

Bihar Development of Ayurvedic and Unani Systems of Medicine Act, 1951

JHARKHAND

India

Bihar Development of Ayurvedic and Unani Systems of Medicine Act, 1951

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Bihar Council of Ayurvedic and Unani Medicines (Electoral Rolls and The Conduct of Elections and Election Petition) Rules, 1953 Published vide Notification No. Section 55 (2)(a) of the Bihar Development of Ayurvedic and Unani Systems of Medicine Act, 1951 (Bihar Act 31 of 1951) vide Notification No. 1344/L.S.G., dated 7th December, 1953

1.

(1)These rules may be called "The Bihar State Council of Ayurvedic and Unani Medicines (Electoral Rolls and the Conduct of Elections of Election Petition) Rules, 1953".(2)They shall come into force at once.

2. Definitions.

- In these rules unless there is anything repugnant in the subject or context,-(a)"The Act" means the Bihar Development of Ayurvedic and Unani System of Medicine Act, 1951;(b)"Appendix" means an appendix appended to these rules;(c)"Attesting officer" means a Magistrate or any other Gazetted Officer in the employment of the State Government or in the Central Government;(d)"Corrupt practice" means any of the practices specified in Parts I and II of Schedule to these Rules;(e)"Form" means a form appended to these rules;(f)"Registration officer" or "returning officers, in relation to any matter relating to the preparation of electoral rolls or the conduct of elections," means the Registrar of the Council;(g)"Section" means a section of the Act;(h)all words and expressions used in these rules and not defined therein and defined in the Act shall have the same meaning as respectively assigned to them by the Act.

3.

When a vacancy in the Council occurs the President shall, in the case of a nominated member, inform the State Government of the vacancy and in the case of an elected member, issue a notice to the electorate concerned apprising it of the said vacancy and requiring it to elect a member on or before a date specified in the notice and such notice shall be published in the Official Gazette: Provided that, when such vacancy is likely to occur by efflux of time, the President shall take action under this rule at least sixty days before the date when such vacancy is likely to occur: Provided further that, the notice of election of members of the Council under sub-section (2) of Section 4, on the expiry of the term of the Council shall be issued by the State Government and published in Official Gazette.

4.

(i) The registering officer shall on publication of the notice under Rule 3, prepare and publish in the Official Gazette, a draft Electoral Roll in Form I for each of the electorates specified in clauses (e) to (i) of sub-section (1) of Section 3 on a date to be specified by the President together with a notice stating that any objection relating to entries in or omissions from the said Electoral Roll may be preferred to the registration officer at his office at Patna on or before the date specified in the notice. (ii) On the expiry of the period specified in the notice under sub-section (1) for receiving claims and objections, the registration officer shall consider the claims and objections so received and revise the Electoral Roll in accordance with any order which may be passed by him on such claims and objections. The Electoral Roll as so revised shall be deemed to be final and conclusive. A copy of the revised Electoral Roll shall be kept in the office of the Registration Officer and the District Magistrate for inspection and a notice that it has been finally published and kept in the office of Registration Officer and the District Magistrate and will be available for inspection shall be published in the Bihar Gazette. (iii) For the purpose of election to the Council under clauses (j) and (k) of Section 3 the State shall be divided by the President into suitable constituencies for Hakims and Vaidyas in accordance with the numbers of Hakims and Vaidyas to be elected under the above clauses.

5.

(i) On receipt of a notice under Rule 3, the Bihar Legislative Assembly shall elect three members from amongst its members by means of single transferable votes, and the Bihar Legislative Council and the Syndicate of the Patna University shall each elect one member of the Council under such conditions as may be laid down by the Chairman of the Bihar Legislative Council and the Vice-Chancellor of the Patna University as the case may be. (ii) In the case of other electorates any person whose name is on the electoral rolls and who is not disqualified under Section 5 may be nominated as a candidate for election from his respective constituency. Such nominations shall be supplied by the Returning Officer free of cost.

6.

(i) Each nomination paper shall be subscribed by two electors as proposer and seconder but no elector shall subscribe more nomination papers than there are vacancies in the seats allotted to his electorate. The signature of the proposer and seconder shall be attested by the attesting officer. The nomination paper shall be delivered to the Returning Officer or sent by him by registered post: Provided that if more than the prescribed number of nomination papers be subscribed by the same elector, the prescribed number of nomination papers first received by the Returning Officer shall if otherwise in order, be held to be valid and if more than the prescribed number of nomination papers signed by the same elector be received simultaneously by the Returning Officer, all such nomination papers shall be held to be invalid. (ii) On receipt of each nomination paper, the Returning Officer shall forthwith endorse thereon the date and hour of receipt. (iii) Any nomination paper which is not received by the Returning Officer before the date and time appointed therein shall be rejected.

