

Gujarat Specified Co-Operative Societies (Election To Committees) Rules, 1982

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Gujarat Specified Co-Operative Societies (Election To Committees) Rules, 1982

And whereas the objections and suggestions received from the public on the said draft have been considered by the Government; Now, therefore, in exercise of the powers conferred by section 168 read with sub-section (2) of section 145G, sub-section (4) of section 145U and section 145Y. of the Gujarat Co-operative Societies Act, 1961 (Guj. X of 1962), and of all other powers enabling it in this behalf, the Government of Gujarat hereby makes the following rules :

1. Short title, extent and application :-

- (1) These rules may be called the Gujarat Specified Co-operative Societies Elections to Committees Rules. 1982.
- (2) They extend to the whole of the State of Gujarat.
- (3) These rules shall apply to the elections to the Committees of specified societies.

2. Definitions :-

In these rules, unless the context otherwise requires

- (a) "Act" means the Gujarat Co-operative Societies Act, 1961 (Guj. X of 1962);
- (b) "Constituency" means an electoral division, if any, as specified

in the bye-laws of the specified Society;

(c) "date of drawing up the accounts", means the date of drawing up accounts of the Society concerned under Rule 36 of the Gujarat Co-operative Societies Rules, 1965;

(d) "District Registrar", includes his immediate subordinate Assistant Registrar;

(e) "Form" means a Form appended to these rules;

(f) "List of voters" means the list of voters as finalised in accordance with sub-rule (4) of rule 6;

(g) "public holiday" means any day which is a public holiday for the purpose of section 25 of the Negotiable Instruments Act, 1881 (26 of 1881) or any day which is declared by the State Government to be a holiday for Government Offices in the State or any part thereof;

(h) "Returning Officer" includes the Assistant Returning Officer;

(i) "section" means a section of the Act;

¹ (ia) "Society" means a society specified under sub-section (1) of Section 74-C.]

(j) words and expressions used in the Act and not defined in these rules shall have the meanings assigned to them in the Act.

1. Ins. by Notification No. GBH.64/87/GSC-158/6100/CHH(4), dt. 10-8-1987, published in Guj. Govt. Gaz., Ex. Pt. IV-B., dt. 17-8-1987, p. 158. dt. 10-8-1987.

3. Annual report of names of Societies in which elections are to be held :-

The District Registrar shall, every year, within ninety days before drawing up the accounts report to the Collector the names and addresses of the societies in his District, in which elections are to be held during the year under the provisions of section 74-C read with Chapter XI-A. The District Registrar shall send to the Collector with his report two copies of the bye-laws of each of the said societies.

3A. Delimitation of constituencies for purpose of election :-

¹ (1) In every society where there are more than one constituencies, the Secretary or where there is no post of Secretary, the Chief Executive Officer of every such society shall, in the year preceding the year in which election to the Committee is scheduled to be held, prepare a provisional list of the constituencies.

(2) Such list shall describe the limits of each constituency. A copy of the provisional list shall be displayed with a notice to be signed by the Secretary or where there is no post of Secretary, the Chief Executive Officer of the society on the notice board of every office or sub-office of the society. A copy of such provisional list alongwith the notice shall also be sent to the Registrar and to the Collector.

(3) A copy of such list alongwith notice shall also be sent to every member of the society by registered post.

(4) The notice referred to in sub-rule (2) and (3) shall clearly lay down that any objections or suggestions in respect of the provisional list may be sent by any person to the Secretary or where there is no post of Secretary to the Chief Executive Officer of the society within a period of 15 days from the date on which the provisional list is displayed on the notice board of the office of the society.

(5) Any member of the society may bring to the notice of the society any omission or error in respect of the name or address or other particulars shown in the provisional list.

(6) Any person raising any objection or making a suggestion shall send such objection or suggestion with grounds therefore in writing within 15 days from the date on which the provisional list is displayed on the notice board of the office of the society.

(7) The society shall after considering every objection, suggestion or any error in the provisional list indicated by any member under sub-rule (5), prepare the final list. The final list shall be displayed on the notice board of the office or sub-office of the society and a copy of such final list shall be sent to the Registrar and also to the Collector.

(8) Where the area of operation of a society is in more than one village, the number of constituencies shall be equal to the total number of seats excluding two seats reserved under sub-section (1) of section 74-B.

(9) Notwithstanding anything contained in these rules and the bye-laws of the society, where the elections to the members of any Committee are scheduled to be held before the ending of the accounting year of the society, the delimitation of the constituencies shall be made by the Collector prior to the publication of the list of voters.

1. Rr. 3A and 3B ins. by Notification No. GBH.64/87/GSC-158/6100/CHH(4), dt. 10-8-1987, published in Guj. Govt. Gaz., Ex. Pt. IV-B., dt. 17-8-1987, p. 158. , dt. 10-8-1987.

3B. Procedure for election of members reserved under sub-section (1) of section 74B :-

Where the election of the members of the Committee is to be held at the general meeting of the members of the society, all the members of the society shall be entitled to vote for the election of two seats reserved under sub-section (1) of section 74B.]

4. Provisional list of voters :-

(1) A provisional list of voters shall be prepared in Gujarati by every society for the year in which general election is due to be held. Persons who are members as on the date of drawing up the accounts of the year immediately preceding the year ¹ [in which such election is due] shall be included in the provisional list. If different constituencies are provided in the bye-laws, the names of voters shall be arranged constituency wise as laid down in the bye-laws.

(2) Four copies of the authenticated provisional lists of voters shall be sent by every society to the Collector, through the District Registrar so as to reach the Collector within 15 days from the date of drawing up the accounts of the year in which the general election is due. Copies of the said list shall be displayed on the notice board of the society, the District Registrar concerned and the Collector within 20 days, from the date of drawing up the accounts for inviting claims and objections.

(3) Simultaneously with sending of provisional list of voters Under sub-clause (2) every society shall send in writing to the Collector a list of members who are disqualified to vote as per the provisions of the Act, Rules or its Bye-laws and shall inform to the member who has been shown disqualified in the said list in writing, pointing out such disqualification incurred by him. The said list shall be treated as objection under sub-rule (3) of rule 6.

(4) If any society fails to send copies of the provisional list of voters to the Collector through the District Registrar concerned within 15 days from the date of drawing up the accounts, the Collector shall himself or through any person authorised by him in this behalf prepare a provisional list of voters and the expenditure incurred therefor shall be recovered from the society as arrears of land revenue.

