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## **GUJARAT TALUKA AND DISTRICT PANCHAYAT ELECTION RULES, 1975**

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## **GUJARAT TALUKA AND DISTRICT PANCHAYAT ELECTION RULES, 1975**

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 323 read with sections 18, 19 and 21 of the Gujarat Panchayats Act, 1961 (Guj. VI of 1962), the Government of Gujarat hereby makes the following rules, namely:-

### PART 1

#### Preliminary

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

These rules may be called the Gujarat Taluka and District Panchayats Election Rules, 1975.

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

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

(a) "Act" means the Gujarat Panchayats Act, 1961;

(b) "Assistant Returning Officer" means any person appointed under sub-rule(2) of rule 5 by the Chief Electoral Officer 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) "Chief Electoral Officer" means the Chief Electoral Officer for the State of Gujarat;

<sup>1</sup> [(dd) "Counterfoil" means a counterfoil attached to the ballot paper printed under the provisions of these rules;

(e) "District Election Officer" means the Collector and the District

Magistrate of the district;

(f) "Election" means an election to fill a seat or seats in the Taluka Panchayats under sub-section (3) of section 14 or, as the case may be, to fill a seat or seats in the District Panchayats under sub-section (3) of section 15;

(g) "electoral division" means a territorial constituency constituted under sub-section (3) of section 20 in respect of a Taluka or as the case may be, under sub-section (4) of section 20 for a District;

(h) "Form" means a Form appended to these rules and includes a translation thereof in the official language of the State;

(j) "holiday" means holiday declared under the Negotiable Instrument Act, 1881;

(k) "List of voters" for the purposes of election to Taluka Panchayat means the list of voters maintained for an electoral division of a Taluka under section 21; and

(l) "List of voter" for the purposes of election to a District Panchayat means the list of voters maintained for an electoral division for a District and includes the list of voters for all the electoral divisions of a Taluka comprised within such electoral division of a district;

(m) "Local authority" means a local authority as defined in clause (26) of section 3 of the Bombay General Clauses Act, 1904 and includes a School Board constituted under the Bombay Primary Education Act, 1947;

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

(o) "Returning Officer" means any person designated under rule 5 by the Chief Electoral Officer as Returning Officer in respect of an electoral division;

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

(q) "Voter" means a person whose name is included in the list of voters.

(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 election, and

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

(3) The Bombay General Clauses Act, 1904, shall apply for the interpretation of these rules as it applies for the interpretation of Bombay Act and Gujarat Acts.

1. New clause (dd) inserted by GN Panchayats, Housing and Urban, Development Department 'No. KP/218 of 1980/ELC/10803056-0 dated the 17th December, 1980.

## PART 2

List of Voters

### **3. Maintenance and Custody of List of Voters :-**

Deleted.

### **4. Publication of List of Voters :-**

Deleted.

## PART 3

General Provisions

### **5. Returning Officer :-**

(1) For the purpose of election, the Chief Electoral Officer shall designate or nominate a Returning Officer for every electoral division who shall be an officer of Government, or a panchayat or of a local authority:

Provided that nothing in this rule shall prevent the Chief Electoral Officer from designating or nominating the same person to be a Returning Officer for more than one electoral division.

(2) The Chief Electoral Officer may appoint one or more persons to assist any Returning Officer in the performance of his function for that electoral division.

Provided that every such person shall be an Officer of the Government or of a panchayat or of a local authority.

(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 appoint a Presiding Officer to preside at each polling station, to keep order thereat 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 who has been employed by or on behalf of or has been otherwise working for a candidate in or about the election as a Presiding Officer or a Polling Officer:

Provided that if a Polling Officer is absent from any polling station, the Presiding Officer may appoint any person who is present at the polling station, other than a person who has been employed by or on behalf of or has been otherwise working for a candidate in or about the election as a Polling Officer during the absence of the former officer 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 under 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 Chief Electoral Officer provide sufficient number of polling stations [for each electoral division.]
- (2) For the aforesaid purpose [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 or 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 voters will have to walk to reach the polling station; and
  - (e) such other particulars, if any, as may be prescribed by the Chief Electoral Officer.
- (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 Chief Electoral Officer for his approval.
- (4)
  - (a) On receiving the draft list the Chief Electoral Officer shall approve the draft list and before such approval may call for such information from [District Election Officer] as he may consider necessary;
  - (b) The Chief Electoral Officer shall communicate his approval of polling stations to the concerned [District Election Officer ]
  - (c) On receipt of such approval from the Chief Electoral Officer, the Returning Officer shall publish the list in Form-3 at the following places-
    - (i) at his office;

