

The Sikh Gurdwaras Election Enquiries Rules, 1925

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Rule

THE-SIKH-GURDWARAS-ELECTION-ENQUIRIES-RULES-1925 of 1925

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1101.

1. Short title.

- These rules may be called the Sikh Gurdwaras Election Enquiries Rules, 1925.

2. Definitions.

- In these rules, unless there is anything repugnant in the subject or context :-(1)"Agent" includes any person held by a person enquiring into the conduct of an election under the provisions of these rules to have acted as an agent in connection with an election with the knowledge or consent of the candidate;(2)"Candidate" means a person who has been nominated as a candidate at any election or who claims that he has been so nominated or that his nomination has been improperly refused, and includes a person, who, when an election is in contemplation, holds himself out as a prospective candidate at such election and is subsequently nominated as a candidate at such election,[-] [Sub-rule (3) of rule 2 omitted by Punjab Government Notification No. 1165, dated the 12th August, 1954.](4) "Corrupt practice" means any act deemed to be a corrupt practice under the provisions of Chapter I Part VII of the Representation of the People Act, 1951 (43 of 1951);] [Sub-rule (4) of rule 2 substituted by Government of India of India Notification No. 324 (E) dated the 1st June, 1979 Page 19.](5)"Election" means an election held under the provision of Sikh Gurdwaras Board Election Rules [*1959] [Substituted for the figure `1925' by Punjab Government Notification No. 1165, dated the 12th August, 1954. The Rules of 1954 were repealed, vide Notification No. 1207-Gurdwaras dated

the 16th July, 1959, and No. 1565-Gurdwaras, dated the 30th September, 1959, respectively, and substituted by the Sikh Gurdwaras Board/Committee Election Rules, 1959. *See also Govt. of India Notification No. GSR 328 (e) dt. 1.6.1979.] or the Sikh Gurdwaras Committee Election Rules, [1954] [Substituted for the figure '1925' by Punjab Government Notification No. 1165, dated the 12th August, 1954. The Rules of 1954 were repealed, vide Notification No. 1207-Gurdwaras dated the 16th July, 1959, and No. 1565. Gurdwaras, dated the 30th September, 1959, respectively, and substituted by the Sikh Gurdwaras Board/Committee Election Rules, 1959, or the Sikh Gurdwaras (Election of Office-bearers and Executive Committee) Rules, 1925.], or the Sikh Gurdwaras (Election of Office-bearers and Executive Committee) Rules, 1925.[-] [The words [includes a Co-optation held under the provisions of the Sikh Gurdwaras Committee (Co-optation of Members) Rules, 1925] omitted, vide Punjab Government H.G., Notification No. 71, dated the 9th January, 1947.](6)"Material irregularity" in the procedure of an election includes the improper acceptance or refusal of any nomination or the improper reception or refusal of a vote or the reception of any vote which is void or any non-compliance with the provisions of the Sikh Gurdwaras Act, 1925, or of the rules made thereunder or any mistake in the use of the any form annexed thereto ;[Provided that the improper acceptance or refusal of a nomination shall not be deemed to be a "Material irregularity" where the aggrieved party did not avail itself of the right to appeal to the Deputy Commissioner under the rules; and] [Added by Punjab Government Notification No. 1165, dated the 12th August, 1954.](7)"Returned candidate" means a candidate who has been declared elected under the Sikh Gurdwaras Board Election Rules, 2[1954]. or the Sikh Gurdwaras Committee Election Rules [*1959] [Substituted for the figure '1925' by Punjab Government notification No. 1165, dated the 12th August, 1954. The Rules of 1954 were repealed, vide notifications No. 1207-Gurds., dated the 16th July, 1959, and No. 1965-Gurds, dated the 30th September, 1959, respectively and substituted by the Sikh Gurdwaras Board/Committee Election Rules, 1959. *See also Govt. of India Notification GSR 329(e) dt. 1.6.1979.] or the Sikh Gurdwaras (Election of Office-bearers and Executive Committee) Rules, 1925. [-] [The words [includes a Co-optation held under the provisions of the Sikh Gurdwaras Committee (Co-optation of Members) Rules, 1925] omitted, vide. Punjab Government (H.G.), notification No. 71, dated the 9th January, 1947.]

3. The Election Petition

- No election shall be called in question except by an election petition presented in accordance with the provisions of these rules.

4. Presentation of the petition, vide Notification No. 2856, dated the 6th September, 1926, Punjab Government Gazette, 1926, Part I Page 857.

