

## **Corporation Of The City Of Panaji (Election) Rules, 2004**

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## **Corporation Of The City Of Panaji (Election) Rules, 2004**

### **PART 1 Preliminary**

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

(1) These rules may be called the Corporation of the City of Panaji (Election) Rules, 2004.

(2) They shall come into force at once.

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

In these rules, unless the context otherwise requires,

(a)"Act" means the City of Panaji Corporation Act, 2002 (Act No.1 of 2003);

(b)"Commission" means the State Election Commission as defined in clause (51) of section 5 of the Act;

(c)"Corporation" means the Municipal Corporation of the City of Panaji, constituted or deemed to be constituted under the Act;

(d)"election" means an election to fill a seat or seats in the Corporation;

(e)"electoral roll" means the municipal election roll prepared under the Act;

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

(g)"Government" means Government of Goa;

(h)"Returning Officer" or "Assistant Returning Officer" means an officer duly appointed by the State Election Commissioner;

(i)"State Election Commissioner" means the State Election Commissioner referred to in clause (51) of section 5 of the Act;

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

(k)"ward" means a ward of the Corporation;

(1) Words and expressions used but not defined in these rules, shall have the same meaning as assigned to them in the Act.

## **PART 2** General Provisions

### **3. Maintenance of Electoral Rolls :-**

The State Election Commissioner shall maintain an authentic copy of electoral rolls prepared under section 13 of the Act.

### **4. Fixation of various stages of Election :-**

(1) For the purpose of holding election, the Commission shall, by order in Form I, appoint:-

(a) the last date, time and place for making nominations;

(b) the date, time and place for scrutiny of nominations, which shall be a date not later than the third day after the last date for making nominations;

(c) the last date for withdrawal of candidature, which shall be a date not later than the third day after the date for scrutiny of nominations;

(d) the date or dates on which a poll shall, if necessary, be taken, which or the first of which dates shall be a date not earlier than the twelfth day after the last date for the withdrawal of candidatures, and the time during which the poll shall be taken on the date or dates so fixed:

Provided that, such date or dates shall not be earlier than two months before the date of expiry of the term of office of the Councillors of the Corporation to which such election is to be made and shall not be later than fifteen days before the date of such expiry:

Provided further that in the case of the first elections to be held under the Act, the date or dates to be fixed for the poll shall be

such as the Commission may deem fit, but such date or dates shall not be earlier than the twelfth day after the last date for the withdrawal of candidatures;

(e) the date or dates, time and place for the counting of votes, and

(f) the dates, time and places for other stages of the elections.

(2) The Commission shall, not less than seven days before the last date fixed for the nomination of candidates, cause the order under sub-rule (1) to be published as a public notice by putting up such order on the notice board of the Corporation and where there are local newspapers, also additionally by publication in one or more of such newspapers and Official Gazette. The Commission shall also arrange to give wide publicity to the election programme by affixing copies of the order in local languages at the Corporation office and at such other conspicuous places within the Corporation area as may be deemed fit and by causing the said order to be published in such other manner as it deems fit.

## **5. Appointment of Returning Officer and Assistant Returning Officers :-**

(1) The Commission shall appoint any Officer of the Government not below the rank of Deputy Collector to be a Returning Officer in respect of any election or part of an election under these rules.

(2) (a) The Commission may, if deemed necessary, appoint any officer of the Corporation not below the rank of Assistant Commissioner or an officer of the Government not below the rank of Deputy Collector to be an Assistant Returning Officer to assist any Returning Officer in the performance of his functions;

(b) The 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 relates to the scrutiny of nomination papers or to the counting of votes, unless the Returning Officer is unavoidably prevented from performing the said functions.

#### **6. Returning Officer to include Assistant Returning Officer performing functions of Returning Officer :-**

Subject to the provisions of sub-rule (2) of rule 5, reference in these rules to the Returning Officer shall, unless the context otherwise requires, be deemed to include an Assistant Returning Officer.

#### **7. General Duty of 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 these rules.

#### **8. Polling Stations :-**

The Returning Officer shall provide a sufficient number of polling stations for each ward for which election is to be held and shall, not later than seven days before the date of poll, publish a list showing the polling stations and the areas for which they will be set up (hereinafter referred to as the "polling area").

#### **9. Appointment of Presiding and Polling Officers :-**

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

Provided that, if a polling officer is absent from the polling station, the Presiding Officer may appoint any person who is present at the polling station, 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, to be the polling officer during the absence of the former officer, and inform the Returning Officer accordingly.

(2)A polling officer shall, if so directed by the Presiding Officer, perform all or any of the functions of a Presiding Officer under these rules.

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

(4)Reference in these rules to the Presiding Officer shall, unless the context otherwise requires, be deemed to include any person performing any function which he is authorized to perform under sub-rule (2), or as the case may be, under sub-rule (3).

#### **10. General Duty of Presiding Officer :-**

It shall be the general duty of the Presiding Officer at a polling station to keep order thereat and to see that the poll is fairly taken.

#### **11. Control :-**

The Returning Officer, Assistant Returning Officer, Presiding Officers, Polling Officers and all other persons appointed for any matter connected with these rules shall work under the direction and supervision of the Commission.

#### **12. Nomination of Candidates :-**

(1) Any person may be nominated as a candidate for election to fill a seat, if he is qualified to be chosen to fill that seat under the provisions of the Act.

(2)Every nomination paper shall be in Form II, which shall be supplied by the Returning Officer to any voter on demand. The

nomination paper duly completed and signed by the candidate and by a voter of the ward as proposer, shall be delivered to the Returning Officer in duplicate by each candidate, either in person or by his proposer, on or before the date appointed under sub-rule (1) of rule 4 during the time and at the place specified thereunder.

(3) Any person who is qualified to vote under section 14 and whose name is entered in the electoral roll for the ward for which the candidate is nominated, may subscribe as proposer. He shall not subscribe as proposer for more than one nomination paper. If he does so, all the nomination papers so subscribed, except the one received first shall, notwithstanding anything contained in sub-rule (2) of rule 13, be invalid. The same candidate may, however, be nominated by more than one nomination paper for election in the same ward.

(4) In a ward where the seat is reserved for Scheduled Castes or Scheduled Tribes or Other Backward Class, a candidate shall not be deemed to be qualified to be chosen to fill that seat, unless the nomination paper contains a declaration by him specifying the particular Scheduled Caste or Scheduled Tribe or other Backward Class of which he is a member supported by a certificate issued by a competent authority to that effect.

(5) On receiving a nomination paper under sub-rule (2), the Returning Officer shall inform the person delivering the same, the day, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper its serial number and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him. The Returning Officer shall then sign a receipt for the nomination paper and the notice of scrutiny in Form III and hand over the same to the person presenting the nomination paper. As soon as may be after receipt of a nomination paper, the Returning Officer shall cause to be affixed in some conspicuous place in his office a notice of the nomination alongwith the duplicate copy of Part A of the nomination paper.

