

The U.P. Shri Badrinath and Shri Kedarnath Temples Rules, 1967

UTTAR PRADESH

India

The U.P. Shri Badrinath and Shri Kedarnath Temples Rules, 1967

Rule

THE-U-P-SHRI-BADRINATH-AND-SHRI-KEDARNATH-TEMPLES-RULE of 1967

- Published on 6 May 1967
- Commenced on 6 May 1967
- [This is the version of this document from 6 May 1967.]
- [Note: The original publication document is not available and this content could not be verified.]

The U.P. Shri Badrinath and Shri Kedarnath Temples Rules, 1967Published vide Notification No. U-491/16 11-49-CE-1966, dated 6.5.1967, published in U.P. Gazette, Extraordinary, dated 5.5.1967, page 8In exercise of the powers under sub-sections (1) and (2) of section 26 of the Uttar Pradesh Shri Badrinath and Shri Kedarnath Temples Act, 1939 (U.P. Act No. XVI of 1939) and in supersession of Rules 1 to 23 contained in Chapters I and II of the U.P. Shri Badrinath Temples Rules, 1940 the Governor is pleased to make the following rules, the same having been previously published in Notification No. U.O. 354/XVI-II 6-CE (A)/64, dated March 15, 1967 as required under sub-section (4) of section 26 of the said Act.

Chapter I Preliminary

1. Short title and commencement.

(1)These rules may be called the Uttar Pradesh Shri Badrinath and Shri Kedarnath Temples Rules, 1967.(2)They shall come into force from the date of their publication in the Official Gazette.

2. Definitions.

(1)In these rules unless the subject or context otherwise requires-(a)"Act" means the Uttar Pradesh Shri Badrinath and Shri Kedarnath Temples Act, 1939 (U.P. Act No. XVI of 1939) as amended from

time to time;(b)"Assembly" means the Uttar Pradesh Legislative Assembly;(c)"Council" means the Uttar Pradesh Legislative Council;(d)"State Government" means the Government of Uttar Pradesh;(e)"His Highness" means His Highness the Maharaja of Tehri;(f)"President" means the President of the Committee nominated under clause (g) of sub-section (1) of section 5 of the Act;(g)"Member" means the member elected or nominated, as the case may be, under section 5 of the Act to the Committee constituted under sub-section (3) of the said section of the Act;(h)"Mukhya Karyadhikari" means the Mukhya Karyadhikari of the Committee appointed under section 14 of the said Act;(2)Other expressions not defined in the sub-rule (1) shall have the same meanings as assigned to them in the Act.

Chapter II

Elections and Election Petitions

General

3. Extent of application of Chapter II

[Section 26 (2)(b)]. - The rules in this Chapter apply to general elections as well as to elections to fill casual vacancies in the Committee under the Act.

4. Time of election.

- Subject to the provisions of sub-section (4) of section 12 of the Act the election to the Committee shall be held within such time or further time as the State Government may fix.

5. Place of election

[Section 26 (2) (b)]. - The place of election shall in the case of an election -(a)under clause (b) of sub-section (1) of section 5 of the Act be the Vidhan Bhawan, Lucknow;(b)under clause (c) of sub-section (1) of section 5 of the Act be the Vidhan Bhawan, Lucknow;(c)under clause (d) of sub-section (1) section 5 of the Act be the office of the Zila Parishad of district Tehri-Garhwal;(d)under clause (e) of sub-section (1) of section 5 of the Act be the office of the Zila Parishad of district Chamoli;(e)under clause (f) of sub-section (1) of section 5 of the Act be the office of the Zila Parishad of district Uttarkashi.

6. Returning Officer.

- The Returning Officer shall in the case of an election-(a)under clause (b) of sub-section (1) of section 5 of the Act be the Secretary of the Assembly in case of elections by the Hindu members of the Assembly and the Secretary of the Council in case of elections by the Hindu members of the Council and in their absence any officer performing their duties for the time being; and(b)under clauses (c), (d), (e) and (f) of sub-section (1) of section 5 of the Act be the Karyadhikari of the Zila

Parishad, Garhwal, Terhi-Garhwal, Chamoli and Uttarkashi or in their absence any person or persons performing their duties for the time being in case of elections by the Hindu members of the Zila Parishad of the said districts.

7. Nomination.

(1) On receipt of a requisition from the State Government the Returning Officer concerned shall prepare or cause to be prepared a list of voters for election of members under clauses (b), (c), (d), (e) and (f) of sub-section (1) of section 5 of the Act and shall have regard to the time fixed by the State Government under Rule 4 appoint—(a) the date for the receipt of nomination papers not earlier than fourteen days from the date on which he sends the letter referred to in sub-rule (2) to the voters; (b) the date and time for scrutiny of nominations; (c) the date for receipt of ballot papers if the result of nominations so necessitates; and (d) the date and time for scrutiny and counting of votes. (2) The Returning Officer shall by a letter either sent by post of which a postal certificate shall be taken or delivered to the voter at his address as maintained in the office of the Returning Officer; inform each voter of the programme fixed under sub-rule (1) and call upon him to nominate in Form A as many person or persons as there are seats to be filled. He shall also send with such letter as many nomination papers as there are vacancies. (3) Each nomination shall be made in writing in Form A signed by two voters as proposer and seconder and subscribed by the candidate assenting to the nomination and making the declaration prescribed in the form. (4) On or before the date appointed for nomination each candidate or his proposer or seconder may either personally deliver the nomination paper to the Returning Officer or send it by registered post so as to reach the Returning Officer before the expiry of the date fixed for nomination.

