

The Maharashtra District Planning Committee (Election) Rules, 1999

MAHARASHTRA

India

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Rule

THE-MAHARASHTRA-DISTRICT-PLANNING-COMMITTEE-ELECTION-RULES-1999

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The Maharashtra District Planning Committee (Election) Rules, 1999 Published vide Notification No. DPC. 1098/CR 93/D-1444, dated 22nd July, 1999 (M. G. G., Part 4B, dated 18.11.1999, pp. 2183-2227) In exercise of the powers conferred by section 13 read with clause (c) of para III of sub-section (3) of section 3 of the Maharashtra District Planning Committees (Constitution and Functions) Act, 1998 (Mali. XXIV of 1998) and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules :-

1. Short title, extent and commencement.

(1) These rules may be called the Maharashtra District Planning Committee (Election) Rules, 1999. (2) They shall extend to the whole of the State of Maharashtra excluding the Scheduled Areas declared by the President of India from time to time, in exercise of the powers conferred by paragraph 6 of the Fifth Schedule to the Constitution of India. (3) These rules shall come into force on such date as State Government may by notification in the Official Gazette, appoint.

2. Definitions.

(1) In these rules, unless the context otherwise requires, - (a) "Act" means the Maharashtra District Planning Committees (Constitution and Functions) Act, 1998; (b) [* * *] [Clause (b) was deleted by G. N. of 5.5.2000.]; (c) "Election" means an election to a District Planning Committee and includes any by-election; (d) "Form" means a Form appended to these rules; (e) "List of Voters" means the list of elected Councillors of the - (i) Zilla Parishad, for rural constituency; (ii) Nagar Panchayat, for

transitional area constituency;(iii)Municipal Councils for smaller urban area constituency; and(iv)Municipal Corporation for larger urban area constituency.(f)"Public holiday" means any day which is a public holiday for the purpose of section 25 of the Negotiable Instruments Act, 1881 (26 of 1881) or any day which is declared by the State to be a holiday for offices in the State or any part thereof;(g)"Reserved Seat" means a seat reserved for the members belonging to the scheduled castes, scheduled tribes, backward class of citizen and women;(h)"Returning Officer" means the Returning Officer appointed under rule 7 and includes the Assistant Returning Officer appointed under rule 8;(i)"Section" means a section of the Act;(2)Words and expressions used in these rules, but not defined, shall have the same meanings as assigned to them under Parts IX and 1XA of the Constitution of India or under the Act.

3. Constituencies of the District Planning Committee.

(1)For the purpose of electing the members of the District Planning Committee, the area of the District shall be divided into the following constituencies(a)rural area constituency;(b)transitional area constituency;(c)smaller urban area constituency; and(d)larger urban area constituency.(2)The total number of members to be elected from each constituency shall be determined by the Collector in proportion of the rural as well as the urban population in the District as a whole and in each constituency.(3)The Collector shall, in consultation with the State Government, allot the seats to be reserved in each constituency in the manner provided in section 4 of the Act.Explanation. - For the purpose of this rule, the fraction of one-half or more of a seat shall be counted as one and the fraction of less than one-half shall be ignored.

4. Election to be conducted under the supervision and control of the Collector.

- The elections to the District Planning Committees shall be conducted under the direction, superintendence and control of the Collector.

5. Preparation of List of Voters.

(1)For the purpose of electing the members of the District Planning Committee under clause (a) of paragraph (III) of sub-section (3) of section 3 of the Act, the Collector shall call upon the Chief Executive Officer of the Zilla Parishad, the Chief Officer of the Municipal Councils and of the Nagar Panchayar, if any, and the Commissioners of the Municipal Corporations in the District, to furnish to him [in Form I] [Inserted by G. N. of 5.5.2000.] a list of the elected Councillors of respective local authorities before the date specified in that behalf by him.(2)On receipt of such list, the Collector shall prepare a voters- list separately for each constituency in Marathi and every such list shall be published on the notice board of the office of the Collector, and respective office of the Zilla Parishad, the Municipal Councils, Nagar Panchayats and Municipal Corporations in the District. Any objections or omissions or error may be brought to the notice of the Collector [within three days from the publication of voters' list] [These words were substituted for the words 'by any voter in the list' by G. N. of 5.5.2000.] and such omissions or error shall be duly corrected by the Collector on

verification of record. The decision of the Collector shall be final.(3)The final list as prepared under sub-rule (2) shall be republished in the like manner and shall remain in force as the list of voters for the purpose of any bye-election, until it is revised by the Collector :[Provided that, if in any constituency, a post has been filled in by way of general election or bye-election, the name of such elected member shall be entered in the list of voters before the final date of presentation of nomination papers.] [Proviso was added by G. N. of 5.5.2000.]

