

Telangana Panchayat Raj (Authority to dispose petitions in respect of Gram Panchayats, Mandal Praja Parishads and Zilla Praja Parishads) Rules, 2018

TELANGANA

India

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Rule

TELANGANA-PANCHAYAT-RAJ-AUTHORITY-TO-DISPOSE-PETITIONS of 2018

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Telangana Panchayat Raj (Authority to dispose petitions in respect of Gram Panchayats, Mandal Praja Parishads and Zilla Praja Parishads) Rules, 2018Published vide Notification No. G.O. Ms. No.4, Panchayat Raj and Rural Development (Part 3) Department, dated 29.1.2019Last Updated 11th June, 2019G.O. Ms. No. 4. - In exercise of the powers conferred by Section 242 read with sub-section (1), 286 of the Telangana Panchayat Raj Act, 2018 (Act No. 5 of 2018), the Government of Telangana hereby make the following rules, relating to Authority and manner to dispose election petition in respect of Gram Panchayats, Mandal Praja Parishads and Zilla Praja Parishads) namely

Part I – Preliminary

1.

(1)These rules may be called Telangana Panchayat Raj (Authority to dispose petitions in respect of Gram Panchayats, Mandal Praja Parishads and Zilla Praja Parishads) Rules, 2018.(2)These rules shall apply to all Gram Panchayats, Mandal Praja Parishads and Zilla Praja Parishads in the State.(3)In these rules, unless the context otherwise requires:(i)"Act" means the Telangana Panchayat Raj Act, 2018 (Act 5 of 2018).(ii)"Election Authority" means such authority not being a

member or office bearer of any local authority as may by notification be appointed by the State Election Commission.(iii)"Junior Civil Judge" means the Junior Civil Judge appointed under the Telangana Civil Courts Act, 1972.(iv)The words and expressions used but not defined in these rules shall have the respective meaning assigned to them in the Act.Part-II

2.

(1)Save as otherwise provided no election held under the Act, whether of a member, Sarpanch or Upa-Sarpanch of Gram Panchayat, President, [and Vice-President] of Mandal Praja Parishad and Member of Mandal Praja Parishad Territorial Constituencies and Chairman, [Vice-Chairman] of Zilla Praja Parishad and Member of Zilla Praja Parishad Territorial Constituency thereof, shall be called in question except by an election petition presented in accordance with these Rules to the Election Tribunal as defined in Rule 2 of the act by any candidate or elector against the candidate who has been declared to have been duly elected (hereinafter called the returned candidate) or if there are two or more returned candidates against all or any such candidates.(2)The Election Tribunal shall be, -(i)except in cases following under clause (ii),(a)the Junior Civil Judge, if there is more than one Junior Civil Judge, the Principal Junior Civil Judge having Territorial Jurisdiction over the place in which the office of Gram Panchayat is located, in respect of the election of members, Sarpanchas and Upa-Sarpanchas of Gram Panchayat.(b)the Senior Civil Judge or if there is more than one Senior Civil Judge at the Head Quarters, having Territorial Jurisdiction over the place in which the office of Mandal Praja Parishad or Zilla Praja Parishad as the case may be, is located, in respect of the election disputes and matters pertaining to the election of President, Vice-President and members of Mandal Praja Parishad Territorial Constituencies of Mandal Praja Parishad and Chairman, Vice-Chairman and Members of Zilla Praja Parishad Territorial Constituencies of Zilla Praja Parishad.Explanation. - For purposes of these Rules, the expressions "Senior Civil Judge" and "Junior Civil Judge" shall in relation to the Scheduled Areas mean the Agency Divisional Officer.(ii)Where the Government so directs, whether in respect of Gram Panchayats generally or in respect of any class of Gram Panchayats, Mandal Praja Parishads and Zilla Praja Parishads such officer or officers of the Government as may be designated by the Government in this behalf by name or by virtue of Office:Provided that an election petition may, on application, be transferred:(a)If presented to a Senior Civil Judge or the Junior Civil Judge as the case may be, under clause (i) by the District Judge concerned to another Senior Civil Judge or Junior Civil Judge-cum-Magistrate as the case may be within his jurisdiction;(b)If presented to an officer of the Government under clause (ii) by the Government to another officer of the Government.Where an election petition is so transferred, the authority to which it is transferred shall be deemed to be the Election Tribunal.(3)An election Tribunal exercising jurisdiction under these Rules shall be deemed to exercise such jurisdiction as a person designate and not in his capacity as a Judge or other Officer of the Government, as the case may be.

