

The Punjab Agricultural Produce Markets (Election Petition) Rules, 1981

PUNJAB

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Rule

THE-PUNJAB-AGRICULTURAL-PRODUCE-MARKETS-ELECTION-PETITION-RULES of 1981

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The Punjab Agricultural Produce Markets (Election Petition) Rules, 1981 Notified vide Notification No. GSR 99/PA. 23/91/Ss. 43 and 17-A/81 dated 9th November, 1981 and Published in Punjab Government Gazette dated 20th November, 1981

1. Short title.

- (Section 43(2). - These rules may be called the Punjab Agricultural Produce Markets (Election Petition) Rules, 1981.

2. Definitions.

- In these rules, unless the context otherwise requires :- (a)'Act' means the Punjab Agricultural Produce Markets Act, 1961; (b)'Candidate' means a person who has been nominated as a candidate at any election of a member, Vice-Chairman or Chairman of the Committee; (c)'elector' means a person who is a voter for the election of the member; (d)'section' means a section of the Act; (e)'Schedule' means a Schedule appended to these rules; (f)'Treasury' means a Government Treasury or Sub-Treasury or a bank to which the Government treasury business has been made over.

3. Grounds on which election be called in question.

- (Section 17-A). - The election of any person as a member, Vice-Chairman or Chairman, as the case may be, of a committee may be called in question by an elector through an election petition on the ground that such person has been guilty of a corrupt practice specified in the Schedule or has connived at or abetted the commission of any such corrupt practice or there has been failure of justice on any of the following grounds, namely :-(a)that on the date of his election the elected person was not qualified, or was dis-qualified, to be elected under the Act or any rules made thereunder; or(b)that any nomination has been improperly rejected; or(c)that the result of the election in so far as it concerns the elected person, has been materially affected -(i)by the improper acceptance of any nomination; or(ii)by the improper reception, refusal or rejection of any vote or the reception of any vote which is void; or(iii)by any non-compliance with the provisions of the Act or of any rules made thereunder.

4. Presentation of petition to the prescribed authority.

- (Section 17-A). - (1) An election petition may be presented within twenty days of the date of announcement of the result of an election to the Deputy Commissioner of the District within which the committee is established who shall be the prescribed authority for the purpose of Section 17-A.(2)When the period prescribed for the presentation of election petition expires on a day which is observed as holiday in the office of the Deputy Commissioner, the petition shall be considered as having been presented in due time if it is presented on the next succeeding day which is not a holiday.(3)The petitioner shall enclose with election petition such number of copies of the petition and of its enclosure as there are number of respondents.

5. Contents of petition.

- (Section 43(2)(i)(ie)). - (1) The petition shall contain a statement in concise form of the material facts on which the petitioner relies and shall, where necessary, be divided into paragraphs, numbered consecutively, and shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Central Act V of 1908), for the verification of pleadings.(2)The petition shall be accompanied by a list signed and verified in like manner setting forth full particulars of any grounds as laid down in Rule 3, which the petitioner alleges, including as full a statement as possible as to the names of the parties alleged to have committed any corrupt practice and the date and place of commission of each corrupt practice.

6. Deposit to be made.

- (Section 43 (2) (i) (ie)). - (1) At the time of, or before presenting an election petition, the petitioner or petitioners shall deposit in the treasury a sum of two hundred rupees in cash or in the form of Government promissory notes of equal value, as security for all costs that may become payable by him or them.(2)If the petitioner, by whom the deposit referred to in sub-rule (1) was made, withdraws his election petition, and, in any other case, after final orders have been passed on the

election petition, the deposit shall after such amount as may be ordered to be paid as costs, charges and expenses, has been deducted, be returned to the petitioner by whom it was made, and if the petitioner dies during the course of the enquiry into the election petition, any such deposit if made by him, shall after the amount of such costs as may be ordered to be paid have been deducted, be returned to his legal heirs.(3)All applications for the refund of a deposit shall be made to the Deputy Commissioner who shall pass orders thereon in accordance with these rules.

7. Petition to be dismissed for non-compliance with the rules.

- (Section 17-A(2)). - If any of the provisions of rule 3, sub-rule (1) of Rule 5 and sub-rule (1) of Rule 6 have not been complied with, the prescribed authority shall pass order dismissing the election petition and such order shall be final.

8. Procedure.

- (Section (43) (2)(ie)). - The procedure provided under the Code of Civil Procedure, 1908, in regard to the trials of suits shall, in so far as it can be made applicable, be followed in the hearing of election petitions :Provided that -(a)any two or more election petitions relating to the election of the same person may be heard together;(b)the prescribed authority shall not be required to record the evidence in full but shall make a memorandum of evidence sufficient in his opinion for the purpose of deciding the petition;(c)the prescribed authority may, at any stage of the proceeding, require the petitioner to give further security for the payment of the costs incurred or likely to be incurred by any respondent;(d)the prescribed authority for the purpose of deciding any issue shall only be bound to require the production of, or to receive, so much evidence, oral or documentary as it considers necessary;(e)the order of the prescribed authority shall be final;(f)no witness or other person shall be required to state for whom he has voted at an election.

9. Powers of prescribed authority.

- (Section (43) (2) (ie)). - (1) The prescribed authority hearing an election petition shall have the powers and privileges of a Judge of a Civil Court when trying a suit and may, for the purpose of serving any notice or issuing any process or doing any other such thing, employ any office clerk or peon attached to its Court.(2)Any order as to costs passed by the prescribed authority shall be executed by it on an application made in that behalf in the same manner and by the same procedure as if it were a decree for the payment of money made by the Civil Court in a suit.