(ii) at the office of each of the Taluka Panchayat in the District in case of elections District Panchayat and at the office of the Taluka Panchayat concerned in case of election to Taluka Panchayat;

(iii) at the office of [the Returning Officer];

(iv) at the office of the District Panchayat; and

(v) at the office of each of the Mamlatdars in the District in case of elections to District Panchayat and at the office of the Mamlatdar concerned in case of election to Taluka Panchayat.

(5) Notwithstanding anything contained in sub-rules (2) to (4), in the case of a bye-election, the approval of the Chief Electoral Officer to the list of polling stations shall not be necessary if the list prepared in the last general election is adopted without any change.

#### PART 4

#### Procedure Regarding Elections

### **9. Fixation of various stages of elections :-**

(1) The Election Authority shall publish in the Official Gazette the date of election appointed by it under sub-section (1) of section 18.

(2) As soon as a notification under sub-rule (1) is published, the Election Authority shall also 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 the first mentioned notification or if the day is a public holiday the next succeeding day which is not a public holiday;

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

(c) the last date for 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 date before which the election shall be completed; and

(f) the hours during which poll shall be taken:

Provided that the total period on any one day for polling at the election shall not be less than eight hours.

**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-4 inviting nominations of candidates for such election and specifying the place at which the nomination papers are to be delivered.

(2) Such notice shall be given by putting up the notice in some conspicuous place in the office of the Returning Officer, Assistant Returning Officers and Officers of District Panchayat, Taluka Panchayat, Gram Panchayat and Nagar Panchayats.

**11. Symbols for election in the Electoral Divisions :-**

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

(2) 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.

**12. Presentation of nomination papers and requirements for a valid nomination :-**

(1) Nomination paper in Form 5 shall be supplied by the Returning Officer to any person asking the same.

(2) On or before the date appointed for making nomination under clause (a) of sub-rule (2) of rule 9, each candidate shall either in person or by his proposer, between the hours or eleven O'clock in the fore-noon and three O'clock in the after-noon 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 proposer :

Provided that no nomination paper shall be delivered to the Returning Officer on a day which is a public holiday : 421

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 fore-noon or after three O'clock in the after-noon or on any day on which a nomination paper may be delivered in accordance with rules; or

(b) delivered by any 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 candidates and his proposer as 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 proposer as the case may be, to this defect :

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 conformity with the corresponding entries.

(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 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 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 candidate shall not be deemed to be duly nominated unless he deposits or causes to be deposited in cash along with his nomination paper-

(a) in case of an election from an electoral division Panchayat a sum of two hundred and fifty rupees or where the candidate is a woman or a member of Scheduled Caste or Scheduled Tribe a sum of one hundred twenty five rupees;

(b) in case of an election from an electoral division for Taluka Panchayat a sum of one hundred rupees or where the candidate is a woman or a member of Scheduled Caste or Scheduled Tribe a sum of fifty rupees;

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

**14. Return of forfeiture of deposit :-**

(1) Deposit made under the rule 13 shall either be returned to the person making it or his legal representative or may be forfeited in accordance with the provision 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 candidate 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 to an election where a poll 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 all the candidates.

(5) Notwithstanding anything contained in sub.rule(2) or (3) if at an election the candidate is a contesting candidate in more than one electoral divisions of the same Taluka or as the case may be District, not more than one of the deposits shall be returned and the other shall be forfeited.

### **15. Scrutiny of nomination papers :-**

(1) On the date fixed for the scrutiny of nominations under clause (b) of sub-rule (2) of 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 attend 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) or under sub-rule (6) of rule 12.

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

(a) that on the date fixed for scrutiny of nominations the candidate is either not qualified or disqualified for being chosen to fill the seat under the Act; or

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

(c) that there has been a failure to comply with any of the provision of these rules, 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 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 (e) 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.