3.

(i)The election petition shall be presented within thirty days from the date of the declaration of the result of the election.Explanation. - If the Court of the Senior Civil Judge or the Junior Civil Judge as the case may be, or the Office of the Officer of the Government who is the Election Tribunal is closed

on the last day of the thirty days aforesaid, the petition may be presented to the Election Tribunal on the next day afterwards on which such Court or Tribunal is open.(ii)The petition shall contain a statement in concise form, the material facts on which the petitioner relies and the particulars of any corrupt practices which he alleges and shall, where necessary, be divided into paragraphs numbered consecutively. It shall be signed by the petitioner and verified in the manner prescribed for the verification of pleadings in the Code of Civil Procedure, 1908.

4.

(i)If the irregularities alleged in the petition are likely to affect the validity of the election of more than one returned candidate, the petitioner shall join as respondents to his petition all such returned candidates.(ii)The petitioner may, if he so desires, in addition to calling in question the election of the returned candidates or of all or any of the returned candidates, as the case may be, claim a declaration that he himself or any other candidate has been duly elected, in which case he shall join as respondents to his petition all other candidates who were nominated for the election but who had not withdrawn before the polling.

5.

(i)At the time of presentation of the petition, the petitioner shall deposit with it in cash Rs.1000/- (Rupees One thousand only) as security for the costs of the same.Explanation. - Where the election of more than one returned candidate is called in question a separate deposit shall be made in respect of each such returned candidate.(ii)If the provisions of these rules are not complied with, the Election Tribunal shall dismiss the petition.(iii)Upon compliance with the provisions of sub-rule (1), the Election Tribunal shall proceed to enquire into the petition.

6.

The Election Tribunal shall, as soon as may be, cause a copy of the petition to be served on each respondent and on the Executive Authority of the Gram Panchayat, Mandal Praja Parishad or Zilla Praja Parishad concerned and the Election Authority. Copies shall also be affixed to the notice board of the Court of Tribunal as the case may lie, of the Election Tribunal and of the Office of the Gram Panchayat, Mandal Praja Parishad or Zilla Praja Parishad concerned. The Election Tribunal may also call on the petitioner to execute a bond for such amount and with such sureties as he may require for the payment of any further costs. At any time within fourteen days after such publication, any other candidate shall be entitled to be joined as a respondent on furnishing such similar security as may be demanded by the Election Tribunal.Explanation. - For the purpose of these Rules the expression "Election Authority" shall mean, in respect of the election of the Sarpanch and Upa-Sarpanch, President of Mandal Praja Parishad and Chairman of Zilla Praja Parishad the person presiding over the meeting convened for the election of Sarpanch and Upa-Sarpanch of the Gram Panchayat, President of Mandal Praja Parishad and Chairman of Zilla Praja Parishad shall mean the Commissioner or any other officer nominated by the State Election Commissioner to exercise the powers and discharge the functions of the Election Authority.

7.

(i) Every election petition shall be enquired into by the Election Tribunal, as early as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Central Act V of 1908) for the trial of suits: Provided that it shall only be necessary for the Election Tribunal to make a memorandum of the substance of evidence of any witness examined by him. (ii) The Election Tribunal 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 witness and requiring the deposit of their expenses; (c) compelling the production of documents; (d) examining witnesses on; (e) reception of evidence taken on affidavit; and (f) issuing commissions for examination of witnesses, and may summon and examine suo motu any person whose evidence appears to him to be material. (iii) Notwithstanding anything in any enactment to the contrary no document shall be inadmissible in evidence at the trial of an election petition on the ground that it is not duly stamped or registered. (iv) No witness or other person shall be required to state for whom he has voted at an election. (v) (1) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in the trial of an election petition upon the ground that the answer to such question may criminate or may tend to criminate him, or that it may expose or may tend to expose him to any penalty or forfeiture: Provided that, - (a) a witness who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the Tribunal. (b) an answer given by a witness to a question put by or before the Tribunal shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be admissible in evidence against him in any civil or criminal proceedings. (2) When a certificate of indemnity has been granted to any witness it may be pleaded by him in any Court and shall be a full and complete defence to or upon any charge under Chapter IX-A of the Indian Penal Code (Act 45 of 1860) or under Sections 211 to 228 (both inclusive) and 233 and 234 of the Act arising out of the matter to which such certificate relates but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by the Act or any other law.

