

BOMBAY VILLAGE PANCHAYATS (SARPANCH AND UPA-SARPANCH)ELECTION RULES, 1964

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BOMBAY VILLAGE PANCHAYATS (SARPANCH AND UPA-SARPANCH)ELECTION RULES, 1964

In exercise of the powers conferred 1[by clauses (iv-aa) and (v) of sub-section (2) of Section 176 read with Section (30) and sub-section (2) of Section 33 of the Bombay Village Panchayats Act, 1958 (Bom.III of 1959), and of all other powers enabling it in that behalf and in supersession of all previous rules made in this behalf, the Government of Maharashtra hereby makes the following rules, the same having been previously published as required by sub-section (4) of the said Section 176, namely :-

1. Short Title :-

These rules may be called the BOMBAY VILLAGE PANCHAYATS (SARPANCH AND UPA-SARPANCH) ELECTION RULES, 1964.

2. Definitions :-

In these rules, unless the context otherwise requires,-

(a) "Act" means the Bombay Village Panchayats Act, 1958 ;

(b) "Presiding Officer" means the Officer appointed by the Collector under sub-section (2) of Section 33 to preside over the meeting called for the election of the Sarpanch and Upa-Sarpanch; "Section" means the section of the Act.

2A. Reservation of seats for the election of Sarpanch :-

(1) The State Government shall by notification in the Official Gazette, specify the number of offices of Sarpanch in the Village Panchayats [other than the village Panchayats comprising entirely the Scheduled Areas] in the State to be reserved for the Scheduled Castes, the Scheduled Tribes, the category of Backward Class of citizens and women (including the women belonging to the Scheduled Castes, the Scheduled Tribes, and the category of Backward Class of citizens).

(2) The State Government shall, by notification in the Official Gazette, allot the offices of Sarpanch to be reserved for the Scheduled Castes, the Scheduled Tribes, the category of Backward Class of citizens and women as specified under sub-rule(1) to districts as follows :-

(a) The offices to be reserved for the Scheduled Castes and Scheduled Tribes in each district shall be allotted in such manner that such reservation shall bear, as nearly as may be, the same

(b) The offices to be reserved for the category of Backward Class of citizens in each District shall, as far as practicable, be allotted in proportion of twenty seven percent of the total number of offices of Sarpanch in that District -

(c) The offices to be reserved for the women (including the women belonging to the Scheduled Castes, the Scheduled Tribes and the category of Backwards Class of citizens) in each District shall, as far as practicable, be allotted in proportion of one-third of the total number of offices of Sarpanch in that District.

(3)

(a) The Collector shall, by order, distribute and notify the offices of Sarpanchs to be reserved for the Scheduled Castes and the Scheduled Tribes allotted under sub-rule (2), among the Tahsils, having regard to the proportion of the population of such Castes and Tribes in the Tahsil to the total population of that Tahsil;

(b) the collector shall, by order, distribute and notify the offices of Sarpanch to be reserved for the category of Backward Class of citizens allotted under sub-rule (2), among the Tahsil, in proportion of twenty-seven percent of the total offices of the Sarpanch in that Tahsil.

(4) The Collector shall allot the offices of Sarpanch in the District to be reserved for women (including the women belonging to the Scheduled Castes, the Scheduled Tribes and the category of Backwards Class of citizens) by drawing lots according to the instructions given by the State Government from time to time.

Provided that, the lots in respect of the women belonging to the Scheduled Castes, the Scheduled Tribes and the category of Backward Class of citizens shall be drawn only among the offices of Sarpanch reserved for such Castes, Tribes or as the case may be, for the category of Backward Class of citizens :

Provided further that, while rotating such offices in the subsequent elections, the Panchayats where such offices were already reserved in earlier elections for women (including the women belonging to the Scheduled Castes, the Scheduled Tribes and the category of Backward Class of citizens) shall be excluded until in all such panchayats reservation of offices is given, by rotation.