(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 open 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 1; 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 stand for election or to subscribe a nomination paper, as the case may be, unless it is proved that the candidate or as the case may be, the proposer is disqualified, within the meaning of sub-section (2) of section 22 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 9, that is to say candidates whose nominations have been found valid, and affix it to his notice board.

<sup>1</sup> [The names of the candidates shall be arranged in the list in the Gujarati alphabetical order], He shall endorse a copy of the list to the District Election Officer in case of election of a Taluka Panchayat and to the Chief Electoral Officer and District Election Officer in case of election of a District Panchayat Election.

(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.

1. Ins. by G.G. Gaz., Pt. 1-A, d. 17-3-1983, P. 56.

## **17. Notice of withdrawal of candidature :-**

(1) Any candidate may withdraw his candidature by a notice in writing in Form No. 7, 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 note 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 candidature within the said period, such list shall be in Form-8 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 of validly nominated candidates. If 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 this 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 District Election Officer in respect of election to the Taluka Panchayat and to the Chief Electoral Officer and District Election Officer in respect of election to the District Panchayat.

(3) If more candidates than one candidate show their preference for one and the same symbol, the Returning Officer shall decide by lot to which of those candidates the symbol will be assigned. The decision of the Returning Officer in assigning any symbol to a candidate under this subrule 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, appoint an election agent other than himself. Such appointment shall, subject to the provisions of sub-rule (1), be made in Form-9 in duplicate 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-10 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 provision of sub-rule (1).

(3) No person who is not entitled or is disqualified to be a member of a panchayat under the Act shall be appointed as an election agent.

## **20. Appointment of polling agents :-**

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

(2) Every such appointment shall be made in Form-11 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 a polling agent :-**

(1) The appointment of the polling agent may be revoked by the candidate or his election agent in Form-12 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, be lodged with the Returning Officer or the polling station where the polling agent was appointed for duty.

(3) If the polling agent of a candidate dies before the close of the poll, the candidate or his election agent shall forthwith report in writing the fact of such death-

(a) in the case where the death takes place not less than seven days before the commencement of the poll to the Returning Officer; and

(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 (2) 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 candidate or his election agent may, at any time before the poll is closed, appoint a new polling agent in accordance with the provisions of rule 20.

## **22. Uncontested election :-**

(a) In any electoral division, if there is only one contesting candidate then 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-13 and shall send a copy of the result to-

(1) the Chief Electoral Officer,

(2) the Secretary to Government, Panchayats and Health Department,

(3) the Development Commissioner,

(4) the District Development Officer,

(5) the District Election Officer, and

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

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

(c) The District Development Officer shall on receipt of the form, affix it on the notice board of his office in case of election to District Panchayat and the Taluka Development Officer shall on receipt of the from, affix it on the notice board of his office in case of election to Taluka Panchayat.

## **23. Failure to elect and publication of names of an appointed member :-**

(1) In any electoral division if there is no validly nominated candidate or if there is only one candidate in the list of validly

nominated candidate and who withdraws, it shall be deemed that there has been failure to elect a member in respect of such seat within the meaning of section 19 of the Act. The Returning Officer shall communicate to the competent authority about the failure to elect the member. The Returning Officer shall also inform the Chief Electoral Officer, the Secretary to Government, Panchayats and Health Department and the District Election Officer about the communication he has sent to the competent authority.

(2) On receipt of the information from the Returning Officer, the competent authority shall appoint a person to be member under the provisions of sub-section (1) of section 19.

(3) The name of the member appointed in accordance with the provisions of sub-section (1) of section 19 shall be declared by the competent authority in Form-14 and shall be published by affixing the same on the notice board of his office. He shall cause a copy of the form to be affixed in the office of the Taluka Panchayat in case of Taluka Panchayat election and in the office of the District Panchayat in case of district panchayat election. He shall also send a copy of the same to-

(1) the Chief Electoral Officer,

(2) the Secretary to the Government, Panchayats and Health Department,

(3) the District Development Officer,

(4) the District Election Officer, and

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

#### **24. Death of a candidate before poll :-**

If a candidate whose nomination has been found valid under rule 15 and who has not withdrawn his candidature under rule 17 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, upon being satisfied of the fact of the death of the candidate, countermand the poll and report of the fact to the Chief Electoral Officer and the District Election Officer and all proceedings with reference to the election shall be commenced anew 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 time 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 countermanding of the poll shall be eligible for being nominated as a candidate for the election after such countermanding.