6. Voters' list to be conclusive.

- Subject to any disqualification incurred by a person, the voters' list published finally under sub-rule (3) of rule 5 shall be conclusive evidence of the voters' right to vote, or as the case may be, his right to be elected at any election.

7. Appointment of Returning Officer.

- The Collector shall appoint an officer not below the rank of Additional Collector to be the Returning Officer for the purpose of the election to the District Planning Committee.

8. Appointment of Assistant Returning Officer.

(1)The Collector shall appoint an officer, not below the rank of Assistant Collector, to be Assistant Returning Officer, for each constituency.(2)Every Assistant Returning Officer shall, subject to the control of the Returning Officer, be competent to perform all or any of the functions of the Returning Officer :Provided that, the Assistant Returning Officer shall perform any of the functions of the Returning Officer which relates to the scrutiny of nomination papers unless the Returning Officer is, due to unavoidable reasons, prevented from performing the said function.(3)Subject to the provisions of sub-rule (2) reference in these rules to the Returning Officer, shall, unless the context otherwise requires, be deemed to include an Assistant Returning Officer.

9. General duty of Returning Officer.

- It shall be the general duty of the Returning Officer at any election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by and under these rules.

10. Polling Stations.

- The Returning Officer shall provide a sufficient number of polling stations for each constituency at such places as convenient to conduct fair election. [The Returning Officer shall decide the number of voters to be attached to each polling station. The list of voters shall be displayed on the notice board of the respective polling station and offices atleast seven days before the date of poll.] [This portion was added, by G. N. of 5.5.2000.]

11. Appointment of Presiding Officers and Polling Officers.

(1) The Returning Officer shall appoint a Government employee as a Presiding Officer for each polling station and such number of Polling Officers to assist the Presiding Officer as may be deemed necessary : Provided that, if a Polling Officer is absent from the polling station, the Presiding Officer may appoint any other person as a Polling Officer with the approval of the Returning Officer. (2) A Polling Officer shall, if so directed by the Presiding Officer, perform all or any of the functions of a Presiding Officer under these rules. (3) If the Presiding Officer, owing to illness or other unavoidable cause, is absent, his functions at the polling station shall be performed by such officer as may be authorised by the Returning Officer.

12. General duty of Presiding Officer and Polling Officer.

(1) It shall be the general duty of the Presiding Officer at a polling station to keep order thereat and to see that the poll is fairly taken. (2) It shall be the duty of the Polling Officer at each polling station to assist the Presiding Officer at such polling station in the performance of his functions.

13. Appointment of dates, etc. for various stages of an election.

(1) The Collector shall, in consultation with the State Government, notify the date of election to the District Planning Committee in Form 1(A). (2) The Returning Officer, in consultation with the Collector not earlier than 30 days from the date of display of the list of voters shall indicate the programme of election in the following manner :-

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| (i) | The last date for filing nominations. | 15 days from the date of order of the Returning Officer. |
| (ii) | The date of publication of nominations received. | Next day immediately after the last date fixed for filing nominations. |
| (iii) | Date of scrutiny of nominations. | Not later than 2 days after the last date for filing nomination. |
| (iv) | Date of publication of the list of valid nominations. | [Not later than 5 days] [These words and figure were substituted for the words and figure 'Not later than 2 days' by G. N. of 5.5.2000.] after the scrutiny, of nominations. |
| (v) | Date by which candidature may be withdrawn. | Within 3 days from the date of publication of the list of valid candidatures. |
| (vi) | Date of publication of final list of contesting candidates. | The day next succeeding the last date fixed for withdrawal of candidatures. |
| (vii) | Date on which and the time during which poll shall be taken. | 15 days from the date of publications of the final list of contesting candidates. |
| (viii) | Date and the time and place for counting of votes. | The second or third day from the date on which the poll is taken. |

- (ix) Date of declaration of the results of voting. Immediately after counting of votes.

