

BOMBAY VILLAGE PANCHAYATS ELECTION RULES, 1959

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BOMBAY VILLAGE PANCHAYATS ELECTION RULES, 1959

In exercise of the powers conferred by sub-section (1) and clauses (iii) and (iv) of sub-section (2) of Section 176 read with sub-section (3) of Section 10 and Section 11 of the Bombay Village Panchayats Act, 1958 (Bom III of 1959), the Government of Bombay hereby makes the following rules, namely

1. Short title :-

These rules may be called the Bombay Village Panchayats Election Rules, 1959 .

2. Definitions :-

In these rules, unless the context requires otherwise, -

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

(2) "Election" means an election held to elect a member to a panchayat;

(3) [* * *] [* * *]

(4) "Presiding Officer" means any person appointed by [an officer authorised by the State Election Commissioner] under rule 6 to be a presiding officer.

(4a) "Public holiday" means any day which is public holiday for the purposes of Section 25 of the Negotiable Instruments Act, 1881 (26 of 1881), or any day which is notified by the State Government to be a holiday for Government offices in the State;]

(5) "reserved seat" means a seat reserved for the [Scheduled Castes or Scheduled Tribes or Backward Class of Citizens or

women;

(6) "Returning officer" means any person appointed by [an officer authorised by the State Election Commissioner] under rule 6 to be a Returning officer;

(7) "Section" means a section of the Act;

(7a) [an officer authorised by the State Election Commissioner] includes a Naib Tahsildar if he exercises the powers of [an officer authorised by the State Election Commissioner

(8) "Village chavdi" includes a place deemed to be a chavdi under the Bombay Land Revenue Code, 1879 , or any law corresponding thereto in force in any part of the State;

(9) "Voter", means a person entitled under sub-section (1) of Section 13 to vote at an election.

3. Maintenance and custody of lists of voters :-

(1) The officer designated by [the State Election Commissioner] under sub-section (2) of Section 12 of the Act shall maintain a list of voters of each ward of the village which shall contain the names of all persons who are enrolled as voters in the electoral roll of the "[Maharashtra Legislative Assembly] from that part of the constituency of the Assembly as is included in each such ward. Such officer shall authenticate each list of voters so maintained and shall sign every page thereof and shall seal it with the common seal of the panchayat.

(2) The officer aforesaid shall from time to time carry out in the authentic copy of each list of voters maintained under sub-rule (1) all corrections which may be made in the electoral roll of the "[Maharashtra Legislative Assembly] and shall initial below each correction so made.

(3) The lists of voters maintained under this rule shall be kept in the panchayat chest or safe under lock and key and the officer whose duty is to keep the key of the chest or safe shall be responsible for the safe custody of the said lists.

(4) Copies of lists of voters maintained under this rule shall be kept open for public inspection at the village chavdi [if any], and at the village panchayat office.

(5) [An officer authorised by the State Election Commissioner] shall

at least fifteen days before the date fixed for the nomination of candidates for every general election of the village panchayat, give a public notice of the places where copies of the relevant list of voters are kept open for public inspection. Such notice shall be affixed at the village panchayat office and at the village chavdi, or if there be no village chavdi, at any other conspicuous public place in the village.]

4. Power of the State Election Commissioner to determine reserved seats for wards :-

Subject to the provisions of sub-section (2) of Section 10 of the Act and [rules, made thereunder] the ward or wards in which seats should be reserved for [the Scheduled Castes the Scheduled Tribes, Backward Class of Citizens and Women] shall be determined by [the State Election Commissioner].

5. Qualifications of candidates for reserved seats :-

Where any seat is reserved for the Scheduled Castes, Scheduled Tribes, the category of Backward Class of citizens, or Women, only persons belonging to the Scheduled Castes, Scheduled Tribes, the category of Backward Class of citizens or Women, as the case may be, shall be qualified to be chosen to fill such seat.