#### PART 5

#### Ballot Paper

### **25. Ballot paper :-**

(1) Every ballot paper shall be in Gujarati and shall have a counterfoil attached thereto. The said ballot paper and the counterfoil shall be in such form and shall contain such particulars as the Chief Electoral Officer 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.

### **26. Persons entitled to vote by post :-**

The following persons shall be entitled to vote by post and in no other manner:-

(i) service voters and their wives, if staying with them.

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

Explanation.-"service voter" means a voter who is-

(a) a member of the armed force 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.

### **27. Voting by persons subjected to preventive detention :-**

(1) Subject to the provisions of this rule a voter for an 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 taken 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 District Election Officer 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 numbers 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 forwarded 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 the 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.

## **28. 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-15 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 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-16 to the Returning Officer so as to reach him at least four 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 such public servant and voter on election duty in the electoral division, he shall-

(a) issue to the applicant an Election Duty Certificate in Form-17;

(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) After issue of the Election Duty Certificate to a voter on election duty, if such a person even though he has not been continued on election duty shall be allowed to cast his vote at any polling station of the electoral division, other than 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.

## **29. Issue of postal ballot paper :-**

(1)The Returning Officer shall as soon as may be. after the publication of the list of contesting candidates at the election under rule 11, send by post under certificate of postal ballot paper, to every voter who is authorised under rule 6 to give his vote by postal ballot or has been permitted to give his vote by such ballot under sub-rule (1) of rule 28. [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 as entered in the marked copy of list of voters to indicate that a ballot paper has been issued to the voter however recording in the marked copy 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) Alongwith the postal ballot paper the Returning Officer shall also send -

(a) a declaration in Form-18;

(b) an envelope in Form-19 with the number of the ballot paper entered on its face:

(c) a cover addressed to himself in Form-20; and

(d) instruction in Form-21.

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

(a) in the case where the voter is a member of the Armed Forces of the Union or the wife 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 post outside India and to the wife of any such person to such voter under the care the diplomatic or consular representative of India in the country where such voter is resident.

(c) in the case where a voter is a person subjected to preventive detention, to such voter at the palce of his detention; and

(d) in the case where the voter is a person who has been permitted under sub-rule (1) of Rule 28 at the address given in the application made by him.

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(4) The postal ballot paper shall be sent by ordinary air mail and not in diplomatic bag. Ordinary postage stamps shall 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 marked copy of the list of voters which relates to service voters and record on the packet a brief description of its contents and the date on which it was sealed and send the other relevant parts of the marked copy to the several Presiding Officers

for making 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 papers issued to the voters. The Returning Officer shall also seal up in a separate packet the counterfoils on 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.

### **30. Re-issue of postal ballot papers :-**

(1) When a postal ballot paper and other papers sent by post under rule 29 are for any reason returned undelivered, the Returning Officer may re-issue them by post under certificate of posting or deliver them or cause them to be delivered to the voter personally on his applying for the same.

(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 postal ballot paper and other papers shall be issued to him, after he has returned the spoilt papers and satisfied the Returning Officer of the inadvertence. The Returning Officer shall cancel the spoilt ballot paper so returned and keep them in a separate packet, after noting therein the particulars of the ejection and the serial number of the cancelled ballot paper.

### **31. Attestation of voters signature on the postal ballot paper :-**

The voter shall obtain attestation of his signature but not of his vote on the postal ballot paper either by a Magistrate to whom the voter is personally known or to whose satisfaction the voter has been identified or-

(a) in the case of members of armed forces by such officer 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, her husband 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 persons under preventive detention by the

Suprintendent 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 by any gazetted officers or by the Presiding Officer of the polling station at which he is on election duty.

### **32. Assistance to illiterate or infirm voters :-**

(1) If a voter to whom a postal ballot paper has been sent under rule 29 is illiterate or is unable through physical incapacity to record his vote on the postal ballot paper and sign the declaration it shall be competent for him to make his declaration and to record his vote by the hand of any officer empowered to attest his signature and declaration under rule 31.

