

The U.P. Shri Badrinath Temples Rules, 1940

UTTAR PRADESH

India

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Rule THE-U-P-SHRI-BADRINATH-TEMPLES-RULES-1940 of 1940

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1. Short title and commencement.

(1) These rules may be called the Uttar Pradesh Shri Badrinath Temples Rules, 1940. (2) They shall come into force on the date on which they are published in the Official Gazette in their form.

2. Definitions.

- In these rules unless there is anything repugnant in the subject or context-(a)"Act" means the Uttar Pradesh Shri Badrinath Temple Act, 1939 (XVI of 1939);(b)"Assembly" means the Uttar Pradesh Legislative Assembly;(c)"Council" means the Uttar Pradesh Legislative Council;(d)"Government" means the Government of Uttar Pradesh;(e)"His Highness" means His Highness the Maharaja of Tehri (Garhwal) State;[Chapter II] [Chapters I and II stand superseded vide Notification No. U-49/XVI-11-49 CE-1966, dated May 6, 1967 which is being printed just after these rules.] Elections and Election Petitions[See Section 26 (2) (b) and (h)]General

3. Extent of application of Chapter II.

- The rules in this Chapter apply to General elections as well as to elections to fill casual vacancies in the Shri Badrinath Temple Committee.

4. Time of election.

(1)The first election to the Committee shall be held within such time or further time as Government may fix.(2)Subsequent elections shall be held within three years of the date of the notification publishing the result of the last election under sub-section (3) of Section 5 of the Act and within such time or further time as Government may fix.

5. Place of election.

- The place of election shall, in the case of an election,-(a)under clause (a) of sub-section (1) of Section 5 of the Act, be such as may be fixed by his Highness;(b)under clause (b) of sub-section (1) of Section 5 of the Act, be the office of the District Board of Garhwal; and(c)under clause (c) of sub-section (1) of Section 5 of the Act, be the Hindu members of the Council or the Assembly according as the election is by the Hindu members of the Council or the Assembly.

6. Voters.

- The voters shall, in the case of an election-(a)under clause (a) of sub-section (1) of Section 5 of the Act, be the Hindu members of the Tehri State Representative Assembly;(b)under clause (b) of sub-section (1) of Section 5 of the Act, be the Hindu members of the District Board of Garhwal; and(c)under clause (c) of sub-section (1) of Section 5 of the Act, be the Hindu members of the Council or the Assembly according as the election is by the Hindu members of the Council or the Assembly.

7. Qualification of a candidate.

(1)No person who does not profess the Hindu religion and accept the form of worship practised at the Temple shall be eligible for election under this Chapter.(2)A candidate for election under clause (a) of sub-section (1) of Section 5 of the Act shall be a resident of Tehri State, a candidate for election under clause (b) of the said sub-section shall be a resident of the Garhwal District but need not necessarily be a member of the Garhwal District Board and a candidate for election under clause (c) of the said sub-section may not be a member of the Assembly or the Council.

8. Number to be elected from Tehri State.

- Of the three members of the Committee from the Tehri State under clause (a) of sub-section (1) of Section 5 of the Act, at least one shall be elected by the Tehri State Representative Assembly and the rest shall be nominated by his Highness in such manner as he may deem fit.

9. Returning Officer.

- The Returning Officer shall in the case of an election-(a)under clause (a) of sub-section (1) of Section 5 of the Act, be the Secretary of the Tehri State Representative Assembly, or in his absence,

any officer performing his duties for the time being;(b)under clause (b) of sub-section (1) of Section 5 of the Act, be the Secretary of the District Board of Garhwal, or in his absence, any person performing his duties for the time being; and(c)under clause (c) of sub-section (1) of Section 5 of the Act, be the Secretary of the Council in elections by the Hindu members of the Council; and the Secretary of the Assembly in elections by the Hindu members of Assembly and in their absence any officer performing their duties for the time being.Nominations

