

Rules in Regard to Election Petition Under the Representation of People Act, 1951

RAJASTHAN

India

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Rule

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Rules in Regard to Election Petition Under the Representation of People Act, 1951Published vide Notification No. 1/S.R.O., dated March 28. 1967, Published in Rajasthan Gazette Extra 4(Ga), date 2-4-1967, page 3In exercise of the power conferred by section 46 of the Rajasthan High Court Ordinance, 1949, read with Article 225 of the Constitution of India and all other powers enabling it in that behalf, the High Court of Judicature for Rajasthan hereby makes the following rules in regard to election petition under the Representation of the People Act, 1951:-

1.

In these rules, unless the context otherwise requires,-(a)"the Act" shall mean the Representation of the People Act, 1951;(b)"the Code" shall mean the Code of Civil Procedure, 1908;(c)"the High Court" shall mean the High Court of Judicature for Rajasthan;(d)"the Judge" shall mean the Judge or Judges of the High Court of Judicature for Rajasthan who has or have been assigned by the Chief Justice under sub-section (2) of section 80A of the Representation of the People act, 1951, for the trial of election petitions.The Election Petition

2.

All proceedings in the High Court in respect of election petitions shall be conducted in English.

3.

All petitions, applications, notes, etc. including copies thereof to be filed in election petitions shall be either printed, or type written neatly and legibly with sufficient space between lines on strong and durable foolscap size paper or on a size of paper nearest to the foolscap size according to metric measure, with a margin of not less than 5 cms. Where such petitions etc. as aforesaid consist of more sheets than one, they shall be stitched in book form.

4.

Election petitions shall be presented, either in person or by an advocate duly authorised in this behalf by the party concerned, to the Registrar of the High Court or to such other officer as the said Registrar may, with the approval of the Chief Justice, by special or general orders passed from time to time, appoint in this behalf.

5.

Every election petition shall, in addition to the contents required by the Act, contain information as to the date of election of the returned candidate or if there be more than one returned candidate at the election and the dates of their election are different, the later of the two dates and shall also show that the election petition is within time as prescribed in section 81 of the Act.

6.

The election petition alongwith the necessary copies may be presented, at any time during the Court hours. Immediately after it is presented the date of Presentation shall be endorsed thereon, and the petition shall be entered in a special register maintained for the registration of election petitions. The Register shall be in Form No. 32 prescribed under Rule 330 of the General Rule Civil, with necessary modifications. Information about the presentation of the election petition shall be sent to the Election Commission forthwith.

7.

After the petition is presented, the party or advocate shall attend the office on the third day from the date of the presentation or any other date, fixed by the Registrar to remove objections, if any. The petitioner shall furnish his address (preferably in Jodhpur) where any communication may be addressed to or served on him.

8.

The office shall examine the petition with a view to see whether it is in conformity with the requirements of law and the rule applicable to the same, and if it is not in conformity with law and the rules raise objections which could be removed by the party of the advocate concerned. These

objections should be brought to the notice of the party or the advocate on the date fixed for attendance under rule 7 and such objections shall be removed subject to the orders of the Judge, if any, within two days thereafter.

9.

Immediately after the time fixed for the removal of objections, the petition shall be placed before the Judge for such orders as may be required to be passed under section 86 of the Act. If the petition is not dismissed under section 86(1) of the Act, a summons, on the direction of the Judge, shall be issued to the respondents to appear before the High Court on a fixed date and answer the claim or claims made in the petition. Such date shall not be earlier than three weeks from the date of the issue of the summons. The summons shall be for written statement and settlement of issue; and shall be served on the respondents through the District Judges in the manner provided for the service of summons. The District Judges will make their best endeavour to serve the summons on the respondents and make a return of the service of the summons with the greatest expedition.

10.

In addition to the issue of summons as aforesaid, a summons shall also be sent to the respondent to the address given by the petitioner by registered post pre-paid for acknowledgment. The petitioner shall furnish extra copies of the petition to be served alongwith the summons by registered post. The acknowledgment purporting to be signed by the opposite party or an endorsement by a postal servant when the opposite party refuses service shall be deemed to be prima facie proof of the service.

11.