(2) Any such voter as aforesaid may deliver the postal ballot paper, together with the envelope and the cover received by him from the Returning Officer to an officer referred to in sub-rule (1) and such officer shall on being so requested by the voter certify on the declaration the voter's incapacity and shall attest the fact that he was requested by the voter to sign the declaration and to mark the ballot paper for him and that he has put the mark on the ballot paper in accordance with the wishes of the voter and that the ballot paper was so signed and marked by him in the presence of the voter.

(3) Such officer shall thereupon place the marked ballot paper in the envelope and enclose the same in the cover which he shall seal and hand over to the voter. The shall then send the sealed cover forthwith to the Returning Officer in accordance with the instructions contained in the letter sent to the voter alongwith the ballot paper so as to reach the Returning Officer before the time fixed for the commencement of counting of votes.

### **33. Return of postal ballot papers :-**

(1) Every voter on receiving his postal ballot paper sent under rule 29, 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. Any cover which is not received by the Returning Officer by that time shall be rejected. All such rejected covers shall be kept in a separate sealed packet by the Returning Officer.

(3) The Returning Officer shall keep in safe custody until the commencement of the counting of votes all covers containing postal ballot papers received by him.

#### PART 6

#### Arrangements at Polling Station

### **34. Arrangements 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 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.

### **35. 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 officer;

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

(c) persons authorised by the District Election Officer;

(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 38 or sub-rule (2) of rule 40.

### **36. 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 been previously approved by the District Election Officer. 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.

### **37. Preparation of ballot box 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 signature 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 the teal box in such manner that the slit for the insertion of the ballot paper there into remains open.

(3) The seals used for securing the ballot 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 labels, both inside and outside marked with-

(a) the serial number, if any, and 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 label 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, their 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 that it is empty and bears the labels 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.

### **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 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, as the case may be, shall overlook merely clerical or printing errors in an entry in the list of voters, if he is satisfied that such person is identical with the voter to whom such entry relates.

### **39. Safe guards 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 possessed.

#### **40. 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 woman to serve as an attendant at any polling station to assist women voters and also to assist the Presiding Officer, generally in taking the poll in respect of woman voters, and in particular, to help in searching any women voter in case it becomes necessary.

#### **41. Issue of ballot paper to voters :-**

(1) Every ballot paper before it is issued to a voter and the counterfoil attached there to shall be stamped on the reverse side with the stamp showing the number of polling station and the number of the electoral division. If it is not found feasible to stamp the ballot paper and its counterfoil on account of any unavoidable reasons, 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 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 voter the polling Officer shall-

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

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

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

Provided 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.

(3A) 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.

(4) The Presiding Officer shall ensure that no other person in the polling station notes down the serial number of the ballot paper issued to the voters.

**42. 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 41 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 be allowed to enter a voting compartment

when another voter is inside it.

(5) If a voter to whom a ballot paper has been issued refuses after warning given by the Presiding Officer to observe the procedure as laid down in sub-rule (3), the ballot paper issued to him shall, whether he has

(6) After the ballot paper has been taken back the Presiding Officer shall record on its back the words "cancelled; Voting procedure violated" and put his signature below those words.

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

(8) Without prejudice to any other penalty to which a voter, from whom a ballot paper has been taken back under sub rule (6) may be liable, the vote, if any recorded on such ballot paper shall not be counted.

**43. Candidates and agents not to communicate with voters :-**

(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.

**44. 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 <sup>1</sup> [Eighteen years of age] to the voting compartment for recording the vote on the ballot paper on his behalf and in accordance with his wishes, and if necessary, for folding the ballot paper so as to conceal the vote and inserting it into the 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 the Companion of a voter on 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 stationon that day.

(2) The Presiding Officer shall keep a record in Form-22 of all cases under this rule.

1. Subs. by G.G. Gaz. Pt. 1A, d. 17-3-83, p. 56.

#### **45. Challenged votes :-**

(1) If any candidate, election 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 Officer shall require such person to enter in the list of challenged votes in Form-23, 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 by under this sub-rule unless a sum of two rupees has been deposited in cash with Presiding Officer by the candidate of 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 think 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 subrule (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 of the circumstances in the list of challenged votes.

#### **46. Tendered Votes :-**

(1) If 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 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 a list in Form 24.

(3) A tendered ballot paper shall be the same as the other ballot papers used at the polling 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.

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

(1) A voter who has inadvertently dealt with his ballot paper



insuch, manner that it cannot be conveniently used as 3 ballot paper may, on returning it to the Presiding Officer and on satisfying him of the inadvertence, be given another ballot paper so returned \*[dnd 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 "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.

