

# **U.P. Kshettra Panchayats (Removal of Disqualification and Settlement of Disputes Relating to Disqualification and Membership) Rules, 1994**

UTTAR PRADESH

India

## **U.P. Kshettra Panchayats (Removal of Disqualification and Settlement of Disputes Relating to Disqualification and Membership) Rules, 1994**

### **Rule**

### **U-P-KSHETTRA-PANCHAYATS-REMOVAL-OF-DISQUALIFICATION-AND-SETTLEMENT-OF-DISPUTES-RELATING-TO-DISQUALIFICATION-AND-MEMBERSHIP) RULES, 1994**

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U.P. Kshettra Panchayats (Removal of Disqualification and Settlement of Disputes Relating to Disqualification and Membership) Rules, 1994 Published vide Notification No. 4039/33-1-1994-266-94, dated 19th September, 1994 and published in the U.P. Gazette (Extraordinary), Part 4, Section (Kha), dated 19th September, 1994 In exercise of the powers conferred by Section 237 of the Uttar Pradesh Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961 (U.P. Act No. 33 of 1961) and in supersession of U.P. Kshettra Samiti (Settlement of Disputes Relating to Members) Rules, 1962, the Governor is pleased to make the following rules :

### **1. Short title and commencement.**

(1) These rules may be called the Uttar Pradesh Kshettra Panchayats (Removal of Disqualification and Settlement of Disputes Relating to Disqualification and Membership) Rules, 1994. (2) These rules shall come into force at once.

### **2. Definitions.**

- In these rules, unless there is anything repugnant in the subject or context, - (a) "Act" means the Uttar Pradesh Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961; (b) "Disqualification" means disqualifications mentioned under clauses (c), (e), (f), (g), (h), (i), (j), (k) or (l) of Section 13

of the Act;(c)"Form" means a form appended at the end of these rules;(d)"Member" means elected member of Kshettra Panchayat specified under clause (b) of sub-section (1) of Section 6.

### **3. Computation of period of five years.**

- The date from which the period of five years for removal of disqualification under clauses (c), (e), (f), (g), (h), (i), (j), (k) or (l) of Section 13 of the Act, shall be computed, will be as follows : (1) For clause (c) from the date of dismissal; (2) For clause (e) from the date on which the insolvent is discharged; (3) For clauses (f), (g), (h), (i), (j), (k) or (l)-(i) In case of sentence of imprisonment, from the date of expiry of the period of sentence; (ii) In the case of sentence of fine, from the date of payment or recovery thereof; (iii) In the case of sentence of both imprisonment and fine from the date of expiry of sentence or payment or recovery of fine whichever is later.

### **4. Removal of disqualification under Section 13.**

(1) An application for the removal of the disqualification under clauses (c), (e), (f), (g), (h), (i), (j), (k) or (l) of Section 13 of the Act, shall be in Form I and shall show the grounds upon which the applicant claims removal of the disqualification. (2) The application referred to in sub-rule (1) shall be presented to the Sub-Divisional Officer of the Sub-Division concerned. (3) The Sub-Divisional Officer may, after such enquiry as he deems fit either accept the application and remove the disqualification or reject the application. (4) A copy of the order passed under sub-rule (3) removing the disqualification shall be sent to the Khand Vikas Adhikari of the concerned Kshettra Panchayat and to the Mukhya Adhikari of the concerned Zila Panchayat : Provided that in the case of a person, who is a candidate for being elected or is being nominated or appointed to any office in the Kshettra Panchayat the disqualification shall cease as soon as the arrears are paid before his nomination paper for election is rejected or he is nominated or appointed as the case may be.

### **5. Disqualification on account of non-payment of tax, etc.**

(1) A person shall be disqualified under clause (d) of Section 13 of the Act if he is in arrears of any tax, fee, rate or any other dues payable by him to the Gram Panchayat, Kshettra Panchayat or Zila Panchayat for a period exceeding one year. (2) The Khand Vikas Adhikari of Kshettra Panchayat shall in Form II prepare a list of all such person; who, according to the records of the Kshettra Panchayat, are in arrears of any tax, fee or rate as aforesaid. (3) The list prepared under sub-rule (2) shall be published at the office of the Kshettra Panchayat. (4) The name of the person who has paid, whether under protest or otherwise, all the arrears shown against his name in the said list shall be struck off the list. A receipt issued by the concerned Khand Vikas Adhikari or an officer of the concerned Kshettra Panchayat authorised in this behalf by the Khand Vikas Adhikari in payment of any such arrears shall be conclusive proof of the fact that the person is not in arrears of tax, fee or rate, as the case may be.