(5) In the event of the Collector taking action under sub-rue (4) he shall also cause copies of the provisional list of voters to be

displayed on his notice board and on the notice board of the District Registrar concerned and the society within 23 days from the date of drawing up the accounts, for inviting claims and objections.

1. Subs, by Notification No. GBH.64/87/GSC-158/6100/CHH(4), dt. 10-8-1987, published in Guj. Govt. Gaz., Ex. Pt. IV-B., dt. 17-8-1987, p. 158. , dt. 10-8-1987.

5. Particulars to be included in provisional list of voters :-

(1) The provisional list of voters, in the case of individual share holders, shall contain the name, fathers/husbands name, surname (if any) of every person entitled to be registered as a voter, with such other particulars as may be necessary to identify him.

(2) Where a society is a member of a specified society, the specified society shall call for the name of the delegate duly authorised to vote at an election of behalf of the affiliated society, so as to reach it within ten days next after the date of drawing up the accounts. While communicating the name of its delegate to the specified society, the affiliated society shall enclose a copy of the resolution of the society or its committee under which the delegate is so authorised. The specified society shall include in the list of voters the names of all such delegates as have been communicated to it before the date fixed for publication of the provisional list. In addition to the names of the delegates, the list shall contain the names of the affiliated societies, their registration numbers and addresses and the names of constituencies, if any, to which they belong. A society which has communicated the name of its delegate shall by like resolution be permitted to change the name of its delegates upto the sixth day before the date appointed by the Collector under rule 16 of said rules for making nominations.

6. Claims and objections to provisional list of voters :-

(1) When any provisional list of voters is published for inviting claims and objections, any omission or error in respect of the name or address or other particulars in the list may be brought to the notice of the Collector by any member of the society concerned who is a voter or any delegate authorised to vote on behalf of such society.

(2) Every person making a claim or raising an objection shall do so

by a separate petition, which shall be presented to the Collector during office hours within seven days from the date on which the provisional list of voters is displayed on the notice board under sub-rule (2) or (5) of rule 4, as the case may be.

(3) Every claim or objection shall be prepared in writing and state the grounds on which the claim is based or the objection is raised, as the case may be.

(4) The Collector shall, after considering each claim or objection, give his decision thereon in writing to the person concerned within ten days from the date of receipt of the claim or objection under sub-rule (2) and take steps to correct the provisional list wherever necessary. The list as finalised by the Collector after deciding all claims and objections shall be the final list of voters.

7. Final list of Voters :-

Copies of the final list of voters of every society shall be displayed on the notice board of offices of the Collector, the District Registrar concerned and the society.

8. Power to Collector to alter dates for list of voters :-

Notwithstanding anything contained in the foregoing rules, the Collector may, in the case of all or any of the societies of the categories mentioned in clauses (1), (v), (vi) and (vii) of sub-section (1) of Section 74-C in consultation with the Registrar, and in the case of all or any of the societies of the categories mentioned in other clauses of sub-section (1) of section 74-C in consultation with the District Registrar concerned by General or special order, alter all or any of the dates prescribed therein and appoint such revised dates as he deems fit.

9. Appointment of Returning Officers :-

The Collector shall whenever necessary appoint a Returning Officer for one or more constituencies of a society as specified in its bye-laws:

Provided that, in case where no other person is appointed as a Returning Officer, the Collector himself shall be deemed to be the Returning Officer and shall perform all the functions of a Returning Officer under these rules.

10. Appointment of Assistant Returning Officer :-

(1) The Collector may also appoint one or more persons to be called the Assistant Returning Officer to assist the Returning Officer in the performance of his functions.

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

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

11. General duty of Returning Officer :-

It shall be the general duty of 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 in the Act the rules and bye-laws made thereunder.

12. Polling Stations :-

The Returning Officer shall, if necessary, provide a sufficient number of polling stations for any constituency for which election is to be held and shall, at least, fifteen days before the date of poll, publish, on the notice board of the society and in such other manner as he deems fit, a list showing the polling stations so provided and the polling areas for which they have respectively been provided.

13. Appointment of Presiding Officers and Polling Officers :-

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

Provided that, if a polling officer is absent from the polling station, the presiding Officer may appoint any person who is present at the polling station, others than a person who has been employed by or on behalf of or has been otherwise working for a candidate in or about the election, to be the polling officer during absence of the former officer and inform the Returning Officer accordingly.

(2) A polling officer shall, if so directed by the presiding officer, perform all or any of the functions of a presiding officer under the Act or any of the rules and bye-laws made thereunder.

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

14. General duty of presiding officer and polling officer :-

(1) It shall be the general duty of the presiding officer at a polling station to keep order thereat and to see that the poll is fairly taken.

(2) It shall be the duty of the polling officers at a polling station to assist the presiding officer for such station in the performance of his functions.

15. Control :-

The Returning Officer, Assistant Returning Officers, Presiding Officers, Polling Officers and other persons appointed for any of the purposes of these rules shall work under the general guidance, superintendence and control of the Collector.

16. Appointment of dates, etc., for various stages of an election :-

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(1) (a) The Collector, in consultation with the Registrar, in the case of societies falling under clause (i) of section 74-C (1), and in consultation with the District Registrar, concerned, in the case of societies falling under other clauses of section 74-C (1), shall draw the schedule for elections, and by order in Form I appoint:

(i) The last date, time and place of making nominations. \Not later than 15 days from the date of order of the Collector.

(ii) The date of publication of nominations \As and when received till the last date fixed for \making nominations.

(iii) Date time and place of scrutiny of nominations.

(iv) Date of publication of the list of valid nominations. \Not later than 2 days after the last date for making nomination. Not later than 2 days after the scrutiny.

(v) Date by which candidature may be withdrawn. \Within 6 days

from the date of publication of the list of valid candidatures.

(vi) Date of publication of final list of contesting candidates. \The day next succeeding the last date fixed f.r withdrawal of candida- \tures.

(vii) Date on which and the time during which poll shall be taken. \10 days from the date of publication of the final list of contesting candidates.

(viii) Date, time and place of counting of votes. \Not later than the third day from the date on which the poll is taken.

(ix) Date of declaration of the results of voting. \Immediately after counting of votes.

Explanation(I) (a) If the last date in reckoning dates as specified in the above cases is a public holiday, the next succeeding working day shall be fixed for the respective events.