#### **48. Facilities for public servants on election duty :-**

(1) The provisions of rule 38 shall not apply to any person who produces at the polling station an election duty certificate in Form-17 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.

#### **49. 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 and adjournment of the poll to a date to be notified latter and where the poll is so adjourned by the Presiding Officer, he shall forthwith inform the Returning Officer concerned of adjournment of the poll notified, together with a detailed report setting out reasons thereof and enclosing a copy of any complaint made to him by any party in this behalf.

(2) Whenever a poll is adjourned under sub-rule (1) the Returning Officer shall immediately report the circumstances to the District Election Officer and the Chief Electoral Officer. The Chief Electoral Officer shall as soon as may be, fix the date 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 Chief Electoral Officer shall publish the date, place and hours of the poll fixed under sub-rule (2) in the

**50. Fresh poll in the case of distruction 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 arc-

(i) Unlawfully taken out of the custody of the Presiding Officer or 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 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; or

(c) There is not or has not been a free exercise of the right of voting at a polling station by reasons of the prevalence on a large scale of coercion and intimidation at that polling station or place and information about the matter is received by the Chief Electoral Officer from the Returnii,g Officer, the Chief Electoral Officer shall after taking all meterial facts and circumstances into account-

(i) if satisfied that there is good reason for directing a fresh poll, 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 he may deem fit; or

(ii) if satisfied that the result of 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 direction to the Returning Officer as he may deem proper to the further conduct and completion of the election.

(2) The provisions of these rules and orders made thereunder shall apply mutatis mutandis to every such fresh poll.

#### **51. Closing of poll :-**

(1) The Presiding Officer shall close the poll at the hour 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.

#### **52. Account of ballot paper :-**

(1) The Presiding Officer shall at the close of the poll prepare a ballot paper account in Form 25 and enclose it in a separate cover with the words "Ballot Paper Account" subscribed thereon.

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

#### **53. 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 slit, he shall seal up the slit and also allow any polling agent present to affix their seals and secure all the ballot boxes used at a polling station.

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

#### **54. Sealing of other packets :-**

(1) The Presiding Officer shall then. make into separate packets-

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

<sup>1</sup> [(aa) the counterfoil of the used ballot papers;

- (b) the ballot papers signed in full by the Presiding Officer under sub-rule (2) of rule 41 but not issued to the voters;
- (c) any other ballot papers not issued to the voters;
- (d) the ballot papers cancelled, for violation of voting procedure under rule 42;
- (e) any other cancelled ballot papers;
- (f) the cover containing the tendered ballot papers and list in Form 24;
- (g) the list of challenged votes; and
- (h) any other papers directed by the Chief Electoral Officer to be kept in a sealed packet.

(2) Each such packet shall be sealed with the seal of the Presiding Officer and with the seals 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 seals thereon.

1. Item (aa) inserted by GNPH and UDD No.KP/218 of 1980/ELC-1080- 3056-G dated the 17th December, 1980.

**55. 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 papers account; and
- (c) the sealed packets referred to in rule 54, and all other papers used at the poll and any other paper directed by the Returning Officer to be kept in a sealed packet and shall seal each packet with his own seal and the seals of such candidates or election or polling agents as may desire to affix their seals thereon.

(2) The Presiding Officer shall, than, as soon as may be, deliver the ballot boxes and all such packets and all other papers used at the poll or cause them to be delivered to the Returning Officer.

(3) The Returning Officer shall make adequate arrangements for safe transport of all used ballot boxes, packets and other papers

and for their safe custody until the commencement of the counting of votes.

## PART 7

### Counting of Votes

#### **56. Time and place for counting of votes :-**

The Returning Officer shall, at least one week before the date, or the first of the dates fixed for the poll, appoint 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 26 of the same in writing to each candidate or his election agent:

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

#### **57. 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 Officer's table.

(2) Every such appointment shall be made in Form 27 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 56.

(3) No counting agent shall be admitted into the place fixed for counting unless he has delivered to the Returning Officer the second copy of his appointment under sub-rule (2) after duly completing and signing the declaration contained therein and receiving from the Returning Officer an authority for entering to the place fixed for counting.

