
**MAHARASHTRA MOUNICIPAL (CO-OPTION OF
COUNCILLORS) RULRS, 1967**

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1. Short title :-

These rules may be called the Maharashtra Municipal Councils (Co-option of Councillors) Rules, 1967.

2. Definitions :-

In these rules, unless the context otherwise requires: -

- (a) "Act" means the Maharashtra Municipalities Act, 1965;
- (b) "continuing candidate" means any candidate not elected and not excluded from the poll at any given time;

(c) "count" means-

(i) All the operations involved in the counting of the first preferences recorded for candidates ; or

(ii) all the operations involved in the transfer of the surplus of an elected candidate ; or

(iii) all the operations involved in the transfer of the total value of votes of an excluded candidate;

(d) "exhausted paper" means a ballot paper on which no further preference is recorded for a continuing candidate, provided that a paper shall also be deemed to have become exhausted whenever-

(i) the names of two or more candidates, whether continuing or not, are marked with the same figure and are next in order of preference ; or

(ii) the name of the candidate next in order of preference, whether continuing or not, is marked by a figure nor following consequently after some other figure on the ballot paper or by two or more figures;

(e) "first preference" means the figure 1 set opposite the name of a candidate; "second preference" means the figure 2 set opposite the name of a candidate ; "third preference" means the figure 3 set opposite the name of a candidate, and so on;

(f) "original vote" in relation to any candidate, means a vote derived from a ballot paper on which a first preference is recorded for such candidate;

(g) "presiding authority" means the President, the Vice-President or any Councillor presiding at the meeting of the Council at which co-option of Councillors is to be made;

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

(i) "surplus" means the number by which the value of the votes, original and transferred, of any candidates exceeds the quota calculated in accordance with Rule1;

(j) "transferred vote" in relation to any candidate, means a vote the value or the part of the value of which is credited to such candidate and which is derived from a ballot paper on which a second or a subsequent preference is recorded for such candidate;

(k) "unexhausted paper" means a ballot paper on which a further preference is recorded for a continuing candidate;

(l) words or expressions used in these rules, but not defined shall have the meanings, respectively, assigned to them in the Act.

3. Filing of nominations :-

(1) Not later than twelve noon on the working day immediately preceding the day fixed for the meeting of the Council at which co-option of Councillors is to be made, any elected Councillor may nominate any person as a candidate, who is eligible for being co-opted, by delivering to the Chief Officer a nomination paper, in the Form appended to these rules duly filled in and signed by himself as proposer. The declaration therein shall be signed by the candidate.

(2) On receipt of a nomination paper, the Chief Officer shall duly fill in the endorsement on the Form.

(3) Nothing in this rule shall prevent any candidate from being nominated by more than one nomination paper.

4. Scrutiny of nominations and withdrawal of candidature :-

(1) At the commencement of the proceeding for co-option, the presiding authority shall scrutinise all nomination papers received by the Chief Officer and record his decision thereon. The presiding authority shall not reject any nomination paper on the ground of any defect, which is not of a substantial character. If any nomination paper is rejected by the presiding authority, he shall record in writing a brief statement of his reasons for such rejection. He shall then read out to the meeting the names of the candidates, who in his opinion have been validly nominated, together with the name of their proposers.

(2) Any candidate whose nomination paper is delivered to the Chief Officer may attend the meeting from the commencement of the proceeding for Co-option till the time for withdrawal of candidature expires.

(3) Any candidate may withdraw his candidature by notice in writing subscribed by him and delivered to the presiding authority within fifteen minutes from the time of reading out the names of validly nominated candidates. Such notice may be delivered either by the candidate in person or by his proposer duly authorised by

the candidate in this behalf.

(4) No candidates who has delivered or caused to be delivered such notice shall be allowed to cancel it.

(5) The presiding authority shall, on being satisfied as to the genuineness of a notice of withdrawal and identity of the person delivering it, read out to the Councillors present at the meeting the names of the candidates who have withdrawn their candidature.