10. Nomination.

(1)On receipt of a requisition from the Government the Returning Officer concerned shall, having regard to the time fixed by the Government under Rule 4, appoint-(a)the date for the receipt of nomination papers, not earlier than fourteen days from the date on which he sends the letter referred to in sub-rule (2) to the voters;(b)the date and time for scrutiny of nominations;(c)the date for the receipt of ballot papers if the results of nomination so necessitate; and(d)the date and time for the scrutiny and counting of votes.(2)The Returning Officer shall by a letter either sent by post of which a postal certificate shall be taken, or delivered to the voter at his address as maintained in the office of the Returning Officer, inform each voter of the programme fixed under sub-rule (1) and call upon to nominate in Form A as many person or persons as there are seats to be filled. He shall also send with such letter as many nomination papers as there are vacancies.(3)Each nomination shall be made in writing in Form A signed by two voters as proposer and seconder and scribed by the candidates, assenting to the nomination and making the declaration prescribed in the form.(4)On or before the date appointed for nominations, each candidate or his proposer or seconder may either personally deliver the nomination paper to the Returning Officer or send it by registered post so as to reach the Returning Officer before the expiry of the date fixed for nominations.

11. Withdrawal by candidates.

- A candidate may withdraw his candidature by notice in writing by him and delivered to the Returning Officer before the time fixed for the scrutiny of nominations. A candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal.

12. Scrutiny of nomination papers.

- At the time fixed for the scrutiny of nominations, the Returning Officer shall examine the nomination papers and shall decide as to their validity. Candidates and their proposers and seconders may be present at the time of the scrutiny.

13. Result of nomination.

(1)If the number of candidates, who are duly nominated and who have not withdrawn their candidature in accordance with Rule 11 exceeds the number of the vacancies, votes shall be taken.(2)If the number of such candidates is equal or less than the number of vacancies, all such candidates shall be declared to be duly elected and the Returning Officer shall report the result in

accordance with Rule 17.Voting

14. Voting.

- Each voter shall have votes equal to the number of members to be elected, but he shall not give more than one vote to any candidate.(2)He shall vote by placing or causing to be placed a cross (x or +) opposite the name or names of the candidates whom he prefers.(3)The ballot paper shall be invalid if the cross (x or +) is placed opposite the names of more candidates than are to be elected.(4)If the cross (x or +) is so placed as to render it doubtful to which candidate such mark is intended to apply, the vote shall be invalid.

15. Procedure in taking votes.

(1)After the scrutiny of nomination papers the Returning Officer shall, as soon as may be, by a letter, either sent by registered post or delivered to the voter at his address as maintained in the office of the Returning Officer, call upon each voter to record his vote and along with it send a ballot paper in Form B signed by himself and also an envelope bearing on the face the serial number and the words "Shri Badrinath Temple Ballot Paper," but addressed to himself. Each voter shall have a serial number and the same number shall be marked on the ballot paper.(2)Should an original ballot paper be lost, mislaid, spoilt, destroyed otherwise rendered useless, the voter to whom it was issued shall, on application in writing addressed to the Returning Officer, stating the circumstances, be supplied with a second ballot paper signed and numbered by the Returning Officer as provided in the last preceding sub-rule and marked duplicate which, in the absence of the original ballot paper bearing the same number, shall be treated as if it were the original.(3)On receipt of such ballot paper, every voter desirous of recording his votes shall appear before the Returning Officer or a Magistrate or a Judge, record his votes in accordance with Rule 14 on the ballot paper and sign it in his presence and obtain his signature in attestation there of:Provided that no such attestation is required in the case of an election by the Hindu members of the District Board of Garhwal under clause (b) of sub-section (1) of Section 5 of the Act.(4)The voter shall then place the ballot paper in the envelope provided for the purpose and after closing it shall either hand it over in persons to the Returning Officer or send it to him by registered post, affixing thereto the necessary postage stamps. The ballot paper must reach the Returning Officer on or before the date fixed for the receipt of voting papers.

16. Validity or invalidity of votes.

(1)Unless the instructions contained in these rules as regards the manner of voting are complied with and the necessary particulars filled in, the ballot papers shall be invalid.(2)If a ballot paper has been issued to a voter in accordance with these rules, no election shall be rendered invalid by reason of his not having received the ballot paper.

