

Bihar State Election Authority Rules, 2008

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Rule BIHAR-STATE-ELECTION-AUTHORITY-RULES-2008 of 2008

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Bihar State Election Authority Rules, 2008Published vide Notification No.-3/M.-48/2008-2796 Ka in Bihar Gazette (Extraordinary) dated 13.5.2008No.-3/M.-48/2008-2796 Ka. - In exercise of powers conferred under sub-section (1) of Section-16 of the Bihar State Election Authority Act, 2008 (Bihar Act 14, 2008), the State Government makes following Rules:-

Chapter 1 Preliminary

1. Short title, extent and commencement.

(1)These Rules may be called "Bihar State Election Authority Rules, 2008".(2)It shall extend to the whole of the State of Bihar.(3)It shall come into force with immediate effect.

2. Definitions.

- In these Rules, unless anything is required in the context:(i)"Election office" means an officer authorized by the Authority to conduct election;(ii)"Authority" means the Bihar State Election Authority; and(iii)The words and expressions used herein but not defined shall have the same meaning assigned to them in the Bihar State Election Authority Act, 2008 (Bihar Act 14, 2008).

Chapter 2 Procedure of Functioning of the Election Authority

3. Function and Powers of the Election Authority.

- The function of the Election Authority shall be to conduct elections to the Managing Committee of the Co-operative Society, Shiksha Samiti, health Society or any other institution or organization or establishment or such bodies or its group, in respect of which the State Government decides by notification, in accordance with sub-section (1) of Section-4 of the Bihar Act 14, 2008. For this purpose, the Election Authority shall have power, authority and jurisdiction for exercising superintendence, direction and control of the preparation of electoral rolls and conduct of elections.

4. Head of the Authority.

- The authority shall be headed by a Chief Election Officer according to sub-section (2) of Section 3 of the Bihar Act 14, 2008.

5. Transaction of business of the Authority.

(1) For discharge of his duties and responsibilities, the Chief Election Officer may be assisted by as many Deputy Chief Election Officers as the State Government may by notification appoint.

6. Administrative Machinery.

(1) The State Government shall make available to the Authority such Officers and employees as may be necessary for discharge of functions conferred on it under this Act and as the posts are created for this purpose. In addition, the State Government, when so requested by the Election Authority, will make available such number of officers and employees as may be required for conduct of elections. (2) The Election Authority, for conduct of election, shall designate or nominate District Magistrate, Sub-Divisional Magistrate, Block-Development Officer, Circle Officer or such other officer it may deem fit and proper as Election Officer for election of each institution, organization, establishment and may even designate one or more officer as Deputy Election Officer for assistance of Election Officer.

7.

For the purpose of conduct of election or elections in an institution or establishment or organization or group of such bodies, the Authority shall take necessary action under the appropriate Act/Rules in force for such institution or establishment or organization or other bodies. For this purpose the Authority shall have powers to make arrangements by way of making regulation or/and regulations and/or by issuing executive instructions.

Chapter 3

Appointment, Appeal and Service Conditions of Officers and Staff of the Authority

8.

(1)With respect to the posts above the pay scale of Rs. 5000-8000, the services of officers and employees shall be made available by the State Government. The posts up to the pay scale of Rs. 5000-8000 shall be ex-cadre and the Authority shall be competent to make appointment on such posts. For the said posts the Chief Election Officer shall be the appointing authority. The persons appointed against the posts upto the scale of Rs. 5000-8000 shall not be the part of any service or cadre of the Secretariat.(2)The officers and employees made available by the State Government to serve in the Authority shall remain under the administrative control of the Chief Election Officer during their posting in the Authority.(3)All the service conditions, Discipline and Appeal etc. of the officers and employees of the Authority shall be governed by the Rules in force for such purpose in the State Government.

Chapter 4

Appointment, Power and Jurisdiction of Observers

9. Nomination of Observer.

- The State Election Authority may nominate one or more observers who shall be an officer of the State Government not above the rank and pay scale of Block Development Officer to watch the conduct of election or elections in an institution or establishment or organization or group of such bodies and to perform such other functions as may be entrusted to him by the State Election Authority:Provided that in respect of election or elections in State level institution or establishment or organization, an observer above the rank of Block Development Officer may be nominated.

10. Powers and Jurisdiction of Observers.

(1)The observer shall keep proper watch and supervision for fair and peaceful conduct of election and all the officers and employees deputed for conduct of election shall co-operate with him properly.(2)The observer nominated under Rule 9 shall have the power to direct the election officer to suspend the counting of votes at any time before the declaration of the result or not to declare the result, if in the opinion of the observer booth capturing of votes or any ballot papers used at a polling station or at place fixed for poll are unlawfully taken out of the custody of the election officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with to such an extent that the result of the poll at that polling station or place cannot be ascertained.(3)Where an observer has directed the election officer under this Rule to stop counting of votes or not to declare the result, the Observer shall forthwith report the matter to the State Election Authority and thereupon the State Election Authority shall after taking all material circumstances into account, issue appropriate direction.Explanation. - For the purposes of Rule 9, 'Observer' shall include such officer of the State Election Authority also as has been assigned under this rule the duty of watching the conduct of election or elections in any institution/establishment/ organization or group of such bodies by the State Election Authority.

Chapter 5

Election Petitions

11. Election Petitions.

- No election to a post of a body shall be called in question except by an election petition: Provided that if an election to any office of a body is under dispute, the election petition shall lie before such authority as is prescribed under the Act and/or Rules regulating such body or where administration and functioning of such body is not regulated by any statutory provision, before the Munsif in whose jurisdiction such institution or establishment or organization or body is situated.

12. A petitioner shall add as a respondent to this petition.

(a) Where the petitioner, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidates has been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, all the returned candidates; and (b) Any other candidate against whom allegations of any corrupt practice are made in the petition.

13. Procedure for filing Election Petition including fee.

- The procedure for filing election petition including fee shall be the same as is prescribed under the appropriate Act and/or Rules: Provided that if there is no such provision in such Act and/or Rules, the fee and procedure shall be determined by the State Government on the advice of Election Authority by publication of notification in the Official Gazette.