6. Appointment of election staff :-

An officer authorised, by the State Election Commissioner] shall, for purposes of every election, appoint a Returning Officer to hold the election and a Presiding Officer for each place fixed for the recording of votes (hereinafter referred to as the polling station). He may also appoint one or more polling officers to assist the Returning and Presiding Officers in the election work. Such officers may be appointed either by name or ex-Officio

7. Power of an officer authorised by the State Election Commissioner to appoint dates etc. for various stages of election :-

(1) When fixing the date for holding an election under Section 11, [an officer authorised by the State Election Commissioner] shall subject to the provisions of rule 31A by order, appoint -

(a) the last date for making nominations which shall not be later than fifteen days before the date fixed for the poll; or if that day is a public holiday, the next succeeding day which is not a public holiday and the time and place for making nominations;

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

(c) the last date for the withdrawal of candidates, 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, and the time and place for making withdrawals;

(d) the date on which and the time during which a poll shall, if necessary, be taken which shall be a date not earlier than the fifteenth day after the last date for making nominations; and

(e) the date or dates (not being a date or dates falling on a public holiday or holidays) and the time and place for the counting of votes on such date or dates.

(2) On the issue of the order under sub-rule (1), [an officer authorised by the State Election Commissioner] shall give a public written notice in [Form AA] of the intended election inviting nominations of candidates for such election.

(2A) Copies of the order under sub-rule (1) and of the notice under sub-rule (2) shall be published, not late than fifteen days before the last date fixed for the nomination of candidates, by affixing at the office of the village panchayat and at the village chavdi or, if there is no village chavdi, at any other conspicuous public place in the village appointed by [an officer authorised by the State Election Commissioner] in this behalf.]

(3) The dates, hours and place or places appointed under sub-rule (1) shall not be changed except with the Section 54 the State Election Commissioner]

(4) Notwithstanding anything contained in sub-rule (3), where [an officer authorised by the State Election Commissioner] is of the opinion that it is necessary in the public interest so to do, he may, and during any period which is declared by Government to be a period of National or State Mourning, he shall subject to such general or special instructions, as the State Government may issue in this behalf, by order change any dates fixed as aforesaid. In cases falling in the former category, he shall record in the order the reasons for which the date has been changed in the public interest.

In either case, he shall forthwith send a copy of the order to [the State Election Commissioner and shall publish it by affixing it at the village panchayat office and at the Village chavdi or if there is no village chavdi at any other conspicuous place in the village.

8. Nomination of candidates :-

(1) On the day appointed for the nomination of candidates, and during the hours appointed by [an officer authorised by the State Election Commissioner] under rule 7 in this behalf, each candidate shall make an application in writing in Form 'A' signed by him and present it either in person or through a representative authorised in writing in this behalf by such candidate to the Returning Officer signifying his willingness to serve as a member of the panchayat.

(2) On receiving a nomination paper under sub-rule (1), the Returning Officer shall write on the nomination paper its serial number, and shall sign thereon a certificate stating the date on which and exact time at which the application was delivered to him.

(3) When an election is held at or about the same time for two or more wards in a village, one and the same person may stand for election in all or any number of such wards.

Explanation:- A person who is unable to write his name shall be deemed to have duly signed the nomination paper if he has placed a mark or thumb impression in the presence of the Returning Officer or any other officer authorised by the Returning Officer in this behalf [and such officer on being satisfied as to the identity of that persons, has attested the mark or thumb impression as the mark or thumb impression of that person.

9. . :-

* * *]

10. Deposit on nomination :-

(1) On or before the date appointed for the nomination of candidates each candidate shall deposit or cause to be deposited with the Returning Officer a sum of [fifty rupees] in cash;

Provided that in a ward in which a seat or seats is or are reserved for [Scheduled Castes or Scheduled Tribes, or Backward Class of citizens or Women] the sum to be deposited by or on behalf of a candidate who is a [Scheduled Castes or Scheduled Tribes or the category of Backward class of citizens or Women] shall be [rupees ten].

(2) Where a candidate by whom or on whose behalf such deposit has been made withdraws his candidature in the manner and within the time specified in rule 13 or where the nomination paper of such candidate is rejected, the deposit shall be returned to the candidate or any other person who made the deposit, as the case may be, and, if any candidate dies before the commencement of the poll, such deposit shall be returned (a) if made by him, to his legal representative or (b) if not made by the candidate, to the person by whom it was made.

(3) If a candidate by whom or on whose behalf such deposit has been made is not elected and the number of votes polled by him does not exceed one-eighth of the total number of votes polled

(4) For the purpose of sub-rule (3), the total number of votes polled shall be deemed to be the total number of counted voting papers, other than spoilt voting papers.

(5) A deposit made under sub-rule (1), if it is not returned under sub-rule (2) or forfeited under sub-rule (3), shall be returned to the candidate or any other person who made the deposit, as the case may be, as soon after the publication of the result of the election under, rule 37 as may be practicable.

