

U.P. Zila Panchayats (Settlement of Dispute Relating to Membership) Rules, 1994

UTTAR PRADESH

India

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Rule

U-P-ZILA-PANCHAYATS-SETTLEMENT-OF-DISPUTE-RELATING-TO-M of 1994

- Published on 21 September 1994
- Commenced on 21 September 1994
- [This is the version of this document from 21 September 1994.]
- [Note: The original publication document is not available and this content could not be verified.]

U.P. Zila Panchayats (Settlement of Dispute Relating to Membership) Rules, 1994Published vide Notification U.P. Gazette (Extraordinary), Part 4, dated 21st September, 1994, vide Notification No. 4302/33-1-94-292-94, dated 21st September, 1994In exercise of the power under Section 237 of the Uttar Pradesh Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961 (U.P. Act No. 33 of 1961), read with sub-section (1) and clauses (a) and (b) of sub-section (2) of Section 27 of the said Adhiniyam and in supersession of U. P. Zila Parishads (Settlement of Disputes Relating to Membership) Rules, 1963 published in Notification No. 1851-A/33-39-R-1962, dated April 18, 1963, the Governor is pleased to make the following rules :

1. Short title and commencement.

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

2. Definitions.

- In these rules unless the subject or context otherwise requires-(i)"Act" means the Uttar Pradesh Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961 ;(ii)"member" means a person who is a Member of a Zila Panchayat under Section 18 ;(iii)"returned candidate" means a person chosen as a member under clause (b) of sub-section (1) of Section 18 ;(iv)"section", "sub-section" and "clause" shall mean section, subsection and clause of the Act.

3. Manner of raising disputes under Section 27 (1).

- If any dispute arises as to whether a person is a member of the Zila Panchayat under clause (a) of sub-section (1) of Section 18, the same may be raised by any person whose name is registered as an elector in the electoral roll for the territorial constituency of the concerned Zila Panchayat.(2)The application shall specify the ground on which the dispute is raised and shall be presented to the District Magistrate by the person making the application and if there are more signatories to it by any or all of them.(3)The District Magistrate shall, as soon thereafter as may be, refer the application along with the entire records and his own comments to the State Government for decisions.(4)The State Government may, after such enquiry as it considers necessary and after affording a reasonable opportunity of hearing to the parties, pass such order as it considers just and proper.

4. Manner of raising disputes under Section 27 (2) (a) and (b).

(1)If a dispute arises as to whether a person has been lawfully chosen under clause (b) of sub-section (1) of Section 18 the matter shall be referred by means of a written petition by any person who could legally be a candidate at such choosing to the Judge within thirty days' of the date of choosing.(2)If a dispute arises as to whether a person has ceased to remain eligible for being chosen a member, the matter shall in the manner as provided in sub-rule (1) be raised by any person whose name is registered as an elector in the Electoral roll for the territorial constituency of the concerned Zila Panchayat.(3)Every petition under sub-rule (1) or sub-rule (2) shall be presented in person by the petitioner, and if there are more than one petitioners by any or all of them.

5. Form, etc. of petition.

(1)A petition presented under Rule 4 shall state the grounds on which the member of the Zila Panchayat is alleged to have been wrongly chosen or is alleged to have ceased to remain eligible to be a member.(2)A person whose membership is questioned under Rule 4 shall be made a respondent to the petition.(3)Where a relief under clause (b) of Rule 6 is claimed every unsuccessful candidate shall be made respondent to the petition.

6. Relief that may be claimed by the petitioner.

- A petitioner may claim any or all of the following reliefs :(a)that the choosing of a person as member of the Zila 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. Security and court fee.

(1)(a)Before the said petition is presented, an amount of rupees two hundred as security towards the costs of the petition shall be deposited in the Government Treasury or the State Bank of

India.(b)Every petition shall be accompanied by a receipt showing that the aforesaid security has been deposited.(2)There shall be paid on every petition made under Rule 4 a fee of rupees two hundred and fifty in court-fee stamps.

8. Recrimination when seat claimed.

- When in any petition it is claimed that the petitioner or any other candidate be declared to have been duly chosen in place of 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. Place of hearing.

- The petition shall be heard at the headquarters of the district in which the Zila Panchayat is situate.

10. Withdrawal before petition.

- 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.

11. Procedure before the Judge.

(1)Except so far as provided by the Act or in these Rules, the procedure provided in Civil Procedure Code, 1908 in regard to suits shall so far as it is not inconsistent with the Act or any provisions of these rules and it can be made applicable be followed in the hearing of the petitions :Provided that-(a)any two or more petitions to 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 aggrieved from the decision of the Judge may apply for review to the Judge within 15 days from the date of the decision and the Judge may thereupon review the decision.(2)The provisions of the Indian Evidence Act, 1872 (Act No. 1 of 1872) shall, subject to the provision of the Act and these rules, be deemed to apply in all respects in the proceedings for the disposal of the petition.

12. Abatement of petitions.

(1)A petition, claiming a declaration mentioned in clause (a) of Rule 6, 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 all petitioners.(3)If any petitioner claims the declaration mentioned in clause (b) of

Rule 6 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 of such notice 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.

13. 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)As order for costs passed by the Judge shall be executed by him on an 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 under clause (b) of sub-section (1) of Section 18 has ceased to remain eligible for being chosen a member of the Zila Panchayat, he shall either-(a)declare a casual vacancy to have occurred, or(b)declare another candidate to have been duly chosen for the purposes of Section 18.

14. 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 Rule 6 and the Judge is satisfied that the petitioner is entitled to the said declaration 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 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 a returned candidate and a petition had been presented disputing his being chosen.

15. Taking effect of the order of the Judge.

- An order of the Judge under Rule 13 shall take effect from the date of the order.

16. Communication of order and transmission of records.

- The Judge shall, as soon as may be, after announcing the order made by him under Rule 13-(a)send a copy of the order to the District Magistrate; and(b)transmit the records of the case to the District Magistrate for being dealt with in accordance with law.

17. Disposal of security deposit and recovery of costs.

(1)Subject to the provisions of sub-rule (1) of Rule 13, costs if any, awarded to any respondent by the Judge shall be recoverable out of the security deposited under Rules 7 and 11 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

13.(3) While passing orders under Rule 13, the Judge shall also pass orders about the recovery of costs and the refund of security 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 order under Rule 16.