Explanation. - If the last date in reckoning dates as specified in the above cases is a public holiday, the next succeeding working day shall be fixed for the respective events.

14. Manner of Publication of order under rule 13.

- The Returning Officer shall send a copy of the order made under rule 13 not later than 25 days before the date fixed for the poll, to the Zilla Parishad and the Municipalities, either personally or by post-under certificate of posting addressed to the Zilla Parishad or the Municipality, as the case may be, at its registered place of address and in addition, the said order -(a)shall be pasted on the notice boards of the offices of the Collector, the Returning Officer, Municipalities, and the Zilla Parishads respectively.(b)shall be published at least in daily local news paper in Marathi having wide circulation in the area of operation of Zilla Parishad and the Municipalities.

15. Nomination of candidates.

(1)A person may be nominated as a candidate, for election, if he is qualified to be chosen to fill that seat under the provisions of the Act, and his name is entered in the final list of voters;(2)Every nomination paper presented under rule 13 shall be in Form II :[Provided that, a failure to complete, or a defect in completing, the declaration in a nomination paper shall be deemed to be a defect of a substantial character.] [Proviso was substituted](3)A nomination paper shall be supplied by the Returning Officer to any voter on demand.

16. Presentation of nomination paper and requirements for valid nomination.

(1)On or before the date appointed under sub-rule (1) of rule 13. each candidate shall, either in person or by his proposer, deliver to the Returning Officer during the time and at the place specified in the order made under the said rule, his nomination paper properly filled and signed by the candidate and by two voters of his constituency one of whom shall be a proposer and the other a seconder.(2)Any person who is not subject to any disqualification as a voter under the Act, or these rules and whose name is entered in the list of voters for the constituency for which the candidate is to be nominated, may subscribe as proposer and seconder.(3)In the case of a reserved seat, a candidate qualified to contest the election to such seat, should produce certificate from the respective Authority certifying that he is elected to the respective body against; the reserved seat. (Authority - Chief Executive Officer of the Zilla Parishad or Chief Officer of the Municipality, or the Nagar Panchayat and Commissioner of the Municipal Corporation.)(3A)[If a person belonging to a reserved category has been elected from the general category, and if such person submits a certificate of that category from the competent authority at the time of presenting a nomination, then the nomination paper of such person shall be treated as valid for that reserved post.] [Sub-rule (3A) was inserted, by G. N. of 5.5.2000.](4)On the presentation of a nomination paper, the Returning Officer shall satisfy himself that the names and the numbers of the candidate and his proposer and seconder as entered in the nomination paper are the same as those entered in the list

of voters referred to in rule 5(3). (5) The Returning Officer may condone any clerical or technical error in the nomination paper in regard to the said names or numbers to be corrected in order to bring them into conformity with the corresponding entries in the list of voters, and where necessary, any minor clerical or printing error in the said entries may be condoned.

17. [Symbols for election * * *] [Rule 17 was deleted, by G. N. of 5.5.2000.]

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18. Notice of date of scrutiny of nomination papers and time and place for scrutiny.

- The Returning Officer shall on receiving the nomination paper under rule 16 in Form II acknowledge the receipt thereof in Form IIA and inform the person or persons delivering the same, of the day, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper, its serial number and shall sign thereon, stating the date on which and the hour at which the nomination paper has been delivered to him and shall, as soon as may be, thereafter cause to be affixed in some conspicuous place in his office, a notice of the nomination containing descriptions similar to those contained in the nomination paper, both of the candidate and of the proposer [the Returning Officer shall also cause to be affixed in Form II-A(I) a list of candidates who have submitted nomination forms for contesting the election to each of the constituencies of the District Planning Committee] [This portion was added by G. N. of 5.5.2000.],