(b) There shall be at least one polling station for every 1.000 voters or more and the number and places of the polling stations shall be fixed in consultation with the Registrar/District Registrar and the Societies concerned calling objections and suggestions of the voters thereof. In case the polling stations are spread over either in the district or the town, the Collector shall make arrangements to get all the ballot boxes to the office of the Returning Officer or to the registered office of the societies as he deems fit. The date on which the ballot boxes should be so brought shall also be mentioned in the order in Form I:

Provided that, the Collector may at his discretion specify the number of polling stations for a lesser number of voters with due regard to the convenience of the voters.

(c) Except with the previous approval of the Registrar, the dates fixed under this rule shall not be changed within 10 days of the date fixed for the poll:

Provided that, if the Collector is of opinion that it is necessary in the public interest to modify the order and there is no sufficient time for obtaining the previous approval of the Registrar to such modifica- tions, the Collector may, for reasons to be recorded in writing, modify the order without the previous approval of the Registrar. In every such case, the Collector shall forthwith send a copy of the modified order alongwith the reasons recorded by him for such modification to the Registrar.

(2) Nothing contained in this rule shall apply when fresh poll is taken under rule 52.

17. Manner of publication of order under rule 16 :-

The Collector shall send a copy of the order made under rule 16, not later than 30 days before the date fixed for the poll, to the society either personally or through post by Registered Post A.D. addressed to the society at its registered place of address, and in addition, the said order:

(a) shall be posted on the notice boards of the offices of the Collector, the Returning Officer the District Registrar concerned and the society.

(b) shall be published at least in one daily newspaper circulating in the area of operation of the society.

(c) shall be sent to every voter by post where the number of voters of the society does not exceed 500.]

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

(1) On or before the date appointed under sub-rule (1) of rule 16, each candidate shall either in person or by his proposer deliver, to the Returning Officer during the time and at the place specified in the order made under the said rule, a nomination paper completed as provided by rule 18 and signed by the candidate and by two voters of his constituency one of whom shall be proposer and the other as seconder.

(2) Any person who is not subject to any disqualification as a voter under the Act, rules or bye-laws and whose name is entered in the list of voters for the constituency for which the candidate is nominated, may subscribe as proposer and as seconder.

(3) In the case of a reserved seat under the provisions of section 74-B a candidate shall not be deemed to be qualified to be chosen to fill that seat unless his nomination paper contains declaration by him specifying the particular scheduled caste, scheduled tribe, small farmer or marginal farmer of which he is a member:

Provided that in the case of more than one Constituency of the society the proposer and the seconder should be of the same constituency.

(4) On the presentation of a nomination paper the Returning Officer shall satisfy himself that the names and the numbers of the candidate and his proposer and seconder as entered in the nomination paper are the same as those entered in the list of voters referred to in rule 7 ¹ [x x x].

Provided that, the Returning Officer shall permit any clerical or

technical error in the nomination paper in regard to the said names or numbers to be corrected in order to bring them into conformity with the corresponding entries in the list of voters, and where necessary any clerical or printing error in the said entries shall be overlooked.

(5) In the case of a constituency where the number of voter is five or less the nomination form shall not be required to be signed by a proposer or a seconder.]

1. Ins. by Notification No. GBH.64/87/GSC-158/6100/CHH(4), dt. 10-8-1987, published in Guj. Govt. Gaz., Ex. Pt. IV-B., dt. 17-8-1987, p. 158. , dt. 10-8-1987.

20. Symbols for elections :-

(1) The Returning Officer shall specify the symbols that may be chosen by the candidates at the election from among those specified by him, but he shall not allot any symbols which are associated with political parties.

(2) Where at any such election, more nomination papers than one are delivered by or on behalf of a candidate, the declarations as to symbols made in the nomination paper first delivered and no other declarations as to symbols, shall be taken into consideration under rule 26 even if that nomination paper has been rejected.

21. Deposits :-

A candidate shall not be deemed to be duly nominated for election from a constituency unless the deposits or causes to be deposited with the Returning Officer a sum of rupees one hundred in cash and where the candidate is member of scheduled castes or scheduled tribes, small farmer or marginal farmer rupees ten cash:

Provided that, where a candidate has been nominated by more than one nomination paper for election in the same constituency, not more than one deposit shall be required of him under this rule.

22. Notice of nomination and time and place for the Scrutiny :-

The Returning Officer shall on receiving the nomination paper under rule 19 shall give a receipt thereof and inform the person or persons delivering the same, of the day time and place fixed for the

scrutiny of nominations and shall enter on the nomination paper, its serial number and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him; and thereafter cause to be affixed in some conspicuous place in his office at the end of the day, a notice of the nomination containing descriptions similar to those contained in the nomination paper, both of the candidate and of the proposer.

23. Scrutiny of nomination papers :-

(1) On the date fixed for the scrutiny of nomination papers under rule 16, 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 attend at the time and place appointed in this behalf under rule 16, and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates, which have been delivered as required by rule 19.

(2) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be 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 on any of the following grounds, that is to say:

(a) that the candidate is disqualified for being chosen to fill the seat by or under the Act, Rules or bye-laws.

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

(c) that there has been a failure to comply with any of the provisions of rule 19 or 21;

(d) that the signature of the candidate or the proposer on the nomination paper is not genuine.

(3) Nothing contained in clause (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 defect which is not of a substantial character.

(5) The Returning Officer shall hold the scrutiny on the date appointed in this behalf under rule 16 and shall not allow any

adjournment of the proceedings, except when such proceedings are interrupted or obstructed by riot or open Violence or by cause beyond his control:

Provided that, in case any 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, 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.

(7) For the purposes of this rule, the production of a certified copy of an entry made in the Voters list of the relevant constituency shall be conclusive evidence of the right of any Voter named in that entry to stand for election, unless it is proved that the candidate is disqualified.

24. Publication of list of valid nomination :-

Immediately after all the nomination papers have been scrutinised and decision accepting or rejecting the same have been recorded, the Returning Officer shall prepare a list of candidate whose nominations have been accepted. Immediately after the scrutiny is over, the Returning Officer shall affix the list on his notice board and shall record the date on which, and the time at which the list was so affixed.

25. Withdrawal of candidature :-

(1) Any candidate may withdraw his candidature by notice in writing in form III and deliver to the Returning Officer.