7.

(1) At the time of delivery of a nomination paper, every candidate shall either deposit a sum of fifty rupees with the Council or enclose with the nomination paper a post office money-order receipt for such sum in favour of the Council and no candidate shall be deemed to be duly nominated unless such a sum has been deposited with the Council or a postal order receipt has been enclosed with the nomination paper. (2) If a candidate by whom or on whose behalf the deposit has been made withdraws his candidature in the manner and within the time specified in sub-rule (3) of Rule 8, or if the nomination of any such candidate is refused, the deposit shall be returned to the person by whom it was made and if any candidate dies before the commencement of the poll any such deposit if made by him, shall be returned to his representative. If such deposit has not been made by any other person on behalf of the candidate, the deposit shall be returned to the person by whom it was made. (3) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made is not elected and the number of votes polled by him does not exceed one-eighth of the total number of votes polled in the constituency from which he seeks election, the deposit shall be forfeited to the Council. (4) For the purpose of sub-rule (3), the number of votes polled shall be deemed to be number of voting papers, other than rejected voting papers, counted. (5) The deposit made in respect of a candidate whether he is elected or not shall, if it is not forfeited under sub-rule (3), be returned to the candidate or to the person, who had made the deposit on his behalf, as the case may be, as soon as may be after the publication of the result of the election in the Official Gazette.

8.

(1) On the date and at the time appointed by the President for the scrutiny of nomination papers, every candidate and his proposer and seconder may attend at the office of the Returning Officer, who shall allow them all reasonable facilities to examine the nomination papers filed by all the candidates. (2) The Returning Officer shall examine each nomination paper and shall reject it only if it has not been made in accordance with these rules. If any dispute arises as to validity of any

nomination paper, the decision of the Returning Officer on the question shall be final.

9.

(1) If in the case of an election under clauses (e) to (k) of sub-section (1) of Section 3, the number of duly nominated candidates who stand for election does not exceed the total number of members to be elected, the Returning Officer shall forthwith declare all such candidate or candidates to be elected. (2) If the number of such candidates exceeds the number of members to be so elected, the Returning Officer shall forthwith publish their names and addresses in the Official Gazette and shall further cause their names to be entered in voting papers in Form III in the case of electorates mentioned in clauses (e) to (k) of sub-section (1) of Section 3. (3) Any duly nominated candidate may withdraw his candidature in person by presenting to the Returning Officer a written and signed withdrawal not later than 15 clear days before the date appointed for the scrutiny and counting of votes and it shall not be permissible to him subsequently to cancel such withdrawal. (4) On receiving notice of such withdrawal the Returning Officer shall publish the fact of such withdrawal in the official Gazette. (5) If a candidate who has been duly nominated and has not withdrawn his candidature in the manner and within the time specified in sub-rule (3) dies after the expiry of the time for submitting notice of withdrawal of a candidature and 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 a new in all respects as if for a new election. (6) On or about the date prescribed by the President in this behalf the Returning Officer shall send by registered post to each elector a voting papers in Form III in the case of the electorate mentioned in clauses (e) to (l) of sub-section (1) of Section 3. The voting paper shall be duly signed by the Returning Officer or his signature seal affixed to it by him: Provided that no election shall be invalidated by reason of the non-receipt by an elector of his voting paper.

10.

(1) Every elector desirous of recording votes shall send his voting paper by registered post to the Returning Officer after recording his vote thereon in accordance with the instructions contained therein: Provided that voting papers which are not received by the Returning Officer before the date and time appointed for the scrutiny and counting of votes shall be rejected. (2) An elector who has inadvertently dealt with his voting paper may on delivering it to the Returning Officer and satisfying him of the inadvertence obtain another voting paper in place of the spoiled paper and the latter shall together with its counterfoil be marked as cancelled.

11.

After satisfying himself that the electors have affixed their signatures to the counterfoils the Returning Officer shall tear off the counterfoil and place them in safe custody pending disposal under Rule 12. The Returning Officer shall at the time of scrutiny endorse the word "rejected" on any voting paper which he may reject on the ground that it does not comply with the instructions on the voting paper.

12.