19. Scrutiny of nomination papers.

(1) On the date fixed for the scrutiny of nomination papers under rule 13, the candidates, their election agents, one proposer of each candidate and one other person duly authorised in writing by each candidate, may attend at the time and place appointed in this behalf under rule 13, and the Returning Officer shall give them reasonable facilities for examining the nomination papers of all candidates which have been delivered as required by rule 16. (2) The Returning Officer shall then examine the nomination papers and shall decide all the objections which may be received in respect of any nomination and may, either on such objection or on his own motion, after such summary inquiry, as he considers necessary, reject any nomination on any of the following grounds, that is to say - (a) that the candidate is disqualified for being chosen to fill the seat by or under the Act; (b) that the proposer is disqualified from subscribing a nomination paper; (c) that there has been a failure to comply with any of the provisions of rule 16; (d) that the signature of the candidate or the proposer on the nomination paper is not genuine. (3) Nothing contained in clause (c) or (d) of sub-rule (2) shall be deemed to authorise the rejection of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed. (4) The Returning Officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character. (5) The Returning Officer shall hold the scrutiny on the date appointed in this behalf under rule 13 and shall not allow any adjournment of the proceedings, except when such

proceedings are interrupted or obstructed for reasons beyond his control :Provided that, in case any objection is raised by the Returning Officer or is made by any other person, the candidate concerned may be allowed time to rebut it not later than the next day, and the Returning Officer shall record his decision on the date on which the proceedings have been adjourned.(6)The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection in Form II-B.(7)For the purposes of this rule, the production of a certified copy of an entry made in the voters' list of the relevant constituency shall be conclusive evidence of the right of any voter named in that entry to contest election, unless it is proved that the candidate is disqualified.

20. Publication of list of valid nominations (Form II-C).

- Immediately after all the nomination papers have been scrutinized and decision accepting or rejecting the same have been recorded, the Returning Officer shall prepare a list of candidates whose nominations have been accepted, and shall affix the list on his notice board recording the date on which and the time at which, the list was so affixed.

21. Appeal.

(1)Any candidate, aggrieved by a decision of the Returning Officer accepting or rejecting a nomination paper, may present an appeal against the order of the Returning Officer to the Collector Within a period of three days from the date on which the notice, containing the names of the candidates accepted by the Returning Officer, is affixed on the notice board under rule 20 and shall ordinarily furnish on the same day to the Returning Officer a copy of the petition of appeal together with as many copies of the petition as there are candidates whose nomination papers have been accepted excluding himself.(2)The decision of the Collector on appeal under this rule and subject only to such decision, the decision of the Returning Officer accepting or rejecting the nomination of a candidate shall be final and conclusive.

22. Withdrawal of candidature.

(1)Any candidate may withdraw his candidature by notice in writing subscribed by him in FORM II-D and delivered to the Returning Officer :-(a)Where no appeal is presented under rule 21, on the day immediately following the day after the expiry of the period referred to in sub-rule (1) of rule 21; and(b)Where such appeal is made, on the day next following the day on which the decision of the [Collector] [[This word was substituted for the words 'Returning Officer' by G. N. of 5.5.2000.]] is given.(2)The notice shall be delivered to the Returning Officer before 3.00 o'clock in the afternoon on the last date fixed under rule 13 for withdrawal of candidatures.(3)Notice may be given either by the candidate in person or by his proposer.(4)No person who has given a notice of withdrawal of his candidature under sub-rule (1) shall be allowed to cancel the notice.(5)The Returning Officer shall, on being satisfied as to the genuineness of a notice of withdrawal and the identity of person delivering it under sub-rule (1), cause a notice to be affixed on the notice board in his office.

23. Preparation of list of contesting candidates.

(1) On the day next succeeding the last date fixed under rule 13 for withdrawal of candidatures, the Returning Officer shall prepare and publish in Form III a list of contesting candidates, that is to say, candidates whose nomination papers have been finally accepted and who have not withdrawn their candidature within the specified period. (2) The said list shall, subject to the provisions of sub-rule (3), contain the names in alphabetical order in Marathi and the addresses of the contesting candidates as given in the nomination papers. (3) The alphabetical order referred to in sub-rule (2) shall be determined with reference to the surnames of the candidates having surnames, and the proper names of other candidates. (4) [* * *] [Sub-rules (4), (5) and (6) were deleted, by G. N. of 5.5.2000.]. (5) [* * *] [Sub-rules (4), (5) and (6) were deleted, by G. N. of 5.5.2000.]. (6) [* * *] [Sub-rules (4), (5) and (6) were deleted, by G. N. of 5.5.2000.].