(6) When elections are to be held at or about the same time in two

or more wards, one and the same person, if qualified, may be nominated for election in all or any number of the said wards.

### **13. Scrutiny of Nomination Papers :-**

(1) The candidates, one proposer of each candidate and one other person duly authorized in writing by each candidate, but no other person, may attend at the time and place fixed for the scrutiny of the nomination papers under rule 4, and the Returning officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered as required by sub-rule (2) of rule 12.

(2) The Returning Officer shall examine the nomination papers and decide all objections 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, that is to say:-

(a) that the candidate is not qualified or is disqualified for election under the Act;

(b) that the proposer is not qualified to nominate the candidate;

(c) that there has been a failure to comply with any of the provisions of the Act or prescribed by these rules;

(d) that the candidate or proposer is not identical with the person whose electoral number is specified in the nomination paper as the number of such candidate or proposer, as the case may be;

(e) that the signature of the candidate or the proposer on the nomination paper is not genuine or is obtained by fraud.

(3) Nothing contained in clauses (c), (d), 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 defect, which is not of a substantial character.

(5)The Returning Officer shall hold the scrutiny on the date appointed in this behalf under clause (b) of sub-rule (1) of rule 4 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 any objection is raised by the Returning Officer or is made by any other person, the candidate concerned may be allowed time to rebut it not later than the next day and the Returning Officer shall record his decision on the date to which the proceedings have been adjourned.

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

(7)For the purpose of this rule, 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 or to subscribe a nomination paper, as the case may be, unless it is proved that the candidate or the proposer is disqualified.

(8)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 in Form IV. The Returning Officer shall then affix list on his notice board and shall record the date on which and

time at which the list was so affixed.

#### **14. Deposits :-**

(1) On or before the date appointed for the delivery of nomination papers, each candidate shall deposit, or cause to be deposited, with the Returning Officer a sum of Rs. 2000/- (Rupees two thousand only) for general category and Rs.1000/- (Rupees one thousand only) for reserved category in cash and no candidate shall be deemed to be duly nominated, unless such deposit is made:

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

(2) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made withdraws his candidature in the manner and within the time specified in these rules; or if the nomination of any such candidate is refused, the deposit shall be returned to the person by whom it was made; and, if any candidate dies before the commencement of the poll, any such deposit, if made by him, shall be returned to his legal representative or, if not made by the candidate, shall be returned to the person by whom it was made.

(3) On a candidate being elected, such deposit shall be returned to him or to the person who made it, as the case may be, after the declaration of result.

(4) On a candidate failing to get elected, if the number of valid votes polled by him does not exceed one-eighth of the total number of valid votes polled by all the candidates, the deposit shall be forfeited to the Corporation.

(5) A deposit made in respect of an unsuccessful candidate, if not forfeited under sub-rule (4), shall be returned to the person making

it, as soon as may be, after the publication of the result of the election in the Official Gazette.

**15. Assignment of symbols to and publication of list of contesting candidates :-**

(1) Subject to any general or special directions issued by the Government in this behalf by notification in the Official Gazette, the Returning Officers shall on the day immediately following the last day for withdrawal of candidatures, allot to each candidate a symbol in the manner hereinafter indicated in the Schedule mentioned below:

SCHEDULE

1. Aeroplane

2. Almirah

3. Baby Doll

4. Ball

5. Camera

6. Car

7. Desk

8. Door

9. Envelope

10.Fire Engine

11.Flute

12.Frying Pan

13.Gas Cylinder

14.Gas Stove

15.Hanger

16.Hat

17.Ink Pot and Pen

18.Jeep

19.Kite

20.Lock and Key

21.Pressure Cooker

22.Railway Engine

23.Road Roller

24.Sewing Machine

25.Stool

26.Table Lamp

27.Television

28.Violin

29.Walking Stick

30.Whistle:

Provided that, where the number of candidates contesting the election exceeds the number of symbols indicated in this rule, the Returning Officer may assign any other symbol except symbols of recognized national parties as declared by the Election Commission of India, and symbols not being depiction of birds and animals, to any candidate to whom no symbol has been assigned.

(2)The Returning Officer shall assign to each candidate one symbol in the order of symbols mentioned in the Schedule to sub-rule (1) and after arranging the names of the final list of candidates in alphabetical order in Roman script as required under sub-rule (3).

(3)The Returning Officer shall thereafter publish a list of contesting candidates. Such list shall be in Form V and shall contain the names in alphabetical order determined with reference to the surnames of the candidates having surnames, and the names proper, of other Candidates, and their addresses as given in the nomination papers.

**16. Withdrawal of candidature :-**

(1) Any candidate may withdraw his candidature in person by

notice in writing subscribed by him or through his election agent who has been authorized in this behalf in writing by the candidate and delivered to the Returning Officer on or before the day appointed under clause (c) of sub-rule (1) of rule 4 and;

(2)The notice shall be delivered to the Returning Officer before 3 o'clock in the afternoon on the last day fixed under sub-rule (1) for withdrawal of candidature.

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

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

(5)The Returning Officer shall, on being satisfied as to the genuineness of a notice of withdrawal and the identity of the person delivering it under sub-rule (1), cause the notice to be affixed on the notice board in his office.

### **17. Appointment of Election Agent and Revocation of such appointment :-**

(1) If a candidate desires to appoint an election agent, such appointment shall, subject to the provisions of sub-rule (3), be made in Form VI and lodged with the Returning Officer either at the time of delivering the nomination paper or at any time before the election.

(2)The appointment of the election agent may be revoked by the candidate at any time by a declaration in writing signed by him and lodged with the Returning Officer. Such revocation shall take effect from the date on which it is so lodged. In the event of such 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 for the time being disqualified under section 15 from being elected at any election to the Corporation, shall, so long as the disqualification subsists, be appointed as an election agent.

### **18. Appointment of Polling Agent :-**

(1) At an election at which a poll is to be taken, any contesting candidate or his election agent, may appoint one agent and two relief agents to act as polling agents of such candidate at each polling station. Such appointment shall be made by a letter in writing in duplicate in Form VII signed by the candidate or his election agent, prior to the date fixed for polls.

(2) The candidate or his election agent shall deliver the duplicate copy of the letter of appointment to the polling agent, who shall, on the date fixed for the poll, present it to, and sign the declaration contained therein before the Presiding Officer. The Presiding Officer shall retain the duplicate copy presented to him in his custody. No polling agent shall be allowed to perform any duty at the polling station, unless he has complied with the provision of this sub-rule.

### **19. Appointment of Counting Agents :-**

(1) Each contesting candidate or his election agent may appoint not more than four agents to act as counting agents of such candidate by a letter in writing in duplicate in Form VII signed by the candidate or his election agent.

