
KARNATAKA PANCHAYAT RAJ (ELECTION OF ADHYAKSHA AND UPADHYAKSHA OF TALUK PANCHAYAT) RULES, 1994

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KARNATAKA PANCHAYAT RAJ (ELECTION OF ADHYAKSHA AND UPADHYAKSHA OF TALUK PANCHAYAT) RULES, 1994

The draft of the following rules, which the Government of Karnataka proposes to make in exercise of the powers conferred by sub-section (4) of Section 138 read with Section 311 of the Karnataka Panchayat Raj Act, 1993 (Karnataka Act 14 of 1993) in Notification No. RDP 471 ZPS 94, dated 31st March, 1994 was published in Part IV, Section 2C(i) of the Karnataka Gazette, dated 21st April, 1994 as required by sub-section (1) of Section 311 of the said Act inviting objections and suggestions from persons likely to be affected thereby within a period of fifteen days from the date of its publication in the Official Gazette. And, whereas, the said Gazette was made available to the public on 21st April, 1994. And, whereas, no objections and suggestions have been received on the said draft. Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 138 read with Section 311 of the Karnataka Panchayat Raj Act, 1993 (Karnataka Act 14 of 1993), the Government of Karnataka hereby makes the following rules,

namely:

1. Title and commencement :-

(1) These rules may be called the Karnataka Panchayat Raj (Election of Adhyaksha and Upadhyaksha of Taluk Panchayat) Rules, 1994.

(2) They shall come into force at once.

2. Definitions :-

In these rules, unless the context otherwise requires,

(a) "Act" means the Karnataka Panchayat Raj Act, 1993 (Karnataka Act 14 of 1993);

(b) "Member" means an elected member of the Taluk Panchayat referred to in clause (1) of sub-section (1) of S.120 of the Karnataka Panchayat Raj Act, 1993;

(c) "Section" means a section of the Act.

3. First meeting :-

¹ [The election of Adhyaksha and Upadhyaksha of Taluk Panchayat shall be held in the first meeting after constitution or reconstitution of the Taluk Panchayat on such date as the Assistant Commissioner may fix and he shall thereupon send to every member, notice of date so fixed not less than seven days prior to the date of meeting.

1. Rule 3 substituted as Rules 3 to 3-E by Notification No. RDP 471 ZPS 94, dated 31-3-1995.

3A. Filing of nominations :-

Not less than two hours before the time fixed for the meeting for the election of Adhyaksha or Upadhyaksha, any member may nominate any other member for being elected as Adhyaksha or Upadhyaksha as the case may be, by delivering to the Assistant Commissioner ¹ [or any officer authorised by him] a nomination paper in Form I appended to these rules.

1. Inserted by Notification No. RDP 152 ZPS97(2), dated 6-8-1998

3B. Members to nominate not more than one candidate :-

¹ [No member shall nominate under Rule 3A more than one candidate for the office of the Adhyaksha or Upadhyaksha, failing which all nominations proposed by such member shall become invalid.]

1. Rule 3-B substituted by Notification No.RDP 152 ZPS 97(2), dated 6-8-1998

3C. Scrutiny of nominations :-

After the commencement of the meeting, the Assistant Commissioner shall scrutinise all nomination papers delivered to him under Rule 3A and shall read out to the members present at such meeting the names of the members who in his opinion have been duly nominated together with those of the proposers.

3D. Withdrawal of candidature :-

(1) Any candidate may withdraw his candidature by notice in writing subscribed by him and delivered to the Assistant Commissioner immediately after the scrutiny of nomination papers under Rule 3C

(2) The notice may be given either by the candidate in person or by his proposer who had been authorised in this behalf in writing by the candidate.

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

(4) The Assistant Commissioner shall, on being satisfied as to the genuineness of the notice of withdrawal and the identity of the person delivering it under sub-rule (2) read out to the members present at such meeting the names of the persons withdrawing their candidature.

3E. Procedure in contested and uncontested Elections :-

(1) After the time fixed for withdrawal is over, if there is only one candidate who has been validly nominated, and has not withdrawn his candidature in the manner and within the time specified, the Assistant Commissioner shall forthwith declare such candidate to be duly elected as Adhyaksha or Upadhyaksha, as the case may be.