(2) The notice shall be delivered to the Returning Officer before 3.00 O'clock in the afternoon on the last date fixed under rule 16 for withdrawal of candidature.

(3) The notice may be given either by the candidate in person or by his proposer or election agent who has been authorised in this behalf in writing by the candidate.

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

(5) The Returning Officer shall, on being satisfied as to the

genuine- ness of a notice of withdrawal and the identity of person delivering it under sub-rule (1), cause a notice to be affixed on the notice board in his office.

26. Preparation of list of contesting candidates :-

(1) On the day next succeeding the last date fixed under rule 16 for withdrawal of candidatures the Returning Officer shall prepare and publish in Form IV a list of contesting candidates, that is to say, candidates whose nomination papers have been finally accepted and who have not withdrawn their candidature within the prescribed period.

(2) The said list shall, subject to the provisions of sub-rule (3) contain the names in alphabetical order in the language in which the list of voters is prepared and the addresses of the contesting candidates as given in the nomination papers.

(3) The list of contesting candidates referred to in sub-rule (1) shall contain the particulars set out in Form-IV.

(4) The alphabetical order referred to in sub-rule (2) shall be determined with reference to the surnames of the candidates having surnames, and the names proper, of other candidates.

(5) 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

(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 to which of such candidates the symbol will be allotted.

(6) The allotment by the Returning Officer of any symbol to a candidate shall be final.

(7) Every candidate shall forthwith be informed of the symbol allotted to him and be supplied with a specimen thereof by the Returning Officer.

27. Publication of list of contesting candidates :-

The Returning Officer shall immediately after its preparation, cause a copy of the list of contesting candidates to be affixed on the notice board in his office and shall also supply a copy thereof to each of the contesting candidates and on demand, to his election agent.

28. Appointment of election agent and revocation of such appointment :-

(1) If a candidate desires to appoint any person to be his election agent, such appointment shall, subject to the provisions of sub-rule (3) be made in Form V. The candidate shall give notice of such appointment to the Returning Officer by delivering or forwarding the letter of appointment to the Returning Officer at the time of presentation of the nomination paper ¹ [x x x]. The candidate shall also deliver a duplicate copy of the letter of appointment to the election agent appointed by him.

(2) The appointment of the election agent may be revoked by the candidate at any time by a declaration in writing signed by him and lodged with the Returning Officer. Such revocation shall take effect from the date on which it is so lodged. In the event of such a revocation or of the death of an election agent, whether that event occurs before

(3) No person, who is subject to any disqualification as a voter under the Act, rules or bye-laws, so long as the disqualification subsists, or whose name is not entered in the list of voters for the constituency for which the candidate is nominated, shall be appointed as an election agent.

1. Del. by Notification No. GBH.64/87/GSC-158/6100/CHH(4), dt. 10-8-1987, published in Guj. Govt. Gaz., Ex. Pt. IV-B., dt. 17-8-1987, p. 158. , dt. 10-8-1987.

29. Appointment of Polling Agents and Counting Agents :-

(1) At an election at which a poll is to be taken any contesting candidate may appoint one agent and two relief agents to act as Polling Agents of such candidate at each polling station. Such appointment shall be made by a letter in writing in Form VI signed by the candidate.

(2) The candidate shall deliver the letter of appointment to the Polling Agent who shall, on the date fixed for the poll, present it to and sign the declaration contained therein, before the Presiding Officer. The Presiding Officer shall retain a letter presented to him in his custody. Polling Agent shall not be allowed to perform any duty at the polling station unless he has complied with the provisions of this rule.

(3) The Polling Agents may work as Counting Agents as per the authority given by the candidate in Form VI.

(4) Each contesting candidate may appoint not more than four agents to act as Counting Agents of such candidate by a letter in writing in duplicate in Form VI signed by the candidate. Before the commencement of the counting of votes, the candidate shall give notice of the appointment of such counting agents to the Returning Officer by forwarding to such officer the letter of appointment. The candidate shall also deliver the duplicate copy of the letter of appointment to the counting agent who shall, on the date fixed for the counting of votes, present it to, and sign the declaration contained therein before the Returning Officer. The Returning Officer shall retain the duplicate copy presented to him in his custody. No counting agent shall be allowed to perform any duty at the place fixed for the counting of votes, unless he has complied with these provisions.

30. Death of candidate before poll :-

If a contesting candidate dies and a report of his death is received by the Returning Officer before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and (where the Returning Officer is not the Collector himself, he shall report the fact to the Collector) all proceedings with reference to the election shall be commenced anew in all respect as if for a new election:

Provided that,

(a) 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, and

(b) no person who has given a notice of withdrawal of his candidature, under rule 25, before the countermanding of the poll, shall be ineligible for being nominated as a candidate for the election after such countermanding.

30A. Declaration of voters as a member if there is only one voter :-

¹ In a constituency where there is only voter, he shall be declared as duly elected candidate from that constituency after the Returning Officer has ascertained the willingness of such voter to serve as a member of the Committee and in such case it shall not be necessary to follow the other procedure regarding election of a

member.

1. Rr. 30A and 30B ins. by Notification No. GBH.64/87/GSC-158/6100/CHH(4), dt. 10-8-1987, published in Guj. Govt. Gaz., Ex. Pt. IV-B., dt. 17-8-1987, p. 158. , dt. 10-8-1987.

30B. Procedure of election where there are only two voters
:-

If at any election there are only two voters, the decision as regards election of a member shall be made by lots to be drawn in the presence of Returning Officer and the candidates.]

31. Uncontested elections :-

If, after the expiry of the period within which candidature may be withdrawn under sub-rule (2) of rule 25, the number of candidates in the constituency whose nominations have been accepted is equal to or less than the number of seats to be filled, the Returning Officer shall forthwith declare such candidate or all such candidates to be duly elected to fill the seat or the relevant number of seats, as the case may be and shall complete and certify the declaration in Form VII, and where the Returning Officer is not the Collector himself he shall send signed copies thereof to the Collector.

32. Manner of voting at elections :-

At every election where a poll is taken, votes shall be given by secret ballot in the manner hereinafter provided and no votes shall be received by proxy.

33. Ballot Box :-

Every box shall be of such design as may be approved by the Collector.

34. Form of ballot paper :-

- (1) Every ballot paper shall be in Form VIII.
- (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) 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.