24. Publication of list of contesting candidates.

- As soon as the copy of the list of contesting candidates from each constituency is ready, the Returning Officer shall immediately cause it to be affixed on the notice board in his office and shall also supply a copy thereof to each of the contesting candidates and, on demand, to his election agent.

25. Appointment of election agent and revocation of such appointment.

(1) If a candidate desires to appoint any person to be his election agent, such appointment shall, subject to the provisions of sub-rule (3), be made by him in Form III-A. The candidate shall give notice of such appointment to the Returning Officer by delivering or forwarding the letter of such appointment to the Returning Officer at the time of preparation of the nomination papers or at any time thereafter before the account of the candidate's election expenses is lodged. The candidate shall also deliver a duplicate copy of the letter of appointment to the election agent appointed by him. (2) The appointment of the election agent may be revoked by the candidate at any time by a declaration in writing signed by him and lodged with the Returning Officer in Form No. III-B. Such revocation shall take effect from the date on which it is so lodged. In the event of such a revocation or of the death of an election agent, whether that event occurs before or during the election, the candidate may appoint another person to be his election agent, and notice thereof shall be given to the Returning Officer, in the same manner as in the case of the first election agent. (3) No person, who is subject to any disqualification as a voter under the Act, rules or whose name is not entered in the list of voters shall be appointed as an election agent.

25A. [Appointment of polling agent and revocation of such appointment. [Rule 25A was inserted, by G. N. of 5.5.2000.]

- A candidate may appoint, in FORM III-C, a person to be his polling agent at every polling station. The candidate shall give an advance intimation, in writing of such appointment to the Returning Officer. Such appointment of a polling agent may be cancelled by the candidate at any time in Form

III-D.]

26. Death of candidate before poll.

- If a contesting candidate dies and a report of his death is received by the Returning Officer 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 afresh in all respect as if for a new election :Provided that : (a) No further nomination shall be necessary in the case of a person who was a contesting candidate at the time of the countermanding of the poll, and (b) No person who has given a notice of withdrawal of his candidature under rule 22, before (he countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding.

27. Uncontested elections.

- If, after the expiry of the period within which candidatures may be withdrawn under sub-rule (2) of rule 22. the number of candidates in the constituency whose nominations have been accepted is equal to or less than the number of seats to be filled, the Returning Officer shall forthwith declare such candidate or all such candidates to be duly elected to fill the seat or the relevant number of seats, as the case may be. and shall complete and certify the declaration in Form IV.

28. Procedure for election.

(1) If the number of validity contesting candidates who have not withdrawn their candidature is more than the number of vacancies to be filled, the procedure prescribed in these rules for election of the members of the District Planning Committee shall be followed. (2) [* * *] [Sub-rule (2) was deleted by G. N. of 5.5.2000.].

29. Manner of voting at elections.

- At every election where a poll is taken, voting shall be by secret ballot in the manner hereinafter provided and no votes shall be received by proxy. [Every voter shall be entitled to cast a single vote.] [This portion was added, by G. N. of 5.5.2000.]

30. Ballot Box.

- Every box shall be of such design as may be approved by the Collector.

31. Form of ballot papers.

(1) For each constituency there shall be a separate ballot paper [* * *] [The words 'in different colour' were deleted, by G. N. of 5.5.2000.]. (2) Every ballot paper shall be in Form V. (3) The names of the candidates shall be arranged on the ballot paper in the same order in which they appear in the list of

contesting candidates.(4)If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.