(2) Before the commencement of the counting of votes, the candidate or his election agent shall give notice of the appointment of such counting agents to the Returning Officer by forwarding to such officer the letter of appointment referred to in sub-rule (1), one day prior to the date fixed for counting.

(3)The candidate or his election agent shall also deliver the duplicate copy of the letter of appointment to the counting agent who shall, on the date fixed for the counting of votes, present it to, and sign the declaration contained therein before the Returning Officer one day prior to the date fixed for counting. The Returning Officer shall retain the duplicate copy presented to him in his custody. No counting agent shall be allowed to perform any duty at the place fixed for the counting of votes, unless he has complied with the provisions of this sub-rule.

## **20. Revocation of Appointment or Death of Polling Agent :-**

(1) The appointment of the polling agent may be revoked by the candidate at any time before the commencement of the poll by a declaration in writing signed by him.

(2)Such declaration 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 Presiding Officer of 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)Wherever the Returning Officer receives any declaration or report made under sub-rule (1) or (2), he shall forthwith communicate such declaration 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 poll, 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 sub-rule (1) of rule 18:

Provided that, the letter of appointment of a new polling agent shall,-

(a)in the case where such appointment is made not less than seven days before the commencement of the poll, be given to the Returning Officer; and

(b)in any other case, be given to the Returning Officer or the Presiding Officer of the polling station where the new polling agent is appointed.

(6) The provision of sub-rule (2) of rule 18 shall apply in relation to a polling agent appointed under sub-rule (5) as they apply in relation to a polling agent appointed under sub-rule (1) of rule 18.

## **21. Revocation of Appointment or Death of Counting Agent**

:-

(1) The appointment of the counting agent may be revoked by the candidate at any time before the commencement of the counting of

votes by a declaration in writing signed by him. Such declaration shall be lodged with the Returning Officer.

(2) If the counting agent of a candidate dies before the completion of the counting of votes, the candidate or his election agent shall forthwith report the death in writing to the Returning Officer.

(3) Where the appointment of a counting agent is revoked under sub-rule (1) or where the counting agent dies before the completion of the counting of votes, the candidate or his election agent may appoint a new counting agent in the manner laid down in sub-rule (1) of rule 19.

(4) The provisions of sub-rules (2) and (3) of rule 19 shall apply in relation to a counting agent appointed under sub-rule (3) as they apply in relation to a counting agent appointed under sub-rule (1) of rule 19.

## **22. Death of candidate before poll :-**

If a contesting candidate dies and a report of his death is received by the Returning Officer before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll in respect of the ward to the election of which the deceased was a candidate and report the fact to the State Election Commission and all proceedings with reference to the election of such ward shall be commenced as if 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 validly nominated candidate at the time of the countermanding of the poll; and

(ii) no person who has given a notice of withdrawal of his candidature by rule 16 before the countermanding of the poll, shall be ineligible for being nominated as a candidate for the election after such countermanding.

### **23. Uncontested Election :-**

(1) If in any ward, only one candidate has filed a nomination, and his nomination has been accepted, the Returning Officer shall forthwith declare such candidate to be duly elected.

(2) If in any ward, only one nomination out of several nominations made, has been accepted, the Returning Officer shall declare the candidate whose nomination has been accepted, to be duly elected.

### **24. Contested Elections :-**

In cases other than those covered by rule 23, a poll shall be taken: Provided that in case no candidate has filed a nomination or where all the nominations of the candidates have been rejected, all proceedings with reference to the election of such ward shall be commenced afresh, as if for a new election.

### **25. Manner of Voting at Elections :-**

At every contested election, votes shall be given either by ballot or by electronic voting machine, decided by the Commission, in the manner provided in Part III or Part IV respectively, of these rules.

### **PART 3 Voting by Ballot**

### **26. Ballot box :-**

Every ballot box shall be of such design and colour, as may be approved by the Commission. It shall be so constructed that ballot papers can be introduced therein but cannot be withdrawn therefrom without the box being unlocked and the seals being broken.

### **27. Ballot Paper :-**

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

(2) The names of the candidates shall be arranged on the ballot

paper in the same order in which they appear in the list of contesting candidates at the election prepared and published under rule 15.

(3) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.

## **28. Arrangement at Polling Stations :-**

(1) Outside each polling station there shall be displayed prominently.-

(a) a notice specifying the polling area, the voters of which are entitled to vote at the polling station, and where the polling station has more than one polling booth, at each one of such booths, the description of voters allotted to such booth; and

(b) another notice giving the name of each candidate in the same language or languages and in the same order in which the names of such candidates appear in the list of contesting candidates at the election published under rule 15 together with the description of the symbol which has been assigned to each of such candidate under that rule.

(2) The Returning Officer shall cause to be provided at every polling station a compartment (referred to in these rules as a "polling compartment") in which voters can record their votes screened from observation.

(3) The Returning Officer shall provide at each polling station a sufficient number of ballot boxes, ballot papers, copies of the list of voters in respect of the polling area or areas the voters of which are entitled to vote at such polling station, instruments for stamping, the Official mark on the ballot papers and articles necessary for voters to mark the ballot paper. The Returning Officer shall also

provide at each polling station such other equipment and accessories as may be required for taking the poll at such polling station.

**29. Admission to Polling Station- The Presiding Officer shall regulate the number of voters to be admitted at any one time inside the polling station and shall exclude therefrom all persons other than :-**

(a)polling officers;

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

(c)persons authorized by the Commission or the Returning Officer;

(d)candidates, their election agents and subject to the provisions of rule 18, 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 person as the Returning Officer or the Presiding Officer may employ for the purpose of identifying the voter.

**30. Preparation of Ballot Boxes for Poll :-**

(1) Where a paper seal is used for securing the ballot box, the Presiding Officer shall fix in the space meant therefor a paper seal provided for the purpose. He shall also affix on such paper his signature and obtain thereon signatures of such candidates or such election or polling agents of the candidates as may be present and may desire to affix their signatures. He shall then secure and seal

the ballot box in such manner that the slit for insertion of ballot papers therein remains open.

(2) Where it is not necessary to use a paper seal for securing a ballot box, the Presiding Officer shall secure and seal the box in such manner that the slit in the box for insertion of ballot papers therein remains open and shall allow the candidates or their election or polling agents who may be present to affix their own seals on the space in the box meant therefor, if they so desire.

(3) Every ballot box used at a polling station shall bear labels, both inside and outside, marked with,-

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

(b) the serial number and name of the polling station;

(c) the serial number of the ballot box (to be filled in at the end of the poll on the label outside the ballot box only); and

(d) the date of poll.

(4) Immediately before the commencement of the poll, the Presiding Officer shall demonstrate to the candidates, their election agents and their polling agents, who may be present at such station and all other persons present that the ballot box is empty and bears the labels referred to in sub-rule (3).