35. Arrangement at polling stations :-

(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, where the polling station has more than one polling booth, at each of such booth the description of the voters allotted to such booth, 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, ballot papers, copies of the list of voters in respect of the polling area or areas, the voters of which are entitled to vote at such polling station, instruments, for stamping the distinguishing mark on ballot papers and articles necessary for voters to mark the ballot papers. The Returning Officer shall also provide at each polling station such other equipment and accessories as may be required for taking the poll at such polling station.

36. Admission to polling station :-

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 Collector or the Returning Officer,

(d) candidates, their election agents, and subject to the provisions of rule 29, 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,

(g) such other persons as the Returning Officer or the presiding officer may employ for the purpose of identifying the voter.

37. The 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 therefor in the ballot box and shall then secure and seal the box in such manner that the slit for the insertion of ballot paper therein to remains open.

(3) The seals used for securing a ballot box shall be affixed 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 box 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 the seal both inside and outside marked with,

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

(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 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 Agent.

38. 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 voters or to assist him otherwise in taking a 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 voters 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, as the case may be, shall overlook merely clerical or printing errors in any entry in the list of voters, if he is satisfied that such person is identical with the voter to whom such entry relates.

39. Challenging of identity :-

(1) Any Polling Agent may challenge the identity of a person claiming to be a particular voter by first depositing a sum of Rs. 2 in cash with the Presiding Officer for each such challenge.

(2) On such deposit being made, the Presiding Officer shall

(a) Warn the person challenged of the penalty for personation.

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

(c) enter his name and address in the list of challenged voters in Form IX, and

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

(3) The Presiding Officer shall thereafter, hold a summary inquiry into the challenge and may for that purpose:

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

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

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

(4) If, after the inquiry, the Presiding Officer considers that the challenge has not been established, he shall allow the person challenged to vote, and if he considers that the challenge has been established he shall debar the person challenged from voting.

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

40. Safeguard against personations :-

(1) With a view to preventing personation of voters, every voter about whose identity the Presiding Officer or the Polling Officer, as the case may be, is satisfied, shall allow his left thumb to be inspected by the Presiding Officer or the Polling Officer and an indelible ink mark to be put on it.

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

(3) Any reference in this rule to the left thumb of a voter shall, in the case where the voter has his left thumb 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 thumb 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 reference to such extremity or his left or right arm as he possesses.

41. Issue of ballot papers :-

(1) No ballot paper shall be issued to any voter before the hour fixed for the commencement of the poll.

(2) No ballot paper shall be issued to any voter after the hour fixed for the closing of the poll except to those voters who are present at the polling station at the time of the closing of the poll. Such voters shall be allowed to record their votes even after the poll closes.

(3) Every ballot paper shall before issue to a voters be-

(a) stamped with such distinguishing mark as the Collector may direct, and

(b) signed in full on its back by the Presiding Officer.

(4) At the time of issuing a ballot paper to a voter, the Polling Officer, shall record the serial number thereof against the entry relating to the voter in the copy of the list of voters set apart for the purpose.

(5) Save as provided in sub-rule (4), no person in the polling stations shall note down the serial numbers of the ballot papers issued to particular voters.

42. Voting procedure :-

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

- (i) proceed to one of the polling compartments;
 - (ii) 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;
 - (iii) fold the ballot paper so as to conceal his vote;
 - (iv) if required, show to the Presiding Officer the distinguishing mark on the ballot paper;
 - (v) insert the folded ballot paper into the ballot box; and
 - (vi) quit the polling station.
- (2) No voter shall be allowed to enter a polling compartment when another voter is inside it.

43. Procedure for voting where there are no separate constituencies or more than one seat to be filled in one constituency :-

In cases where there are no constituencies defined in the bye-laws or where more than one seat is authorised in the bye-laws for a constituency, voting in so far as these seats are concerned shall be recorded in accordance with the following provisions, namely:-

- (a) Every voter shall be entitled to give as many votes as there are seats for filling which votes are to be taken but no voter shall give more than one vote to any one candidate.
- (b) The voter shall make a mark on the ballot paper with the instrument supplied for the purpose on or near the symbols of the candidate or candidates for whom he intends to vote, so however, that no part of any mark so made shall appear in the space provided for other candidate. The voter shall thereafter fold the marked ballot paper so as to conceal his vote and insert the folded ballot paper so as to conceal his vote and insert the folded ballot paper into the ballot box and without undue delay leave the polling station.

44. Recording of vote of blind or infirm voter :-

- (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 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 voter on any day under this rule, he shall be required to declare in Form X 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 XI of all cases under this rule.

45. 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 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 shall be marked as "Returned-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.

46. 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 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 a list in Form XII.

(3) A tendered ballot paper shall be the same as the other ballot

papers used at the polling station except that it shall be

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

(b) 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 polling 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.

47. Closing of poll :-

(1) The Presiding Officer shall close a polling station at the hour fixed in that behalf under rule 16 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.

48. Sealing of ballot boxes after poll :-

(1) As soon as practicable after the closing of the poll, the Presiding Officer shall, in the presence of any candidates or their election or polling agents, close the slit of the ballot box and where the ballot box does not contain any mechanical device for closing the slit, he shall seal up the slit and also allow any polling agent 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 box getting full, the first box shall be closed, sealed and secured as provided in sub-rule (1) and (2) before another ballot box is put in to use.

49. Account of ballot papers :-

(1) The Presiding Officer shall at the close of the poll prepare a ballot paper account in Form XIII and enclose it in a separate cover with the word "Ballot Papers Account" superscribed thereon.

(2) The Presiding Officer shall permit a polling agent who so desires to take a true copy of the entries made in the ballot paper account and shall attest it as true copy.

50. 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 unused ballot papers;
 - (c) the cancelled ballot papers;
 - (d) the cover containing the tendered ballot papers and the list of the tendered ballot papers;
 - (e) the list of challenged votes; and
 - (f) any other papers directed by the Returning Officer to be kept in a sealed packet.
- (2) Each such packet shall be sealed with the seals of the Presiding Officer and those polling agents present who may desire to affix their seals thereon.

51. Transmission of ballot boxes, packets, etc., to the Returning Officer :-

- (1) The Presiding Officer shall then deliver or cause to be delivered the following 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 50; and
 - (d) all other papers used at the poll.
- (2) The Returning Officer shall make adequate arrangements for the safe transport of all ballot boxes, packets and other papers and for their safe custody until the commencement of the counting of votes.

