer in the performance of his functions (hereinafter referred to as "the Assistant Returning Officer"): Provided that every such person shall be an officer of the State Government or or a panchayat.

(3) Every assistant returning officer shall, subject to the control of the returning officer, be competent to perform all or any of the functions of the returning officer: Provided that no assistant returning officer shall perform any of the functions of the returning officer which relate to the scrutiny of nominations unless the returning officer is unavoidably prevented from performing the said functions.

6. General duty of the returning officer :-

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

7. Appointment of presiding and polling officers :-

(1) The returning officer shall for each polling Station appoint a presiding officer to preside at such polling station, to keep order there at and to ensure that the election is fairly conducted. The returning officer shall also appoint such number of polling officers to assist the presiding officer in the performance of his functions as he may think fit, but he shall not appoint any person as a presiding or polling officer who has been employed by or on behalf of or has been otherwise working for a candidate in or about the election :

Provided that if a polling officer is absent from any polling station, the presiding officer may during such absence appoint as a polling of officer any person who is present at the polling station, but he shall not appoint any person as a polling officer, who has been employed by, or on behalf of, or has been otherwise working for a

candidate in or about the election and inform the returning officer accordingly:

Provided further that nothing in this sub-rule shall prevent the returning officer from appointing the same person to be the presiding officer for more than one polling station in the same premises.

(2) If the presiding officer, owing to illness or other unavoidable cause, is absent from the polling station, his functions shall be performed by such polling officer as has been previously authorised by the returning officer to perform such functions during any such absence.

(3) The polling officer, shall if so directed by the presiding officer, perform all or any of the functions of the presiding officer under the Act and rules or orders made thereunder.

8. Polling stations and publication of list thereof :-

(1) The District Election Officer shall with the previous approval of the Election Commission provide sufficient number of polling stations for each electoral division.

(2) For the aforesaid purpose the District Election Officer shall prepare a draft list showing

(a) the total number of polling stations proposed to be provided for the electoral division;

(b) the name and description of each polling station;

(c) the polling area of the group of voters for which each polling station is proposed to be provided and the number of voters in each polling area;

(d) the maximum distance which voter will have to travel to reach the polling station; and

(e) such others particulars, if any, as may be prescribed by the Election Commission.

(3) The District Election Officer shall

(a) publish copies of the draft list in some conspicuous place in his office and in other suitable places within the electoral division;

(b) invite objections from representatives of all political parties

functioning in the district and the general public; and

(c) after making such changes, if any, in the draft list in the light of the objections received, forward the same to the Election Commission for its approval.

(4)

(a) On receiving the draft list, the Election Commission shall approve the draft list and before such approval may call for such information from the district election officer as it may consider necessary.

(b) The Election Commission shall communicate its approval of polling stations to the concerned District Election Officer.

(c) On receipt of such approval from the Election Commission, the District Election Officer shall publish the list in Form 2 at the following place, namely:

(i) at his office ;

(ii) at the office of district panchayat in the case of election to district panchayat, at the office of the taluka panchayat in the case of election to taluka panchayat and at the office of the village panchayat in the case of election to village panchayat or of a Sarpanch;

(iii) at the offices of each of the taluka panchayats and the offices of each of the village panchayats in the case of election to district panchayat; and at the offices of each of the village panchayats concerned in the case of election to taluka panchayat; and the office of a village panchayat and at the concerned village chavdi or at other conspicuous place if any, in the case of election to village panchayat or of a Sarpanch;

(iv) at the office of the returning officer :

(v) at the office of each of the mamlatdars in the district in case of election to district panchayat and at the office of the mamlatdar concerned in case of election to taluka panchayat and the office of mamlatdar concerned in case of election to village panchayat or of a Sarpanch.

(5) Notwithstanding anything contained in sub-rules (2) to (4) in the case of a bye-election the approval of the Election Commission to the list of polling stations shall not be necessary if the list is

adopted from the list in respect of general election without any change.

9. Fixation of various stages of elections :-

(1) The Election Commission shall by notification in the Official Gazette publish the date of election appointed by it under sub-section (1) of section 15.

(2) As soon as a notification under sub-rule (1) is published the Election Commission shall by a notification in the Official Gazette, appoint

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

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

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

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

(e) the hours during which and the place at which the poll shall be taken: Provided that total period on any one day for polling at the election shall not be less than eight hours;

(f) the date for counting of votes;

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

10. Public notice of election :-

(1) As soon as a notification under sub-rule (2) of rule 9 is published, the returning officer shall give a separate public notice of the intended election in Form 3 inviting nominations of candidates for such election and specifying the place at which the nomination papers are to be delivered.

(2) The public notice under sub-rule (1) shall be given by putting up the notice in some conspicuous place in the office of the returning officer, assistant returning officers and offices of district panchayat, taluka panchayat, and village panchayat, and if the returning officer, deems if necessary also in another conspicuous place where the office of the district, taluka or village panchayat is situated.

11. Symbols of election in the electoral divisions :-

(1) The Election Commission shall by notification in the Official Gazette specify the symbols that may be chosen by candidates at election in the electoral divisions and the restrictions to which such choice shall be subject.

(2) Subject to any general or special directions issued by the Election Commission under sub-rule (3) where at any such election, more nomination papers than one are delivered by or on behalf of a candidate, the declaration as to symbols made in the nomination paper first delivered, and no other declaration as to symbols, shall be taken into consideration under rule 18 even if that nomination paper has been rejected.

(3) At all elections where a poll becomes necessary, the returning officer shall consider the choice of symbols expressed by the contesting candidates in their nomination papers and shall subject to any general or special directions issued by the Election Commission on this behalf.

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

(b) If more constesting candidates than one have indicated their preference for the same symbols decide by lot, to which of such candidates the symbols shall be allotted.

(4) The allotment by the returning officer of any symbol to a candidate shall, unless it is inconsistent with the directions issued by the Election Commission, be final and where the allotment is so inconsistent, the Election Commission shall revise the same in such manner as it may think fit.

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

12. Presentation of nomination papers and requirement for valid nomination :-

(1) A nomination paper in Form 4 shall be supplied by the returning officer to any person asking for the same.