- An election petition against any returned candidate at an election of members of the Board or of a committee or against the return of [an office-bearer] [Substituted for the words [a President or Vice-President], vide Punjab Government, Notification No. 1165, dated the 12th August, 1954.] or a member of the Executive Committee, [-] [The word] on the ground of a corrupt practice alleged to have been committed by the returned candidate or any agent of the returned candidate in respect of the election or of any material irregularity in the procedure of an election shall be made in writing signed by any candidate or elector and the petition shall be presented by the petitioner or a person

authorised in writing in this behalf by the petitioner or by registered post to the Returning Officer of the constituency concerned or, if the candidate was returned as [an office-bearer] [Substituted for the words [a President or Vice-President], vide Punjab Government, Notification No. 1165, dated the 12th August, 1954.] of the Board or as a member of the Executive Committee, to the Deputy Commissioner, Amritsar District, [-] [The words [(or if the candidate was returned as a co-opted member of the Committees described in sub-sections (5), (6) and (7) of section 85 of the Act, to the Punjab Government)] omitted, vide Punjab Government (H.G.), Notification No. 71, dated the 9th January, 1947.] within the fourteen days after the date on which the result of the election was published [in the official Gazette] [Substituted for the words 'Punjab Gazette' by Government of India Notification No. G.S.R. 348(E) dated 1st June, 1979 Part II Page 19.].

5. Contents of the petition.

- The petition shall contain a statement in concise form of the material facts on which the petitioner relies and the particulars of any corrupt practice or material irregularity which he alleges, and shall, where necessary, be divided into paragraphs numbered consecutively and shall be verified by reference to the numbered paragraphs which assertions he verifies of his own knowledge and which he verifies upon information believed to be true.

6. Deposit of security.

- At the time of presentation of an election, petition, the petitioner shall deposit in the treasury if the election was an election of member of the Board or of [an office-bearer] [Substituted for the word 'President or Vice-president' by Pb. Govt. Noti. No. 1165, dated the 12th the August, 1954.] of the Board or of a member of the Executive Committee, five hundred rupees or if the election was an election of a member of a Committee, two hundred and fifty rupees in cash or in Government Promissory Notes of equal value at the market rate of the day, as security for all costs and charges and all expenses that as may become payable by him to any witness summoned on his behalf or to any respondent.

7. Submission of petition to Government.

- The Returning Officer or Deputy Commissioner, as the case may be, shall forward every election petition received by him under rule 4 to the [Central Government.] [See Govt. of India Noti. No. G.S.R. 328(E) Part of II dated 1.6.79 Page 19.]

8. Dismissal for default.

- If the provisions of rules 4, 5 and 6 are not complied with, the [Central Government] [See Govt. of India Noti. No. G.S.R. 328(E) Part of II dated 1.6.79 Page 19.] shall dismiss the election petition.

9. [Appointment of a person or persons to hold an enquiry. - (1) If the election petition is not dismissed under rule 8, the [Central Government] [Substituted by the Punjab Government Notification No. 788, dated the 9th March, 1950.] shall appoint an Enquiry Board consisting of one person or three persons to hold any enquiry into the allegations made in the election petition and shall also appoint one of the members of such Board to be the President (if number of members is 3)].

(2)Withdrawal of a petition by Government. - If at any time during the enquiry, the [Central Government] [See Govt. of India Noti. No. G.S.R. 328(E) Part of II dated 1.6.79 Page 19.] is satisfied that it is inexpedient or impracticable for the enquiry into any petition to continue before the same Board [that Government] [See Govt. of India Noti. No. G.S.R. 328(E) Part of II dated 1.6.79 Page 19.] may withdraw such petition from the jurisdiction of the said Board and thereupon the appointment of the said Board shall be deemed to have been cancelled.(3)Appointment of a New Enquiry Board for the further trial of the Petition. - As soon as may be after the making of an order under the above sub-rule (2), the [Central Government] [See Govt. of India Noti. No. G.S.R. 328(E) Part of II dated 1.6.79 Page 19.] shall appoint an enquiry Board consisting of one person or three persons for the further trial of the petition and shall also appoint one of them to be the President (if number of members is 3) and the Enquiry shall proceed before such Board as if the petition had been referred to them for trial in the first instance :Provided that the Board so appointed may direct that the evidence of any witness who has already been examined shall remain upon record, and in that case it shall not be necessary to re-examine such witnesses.(4)Single or a number of petitions may be withdrawn. - An order under sub-rules (2) and (3) may be made by [Central Government] [See Notification No. GSR(E) Part II dt. 1.6.1979 P. 19.] in respect of a single petition or any number of the petitions.(5)Service of summons on respondent. - The President of the Enquiry Board shall cause to be served on the respondent a notice of the presentation of petition together with a copy of petition and shall summon him and the Enquiry Board may call upon the petitioner to execute a bond in such amount and with such sureties as it may require for the payment of any further costs, and shall then make an enquiry regarding the corrupt practice or material irregularities alleged :Provided that in the case of further trial under sub-rule (2), no fresh notice need to be served].

10. Place of enquiry.

- The enquiry shall be held at such place as the [Central Government] [See Notification No. GSR(E) Part II dt. 1.6.1979 P. 19.] may appoint and shall, so far as possible, be a place to which the public have free access; provided that Enquiry Board may, on being satisfied that special circumstances exist rendering it desirable that the enquiry should be held elsewhere, appoint some other convenient place for the enquiry and may depute one of its members to take evidence at any place in the [State] [Substituted for the word].

11. Notice of time and place of enquiry

- Notice of the time and place of enquiry shall be given so as to reach the parties not less than seven days before the first day of the enquiry.