11. Scrutiny of nominations :-

(1) At the time and place appointed for the scrutiny of nominations, intending candidates and any other person duly authorised in writing by each such intending candidate shall alone be entitled to be present. The Returning Officer shall allow such persons reasonable facilities for examining the nomination papers of intending candidates.

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

(i) that the candidate is disqualified or is not qualified under the Act or these rules for election; or

(ii) that the candidate has failed to comply with any of the provisions required by these rules or the Act.

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

(3) For the purpose of sub-rule (1) the production of a certified copy of an entry made in the list of voters shall be conclusive evidence of the right of any voter named in that entry to stand for /election unless it is proved that the candidate is disqualified.

12. Completion of scrutiny :-

(1) The scrutiny shall be completed on the day appointed in this behalf.

(2) The Returning Officer shall, on the same day, endorse on each nomination paper his decision accepting or rejecting the same, and, if the nomination paper is rejected, shall record a brief statement of his reasons for such rejection.

(3) Immediately after, all the nomination papers have been scrutinized and decisions accepting or rejecting the same have been recorded, the Returning officer shall prepare a list of validly nominated candidates, that is to say, candidates whose nominations have been found valid, and affix it on the notice board of the village panchayat office and the village chavdi, or if there is no village chavdi at any other conspicuous public place in the village.

13. Withdrawal of candidature :-

(1) Any candidate may withdraw his candidature by a notice in writing subscribed by him and delivered to the Returning Officer between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon [on the day not later than the last day appointed for the withdrawal of candidature under rule 7]. Such notice may be delivered either by the candidate in person or by a person authorised in writing by him in this behalf. Any notice of withdrawal which is given after the expiry of the period prescribed in this rule shall not have any effect.

(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, on receiving notice of withdrawal under sub-rule (1) shall, as soon as may be thereafter, cause a notice of withdrawal to be affixed at the village chavdi and at the village

panchayat office.

Explanation:- A person who is unable to write his name shall be deemed to have subscribed the notice of withdrawal if he has placed a mark or thumb impression thereon in the presence of the Returning Officer or any other officer authorised by the Returning Officer in this behalf] [and such officer, on being satisfied as to the identity of that person, has attested the marks or thumb impression as the mark or thumb impression of that person.

14. Preparation of list of contesting candidates and notice of election :-

(1) On the expiry of the period for the withdrawal of candidature provided in rule 13, the Returning Officer shall prepare under his signature [a list of contesting candidates, that is to say, candidates who were included in the list of validly nominated candidates and who have not withdrawn their candidatures within the said period and post it or cause it to be posted up at [the village panchayat officer and at the village chavdi, or if there be no village chavdi, at any other conspicuous public place in the village at least five days] before the date appointed for the poll.

(2) On the day immediately preceding the day appointed for recording votes, the Returning Officer shall cause notice to be given in the village by beat of drum inviting all voters to be present on such day during the hours and at the polling stations fixed for recording votes.

14A. Death of candidate before poll :-

If contesting candidates dies and a report of his death is received by the Returning Officer before the commencement of the poll, the Returning Officer shall upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to [an officer authorised by the State Election Commissioner] and all proceedings with reference to the election shall be commenced a new in all respects as if for a new election.

Provided that -

(i) no further nomination shall be necessary in the case of a person who was a contesting candidate at the time of countermanding of the poll; and

(ii) no person who has given a notice of withdrawal of his candidate

under sub-rule (1) of rule 13 before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding.

15. Uncontested election s and failure to elect :-

(1) In any ward I which no seat is reserved for [Scheduled Castes or Scheduled Tribes or Backward Class of, Citizens or women]

(i) where the number of candidates duly nominated is equal to the number of seats to be filled the Returning Officer shall declare the candidates so nominated to be duly elected without any votes being taken.

(ii) where the number of candidates duly nominated, is less than the number of seats to be filled, the Returning Officer shall declare the candidates so nominated to be duly elected and in Section 10 ;

(iii) if the number of candidates duly nominated exceeds the number of seats to be filled, votes shall be taken for filling the vacancies in the manner provided by these rules.