(2) On or before the date appointed for making nominations under clause (a), of sub-rule (2) of rule 9, each candidate shall either in person or by his proposer, between the hours of eleven O'clock in the forenoon and three O'clock in the afternoon deliver to the returning officer at the place specified in this behalf in the notice issued under rule 10, a nomination paper completed in the form specified in sub-rule (1) and signed by the candidate and by a voter of the electoral division as proposed:

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

Provided further that no paper purporting to be a nomination paper of a candidate which is

(a) delivered to the returning officer before eleven O'clock in the forenoon or after three O'clock in the afternoon or on any day on which a nomination paper may be delivered in accordance with these rules; or

(b) delivered by a person other than the candidate or his proposer; or

(c) received by returning officer by post or in any other manner; shall be treated by the returning officer as a nomination paper and any such paper shall be rejected as soon as it is received by the returning officer and shall not be considered at the time of scrutiny.

(3) On the presentation of a nomination paper, the returning officer shall satisfy himself that the names and numbers in the list of voters of the candidate and his proposer and entered in the nomination paper are the same as those entered in the list of voters, and if not, invite the attention of the candidate or the proposer as the case may be, to his effect: Provided that the returning officer shall permit any clerical or technical error in the nomination paper in regard to the said names or numbers to be corrected in order to bring them in conformity with the corresponding entries in the list of voters.

(4) Where a candidate is a voter in a different electoral division, a

copy of the list of voters of that division or of the relevant part thereof or a certified copy of the relevant entries in such list shall, unless it has been filed alongwith the nomination paper, be produced before the returning officer at the time of the scrutiny.

(5) Nothing in this rule shall prevent any candidate from being nominated by more than one nomination paper; provided that not more than four nomination papers shall be presented by or on behalf of any candidate or accepted by the returning officer for election in the same electoral division.

(6) No person shall sign as a proposer any nomination paper or papers of more than one candidate at the same election in an electoral division and if he does so, then, of all the nomination papers signed by him as proposer, only the nomination paper or papers of the candidate which or one of which is delivered first to the returning officer shall be accepted and the nomination paper or papers of all other candidates shall be rejected as soon as they are received by the returning officer and shall not be given any serial number and shall not be taken for scrutiny.

13. Deposit on nomination :-

(1) A candidates ahll not be deemed to be duly nominated unless he deposits or causes to be deposited in each alongwith his nomination paper

(a) in case of ah election from an electoral division for a district Panchayat a sum of five hundred rupees or where the candidate is a women or a member of a Scheduled Caste or Schedules Tribe or Socially and Educationally Backward Class, a sum of two hundred and fifty rupees;

(b) in case of an election from on electoral division for taluka panchayat a sum of two hundred and fifty rupees or where the candidate is a women or a member of a Scheduled Caste or Scheduled Tribes or Socially and Educationally Backward Class a sum of one hundred twenty five rupees.

(c) in case of an election from an electoral for village panchayat or an election of a Sarpanch of a village panchayat a sum of one hundred and twenty five rupees or where the candidate is women or a member of a Scheduled Caste or Scheduled Tribes or Socially and Educationally Backward Class, a sum of fifty one rupees.

(2) Where a candidate has been nominated by more than one nomination paper for election in the same electoral division, not more than one deposit shall be required of him.

14. Return of forfeiture of deposit :-

(1) Deposit made under rule 13 shall either be returned to the person making it or his legal representative or may be forfeited in accordance with provisions of this rule.

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

(3) If the candidate is not shown in the list of contesting candidates or, if he dies before the commencement of the poll, the deposit shall be returned as soon as practicable after the publication of the list of contesting candidates or after his death, as the case may be.

(4) Subject to the provisions of sub-rule (3) the deposit shall be forfeited if at an election where a pool has been taken, a candidate is not elected and the number of valid votes polled by him does not exceed one sixth of the total number of valid votes polled by the all the candidates.

(5) Notwithstanding anything contained in sub-rule (3) or (4), if at an election the candidate is a contesting candidate in more than one electoral divisions of the same village, taluka or, as the case may be, district or from an election division of a village as well as from a village in case of election of a Sarpanch not more than one of the deposits shall be returned and the others shall be forfeited.

15. Scrutiny of nomination papers :-

(1) One of the date fixed for the scrutiny of nomination under clause (b) of sub-rule (2) rule 9, the candidates, their election agents, one proposer, of each candidate and one other person duly authorised in writing by each candidate, but no other person, may stand at such time and place as the returning officer may appoint and the returning officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered other than those which have been rejected by the returning officer under the proviso to sub-rule (2) of under sub-rule (6) of rule 12.

(2) The returning officer shall then examine the nomination papers

and shall decide all objections which may be made to any nomination and may, either on such objection or on his own motion after such summary inquiry if any, as he thinks necessary, reject any nomination paper on any of the following grounds, namely:

(a) on the date fixed for scrutiny of nominations the candidate is either not qualified or disqualified for being chosen to fill the seat under the Act or any other law for the time being in force; or

(b) that the proposer is disqualified subscribing a nomination paper; or

(c) that there has been a failure to comply with any of the provisions of rules 12 or 13; or

(d) that the candidate or the proposer is not identical with the person whose electoral number is given in the nomination paper as number of such a candidate or proposer, as the case may be; or

(e) that the signature of the candidate or any proposer on the nomination paper is not genuine or has been obtained by fraud.

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

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

Explanation. For the purpose of this sub-rule a failure to complete, or a defect in completing the declaration, as to symbols in nomination paper in Form 4 shall not be deemed to be defect of a substantial character.

(5) The returning officer shall hold the scrutiny on the appointed date in this behalf under rule 9 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or violence or by causes beyond his control:

Provided that in case an objection is raised by the returning officer

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

(6) The returning officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected shall record in writing a brief statement of his reasons for such rejection and supply a certified copy of the order to the candidate as soon as possible after the scrutiny is over, even in the absence of an application from him and without any cost.