17. Counting of votes and declaration of result.

(1) On the date and at the time fixed under Rule 11 (1)(d)), the Returning Officer shall scrutinize the ballot papers received on or before the date fixed, reject the invalid ones, count the valid ones, declare the result then and there and report it to the Secretary to Government in the Public Health Department as soon as possible. Only candidates and their proposers and seconders may be present at the time of the counting of votes. (2) In case of equality of votes, the Returning Officer shall decide the question by drawing lots.

18. Custody and inspection of documents.

- The nomination papers of candidates, ballot papers and all other papers relating to nominations and voting shall be sealed and kept in the office of the Returning Officer and shall be destroyed after one year from the date of the declaration of the result. Such papers shall not be open to inspection except by order of an election tribunal. Election Disputes

19. Tribunals.

- The tribunal for deciding a dispute relating to an election under the Act shall, in the case of an election-(a) under clause (a) of sub-section (1) Section 5 of the Act, be such authority as His Highness may appoint; (b) under clause (b) of sub-section (1) of Section 5 of the Act, be the Deputy Commissioner-in-charge of the Kumaun Division; and (c) under clause (d) of sub-section (1) of section 5 of the Act, be such authority as the Government may appoint.

20. Period of limitation and authority to whom election petition to be presented.

- Within thirty days of the date of the notification of the result of the election under sub-section (3) of Section 5 of the Act, the candidate or his proposer or seconder may present in person or by registered post a petition in respect of the election to the Returning Officer concerned and along with it, shall enclose a receipt showing that a deposit of rupees two hundred has been made in a Government or a Tehri State Treasury, as the case may be, as security. The Returning Officer shall forward the petition to the authority concerned appointed under Rule 19.

21. Contents of petition.

(1) The petition shall be drawn up in the form of a plaint as required by the Code of Civil Procedure (V of 1908) and shall specify with sufficient details the ground or grounds on which the election of the respondent is questioned. (2) The petitioner may, if he so desires in addition to calling in question the election of the returned candidate, claim a declaration that he himself or any other candidate has been duly elected, in which case he shall join as respondent the other candidates who were duly nominated at the questioned election.

22. Powers and procedure of Tribunals.

(1)The Tribunal shall summarily dismiss the petition if it is not drawn up in the prescribed form or has not been presented within the prescribed time. In the event of the petition not being so dismissed, the Tribunal shall fix a date and place for inquiry, inform the parties of the same, take such evidence as they may adduce and decide the case. It shall follow such procedure as may appear to it to be equitable and shall have the same powers to enforce the attendance of witnesses and the production of documents and to examine witnesses on oath as the Civil Courts have under any law for the time being in force.(2)The Tribunal shall have power to pass such orders on the petition including orders as to costs as may in its opinion be required in the interest of justice, equity and good conscience. If it finds an elections petition to be frivolous and vexatious, it may direct that after the costs, if any, awarded to the opposite party have been recovered from the security money, the balance, if any, shall be forfeited to the Temple.(3)The decision of the Tribunal shall be final and the State Government shall take such action as may be necessary to give effect to it.(4)The Tribunal shall after pronouncing judgment forward the whole record to the Government as soon as possible.

23. Government's power to cure irregularities.

- Notwithstanding anything in these rules in case of an irregularity in the conduct of an election under these rules, the Government may make such order, consistent with the Act, as may appear to it to be just and proper.[Chapter III] [Chapter III was added by Public Health Department, Miscellaneous Notification No. 115/XVI-(P.H.)-84 (2), dated November 5, 1941, published in the U.P. Gazette, dated November 8, 1941, Part I-A., pp. 336-337. See Sections 14, 15 and 26 (d) of the Act].] Secretary

24. Government's approval for appointment.

- Every appointment of the Secretary made by the Committee under section 14 of the Act shall be subject to the previous approval of the Government:Provided that no such approval shall be necessary if the appointment of a Secretary is made for a period not exceeding two months.