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(4A) Notwithstanding anything contained in these rules, if the office of the Sarpanch is reserved for the Scheduled Castes, or the Scheduled Tribes or, as the case may be, the category of Backward Class of citizens (including Vimukta Jatis and Nomadic Tribes) and no elected member belonging to such Castes, Tribes or as the case may be, the category of Backward Class of citizens is available, then such office for the same tenure shall be allotted by draw of lots to any of the categories for which the office of the Sarpanch may be reserved under Section 30 of the Act:

Provided that, in case where there is only one elected member belonging to a particular category for which such office has been reserved and has, filed the nomination form, then such office shall be declared for such member and if there are one or more elected members of such category and none of them have filed the nomination form, then such office for the same tenure shall be allotted by draw of lots to any of the categories for which the office of the Sarpanch may be reserved under Section 30 of the Act:

Provided further that, in a case where the office of the Sarpanch is reserved for women belonging to the Scheduled Castes or the Scheduled Tribes or, as the case may be, the category of Backward Class of citizens (including Vimukta Jatis and Nomadic tribes), and no elected women

(5) The Tahsildar, by order, shall reserve the offices of Sarpanch for the persons belonging to the Scheduled Castes and Scheduled Tribes, in a descending order, belonging with the panchayat where the 1[percentage of population] of such Castes or Tribes is the highest amongst the panchayats in the Tahsil :

Provided that, the offices of the Sarpanch to be reserved shall be rotated in the subsequent elections, to the panchayat in the Tahsil where no such offices have been reserved for the Scheduled Castes or Scheduled Tribes until in all the panchayats reservation of offices for such Castes and Tribes is given by rotation.

(6) The Tahsildar, by order, shall reserve the offices of the Sarpanch for persons belonging to the category of Backward Class of citizens by drawing lots, according to the instructions given by the State Government from time to time among the Panchayats in the Tahsil

Provided that, while drawing lots the panchayat where the offices of Sarpanchs are reserved for the Scheduled Castes and the Scheduled Tribes in the Tahsil shall be excluded :

Provided further that, the offices of Sarpanchas to be reserved shall be rotated in the subsequent elections to the panchayats in the Tahsil in which no such offices have been reserved for such category until in all such panchayats in the Tahsil reservation of offices for such category is given by rotation.

1. Ins. by G.N. of 16/12/1998

SCHEDULE 1 SCHEDULE

2B. Preparation of roster for reservation :-

Roster shall be prepared for a period of every five years, commencing from the twenty-third of April, 1994 for each Tahsil at the District level for reservation to the offices of Sarpanchas for the Scheduled Castes, the Scheduled Tribes and the category of Backward Class of citizens and women.

3. Place and time of meeting :-

The meeting convened for the election of the Sarpanch and Upa-Sarpanch shall be held in the office of the panchayat or in the chavdi or other suitable public place in the village and at 2 pm on the date of the meeting.

4. Notice of meeting :-

The Presiding Officer shall cause a notice of such meeting to be given to every member of the panchayat at least three clear days before the date of such meeting. Such notice may be issued by the Presiding Officer, or by the Secretary.

5. Service of notice :-

Every notice issued by the Presiding Officer or the Secretary under rule 4 shall, if practicable, be served personally by delivering or tendering it to the member of whom it is addressed or if such person is not found, by giving or tendering it to an adult male member of his family who is residing with him. If there is no such person to whom notice can be given or tendered, it shall be served by affixing it on the outer door or some other conspicuous part of the house in which the member ordinarily resides. If none of the aforesaid modes of serving notice is feasible, the notice shall be fixed on some conspicuous part of the house in which the member is known to have last resided or carried on business or personally worked for gain: ¹

Provided that, in every case where the service of notice is effected by affixing it on the outer door or some other conspicuous part of the house in which the member ordinarily resides or is known to have last resided, a copy of the notice shall also be sent to the member by post under a certificate of posting.

1. Ins. by G.N. of 27.7.1966

6. Filing of nominations :-

Not less than two hours before the time fixed for the meeting for the election of a Sarpanch or Upa-Sarpanch, any member of the panchayat may nominate any other member for election as Sarpanch or Upa-Sarpanch by delivering to the Presiding Officer a nomination paper completed in the form appended to these rules and on receipt of the nomination paper, the Presiding Officer shall record on the nomination paper the date on which and the time at which it was received by him and pass a receipt in token of having received the nomination paper.

7. Member to nominate not more than one candidate :-

No member shall nominate more than one candidate for the office of the Sarpanch or Upa-Sarpanch:

Provided that, if a member has nominated more than one candidate for the office of the Sarpanch or Upa-Sarpanch the nomination which is received first by the Presiding Officer, shall also be taken into consideration for scrutiny: ¹

Providing further that, if only one member is elected from the village Panchayat reserved for certain category, there shall be no need of the proposer at the time of filing nomination:] ²

Provided also that, if two or more members are elected from the reserved category for which the office of the Sarpanch is reserved and none of them have got any proposer, then nomination forms of all such members shall be accepted.