(7) For the purpose of this rule, the production of a. certified copy of an entry made in the list of voters for the time being in force of any electoral division shall be conclusive evidence of the right of any voter named in that entry to contest the election or to subscribe to a nomination paper, as the case may be, unless it is proved that the candidate or, the case may be, the proposer is disqualified, within the meaning of sub-section (2) of section 28 of the Act, to contest the elections.

(8) The decision of the returning officer regarding acceptance or rejection of the nomination paper shall be final.

16. List of validly nominated candidates :-

(1) Immediately after all the nomination papers have been scrutinised and decisions accepting or rejecting the same have been recorded, the returning officer shall prepare a list of validly nominated candidates in Form 5, that is to say candidates whose nominations have been found valid, and affix it to his notice board. He shall, endorse a copy of the list to the District Election Officer in case of election to village panchayat or taluka panchayat or of election of Sarpanch of a village panchayat and to the Election Commission in case of election to a District Panchayat.

(2) The name of every such candidate shall be shown in the list as it appears in his first nomination paper even if it is rejected and in no other manner.

17. Notice of withdrawal of candidature :-

(1) Any candidate may withdraw his candidature by a notice in writing in Form 6 subscribed by him and delivered before three

O'clock in the afternoon on the day fixed under clause (c) of sub-rule (2) of rule 9 to the returning officer either by such candidate in person or by his proposer or by his election agent who has been authorised in this behalf in writing, by such candidate:

Provided that a notice of withdrawal shall not be accepted by the returning officer unless the scrutiny of nominations is completed.

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

(3) The returning officer shall on being satisfied as to the genuineness of the notice of withdrawal and the identity of the person delivering it, cause the notice to be affixed at some conspicuous place in his office. Before affixing the notice, he shall not thereon the date and time at which it was delivered to him.

18. List of contesting candidates and their symbols :-

(1) Immediately after the expiry of the period within which candidature may be withdrawn under rule 17, the returning officer shall prepare a list of contesting candidates, that is to say, candidates who were included in the list of validly nominated candidates and who have not withdrawn their candidatures within the said period, such list shall be in Form 7 and shall indicate the symbol allotted to each candidate under rule 11, according to his choice or, as the case may be, assigned to him by the returning officer in pursuance of sub-rule (3). The names of candidates shall be arranged in the list in the Gujarati alphabetical order in the manner in which they are given in the list validly nominated candidates, where two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in such other manner as the returning officer deems fit. The returning officer shall cause a copy of the list to be affixed in some conspicuous place in his office and shall also supply a copy thereof to each of the contesting candidates.

(2) The returning officer shall also send a copy of the list to the Election Commission.

(3) If more than one candidates show their preference for one and the same symbol, the Returning Officer shall decide by lot to which of those candidates the symbols shall be assigned. The decision of the returning officer in assigning any symbol to a candidate under

this sub rule shall be final.

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

19. Appointment of election agent :-

(1) A candidate at an election may, subject to the provisions of sub rule (3), appoint any one person other than himself as an election agent. Such appointment shall be made in Form 8 in duplicate and shall be forwarded to the returning officer either at the time of delivering the nomination paper or at any time before the election. The returning officer shall return one copy of the form to the election agent, after affixing therein his seal and signature in token of his approval of appointment.

(2) The appointment of the election agent may be revoked by the candidate at any time by declaration in writing in Form 9 signed by him and lodged with the returning officer and such revocation shall take effect from the date on which it is lodged. In the event of such revocation or in the event of the election agent dying before or during the period of the election, the candidate may appoint a new election agent in accordance with the provisions of sub-rule (1),

(3) No person who is qualified to be a member of a panchayat under the Act shall be appointed as an election agent.

20. Appointment of polling agents :-

(1) A cotesting candidate or his election agent may appoint one agent and two relief agents to act as polling agents at polling station.

(2) Every such appointment shall be made in Form 10 and shall be made over to the polling agent for production at the polling station.

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

21. Revocation of the appointment or death of polling agent :-

(1) The appointment of the polling agent may be revoked by the

candidate or his election agent in Form 11 at any time before the commencement of the poll by a letter in writing and signed by him.

(2) Such letter shall

(a) in the case where the appointment is revoked not less than seven days before the commencement of the poll, be lodged with the returning officer;

(b) in any other case to the returning officer or the presiding officer of the polling station where the polling agent was appointed for duty.

(4) Where the returning officer receives any letter or report made under sub-rule (1} or (3), he shall forthwith communicate such letter or report, as the case may be, to the presiding officer of the polling station where such polling agent was appointed for duty.

(5) Where the appointment of a polling agent is revoked under sub-rule (1) or where the polling agent dies before the close of the poll, the candidate or his election agent may at any time before the poll is closed, appoint new polling agent in accordance with the provisions of rule 20.

22. Procedure in contested and uncontested elections :-

(1) If in any electoral division or village the number of contesting candidates is more than one a poll shall be taken.

(2) In any electoral division or, as the case may be, a village if there is only one contesting candidate, then the candidate so contesting shall be declared by the returning officer to have been elected uncontested after the last date of withdrawal is over. The returning officer shall declare the result in Form 12 and shall send a copy of the form to

(a) the Election Commission;

(b) the Secretary, to Government Panchayats and Rural Housing Department;

(c) the Development Commissioner;

(d) the District Development Officer; and

(e) the Taluka Development Officer, in case of election to taluka panchayat,

(f) the office of the village panchayat in the case of election to village panchayat or election or election of Sarpanch of a village panchayat;

(3) He shall also get a copy of his declaration affixed at his office.

(4) The copy of the form, shall be affixed on the notice board of the office of the District Panchayat in case of election to district panchayat, of the office of the taluka panchayat in case of election to taluka panchayat and of the office of the village panchayat in case of election to village panchayat or of Sarpanch of a village panchayat.

23. Death of a candidate before poll :-

If a candidate whose nomination has been found valid under rule 15 and who has not withdraw his candidature under rule 17 dies and a report of his death is received before the publication of the list of contesting candidates under rule 18 or if a contesting candidate dies and the report of his death is received before the commencement of poll, the returning officer shall, after verifying the fact of the death of the candidate countermand and poll and report the fact to the Election Commission and all proceeding with the reference to the election shall be commenced a new in all respects as if it was a new election :

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

Provided further that a person who has given a notice of withdrawal of his candidature under rule 16 before the contermending of the poll shall be eligible for being nominated as a candidate for the election after such countermanding.