(2) In any ward in which seats are reserved [Scheduled Castes or Scheduled Tribes or Backward Class of citizens or Women], the Returning Officer shall ascertain the number of candidates qualified to fill each reserved seat and thereafter proceed as follows:

(1) where the number of candidates qualified to be chosen to fill any of the reserved seats is equal to the number of such seats, all the candidates so qualified shall be declared by the Returning Officer to be elected to fill the respective reserved seats;

(ii) where the number of candidates qualified to be chosen to fill any of the reserved seats is less than the number of such seats, all such candidates shall be forthwith declared to be duly elected to fill the respective reserved seats; and in respect of the remaining such reserved seats it shall be deemed that the election has not resulted in the return of the required number of qualified persons willing to take office within the meaning of sub-section (3) of Section 10 .

(3) In any such ward as is referred to in sub-rule (2), -

(i) where all the remaining seats not dealt with under that sub-rule are unreserved, they shall be filled in the manner provided in sub-rule (1);

(ii) where the remaining seats include any reserved seats not dealt

with [under that sub-rule, and]

(a) [if the total number] of candidates for these remaining seats is equal to the number of such seats while the number of candidates qualified to fill such remaining reserved seats included therein exceeds the number of such seats, the Returning Officer representative shall first select from among the candidates qualified to be elected to the respective reserved seats, by lots to be drawn by him in such manner as he may determine, the candidates to be declared elected to the respective reserved seats and then declare the candidates so elected to be duly elected to fill the reserved seats and thereafter declare the remaining candidates to be duly elected to fill the remaining seats; [or]

(b) [if the total number] of candidates for these remaining seats and the candidates qualified to fill the reserved seats included therein exceeds such remaining seats and the reserved seats included therein respectively, votes shall be taken for filling all the seats in the manner specified in these rules.

16. Assignment of symbols :-

(1) In the case of every contested election the Returning Officer shall assign to each candidate any one of the following symbols namely:

(1)[Railway Engine]

(2) Steam Road Roller

(3) Sword.

(4) Aeroplane

(5) Tractor

(6)[Spear]

(7)[Clock]

(8) Bear

(9) Snake

(10) Bird.

(11) Fish.

(12)[Goat]

(13) Man

(14) Moon

(15)[Mango]

(16) Tiger

(17) Umbrella

(18) Motor Car.

(19) Dog

(20) Ship

(2) If the list of symbols in sub-rule (1) is exhausted, the Returning Officer may in his discretion allot to the candidate or candidates concerned any symbol other than those specified in the list.

17. Form of 1[ballot paper] :-

The [ballot paper] shall be printed in Form 'B' appended to these rules and shall contain the names of all the candidates in alphabetical order, together with the distinguishing symbol assigned to each candidate by the Returning Officer representative under rule 16;

Provided that the names of candidates declared by the Returning Officer to be elected under rule 15 shall not be entered in the [ballot paper].

18. Specimen ballot paper :-

Specimen ballot paper shall be pasted outside the polling station for the guidance of voters before the polling commences.

19. Election material and ballot boxes :-

(1) the presiding officer shall each be supplied with a ballot box with an aperture for receipt of ballot papers, a copy of the sections of voters list pertaining to the polling stations, sufficient number of ballot papers, serially numbered and such other materials for the purposes of the polling as may be necessary.

(2) Before the commencement of the poll, the presiding officer shall show the ballot box empty to such candidates or their agents as may be present at the polling station and shall then lock it and seal it in such manner as to prevent its being opened without breaking the seal.

20. Admission to polling booth :-

(1) On the day of the election, every presiding officer, shall admit to the ante-room of the polling booth at which he presides -

(a) the candidates and such agents as may be selected by the candidates to assist in the identification of voters; and

(b) polling officers and other public servants on duty: Provided that there shall be present at any time in addition to the candidates not more than one agent of each candidate in every polling booth.

(2) Besides the candidates and their agents, only voters [* * *] and such persons (if any) as may be admissible under special directions given by the presiding officer in this behalf shall be admitted to the polling booth.

21. Candidates and agents not to communicate with voters :-

(1) The candidates and their agents shall not speak to or address any voters in any part of the polling station, but may address to the presiding officer objections to a voter on any one of the following three grounds, namely :-

(1) that the voters name does not appear in the voter's list as entitled to vote in the ward in respect of which the election is being held;

(ii) that his claim to be a certain vote, whose name is entered in the voters list is false;

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

(2) Any person contravening the provisions of sub-rule (1) may be expelled from the polling station by the presiding officer, and a person so expelled shall not be re-admitted during the election.