(5) The ballot box shall then be closed, sealed and secured and placed in full view of the Presiding Officer and the polling agents.

### **31. 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 assistant at a polling station to assist women voters and also to assist the Presiding Officer generally in taking the poll in respect of women voters, and, in particular, to help in searching any women voters in case it becomes necessary.

### **32. Identification of Voters :-**

(1) The Presiding Officer may employ at the polling station such persons, as he thinks fit, to help in the identification of the voters or to assist him otherwise in taking a poll.

(2) As each voter enters the polling station, the Presiding Officer, or the Polling Officer authorized by him in this behalf, shall check the voters name and other particulars with the relevant entry in the list of voters and then call out the serial number, name and other particulars of the voter.

(3) In deciding the right of a person to obtain a ballot paper, the Presiding Officer or the Polling Officer, as the case may be, shall overlook merely clerical or printing errors, in an entry in the list of voters, if he is satisfied that such person is identical with the voter to whom such entry relates.

(4) The identity of voters shall be decided on the basis of -

(i) Photo Identity Card issued by the Election Commission of India;  
or

(ii) Photo Identity Card issued by any Department of the Central or State Government; or

(iii) PAN Card issued by the Income Tax Department; or

(iv) Passport; or

(v) Student Photo identity card issued by a recognized educational institution; or

(vi) Driving Licence issued by the Directorate of Transport; or

(vii) Photo Identity Card issued to an employee by the employer provided the name and designation of the issuing authority is clearly shown.

### **33. Challenging of Identity :-**

(1) Any candidate, election agent or polling agent may challenge the identity of a person claiming to be a particular voter by first depositing a sum of Rs. 5/- in cash with the Presiding Officer for each such challenge.

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

(a) warn the person challenged of the penalty for personation;

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

(c) enter his name and address in the list of challenged votes in Form IX; and

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

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

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

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

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

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

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

#### **34. Safeguards against Personation :-**

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

(2)(a) 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;

(b)A person who fails or refuses to produce documentary evidence as required under rule 71 (4) to prove his identity shall also not be supplied with 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 reference to such extremity of his left or right arm as he possesses.

### **35. Issue of Ballot Paper :-**

(1) Every ballot paper before it is issued to an elector, and the counterfoil attached thereto shall be stamped on the back with such distinguishing mark as the Commission may direct and every ballot paper, before it is issued, shall be signed in full on its back by the Presiding/Polling Officer.

(2)Before the issue of ballot paper to intending an voter,-

(a)his name and serial number in the voters list shall be called out so that all present can hear them;

(b)the electorall number of the elector as entered in the marked copy of the electoral roll shall be recorded on its counterfoil;

(c)the signature or thumb impression of that elector shall be obtained on the counterfoil;

(d) the name of the elector shall be marked; in the marked copy of the electoral roll to indicate that a ballot paper has been issued to him alongwith the serial number of the ballot paper issued to that elector.

(3)Where objections are raised by candidates and/or their agents, the Presiding Officer shall dispose of such objections as provided in rule 33 and when satisfied that the intending voter is entitled to vote and has not yet voted, shall direct the Polling Officer to issue him a ballot paper as provided in this rule.

(4)Save as provided in sub-rule (2), no person in the Polling Station shall note down the serial number of the ballot issued to a particular voter.

### **36. Voting Procedure :-**

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

(a) proceed to one of the polling 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.

(2) Every voter shall vote without undue delay.

(3) No voter shall be allowed to enter a polling compartment when another voter is inside it.

**37. Recording of Vote of Blind or Infirm voter :-**

(1) If, owing to blindness or other physical infirmity, a voter is unable to recognize the symbols on the ballot paper or to make a mark thereon, the Presiding Officer shall record the vote on the ballot paper in accordance with the wishes of the voter, fold it so as to conceal the vote and insert it into the ballot box.

(2) While acting under this rule, the Presiding Officer shall observe as much secrecy as is feasible. He shall keep a brief record of each such instance but shall not indicate therein the manner in which any vote has been given.

**38. Spoilt and Returned Ballot Papers :-**

(1) A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper, may, on returning it to the Presiding Officer and on satisfying him of the inadvertence, be given another ballot paper, and the ballot paper so returned shall be marked "Spoilt- -cancelled" by the Presiding Officer.

(2) If a voter, after obtaining a ballot paper, decides not to use it, he shall return it to the Presiding Officer, and the ballot paper so returned shall be marked as "Returned- cancelled" by the Presiding Officer.

(3) All ballot papers cancelled under sub-rule (1) or sub-rule (2) shall be kept in a separate packet.

### **39. Tendered Voters :-**

(1) If a person representing himself to be a particular voter applies for a ballot paper after another person has already voted as such voter, he shall, on satisfactorily answering such questions relating to his identity as the Presiding Officer may ask, be entitled, subject to the following provisions of this rule, to mark a ballot paper (hereinafter 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 X.

(3) A tendered ballot paper shall be the same as the other ballot papers used at the polling station, except that it shall be.-

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

(b) endorsed on the back with the words "tendered ballot paper" by the Presiding Officer in his own hand and signed by him.

(4) The voter after marking a tendered ballot paper in the polling compartment and folding it, shall instead of putting it into the ballot box, give it to the Presiding Officer who shall place it in a cover specially kept for the purpose.

### **40. Closing of Poll :-**

(1) The Presiding Officer shall close a polling station at the hour fixed in that behalf under rule 4 and shall not thereafter admit any voter into the polling station:

Provided that, all voters present at the polling station before it is

closed shall be allowed to cast their votes;

(2) If any question arises as to whether a voter was present at the polling station before it was closed, it shall be decided by the Presiding Officer and his decision shall be final.

#### **41. Sealing of Ballot Boxes after Poll :-**

(1) As soon as practicable after the closing of the poll, the Presiding Officer shall, in the presence of any candidates or their election or polling agents, if in attendance, close the slit of the ballot box, and where the ballot box does not contain any mechanical device for closing the slit, he shall seal up the slit and also allow any polling agent present to affix his seal.

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

(3) Where it becomes necessary to use a second ballot box by reason of the first box getting full, the first box shall be closed, sealed and secured as provided in sub-rules (1) and (2) before another ballot box is put into use.

#### **42. Account of Ballot Papers :-**

The Presiding Officer shall, at the close of the poll, prepare a ballot paper account in Form XI and enclose it in a separate cover with the words "Ballot Paper Account" superscribed thereon.

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

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

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

(b) the unused ballot papers;

(c)the cancelled ballot papers;

(d)the cover containing the tendered ballot papers and the list of tendered ballot papers;

(e)the list of challenged votes; and

(f)any other papers directed by the Returning Officer to be kept in a sealed packet.

(2)Each such packet shall be sealed with the seals of the Presiding Officer and of those polling agents present who may desire to affix their seals thereon.