52. Fresh poll in case of destruction, etc., of ballot boxes :-

- (1) 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 the Returning Officer or is accidentally or intentionally destroyed or lost or is damaged or

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

(b) any such error or irregularity in the procedure as is likely to vitiate poll is committed at a polling station, the Returning Officer (where the Collector himself is not the Returning Officer) shall forthwith report the matter to the Collector.

(C) The Collector upon receipt of such report, or of his own motion in the circumstances stated in sub-rule (1), after taking all material circumstances into account either-

(a) declare the poll at

(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 not material, issue such directions to the Returning Officer or take such action as he may deem proper for the election.

(3) The provisions of the Act and of any rules or bye-laws made thereunder shall apply to every such fresh poll as they apply to the original poll.

53. Counting of votes :-

At every election where a poll is taken votes shall be counted by, or under the supervision and direction of the Returning Officer, and each contesting candidate, his Election Agent and his Counting Agents shall have a right to be present at the time of counting.

54. Admission to the place fixed for counting :-

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

(a) such person as he may appoint to assist him in the counting;

(b) person authorised by the Collector;

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

(d) candidates, and their Election and Counting Agents.

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

(3) The Returning Officer shall decide which Counting Agent or Agent shall watch the counting at any particular counting table or group of counting tables.

(4) Any person who during the counting of votes misconducts himself or fails to obey the lawful 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.

55. Scrutiny and opening of ballot boxes :-

(1) The Returning Officer may have the ballot boxes used at more than one polling station opened and their contents 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 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 52 in respect of that polling station.

56. Scrutiny and rejection of ballot papers :-

(1) The ballot papers taken out of each ballot box and those (if any) received by postal ballot shall be arranged in convenient bundles and scrutinised.

(2) The Returning Officer shall reject a ballot paper

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

(b) if no vote is recorded thereon; or

(c) if votes are given on it in favour of more than one candidate where only one candidate is to be elected; or

(d) where more than one candidate is to be elected, if the voter has recorded on the ballot paper more votes than he is entitled to give; or

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

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

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

(h) if it bears a serial number, or is of a design, different from the

serial number or, as the case may be, design of the ballot papers authorised for use at the polling station; or

(i) if it does not bear the mark which it should have borne under the provisions of sub-rule (3) of rule 41.

Provided that

(i) where a Returning Officer is satisfied that any such defect as is mentioned in clause (h) or (i) has been caused by any mistake or failure on the part of the Presiding Officer or the Polling Officer, the ballot paper shall not be rejected merely on the ground of such defect.

(ii) 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.

(4) The Returning Officer shall record on every ballot paper which he rejects the letter "R" and the grounds of rejection in abbreviated form either in his own hand or by means of a rubber stamp.

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

57. Procedure for counting of Votes :-

(1) Every ballot paper which is not rejected under rule 56 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.

(2) After the counting of all ballot papers contained in all the ballot boxes used at a polling station has been completed, the Returning Officer shall make the entries in a result sheet in form XIV and announce the particulars.

(3) The valid ballot papers shall thereafter be bundled together and kept along with the bundle of rejected ballot papers in a separate packet which shall be sealed and on which shall be recorded the following particulars namely:

(a) the name of the constituency,

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

(c) the date of counting.

58. Counting to be continuous :-

The Returning Officer shall, as far as practicable proceed continuously with the counting of votes and shall, during any intervals when the counting has to be suspended, keep the ballot papers, packets and other papers relating to the election sealed with his own seal and the seals of such candidates or Election or Counting Agents as may desire to affix their seals and shall cause adequate precautions to be taken for their safe custody during such intervals.

59. Procedure for counting of votes where there are no separate constituencies or more than one seat to be filled in one constituency :-

In cases where there are no constituencies defined in the bye-laws or where more than one seat is authorised in the bye-laws for a constituency, counting of votes for these seats shall be done in the following manner, namely:

(1) The counting of votes shall be done by and under the supervision of the Returning Officer with the assistance of such persons as he may appoint to assist in the counting of votes.

(2) After each ballot box is opened for counting, clearly valid voting papers shall be separated from invalid and doubtful voting papers. The invalid and doubtful voting papers shall be submitted to the Returning Officer for decision. The valid voting papers shall thereafter be taken for counting and the votes recorded in favour of each candidate shall be counted with the aid of persons appointed to assist in the counting of votes.

(3) The Returning Officer shall allow the candidates and their Election or Counting Agents, who may be present, reasonable opportunity to inspect all voting papers, which in the opinion of the Returning Officer are liable to be rejected, but shall not allow them to handle those or any other voting papers. The Returning Officer shall on every voting paper which is rejected endorse the letter "R". If any candidate or has Election or Counting Agent questions the correctness of the rejection of any voting paper, the Returning Officer shall also record briefly on such voting paper the ground for its rejection.

(4) After the counting of all voting papers contained in all the ballot boxes used has been completed, the Returning Officer shall cause to be sealed up in separate packets with description endorsed on

each such packet of the voting papers counted and that voting papers rejected.

(5) The Returning Officer shall as far as practicable proceed continuously with the counting of the votes and shall during any intervals when the counting has to be suspended, keep the voting papers, packets, and other documents relating to the election sealed with his own seal and the seal of such candidates or Election or Counting Agents as may desire to affix their seals and shall cause adequate precautions to be taken for their safe custody.

(6) After the counting of voting papers contained in all the ballot boxes used at all the polling stations has been completed the Returning Officer shall prepare a consolidated statement recording therein the total numbers of votes polled by each candidate.

60. Recommencing of counting after fresh poll :-

(1) If a fresh poll is held under rule 52, the Returning Officer shall, after completion of that poll recommence the counting of votes on the date and at the time and place which have been fixed by him in that behalf and of which notice has been previously given to the candidate.

(2) The provisions of rules 56 and 57 shall apply so far as may be to such further counting.

61. Recount of votes :-

(1) After the completion of the counting the Returning Officer shall record in the result sheet in Form XIV, the total number of votes polled by each candidate and announce the same:

Provided that, when an equality of votes is found to exist between any candidates either for the reserved or the unreserved and the addition of one vote will entitle any of the candidates to be declared elected, the determination of the person or persons to whom such an additional vote shall be deemed to have been given shall be made by lots to be drawn in the presence of the Returning Officer and the candidates who may desire to be present, and in such manner as the Returning Officer may determine.