25. Qualifications.

- No person shall be appointed as Secretary unless-(a)he professes the Hindu religion and accepts the form of worship practised at the temple;(b)he holds a degree in Arts, Law, Science or Commerce of a University established by law and can read and write Hindi fluently;(c)he is medically fit for outdoor work and knows riding;(d)he is a permanent resident of the Uttar Pradesh; and(c)he is not less than 30 years of age on the date of his appointment.

26. Disqualifications.

- A person shall be disqualified for appointment as Secretary-(a)if he or any of his relations is the President or a member of the Committee which proposes to appoint him;(b)if he or any of his

relations by himself or partner, has any interest directly or indirectly in any contract with, or employment under, the Committee; (c) if he was dismissed from the service of the Central Government, Part B States or any local authority; and (d) if he has undergone a sentence of imprisonment for a criminal offence involving moral turpitude. Explanation. - For the purpose of this rule, relation means father, grand father, father-in-law, paternal or maternal uncle, son, grandson, son-in-law, brother, brother's son, first cousin paternal or maternal, wife's brother, or sister's husband.

27. Power to waive the conditions.

- Subject to the approval of the Government, the Committee may in any special case wave one or more of the qualifications specified in clauses (d) to (e) of Rule 25, or of the disqualifications specified in Rule 26.

28. Tehri servant's appointment.

- Notwithstanding the provisions of clause (d) of Rule 25, and subject to the other provisions of that rule and the provisions of Rule 26, a person in service of His Highness may be appointed as Secretary on conditions approved by the Government and agreed upon between the Committee and His Highness.

29. Probation.

- Every appointment of the Secretary shall be made on one year's probation, unless the Committee otherwise directs.

30. Pay.

- The appointment of a Secretary shall be made on such time-scale of pay, with an efficiency bar at a suitable stage, as may be approved by the Government.

31. Termination of service during probation.

- The Committee may, by a majority of votes, terminate the services of a Secretary, while on probation, without assigning any reason.

32. Discharge.

- The Committee may discharge a permanent Secretary on three months' notice or on payment of a sum equal to three month's pay in lieu thereof.

33. Punishments.

(1)The Committee shall have the power to inflict the following punishments on its Secretary, namely-(a)censure,(b)withholding of increments,(c)reduction in pay,(d)recovery from pay of the whole or part of any pecuniary loss caused to the Temple by negligence or breach of orders,(e)suspension,(f)removal from service which does not disqualify him for future employment,(g)dismissal from service which ordinarily disqualifies him for future employment.(2)In the case of a permanent Secretary the order of punishment shall not be valid unless passed by a resolution supported by not less than two-third of the members, including the President, constituting the Committee. '

34. Procedure.

(1)No order of punishment of a permanent Secretary, other than an order based on facts which have led to his conviction in a criminal court, shall be passed unless he has been informed in writing of the grounds on which it is proposed to take action, and has been afforded an adequate opportunity of defending himself. The grounds on which it is proposed to take action shall be reduced in the form of a definite charge or charges, which shall be communicated to the Secretary together with a statement of the allegations on which each charge is based and of any other circumstances which it is proposed to take into consideration in passing orders in the case. He shall be required, within a reasonable time, to put in a written statement and to state whether he desires to be heard in person, If he so desires or if the Committee so directs, an oral inquiry shall be held by the President of the Committee. At that inquiry oral evidence shall be heard as to such of allegations as are not admitted, and he shall be entitled to cross-examine the witnesses, to give evidence in person and to have such witnesses called, as he may wish; provided that the President may, for special and sufficient reasons to be recorded in writing, refuse to call a witness. The proceedings shall contain sufficient record of evidence and a statement of the findings and the grounds thereof.(2)A similar procedure may, at the discretion of the Committee, be followed before an order of punishment is passed on a Secretary whose appointment is probationary or temporary.

35. Suspension.

- Notwithstanding anything to the contrary in the last preceding rule, the President may, in exceptional cases for sufficient reasons to be recorded in writing, suspend a Secretary pending an enquiry at any time and immediately proceed with the investigation of the charge or charges against him; provided that the approval of the Committee to this action is taken within three months of the date of his order.