12. Procedure of enquiry.

- Subject to the provisions of rule 8, every election petition shall be enquired into in the presence of the respondent 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 Enquiry Board to make a memorandum or the substance of the evidence of any witness examined by it.

13.

(1) No election petition shall be withdrawn without the leave of the Enquiry Board, or if an application for withdrawal is made before the appointment of such Board, of the [Central Government] [See Notification No. GSR(E) Part II dt. 1.6.1979 P. 19.]. (2) Permission to withdraw an election petition shall not be granted -(a) Unless in the case of there being more petitioners than one, all the petitioners consent to withdraw the petition ; (b) If the enquiry Board, of the [Central Government] [Substituted for the word] if no such Board has been appointed, is or are of opinion that the application for withdrawal has been induced by any bargain or consideration. (3) If permission to withdraw the election petition is granted, the petitioner may be ordered to pay such costs of respondent as have by then been incurred.

14. Findings as to allegations.

(1) The Enquiry Board shall draw up a report giving specific findings as to the corrupt practices committed by the candidate or an agent of the candidate or as to the material irregularities alleged in the petition which have occurred together with the names of the persons, if any, found guilty thereof, provided that no such person shall be named in the report unless he has been given a reasonable opportunity of showing cause why his name should not be so recorded. (2) If the Enquiry Board finds that the election of returned candidate has not been procured or influenced or the result of the election has not been materially affected by a material irregularity and that no corrupt practice alleged has been committed or abetted by the candidate or his agent it shall declare the election valid and its order shall be final. (3) If the Enquiry Board finds that the election of a returned candidate has been procured or influenced or the result of the election has been materially affected by a material irregularity or that any corrupt practice alleged has been committed or abetted by the candidate or his agent it shall forward the record of its proceedings with its report to the [Central Government] [Substituted for the words 'Punjab Government' by Government of India Notification No. 328(E) Part II dt. 1.6.79 P.19.][-] [The words [or, if the election was the election of a member of a Committee to the Commissioner] omitted by Punjab Government Notification No. 1165, dt. the 12th August, 1954.]. (4) The report shall be in writing and shall be signed by all the members of the Enquiry Board, and on its receipt the [Central Government] [Substituted for the words 'Punjab

Government' by Government of India Notification No. 328(E) Part II dt. 1.6.79 P.19.] [-] [The words [or the Commissioner, as the case may be] omitted by Punjab Government Notification No. 1165, dated the 12th August, 1954.] shall issue orders in accordance with the report and publish the report in the Gazette and may declare that the candidate shall be incapable of holding any office to which election may be made under the Sikh Gurdwaras Act, 1925, for specified period not exceeding, five years and such orders of the [Central Government] [Substituted for the words 'Punjab Government' by Government of India Notification No. 328(E) Part II dt. 1.6.79 P.19.][-] [The words [or the Commissioner, as the case may be] omitted by Punjab Government Notification No. 1165, dated the 12th August, 1954.] shall be final.(5)If in their report there is a difference of opinion among the members of the Enquiry Board, the opinion of the majority shall prevail, and the report shall be expressed in the terms of the views of the majority.(6)Notwithstanding anything contained in sub-rules (4) and (5), the [Central Government] [Substituted for the [Punjab Government] by Government of India Notification No. 328(E) Part II dt. 1.6.79 P.19.][-] [The [or the Commissioner, as the case may be] omitted by Punjab Government Notification No. 1165, dated the 12th August, 1954.] may before passing an order under those sub-rules remand the case for further enquiry by an Enquiry Board.(7)Any order regarding costs made by an Enquiry Board in an order declaring an election valid and any order regarding costs made or confirmed by the [Central Government] [Substituted for the words 'Punjab Government' by Government of India Notification No. 328(E) Part II dt. 1.6.79 P.19.][-] [The words [or the Commissioner , as the case may be] omitted by Punjab Government Notification No. 1165, dated the 12th August, 1954.] in an order passed under sub-rule (4) or sub-rule (5) may be produced before the principal court of original jurisdiction within the local limits of whose jurisdiction any person directed by the order to pay any sum of money has a place of the residence or business, and such court shall execute the order or cause it to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit.

15. No representation by counsel.

- No party shall be entitled to be present in person or be represented by counsel at proceedings of the [Central Government] [The words [or the Commissioner], omitted by *ibid.*][-] [See Notification No. 328(E) issued by Govt. of India in Part II dt. 1.6.1979 P. 19.] under the provisions of rule 14.

16. Power of Government to direct the holding of an enquiry of its own motion.

- The 1[Central Government] may of their own motion direct an enquiry to be held into the conduct of any candidate at an election if there is in their opinion reason to suspect that a corrupt practice or material irregularity has taken place and [such] [Should read 'Such'.] enquiry shall be made, so far as may be, in the manner prescribed in these rules.

17. Interpretation in case of doubt

- If any question arises as to the interpretation of these rules, the question shall be referred to the

[Central Government] whose decision shall be final].