22. Voters to attend polling stations :-

Every voter desirous of recording his vote shall attend for the purpose at the polling station for the ward for which he is entered in the voters list on such date and between such hours as have been appointed, by [an officer authorised by the State Election Commissioner] in this behalf under rule 7.

23. Recording of votes :-

Votes shall be recorded in accordance with the following provisions,

namely :-

(i) every voter shall be entitled to give as many votes as there are seats for filling which votes are to be taken in his ward, but no voter shall give more than one vote to any one candidate.

(ii) there shall be no voting by proxy;

(iii) every ballot paper shall be stamped with such distinguishing mark as [the State Election Commissioner] may direct and before it is issued to an intending voter, his name and his number in the voters list shall be called out so that all present can hear them;]

(iv) in cases where no objection has been raised [after recording the serial number of the ballot paper against the entry relating to the voter in the copy of the voters, list, the polling officer shall give the ballot paper to the voter] and admit him to the polling room, [but not more than one voter shall be admitted to the polling room at a time;] Where objections are raised by candidates and their agents, the presiding officer shall dispose of such objections and when satisfied that the intending voter is entitled to vote and has not yet voted, shall direct the polling officer to [give the ballot paper to him after taking his signature or thumb impression and recording the serial number of the ballot paper against his name in the voter's list. The voter shall then be admitted to the polling room.]

(v) the voter shall 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 so however that no part of the mark so made shall appear in the space provided for other candidate. The voter shall thereafter [ballot paper] so as to conceal his vote and insert the folded [ballot paper] into the ballot box and without undue delay leave the polling room;]

(vi) if, the presiding officer is satisfied that owing to blindness or other physical infirmity, a voter is unable to recognise the symbols on the ballot paper or to make a mark thereon without assistance, the presiding officer shall permit the voter to take with him a companion of not less than twenty-one years of age to the voting compartment for recording the vote on the ballot paper on his behalf in accordance with his wishes, and if necessary, for folding the ballot paper so as to conceal the vote and inserting it into the ballot box:

Provided that, no person shall be permitted to act as the companion of more than one voter at any polling station on the same day:

Provided further that, before any person is permitted to act as the companion of a voter on any day under this rule, such person shall be required to declare that he will keep secret the vote recorded by him on behalf of the voter and that he has not already acted as the companion of any other voter at any polling station on that day. The presiding officer shall keep a record in Form 'B-I' of all cases under this rule;

(vi-a) no ballot paper shall be issued to any voter before the hour fixed for the commencement of the poll;

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(vii) no ballot paper shall be issued to any voter after the hour fixed for the closing of the poll, except to those voters who are present at the polling station at the time of the closing of the poll. Such voters shall be allowed to record their vote even after the poll closes. If any question arises whether a voter was so present at the polling station, it shall be decided by the presiding officer and his decision shall be final.

23A. Safeguards against personation :-

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

(2) If any voter refuses to allow his left 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.

Explanation:- 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 this right hand, and shall, in the case where all his fingers of both the hands are missing, be construed as a reference to such

extremity of his left or right arm as he possesses.

24. Duties of presiding and other polling officer :-

(1) It shall be the duty of the officers and their assistants to see that votes are recorded with absolute secrecy; that only such person as may be admitted to the polling booth under these rules are admitted thereto, and that person who have recorded their votes, or against whom objections have been heard and upheld, leave immediately. It

(2) The presiding officer shall keep the ballot box under his own observation for the purpose of preventing malpractices and securing the observance of the rules.

25. Returning officer to supervise conducted of election :-

The election shall be conducted under the general supervision of the Returning Officer [* * *]

26. Voting by officers on duty at polling station :-

A presiding or polling officer or any person who is on duty at a polling station at which he is not entitled to vote may, if such officer or person is entitled to vote at the election in connection with which he is employed, record his vote at the polling station [* * *] [The ballot papers of such persons] shall be enclosed in sealed packets on which the names of the polling station to which they pertain shall be inscribed and such packers shall be delivered to the Returning Officer with the other articles mentioned in rule 30.