5. Procedure for co-option :-

(1) If the number validly nominated candidates who have not withdrawn their candidature is equal to or less than the number of persons to be co-opted, the presiding authority shall forthwith declare all such candidates to be duly co-opted, and the remaining Councillors (if any) may be co-opted at any subsequent meeting.

(2) If the number of validly nominated candidates, who have not withdrawn their candidature is more than the number of persons to be co- opted, the elected Councillors present at the meeting may proceed to co- opt the persons in the manner hereinafter specified or if the presiding authority so decides the meeting be adjourned and co-option may be made at the adjourned meeting.

(3) The co-option of persons shall be made in accordance with the system of proportional representation by means of the single transferable vote and voting for the purpose by the elected Councillors shall be by secret ballot. The presiding authority shall furnish each elected Councillor at the meeting with the ballot paper prepared in the following form:-

	Name of the person validly nominated for co-option and who have not withdrawn their candidature	Order of preference
1.		
2.		
3.		
4.		

Signature of the '
Presiding Authority.

Date_____

(a) Names of the contesting candidates shall be arranged on the ballot paper in alphabetical order determined with reference to the surnames of the candidates having surnames and the names proper of other candidates. The particulars in the ballot paper and the alphabetical order to be followed shall be in such language as is adopted by the Council under clause (12) of Section 81 of the Act, for keeping the minutes.

(b) Each ballot paper shall be signed by the presiding authority.

6. Method of voting :-

(1) Every elected Councillor shall have only one vote at the election irrespective of the number of persons to be co-opted as Councillors.

(2) Every Councillor in giving his vote-

(a) shall place on his ballot paper the figure 1 in the space opposite the name of the candidates for whom he wishes to vote in the first instance; and

(b) may, in addition, place on his ballot paper the figure 2, or the figures 2 and 3, or the figures 2, 3 and 4 and so on in the space opposite the names of the other candidates in the order of his preference.

7. Voting Procedure :-

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

(a) proceed to the voting compartment;

(b) record his vote in accordance with sub-rule (2) of the Rule 6;

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

(d) insert the folded paper into the ballot box.

(2) Every Councillor shall vote without undue delay and quit the voting compartment.

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

(4) If an elector is unable to read the ballot paper or to record his

vote thereon in accordance with subOrule (2) of Rule 6 by reason of illiteracy, blindness or other infirmity, the presiding officer shall on being satisfied about such illiteracy, blindness or infirmity, permit the elector to take with him a companion of not less than twenty-one years of age who is able to read the ballot paper and record the vote thereon on behalf of and in accordance with the wishes of the elector and if necessary, to fold the ballot paper so as to conceal the vote and insert it into the ballot box:

Provided that, no person shall be permitted to act as the companion of more than one elector at a meeting of the Municipal Council on the same day;

Provided further that, before any person is permitted to act as the companion of an elector on any day under this rule, the person shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector, and that he has not already acted as the companion of any other elector on that day.

8. Scrutiny of ballot papers :-

(1) As soon as may be after the voting is over, the presiding authority shall, in the presence of the Councillors present proceed to

(2) A ballot paper shall be invalid on which-

(a) the figure 1 is not marked ; or

(b) the figure 1 is set opposite the name of more than one candidate or is so placed as to render it doubtful to which candidate it is intended to apply; or

(c) the figure 1 and some other figures are set opposite the name of the same candidate; or

(d) there is any mark or writing by which the Councillor casting the vote can be identified.

9. Arrangement of valid ballot papers in parcels :-

After rejecting the ballot papers which are invalid, the presiding authority shall-

(a) arrange the remaining ballot papers in parcels, according to the first preference recorded for each candidate;

(b) count and record the number of papers in each parcel and the

total number; and

(c) credit to each candidate the value of the papers in his parcel.