32. Arrangement at Polling Stations.

- For each constituency, there shall be one or more separate polling stations,-(1)Outside each polling station, there shall be displayed prominently. -(a)a notice, specifying the polling area, the voters of which are entitled to vote at the polling station and, where the polling station has more than one booth at each of such booth, the description of the voters so entitled;(b)a copy of the list of contesting candidates.(2)At each polling station, there shall be set up one or more voting compartments in which voters can record their votes screened from observation.(3)The Returning Officer shall provide at each polling station a sufficient number of ballot boxes, ballot papers, copies of the list of voters in respect of the polling area or areas, the voters of which are entitled to vote at such polling station, instruments for stamping the distinguishing mark on ballot papers and articles necessary for voters to mark the ballot paper. The Returning Officer shall also provide at each polling station such other equipment and accessories as may be required for taking the poll at such polling station.

33. Admission to Polling Station.

- The Presiding Officer shall regulate the number of voters to be admitted at any one time inside the polling station and shall exclude therefrom all persons other than the,-(a)Polling Officers,(b)public servants on duty in connection with the election,(c)persons authorised by the Returning Officer,(d)candidates, their election agents [and polling agents,] [These words were added by G. N. of 5.5.2000.](e)a child in arms accompanying a voter,(f)a person accompanying a blind or infirm voter who cannot move without help; and(g)such other persons as the Returning Officer or the Presiding Officer may employ for the purpose of identifying the voter under sub-rule (1) of rule 35.

34. Preparation of ballot boxes for poll.

(1)Where a paper seal is used for securing a ballot box, the Presiding Officer shall affix his own signature on the paper seal and obtain thereon the signatures of such of the Polling Agents present as are desirous of affixing the same.(2)The Presiding Officer shall, thereafter, fix the paper seal so signed in the space meant therefor in the ballot box and shall then secure and seal the box in such manner that the slit for the insertion of ballot paper therein remains open.(3)The seal used for securing ballot box shall be affixed in such manner that after the box has been closed, it is not possible to open it without breaking the seal.(4)Where it is not necessary to use paper seals for securing the ballot boxes, the Presiding Officer shall secure and seal the ballot box in such manner that the slit for the insertion of ballot papers remains open and shall allow the Election Agents present to affix, if they so desire, their seals.(5)Every ballot box used at a polling station shall bear labels both inside and outside marked with,-(a)the serial number, if any, and the name of the constituency;(b)the serial number and name of the polling station;(c)the serial number of the ballot box (to be filled in at the end of the poll on the label outside the ballot box only); and(d)the date of poll.(6)Immediately before the commencement of the poll, the Presiding Officers shall demonstrate

to the Polling Agents and other persons present that the ballot box is empty and bears the labels referred to in sub-rule (5). (7) The ballot box shall then be closed, sealed and secured and placed in full view of the Presiding Officer and the Polling Agents.

35. Identification of voters.

(1) Each voter, shall produce at the Polling Station identity card issued to him by the competent authority, viz. Chief Executive Officer of the Zilla Parishad, Chief Officer of the Municipal Council or Nagar Panchayat or Commissioner of the Corporation. The Identity Card should bear his photograph, name and signature. (2) The Presiding Officer at the Polling Station shall identify the voter with the help of the Identity Card. (3) In deciding the right of a person to obtain the ballot paper the Presiding Officer or the Polling Officer, as the case may be, shall compare the photo on the Identity Card and verify the signature.

36. Issue of ballot papers.

(1) No ballot paper shall be issued to any voter before the hour fixed for the commencement of the poll. (2) No ballot paper shall be issued to any voter after the hour fixed for the closing poll except to those voters who are present at the polling station at the time of the closing of the poll. (3) Every ballot paper, before it is issued to a voter, - (a) shall be stamped on the back with such distinguishing mark as the Collector may direct, and (b) shall be signed on the backside by the Presiding Officer. (4) At the time of issuing a ballot paper to a voter, the Polling Officer shall record the serial number thereof against the entry relating to the voter in the list of voters set apart for the purpose. (5) Save as provided in sub-rule (4), no person in the polling station shall note down the serial numbers of the ballot papers issued to particular voters.

