

# **The M.P. Municipalities (Election Petition) Rules, 1962**

MADHYA PRADESH

India

## **The M.P. Municipalities (Election Petition) Rules, 1962**

### **Rule**

### **THE-M-P-MUNICIPALITIES-ELECTION-PETITION-RULES-1962 of 1962**

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The M.P. Municipalities (Election Petition) Rules, 1962Published vide Notification No. 51-U-18 dated 18-4-1962, M.P. Rajpatra, Part 2, dated 27-4-1962In exercise of the powers conferred by sub-section (1) and clause (i) of sub-section (2) of Section 355 read with Section 23 of the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961), and in supersession of all rules previously made on the subject, the State Government hereby makes the following rules, the same having been previously published as required by sub-section (3) of Section 356 of the said Act, namely :-

#### **1. Short title.**

- These rules may be called the Madhya Pradesh Municipalities (Election Petition) Rules, 1962.

#### **2. Definitions.**

- In these rules, unless the context otherwise requires :-(a)"Act" means the Madhya Pradesh Municipalities Act, 1961;(b)"Judge" means the District Judge, where the election or selection of Councillors is held within the revenue district in which the Court of the District Judge is situate, and in any other case, the Additional District Judge having the permanent seat of his Court within the revenue district in which such election or selection is held and if there be more than one such Additional District Judge within the said revenue district, such one of them as the District Judge may specify for the purpose of sub-section (2) of Section 20;(c)"Section" means a section of the Act.

#### **3. Copy of the election petition to be served on each respondent.**

- When an election petition presented under sub-section (2) of Section 20 has been admitted, the Judge shall, as soon as may be, cause a copy thereof to be served on each respondent.

#### **4. Election petitions to be enquired into in one or more proceedings.**

- When, in respect of any election or selection of a candidate, more election petitions than one are presented, the Judge may, at his discretion, enquire into the petitions either in one or more proceedings as he shall think fit.

#### **5. Procedure.**

- Subject to the provisions of the Act or of these rules, every election petition shall be enquired into by the Judge, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits ;Provided that it shall only be necessary for the Judge to make a memorandum of the substance of the evidence of any witness examined by him.

#### **6. Parties to produce their witnesses.**

- It shall be the duty of the parties to produce their witnesses on the date fixed for evidence; and they shall not be entitled to an adjournment for non-attendance of witnesses :Provided that the Judge may at his discretion order the issue of summons to any witness on the necessary process fee and costs being deposited by the party concerned.

#### **7. Withdrawal of election petition.**

(1)No election petition shall be withdrawn without the leave of the Judge.(2)If there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.(3)When an application for withdrawal is made, notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition.(4)No application for withdrawal shall be granted, if in the opinion of the Judge such application has been induced by any bargain or consideration which ought not to be allowed.(5)If the application is granted, the petitioner shall be ordered to pay the cost of the respondents theretofore incurred or such portion thereof as the Judge may think fit.

#### **8. Abatement of election petition.**

- An election petition shall abate only on the death of the sole petitioner or of the survivor of several petitioners.

#### **9. Substitution on death of respondent.**

- If before the conclusion of the trial of an election petition, the respondent dies, the Judge shall cause notice of such event to be published by affixing a copy on the notice board of the Court and the Municipal office, and thereupon any person who might have been a petitioner may, within fourteen days of such publication, apply to be substituted for such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the Judge may think fit.

## **10. Recrimination when seat claimed.**

- Where, at an enquiry into an election petition, any candidate, other than the elected or selected candidate claims the seat for himself, the elected or selected candidate or any other party may give evidence to prove that the election or selection of such candidate would have been void if he had been the elected or selected candidate and a petition had been presented complaining of his election or selection.

## **11. Powers of the Judge.**

- For purposes of enquiring into such petitions, the Judge shall have the powers which are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters :-(a)discovery and inspection;(b)enforcing the attendance of witnesses and requiring the deposit of their expenses;(c)compelling the production of documents;(d)examining witnesses on oath;(e)granting adjournments;(f)reception of evidence taken on affidavit; and(g)issuing commissions for the examination of witnesses;and may summon and examine suo motu any person whose evidence appears to him to be material; and shall be deemed to be a civil Court within the meaning of Sections 480 and 482 of the [Code of Criminal Procedure, 1898] [See now the Code of Criminal Procedure, 1973 (2 of 1974).].

## **12. Application of the Indian Evidence Act, 1872.**

- Subject to the provisions of these rules, the provisions of the Indian Evidence Act, 1872, shall be deemed to apply in all respects to an enquiry into an election petition.

## **13. Documentary evidence.**

- Notwithstanding anything in any law or rules having the force of law to the contrary; no document shall be inadmissible in evidence on the ground that it is not duly stamped or registered.

## **14. Answering of criminating questions and certificate of indemnity.**

(1)No witness shall be excused from answering any question as to any matter relevant to a matter in issue in an enquiry upon the ground that the answer to such question will criminate, or may tend, directly or indirectly, to criminate him or that it may expose or tend, directly or indirectly, to expose him to any penalty or forfeiture of any kind :Provided that-(i)no witness who has recorded any vote by ballot shall be required to state for whom he has voted; and(ii)a witness, who in the opinion of the Judge, has answered truly all questions which he has been required by the Judge to answer, shall be entitled to receive a certificate of indemnity, and such certificate may be pleaded by such witness in any Court and shall be deemed to be a full and complete defence to or upon any criminal charge arising out of the matter to which such certificate relates, nor shall any such answer be admissible in evidence against him in any suit or other proceedings.(2)Nothing in sub-rule (1) shall be deemed to relieve a person receiving a certificate of indemnity from any disqualification in connection with an

election imposed by the Act or any other law.

### **15. Appearance before the Judge.**

- Any appearance, application or act before the Judge may be made or done by the party in person or by a pleader or a recognized agent duly appointed to act on his behalf; Provided that if the Judge so directs, any such appearance shall be made by the party in person.

### **16. Decision.**

- If an election or selection is declared void, the Judge may either declare that a casual vacancy has been created, or that the petitioner or any other candidate has been duly elected or selected.

### **17. Expenses of witnesses.**

(1) The reasonable expenses incurred by any person in attending to give evidence shall, unless the Judge otherwise directs, be deemed to be part of the costs. (2) Costs shall be in the discretion of the Judge who shall have full power to determine by and to whom and to what extent such costs are to be paid. (3) The fees payable by a party in respect of fees of his adversary's pleader shall be such fees not exceeding Rs. 100 as the Judge may allow.

### **18. Execution of orders as to costs.**

- An application for the execution of an order relating to cost shall be presented to the Judge who shall execute it in the same manner and by the same procedure as if the order were a decree of his Court.

### **19. Revision.**

(1) No petition by way of revision shall lie against any interlocutory order passed by the Judge. (2) At the time of presentation of the petition for revision under sub-section (2) of Section 26 against the decision of the Judge, the petitioner shall deposit with the High Court a sum of Rs. 250 as security for the costs of the revision. If the provisions of this rule are not complied with the High Court shall dismiss the petition.

### **20. Rules shall be general.**

- These rules shall be general for all Municipalities.