10. Counting of votes where only one person is to be co-opted :-

(1) At any election where only one person is to be co-opted as a Councillor, every valid ballot paper shall be deemed to be of the value of 1 at each count, and the quota sufficient to secure the return of a candidate at the election shall be determined as follows:-

(a) add the value credited to all the candidates under clause (c) of Rule 9;

(b) divide the total by 2 ; and

(c) add 1 to the quotient ignoring the remainder, if any, the resulting number is the quota.

(2) If, at the end of the first or any subsequent count, the total value of the ballot papers credited to any candidate is equal to, or greater than the quota or there is only one continuing candidate, that candidate shall be declared elected.

(3) If, at the end of any count, no candidate can be declared elected, the presiding authority shall :-

(a) exclude from the poll the candidate who upto that stage has been credited with the lowest value;

(b) examine all the ballot papers in his parcel and sub-parcels, arrange the unexhausted papers, in sub-parcels according to the next available preferences recorded- thereon for the continuing candidates, count, the number of papers in each such sub-parcel and credit it to the candidate for whom such preference is recorded, transfer the sub-parcel to that candidate, and make a separate sub-parcel of all the exhausted papers; and

(c) see whether any of the continuing candidates has, after such transfer and credit, secured the quota.

(4) If when a candidate has to be excluded under clause (a) of sub-rule (3), two or more candidates have been credited with the same value and stand lowest on the poll, the candidate for whom the lowest number of original votes are recorded shall be excluded, and

if this number also is the same in the case of two or more candidates, the presiding authority shall decide by lot which of them shall be excluded.

11. Ascertainment of quota when more than one person is to be co-opted :-

At any election where more than one person is to be co-opted as a Councillor, every valid ballot paper shall be deemed to be of the value of 100, and the quota sufficient to secure the return of a candidate at the election shall be determined as follows:-

(a) add the values credited to all the candidates under clause (c) of Rule 9;

(b) divide the total by a number which exceeds by 1 the number of persons to be co-opted as Councillors;and

(c) add 1 to the quotient ignoring the remainder, if any, and the resulting number is the quota.

12. General instruction :-

In carrying out the provisions of Rules 13 to 17 the presiding authority shall disregard all fractions and ignore all preferences recorded for candidates already elected or excluded from the poll.

13. Candidates with quota elected :-

If at the end of any count or at the end of the transfer or any parcel or sub-parcel of an excluded candidate the value of the ballot papers credited to a candidate is equal to, or greater than the quota, that candidate shall be declared elected.

14. Transfer of surplus :-

(1) If at the end of any count the value of the ballot papers credited to a candidate is greater than the quota, the surplus shall be transferred in accordance with the provisions of this rule, to the continuing candidates indicated on the ballot papers of that candidate as being next in order of the electing Councillor's preference.

(2) if more than more one candidate have a surplus, the largest surplus shall be dealt with first and the others in order of magnitude:

Provided that, every surplus arising on the first count shall be dealt with before those arising on the second count and so on.

(3) Where there are more surpluses than one to distribute and two or more, surpluses, are equal, regard shall be had to the original votes of each candidate and the candidate for whom most original votes are recorded, shall have his surplus first distributed; and if the values of their original votes are equal, the presiding authority shall decide by lot which candidate shall have his surplus first distributed.

(4)

(a) If the surplus of any candidate to be transferred arises from original votes only, the presiding authority shall examine all the papers in the parcel belonging to that candidate, divide the unexhausted papers into sub-parcels according to the next preferences recorded thereon and make a separate sub-paragraph of the exhausted papers.

(b) He shall ascertain the value of the papers in each sub-paragraph and of all the unexhausted papers.

(c) If the value of the unexhausted papers is equal to or less than the surplus, he shall transfer all the unexhausted papers at the value at which they were received by the candidate whose surplus is being transferred.

(d) If the value of the unexhausted papers is greater than the surplus he shall transfer the sub-parcels of unexhausted papers, and the value at which each paper shall be transferred shall be ascertained by dividing the surplus by the total number of unexhausted papers.