**44. Transmission of Ballot Boxes, Packets, etc. to the Returning Officer :-**

(1) The Presiding Officer shall then deliver or cause to be delivered to the Returning Officer at such place as the Returning Office may direct-

(a)the ballot boxes;

(b)the ballot paper account;

(c)the sealed packets referred to in rule 43, and

(d)all other papers used at the poll.

(2)The Returning Officer shall make adequate arrangements for the safe transport of all ballot boxes, packets and other papers and for their safe custody until the commencement of the counting of

votes;

**45. 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 Returning Officer or the Presiding Officer for such polling station shall announce an adjournment of the poll to a date to be fixed later, and where the poll is so adjourned by the Presiding Officer, he shall forthwith inform the Returning Officer concerned.

(2) Whether a poll is adjourned under sub-rule (1), the Returning Officer shall immediately report the circumstances to the Commission who shall, as soon as may be, fix the day on which the poll shall recommence and fix the polling station at which and the hours during which, the poll shall be taken. The Returning Officer shall not count the votes cast at such election, until such adjourned poll shall have been completed.

(3) In every such case as aforesaid, the Commission shall publish the date, place and hours of the poll fixed under sub-rule (2) in the manner laid down in rule 4; and the provisions of these rules governing the original poll shall, mutatis mutandis, apply to the fresh poll taken under this rule.

**46. Procedure on Adjournment of poll :-**

(1) If the poll at any polling station is adjourned under rule 45, the provisions of rules 41 to 44 (both inclusive) shall, as far as practicable, apply, as if the poll was closed at the hour fixed in that behalf under rule 4.

(2) When an adjourned poll is recommenced under sub-rule (2) of rule 45, the voters who have already voted at the poll so adjourned shall not be allowed to vote again.

(3)The Returning Officer shall provide the Presiding Officer of the polling station at which such adjourned poll is held, with the sealed packet containing the marked copy of the list of voters and a new ballot box.

(4)The Presiding Officer shall open the sealed packet in the presence of the polling agents present and use the marked copy of the list of voters for recording the serial numbers of the ballot papers issued to voters at the adjourned poll.

(5)The provisions of rules 25 to 44 (both inclusive) shall, mutatis mutandis, apply in relation to the conduct of an adjourned poll as they apply in relation to the poll before it was so adjourned.

**47. 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 at 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 the Commission.

(2)Thereupon, the Commission, shall, after taking all material circumstances into account, either

(a)declare the poll at that 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 or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.

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

(1) The returning officer shall, at least one week before the date, or the first of the dates, fixed for the poll, appoint the place or places where the counting of votes will be done and the date and time at which the counting will commence and shall give notice 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, time and place or places so fixed, or any of them, after giving notice of the same in writing to each candidate or his election agent.

(2) At every election where a poll is taken, votes shall be counted by, or under the supervision and direction of, the Returning Officer, and each contesting candidate, his election agent and his counting agents shall have a right to be present at the time of counting.

#### **49. Admission to the place fixed for counting :-**

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

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

(b) persons authorized by the Commission;

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

(d) candidates, their election agents and counting agents.

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

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

(4) Any person, who during the counting of votes misconducts himself or fails to obey the lawful directions of the Returning Officer, may be removed from the place where the votes are being counted by the Returning Officer or by any police officer on duty or by any person authorized in this behalf by the Returning Officer.

#### **50. Maintenance of Secrecy of Voting :-**

The Returning Officer shall, before he commences the counting, read out the provisions of section 128 of the Representation of the People Act, 1951 (Central Act 43 of 1951) to such persons as may be present.

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

(1) The Returning Officer may have the ballot boxes used at more than one polling station and their contents counted simultaneously.

(2) Before any ballot box is opened at a counting table, the

counting agents present at that table shall be allowed to inspect the paper seal or such other seal as might have been affixed thereon and to satisfy themselves that it is intact.

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

(4)If the Returning Officer is satisfied that any ballot box has, in fact, been tampered with, he shall not count the ballot papers contained in that box and shall follow the procedure laid down in rule 47 in respect of that polling station.

## **52. Scrutiny and Rejection of Ballot Papers :-**

(1) The ballot papers taken out of each ballot box shall be arranged in convenient bundles and scrutinized.

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

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

(b)if no vote is recorded thereon; or

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

(d)if the mark indicating the vote thereon is placed in such manner as to make it doubtful to which candidate the vote had 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 authorized for use at the polling station; or

(h)if it does not bear the mark which it should have borne under the provisions of sub-rule (1) of rule 35:

Provided that-

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

(ii)a ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.

(3)Before rejecting any ballot paper under sub-rule (2), the Returning Officer shall allow each counting agent present a reasonable opportunity to inspect the ballot paper but shall not allow him to handle it or any other ballot paper.

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

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

### **53. Counting of Votes :-**

(1) All ballot papers, which are not rejected under rule 52, shall be taken for counting and the votes recorded in favour of each candidate shall be counted with the aid of persons appointed to assist the Returning Officer under clause (a) of sub-rule (1) of rule 49:

Provided that, no cover containing tendered ballot papers shall be opened and no such paper shall be counted.

(2) Upon the completion of counting of votes in respect of a polling station, the Returning Officer shall make the entries in a result sheet in Form XII and announce the particulars.

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

a.the name or number of the ward;

b.the name or number of the polling station; and

c.the date of counting.

### **54. Counting to be continuous :-**

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

## **55. Recommencement of counting after fresh poll :-**

(1) If a fresh poll is held under rule 47, the Returning Officer shall, after completion of that poll, recommence the counting of votes on the date and at the time and place which have been fixed by the Commission in that behalf and of which notice had been previously given to the candidates and their election agents.

(2) The provisions of rules 52 and 53 shall apply, so far as may be, to such further counting.

## **56. Re-count of votes :-**

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

(2) After such announcement has been made, a candidate or, in his absence, his election agent, may apply in writing to the Returning Officer for a re-count of all or any of the ballot papers already counted within five minutes stating the grounds on which he demands such re-count.

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

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

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

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

(b) amend the result sheet in Form XII to the extent necessary after such re-count; and

(c) announce the amendments, so made by him.

(6) After the total number of votes polled by each candidate has been announced under sub-rule (1) or sub-rule (5), the Returning Officer shall complete and sign the result sheets in Form XII and no application for a re-count shall be entertained thereafter:

Provided that, no step under this sub-rule shall be taken on the completion of the counting until the candidates and election agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by sub-rule (2).

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

If, after the counting of the 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.

#### **58. Declaration of result :-**

The Returning Officer shall then declare to have been elected the candidate to whom the highest number of valid votes has been given, complete and certify the return of election in Form XIII, and send signed copies thereof to the Commission as soon as possible.

#### **59. Custody of Election Papers :-**

The Returning Officer shall retain in his custody the packets referred to in rule 43 and all other documents relating to the election.