8. Withdrawal by candidates.

- A candidate may withdraw his candidature by notice in writing subscribed by him and delivered to the Returning Officer before the time fixed for the scrutiny of nominations. A candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal.

9. Scrutiny of nomination papers.

- At the time fixed for the scrutiny of nominations, the Returning Officer shall examine the nomination papers and shall decide as to their validity. Candidates, their proposers and their seconders may be present at the time of the scrutiny.

10. Result of nomination.

(1) If the number of candidates, who are duly nominated and who have not withdrawn in accordance with Rule 8 exceeds the number of vacancies, votes shall be taken under Rule 12. (2) If the number of such candidates is equal to or less than the number of vacancies all such candidates shall be declared to be duly elected and the Returning Officer shall report the result in accordance with Rule 14.

11. Voting.

(1) Each voter shall have votes equal to the number of members to be elected, but he shall not give more than one vote to any candidate. (2) He shall vote by placing or causing to be placed a cross (x or +) opposite the name or names of the candidates whom he prefers. (3) The ballot paper shall be invalid if the cross (x or +) is placed opposite the names of more candidates than are required to be elected. (4) If the cross (x or +) is so placed as to render it doubtful to which candidate such mark is intended to apply, the vote shall be invalid.

12. Procedure of taking votes.

(1) After the scrutiny of nomination papers the Returning Officer shall, as soon as may be by a letter, either sent by registered post or delivered to the voter at his address as maintained in his office, call upon each voter to record his vote, for which purpose, he shall send a ballot paper in Form 'B' signed by himself and also an envelope bearing on the face of it the serial number of the voter and the words "Shri Badrinath and Shri Kedarnath Temple Ballot Paper" and addressed to himself. Each voter shall have a serial number and the same number shall be marked on the envelope and the ballot paper. (2) Should an original ballot paper be lost, mislaid, spoilt, destroyed or otherwise rendered useless, the voter to whom it was issued shall on application in writing to the Returning Officer stating the circumstances, be supplied with a second ballot paper signed and numbered by the Returning Officer, as provided in the preceding sub-rule and marked "duplicate" which, in the absence of the original ballot paper bearing the same number, shall be treated as if it were the original. (3) On receipt of such ballot paper, every voter desirous of recording his votes shall appear before the Returning Officer or a Magistrate or a Judge, record his votes in accordance with Rule 11 on the ballot paper and sign it in his presence and obtain his signatures in attestation thereof: Provided that no such attestation is required in the case of an election under clauses (c), (d), (e) and (f) of sub-section (1) of section 5 of the Act. (4) The voter shall then place the ballot paper in the envelope provided for the purpose and after closing it shall either hand it over in person to the Returning Officer or send it to him by registered post, affixing thereto the necessary postage stamps. The ballot paper must reach the Returning Officer on or before the date fixed, for the receipt of voting papers.

13. Validity or invalidity of vote.

(1) Unless the instructions contained in these rules as regard the manner of voting are complied with and the necessary particulars filled in, the ballot paper shall be invalid. (2) If a ballot paper has been issued to a voter in accordance with these rules, no election shall be rendered invalid by reason of his not having received the ballot paper.

14. Counting of votes and declaration of result.

(1) On the date and at all the time appointed under Rule 7(1) the Returning Officer shall scrutinize the ballot papers received on or before the date fixed, reject the invalid ones, count the valid ones,

declare the result then and there and report it to the Secretary to Government in the Public Health Department. Only the candidates, their proposers and/or seconders may be present at the time of the counting of votes.(2)In case of equality of votes, the Returning Officer shall decide the question by drawing lots.

15. Custody and inspections of documents.

- The nomination papers of candidates, ballot papers and all other papers relating to nominations and voting shall be sealed and kept in the office of the Returning Officer and shall be destroyed after one year from the date of declaration of the result, unless otherwise ordered by the State Government or an election tribunal, as the case may be. Such papers shall not be open to inspection except by an order of an election tribunal.Election Disputes

16. Tribunals.

- The tribunal for deciding a dispute relating to an election under the Act shall, in the case of an election-(a)under clause (b) of sub-section (1) of section 5 of the Act be such authority as the State Government may appoint; and(b)under clauses (c), (d), (e) and (f) of sub-section (1) section 5 of the Act the Commissioner of Kumaon or Uttarakhand Division as the case may be.