PART 5

Ballot Paper

24. Ballot paper :-

(1) Every ballot paper including a postal ballot paper shall be in Gujarati and shall have a counterfoil attached to it, the said ballot paper and the cunterfoil shall be in such form and shall contain such particulars as the Election Commission may direct.

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

contesting candidates.

(3) The Election Commission may specify different colours of ballot papers for the election of district, taluka and village panchayats and of Sarpanch.

25. Persons entitled to vote by post :-

(1) Save as otherwise provided, all persons voting at an election shall do so in person at the polling station provided for them.

(2) The following persons shall be entitled to vote by post and in no other manner

(i) service voters and their spouses, if staying with them;

(ii) electors subjected to preventive detention under any law for the time being in force;

(iii) voters on election duty.

Explanation. "Service voter" means a voter who is (a) a member of the armed forces of the Union; or (b) a member of a force to which the provisions of the Army Act, 1950 (46 of 1950) have been made applicable whether with or without modifications, or (c) a member of an armed police force of a State, who is serving outside that State; or (d) a person who is employed under the Government of India, in a post outside India.

26. Voting by persons subjected to preventive detention :-

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

(2) As soon as possible after the date for the poll is fixed under rule 9, the Election Commission shall ascertain if any voter for that electoral division is subjected to preventive detention under any law for the time being in force and shall within fifteen days from the date fixed for the poll forward to the returning officer the names of any such voters in that electoral division who are under such detention together with, their addresses and serial number in the list of voters and the particulars about their places of detention.

(3) Any voter for an electoral division who is subjected to preventive detention under any law for the time being in force may within fifteen days from the date fixed for the poll, apply to the returning officer, of the electoral division for permission to give his vote by postal ballot at such election. Every such Application shall specify the name of the voter, his address, his serial number in the list of voters and the particulars regarding his place of detention.

(4) If the returning officer is satisfied that the person, whose name has been forward under sub-rule (2) or who has made an application under sub-rule (3) is under preventive detention and is a voter for the electoral division to which the election relates and is entitled to vote at such election, he shall permit such person to give his vote at the election by postal ballot.

(5) The returning officer shall issue the postal ballot paper and at that time cause suitable notes to be recorded in such copy of the list of voters in which the name of such person is entered and which is intended to be used at the polling station where such person, would, if he had not been under detention have normally voted so as to indicate that such person has been permitted to give vote at the election by postal ballot.

27. Voting by persons employed on election duty :-

(1) A voter on election duty who wishes to vote by post at the election shall send an application in Form 13 to the returning officer so as to reach him at least seven days or such shorter period as, the returning officer may allow before the date of the poll and if the returning officer is satisfied that the applicant is a voter on election duty, he shall permit such person to give his vote at the election by postal ballot.

(2) Where such voter, being a polling officer, presiding officer or other public servant on election duty in the electoral division of which he is a voter, wishes to vote in person at the election and not by post he shall send an application in Form 14 to the returning officer so as to reach him at least four day, or such shorter period as the returning officer may allow, before the date of the poll and if the returning officer is satisfied that the applicant is such public servant and voter on election duty in the electoral division, he shall

(a) issue of the applicant an Election Duty Certificate in Form 15;

(b) mark "EDC" against his name in the marked copy of the list of

voters to indicate that an election duty certificate has been issued to him; and

(c) ensure that he is not allowed to vote at the polling station where he would otherwise have been entitled to vote.

(3) If after issue of the election duty certificate to a voter on election duty, such person causes to be on election duty shall be allowed to cast his vote at any polling station of the electoral division other than the one in which but for the issue of such election duty certificate he would have been entitled to vote including the polling station where he was posted for duty.

28. Issue of postal ballot paper :-

(1) The returning officer shall be as soon as may be, after the publication of the list of contesting candidates at the election under rule 18, send by post under certificate of posting a postal ballot paper, to every voter who is authorised under rule 25 to give his vote by postal ballot or has been permitted to give his vote by such ballot under sub-rule (1) of rule 27. He shall at the same time record on the counterfoil of the ballot paper the serial number of the voter in the list of voters entered in the marked copy of the list of voters and also make a mark against the name of voter in the marked copy of the list of voters to indicate that a ballot paper has been issued to the voter without however recording in the marked copy of the serial number of the ballot paper issued to that voter; and also ensure that, that voter is not allowed to vote at a polling station.

(2) Along with the postal ballot paper the returning officer shall send

(a) a declaration in Form 16;

(b) an envelope in Form 17 with the number of the postal ballot paper entered on its face;

(c) a cover addressed to himself in Form 18; and

(d) instructions in Form 19. The returning officer shall have entered the number of the ballot paper at the left hand bottom corner of the cover in Form 18.

(3) The postal ballot paper with the declaration, the envelope and letter shall be sent

(a) in the case where the voter is a member of the armed forces of the Union or the spouse of any such member to the address of the voter as shown in the list of voters;

(b) in the case where a voter is a person employed under the Government of India in a post outside India and to the spouse of any such person to such voter under the case of the diplomatic or consular representative of India in the country where such voter is resident;

(c) in the case where the voter is a person who has been permitted under sub-rule (1) of rule 27 at the address given in the application made by him.

(4) The postal ballot paper shall be sent by ordinary air mail and not in diplomatic bag. Ordinary postage stamps be used for the purpose. The postage for returning ballot paper shall be borne by the voter.

(5) The returning officer may in the case of any such voter deliver the ballot paper and the documents specified in sub-rule (2) or cause them to be delivered to such voter personally.

(6) After the ballot papers have been issued to all the voters entitled to vote by post, the returning officer shall seal up in a packet that part of the marked copy of the list of voters which relates to service voters and their spouses and record on the packets 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 for marking the names of the voters to whom ballot papers are issued at the polling stations without however recording therein the serial numbers of the ballot paper issued to the voters.