(1)The Returning Officer shall attend for the purpose of the scrutiny of the votes at the date, time and place appointed by the President in this behalf.(2)Every candidate may be present in person or may send a representative duly authorised by him in writing to watch the process of counting.(3)The Returning Officer shall show the voting papers if requested but not the counterfoil to the candidate or their representatives.(4)If any objection is made to any voting paper on the ground that it does not comply with the instruction therein or to the rejection by the Returning Officer of a voting paper, it shall be decided at once by the Returning Officer whose decision shall be final.

13.

(1)In the case of votes in respect of election under clauses (e) to (I) of sub-section (1) of Section 3, when the counting of the votes has been completed, the Returning Officer shall forthwith declare the candidate or candidates to whom the largest number of votes have been given to be elected.(2)When an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected the determination of the person to whom one such additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Returning Officer and in such manner as he may determine.

14.

Upon the completion of the accounting of votes and after the result has been declared by him, the Returning Officer shall seal up the voting papers and all other documents relating to the election and shall retain the same for a period of six months and thereafter cause them to be destroyed.

15.

The Returning Officer shall communicate the result of the election to the President who shall then publish it in the Official Gazette.

16.

The President shall appoint and shall notify in the official Gazette and in such other manner as he thinks fit, the date, time and place for each of the following proceedings, namely:(a)the receipt of nomination papers and their scrutiny;(b)the sending of voting papers;(c)the receipt of voting papers and the scrutiny and counting of votes.

17.

The packets of ballot papers and of the counterfoils thereof shall not be opened, and their contents shall not be inspected except under the order of the State Government to be granted only on its being satisfied by affidavit or otherwise that the inspection of the ballot papers, counterfoils is

necessary for the purpose of the petition questioning the validity of an election and such order may be made subject to such conditions as to the person, time, place and mode of opening and inspection as the State Government may think expedient.

18.

An election petition may be presented to the State Government against an elected candidate by any candidate who has not been declared elected within one month from the date on which the result of the election was notified in the Official Gazette on the following grounds; namely:(i)that the elected candidate induced by fraud, intentional misrepresentation, coercion or threat of injury to any voter to give or to refrain from giving a vote;(ii)that the elected candidate offered or gave money or valuable consideration or any place of employment or held out any promise of individual advantage or profit to any voter;(iii)that the elected candidate procured the giving of a vote in the name of voter who is not a person giving such vote;(iv)that the elected candidate was declared to be elected by reason of the improper rejection or admission of one or more votes or for any other reason was not duly elected by a majority of valid votes.

19.

(i)The petition shall contain a statement in a concise form of the material facts on which the petitioner realised and shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure for the verification of pleadings.(ii)The petition shall be accompanied by a deposit of two hundred rupees as security for costs and a list signed and verified in like manner setting forth full particulars of the corrupt practice which the petitioner alleges.

20.

The election of any person as a member of the Council shall not be questioned-(a)on the ground that the name of any person qualified to vote has been omitted from or the name of any qualified person has been inserted in the Electoral roll;(b)on the ground of any non-compliance with any rule or any mistake in the forms required thereby or any error or irregularity or informality on the part of the Returning Officer unless such non-compliance, mistake, error, irregularity or informality has materially affected the result of the election.

21.

(1)If after making such inquiry as it deems necessary, the State Government finds that the election was valid, it shall dismiss the petition and may award costs at its discretion.(2)If the State Government finds that the election was not valid, it shall either (a) order a fresh election, or (b) declare another candidate to have been duly elected and in either case, may award cost at its discretion.

22.

The State Government may, of its own motion, or on objection made declare any election that has been held to be void on account of any corrupt practice or other sufficient cause and may call on the electorate to make a fresh election. The decision of the State Government under this rule shall be final.

23.

The decision of the State Government on any question that may arise as to the intention, construction or application of these rules shall be final. Form IElectoral RollList of persons qualified to vote under Section 3, sub-section (1) clauses (e), (f), (g), (h), (i), (j) or (k) of the Development of Ayurvedic and Unani Systems of Medicine Act, 1951

Serial no.	Registration no. in case of persons qualified to vote undersub-sections (i), (j). (k)	Name	Father's name	Address
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I certify that, all the persons whose names are entered in the above roll are qualified to vote under Section 3, sub-section (1) clauses (e), (f), (g), (h), (i), (j) or (k) of the Bihar Development of Ayurvedic and Unani Systems of Medicine Act, 1951. Registrar, Council of Ayurvedic and Unani Medicines, Bihar