(2) If the number of candidates who have been validly nominated and who have not withdrawn their candidature is more than one then the Assistant Commissioner shall proceed to conduct the election as hereinafter provided.

(3) Votes shall be taken by show of hands and the members voting for and against the motion shall record their vote in the proceeding register by signing it or affixing the left hand thumb impression at

the appropriate column.

(4) After voting by all the members present and wishing to vote, the Assistant Commissioner shall declare that candidate to whom the highest number of valid votes have been given to have been duly elected.

(5) When an equality of valid votes is found to exist between any two or more candidates and the addition of one vote will entitle any of those candidates to be declared elected, the Assistant Commissioner shall forthwith decide between those candidates by lot in such manner as he may determine and proceed as if the candidate on whom the lot falls had received an additional vote. He shall thereafter declare the candidate on whom the lot falls to have been duly elected.

(6) The Assistant Commissioner shall cause a record of the minutes of the meeting made which shall contain the names of all the members present and in the case of a division the manner of their voting including abstentions. The minutes shall be signed by the Assistant Commissioner as well as the members present. The minutes shall be made available to any member for inspection.

Explanation. For the purpose of this rule "member present" means members present at the meeting and whose names have been recorded before declaring a member duly elected under Rule 3E or before commencement of the meeting after withdrawal of candidature under sub- rule (4) of Rule 3D for the office of Adhyaksha or Upadhyaksha, as the case may be.]

4. Assumption of office by Adhyaksha and Upadhyaksha :-

The member elected as Adhyaksha or Upadhyaksha, as the case may be shall enter upon his duties immediately after the declaration by the Assistant Commissioner of the result of the election.

5. Reporting of vacancy :-

When a vacancy occurs in the office of the Adhyaksha or Upadhyaksha, the Executive Officer shall give notice of such vacancy within seven days from the date of its occurrence to the Assistant Commissioner ¹ [in Form n appended] to these rules who shall, thereupon take action in the manner provided for the conducting of election of Adhyaksha or Upadhyaksha as the case may be.

1. Substituted for the words "in the Form appended" by Notification No. RDP 471 ZPS 94, dated 31-3-1995.

6. Filling up of casual vacancy :-

The provision for the election of Adhyaksha and Upadhyaksha shall, mutatis mutandis, be applicable for the purpose of filling up of casual vacancies of the Adhyakshas and Upadhyakshas.

7. Election petition :-

(1) Any member of the Taluk Panchayat may challenge the validity of the election of Adhyaksha or Upadhyaksha, as the case may be within ¹ [fifteen days] from the date of declaration of the result of election under Rule 3, by filing an election petition and together with a deposit of one thousand rupees as security for costs before the Civil Judge within whose territorial jurisdiction the Taluk Panchayat is situated.

(2) Every petition under sub-rule (1) shall be accompanied by as many copies thereof as there are respondents mentioned in the petition attested under his own signature to be true copy of the petition.

(3) The petitioner shall join as respondents to his petition where the petitioner in addition to claiming a declaration that the election of the returned candidate 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 the returned candidate.

(4) A petition under sub-rule (1),

(a) shall contain a concise statement of materials on which the petitioner relies;

(b) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) for the verification of pleading.

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

(6) The petitioner may claim any of the following declaration;

(a) that the election of the returned candidate is void;

(b) that the election of the returned candidate is void and that he

himself or any other candidate has been duly elected.

1. Substituted for the words "seven days" by Notification No. RDP 124 TPS 98, dated 25-6-1998

8. Procedure of the Civil Judge :-

The Civil Judge may, after such enquiry as he deems fit and after giving an opportunity to be heard to the parties to the proceedings make an order:

(a) dismissing the petition; or

(b) declaring the election of the returned candidates to be void; or

(c) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected.

9. Grounds for declaring the election of the returned candidate to be void :-

if the Civil Judge is of the opinion that the result of the election has been materially affected by the improper reception or refusal of a vote or by any non-compliance with the provisions of the Act or any of these rules, the Civil Judge shall declare the election of the returned candidate to be void.

10. Grounds on which the candidate other than the returned candidate may be declared to have been elected :-

If any person who has presented an election 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 Civil Judge is of opinion that in fact the petitioner or such other candidate received a majority of the valid votes, the Civil Judge 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:

Provided that the petitioner or such other candidate shall not be declared to be duly elected if it is proved 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.