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

29. Reissue of postal ballot papers :-

(1) Where a postal ballot paper and other papers sent by post under rule 28 are for any reason returned undelivered, the returning officer may reissue them by post under certificate of posting or deliver them or cause them to be delivered to the voter

personally on a request being made by him.

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

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

30. Recording of vote :-

(1) A voter who has received a postal ballot papers and desires to vote shall record his vote on the ballot paper in accordance with the instructions contained in Form 19 and then enclose it in cover in Form 17.

(2) The voter shall sign the declaration in Form 16 in the presence of, and have the signature attested by, a Magistrate or such other officer specified below as may appropriate to, whom he is personally known or to whose satisfaction he has been identified

(a) in the case of members of armed forces or such officers as may be appointed in this behalf by the Commanding Officer of the unit, ship or establishment in which the voter or, as the case may be spouse is employed;

(b) in the case of Government servants employed under the Government of India in a post outside India, such officer as may be appointed in this behalf by the diplomatic or consular representative of India in the country in which such voter is resident;

(c) in the case of person under preventive detention the superintendent of the jail or the commandant of the preventive detention camp in which the voter is under preventive detention; and

(d) in the case of persons employed for election duty, any gazetted officer or the presiding officer of the polling station at which is on election duty.

31. Assistance to illiterate or infirm voters :-

(1) If a voter to whom a postal ballot paper has been sent under rule 28 is illiterate or is unable through physical incapacity to record his vote on the postal ballot paper and sign the declaration, he shall take the ballot paper together with declaration and the envelope and cover received by him to an officer competent to attest his signature under sub-rule (2) of rule 30 and request the officer to record his vote and sign his declaration on his behalf.

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

32. Return of postal ballot papers :-

(1) Every voter on receiving his postal ballot paper sent under rule 26, if he desires to vote at the election, shall record his vote thereon and sign the declaration in accordance with the instructions given in the letter sent with the postal ballot paper.

(2) The voter shall then place the postal ballot paper in the envelope, close the envelope and enclose it in the cover to the returning officer in accordance with the instructions contained in the letter so as to reach him before the hour fixed for the commencement of the counting of votes.

(3) If any cover containing the postal ballot paper is received by the Returning Officer after the expiry of the time fixed in sub-rule (2), he shall not thereon the date and time of its receipt and shall keep all such covers together in a separate sealed packet.

(4) 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.

PART 6

Arrangement at Polling Station

33. Arrangement at polling station :-

(1) Outside each polling station there shall be displayed prominently.

(a) a notice specifying the polling area, the voters 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 voters 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 voters can record their votes screened from observation.

(3) The returning officer shall provide at each polling station a sufficient number of ballot boxes, copies of the relevant parts of the lists of voters, ballot papers, and articles necessary for voters to mark the ballot papers.

34. Admission to polling stations :-

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

(a) polling officers;

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

(c) persons authorised by the Election Commission;

(d) candidates, their election agents and subject to the provisions of rule 20, one polling agent of each candidate;

(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 returning officer or the Presiding Officer may employ under sub-rule (1) of rule 37 or sub-rule (2) of rule 39.

35. Ballot Boxes :-

(1) The returning officer shall provide at each polling station sufficient number of ballot boxes.

(2) Every ballot box shall be of such design and colour as have previously been approved by the Election Commission. It shall be so constructed, that ballot papers can be inserted therein but cannot be withdrawn therefrom without the box being unlocked and the seals being broken.

36. Preparation of ballot box for poll :-

(1) When a paper seal is used for securing a ballot box, such of the presiding officer shall affix his own signature on the paper seal and

obtain thereon the signature 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 therefor in the ballot box and shall then secure and seal the box in such mannner that the slit for the insertion of the ballot papers therein to remains open.

(3) The seals used for securing the ballot box shall be affixed in such manner that after the box has been closed it shall not be possible to open the box again 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 paper 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 lables, both inside and outside marked with

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

(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 lable outside the ballot box only; and

(d) date of poll.

(6) The presiding Officer at each polling station shall immediately before the commencement of the poll allow the candidates, there, election agents and their polling agents who may be present at such polling station to inspect each ballot box to be used at the poll and shall demonstrate to them and to other persons present, that, it is empty and bears the lables referred to in sub-rule (5) both inside and outside the box.

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

(8) Where it becomes necessary to use a second ballot box by reason of first ballot box getting full, the first ballot box shall be closed sealed and secured before the another ballot box is put into use.

37. Identification of voters :-

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

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

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

38. Safeguards against personation :-

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

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

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

39. Facilities for women voters :-

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

(2) The returning officer or the presiding officer may appoint a women to serve as an attendant at any polling station to assist

women, voters and also to assist the presiding officer generally in taking the poll in respect of women voters and, in particular, to help in searching any women voter in case it become necessary.

40. Issue of ballot papers to voters :-

(1) Every ballot paper before it is issued to a voter and the counterfoil attached thereto shall be stamped on the reverse side with the stamp showing the number of polling station and the number of electoral division. If it is not found feasible to stamp the ballot paper and its counterfoil on account of any unavoidable reason, it shall be sufficient if the number of polling station and the number of electoral division are noted by hand in ink on the reverse side of each ballot paper and its counterfoil.

(2) Every ballot paper before it is issued shall be signed in full on its back by the presiding officer.

(3) At the time of issuing a ballot paper to a voters the polling officer shall

(a) record on its counterfoil the serial number of the voter as entered in the marked copy of the Hist of voters;

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

(c) make a mark against the name of the voter in ths 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 that no ballot paper shall be delivered to a voter unless he has put his signature or thumb impression on the counterfoil of that ballot paper.

(4) Notwithstanding anything contained in sub-rule (2), 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) The presiding officer shall ensure than no other person in the polling station notes down the serial number of the ballot paper issued to the voters.

41. Maintenance of secrecy of voting by voters within polling station and voting procedure :-

(1) Every voter shall vote in person and not by proxy.

(2) Every voter to whom a ballot paper has been issued under rule 40 or under any other provisions of these rules, shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.

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

(a) proceed to one of the voting compartments;

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

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

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

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

(f) quit the polling station.

(4) Every voter shall vote without undue delay.