## **6. Reference under sub-section (1) of Section 14 pertaining to disqualification.**

(1) If any dispute as is referred to in sub-section (1) of Section 14 of the Act arises before any authority or an officer appointed in this behalf, the said authority or the officer shall refer the dispute along with all relevant records and his own comments to the State Government for the decision. (2) On receiving a reference under sub-rule (1) the State Government shall fix the date, time and place for hearing and shall give notice to the concerned parties. (3) The State Government shall, after affording a reasonable opportunity of hearing to the parties and after such other enquiry as it deems just and proper, give its decision on the question referred to it. (4) A copy of the decision under sub-rule (3) be sent to the Khand Vikas Adhikari of the concerned Kshettra Panchayat and to the Mukhya Adhikari of the Zila Panchayat who shall act in accordance with the said decision.

## **7. Manner of raising question under sub-section (2) of Section 14.**

(1) If any question arises as to whether a person has been lawfully chosen a member of Kshettra Panchayat or has ceased to remain eligible to be such member, the question shall be referred within thirty days from the date of arising of such question by means of a writ petition by any person who could legally be a candidate at such choosing or whose name is registered as an elector in the electoral roll for the territorial constituency of the concerned Kshettra Panchayat, to the Judge. (2) Every petition under sub-rule (1) shall be presented in person by the petitioner or if there are more signatories to the petition by any one or more of them. (3) A petition presented under sub-rule (1) shall specify the grounds on which the member of the Kshettra Panchayat is alleged to have been wrongly chosen or is alleged to have ceased to remain eligible to be a member and shall contain a summary of the circumstances alleged to justify the dispute being raised on such grounds. (4) A person whose membership is questioned under this rule shall be made a respondent to the petition. (5) Where a relief under clause (b) of sub-rule (6) is claimed every unsuccessful candidate shall also be made a respondent to the petition. (6) A petitioner may claim both or either of the following declarations : (a) that the choosing of a person as member of the Kshettra Panchayat is void, or that the member concerned has ceased to remain eligible for such membership; (b) that the choosing of a person as a member is void and that he himself or any other candidate has been duly chosen. (7) Before the petition is presented an amount of Rs. 100 as security towards the costs of the petition shall be deposited in the Government Treasury or the State Bank of India. Every petition shall be accompanied by a receipt showing that the aforesaid security has been deposited. There shall be paid on every petition made under Rule 6 a fee of Rs. 75 in Court-fee stamps. (8) When in any petition it is claimed that the petitioner or any other candidate be declared to have been duly chosen in place of the returned candidate any respondent may give evidence against such claim as if he had presented a petition against the choosing of the person in whose favour the claim is made. (9) The petition shall be heard at the headquarters of the district in which the Kshettra Panchayat is situate. (10) The petition may be withdrawn within seven days of its presentation by the petitioner or the petitioners, as the case may be, by making an application to the Judge stating the intention to withdraw.

## **8. Procedure before the Judge.**

(1) Except as may be otherwise provided in the Act or by these rules, the procedure provided in the Civil Procedure Code in regard to suits shall so far as it is not inconsistent with the Act or any provisions of the said rules and so far as it can be made applicable, be followed, in the hearing of petitions ; Provided that-(a) any two or more petitions relating to record the membership of the same person may be heard together; (b) the Judge shall not be required to record the evidence in full but shall make a memorandum of the evidence sufficient in his opinion for the purpose of deciding the case; (c) the Judge may, at any stage of the proceedings require the petitioner to give further cash security for the payment of the costs incurred or likely to be incurred by any respondent; (d) for the purpose of deciding any issue, the Judge shall only be bound to order production of or to receive only so much evidence, oral or documentary, as he considers necessary; (e) any person considering himself aggrieved by the decision may apply for review to the Judge within 15 days from the date of the decision and the Judge may thereupon review the decision on any point. (2) The provisions of the Indian Evidence Act, 1872 (Act No. 1 of 1872) shall, subject to the provisions of the Act and these rules, be deemed to apply in all respects in the proceedings for the disposal of the petition.