36. Subsistence allowance.

- When Secretary is suspended, he may be given by the Committee a subsistence allowance for the period of suspension. The amount of such allowance shall not exceed one-fourth of his pay.

37. Special rules of punishment for servants of the Central Government.

(1)Notwithstanding anything to the contrary in these rules, the Committee shall not punish a Secretary whose services have been lent to it by the Government, save in accordance with the provisions of this rule.(2)The Committee shall-(a)frame a charge and at once give a copy of the charge to the Secretary;(b)record his defence and such evidence as may be necessary;(c)record a finding as to the facts established;(d)embody its order in a resolution; and(e)forward the resolution with the record of the proceeding to the Government.(3)The Government may make such further enquiry and record such further evidence as it thinks necessary and, after affording an opportunity to the Secretary to defend himself, shall issue such direction to the Committee as it may deem suitable and the Committee shall comply with the same.

38. Appeals.

(1)The Secretary may appeal to the Government against any order of punishment passed by the Committee.(2)The appeal shall-(a)contain all material statements and arguments relied on by the appellant;(b)not be written in disrespectful or improper language;(c)be submitted through the President; and(d)be filed within 30 days of the communication to the appellant of the order appealed against.

Form ANomination Paper(See Rule 10)Nomination of a candidate for election under section 5 of the Uttar Pradesh Badrinath Temple Act, 1939 (XVI of 1939)

1. Name of candidate nominated

.....

2. Full address of the candidate nominated

.....

3. Does the candidate profess the Hindu religion and does he accept the form of worship practised at Shri Badrinath Temple in Garhwal ?

4. Signature in full of proposer with date.....

5. Signature in full of the seconder with date

.....

Declaration by the CandidateI, hereby declare that I agree to this nomination, profess the Hindu religion and accept the form of worship practised at the Temple of Shri Badrinath in Garhwal.

Signature in full of the candidate(To be filled in by the Returning Officer)This nomination paper was received by me on19.

Returning Officer.Certificate of ScrutinyI have scrutinized the eligibility of the candidate, the proposer and the seconder and find that they are respectively qualified to stand for election, to propose and to second the nomination and that the

nomination is valid. Date.....19.....Returning Officer. Note. - If the Returning Officer holds that the nomination is not valid, the words within the square brackets will be scored out by him and he shall record his finding with reasons. Instructions

1. Nomination shall be made in writing on the form signed by two voters as proposer and seconder and scribed by the candidate himself as assenting to the nomination and making a declaration in terms of sub-section (2) of section 5 of the Act.

2. On or before the date appointed for the nomination of candidates, each candidate or his proposer or seconder may either personally deliver the nomination paper to the Returning Officer or send it by registered post so as to reach the Returning Officer before the expiry of the time fixed for nomination.

Form B Election under section 5 of the Uttar Pradesh Act XVI of 1939 Ballot Paper [See Rule 15 (3) and (4)] Serial number of voter
Number..... Name of the candidates..... Vote (x or +). Serial

1.

2.

Signature of the voter.....Place where
signed

.....Date.....

by me Signature of the person

attesting.....Designation

.....Date.....

1. On receipt of such ballot paper, every voter desirous of recording his votes shall appear before the Returning Officer or a Magistrate or a Judge, record his vote, sign the ballot paper in his presence, and obtain his signature in attestation thereof. But such attestation is not required in the case of an election by the Hindu members of the District Board of Garhwal.

2. Each voter shall have as many votes as there are members to be elected, but shall not give more than one vote to any candidate.

- 3. He shall vote by placing or causing to be placed a cross (x or +) opposite the name of the candidate whom he prefers.**
- 4. The ballot paper shall be invalid if the cross (x or +) is placed opposite the name of more candidates than are to be elected.**
- 5. If a cross (x or +) is so placed as to render it doubtful to which candidate such mark is intended to apply, the vote shall be invalid.**
- 6. The voter shall then place the ballot paper in the envelope provided and after closing it shall either hand it over in person to the Returning Officer or send it to him by registered post affixing thereto the necessary postage stamps. The ballot paper must reach the Returning Officer on or before the date fixed for voting.**