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

(6) 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 (3), the ballot paper issued to him shall whether he has recorded his vote thereon or not, be taken back from him by the presiding officer or polling officer under the direction of the presiding officer

.

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

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

(9) Without prejudice to any other penalty to which a voter, from whom a ballot paper has been taken back under sub-rule (6) may

be liable, the vote, if any, recorded on such ballot paper shall not be counted.

42. Candidates and agents note (sic) to communicate with voter :-

(1) Candidates and their agents shall not speak to or address any voter in the polling station. If the candidates or their agents have objections to any voter voting, they may communicate their objections to the presiding officer, provided such objections are on any of the following grounds, namely:

(i) that the voter's name is not in the list of voters of the electoral division in respect of which the election is being held; or

(ii) that the voter's claim to be a certain voter shown in the list of voters is false; or

(iii) that the voter has already voted at the election.

(2) The presiding officer may cause any person contravening the provisions of sub-rule (1) to be expelled from the polling station and a person so expelled shall not be readmitted while the poll is in progress.

43. 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 recognise 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 twenty one years of age to the voting compartment for recording the vote on the ballot papers 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 20 of all cases

under this rule.

44. Challenged votes :-

(1) If any candidate's election agent or polling agent declares and undertakes to prove that, any person by applying for a ballot paper and claiming to be a particular voter has committed the offence of personation the presiding officer shall require such person to enter in the list of challenged votes in Form 21 his name and address or if he is unable to write to affix his thumb impression thereto and may further require such person to produce evidence of identification:

Provided that no action shall be taken by the presiding officer under this sub-rule unless a sum of two rupees has been deposited in cash with the presiding officer by the candidate or such agent for each challenge he makes.

(2) If the person so challenged refuses to comply with such requisition, he shall not be permitted to vote. But if such person does so comply, and on being questioned gives unqualified answer in, the affirmative to a question put to him whether he is the person named in the list of voters and in the negative to a question whether he has voted at the said election in the said electoral division or in any other electoral division, he shall be allowed to vote after he has been warned of the penalty for personation.

(3) If the presiding officer after such inquiry on the spot as he thinks necessary, is of the opinion that the challenge made by the candidate or his agent under sub-rule (1) is frivolous and has not been made in good faith, he shall direct the deposit made under sub-rule (1) to be forfeited to the State Government and his order in this respect shall be final.

(4) If the deposit made under sub-rule (1) is not forfeited under sub-rule (3), it shall be returned to the person by whom it was made after the close of the poll on the day on which it is made.

(5) The presiding officer shall, in every case, whether or not the person challenged is allowed to vote, make a note on the circumstances in the list of challenged votes.

45. 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 not be entitled subject to the following provision, of this rule, to mark 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, sign his name against the entry relating to him in the list in Form 22.

(3) A tendered ballot paper shall be the same as the same as the other ballot paper 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 signed by him.

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

46. Spoilt and returned ballot papers :-

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

(2) If a voter after obtaining a ballot paper decides not to use it, he shall return it to the presiding officer and the ballot paper so returned and its counterfoil shall be marked as "Returning; Cancelled" by the presiding officer.

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

47. Facilities for public servants on election duty :-

(1) The provisions of rule 37 shall not apply to any person who produces at the polling station an election duty certificate in Form 15 and asks for the issue of a ballot paper to him although the

polling station is different from the one where he is entitled to vote.

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

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

(b) have the person's name and number in the list of voters as mentioned in the certificate, entered at the end of the marked copy of the list of voters; and

(c) issue to him a ballot paper, and permit him to vote, in the same manner as for a voter entitled to vote at that polling station.

48. Adjournment of poll in emergencies :-

(1) If at an election the proceedings at any polling station for the poll are interrupted or obstructed by any riot or open violence or if at an election it is not possible to take the poll at any polling station on account of any natural calamity or any other sufficient cause, the presiding officer for such polling station or the returning officer present at such place shall announce an adjournment of the poll to a date to be notified later, and where the poll is so adjourned by the presiding officer, he shall forthwith inform the returning officer concerned.

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

(3) In every such case as aforesaid the Returning Officer shall notify in such manner as the Election Commission may direct the date, place and hours of the poll fixed under sub-rule (2);

49. Fresh poll in the case of destruction etc. of ballot boxes :-

(1) If at any election

(a) any ballot box or ballot papers used or intended to be used at a polling station is or are

(i) unlawfully taken out of the custody of the presiding officer or

the returning officer; or

(ii) accidentally or intentionally destroyed or lost; or

(iii) damaged or tampered with to such an extent that the poll at that polling station is likely to be vitiated or that the result of the poll at that polling station cannot be ascertained ; or

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

(c) the returning officer shall forthwith report the matter to the Election Commission.

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

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

(ii) if satisfied that the result of a fresh poll at that polling station will not in any way affect the result of the election, or that the error or irregularity in procedure is not material issue such directions to the returning officer as it may deem proper for the further conduct and completion of the election. (2) (sic) The provisions of these rules shall apply to every such fresh poll, as they apply to the original poll.

50. Closing of poll :-

(1) The presiding officer shall close the poll at the hours fixed in that behalf under rule 9 and shall not thereafter admit any voter in 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 the poll was closed, it shall be decided by the presiding officer and his decision shall be final.

51. Account of ballot papers :-

(1) The presiding officer shall at the close of the poll prepare a ballot paper account in Form 23 and enclose it in a separate cover with the words "Ballot paper Account" superscribed 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 the ballot paper account after obtaining a receipt from the said polling agent there for shall also attest it as a true copy.

52. Sealing of ballot boxes after poll :-

(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 salt, 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.

53. Sealing of other packets :-

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

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

(b) the counterfoil of the used ballot papers;

(c) the ballot papers signed in full by the presiding officer under sub-rule (2) of rule 40 but not issued to the voters;

(d) any other ballot papers not issued to the voters;

(e) the ballot papers cancelled, for violation of voting procedure under rule 41;

(f) any other cancelled ballot papers;

(g) the cover containing the tendered ballot papers and the list in Form 24;

(h) the list of challenged votes; and

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

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

54. Transmission of ballot boxes to the returning officer after the close of the poll :-

(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 ballot boxes;
- (b) the ballot paper account;
- (c) the sealed packets referred to in rule 53.
- (d) all other papers used at the poll; and
- (e) any other papers directed by the returning officer to be kept in a sealed packet.

