

# **Bihar State Board of Homeopathic Medicine (Electoral Rolls and the Conduct of Elections and Election Petition) Rules, 1955**

BIHAR

India

## **Bihar State Board of Homeopathic Medicine (Electoral Rolls and the Conduct of Elections and Election Petition) Rules, 1955**

### **Rule**

### **BIHAR-STATE-BOARD-OF-HOMEOPATHIC-MEDICINE-ELECTORAL-R of 1955**

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Bihar State Board of Homeopathic Medicine (Electoral Rolls and the Conduct of Elections and Election Petition) Rules, 1955Published vide Notification No. 33436-H., dated Patna, the 25th November 1955Notification No. 33436-H., dated Patna, the 25th November 1955, by the Government of Bihar, Health Department. - In exercise of the powers conferred by clause (a) of sub-section (2) of Section 53 of the Bihar Development of Homeopathic System of Medicine Act, 1953 (Bihar Act XXIV of 1953), the Governor of Bihar is pleased to make the following Rules, namely :-

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

(1)These Rules may be called the Bihar State Board of Homeopathic Medicine (Electoral Rolls and the Conduct of Elections and Election Petition) Rules, 1955.(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 Homeopathic System of Medicine Act, 1953;(b)"attesting officer" means a Magistrate or any other Gazetted Officer in the employment of the State Government or of the Central Government;(c)"corrupt practice" means any of the practices specified in Parts I and II of the Schedule to these Rules;(d)"Form" means a form appended to these Rules;(e)"Registration

Officer" or "Returning Officer" in relation to any matter relating to the preparation of electoral rolls or the conduct of elections, means the Registrar of the Board;(f)"section" means a section of the Act; and(g)all words and expressions used in these Rules and not defined therein but defined in the Act shall have the same meanings as are respectively assigned to them in the Act.

### 3.

When a vacancy in the Board 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 shall, within 30 days, 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 Board under Section 5 on the expiry of the term of the Board shall be issued by the State Government and published in the Official Gazette.

### 4.

(i)The Registration 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 (c) and (f) 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 omission 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-rule (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 offices 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 the Registration Officer and the District Magistrate and will be available for inspection, shall be published in the Official Gazette.(iii)For the purpose of election to the Board under clause (c) the State shall be divided by the President into suitable constituencies for the registered Homeopathic practitioners in accordance with the number of registered Homeopathic practitioners to be elected under the above clause.

### 5.

(i)On receipt of a notice under Rule 3, the Bihar Legislative Assembly shall elect two members from amongst its members by means of a single transferable vote and the Bihar Legislative Council shall elect one member of the Council under such conditions as may be laid down by the Chairman of the Bihar Legislative Council.(ii)In the case of other electorates any person whose name is on the electoral rolls and who is not disqualified under section II may be nominated as a candidate for election from his constituency. Such nominations shall be made by means of a nomination paper in

Form II which 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 nomination papers shall be delivered to the Returning Officer by the candidate or his proposer or seconder: 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 Board or enclose with the nomination paper a post office money order receipt for that sum in favour of the Board and no candidate shall be deemed to be duly nominated unless such a sum has been deposited with the Board or a postal money order receipt or a postal order has been enclosed with the nomination paper. (2) If a candidate by whom or on whose behalf the amount referred to in sub-rule (1) has been paid, withdraws his candidature or if the nomination of any such candidate is refused, the amount shall be returned to the person by whom it was paid and if any candidate dies before the commencement of the poll, the amount paid by him shall be returned to his legal representative or if such amount has been paid by any other person on behalf of the candidate, the amount shall be returned to the person by whom it was paid. (3) If a candidate by whom or on whose behalf the amount referred to in sub-rule (1) has been paid is not elected and the number of votes polled by him does not exceed  $\frac{1}{10}$  of the total number of votes polled in the constituency from which he seeks election, the amount shall be forfeited to the Board. (4) For the purpose of sub-rule (3), the number of votes polled shall be deemed to be the number of voting papers, other than rejected voting papers, counted. (5) The amount paid on behalf 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 has paid the amount on his behalf, as the case 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 has not been made in accordance with these Rules. If any dispute arises as to the 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 (c) and (f) 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 above. (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: Provided that no further nomination shall be necessary in the case of a candidate whose nomination was valid at the time of countermanding of the Poll: Provided further that no person who has under sub-rule (3) presented a written withdrawal of his candidature before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding. (6) On or before the date prescribed by the President in this behalf, the Returning Officer shall send by registered post to each elector a voting paper in Form III in the case of the electorate mentioned in clauses (c) and (f) of sub-section (1) of Section (3). The voting papers 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 his vote 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 spoilt 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 counterfoils and place them in safe custody pending disposal

under Rule 14. 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 contained therein.

## **12.**

(1)The Returning Officer shall attend for the purpose of the scrutiny and counting 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 counterfoils, to the candidates or their representatives.(4)If any objection is made to any voting paper on the ground that it does not comply with the instructions contained 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 (c) and (f) 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 counting 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 or counterfoils is necessary for the purpose of a 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 or any officer authorised by the State Government in this behalf 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 one or more of 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 a 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 relies and shall be signed by the petitioner and verified in the manner as 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 cost 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 Board shall not be questioned on the ground-(a)that the name of any person qualified to vote has been omitted from or the name of any unqualified person has been inserted in the electoral roll;(b)that there has been a non-compliance with any rule or any mistake in the form 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 may be necessary the State Government or the officer authorised by the State Government in this behalf finds that the election was valid, it shall dismiss the petition and may award costs in its discretion. (2) If the State Government, or the Officer authorised by the State Government in this behalf 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 costs in 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 I Electoral Roll List of persons qualified to vote under clauses (c) and (f) of sub-section (1) of Section 3 of the Bihar Development of Homeopathic System of Medicine Act, 1953.

