

U.P. Zila Panchayats (Election of Adhyaksha and UP-Adhyaksha and Settlement of Election Disputes) Rules, 1994

UTTAR PRADESH

India

U.P. Zila Panchayats (Election of Adhyaksha and UP-Adhyaksha and Settlement of Election Disputes) Rules, 1994

Rule

U-P-ZILA-PANCHAYATS-ELECTION-OF-ADHYAKSHA-AND-UP-ADHYAKSHA AND SETTLEMENT OF ELECTION DISPUTES) RULES, 1994

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U.P. Zila Panchayats (Election of Adhyaksha and UP-Adhyaksha and Settlement of Election Disputes) Rules, 1994Published vide Notification Gazette, Part 1 (Ka), dated 1st April, 1995, vide Notification No. 4240/33-1-94-277-94, dated 30th November, 1994In exercise of the powers under Section 237 of the Uttar Pradesh Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961 (U. P. Act No. 33 of 1961) read with clause (c) of sub-section (2) of Section 27 and Section 264-B of the said Adhiniyam, and in supersession of the Uttar Pradesh Zila Parishads (Election of Adhyaksha and Up-Adhyaksha and Settlement of Election Disputes) Rules, 1963, the Governor is pleased to make the following rules :

Chapter I

Preliminary

1. Short title and commencement.

(1)These rules may be called the Uttar Pradesh Zila Panchayats (Election of Adhyaksha and Up-Adhyaksha and Settlement of Election Disputes) Rules, 1994.(2)These rules shall come into force at once.

2. Definitions.

- In these rules, unless the context otherwise requires-(a)"Act" means the Uttar Pradesh Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961 ;(b)"Election" means an election to fill the office of Adhyaksha or Up-Adhyaksha, as the case may be, of a Zila Panchayat;(c)"member" means a member of a Zila Panchayat referred to in clause (b), sub-section (1) of Section 18 of the Act;(d)"Form" means a form given in Schedule I to these rules ;(e)"Schedule" means a Schedule to these rules.

3. Mukhya Nirvachan Adhikari (Panchayat) and the Returning Officer.

(1)The Mukhya Nirvachan Adhikari (Panchayat) appointed by the State Government, as required by the State Election Commission, shall, under the superintendence, direction and control of the State Election Commission, perform all the functions relating to the conduct of elections.(2)The District Magistrate shall be the Returning Officer for conducting election under these rules.

4. Assistant Returning Officers.

(1)The Returning Officer may appoint one or more person as Assistant Returning Officer to assist him in the performance of his functions under these rules.(2)Every Assistant Returning Officer shall be competent to perform all or any of the functions of the Returning Officer.(3)The Returning Officer may take such assistance from the officers and servants of the Zila Panchayat for conducting election as he may deem necessary.(4)The Returning Officers and the Assistant Returning Officers shall perform their functions under the superintendence, direction and control of the State Election Commission.

Chapter II

Conduct of Election of AdhyakshaNomination

5. Appointment of dates for nomination, etc.

(1)Whenever an election is required to be held under the Act to the office of Adhyaksha of a Zila Panchayat, the State Election Commission shall, by notification appoint for the election-(a)the date for filing nomination paper and scrutiny thereof which shall be a date at least ten days after the date of the notification ;(b)the date and time for the withdrawal of candidature which shall ordinarily be the third day after the date fixed for filing and scrutiny of nomination paper ; and(c)the date on which and the hours during which a poll shall, if necessary, be taken, which shall be a date not earlier than the third day after the date fixed under clause (b).(2)On the issue of notification under sub-rule (1) the Returning Officer shall give public notice of the election in Hindi in Form I, by affixing a copy of the notice at his office and another copy thereof at such conspicuous place at the headquarters of the district and in such other manner, if any, as he may think fit and shall also cause to be despatched by post under certificate of posting, a copy of the notice to each member of his last known address.

6. List of members.

(1) Before the issue of notification under Rule 5, the Returning Officer shall cause to be prepared a list of the person who are members for the time being of the Zila Panchayat and give public notice of the same by having an authentic copy of the list affixed each at his office, and on the notice Board of the Zila Panchayat. (2) The Returning Officer may at any time before the commencement of the poll make such corrections in the list as may be occasioned by any changes in the membership or upon discovery of any error in the list whether upon the consideration of any claim or objection to the inclusion of any name made by any person or otherwise : Provided that no name included in the list shall be deleted therefrom without prior notice to such person of the proposed deletion and giving him an opportunity of showing cause against the proposed deletion.

7. Nominations.

(1) Any person who desires to be nominated as a candidate at an election to the office of Adhyaksha of a Zila Panchayat shall deliver in person or through his proposer or seconder, a nomination paper duly completed in Form II to the Returning Officer within the hours of 11 O'clock in the forenoon and 3 O'clock in the afternoon on the date and the place specified in the notice under Rule 5. (2) The nomination paper shall be signed by the candidate himself assenting to the nomination and also by one member as proposer and another member as seconder. (3) Where a candidate seeks election to a seat reserved for the Scheduled Castes or the backward classes, there shall accompany with the nomination paper a declaration subscribed by him stating that he is a member of the Scheduled Castes or the backward classes, as the case may be, specifying the particular caste to which he belongs. (4) A nomination paper filed after the last hour mentioned in sub-rule (1) shall forthwith be rejected by the Returning Officer.