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

PART 7

Counting of Votes

55. Time and place for 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, appointing the place where the counting of the votes will be done and the date and time at which the counting will commence and shall give notice in Form 24 of the same in writing to each candidate or his election agent:

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

56. Appointment of counting agents and revocation of such appointment :-

(1) A contesting candidate or his election agent may appoint counting agent at the rate of one counting agent per table and one more to watch the counting at the returning's table.

(2) Every such appointment shall be made in Form 25 in duplicate, and one copy of which shall be forwarded to the returning officer, while the other copy shall be made over to the counting agent for production before the returning officer not later than one hour before the time fixed for counting of votes under rule 55.

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

counting unless he has delivered to the returning officer the second copy of his appointment under sub-rule (2) after duly completing and-signing the declaration contained therein and receiving from the returning officer and authority for entering the place fixed for counting.

(4) The contesting candidate or his election agent may revoke an appointment of a counting agent in Form 26, and it shall operate from the date on which it is lodged with the returning officer. In the event of such a revocation or of the death of the counting agent before the commencement of the counting of votes, the candidate or his election agent may appoint another counting agent at any time before the counting of votes is commenced in accordance with sub-rule (2).

57. 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) persons who have been appointed by him as counting supervisors and counting assistants to assist him in the counting.

(b) persons authorised by the District Election Officer; or Election Commission;

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

(d) candidates, their election agents and counting agents.

(2) The returning officer shall ensure that no person who has been employed by or on behalf of or has been otherwise working for a candidate in or about the election, is appointed to assist him in the counting.

(3) The returning officer shall decide which counting agent or agents shall watch the counting at any particular counting table or group of counting tables and his decision shall be final and binding.

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

58. Counting of votes received by post :-

(1) The returning officer shall first deal with the postal ballot papers in the manner hereinafter provided.

(2) No cover in form 18 received by the returning officer after the expiry of the time fixed in that behalf shall be opened and no vote contained in any such cover shall be counted.

(3) The other covers shall be opened one after another and as each cover is opened, the returning officer shall first scrutinise the declaration in Form 167 contained therein.

(4) If the said declaration is not found, or has not been duly signed and attested, or is otherwise substantially defective, or if the serial number of the ballot paper as entered in it differs from the serial number endorsed on the envelope in Form 17, that envelope shall not be opened, and after making an appropriate endorsement thereon, the returning officer shall reject the ballot paper therein, contained.

(5) Each envelope so endorsed and the declaration received with it, shall be replaced in the cover in Form 18 and all such covers in Form 18 shall be kept in a separate packet which shall be sealed and on which shall be recorded, the name of the electoral division, the date for counting and a brief description of its contents.

(6) The returning officer shall then place all the declaration in Form 16 which he has found to be in order, in a separate packet which shall be sealed before any envelope in Form 17 is opened and on which shall be recorded the particulars referred to in sub-rule (5).

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

(8) A postal ballot paper shall be rejected, if

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

(b) so vote is recorded thereon; or

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

(d) it is a spurious ballot paper; or

(e) it is so damaged or mutilated that it cannot be identified as a genuine

ballot paper cannot be established; or

(f) it is not returned in the cover sent alongwith it to the voter by the returning officer; or

(g) the mark indicating the vote is placed on the ballot paper in such manner as to make it doubtful as to which candidate the vote has been given.

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

(10) The returning officer shall count all the valid votes given by postal ballot in favour of each candidate, record the total thereof in the result sheet in Form 27 and announce the same.

(11) Thereafter, all the valid postal ballot papers and all the rejected postal ballot papers shall be separately bundled and kept together in a packet which shall be sealed with the seal of the returning officer and of such of the candidates, their election agents or counting agents, as may desire to affix their seals thereon and on the packet so sealed shall be recorded the name of the electoral division, the date of counting and a brief description of its contents.

59. 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 ballot papers found in such box or 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 seals as might have been affixed thereon and 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 49 in respect of that polling station.

60. Counting of votes :-

(1) Subject to such general or special directions if any, given by the Election Commission in this behalf, the ballot papers taken out of all ballot boxes used in an electoral division shall be mixed together and then arranged in convenient bundles and scrutinised by the counting assistants and the supervisors under the supervision of the returning officer.

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

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

(b) it bears no mark at all or, to indicate the vote bears a mark elsewhere than on or near the symbol of one of the candidates on the face of the ballot paper or it bears a mark made otherwise than with the instrument supplied for that purpose, or

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

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

(e) it is a spurious ballot paper; or

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

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

(h) it does not bear both the mark and the signature which it should have borne under the provisions of sub-rule (1) and sub-rule (2) of rule 40:

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

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

(3) Before rejecting any ballot paper under sub-rule (2) the returning officer shall allow each counting agent present a reasonable opportunity to inspect the ballot paper but shall not allow him to handle it or any other ballot paper.

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

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

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

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

(7) After the completion of counting the returning officer shall record in the result sheet in Form 27 the total number of votes polled by each candidate and announce the same.

61. Recount of votes :-

(1) After an announcement of the total number of votes polled by a candidate has been made under sub- rule (7) of rule 60, a candidate, or, in his absence, his election agent or any of his counting agents may apply in writing to the returning officer to recount the votes either wholly or in part stating the grounds on which he demand such recount.

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

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

(4) If the returning officer decide under sub-rule (2) to allow a recount of the votes either wholly or in part, he shall

(a) do the recounting in accordance with rule 58 or, as the case may be, 60;

(b) amend the result sheet in Form 27 to the extent necessary

after such recount; and

(c) announce the amendment so made by him.