(4) The contesting candidate or his election agent may revoke an appointment of the counting agent in Form 28, 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 and shall forthwith give notice of such appointment in Form 27 to the

Returning Officer.

**58. Admission to the place fixed for counting :-**

(1) The Returning Officer shall allow at the place fixed for counting of votes the persons-

- (a) 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;
- (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 an election, is appointed to assist him in the counting.

(3) The Returning Officer shall decide which counting agent or agents shall watch 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.

**59. 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 20 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 18 contained therewith.

(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 cover in Form 19, that cover shall

not be opened, and after making an appropriate endorsement thereon, the Returning Officer shall reject the ballot paper therein contained.

(5) Each cover so endorsed and the declaration received with it, shall be replaced in the cover in Form 20 and all such covers in Form 20 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 of counting and a brief description of its contents.

(6) The Returning Officer shall then place all the declarations in Form 18 which he has found to be in order, in a separate packet which shall be sealed before any cover in Form 19 is opened and on which shall be recorded the particulars referred to in sub-rule (2).

(7) The covers in Form 19, 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) no vote is recorded thereon ; or

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

(c) it is a spurious ballot paper ; or

(d) it is so damaged or mutilated that its identity as a genuine ballot paper can not be established ; or

(e) it is not returned in the cover sent alongwith it to the voter by the Returning Officer ; or

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

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

(9) A vote recorded on a postal ballot paper shall not be rejected merely on the ground that the mark indicating the vote is in distinct 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.

(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 39 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 seals of the Returning Officer and of such of the candidates, their election agents or counting agents as may desire to affix their seal 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.

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

(1) The Returning Officer shall open, or cause to be opened, simultaneously the ballot box or boxes used at more than one polling station and shall have the total number of ballot papers found in such box or boxes, counted and recorded in part II of Form 25.

(2) Discrepancy, if any, between the total number of such ballot papers recorded as aforesaid and total number of ballot papers issued to voters as shown in item 3 of Part 1 of the said Form 2 minus the number of ballot papers cancelled as shown in item 4 and the number of ballot papers used as tendered ballot papers as shown in item-5 of that part, shall also be recorded in Part-II of Form-25.

(3) 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.

(4) The Returning Officer shall satisfy himself that none of the ballot boxes has in fact been tampered with.

(5) 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 report the matter to the Chief Electoral Officer.

#### **61. Counting of votes :-**

(1) subject to such general or special directions, if any, as may be given by the Chief Electoral Officer in this behalf <sup>1</sup> [the ballot papers taken out of each ballot box shall be arranged in convenient



bundles] and scrutinised by the counting assistants and supervisors under the supervision of the Returning Officer.

(2) The Returning Officer shall reject a ballot paper-

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

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

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

(d) 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

(e) if 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) if 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) if it does not bear both the mark and the signature which it should have borne under the provisions of sub-rule (2) of rule 41 :

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 paper shall be opened and no such paper shall be counted.

(7) After the counting of all ballot papers contained in all the ballot boxes used in an electoral division has been completed, the Returning Officer shall make the entries in a result sheet in Form 29 and announce the particulars. The Returning Officer shall pause for five minutes. If during this period any candidate or, in his absence, his election agent, or, any of the counting agents asks for a recount, the Returning Officer shall ascertain from him as to how much time he would require for making an application for recounting in writing. If the time applied for is reasonable, the Returning Officer shall allow and announce hours and minutes up to which he will wait for the written application for recount. He shall not complete and sign the result sheet in Form 29 until after the expiry of the time so announced.

1. Subs. vide GG Gaz. Pt. 1-A, dt. 17-3-1983, p. 56.

## **62. Recount of votes :-**

(1) Where an application for recount is made, the Returning Officer shall consider the ground urged and decide the matter. He may allow the application in whole or in part if it is reasonable or may reject it in toto if it appears to him to be frivolous or unreasonable. His decision shall be final but in every case he shall record the brief statement of his reasons for each decision.

(2) In case the Returning Officer allows the application for recount either wholly or in part, he shall have the ballot papers counted out again in accordance with his decisions. After each recount has been completed result sheet shall be amended to the extent necessary and the amendment made shall be announced. After announcing the total number of votes, the Returning Officer shall complete the result sheet and sign it, and declare the result.

### **63. Equality of votes :-**

If after the counting of votes is 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.