#### **60. Production and Inspection of Election Papers :-**

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

(a) the packets of unused ballot papers;

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

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

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

### **61. Disposal of Election Papers :-**

(1) On expiry of a period of 60 days from the date of publication of the result of the election or where an application challenging the validity of an election has been made, on expiry of a period of 60 days from the date of decision on such application, whichever is later, the State Election Commissioner shall destroy the ballot papers, subject to any direction to the contrary given by the Government or by a competent Court in case any election petition is pending before any Court.

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

### **62. Casual Vacancies :-**

Whenever a report is received by the Government from the Commissioner of the Corporation of the City of Panaji regarding

casual vacancy in the office of Councillor in terms of section 20 of the Act, the Commission, on intimation from the Government, shall fix a date, as soon as conveniently may be, for holding bye-election to fill the vacancy and the provisions of these rules shall thereupon, mutatis mutandis, apply accordingly.

**63. Power to give Directions :-**

Subject to other provisions of these rules, the State Election Commissioner may issue such directions, or instructions, as deemed necessary, to the Returning Officer and or the Assistant Returning Officers for effectively conducting the elections.

**PART 4 Voting by Electronic Voting Machine**

**64. Design of Electronic Voting Machine :-**

Every Electronic voting machine (hereinafter referred to as the "voting machine") shall have a control unit and a balloting unit and shall be of such designs as may be approved by the Commission.

**65. Preparation of Voting Machine by the Returning Officer :-**

(1) The balloting unit of the voting machine shall contain such particulars and in such language or languages as the Commission may specify.

(2)The names of the candidates shall be arranged on the balloting unit in the same order in which they appear in the list of the contesting candidates.

(3)If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.

(4)Subject to the foregoing provisions of this rule, the Returning Officer shall -

(a)fix the label containing the names and symbol of the contesting

candidates in the balloting unit and secure that unit with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same;

(b) set the number of contesting candidates and close the candidate set section in the control unit and secure it with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same.

## **66. Arrangements at the Polling Stations :-**

(1) Outside each polling station there shall be displayed prominently-

(a) a notice specifying the polling area, the voters of which are entitled to vote at the polling station and, where the polling station has more than one polling booth, at each one of such booths, the description of voters allotted to such booth; and

(b) another notice giving the name of each candidate in the same language or languages and in the same order in which the names of such candidates appear in the list of contesting candidates at the election published under rule 15 together with the description of the symbol which has been assigned to each of such candidate under that rule.

(2) The returning officer shall cause to be provided at every polling station a compartment in which the voters can record their votes screened from observation.

(3) The Returning Officer shall provide at each polling station one voting machine and copies of relevant part of the electoral roll and such other election material as may be necessary for taking the poll.

(4) Without prejudice to the provisions of sub-rule (3), the

Returning Officer may, with the previous approval of the Commission, provide one common voting machine for two or more polling stations located in the same premises.

**67. Admission to Polling Station :-**

The Presiding Officer shall regulate the number of voters to be admitted at any one time inside the polling station and shall exclude therefrom all persons other than -

(a) Polling Officers;

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

(c) person authorized by the Commission or the Returning Officer;

(d) candidates, their election agents and subject to the provision of rule 18 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 for the purpose of identifying the voter.

**68. Preparation of Voting Machine for Poll :-**

(1) The control unit and balloting unit of every voting machine used at a polling station shall bear a label marked with-

(a) the serial number, if any, and the names of the ward;

(b)the serial number and names of the polling station or stations, as the case may be;

(c)the serial number of the unit; and

(d)the date of poll.

(2)Immediately before the commencement of the poll, the Presiding Officer shall demonstrate to the polling agents and other persons present that no vote has been already recorded in the voting machine and it bears the label referred to in sub-rule (1).

(3)A paper seal shall be used for securing the control unit of the voting machine and 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.

(4)The Presiding Officer shall thereafter fix the paper seal so signed in the space meant therefore in the control unit of the voting machine and shall secure and seal the same.

(5)The seal used for securing the control unit shall be fixed in such a manner that after the unit has been sealed it is not possible to press the "result button" without breaking the seal.

(6)The control unit shall be closed and secured and placed in full view of the Presiding Officer and the polling agents and the balloting unit placed in the voting compartment.

#### **69. Marked copy of Electoral Roll :-**

Immediately before the commencement of the poll, the Presiding Officer shall also demonstrate to the Polling Agents and others present that the marked copy of the electoral roll to be used during

the poll does not contain-

(a) any entry other than that made in pursuance of clause (b) sub-rule (2) of rule 72; and

(b) any mark other than the mark made in pursuance of the clause (d) of sub-rule (2) of rule 35.

### **70. 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 assistant at a polling station to assist woman 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 woman voters in case it becomes necessary.

### **71. 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 authorized 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 cast his vote 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.

(4)The identity of voters shall be decided on the basis of -

(i)Photo Identity Card issued by the Election Commission of India;  
or

(ii)Photo Identity Card issued by any Department of the Central or  
State Government; or

(iii)PAN Card issued by the Income Tax Department; or

(iv)Passport; or

(v)Student Photo identity card issued by a recognized educational  
institution; or

(vi)Driving licence issued by the Directorate of Transport; or

(vii)Photo Identity Card issued to an employee by the employer  
provided the name and designation of the issuing authority is  
clearly shown.

## **72. Facilities for Public Servants on Election Duty :-**

(1) The provisions of the rule 71 shall not apply to any person who produces at the polling station an election duty certificate in Form-12B and seeks permission to cast his vote at that polling station although it 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 electoral roll number as mentioned in the certificate entered at the end of the marked copy of the electoral roll; and

(c) permit him to cast his vote in the same manner as far as an elector entitled to vote to that polling station.

### **73. Challenging of identity :-**

(1) Any candidate, election agent or Polling agent may challenge the identity of a person claiming to be a particular voter by first depositing a sum of five rupees in cash with the Presiding Officer for each such challenge.

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

(a) warn the person challenged of the penalty for personation;

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

(c) enter his name and address in the list of challenged votes in Form XIV; and

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

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

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

his identity;

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

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

(4) If, after the inquiry, Presiding Officer considers that the challenge has been established, he shall allow the person challenged to vote; and if he considers that the challenge has been established, he shall debar the person challenged from voting.

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

#### **74. Safeguards against personation :-**

(1) With a view to preventing personation of voter 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 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 the 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 possesses.

**75. Procedure for voting by voting Machines :-**

(1) Before permitting an elector to vote, the Polling Officer shall-

(a) record the electoral roll number of the voter as entered in the marked copy of the electoral roll in a register of voters in Form XV;

(b) obtain the signature or the thumb impression of the voter on the said register of voters; and

(c) mark the name of the voter in the marked copy of the electoral roll to indicate that he has been allowed to vote:

Provided that no voter shall be allowed to vote unless he has put his signature or thumb impression on the register of voters.