(5) If the surplus of any candidate to be transferred arises, from transferred as well as original votes, the presiding authority shall re-examine all the papers in the sub-paragraph last transferred to the candidate, divide the unexhausted papers into sub-parcels according to the next preferences recorded thereon, and then deal with the sub-parcels in the same manner as is provided in the case of sub-parcels referred to in sub-rule (4).

(6) The papers transferred to each candidate shall be added in the form of a sub-paragraph to the papers already belonging to such candidate.

(7) All papers in the parcel or sub-paragraph of an elected candidate not transferred under this rule shall be set apart as finally dealt

with.

15. Exclusion of candidates lowest on the poll :-

(1) If after all surplus have been transferred as hereinbefore provided, the number of candidates elected is less than the required number the presiding authority shall exclude from the poll the candidate lowest on the poll and shall distribute his unexhausted papers among the continuing candidates according to the next preferences recorded thereon, and any exhausted papers shall be set apart as finally dealt with.

(2) The papers containing original votes of an excluded candidate shall first be transferred, the transfer value of each paper being one hundred.

(3) The papers containing transferred votes of an excluded candidates shall, then be transferred in the order of the transfers in which and at the value at which be obtained them.

(4) Each of such transfers shall be deemed to be a separate transfer but not a separate count.

(5) If, as a result of the transfer of papers, the value of votes obtained by a candidate is equal to or greater than the quota, the count then proceeding shall be completed but no further papers shall be transferred to him.

(6) The process directed by this rule shall be prepared on the successive exclusions one after another of the candidates lowest on the poll until such co-option is made either by the election of a candidate with the quota or as hereinafter provided.

(7) If at any time it becomes necessary to exclude a candidate and two or more candidates have the same value of votes and are the lowest on the poll, regard shall be had to the original votes of each candidate and the candidate for whom lowest original votes are recorded shall be excluded; and if the values of their original votes are equal the candidate with the smallest value at the earliest count at which these candidates had equal values shall be excluded.

(8) If two or more candidates are lowest on the poll and each has the same value of votes at all counts the presiding authority shall decide by lot which candidate shall be excluded

16. Filling the last vacancies :-

(1) When at the end of any count the number of continuing candidates is reduced to the number of vacancies remaining unfilled, the continuing candidates shall be declared elected.

(2) When at the end of any count only one vacancy remains unfilled and the value of the papers of some one candidate exceeds the total value of the papers of all the other continuing candidates together with any surplus not transferred, that candidate shall be declared elected.

(3) When at the end of any count only one vacancy remains unfilled and there are only two continuing candidates and each of them has the same value of votes and no surplus remains capable of transfer, the presiding authority shall declare by lot which of them shall be excluded; and after excluding him in the manner aforesaid declare the other candidate to be elected.

17. Provision for re-counts :-

(1) Any Councillor present at the meeting may, at any time during the counting of the votes, either before the commencement or after the completion of any transfer of votes (whether surplus or otherwise), request the presiding authority to re-examine and re-count the papers of all or any candidates (not being papers set aside at any previous transfer as finally dealt with), and the presiding authority shall forthwith re-examine and re-count the same accordingly.

(2) The presiding authority may in his discretion re-count the votes either once or more than once in any case in which he is not satisfied as to the accuracy of any previous count:

Provided that, nothing in this sub-rule shall make it obligatory on the presiding authority to re-count the same votes more than once.

18. Declaration of results :-

Upon the completion of counting, the presiding authority shall forthwith declare the result of the election.

19. Publication of results :-

When any candidates are declared to be duly co-opted under these rules, the names of such co-opted Councillors shall, as soon as may be, be reoperated by the President to the Collector for publication in the Official Gazette.

20. Casual vacancies :-

When a seat of a co-opted Councillor becomes vacant, the provisions of these rules shall mutatis mutandis apply for filling the vacancy. Form of nomination paper for co-option as Councillor