7A. [Printing and price of nomination papers. [Inserted by Notification No. 1330/33-1-2005-31-2002, dated 31st March, 2005 (Vide U. P. Zila Panchayats (Election of Adhyaksha and Up-Adhyaksha and Settlement of Election Disputes) (First Amendment) Rules, 2005), published in U. P. Gazette (Extraordinary), Part 4, Section (Kha), dated 31st March, 2005.]

- The District Magistrate shall, subject to any direction issued by the State Election Commission, arrange for the printing and supply of nomination papers in Form II to the candidates. The price of each nomination paper for the election to the office of the Adhyaksha and the Upadhyaksha of a Zila Panchayat shall be such as may be fixed by the State Election Commission from time to time in consultation with the State Government.]

8. [Deposits. [Substituted by Notification No. 1330/33-1-2005-31-2002, dated 31st March, 2005 (Vide U. P. Zila Panchayats (Election of Adhyaksha and Up-Adhyaksha and Settlement of Election Disputes) (First Amendment) Rules, 2005), published in U. P. Gazette (Extraordinary), Part 4, Section (Kha),

dated 31st March, 2005.]

(1)A candidate shall not be deemed to be duly nominated for the election to the office of an Adhyaksha or an Up-Adhyaksha, Zila Panchayat unless he deposits or causes to be deposited such sum as may be fixed by the State Election Commission from time to time in consultation with the State Government as security. For the candidates of the reserved categories such deposit shall be half of the sum fixed for the candidates of unreserved categories :Provided that where a candidate has been nominated by more than one nomination papers for the same election, not more than one deposit shall be required under this sub-rule.(2)Any sum required to be deposited under sub-rule (1) shall not be deemed to have been deposited under that sub rule unless at the time of delivery of nomination paper under Rule 7, the candidate has either deposited or caused to be deposited that sum with the Returning Officer in cash or enclosed with the nomination paper a receipt showing that the sum has been deposited by him or on his behalf in a Government Treasury or in the State Bank of India.]

9. Procedure of filing of nomination papers.

- The Returning Officer shall on receiving a nomination paper under Rule 7 enter thereon its serial number and the date on which and the hour at which the nomination paper has been delivered to him, and shall as soon as may be thereafter cause to be affixed at some conspicuous place in his office a notice of the nominations in Form III containing descriptions similar to those contained in the nomination paper, both of the candidate and of the person who have signed the nomination papers as proposers and seconders.

10. Scrutiny of nominations.

(1)At the scrutiny of nominations, the candidates, their proposer and seconders but no other persons, may attend. The Returning Officer shall give them all reasonable facilities for examining the duly received nomination papers.(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 on any of the following grounds :(a)that the candidate is not qualified to be chosen to the office under the Act;(b)that the candidate is disqualified for being chosen to the office under the Act;(c)that there has been any failure to comply with any of the provisions of Rules 7 and 8 ;(d)that the signature of the candidate or the proposer or seconder is not genuine or has been obtained by fraud ;(e)that the candidate is not a member of the Zila Panchayat ;(f)that the proposer or the seconder is not a member.(3)Nothing contained in clause (c), (d) or (f) 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 technical defect or other error which is not of a substantial character and may for the purpose of removing any such defect or error allow any entry to be corrected in the nomination paper including an entry relating to name or number on the electoral roll.(5)The order of the Returning Officer allowing any correction to be

made under sub-rule (4) shall be final and shall not be questioned in any court of law.(6)The Returning Officer shall hold the scrutiny on the date and time appointed in this behalf under Rule 5 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by causes beyond his control.(7)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.(8)For the purpose of this rule the existence of the name of a person in the list of members prepared under Rule 6 shall be conclusive evidence of the fact that he is eligible for election to the office of Adhyaksha.

11. Withdrawal of candidature.

(1)A candidate may withdraw his candidature by a notice in writing in Form IV, duly signed by him and delivered on the day and during the hours fixed under Rule 5 to the Returning Officer either by such candidate in person or by his proposer or seconder who has been authroised in this behalf in writing by such candidate.(2)No person who has given a notice of withdrawal of his candidature under sub-rule (1) shall be allowed to cancel the notice.(3)On receiving a notice under sub-rule (1), the Returning Officer shall note thereon the date on which and the hour at which it was delivered.(4)If the candidate withdraws within the time prescribed under Rule 5 the security amount deposited by him shall be refunded.(5)The Returning Officer shall, as soon as may be after receiving notice of withdrawal under sub-rule (1), cause a notice of the withdrawal to be prepared in Form V, and affixed in some conspicuous place in his office and on the notice Board of Zila Panchayat.