Those of the respondents who file written statements or recriminatory statements as provided under section 97(2) of the Act shall also furnish copies of such written statement and recriminatory statements for the use of the petitioner and other respondents, as the case may be. Where a recriminatory statement under section 97(2) alleges any corrupt practice, the statement shall be accompanied by any affidavit in support of the allegation of such corrupt practice and the particulars thereof.

12.

After the pleadings in the election petition are received, a date shall be fixed at the direction of the Judge for (1) discovery of documents: (2) inspection of the documents disclosed; and (3) the production of documents which are in the possession and power of the parties.

13.

Issues will then be settled and the election petition will be posted for hearing. Within seven days of the settlement of issues, parties shall file list of witnesses and pay the process- fees and the travelling allowance and the diet allowance for those of them who are required to be summoned. No party shall produce or obtain process to enforce the attendance of witnesses other than those contained in the above lists: Provided that it will be in the discretion of the Judge to allow a party to produce witnesses in rebuttal not included in the list on such terms as he may deem fit to impose, if there are sufficient reasons to do so.

14.

Parties shall apply for the issue of witness-summons sufficiently in time for the attendance of witnesses after service. Parties may also produce witness without a summon on the date of the hearing, provided they have filed a list of the same as required under Rule 12.

15.

Process fees to be paid shall be the same as provided in Rule 840 of the Rajasthan High Court Rules, 1952.

16.

A party applying for a summons to a witness shall be required to deposit at the time of applying for summons a sum sufficient to cover the travelling allowance and the diet allowance of the witness according to the scale given under Rule 17. Payment shall be made to the witness out of amounts so deposited after the witness has given evidence or he is discharged by the Judge.

17.

Travelling allowance for the journey from the place of residence to the place where evidence is required to be given and back to the place of residence and diet allowance shall be paid to the witness according to the scale indicated below:-

Class of witness	Travelling allowance	Diet allowance
Class I		
Professional men of high position, Members of Parliament and of the State Legislature large land owners and owners of big business organisation, and Class I Government Officials who are required to attend the Court in their private capacity.	First Class Rail Fare	Rs. 20/- per day.

Class II

Members of Local bodies Ordinary professional and business men, land owners, other than small farmers, officers, employees in business organisations, Corporations and local bodies and Class II Government officials who are required to attend the Court in their private capacity.

Second class rail fare (or first class rail fare if admissible under the State Service Rules for journey on duty) Rs. 12/-

Class III

Artisans, clerks, small land owners, village officers, and employees in lower grades of Corporations, local bodies and business organisations and Class III Government servants who are required to attend the Court in their private capacity.

Second Class Rail Fare Rs. 8/- per day

Class IV

Labourers, petty shop keepers, pedlars and persons other than those in the above classes and Class IV Government servants who are required to attend the Court in their private capacity.

Third Class Rail Fare Rs. 4/- per day.

Note 1. - If in addition to travelling by rail a witness is required to travel by bus also, the actual bus fare paid for such part of the journey shall also be admissible as travelling allowance. Note 2. - Diet allowance shall be payable, irrespective of the distance travelled for the actual time required for the journey each way, and also for the time taken in giving evidence and for the time of detention necessary for the purpose of the giving evidence. A part of the day shall be counted as equal to a day. Note 3. - The Registrar shall decide to which class a witness belongs. A witness dissatisfied by his decision may request that a reference be made to the Judge and upon such request the question shall be referred to the Judge. The Judge thereupon shall give such direction as he thinks just and proper in the case. Note 4. - In the case of experts and professional persons and in cases in which the Judge thinks special rates should be awarded, the Judge may award higher rates of diet allowance than provided for in his scale. Note 5. - In cases not fully or clearly covered by this scale or in cases where the Judge thinks special consideration should prevail, the Judge shall award such amounts for travelling allowance, as he deems proper.

18.

As soon as an order is passed by the Court under sub-section (2) of section 109, or under Clause (b) of sub-section (3) of section 110, or under sub-section (2) of section 112, or under section 116 directing any matter to be published in the Official Gazette, or otherwise than in the Official Gazette, the office shall get the same published at the cost of such of the parties as the Judge may direct in that behalf. The matter directed to be published in the Official Gazette shall be published in the State Government Gazette or the Gazette of India, as the case may be.

19.