27. Tendered 5[ballot papers] :-

Where a person representing himself to be a particular voter entered in the voters list applies for a [ballot paper] after another person has voted as such voter, the applicant shall, after duly answering such questions as the presiding officer may ask, be entitled to receive a [ballot paper] The voter shall then record his votes in the manner provided by rule 23 and hand over the [ballot paper] to the presiding officer. The presiding officer shall write thereon the name of the voter and his number in the voters list and shall enclose the [ballot paper] in a separate packet and seal it. Such [ballot paper] shall not be counted by the Returning Officer and shall be termed "Tendered [ballot paper]" A list shall be maintained of the [ballot paper] so tendered in Form 'C' appended to these rules.

28. Spoilt ballot papers :-

A voter who has dealt with his [ballot paper] in such a manner that it cannot conveniently be used as a [ballot paper] may on delivering it to the presiding officer and satisfying him of the inadvertence, obtain another [ballot paper] in place of the spoilt paper, and the latter shall [* * *] be marked as "cancelled".

29. Challenged votes :-

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

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

(2) Where 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 and in the

(3) Where the presiding officer after such inquiry on the spot as he thinks necessary is of 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) Where the deposit made under sub-rule (1) is not forfeited under sub-rule (3), it shall be returned to the person by whom it was made after the close of the poll on the day on which it is made.

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

30. Sealing of ballot boxes, etc :-

(1) The presiding officer shall, as soon as practicable after the close

of the poll, in the presence of any candidate or representative of a candidate, if present, seal the aperture of the ballot boxes and seal with his own seal and the seal of any candidate or representative who may desire to affix his seal each ballot box in use at the polling station, unopened but with the key attached.

(2) The presiding officer shall then make up into separate packets, -

(i) the unused ballot papers;

(ii) the tendered ballot papers;

(iii) spoilt ballot papers;

(iv) the marked copies of the voters list;

(v)[* * *]

(vi) the tendered votes list; and

(vii) list of challenged votes He shall seal with his own seal and the seal of any candidate or a representative of such candidate who may desire to affix his seal, all the packets prepared under this rule.

(3) The ballot box and the packets, shall be forwarded by the presiding officer to the Returning Officer or any other person appointed by the Returning Officer to take charge of them till the votes are counted. He shall also forward with them a ballot paper account prepared in Form 'E' appended to these rules and enclose it in a separate sealed cover with the words "Ballot Paper Accounts" subscribed thereon.

31. Adjournment of poll In emergencies :-

(1) Where at an election the proceedings at any polling station for the poll are interrupted or obstructed by any riot or open violence, or where 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 Returning Officer or the presiding officer for such polling station shall announce an adjournment of the poll to a date to be appointed later, and where the poll is so adjourned by the presiding officer, he shall forthwith inform the Returning Officer concerned.

(2) whenever a poll is adjourned under sub-rule (1), the Returning

Officer shall immediately report the circumstances to [an officer authorised by the State Election Commissioner], who shall as soon as may be, appointed under rule 7, the day on which the poll shall recommence and the hours

(3) The provisions of these rules shall mutatis mutandis apply to the adjourned poll taken under this rule as they apply to the original poll.

31A. Fresh poll in case of destruction, etc. of ballot boxes :-

(1) If at any election, -

(a) any ballot box used at a polling station is unlawfully taken out of the custody of the presiding officer or the Returning Officer, or is accidentally or intentionally destroyed or lost, or is damaged or tampered with, to such an extent, that the result of the poll at that polling station cannot be ascertained, or

(b) any such error or irregularity in procedure as is likely to vitiate the poll, is committed at a polling station, the Returning Officer shall forthwith report the matter, to [an officer authorised by the State Election Commissioner].

(2) Thereupon, [an officer authorised by the State Election Commissioner shall after taking all material circumstances into account, either, -

(a) declare the poll at the polling station to be void, appoint a day and fix the hours, for taking a 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

(b) if satisfied that the result of a fresh poll at that polling station will not, in any way, affect the result of the election or that the error or irregularity in procedure is not material, issue such directions to the Returning Officer as he may deem proper for the further conduct and completion of the election.

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

32. Counting of votes :-

(1) The counting of votes shall be done by and under the supervision of the Returning Officer with the assistance of such

persons as he may appoint to assist in the counting of votes.