12. List of valid nominations and its publication.

(1)After withdrawals, if any, under sub-rule (1) of Rule 11, the Returning Officer shall prepare a list of the duly nominated contesting candidates in Form VI and shall publish it by affixing a copy thereof at his office and another on the notice Board of the Zila Panchayat.(2)The list of valid nominations shall be prepared in Hindi and shall contain the names in alphabetical order, with addresses of the duly nominated candidates as given in the nomination papers. The alphabetical order shall be determined with reference to the names proper of other candidates.

13. Unopposed candidate to be declared elected.

- If there is only one duly nominated candidate, the Returning Officer shall forthwith declare such candidate to be duly elected to the office of Adhyaksha and cause a copy of such declaration to be affixed at the notice Board of the Zila Panchayat and also report the result to the State Election Commission.

14. Death of contesting candidate before poll.

- If a candidate who has been duly nominated and who has not withdrawn his candidature dies and

report of his death is received by the Returning Officer before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and all proceedings with reference to the election shall be commenced anew in all respects as if for new election :Provided that no further nomination shall be necessary in the case of a candidate whose nomination was valid at the time of the countermanding of the poll :Provided further that no person who has given notice of withdrawal of his candidature under Rule 11 before the countermanding of the poll shall be eligible for being nominated for the election after such countermand.

15. Absence of candidature.

- If no person is duly nominated or all the persons duly nominated withdraw their candidature under Rule 11 proceedings shall be commenced anew as if for a new election. The Poll

16. Manner of voting.

- The election will be held in accordance with the system of proportional representation by means of a singly transferable vote and the voting at such election shall be by secret ballot. Vote shall be cast in person and no votes shall be recorded by proxy.

17. Place and hour of polling.

- Polling shall take place at such prominent place at the headquarters of the district as may be decided by the Returning Officer and within the hours specified in the notice under Rule 5.

18. Ballot papers and ballot box.

(1) Ballot papers to be used at the election shall be in Form VII and the names of the duly nominated candidates shall be given therein in Hindi in the order in which they appear in the list of valid nominations published under Rule 12. (2) A ballot box to be used at the poll shall be any of the types of boxes approved by the State Election Commission.

19. Procedure before the commencement of poll.

(1) The Returning Officer shall, immediately before the commencement of the poll, allow inspection of the ballot box to be used at the poll to such candidates as may be present at the place of polling. (2) The Returning Officer shall then secure and seal the box in such manner that the slit for the insertion of ballot papers remains open.

20. Admission to the place of polling.

(1) The Returning Officer shall exclude from the place of polling all persons except-(a) the candidates ;(b) the members ; and (c) such other persons as the Returning Officer may, from time to time, admit

for the purpose of assisting him in taking the poll.(2)The Returning Officer shall close the place of polling at the hour fixed under rules and shall not admit therein any member after that hour:Provided that all members present inside the place before it is so closed shall be entitled to have their votes recorded.

21. Procedure for giving ballot papers.

(1)The Returning Officer shall have before him the list of the members prepared under Rule 6.(2)Immediately before the ballot paper is delivered to a member, a mark shall be placed against his name in the list.(3)The member shall sign his name in the list in token of receipt of the ballot paper.(4)Before delivery of ballot paper to a member, the Returning Officer shall satisfy himself about the identity of the member and for that purpose he may take the assistance of such persons as he may think fit.(5)If the Returning Officer is not satisfied about the identity of any person, he may refuse to deliver a ballot paper to him after recording a brief note about the circumstances which the refusal was made.(6)As soon as the issue of ballot paper is finished, the Returning Officer shall place the counterfoils of ballot papers in an envelop and close and seal the same. The envelop shall not be opened except upon the order of a Court or other authority deciding any dispute relating to such elections.

22. Supply of fresh ballot paper in certain circumstances.

(1)A member who has advertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on returning it to the Returning Officer and on satisfying him of the inadvertence, obtain another ballot paper in place of the ballot paper so returned, and the latter shall, together with its counterfoil, be marked as "Returned and Cancelled" by the Returning Officer.(2)Any ballot paper so cancelled shall be kept in an envelop set apart for the purpose.

23. Returning of unused ballot papers by members.

- If a member after obtaining any ballot paper for the purpose of recording his vote decided not to use the same, he shall return the ballot paper to the Returning Officer who shall mark it "Returned and Cancelled" and keep it in the envelop set apart for the purpose under sub-rule (2) of Rule 22.