(2) After such announcement has been made, a candidate or, in his absence, his Election Agent may apply in writing to the Returning Officer for a recount of all or any of the ballot papers already counted stating the grounds on which he demands such recount.

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

(4) Every decision of the Returning Officer under sub-rule (3), shall be in writing and contain the reasons therefor.

(5) If the Returning Officer decides under sub-rule (3) to allow an application either in whole or in part, he shall

(a) count the ballot papers again in accordance with his decision;

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

(c) 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 sub-rule (5), the Returning Officer shall complete and sign the result sheet in Form XIV and no 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 (2).

62. Declaration of result :-

The Returning Officer shall then declare the candidate to whom the highest number of valid votes has been given, as having been elected and certify the return of election in Form XV and where the Collector himself is not the Returning Officer he shall send signed copies thereof to the Collector as soon as possible.

63. . :-

¹ [xxx]

1. Del. by Notification No. GBH.64/87/GSC-158/6100/CHH(4), dt. 10-8-1987, published in Guj. Govt. Gaz., Ex. Pt. IV-B., dt. 17-8-1987, p. 158. .dt. 10-8-87.

64. . :-

¹ [xxx]

1. Del. by Notification No. GBH.64/87/GSC-158/6100/CHH(4), dt. 10-8-1987, published in Guj. Govt. Gaz., Ex. Pt. IV-B., dt. 17-8-1987, p. 158. .dt. 10-8-87.

65. . :-

1 [xxx]

1. Del. by Notification No. GBH.64/87/GSC-158/6100/CHH(4), dt. 10-8-1987, published in Guj. Govt. Gaz., Ex. Pt. IV-B., dt. 17-8-1987, p. 158. .dt. 10-8-87.

66. . :-

1 [xxx]

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67. . :-

1 [xxx]

1. Del. by Notification No. GBH.64/87/GSC-158/6100/CHH(4), dt. 10-8-1987, published in Guj. Govt. Gaz., Ex. Pt. IV-B., dt. 17-8-1987, p. 158. .dt. 10-8-87.

68. Publication of names of members of the Committee :-

(1) On receipt of the declaration under rule 31 or clause (c) of rule 80 of the election returns under rule 62, the Collector shall publish the names of all elected committee members by causing a list of such names together with their permanent addresses and the names of constituents from which they are elected, to be pasted on the notice board or at any prominent place in his office.

(2) The Collector shall send a list of all the elected Committee members to the Society and to the Registrar in the case of societies referred to in section 74-C(1)(i) and to the District Registrar concerned in all other cases.

69. Return or forfeiture of candidates deposit :-

(1) The deposit made under rule 21 shall either be returned to the person making it or his legal representative or be forfeited to the

State Government in accordance with the provisions of this rule.

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

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

(4) Subject to the provisions of sub-rule (3) the deposit shall be forfeited to the State Government, if at an election where a poll has been taken, the candidate is not elected and the number of valid votes polled by him does not exceed one eighth of the total number of valid votes polled by all the candidates, or, in the case of election of more than one member at the election, one eighth of the total number of valid votes so polled divided by the number of members to be elected.

70. Custody of papers relating to elections :-

The Returning Officer shall keep in custody the packets referred to in rule 49 and all other papers relating to the elections.

71. Production and inspection of election papers :-

(1) While in the custody of the Returning Officer

(a) the packets of unused ballot papers;

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

(c) the packets of marked copies of the voters list, shall not be opened and their contents shall not be inspected by, or produced before, any person or authority, except under the order of the Government or a Court or other competent authority.

(2) All other papers relating to the election shall be open to public inspection.

72. Disposal of election papers :-

(1) The packets referred to in rule 71 shall be retained for a period of one year and shall thereafter be destroyed subject to any direction to the contrary given by the Government or a Court or other competent authority.

(2) All other papers relating to the election shall be retained until the termination of the next election for the constituency to which they relate and shall thereafter be destroyed subject to any direction to the contrary given by the Government or a Court or other competent authority.

73. Casual vacancies how to be filled in :-

In the event of a vacancy occurring on account of death, resignation, disqualification or removal of a member of a society or through such a member becoming incapable of acting previous to the expiry of his term of office or otherwise, the Chairman of the Society shall forthwith communicate the occurrence to the Registrar (in the case of Societies falling under Section 74-C(I)(i) and to the District Registrar, in case of other Societies), and the vacancy shall be filled as soon as conveniently, by holding bye-election to fill the seat, and the provisions of these Rules shall thereupon mutatis mutandis apply accordingly. The person so elected shall hold office so long only as the member of the Committee whose place he is elected would have held it, if the vacancy had not occurred:

Provided that, if the vacancy occurs, within six months, preceding the date on which the term of the committee expires, the vacancy shall not be filled.

74. Election petitions :-

No election shall be called in question, except by an election petition presented to the Government, in accordance with the provisions of section 145-U and these rules.

75. Presentation of election petition :-

(1) An election petition calling in question any election may be presented by any candidate or any voter within two months from the date of declaration of the result of the election.

(2) Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition and one spare copy for the use of the Government and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition.

76. Parties to the petition :-

A petitioner shall join as respondents to his petition.

(a) where the petitioner, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner and where no such further declaration is claimed, all the returned candidates, and

(b) any other candidate against whom allegations of any corrupt practice are made in the petition.

77. Trial of election petitions :-

(1) Every election petition shall be tried by the Government:

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

(2) The Government may dismiss an election petition which does not comply with provisions of rule 75.

(3) Any candidate not already a respondent shall, upon application made by him to the Government within fourteen days from the date of the commencement of the trial and subject to the provision of rule 91, be entitled to be joined as a respondent.

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

78. Expenses of witnesses :-

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

79. Recrimination when seat claimed :-

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

Provided that, the returned candidate or such other party as aforesaid shall not be entitled to give such evidence, unless he has, within fourteen days from the date of commencement of the trial, given notice to the Government of his intention to do so and has also given the security and the further security referred to in rules 89 and 90 respectively.

(2) Every notice referred to in sub-rule (1) shall be accompanied by the statement and all necessary particulars and shall be signed and verified in like manner.

80. Order of the Government :-

At the conclusion of the trial of an election petition, the Government shall make an order

- (a) dismissing the election petition; or
- (b) declaring the election of all or any of the returned candidates to be void; or
- (c) declaring the election of all or any of the returned candidates to be void, and the petitioner or any other candidate to have been duly elected.