1. Added by G.N. of 1.4.1997

2. Amended by G.N. of 22.10.1997

8. Person eligible to act as proposer etc :-

No person whose name has not been published as a member of the panchayat under sub-section (3) of Section 10 shall be eligible to act as a proposer or as a person to be nominated for the office of the Sarpanch or Upa-Sarpanch.

9. Scrutiny of nominations, etc :-

(1) After the commencement of the meeting convened under sub-section (1) of Section 33, the Presiding Officer shall scrutinize all nomination papers delivered to him under rule 6, decide any objection which may be made to any nomination and may either on such objection or on his own motion reject any nomination if it does not satisfy rule 6, 7 or 8.

(2) The Presiding Officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character.

(3) After the scrutiny under sub-rule (1) is over the Presiding Officer 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 their proposers.

9A. Withdrawal of candidature :-

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(1) Any candidate may withdraw his candidature by a notice in

writing subscribed by him and delivered to the Presiding officer immediately after the scrutiny of nomination papers under Rule 9 is over.

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

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

(4) The Presiding Officer shall, on being satisfied as to the genuineness of a notice of withdrawal and the identity of the person delivering it under sub-rule (1), read out to the members present at such meeting the names of the persons withdrawal their candidature.

1. Added by G.N. of 27.7.1966

10. Procedure for election :-

(1) If only one candidate has been duly nominated for the office of the Sarpanch or Upa-Sarpanch, he shall be declared to have been duly elected as Sarpanch or, as the case may be, Upa-Sarpanch.

(2) If more than one candidate have been so nominated, the Presiding Officer shall proceed to elect the Sarpanch or as the case may be, Upa-Sarpanch. The voting at such election shall be by show of hands. If, however, ¹ [any member present at the meeting so demands], the voting shall be by ballot. The candidate who obtains the highest number of votes shall be declared to have been duly elected as Sarpanch or, as the case may be, Upa-Sarpanch. When any equality of valid votes is found to exist between any two or more candidates and the addition of one vote will entitle any of them to be declared as Sarpanch or as the case may be, Upa-Sarpanch the determination of the candidate to whom such additional vote shall be deemed to have been given shall be made by lot to be drawn by the Presiding Officer in such manner as he shall determine.

1. Added by G.N. of 27.7.1966

11. Quorum :-

(1) The quorum necessary for the meeting called for the election of the Sarpanch or Upa-Sarpanch shall be one-half of the total

number of members of the panchayat

Explanation :- If the number of members of the panchayat is odd, in calculating half the number for the purposes of the quorum, fraction of a member shall be counted as one, e.g. if the number of members is seven, the quorum shall be four and if the number is nine, the quorum shall be five and so on.

(2) If within thirty minutes from the time fixed for the meeting, there be no quorum, the Presiding Officer shall adjourn the meeting.

(3) If, at any time during the meeting, it is brought to the notice of the Presiding Officer that the number of members present fall short of the required quorum, the Presiding Officer, after waiting for a period of not less than fifteen minutes and not more than half an hour, shall adjourn the meeting.

(4) The meeting adjourned under sub-rule (2) or (3) of rule 11 shall be held again on the next day at the same place and hour. A notice of such adjournment shall be fixed on the notice board at the office of the panchayat and the election shall be held at such adjourned meeting or at any subsequent adjournment thereof whether there be quorum present or not.

12. Power to adjourn and hold meeting again if election is not made :-

If for any reason (other than lack of quorum) the meeting called for the election of Sarpanch or Upa-Sarpanch does not result in the election of Sarpanch or Upa-Sarpanch, the Presiding Officer shall adjourn it, and hold it again for the purpose on the next day at the same place and hour. A notice of such adjournment shall be fixed on the notice-board at the office of the Panchayat. The business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjournment thereof whether there be a quorum present or not.

13. Minutes :-

The proceedings of the meeting shall be recorded in the minute book maintained by the panchayat under rule 40 of the Bombay Village Panchayats (Meetings) Rules, 1959. The names of members present at the meeting, and where the voting is by show of hands, the names of members voting for or against any candidate for

election and the names of members who remained neutral shall be entered therein. At the conclusion of the meeting, the proceedings shall be read out and signed by the Presiding Officer and thereupon they shall be deemed to be confirmed. A copy of the proceeding shall be submitted to the Chairman of the Panchayat Samiti, the Chief Executive Officer of the Zilla Parishad and also to the Collector through the Mamlatdar. Tahsildhar, Mahalkari, Naib-Tahsildar concerned within seven days of the meeting. The proceedings shall be open to inspection, at all reasonable times, by any member of the panchayat.