24. Manner of recording voting.

(1)Every member shall have as many preferences as there are candidates but no ballot paper shall be considered invalid solely on the ground that all such preferences are not marked.(2)A member in giving his vote-(a)shall mark on his ballot paper the number 1 in the space opposite the name of the candidate whom he chooses for his first preference ; and(b)may in addition, make as many subsequent preferences as he wishes by marking on his ballot paper the numbers 2, 3, 4 and so on in the space opposite the names of the candidates in order of his preference.(3)The Returning Officer shall, if requested by a member explain to him the instructions contained on the ballot paper for recording of votes.(4)For marking his preference a member shall enter a polling compartment

provided at the place of polling and screened from observation.(5)After the preference have been marked the member shall fold the ballot paper and put it into the ballot box through the slit provided for the purpose.(6)If a member is unable to read the ballot paper or to record his vote thereon by reason of illiteracy, blindness or other infirmity the Returning Officer shall, on being satisfied about such illiteracy, blindness or infirmity permit the elector to take with him a companion of not less than 21 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 member 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 companion of more than one member at the polling on the same day :Provided further that before any person is permitted to act as the companion of any member under this rule he shall be required to declare that he will keep secret the vote recorded by him on behalf of the member and that he has not already acted as the companion of any other member at the polling on that day.The Returning Officer shall keep a record in Form 7-A of all the cases under this sub-rule.Counting

25. Procedure at the counting.

(1)As soon as the poll is closed the Returning Officer shall in the presence of the contesting candidates and the members who may be present proceed to count the votes.(2)The Returning Officer shall open the ballot box and shall-(a)count the number of ballot papers taken out therefrom and record it in a statement;(b)scrutinize the ballot papers and separate those which in his opinion are valid from those which in his opinion are invalid endorsing on the latter the word "rejected" with reasons for such rejection ; and(c)arrange all the valid ballot papers in parcels according to the first preference recorded for each candidate.(3)A ballot paper shall be rejected as invalid on which-(a)the number 1 is not marked ; or(b)the number 1 is marked opposite the name of more than one candidate or is so marked as to render it doubtful to which candidate it is intended to apply ; or(c)the number 1 and some other numbers are marked opposite the name of the same candidate ; or(d)any mark is made by which the voter may afterwards be identified.

26. Determination of result.

- After all the valid ballot papers have been arranged in parcels according to the first preference recorded for each candidate, the Returning Officer, shall proceed to determine the result of the voting in accordance with the instructions contained in Schedule II, to these rules.

27. Recounting.

- The Returning Officer may, either on his own initiative or at the instance of any candidate, recount the votes, whether once or more than once, when the Returning Officer is not satisfied as to the accuracy of the previous counting ;Provided that nothing herein contained shall make it obligatory on the Returning Officer to recount the same votes more than once.

28. Declaration of result.

- When the counting is completed and the result of the voting has been determined, the Returning Officer shall in the absence of any direction by the State Election Commission to the contrary forthwith-(a)announce the result to those present;(b)report the result to the State Election Commission and the State Government ;(c)prepare and certify a return of the election in Form VIII, and(d)seal up in separate packets the valid ballot papers and the rejected ballot papers and record on each such packet a description of its contents.

29. Custody, inspection and disposal of election papers.

(1)The Returning Officer shall, after reporting the result under sub-rule (b) of Rule 28 forward the sealed envelopes and packets referred to in the preceding rules and also the records referred to in sub-rule (6) of Rule 24, the return of election prepared under sub-rule (c) of Rule 28, each placed in a separate sealed envelope, to the District Panchayat Raj Officer. Each envelop or packet shall have written over it specification of the contents thereof.(2)While in the custody of the District Panchayat Raj Officer, the packets of ballot papers whether unused, cancelled, valid or rejected and the list of members used while issuing ballot papers shall not be opened and their contents shall not be inspected by or produced before any person or authority except under the orders of the competent court. Inspection of other papers shall be allowed by the District Panchayat Raj Officer to any person within such hours as he may fix for the purpose.(3)Inspection of election papers whether allowed by the competent court on the District Panchayat Raj Officer under sub-rule (2) shall be subject to the condition of payment of a fee of Rs. 10 per day on which the inspection is made and copies of the return prepared under sub-rule (c) of Rule 28 shall be furnished by the District Panchayat Raj Officer to any person who may ask for the same on payment of a fee of Rs. 10 for each copy.(4)Election papers referred to in sub-rule (1) shall be retained for a period of one year and shall thereafter be destroyed subject to any direction to the contrary given by the State Election Commission or the competent court.

30. Return and forfeiture of deposits.

(1)If the nomination of any candidate is rejected by the Returning Officer, he shall pass an order for the return of the deposit made under Rule 8 to the candidate or to the person who made the deposit.(2)If a contesting candidate dies before the commencement of the poll, the deposit made under Rule 8, shall, if made by him, be returned to his legal representatives and, if not made by him, be returned to the person by whom it was made.(3)If a candidate nominated for election is not elected and the number of votes polled by him by way of first preference does not exceed one-fourth of the total number of votes polled, the deposit made under Rule 8 shall be. forfeited to the State Government.Explanation. - For the purpose of this sub-rule, the number of votes polled shall refer only to the number of valid ballot papers counted.(4)In cases not covered by the preceding sub-rules and Rule 11, every deposit made under Rule 8 shall after publication of the result of the election in the Gazette, be returned to the candidate.