As soon as an election petition is dismissed by the High Court under sub-section (1) of section 86, or the same has been finally disposed of on merits as provided for under sections 98 and 99, or the High Court passes an order under sub-section (1) of section 116-B, the office shall intimate the order or the decision of the High Court (i) to the Election Commission and (ii) the Speaker or the Chairman, as the case may be, of the House of Parliament or of the State Legislature concerned: and thereafter, as soon as possible, it shall also forward to the Election Commission an authenticated copy of the judgment and the formal order of the Court. The office shall also report to the Election Commission when an election petition is allowed to be withdrawn under section 111 after orders are passed in that behalf by the High Court. When an election abates and no attempt has been made for substituting another person for continuing the said petition as provided under section 116, and the Court passes a final order treating the petition as abated, the office shall also report to Election Commission.

20.

A diary or index of proceedings showing the course of the election petition from the beginning to the end in chronological order shall be maintained in each election petition in accordance with rules 69 and 70 of the Rajasthan High Court Rules. Application in the Petition

21.

All applications in each Election Petition shall be separately recorded in a register maintained for the purpose. The Register in respect of each election petition shall have the following columns:-Register of Applications Election Petition No.

Serial No. of Application in the Electionpetition	Date of Presentation	Nature of Application	Date and substance of final order
1	2	3	4

hen an application is filed, the same shall be placed before the Judge as part of the Election petition for passing necessary order.

22.

Applications made to the Court in a pending election petition shall be styled as 'Application in the Election Petition No...'Advocates

23.

(a)An Advocate intending to act for a party shall file a Vakalatnama signed by that party.(b)All notices, processes, etc. shall be served on the Advocate at the office address given by him, unless the

Judge otherwise directs, such service will be regarded as per proper service on the party.

24.

A party shall be entitled to advocate's fees at the rate of Rs. 150/- per day of hearing, if represented by more than one advocate, and at the rate of Rs. 100/- if represented by one advocate, subject, however, to the direction of the Judge to allow a higher or lower rates of fees: Provided that the total advocate's fees shall not exceed Rs. 2000/-. Provided further that no fees would be taxable unless a certificate of receipt of fees is before commencement of final arguments. Costs

25.

(a) The security for costs shall be paid in cash. The payment shall be made by means of a printed tender form in triplicate duly filled in English by the payer. The payer shall present the form to the Registrar between the hours of 10.30 A.M. and 11.30 A.M. (or when the Court is observing morning hours, between 7.30 A.M. and 8.30 A.M.). The Registrar shall put his signatures on the tender form, shall get the tender entered in the registers of tenders and sign the order to receive payment on the duplicate and triplicate forms of the tender. Thereafter cash challan (Form No. GA 57) shall be filled in duplicate by the Superintendent, Account Section, and handed over to the payer for presentation and payment of the money to the State Bank of India, Jodhpur. On presentation of the challan and on payment of the money in the Bank the payer shall receive as an acknowledgment one of the forms of challan duly signed and the other form shall be retained by the Bank as a voucher. The payer shall present the challan given by the Bank to the Superintendent, Accounts Section, who shall make necessary entries in the tender form. The original tender shall make necessary entries in the tender form. The original tender shall be filed with the record of the election petition, the duplicate tender shall be given to the payer, and the triplicate tender shall be kept in the Accounts Section. (b) Where, pending the trial of the election petition, a petitioner is directed to give further security for costs, the amount of such further costs shall be similarly deposited in the Bank. (c) The amount deposited shall be credited to the Head "Civil Court Deposits". Miscellaneous

26.

No document in any language other than English, shall be admitted in evidence unless it is accompanied by English translation which shall either be the official translation or a translation the accuracy of which is certified by an Advocate of the High Court. Costs of the translation shall be at the discretion of the Court.

27.

All rules of the High Court applicable to the preparation of the transcript of the record for the use of the Supreme Court in an appeal to the Court arising from a decree of the High Court in a Civil Appeal shall apply mutatis mutandis to the preparation of the transcript of the record for the use of the Supreme Court in an appeal to that Court arising from a decision of the High Court in an

election petition, subject however, to the provisions of the Act and the rules which the Supreme Court may make in that behalf.

28.

Where no specific provision is made in the Act, the Code or the above Rules, the Rajasthan High Court Rules, 1952 shall apply mutatis mutandis or as the Judge may direct.