17. Period of limitation and authority to whom election petition is to be presented.

- Within thirty days of the date of the declaration of the result of the election under sub-rule (1) of Rule 14 the candidate or his proposer or seconder or any voter may present in person or by registered post a petition in respect of the election to the Returning Officer concerned accompanied by a receipt showing that a deposit of rupees two hundred only has been made in a Government Treasury or any branch of the State Bank of India as security. The Returning Officer shall forward the petition to the authority concerned appointed under rule 16 within ten days of the receipt of the petition by him.

18. Contents of petition.

(1)The petition shall be drawn up in the form of a plaint as required by the Code of Civil Procedure, 1908 (Act No. V of 1908), and shall specify with sufficient details the ground or grounds on which the election is sought to be challenged.(2)The petitioner may if he so desires in addition to calling in question the election of the returned candidate claim a declaration that he himself or any other candidate has been duly elected, in which he shall join as respondent the other candidates who were duly nominated at the questioned election.

19. Powers and procedure of tribunals.

(1)The tribunal shall summarily dismiss the petition if it is not drawn up in the prescribed form or has not been presented within the prescribed time. In the event of the petition not being so dismissed the Tribunal shall fix a date and place of inquiry, inform the parties of the same, take such evidence as they may adduce and decide the case. It shall follow such procedure as may appear to it to be equitable and reasonable and shall have the same powers to enforce the attendance of witnesses and the production of documents and to examine witnesses on oath as the Civil Courts have under any law for the time being in force.(2)The Tribunal shall have power to pass such orders on the petition including orders as to costs as may in its opinion be required in the interest of justice, equity and good conscience. If it finds an election petition to be frivolous and vexatious it may direct that after cost, if any, awarded to the opposite party have been recovered from the security money balance, if any, shall be forfeited to the Temple.(3)The decisions of the Tribunal shall be final and the State Government shall take such action as may be necessary to give effect to it.(4)The Tribunal shall after pronouncing judgment forward the whole record to the Secretary to Government in the Public Health Department as soon as possible.

20. State Government's power to cure irregularities.

- Notwithstanding anything contained in these rules in case of an irregularity in the conduct of an election under these rules the State Government may make such order consistent with the Act as may appear to it to be just and proper.

Form A Nomination Paper (See Rule 7)

Nomination of a candidate for election under section 5 of the Uttar Pradesh Shri Badrinath and Shri Kedarnath Temples Act, 1939 (Act No. XVI of 1939).

1. Name of candidate nominated

2. Full address of the candidate nominated

3. Does the candidate profess the Hindu religion and does he accept the form of worship practised at the Temple ?

4. Signature in full of the proposer with date

5. Signature in full of the seconder with date

Declaration by the Candidate I, hereby declared that I agree to this nomination and that I am eligible for membership of the Temples

Committee. Date.....19.....(Signature in full of the

candidate) To be filled in by the Returning Officer This nomination paper was received by me

on.....19.....(Returning Officer) Certificate of Scrutiny I have scrutinized the eligibility of the candidate, the proposer and the seconder [and find that they are respectively qualified to stand for election, to propose and to second the nomination and that the

nomination is valid].Date.....19.....(Returning Officer)Note. - If the Returning Officer holds that the nomination is not valid, the words within the square brackets will be scored out by him and he shall record his finding with reasons.Instructions

1. Nominations shall be made in writing on this form signed by two voters as proposer and seconder and subscribed by the candidate himself as assenting to the nomination and making a declaration with regard to his eligibility for membership in terms of sub-section (4) of Section 5 of the Act.

2. On or before the date appointed for the nomination of candidates, each candidate or his proposer or seconder may either personally deliver the nomination paper to the Returning Officer or send it by registered post so as to reach the Returning Officer before the expiry of the time fixed for nomination.

Form B Election under Section 5 of the Uttar Pradesh Sri Badrinath and Shri Kedarnath Temples Act, 1939 (Act No. XVI of 1939) Ballot Paper (See Rule 12) Serial number of the voter

.....

SerialNo. Name of the Candidates Vote (x or +)

1.

2.

Signature of the voter

.....Place where signed

.....Date

.....Attested by me Signature of the person attesting

.....Designation

.....Date

.....Instructions

1. On receipt of this ballot paper every voter desirous of recording his vote shall appear before the Returning Officer or a Magistrate or a Judge, record his votes, sign the ballot paper in his presences, and obtain his signature in attestation thereof. But such attention is not required in the case of an election by the Hindu members of the respective Zila Parishad of districts Garhwal, Tehri-Garhwal and of Chamoli and Uttarkashi when Zila Parishad are constituted there.

- 2. Each voter shall have as many votes as there are members to be elected but shall not give more than one vote to any candidate.**
- 3. He shall vote by placing or causing to be placed a cross (x or +) placed opposite the name of the candidate whom he prefers.**
- 4. The ballot paper shall be invalid if the cross (x or +) is placed opposite the names of more candidates than are to be elected.**
- 5. If a cross (x or +) is so placed as to render it doubtful to which candidate such mark is intended to apply, the vote shall be invalid.**
- 6. The voter shall place the ballot paper in the envelope provided and after closing it shall hand it over in person to the Returning Officer or send it to him by registered post affixing thereto the necessary postage stamps. The ballot paper must reach the Returning Officer on or before the date fixed for voting.**