31. Procedure to be followed in filling casual vacancies.

- For filling a casual vacancy in the office of Adhyaksha, the procedure to be followed shall, as far as may be, be the same as laid down in the foregoing rules.

Chapter III

Conduct of Election of Up-Adhyaksha

32. Election of Up-Adhyaksha.

- Rules 3 to 31 and Forms I to VIII shall mutatis mutandis apply in cases of election of an UP-Adhyaksha and shall for that purpose be construed and used with all requisite adaptations in respect of headings, citations, references and entries appropriate to the occasion :Provided that nothing in these rules shall be deemed to prohibit the election to the offices of the Adhyaksha and the Up-Adhyaksha being held separately or together :Provided further that where elections to the offices of Adhyaksha and Up-Adhyaksha are held together, all procedure shall be taken separately in respect of election to each of such offices save only that separate ballot papers for all such elections may be issued under Rule 21 together and the same may, after being marked, be put into the same ballot box.

Chapter IV

Disputes Regarding Elections of Adhyaksha and Up-Adhyaksha

33. Time and manner of presenting petitions.

(1)An election petition calling in question the election of an Adhyaksha or Up-Adhyaksha may be presented to the Judge at any time within thirty days from the date of declaration of the result under Rule 13 or Rule 28, as the case may be.(2)It shall be presented in person by the petitioner or if there are more than one petitioner, by any one or more of them.

34. Form, etc. of petition.

(1)An election petition shall specify the ground or grounds on which the election of the returned candidate is questioned and shall contain a summary of the circumstances alleged to justify the election being questioned on such grounds.(2)The person whose election is questioned and where the petitioner claims that any other candidate shall be declared elected in the place of such person, every unsuccessful candidate shall be made a respondent to the petition.

35. Relief that may be claimed by the petitioner.

- A petitioner may claim either of the following declarations-(a)that the election of the returned candidate is void ;(b)that the election of the returned candidate is void and that he himself or any other candidate has been duly elected.

36. Security.

(1)At the time of presenting an election petition the petitioner shall enclose with it a receipt showing that a sum of two hundred and fifty rupees has been deposited by him or on his behalf in a Government Treasury or in the State Bank of India as security for the costs of the petition.(2)There shall be paid on an election petition the court-fee prescribed in the Court Fees Act, 1870, or if no such court-fee is prescribed in that Act, a fee of Rs. 125 in court-fee stamps.

37. Recrimination when seat claimed.

- When in an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election.

38. Procedure.

(1)Except so far as provided by the Act or in these rules, the procedure provided in the Civil Procedure Code, 1908, in regard to suits, shall, in so far as it is not inconsistent with the Act or any provisions of these rules and it can be made applicable, be allowed in the hearing of the election petitions :Provided that-(a)any two or more elections relating to the election of the same person may be heard together ;(b)the Judge shall not be required to record or to have recorded the evidence in full but shall make a memorandum of the evidence sufficient in his opinion for the purpose of deciding the case;(c)the Judge may, at any stage of the proceedings require the petitioner to give further cash security for payment of the costs incurred or likely to be incurred by any respondent;(d)for the purpose of deciding any issue the Judge shall be required to order production of or to receive only so much evidence, oral or documentary as he considers necessary ;(e)no appeal or revision shall lie on a question of fact or law against any decision of the Judge ;(f)the Judge may review his decision on any point on an application being made within fifteen days from the date of the decision by any person considering himself aggrieved thereby ;(g)no witness or other person shall be required to state for whom he has voted at an election.(2)The provisions of the Indian Evidence Act, 1872 (Act No. 1 of 1872) shall be deemed to apply in all respects to the trial of an election petition.(3)Before the hearing of an election petition commences or before the final hearing takes place, the petition may be withdrawn by the petitioner or the petitioners, as the case may be, by making an application to the Judge requesting for the withdrawal of the petition and upon the making of such an application the petition shall stand withdrawn and no further action shall be taken for its trial.

39. Abatement of petitions.

(1)An election petition claiming a declaration mentioned in clause (a) of Rule 35 shall abate upon the death of the returned candidate.(2)An election petition shall abate upon the death of the sole petitioner or all the petitioners.(3)If any election petition claims the declarations mentioned in clause (b) of Rule 35 and the returned candidate dies, the Judge shall cause notice of such event to be published in the Gazette and thereupon any person who might have been a petitioner, may within fourteen days of the publication apply to be substituted in place of the returned candidate to oppose the petition and shall be entitled to continue the proceedings upon such terms as the Judge may thinks fit.

40. Orders of the Judge.

(1)If the Judge after making such inquiry as he deems fit finds in respect of any person whose election is called in question by a petition, that his election was valid, he shall dismiss the petition as against such person and award costs at his discretion.(2)If the Judge finds that the election of any person was invalid he shall either-(a)declare a casual vacancy to have been created, or(b)declare another candidate to have been duly elected and in either case may award costs at his discretion.