### **64. Declaration and publication of result :-**

(1) When the counting or recounting of votes has been completed, the Returning Officer shall forthwith declare the result of the election in Form 30 [ ] by affixing a signed copy of the form on the notice board in his office. He shall also send a copy of the same to-

- (a) the Chief Electoral Officer;
- (b) the Secretary to Government, Panchayats and Health Department;
- (c) the Development Commissioner;
- (d) the District Election Officer;
- (e) the District Development Officer, and
- (f) the Taluka Development Officer in respect of taluka panchayat elections.

(2) The District Development Officer shall affix the result on the notice board in his office in case of elections to district panchayat and the Taluka Development Officer shall affix the result on the notice board in his office in respect of elections to taluka panchayat.

(3) As soon as the declaration of the result in Form 13 or Form 30 is received from the Returning Officer, the Chief Electoral Officer shall publish the name or names of elected member or members as the case may be, under sub-section (3) of section 18 in Form 31, 32 or 33 as may be appropriate by affixing a signed copy thereof on the notice board in his Office.

(4) He shall also send copy of the result so affixed to.-

- (a) the Secretary, Panchayats and Health Department,
- (b) the Development Commissioner,

(c) the District Election Officer,

(d) the District Development Officer; and

(e) the Taluka Development Officer in respect of Taluka Panchayat election.

**65. Sealing of used ballot papers and other materials :-**

(1) The valid ballot papers 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.

(b) the date of counting.

**PART 8**

**Miscellaneous**

**66. Custody of election papers :-**

(1) The Returning Officer shall retain in his custody the returns and the packets referred to in rule 65 and all other documents relating to the election for a period of 30 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 one month :

Provided that such papers shall not be destroyed in any application under sub-section (1) of section 24 has been made, until such application is finally disposed off.

**67. 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 person or authority except under the order of the 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 hour of inspection or part thereof unless inspection is required to be made urgently in which case the fee of Rs. 2/- per hour or fraction thereof shall be payable.

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

(5) A Certified copy of any document shall be given to any person 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 the similar application made in respect of case dealt with by a revenue officer.

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

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

An order of requisition under sub-section (2) of section 36 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 in rule 2 of order XXIX or rule 3 of the order XXX, as the case may be, in the First Schedule 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, or

(ii) by registered post or

(iii) where the person cannot be found, by leaving an authentic

copy of the order with any adult member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or personally worked for gain.

**69. Period for making application under the first proviso to subsection. (1) and first proviso to sub-section (2) of section 37 :-**

The application under the first proviso to sub-section (1) and the first proviso to subsection (2) of section 37 shall be made within 14 days from the date of the determination of the amount of compensation by the Requisitioning authority.

**70. Multiple election :-**

(1) If any person is elected by more than one electoral divisions of the same taluka panchayat or district panchayat, he shall by notice 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.

**71. Casual Vacancies :-**

The provisions of these rules shall mutatis mutandis apply to a bye-election provided that:-

(i) no publication of list of voters as provided in the case of a general election under rule 4 shall be necessary in the case of a bye-election.

(ii) the periods prescribed in rules 9, 15, 16, 17 and 18 may be reduced to such extent as may be determined by the Election Authority to complete the bye-election within the period prescribed by the first proviso to sub-section (1) of section 65 or as the case may be, sub-section (1) of section 77.

**72. Interpretation in case of doubt :-**

If any question arises as to the interpretation of these rule, the question shall be referred for the decision of the Chief Electoral Officer and his decision shall be final.

**73. Repeal and Savings :-**

The Gujarat Taluka Panchayats (Election) Rules, 1962, the Gujarat District Panchayats Election Rules, 1962. The Gujarat Taluka and District Panchayats (Co-optation of Members) Rules, 1962, and The Gujarat Taluka Panchayats (Elections to District Panchayats) Rules, 1963, are hereby repealed:

Provided that the things done or actions taken under the rules so repealed shall not be affected.

**74. Extension of Rules to the Dangs District of the State of Guj :-**

The foregoing provisions of these rules shall extend to and be in force in the Dangs District of the State of Gujarat and consequently the Gujarat Dangs District Panchayat Election Rules, 1972 shall stand repealed:

Provided that the things done or actions taken under the rules so repealed shall not be affected.