(2) On the day and at the time and place appointed under rule 7, for the counting of votes, the Returning Officer shall with respect to ballot boxes used at the poll proceed as follows:-

(i) All the ballot boxes placed for the counting of votes shall be counted and checked and the Returning Officer shall satisfy himself that all such boxes as contain the [ballot papers] which are to be counted at such places have been received and accounted for;

(ii) The Returning Officer shall then allow the candidates and their election agents and counting agents present at the counting an opportunity to inspect the ballot boxes and their seals for satisfying themselves that they are in order;

(iii) The Returning Officer shall also satisfy himself that none of the boxes has in fact been tampered with;

(iv) If the Returning Officer is satisfied that all such ballot boxes as contain the [ballot papers] which are to be counted at such place have been received and are in order, he shall take up the counting of [ballot papers] contained in the ballot boxes.

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

(vi) The Returning Officer shall allow the candidates and their election and counting agents, who may be present, reasonable opportunity to inspect all [ballot papers], which in the opinion of Returning Officer are liable to be rejected but shall not allow them to handle those or any other [ballot papers]. The Returning Officer shall on every [ballot papers] which is rejected, endorse the word "rejected". If any candidate or his election or counting agent questions the correctness of the rejection of any [ballot paper,] the Returning Officer shall also record briefly on such [ballot paper] the grounds for its rejection.

(vii) After counting of all ballot papers contained in all the ballot boxes used at a polling station has been completed, all the valid

ballot papers shall be bundled together and kept along with the bundle of rejected ballot papers in a separate packet which the Returning Officer shall cause to be sealed up and on which shall be recorded the following particulars, namely:-

- (a) the name of the village panchayat,
- (b) the number or name of the ward,
- (c) the particulars of the polling station where the ballot papers have been used, and
- (d) the date of counting].

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

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

33. Grounds for rejection of ballot papers :-

(1) A ballot paper contained in a ballot box shall be rejected if, -

- (a) it bears any mark or writing by which the voter can be identified;
- (b) it bears any serial numbers and prefix or suffix or mark different from the serial numbers and prefixes or suffixes or marks of ballot papers authorised for use at the polling station at which the ballot box in which it was found, was used;
- (c) the Returning Officer is satisfied that it is a spurious ballot paper or that it has been so damaged or mutilated that its identity as a genuine ballot paper cannot be established;
- (d) a voter has recorded more votes than he is entitled to give or has recorded more than one vote for any one candidate: [Provided that -

(1) where a Returning Officer is satisfied that any such defect as is

mentioned in clause (b) has been caused by any mistake or failure on the part of the presiding officer or the polling officer, the ballot paper shall not be rejected merely on the ground of such defect;

(ii) a ballot paper shall¹ 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.

(2) The decision of the Returning Officer as to the validity of a [ballot paper] contained in a ballot box shall be final.

34. Returning officer to declare result of election :-

(1) On completion of the statement showing the number of votes recorded, the Returning Officer shall from amongst the candidates qualified to be chosen to fill a reserved seat, if any, declare subject to the provisions of rule 5 the candidate who has secured the largest number of votes to be elected to fill such reserved seat:

Provided that, if in the same ward there is a reservation of seats for women and for [the Scheduled Castes Scheduled Tribes, Backward class of citizens and women) the result of the seat or seats reserved for Scheduled Castes or Scheduled Tribes shall be declared first and then the result of the seat or seats reserved for women.

(2) The Returning Officer shall then declare from among all other candidates, excluding those who have been declared elected to fill the reserved seats, if any, the candidate or candidates who have secured the largest number of votes to be elected to fill the unreserved seats.

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

35. Re-count of votes :-

(1) After such declaration has been made, a candidate, or, in his absence his election agent may apply in writing to the Returning

Officer for a re-count of all or any of the ballot papers already counted stating the grounds on which he demands such re-count.

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

(3) Every decision of the Returning Officer under sub-rule (2) shall be in writing and contain the reasons therefore.

(4) If the Returning Officer decides under sub-rule (2) to allow an application whether in whole or in part, he shall -

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

(b) amend the statement showing the number of votes recorded, referred to in sub-rule (4) of rule 32 to the extent necessary after such re-count; and

(c) announce the amendments so made by him and the result of the election.