41. Powers of the Judge.

(1)If the petition is found to be frivolous the Judge may direct that the security or any part thereof shall be forfeited to the State Government.(2)An order for costs passed by the Judge shall be executed by him on an application made in that behalf in the same manner and in accordance with the same procedure as if it were a decree for the payment of money made by himself in a suit.

42. Ground for which a candidate other than the returned candidate may be declared to have been elected.

- If any person who has lodged an election petition has in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the Judge is of the opinion that in fact the petitioner, or such other candidate received a majority of the valid votes, the Judge shall after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected :Provided that the petitioner or such other candidate shall not be declared to be duly elected if it is proved that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election.

43. Procedure in case of equality of votes.

(1)If during the trial of an election petition it appears that there is an equality of votes between candidates at the election and that one of them is to be eliminated then-(a)any decision, made by the Returning Officer under the provision of these rules, shall, in so far as it determines the question

between those candidates, be effective also for the purpose of petition, and (b) so far as that question is not determined by such a decision, the Judge shall decide between them in accordance with the provisions of the instructions in Schedule II to these rules.

44. Taking effect of Judge's order.

- An order of the Judge under sub-rule (2) of Rule 40 shall take effect from the date of the order.

45. Communication of order and transmission of record.

- The Judge shall as soon as may be after announcing the orders made by him under Rule 40 send a copy thereof each to State Election Commission, the State Government and the District Magistrate.

46. Disposal of security deposit and recovery of costs.

(1) Subject to provisions of sub-rule (1) of Rule 41, costs, if any, awarded to any respondent by a Judge shall be recoverable out of the security deposited under Rules 36 and 38 and the balance of the security deposit, if any, shall be refunded to the petitioner. (2) The costs or any portion thereof, awarded to any respondent and not recovered from the security deposited referred to in sub-rule (1) and costs payable to petitioner from any respondent shall be recoverable in accordance with the provisions of sub-rule (2) of Rule 41. (3) While making his order under Rule 40 the Judge shall also pass orders about the recovery of costs and refund of security deposits in accordance with the provisions of this rule and the District Magistrate shall carry out the order accordingly on receipt of a copy of the Judge's orders under Rule 45.

47. Appeal against the orders of the Judge.

(1) An appeal shall lie from every order made by the Judge under Rule 40 to the High Court within thirty days from the date of the order: Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period. (2) Every person who prefers an appeal under sub-rule (1) shall enclose with the memorandum of appeal a Government Treasury receipt showing that a deposit of five hundred rupees has been made by him either in a Government Treasury or in the State Bank of India in favour of the High Court as security for costs of the appeal.

Chapter V

Manner of Election Petition

48. Manner of raising disputes under clause (c) of sub-section (2) of Section 27.

(1) If a dispute arises as to whether a person has become disqualified to be Adhyaksha or Up-Adhyaksha for the purposes of Section 19, the matter shall be referred by means of a written petition by any person whose name is registered as an elector in the electoral roll for a territorial constituency of the Zila Panchayat, to the Judge at any time during the currency of the term of the said Adhyaksha or Up-Adhyaksha, as the case may be. (2) Every petition under sub-rule (1) shall be presented in person by the petitioner or if there are more signatories to the petition, then by any one or more of them.

49. Form, etc, of petition.

(1) A petition presented under Rule 48 shall specify the grounds on which the person is alleged to have become disqualified to be Adhyaksha or Up-Adhyaksha and shall contain all summary of the circumstances alleged to justify the dispute being raised on such grounds. (2) The Adhyaksha or the Up-Adhyaksha against whom the dispute has been raised shall be made as a respondent to the petition.

50. Security.

- At the time of presenting petition under Rule 48 the petitioner shall enclose therewith a receipt showing that a sum of two hundred rupees has been deposited by him or on his behalf in Government Treasury or in the State Bank of India as security for the costs of the petition.

51. Orders of the Judge.

- If the Judge finds that the person, against whom the petition has been raised under Rule 48 has become disqualified to be Adhyaksha or Up-Adhyaksha, as the case may be, for purposes of Section 19, he shall declare a casual vacancy to have occurred in the said office.

52. Other procedure, etc.

- The provisions of Rules 36 (2), 38, 39 (2), 41, 44, 45 and 46 shall, as far as may be apply to the disputes raised under Rule 48.