(5) After the total number of votes polled by each candidate has been announced under sub-rule (7) of rule 60 or sub-rule (4) the returning officer shall complete and sign the result sheet in Form 27 and on application for a recount shall be entertained thereafter:

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

62. Equality of votes :-

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

63. Declaration and publication of result :-

(1) When the counting of votes has been completed, the returning officer shall in absence of any direction by the Election Commission to the contrary, forthwith declare the result of the election in Form 28 by affixing a signed copy of the result in that form on the notice board in his office. He shall also send a copy of the same to

(a) the Election Commission;

(b) The Secretary to Government, Panchayats and Rural Housing Department;

(c) the Development Commissioner,

(d) the District Election Officer;

(e) the District Panchayat;

(f) the Taluka Panchayat;

(g) the Village Panchayat in respect of village panchayat election of a sarpanch:

(2) The copy sent to the district panchayat, taluka panchayat and village panchayat shall be displayed on the notice board in

panchayat office.

(3) As soon as the declaration of the result in Form 12 or Form 28 is received from the returning officer, the Election Commission shall publish the name or names of Elected member or members as the case may be, under sub-rule (4) of section 15 in Form 29, 30, or 31 as may be appropriate by affixing a signed copy thereof on the notice board in its office.

(4) The Election Commission shall also send a copy of the the result so affixed to

(a) the Secretary to Government, Panchayat and Rural Housing Department;

(b) the Development Commissioner;

(c) the District Election Officer;

(d) the District Panchayat;

(e) the Taluka Panchayat;

(f) the village panchayat in respect of village panchayat election or, election of a sarpanch.

(5)

(a) If any person is elected from more than one electoral division of the same panchayat or elected both as a member and Sarpanch of the same village panchayat he shall by giving a notice in writing signed by him and delivered to the Returning Officer within fifteen days from the date of the publication of the result of such election, choose for which of these electoral divisions he shall serve or as the case may be, choose to be member or Sarpanch. On such choice having been made the remaining seat, seats, office or offices shall be become vacant.

(b) Any intimation given under clause (a) shall be final and irrevocable.

(c) If such a person does not make the choice referred to in clause (a), the election of such person from such electoral division or, as the case may be village shall be void and all such seats shall become vacant.

64. Sealing of used ballot papers and other material used :-

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

(a) the name of the electoral division, or village;

(b) the particulars of polling station where the ballot papers have been used and

(c) the date of counting.

PART 8

Miscellaneous

65. Custody of election papers :-

(1) The returning officer shall retain in his custody the returns and the packets referred to in rule 64 and all other documents relating to the election for a period of sixty days and thereafter transfer them to District Election Officer or to the officer designated by him.

(2) The District Election Officer or the officer designated by him to keep the records, shall destroy the records under the orders of the District Election Officer after sixty days from their receipt by him : Provided that such papers shall not be destroyed if any election petition under sub-section (1) of section 31 has been made, until such petition is finally disposed off.

66. Production and inspection of election papers :-

(1) The packets of ballot papers whether valid, rejected, or tendered and packets of unused ballot papers with counterfoils attached thereto, the packets of counterfoils of used ballot papers and the packets containing the marked copy of the list of voters shall not be opened and the contents shall not be inspected by or produced before any persons or authority except under the order of a competent court.

(2) All other papers relating to the election other than those referred to in sub-rule (1) shall be open to public inspection on application made in writing. The application shall contain the particulars concerning the record of which the inspection is required.

(3) An inspection of the documents shall be allowed to any person applying for the same on payment of fee of Rs. 1/- per hours of inspection or part thereof unless inspection is required to be made urgently in which case the fee of Rs. 2/- per hour of fraction thereof shall be payable.

(4) Inspection of an ordinary application shall be allowed on the following the date on which the application is made or an subsequent day and inspection of an urgent application shall be allowed on the same day.

(5) A certificate copy of any document shall be given to any prson applying for the same on payment of fees at the same rate as is charged for a copy of an order by a revenue officer. The procedure to be followed in respect of an application for it shall be the same as for a similar application made in respect of a case dealt with by a revenue officer.

(6) No fee shall be charged when inspection or certified copy of a document is required for official purpose.

67. Manner of serving the order of requisition of premises, vehicles, etc :-

An order of requisition under sub- section (2) of section 44 shall be served.

(a) where the person to whom such order is addressed is a corporation or a firm, in the manner provided for the service of summons if rule 2 or order XXIX or rule 3 of the order XXX,as the case may, be in the First Scheduled to the Code of Civil Procedure, 1908 (V of 1908); and

(b) where the person to whom such order is addressed is an individual.

(i) Personally by delivering or tendering the order; and or

(ii) by registered post, or

(iii) where the person cannot be found, by leavingan authentic copy of the order with any adult member of his family or by affixing sucy copy to some conspicuous part of the premises in which he is known to have resided or carried on business or personally worked for gain.

68. Period for making application under the first proviso to

subsection (1) and first proviso to sub-section (2) of section 45 :-

The application under the proviso to sub-section (1) and the first proviso to sub-section (2) of section 45 shall be made within 14 days from the date of the determination of the amount of compensation by the requisitioning authority.

69. Multiple election :-

(1) If any person is elected from more than one electoral division of the same Village Panchayat taluka Panchayat or district Panchayat he shall be noticed in writing signed by him and delivered to the returning officer, within seven days from the date of the declaration of the result of such election choose for which of these electoral divisions, he shall serve, and resign all other seat or seats. On such choice having been made all the remaining seat or seats from which such person has resigned shall become vacant.

(2) Any intimation given under sub-rule (1) shall be final and irrevocable.

(3) If such person does not make the choice referred to in sub- rule (1), the election of such person by such electoral divisions shall be void and all such seats shall become vacant.

70. Casual vacancies :-

The provisions of these rules shall mutatis mutandis apply to a bye-election provided that no publication of list of voters as provided in the case of a general election under rule 1 shall be necessary in the case of a bye-election.

71. Interpretation in case of doubt :-

If any question arises as to the interpretation of these rules, the question shall be referred for the decision of the Election Commission and its decision shall be final.

72. Repeal :-

The Gujarat Gram and Nagar Panchayats Election Rules, 1963, the Gujarat Dangs District Panchayat (Election of Sarpanchas or Members) Rules, 1972 and the Gujarat District and Taluka Panchayats Election Rules, 1976 are hereby repealed.