37. Maintenance of secrecy of voting by voters within polling station and voting procedure.

(1) The voter, on receiving the ballot paper, shall forthwith, - (i) proceed to one of the polling compartments; (ii) put, (a mark) with the instrument supplied for the purpose, [against the name] [These words were substituted for the words 'on the symbol' by G. N. of 5.5.2000.] of the candidate for whom he intends to vote; (iii) fold the ballot paper so as to conceal his vote; (iv) if required, show to the Presiding Officer the distinguishing mark on the ballot paper; (v) insert the folded ballot paper into the ballot box; and (vi) quit the polling station. (2) No voter shall be allowed to enter a polling compartment when another voter is inside it.

38. Method of Voting.

(1) Each voter shall have a right to vote in the constituency to which he belongs. (2) For the purpose of method of voting, the procedure laid down in the Maharashtra Municipal Corporation, Municipal Councils and Nagar Panchayat (Qualifications, election and appointment of nominated Councillor) Rules, 1995 shall mutatis mutandis, apply.

39. Recording of vote of blind or infirm voter.

(1) If the Presiding Officer is satisfied that owing to illiteracy or blindness or other physical infirmity, a voter is unable to read [the names] [These words were substituted for the words 'or recognise the symbols', by G. N. of 5.5.2000.] on the ballot paper or to make a mark thereon without assistance, the Presiding Officer shall permit the voter to take with him a companion of not less than eighteen years of age other than a voter in the voters' list to the voting compartment for recording the vote on the ballot paper on his behalf and in accordance with his wishes and, if necessary, for folding the ballot paper so as to conceal the vote and inserting it into the ballot box : Provided that, no person shall be permitted to act as the companion of more than one voter at any polling station on the same day : Provided further that, before any person is permitted to act as the companion of a voter on any day under this rule, the person shall be required to declare in FORM VI that he will keep secret the vote recorded by him on behalf of the voter and that he has not already acted as the companion of any other voter at any polling station on that day. (2) The Presiding Officer shall keep a record in Form VI-A action taken under these rules.

40. Spoilt and returned ballot papers.

(1) A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on returning it to the Presiding Officer and on satisfying him of the inadvertence, be given another ballot paper, and the ballot paper, so returned shall be marked "Spoilt cancelled" by the Presiding Officer. (2) If a voter after obtaining a ballot paper decides not to use it, he shall return it to the Presiding Officer, and the ballot paper so returned shall be marked as "Returned cancelled" by the Presiding Officer. (3) All ballot papers cancelled under sub-rule (1) or sub-rule (2) shall be kept in a separate packet.

41. Tendered votes.

- [(1) If a person who has cast his vote against the name of a voter and thereafter the genuine voter comes forward to cast his vote, then such voter may be allowed to cast his vote on satisfying his identity.] [Sub-rule (1) was substituted by G. N. of 5.5.2000.] (2) Every such person shall, before being supplied with a tendered ballot paper, sign his name against the entry relating to him in a list in Form VII. (3) A tendered ballot paper shall be the same as the other ballot papers used at the polling station, except that it shall be, - (a) serially the last in the bundle of ballot paper issued for use at the polling station; and (b) endorsed on the back with the words "tendered ballot paper" by the Presiding Officer in his own hand and signed by him. (4) The voter after marking a tendered ballot paper in the polling compartment and folding it, shall, instead of putting it into the ballot box, give it to the Presiding Officer, who shall place it in a cover specially kept for the purpose.

42. Closing of Poll.

(1) The Presiding Officer shall close the polling station at the hour fixed in that behalf and shall not thereafter admit any voter into the polling station : Provided that, all voters present at the polling

station before it is closed shall be allowed to cast their votes.(2)If any question arises whether a voter was present at the polling station before it was closed, it shall be decided by the Presiding Officer and his decision shall be final.

43. Sealing of ballot boxes after poll.

(1)As soon as practicable after the closing of the poll, the Presiding Officer shall, in the presence of any candidates, or their election agents, close the slit of the ballot box and where the ballot box does not contain any mechanical device for closing the slit, he shall seal up the slit and also allow any polling agent to affix his seal.(2)The ballot box shall thereafter be sealed and secured.(3)Where it becomes necessary to use a second ballot box by reason of the first ballot box getting full, the first box shall be closed, sealed and secured as provided in sub-rules (1) and (2) before another ballot box is put into use.