I

Form I [Rule 5] Form of notice of election to the office of Adhyaksha Whereas Adhyaksha has to be elected to Zila Panchayat, I the Returning Officer for the said election do hereby give the following : Public Notice (i) Nomination papers may be delivered to the undersigned at..... (place) or if he is unavoidably prevented from receiving the same to..... at..... (place) they shall be presented between 11 a.m. and 3 p.m. on a..... (date). (ii) The nomination papers will be taken up for scrutiny at..... (hours)..... on..... (date)..... in..... (place). (iii) In the event of the election being contested the poll will take place on (date) between the hours of..... and..... at..... (place). Returning

OfficerDate.....Address.....Note. - Forms of nomination paper may be obtained from the office of Returning Officer between the hours of..... (hours) and..... (hours)..... from..... (date) to..... (date).Form II[Rule 7]Nomination paper for election to the office of Adhyaksha, Zila Panchayat

1. Name of candidate.....

2. Father's/Husband's name.....

3. Age.....

4. Address.....

5. Territorial Constituency in the electoral roll of which the name of the candidates included.....

6. Serial number of the candidate in the list of members prepared under Rule 6 of the Uttar Pradesh Zila Panchayats (Election of Adhyaksha and Up-Adhyaksha and Settlement of Election Disputes) Rules, 1994.....

7. Name and address of the proposer.....

8. Signature of the proposer.....

9. Name and address of the seconder.....

10. Signature of the seconder.....

Note. - If the nomination is for an office reserved for the Scheduled Castes or the backward classes, the declaration under sub-rule (3) of Rule 7 of the Uttar Pradesh Zila Panchayats (Election of Adhyaksha and Up-Adhyaksha and Settlement of Election Disputes) Rules, 1994 shall be furnished with the nomination paper. Declaration by the Candidate I hereby declare that I agree to this nomination. Date..... Signature of candidate. Certificate of Delivery Serial No..... This nomination paper was delivered to me at my office at..... (date and hour) by the candidate/proposer/seconder. Returning Officer. Certificate of Scrutiny I have scrutinized the eligibility of the candidate and the proposer and the seconder and find that they are respectively qualified to stand for election and to propose and second the nomination. Returning Officer. Note. - (1) The nomination paper will not be valid unless it is delivered to the Returning Officer or to an Assistant Returning Officer authorised to receive it, at the place, on the date and within the hours specified in this behalf in the notice issued by the Returning Officer under Rule 5 of the Uttar

Pradesh Zila Panchayat (Election of Adhyaksha and Up-Adhyaksha and Settlement of Election Disputes) Rules, 1994.(2)In item No. 2, the inappropriate alternative should be struck off Husband's name is to be filled in all cases where the candidate is a married woman or a widow. Form III[Rule 9]Notice of nomination for election to the Office of Adhyaksha of Zila Panchayat received on..... upto 3 p.m.

1. Serial No.....

2. Name of candidate.....

3. Father's/Husband's name.....

4. Age.....

5. Address.....

6. Name and address of proposer.....

7. Name and address of seconder

8. Territorial constituency in the electoral roll of which the name of the candidate is included.....

9. Serial number of the candidate in the list of members prepared under Rule 6 of the Uttar Pradesh Zila Panchayats (Election of Adhyaksha and Up-Adhyaksha and Settlement of Election Disputes) Rules, 1994.

Form IV[Rule 11]Form of notice of withdrawalTo.The Returning OfficerSubject. - Election to the Office of the Adhyaksha of Zila Panchayat.I..... of..... a candidate nominated at the abovementioned election do hereby give notice that I withdraw my candidature.Dated this..... day..... 20.....Signature of candidate.To be filled in officeThis notice of withdrawal was delivered to me at my office at..... (hours) on..... (date) by..... the candidate/the candidate's proposer/the candidate's seconder who has been authorised by the candidates to deliver it.Returning Officer.Form V[Rule 11]Notice of withdrawal of candidatureNotice(s) of withdrawal of candidature(s) for election to the office of Adhyaksha of Zila Panchayat..... has/have been received on..... from the following candidate /from each of the following candidates :Name(s) of candidate(s) :

1.

2.

etc. Dated.....20.....Returning Officer. Form VI[Rule 12]List of valid nomination Zila Panchayat.....Election to the office of Adhyaksha.....Final list of candidates for election.....

Serial No. Name of candidate Address of candidate

1 2 3

1.

2.

3.

4.

etc.

Returning Officer. Form VII[Rule 18]Form of Ballot Paper

Counter foil..... Outerfoil (front).....

Zila Panchayat..... Zila Panchayat.....

District..... District.....

Election of Adhyaksha..... Election of Adhyaksha.....

20.....

20.....

Name of Candidate.....Preference

Serial No. of

1,

Ballot paper

2.

3.

etc.

Instructions

1. The persons whose names are given on the ballot paper have been nominated as candidates for election to the office of Adhyaksha of Zila Panchayat.

2. The vote shall be recorded by placing the No. 1 in the space opposite the name of the candidate whom the voter chooses for his first preference and the voter may, in addition, mark as many subsequent preferences as he wishes by placing the Nos. 2, 3, 4, and so on in the space opposite the names of other candidates in order of preference.

Outerfoil (Back).....Serial No. of Ballot

paper.....Form VII-A[See Rule 24 (6)]List of illiterate, blind and infirm voters Election of Adhyaksha and Up-Adhyaksha of Zila Panchayat..... Name of Polling

Station.....