10. Withdrawal of petition.

- (Section (43) (2) (ie)). - (1) An election petition may be withdrawn only by leave of the prescribed authority.(2)If there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.(3)When an application for withdrawal is made to the prescribed authority, notice thereof fixing a date for the hearing of application shall be given to all other parties to the petition and shall be published by being pasted at the office of the

prescribed authority and the Committee.(4)Any person who might himself have been a petitioner, may, within fourteen days of the date of such publication, apply to be substituted as petitioner in place of the party withdrawing and upon such compliance with the condition as the security as specified in Rule 6 shall be entitled to be so substituted and to continue the proceedings upon such terms as the prescribed authority may deem fit.(5)No application for withdrawal shall be granted if in the opinion of the prescribed authority, such application has been induced by any bargain or consideration which ought not to be allowed.(6)If the application for withdrawal of election petition is granted by the prescribed authority the petitioner shall be ordered to pay the costs of the respondent incurred or such portion thereof as the prescribed authority may deem fit.

11. Abatement of election petition.

- (Section (43) (2) (ie)). - (1) An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners.(2)Notice of abatement of an election petition shall be published by the prescribed authority by being pasted at its office and at the office of the concerned Committee.(3)Any person who might himself have been petitioner may, within fourteen days from the date of such publication, apply to be substituted as petitioner, and upon compliance with the conditions as to security as specified in Rule 6 shall be entitled to be so substituted and to continue the proceedings upon such terms as the prescribed authority may think fit.

12. Findings of prescribed authority.

- (Section 17-A (1)(a)). - (1) If the prescribed authority, after making such enquiry as it deems necessary, finds in respect of any person whose election is called in question by an election petition, that his election(i)is valid, it shall dismiss the petition,(ii)is void, on account of any of the grounds mentioned in Rule 3, it shall declare the same to be void;(2)At the time of making an order under sub-rule (1), the prescribed authority shall also make an order(i)recording a finding whether any corrupt practice has or has not been proved to have been committed;(ii)specifying the names of persons who have been proved at the trial to have been guilty of any corrupt practice of conniving at or abetting the same;(iii)fixing the period for which the persons referred to in clause (ii) shall be incapable of becoming members of a Committee; and(iv)fixing the total amount of costs payable, if any, and specifying the persons by and to whom such costs shall be paid.

13. Custody of record of election petition.

- When an election petition has been disposed of, the Deputy Commissioner shall retain the record until the expiry of the term of the Committee and shall then, subject to any direction by the State Government cause the same to be destroyed.

14. Transfer of election petition.

- (Section 43(2)(2) (i)). - The State Government may at any stage after notice to the parties and for reasons to be recorded in writing withdraw any election petition pending before a prescribed

authority and transfer it for trial to an other prescribed authority and upon such transfer that prescribe authority shall proceed with the trial from the stage at which it was withdrawn :Provided that such prescribed authority may, if it thinks fit, shall recall and re-examine any of the witnesses already examined.

Schedule

[See Rule 4]Corrupt Practices(1)Bribery, that is to say, any gift, offer or promise by a candidate or by any other person with the consent of the candidate of any gratification to any person whensoever, with the object, directly or indirectly of inducing -(a)a person to stand or not to stand as, or to withdraw from being a candidate; or(b)an elector to vote or refrain from voting at such 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 estimable in money, and it includes all forms of entertainment and all forms of employment for reward, but it does not include the payment of any expenses bona fide incurred for the purpose of such election.(2)Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or any other person with his connivance or authority, with the free exercise of any electoral right.Provided that -(a)without prejudice to generality of the provisions of this paragraph any such person as is referred to therein, who -(i)threatens any candidate, or any elector or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and excommunication or of expulsion from any caste or community; or(ii)induces or attempts to induce a candidate or an elector to believe that he, or any 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 systematic appeal by a candidate or by any other person with his connivance or authority to vote or refrain from voting on grounds of caste, race, community or religion or the use of, or appeal to, religious symbols or the use of, or appeal to national symbols, such as the national flag or the national emblem for the furtherance of the prospect of that candidate's election.(4)The publication by a candidate or by any other person with his connivance or authority 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 or retirement from contest of any candidate being a statement reasonably calculated to prejudice the prospect of that candidate's election.(5)The hiring or procuring, whether on payment or otherwise, of any vehicle by a candidate or by any other person with his connivance or authority for the conveyance of any elector (other than the candidate himself or any member of his family), to or for any polling station or place fixed for the poll:Provided that the hiring of a vehicle by an elector or by several electors at their joint cost for the purpose of conveying him or them to or from any such polling station or place fixed for the poll shall not be deemed to be corrupt practice under this clause if the vehicle so hired is a vehicle not propelled by mechanical power:Provided further that the use of any public transport vehicle or railway carriage by any elector at its own cost for the purpose of going to or coming from any such

polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause. Explanation. - In this paragraph the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport whether propelled by mechanical power or otherwise whether used for drawing other vehicle or otherwise. (6) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or by any other person on his behalf any assistance (other than the giving of vote) for the furtherance of the prospects of the candidate's election from any person serving under the Government of India or the Government of any State or any local authority. Explanation. - A person serving under the Government of the State of Punjab shall include a Patwari, Chowkidar and Daffadar, employed in the State, whether the office he holds is a whole-time office or not, but shall include any person who has been declared by the State Government to be a person to whom the provisions of this clause shall not apply.