36. Posting of result of election by Returning Officer :-

The Returning Officer shall cause the names of the elected candidates to be posted at the village chavdi or at the village panchayat office or at such other public place, if any, appointed in that behalf by him and shall report such names immediately to ¹[the State Election Commissioner]

1. Subs, by Mah. 52 of 1994, s. 12(b).

37. Publication of result of election :-

¹[The State Election Commissioner] shall forward the names of the elected persons to the ²[Standing Committee] and if the number of persons elected is less than the total number of members for the panchayat, ¹[the State Election Commissioner] shall call upon the ²[Standing Committee] to make appointments to the remaining seats under sub-sections (3) of Section 10. ⁵[Where two-thirds or more of the total number of members required to be elected are elected. ¹[the State Election Commissioner] shall, within ten days from the date of receipt of the result of the election, publish the names of the elected members as reported by the Returning Officer, ¹[* *] by causing a list of such members to be posted up at his office, the village chavdi and at the office of the village

panchayat. Where the election results in the return of less than two thirds of the total number of qualified persons willing to take office, ¹[the State Election Commissioner] shall, within ten days from the date of receipt from the Standing Committee of the names of members appointed under sub-section (3) of Section 10, publish the names of all the elected ⁹[* * *] and appointed members at the places referred to above.] The ¹⁰[State Election Commissioner] shall also similarly publish ¹¹[* * *], the names of members appointed under sub-section (3) of Section 10 after their appointments:

Provided that ¹[the State Election Commissioner] shall, before the publication of the names of the ¹elected, [* * *] and appointed members, be competent to correct any mistakes, if any, in the names of the ³ [elected, [* * *] and appointed members.

1. Subs, by Mah. 52 of 1994, s. 12(b).
2. Subs, by G.N. of 12.12.1966.
5. Subs, by G.N. of 9.6.1971
9. Deleted by Mah. 52 of 1994, s. 19(a)(ii)
10. bs, by Mah. 52 of 1994, s. 12(b).
11. leted by Mah. 52 of 1994, s. 19(b)

38. Record of proceedings :-

The Returning Officer shall keep a record of the proceedings of every election.

39. Custody of papers relating to election :-

¹ :- The Returning Officer shall keep in custody the tatements, packets and other documents referred to in rules 30 and 32 and all other papers relating to lie election.

1. Subs, by G.N. of 12.12.1966.

40. Production and inspection of election papers :-

¹

(1) While in the custody of the Returning Officer :-

- (a) the packets of unused ballot papers;
- (b) the packets of used ballot papers whether valid, tendered or rejected;
- (c) the packets of marked copies of the list of voters; shall not be opened and their contents hall not be inspected by, or produced before any person or authority except under the order of a

ompetent Court or authority.

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

1. Subs, by G.N. of 12.12.1966.

41. Destruction of ballot and other papers :-

(1) On the expiry of two months, from the date of the publication of the result of the election or where an application challenging the validity of an election has been made on the expiry of two months from the date of the decision on such application, whichever is later, the Returning Officer shall, with the previous sanction of [an officer authorised by the State Election Commissioner] destroy the ballot papers.

(2) All other papers relating to the election shall be retained until the termination of the next election of the village panchayat and shall, thereafter be destroyed, subject to any direction to the contrary given by [the State Election Commissioner) or a competent Court or authority.

41A. Multiple election :-

If a person is elected to more than one seat in village panchayat, the time within which he may resign all but one of the seats under Section 15A shall be seven days from the date of the posting of the result of the election by the Returning Officer under rule 36.

42. List of voters and notification about the various stages of election etc in regional language :-

The list of voters and the notice for public inspection of the lists under rule 3, and notification about the various stages of the election and notice of the intended election under rule 7 shall be in the regional language of the village.

43. Casual vacancies :-

The provisions of these rules shall, mutatis mutandis apply to bye-elections provided that, -

(i) no publication of voters list as provided in the case of general election under sub-rule (5) of rule 3, shall be necessary in the case of a bye-election;

(ii) * * *]

44. Power of the State Election Commissioner to delegate

his power under these rules :-

The State Election Commissioner may delegate to an officer authorised by him not below the rank of a Tahsildar power exercisable by him under these rules.

44A. No change in division of wards and reservation of seats for election after dissolution :-

In case of dissolution of a village panchayat before the expiry of its term, the elections to such village panchayat shall be held without making any changes in the formation of wards, reservation of seats and other related matters.

45. Repeals and savings :-

The Bombay Village Panchayats Election Rules, 1948 and all other rules corresponding thereto in force in any part of the State immediately before the commencement of these Rules are hereby repealed:

Provided that anything done or any action taken under any of the rules so repealed shall, unless such thing or action is inconsistent with any of the provisions of these Rules, be deemed to have been done or taken under the corresponding provisions of these Rules.