## **9. Abatement of petitions.**

(1) A petition claiming a declaration mentioned in clause (a) of sub-rule (6) of Rule 7, shall abate on the death of the person whose membership is questioned. (2) A petition shall abate on the death of the sole petitioner or of the survivor of several petitioners. (3) If any petitioner claims the declaration mentioned in clause (b) of sub-rule (6) of Rule 7, and the person whose membership is questioned dies, the Judge shall cause notice of such event to be published in the Gazette and the petitioner may within fourteen days of the publication apply to be substituted in place of the deceased and shall be entitled to continue the proceedings upon such terms as the Judge may think fit.

## **10. Orders of the Judge.**

(1) (a) If the petition is found to be frivolous, the Judge shall dismiss the petition and award costs at his discretion. (b) An order for costs passed by the Judge shall be executed by him on application made in that behalf in the same manner as if it were a decree passed by him in a suit. (2) If the Judge finds that the member against whom the petition has been filed was wrongly chosen, or has ceased to remain eligible for membership of the Kshettra Panchayat he shall either-(a) declare a casual vacancy to have occurred; or (b) declare another candidate to have been duly chosen.

## **11. Grounds on which a candidate other than the chosen candidate may be declared to have been chosen.**

- If the petitioner has claimed a declaration under clause (b) of sub-rule (6) of Rule 7 of these rules, viz. that the choosing of a person is void and that he himself or any other candidate has been duly chosen and the Judge is satisfied with that contention, he shall declare the membership of the returned candidate to be void, and further declare the petitioner or such other candidate, as the case

may be, to have been duly chosen :Provided that the petitioner or such other candidate shall not be declared to be duly chosen if it is proved that the choosing of such candidate would have been void if he had been the chosen candidate and a petition had been presented disputing his being chosen.

## **12. Taking effect of the order of the Judge.**

- An order of the Judge under Rule 10 shall take effect from the date of the order.

## **13. Communication of order and transmission of record.**

(1)The Judge shall, as soon as may be after announcing the order made by him under Rule 10, send a copy thereof to the District Magistrate.(2)The Judge shall send the record of the case to the District Magistrate for being dealt with in such manner as may be specified by the State Government.

## **14. Disposal of security deposit and recovery of costs.**

(1)Subject to the provision of sub-rule (1) of Rule 10 costs, if any, awarded to any respondent by the Judge shall be recoverable out of the security deposited under sub-rule (7) of Rule 7 and Rule 8 and the balance of the security deposit, if any, shall be refunded as soon as may be after the disposal of the petition to the petitioner.(2)The costs, or any portion thereof, awarded to any respondent and not recovered from the security deposit referred to in sub-rule (1) and costs payable to a petitioner from any respondent shall be recoverable in accordance with the provisions of clause (b) of sub-rule (1) of Rule 10.(3)While making his orders under Rule 10, the Judge shall also pass orders about the recovery of cost and the refund of security deposit in accordance with the provisions of this rule and the District Magistrate, shall carry out the orders accordingly on receipt of a copy of the Judge's orders under Rule 13. Appendix Form I [Rule 4(1)] Application for removal of the disqualification under clauses (c), (e), (f), (g), (h), (i), (j), (k) or (l) of Section 13 of the Uttar Pradesh Kshettra Panchayats and Zila Panchayats Act, 1961

### **1. Name of applicant**

### **2. Father's/Husband's name**

### **3. Village/Gram Panchayat**

### **4. House Number**

### **5. Details of Disqualification**

## 6. Date/Dates from which disqualification incurred

## 7. Grounds for removal of disqualification

## 8. Special Remarks

Place..... Signature.....

Date..... Name.....

Note. - Extract of the electoral roll of the territorial constituency of the concerned Gram Panchayat shall be enclosed herewith. Form II[Rule 5 (2)]List of persons in arrears of any tax, fee or rate

Serial No.	Name, Father's/Husband's name and address of the person in arrears of tax, fee or rate etc.	Amount of arrears	Nature of arrears (tax, fee or rate)	Period of arrears	Remarks
1	2	3	4	5	6