8.

(i) No election petition shall be withdrawn without the leave of the Election Tribunal. (ii) If there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners. (iii) 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 and shall be published in the manner specified in Rule 5. (iv) No application for withdrawal shall be granted if the Election Tribunal is of the opinion that such application has been induced by any bargain or consideration which, they consider, ought not to be allowed. (v) If the application is granted. (a) the petitioner shall be ordered to pay the costs of the respondents therefore incurred or such portion thereof as the Election Tribunal may think fit; and (b) Such withdrawal shall be communicated to the Executive Authority of the Gram Panchayat, Mandal Praja Parishad and Zilla Praja Parishad concerned and the Election Authority by the Election Tribunal.

9.

Any order made by the Election Tribunal as to the costs of the enquiry may be executed in the same manner as if it was land revenue due and be recovered as per the provisions of the Telangana Revenue Recovery Act, 1864 and be remitted to the party in whose favour it is ordered by the Election Tribunal.

10.

An election petition shall abate on the death of a sole petitioner or of the survivor of several petitioners, and such abatement shall be communicated to the Executive Authority of Gram Panchayat, Mandal Praja Parishad and Zilla Praja Parishad, as the case may be, and the Election Authority by the Election Tribunal.

11.

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

12.

If in the opinion to the(a)that on the date of his election, a Returned Candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Act, or(b)that any corrupt practice as laid down under Section 211 of the Act has been committed by a Returned Candidate or his election agent or by any other person with consent of the Returned Candidate or his election agent, or(c)that any nomination has been improperly rejected, or(d)that the result of the election, insofar as it concerns a Returned Candidate has been materially affected.(i)by the improper acceptance of any nomination, or(A)The Election Tribunal shall declare the election of the Returned Candidate to be void.(B)If the Election Tribunal holds the Returned Candidate guilty under Clause (b) and Clause (d) (ii) of this rule, the Election Tribunal shall in addition to declare the election of the Returned Candidate as void, shall also declare that the returned candidate shall be disqualified to contest in any elections under this Act, for a period of six years from the date of the order.(ii)by any corrupt practice, committed in the interest of the Returned Candidate by an Agent other than his election agent, with the connivance of the Returned Candidate, or(iii)by the improper reception, refusal or rejection of any vote, or the reception of any vote which is void,(iv)by any non compliance with the provisions of the Act, or any Rules or Orders made under the Act.

13.

If any person who has lodged a petition, as 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 Tribunal is of the opinion.(a)that in fact, the petitioner or such other candidate, received the majority of the valid votes, or(b)that, but for the votes obtained by the Returned Candidate, by corrupt practices, the petitioner or such other candidate would have obtained a majority of the valid votes, the Election Tribunal shall after declaring the elections of the Returned Candidate to be void, declare the petitioner or such other candidate, as the case may be to have been duly elected.

14.

Any person disqualified by decision of the Election Tribunal under Rule 12(B) for any period shall be disqualified for the same period for voting at any elections under the Act.

15.

(i)At the conclusion of the inquiry, the Election Tribunal shall declare whether the election of the Returned Candidate or Candidates is void under Rules 12 and 13.(ii)if he declares the election of the Returned Candidate or Candidates void, he shall further pass an order either;(a)declaring that any other party to the petition who has under these Rules claimed the seat has been duly elected; or(b)order a fresh election(iii)The order of the Election Tribunal under sub-rules (i) and (ii) shall be final.(iv)A copy of every order under sub-rule (i), or sub-rule (ii) shall be communicated to the Executive Authority of the Gram Panchayat, Mandal Praja Parishad and Zilla Praja Parishad, as the case may be, and the Election Authority.