(2) Notwithstanding anything contained in sub-rule (1), it shall be necessary for any Presiding Officer or Polling Officer or any other Officer to attest the thumb impression of the voter on the register of voters.

**76. Maintenance of secrecy of voting by voters within the Polling Station and Voting procedures :-**

(1) Every voter who has been permitted to vote under rule 75 shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.

(2) Immediately on being permitted to vote, the voter shall proceed to the Presiding Officer or the polling officer in charge of the control unit of the voting machine who shall, by pressing the appropriate button on the control unit activate the balloting unit, for recording of voters vote.

(3) The voter shall thereafter forthwith-

(a) proceed to the voting compartment;

(b) record his vote by pressing the button on the balloting unit against the name and symbol of the candidate for whom he intends to vote; and

(c) come out of the voting compartment and leave the polling station.

(4) Every voter shall vote without undue delay.

(5) No voter shall be allowed to enter the voting compartment when another voter is inside it.

(6) If a voter who has been permitted to vote under rule 75 or rule 79 refuses after warning given by the Presiding Officer to observe the procedure laid down in the said rules, the Presiding Officer or the Polling Officer under the direction of the Presiding Officer shall not allow such voter to vote.

(7) Where a voter is not allowed to vote under sub-rule (6), a remark to the effect that voting procedure has been violated shall be made against the voters name in the register of voters in Form XV by the Presiding Officer under his signature.

## **77. Recording of votes of Blind or Infirm Voters :-**

(1) If the Presiding Officer is satisfied that owing to blindness or other physical infirmities a voter is unable to recognise the symbol on the balloting unit of the voting machine or unable to record his vote by pressing the appropriate button thereon without assistance, the Presiding Officer shall permit the voter to take with him a companion of not less than eighteen years of age to the voting compartment for recording the vote on his behalf and in accordance with his wishes:

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, that 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 other polling station on that day.

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

### **78. Voter deciding not to vote :-**

If a voter, after his electoral roll number has been duly entered in the register of voters in Form XV and has put his signature or thumb impression thereon as required under sub-rule (1) of rule 75, decides not to record his vote, a remark to this effect shall be made against the said entry in Form XV by the Presiding Officer and the signature or thumb impression of the voter shall be obtained against such remark.

### **79. Tendered votes :-**

(1) If a person representing himself to be a particular voter seeks to vote 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 instead of being

allowed to vote through the balloting unit supplied with a tendered ballot paper which shall be of such design, and the particulars of which shall be in such language or languages as the Commission may specify.

(2) Every such voter shall, before being supplied with tendered ballot paper, write his name against the entry relating to him in Form XVII.

(3) On receiving the ballot paper he shall forthwith-

(a) proceed to the voting compartment;

(b) record there his vote in the ballot paper by placing a cross mark X with the instrument or article supplied for the purpose on or near the symbol of the candidate for whom he intend to vote;

(c) fold the ballot so as to conceal his vote;

(d) show to the Presiding Officer, if required, the distinguishing mark on the ballot paper;

(e) give it to the Presiding Officer who shall place it in a cover specially kept for the purpose; and

(f) leave the polling station;

(g) If, owing blindness or physical infirmities, such voter is unable to record his vote without assistance; the Presiding Officer shall permit him to take with him a companion, subject to the same conditions and after following the same procedure as laid down in rule 77 for recording the vote in accordance with his wishes.

## **80. Presiding Officers entry in the voting compartment**

### **during poll :-**

(1) the Presiding Officer may, whenever he considers it necessary so to do, enter the voting compartment during poll and take such steps as may be necessary to ensure that the balloting unit is not tampered or interfered with in any way.

(2) If the Presiding Officer has reason to suspect that a voter who has entered the voting compartment is tampering or otherwise interfering with the balloting unit or has remained inside the voting compartment for an unduly long period, he shall enter the voting compartment and take such steps as may be necessary to ensure the smooth and orderly progress of the poll.

(3) Whenever the Presiding Officer enters the voting compartment under this rule, he shall permit the polling agents present to accompany him if they so desire.

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

(1) The Presiding Officer shall close a polling station at the hour fixed in that behalf under rule 4 and shall not thereafter admit any voter into the polling station:

Provided that all voters present at the polling station before it is closed shall be allowed to cast their votes.

(2) If any question arises whether a voter was present at the polling station before it was closed, it shall be decided by the Presiding Officer and his decision shall be final.

### **82. Account of voters recorded :-**

(1) The Presiding Officer shall at the close of the poll prepare an account of votes recorded in Form XVIII and enclose it in a

separate cover with the words Account of Votes Recorded superscribed thereon.

(2) The Presiding Officer shall furnish to every polling agent present at the close of the poll a true copy of the entries made in Form XVIII after obtaining a receipt from the said Polling Agent thereafter and shall attest it as a true copy.

**83. Sealing of voting machine after poll :-**

(1) As soon as practicable after the closing of the poll, the Presiding Officer shall close the control unit to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit.

(2) The control unit and the balloting unit shall thereafter be sealed and secured separately in such a manner as the Commission may direct and the seal used for securing them shall be so affixed that it will not be possible to open the units without breaking the seals.

(3) The Polling Agent present at the polling station, who desire to affix their seals, shall also be permitted to do so.

**84. Sealing of other packets :-**

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

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

(b) the register of voters in Form XV;

(c) the cover containing the tendered ballot papers and the list in Form XVII;

(d)the list of challenged votes; and

(e)any other papers directed by the Returning Officer to be kept in a sealed packet.

(2)Each such packet shall be sealed with the seals of the Presiding Officer and of those Polling Agents present who may desire to affix their seal thereon.

**85. Transmission of voting Machines, etc. to the Returning Officer :-**

(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 voting machine;

(b)the account of votes recorded in Form XVIII;

(c)the sealing packets referred to in rule 84; and

(d)all other paper used at the poll.

(2)The Returning Officer shall make adequate arrangements for the safe transport of the voting machine, packets-and other-papers for their safe custody until the commencement of the counting of votes.

**86. 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 Returning Officer or the Presiding Officer for such polling station shall announce an adjournment of the poll to a date to be fixed later, and where the poll is so adjourned by the Presiding Officer, he shall forthwith inform the Returning Officer concerned.

(2) Whether a poll is adjourned under sub-rule (1), the Returning Officer shall immediately, report the circumstances to the Commission who shall, as soon as may be, fix the day on which the poll shall recommence and fix the polling station at which and the hours during which, the poll shall be taken. The Returning Officer shall not count the votes cast at such election, until such adjourned poll shall have been completed.

(3) In every such case as aforesaid, the Commission shall publish the date, place and hours of the poll fixed under sub-rule (2) in the manner laid down in rule 4; and the provisions of these rules governing the original poll shall mutatis mutandis apply to the fresh poll taken under this rule.