Serial No.	Registration No. in case of persons qualified to vote under clauses (c) and (f) of sub-section (1) of Section 3.	Name.	Father's name.	Address.
1	2	3	4	5

I certify that all the persons whose names are entered in the above roll are qualified to vote under clauses (c) and (f) of sub-section (1) of Section 3 of the Bihar Development of Homeopathic System of Medicine Act, 1953. Registrar, Board of Homeopathic Medicine, Bihar, Or "President of the Association". Form II Nomination Paper Election under clauses (c) and (f) of sub-section (1) of Section 3 of the Bihar Development of Homeopathic System of Medicine Act, 1953.

Name of the candidate.	Father's name.	Registration No. and name of constituency in case of clause (c) of sub-section (1) of Section 3 and serial No. in the electoral roll in case of others.	Address.	Signature of proposer.	Signature of seconder.
1	2	3	4	5	6

I hereby declare that I am the person about whom the above particulars are given and that I agree to this nomination. (Signature with date) Candidate. Returning Officer Instruction Nomination papers which are not received by the Returning Officer before noon on the.....will be

invalid. Note.-Last date for the withdrawal of nomination by a candidate is .....Form III. Voting paper under clauses (c) and (f) of sub-section (1) of Section 3 of the Bihar Development of Homeopathic System of Medicine Act, 1953.

Counterfoil Form No. III.

Serial No.      Serial No.

Voting paper.

Members are to be elected to the Board of Homeopathic Medicine by the persons entered in the electoral roll under sub-section (1) of Section 3.

I hereby declare that I am the person whose name appears in the electoral roll.	Serial No.	Name of the candidate duly nominated.	Vote
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Signed. Serial No. on the electoral roll. Registration No. Name of the constituency in the case of clause (c) Returning Officer. Note.-Voting papers under clause (c) are printed on white paper and under clause (f) on yellow paper. Instructions

- 1. Each elector has one vote and he shall vote by placing the mark X opposite the name of the candidate whom he prefers.**
- 2. The voting paper will be invalid if the mark X is placed opposite the name of more than one candidate or if the mark is so placed as to render it doubtful to which it is intended to apply.**
- 3. The elector shall sign the declaration on the counterfoil without which the voting paper will be invalid.**
- 4. If the elector fills in more than one voting paper all votes recorded by him shall be invalid.**
- 5. Voting papers shall be sent to the Returning Officer by registered post; voting papers which are not received by the Returning Officer before 12 noon on the.....will be rejected.**

## **Schedule**

[See Rule 2(d)] Corrupt Practices

## **Part I**



**1. Bribery, that is to say, any gift, offer or promise by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, of any gratification to any person whomsoever, with the object, directly or indirectly, of inducing-**

(a)a person to stand or not to stand or as, or to withdraw from being a candidate at an election; or(b)an elector to vote or refrain from voting at an election, or as a reward to-(i)a person for having so stood or not stood, or for having withdrawn his candidature; or(ii)an elector for having voted or refrained from voting. Explanation.-For the purposes of this paragraph, the term "gratification" is not restricted to pecuniary gratification or gratifications estimatable in money but it includes all forms of entertainments and all forms of employments for rewards excepting payment of any expenses bona fide incurred at for the purpose of any election.

**2. Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or his agent or of any other person with the connivance of the candidate or his agent, with the free exercise of any electoral right. Provided that:**

(a)without prejudice to the generality of the provisions of this paragraph, any such person as is referred to therein who (i) threatens any candidate or elector or any other person in whom a candidate or elector is interested with any injury of any kind including social ostracism and excommunication or expulsion from any caste or community; or (ii) induces or attempts to induce a candidate or an elector to believe that he, or any other person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this paragraph;(b)a declaration of public policy, or a promise of public action or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this paragraph.

**3. The proceeding or attempting to procure by a candidate or his agent, or by any person with the connivance of a candidate or his agent, the application by a person for a ballot paper in the name of any other person, whether living or dead, or in a fictitious name, or the application for or presentation of a ballot paper by a person in his own name when having already voted, he is not entitled to vote.**

**4. The removal of a voting paper from the polling station during polling hours by a candidate or his agent or by any other person with the connivance of a candidate or his agent.**

**5. The publication by a candidate or his agent or by any other person with the connivance of the candidate or his agent of any statement of fact which is false and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate or in relation to the candidature or withdrawal of any candidate, which statement is reasonably calculated to prejudice the prospect of that candidate election.**

**Part III – 1. Any of the acts specified in Part I of this Schedule when done by a person who is not a candidate or his agent or a person acting with the connivance of a candidate or his agent.**

**2. The application by a person at an election for a ballot paper in the name of any other person, whether living or dead, or in a fictitious name or for a ballot paper in his own name when, by the reason of the fact that he has already voted, he is not entitled to vote.**

**3. The receipt of, or agreement to receive, any gratification, whether as a motive or a reward (a) by a person for standing or not standing, as, or for withdrawing from being, a candidate; or (b) by any person whomsoever for himself or any other person for voting or refraining from voting or for inducing or attempting to induce any elector to vote or refrain from voting or any candidate to withdraw his candidature.**

**4. The systematic appeal to vote or refrain from voting on ground of caste, race, community or religion or the use of or appeal to, religious and national symbols, such as, the national flag and the national emblem for the furtherance of the prospects of a candidate's election.**

**5. The issuing of any circular place and/or poster having references to the election which does not bear on its face the name and the address of the printer and publisher thereof.**