81. Other orders to be made by the Government :-

At the time of making an order under rule 80, the Government shall also make an order

- (a) where any charge is made in the petition of any corrupt practice having been committed at the election according
 - (i) a finding whether any corrupt practice has or has not been proved to have been committed at the election, and the nature of the corrupt practice; and
 - (ii) the names of all persons, if any, who have been proved at the trial to have been guilty of the practice, and
- (b) fixing the total amount of costs payable, and specifying the persons by and to whom costs shall be paid:

Provided that, a person who is not a party to the petition shall not be named in the order under sub-item (ii) of item (a) unless (a) he

has been given notice to appear before the Government and to show cause why he should not be so named; and (b) if he appears in pursuance of the notice, he has been given an opportunity of cross examining any witness who has already been examined by the Government and has given evidence against him of calling evidence in his defence and of being heard.

82. Grounds for declaring election to be void :-

If the Government is of opinion:

- (a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under these rules, or
- (b) that any corrupt practice has been committed by a returned candidate or his Election Agent or by any other person with the consent of a returned candidate or his Election Agent, or
- (c) that any nomination paper has been improperly rejected, or
- (d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected
 - (i) by the improper acceptance of any nomination, or
 - (ii) by any corrupt practice committed in the interest of the returned candidate by an agent other than his Election Agent, or
 - (iii) by the improper reception, refusal or rejection of any Vote or the reception of any Vote which is void, or
 - (iv) by any non-compliance with the provisions of the Act or any rules made thereunder,

83. Grounds for which a candidate other than the returned candidate may be declared to have been elected :-

If any person who has lodged a petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the Government is of opinion

- (a) that in fact the petitioner or such other candidate received a majority of the valid Votes; or
- (b) that but for the votes obtained by the returned candidate by corrupt practice the petitioner or such other candidate would have obtained a majority of the valid votes; the Government shall after declaring the election of the returned candidate to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected.

84. Procedure in case of an equality of votes :-

If during the trial of an election petition it appears that there is an equality of votes between any candidate at the election and that the addition of a vote would entitle any of those candidates to be declared elected then

(a) any decision made by the Returning Officer under the provisions of sub-rule (1) of rule 61, shall in so far as it determines the question between those candidates, be effective also for the purpose of the petition; and

(b) in so far as that question is not determined by such a decision, the Government shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

85. Effect of orders of the Government :-

(1) Every order of the Government under rule 80 or 81 shall take effect as soon as it is pronounced by the Government.

(2) Where by an order under rule 80 the election of a returned candidate is declared to be void, acts and proceedings in which that returned candidate has, before the date thereof, participated as a member of the committee shall not be invalidated by reasons of that order, nor shall such candidate be subjected to any liability or penalty on the ground of such participation.

86. Withdrawal of election petitions :-

An election petition may be withdrawn only after notice to other parties and by leave of the Government.

87. Procedure for withdrawal of election petition :-

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

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

(3) If the application is granted

(a) the petitioner shall be ordered to pay the costs of the respondents theretofore incurred or such portion thereof as the

Government may think fit;

(b) the Government shall direct that the notice of withdrawal shall be published in such manner as it may specify and thereupon the notice shall be published accordingly;

(c) a person who might himself have been a petitioner may within fourteen days of such publication apply to be substituted as petitioner in place of the party withdrawing and upon compliance with the condition of rule 89 as to security, shall be entitled to be so substituted and to continue the proceeding upon such terms as the Government may think fit.

88. Abatement of election petition :-

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

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

(3) Any person who might himself have been a petitioner may within fourteen days of such publication, apply to the Government to be substituted as petitioner and upon compliance with the condition of rule 89 as to security, shall be entitled to be so substituted to continue the proceedings upon such terms as the Government may think fit.

89. Security for costs :-

The petitioner shall enclose with the petition Government Treasury receipt showing that a deposit of Rupees five hundred or such lesser amount as the Government may direct has been made by him either in a Government Treasury or in the State Bank of India in favour of the Government as security for the cost of the petition.

90. Further Security for costs :-

During the course of the trial of an election petition, the Government may at any time call upon the petitioner to give such further security for costs as it may direct.

91. Security for costs from a respondent :-

No person shall be entitled to be joined as a respondent under sub-rule (3) of rule 77, unless he has given such security for costs as

the Government may direct.

92. Costs :-

Costs including pleaders fees and the costs of Government shall be in the discretion of the Government:

Provided that, where a petition is dismissed under clause (a) of rule 80, the returned candidate shall be entitled to the costs incurred by him in contesting the petition and accordingly the Government shall make an order for costs in favour of the returned candidate.

93. Cost of election petition :-

The cost of election petition filed under section 145-U shall be borne by the parties and shall not be recoverable or reimbursable from the funds of the society.

94. Voting by postal ballot :-

Notwithstanding anything contained in these rules, where any constituency extends over more than one District, the Collector may, by order published in the Official Gazette, make provision for enabling all or any persons or class of persons ordinarily residing or having registered office outside his District to give their vote by postal ballot and not in any other manner at an election in that constituency where a poll is taken. Where the Collector has published an order providing for giving vote by postal ballot in any constituency, but ballot paper shall be sent by Registered Post A.D. by the Returning Officer to every voter entitled to give his vote by postal ballot and no application by the voter for supply of such paper is necessary and such voter shall also return ballot paper after giving vote to the Returning Officer.

95. Election of nominee under section 145-D(2) :-

(1) The Election of a nominee of a society as a member of the Committee of any Specified Society under sub-section (2) of section 145-D shall be held in accordance with the provisions of this rule.

(2) Where a society has to send such a nominee and the Collector has published his order made under rule 16 as required by clause (b) of rule 17, the Committee of the Society shall hold its meeting for the election of the nominee, within a period of 15 days from the date of publication of the election programme or within such

extended period as the Collector may allow.

(3) The election shall be conducted in accordance with the Provision of the bye-laws of the society, under the control of the Collector or the Returning Officer appointed by him under rule 9.

96. Transitory provision :-

Notwithstanding anything contained in these rules, the first election to the co-operative societies immediately after the commencement of these rules, shall be held as if in these rules for the reference to the date of the drawan of the accounts the date 1st April, 1982 were substituted.

97. 97 :-

Anything contained in the Gujarat Co-operative Societies Rules, 1965, which is inconsistent with these rules shall not apply to the elections under these rules.