### **87. Procedure on adjournment of poll :-**

(1) If the poll at any polling station is adjourned under rule 86, the provision of rules 82 to 85 shall, as far as practicable, apply, as if the poll was close at the hour fixed in that behalf under rule 4.

(2) When an adjourned poll is recommended under sub-rule (2) of rule 86, the voters who have already voted at the poll so adjourned shall not be allowed to vote again.

(3) The Returning Officer shall provide the Presiding Officer of the polling station at which such adjourned poll is held, with the sealed packet containing the marked copy of the list of voters, register of voters in Form XV and a new voting machine.

(4)The Presiding Officer shall open the sealed packet in the presence of the Polling Agents presence and use the marked copy of the list of voters for marking the names of the voters who are allowed to vote at the adjourned poll.

(5)The provisions of rule 25 and rules 64 to 85 shall apply in relation to the conduct of an adjourned poll as they apply in relation to the poll before it was so adjourned.

**88. Closing of voting machine in case of Booth capturing :-**

Where the Presiding Officer is of opinion that booth capturing is taking place at a polling station or at a place fixed for the poll, he shall immediately close the control unit of the voting machine to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit.

**89. Counting of votes where Electronic voting Machine have been used :-**

In relation to the counting of votes cast at a polling station where voting machine has been used (i) the provision of rule 19, 21, 48, 49, 50, 90, 91 and 92 rule shall apply.

**90. Scrutiny and inspection of voting machine :-**

(1) The Returning Officer may have the control units of the voting machines used at more than one polling station taken up for scrutiny and inspection and votes recorded in such units counted simultaneously.

(2)Before the votes recorded in any control unit of a voting machine are counted under sub-rule (1), the candidate or his Election Agent or his Counting Agent present at the counting table shall be allowed to inspect the paper seal and such other vital seals as might have been affixed on the unit and to satisfy themselves that the seals are intact.

(3)The Returning Officer shall satisfy himself that none of the

voting machines has in fact been tampered with.

(4) If the Returning Officer is satisfied that any voting machine has in fact been tampered with, he shall not count the votes recorded in that machine and shall follow the procedure laid down in section 58, or section 58A or 64A of the Representation of the People Act, 1951 (Central Act 43 of 1951), as may be applicable in respect of the polling or stations where that machine was used.

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

(1) After the Returning Officer is satisfied that a voting machine has in fact not been tampered with he shall have the votes recorded therein counted by pressing the appropriate button marked "Result" provided in the control unit whereby the total votes polled and votes polled by each candidate shall be displayed in respect of each such candidate on the display panel provided for the purpose in the unit.

(2) As the votes polled by each candidate are displayed on the control unit, the Returning Officer shall have:-

(a) the number of such votes recorded separately in respect of each candidate in Part-II of Form XVIII;

(b) Part-II of Form XVIII completed in other respects and signed by the counting supervisor and also by the candidates or their election agents or their counting agents present; and

(c) corresponding entries made in a result sheet in Form XIX and the particulars so entered in the result sheet announced.

### **92. Sealing of voting machine :-**

(1) After the result of voting recorded in a control unit has been

ascertained candidate-wise and entered in Part II of Form XVIII and Form XIX under rule 91, the Returning Officer shall reseal the unit with his seal and the seals of such of the candidates or their election agents present who may desire to affix their seals thereon so however that the result of voting recorded in the unit is not obliterated and the unit retains the memory of such result.

(2) The control unit so sealed shall be kept in specially prepared boxes on which the Returning Officer shall record the following particulars, namely-

(a) the names of the ward;

(b) the particulars of polling station or stations where the control unit has been used;

(c) serial number of the control unit;

(d) date of poll; and

(e) date of counting.

**93. The provisions of Rule 54, 55, 56 and 58 :-**

Shall, so far as may be, apply in relation to voting by voting machine and any reference in those rules to,-

(a) ballot paper shall be construed as including a reference to such voting machine;

(b) any rule shall be construed as a reference to the corresponding rule in Part IV or, as the case may be, to rule 90 or 91 or 92.

**94. 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 Returning Officer or the Presiding Officer for such polling station shall announce an adjournment of the poll to a date to be fixed later, and where the poll is so adjourned by the Presiding Officer, he shall forthwith inform the Returning Officer concerned.

(2) Whether a poll is adjourned under sub-rule (1), the Returning Officer shall immediately report the circumstances to the Commission who shall, as soon as may be, fix the day on which the poll shall recommence and fix the polling station at which and the hours during which, the poll shall be taken. The Returning Officer shall not count the votes cast at such election, until such adjourned poll shall have been completed.

(3) In every such case as aforesaid, the Commission shall publish the date, place and hours of the poll fixed under sub-rule (2) in the manner laid down in rule 4; and the provisions of these rules governing the original poll shall, mutatis mutandis, apply to the fresh poll taken under this rule.

#### **95. Recommencement of counting after fresh poll :-**

(1) If a fresh poll is held under rule 47, the Returning Officer shall, after completion of that poll, recommence the counting of votes on the date and at the time and place which have been fixed by the Commission in that behalf and of which notice had been previously given to the candidates and their election agents.

(2) The provisions of rules 52 and 53 shall apply, so far as may be, to such further counting.

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

If, after the counting of the 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.

**97. Custody of voting machines and papers relating to Election :-**

The Returning Officer shall retain in his custody all voting machines used at in election and all other documents relating to the election.

**98. Production and Inspection of Election Papers :-**

(1) While in the custody of Returning Officer-

(a) the packets of marked copies of the list of voters; and

(b) the packets containing registers of voters in Form XV shall not be opened and their contents shall not be inspected by, or produced before, any person or authority except under the order of a competent Court.

(2) the counted units sealed under the provisions of rule 88 and kept in the custody of the Returning Officer shall not be opened and shall not be inspected by, or produced before, any person or authority except under the orders of a competent Court.

(3) all other papers relating to the election shall be open to public inspection.

**99. Disposal of Election Papers :-**

(1) Subject to any direction to the contrary given by the Government or by a competent Court, the voting machines kept in the custody of the Returning Officer under rule 97 shall be retained intact for such period as the Commission may direct and shall not be used at any subsequent election without the previous approval

of the Commission.

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

## **PART 5** Miscellaneous

### **100. Casual Vacancies :-**

Whenever a report is received by the Government from the Commissioner of the Corporation of the City of Panaji of a vacancy in the office of Councillor referred to in section 20 of the Act, the Commission, on intimation from the Government, shall fix a date, as soon as conveniently may be, for holding bye-election to fill the vacancy and the provisions of, these rules shall thereupon, mutatis mutandis, apply accordingly.

### **101. Power to give directions :-**

Subject to the other provision of these rules, the State Election Commissioner may issue such directions, or instructions as deemed necessary, to the Returning Officer and/or the Assistant Returning Officers for effectively conducting the elections.