Serial No. of elector in the list of members	Full name of elector	Full name of companion	Address of companion	Signature of companion
1	2	3	4	5

Dated.....Signature of Returning Officer. Form VIII[See Rule 28]Result of election to the office of the Adhyaksha, Zila Panchayat.....

1. Serial No.....

2. Name of candidate.....

3. Votes secured at first count.....

4. Votes credited at first exclusion.....

5. Total of Columns 3 and 4.....

6. Votes credited at second exclusion.....

7. Total of Columns 5 and 6.....

8. Votes credited at third exclusion.....

9. Total of Columns 7 and 8.....

10. Votes credited at fourth exclusion.....

11. Total of Columns 9 and 10.....

Exhausted votes.....Total.....Total
 number of valid ballot papers.....Representing
 votes.....Total number of invalid ballot
 papers.....Representing votes.....I declare
 that-(Name).....(Address).....has been duly elected to the office of the Adhyaksha, Zila
 Panchayat.Place.....Date.....Returning Officer.

II

[See Rule 26]Instruction for the determination of result

1. In this Schedule-

(1)the expression "continuing candidate" means any candidate not elected and not excluded from the poll at any given time ;(2)the expression "first preference" means the No. 1 set opposite the name of any candidate, the expression "second preference" similarly means the No. 2, the expression "third preference" the No. 3 and so on ;(3)the expression "next available preference" means the second or subsequent preference recorded in consecutive numerical order for a continuing candidate, preferences for candidates already excluded being ignored ;(4)the expression "unexhausted paper" means a ballot paper on which a further preference is recorded for a continuing candidate ;(5)the expression "exhausted" means a ballot paper on which no further preference is recorded for a continuing candidate; provided that a paper shall be deemed to be exhausted in any case in which-(a)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(b)the name of the candidate next in order of preference whether continuing or not, is marked by a number not following consecutively after some other number on the ballot paper or by two or more numbers.

2. Ascertain the number of first preference votes secured by each candidate and credit him with that number.

3. Add up the numbers so credited to all the candidates, divide the total by two and add one of the quotient disregarding any remainder. The resulting number is the quota sufficient to secure the return of candidates at the election.

4.

(1)If there are only two contesting candidates then-(a)if one candidate gets larger number of first preference votes than the other, declare the former as elected ; or(b)if both the candidates get equal number of first preference votes, determine the result by drawing of lots. Exclude the candidate on whom the lost falls and declare the other candidate as elected.(2)If there are more than two candidates, then-(a)if one of them is found to secure first preference votes equal to or more than the quota determined under Instruction No. 3, declare him as elected ; or(b)if none of them secure first preference votes equal to or more than the quota aforesaid proceed according to the instruction hereinafter taking into consideration second and subsequent preferences as may be necessary.

5. If at the end of the first or any subsequent count the total number of votes credited to any candidate is equal to or greater than the quota or there is only one continuing candidate that candidate is declared elected.

6. If at the end of any count, no candidate can be declared elected-

(a) exclude the candidate who up to that stage has been credited with the lowest number of votes ;(b)examine all the ballot papers in his parcel and sub-paragraph, arrange the unexhausted papers in sub-paragraph according to the next available preferences recorded thereon for the continuing candidates, count the number of votes in each such sub-paragraph and credit it to the candidate for whom such preference is recorded, transfer the sub-paragraph to that candidate and make a separate sub-paragraph of all the exhausted papers ; and(c)see whether any of the continuing candidates has, after such transfer and credit, secured the quota.If, when a candidate has to be excluded under clause (a) above, two or more candidates have been credited with the same number of votes and stand lowest on the poll, exclude that candidate who had secured the lowest number of first preference votes, and if that number also was the same in the case of two or more candidates, decide by lot which of them shall be excluded.All the sub-paragraphs of exhausted papers referred to in clause (b) above shall be set apart as finally dealt with and the votes recorded thereon shall not thereafter be taken into account.Illustration. - Suppose there are four candidates A, B, C and D and the number of first preference votes secured by them are-

A = 12

B = 11

C = 7

D = 5

35

The quota will be $= 35/2 + 1 = 18$ No candidate having obtained votes equal to or over the quota at the first count, the candidate having the lowest votes, namely, D, will be excluded. Suppose there are second preferences marked on only four ballot papers in the parcel of D as follows : A = 2 B = 2 The fifth ballot paper will be placed in the sub-paragraph of exhausted papers and the two papers recording second preference for A and B each will be placed in separate sub-paragraphs for A and B each of them will be credited with two additional votes. The votes for A, B and C will now be - A = 12 + 2 B = 11 + 2 C = 7 Since at the end of the second count no candidate can be declared elected, the candidate C having the lowest votes out of the three continuing candidates will now be excluded and his votes transferred to other continuing candidates A and B. Suppose second preference as recorded in all the ballot papers in the parcel of C are as below : A = 4 B = 3 After crediting A and B with these additional votes A would have secured 18 votes, that is equal to the quota and B = 16 votes. A will, therefore, be declared elected.