44. Account of ballot papers.

(1)The Presiding Officer shall at the close of the poll prepare a ballot paper account in Form VIII enclose it in a separate cover with the word "Ballot Paper Account" superscribed thereon.(2)The Presiding Officer shall permit a election agent who so desires to take a true copy of the entries made in the ballot paper account and shall attest it to be true.

45. Sealing of other packets.

(1)The Presiding Officer shall then keep into separate packets, -(a)the marked copy of the list of voters;(b)the unused ballot papers;(c)the cancelled ballot papers;(d)the cover containing the tendered ballot papers and the list in Form VII;(e)the list of challenged votes; and(f)any other papers directed by the Returning Officer to be kept in a sealed packet.(2)Each such packet shall be sealed with the seals of the Presiding Officer and of those polling agents present, who may desire to affix their seals thereon.

46. Transmission of ballot boxes, etc. to the Returning Officer.

- The Returning Officer shall make adequate arrangements for the safe transport of the ballot boxes, packets and other papers, and for their safe custody until the commencement of the counting of votes.

47. Fresh Poll in case of destruction, etc. of ballot boxes.

(1)If at any election, -(a)any ballot box used at a polling station is unlawfully taken out of the custody of the Presiding Officer or the Returning Officer or is accidentally destroyed or lost: or is damaged or tampered with, to such an extent, that the result of the poll at that polling station cannot be ascertained, or(b)any such error or irregularity in the procedure as is likely to vitiate the poll is committed at a polling station, the Returning Officer shall forthwith report the matter to the

Government.(2)The Government upon receipt of such report, or in the circumstances stated in the sub-rule (1), after taking all material circumstances into account either. -(a)declare the poll at that polling station to be void, and appoint a day and fix the hours, for taking a fresh poll at that polling station and notify the day so appointed, and hour so fixed in such manner as he may deem fit, or(b)if satisfied that the result of a fresh poll at that polling station will not, in any way, affect the result of the elections or that the error or irregularity in procedure is not material, issue such directions to the Returning Officer to take such action as he may deem proper for the election.(3)The provisions of the Act and of any rules or by-laws made thereunder shall apply to every such fresh poll as they apply to the original poll.

48. Admission to the place fixed for counting.

(1)The Returning Officer shall exclude from the place fixed for counting of votes all persons except -(a)such persons (to be known as counting supervisors and [counting assistant] [These words were substituted for the words 'counting agents' by G. N. of 5.5.2000.] as he may appoint to assist him in the counting;(b)persons authorised by the Government;(c)public servants on duty in connection with the election; and(d)candidates and their Election Agents and Counting Agents.(2)No person who has been employed by or on behalf of or has been otherwise working for, a candidate in or about the election shall be appointed under clause (a) of sub-rule (1).(3)The Returning Officer shall decide which Election Agent shall watch the counting at any particular counting table or group of counting tables.(4)Any person who during the counting of votes misconducts himself or fails to obey the lawful directions of the Returning Officer may be removed from the place where the votes are being counted by the Returning Officer or by any Police Officer on duty or by any person authorized in this behalf by the Returning Officer.

49. Scrutiny and opening of ballot boxes.

(1)The Returning Officer may have the ballot box or boxes used at more than one polling station opened and the ballot papers found in such box or boxes counted simultaneously.(2)Before any ballot box is opened at a counting table, the Counting Agents present at that table shall be allowed to inspect the paper seal or such other seal that might have been affixed thereon and to satisfy themselves that it is intact.(3)The Returning Officer shall satisfy himself that none of the ballot boxes has, in fact, been tampered with.(4)If the Returning Officer is satisfied that any ballot box has in fact been tampered with, he shall not count the ballot papers contained in that box and shall follow the procedure laid down in the rule 47 in respect of that polling station.

50. Scrutiny and rejection of ballot paper.

(1)The ballot paper taken out of each ballot box shall be arranged in convenient bundles and scrutinised.(2)The Returning Officer shall reject a ballot paper.(a)if it bears any mark or writing by which the voter can be identified; or(b)[if vote is cast against more than one candidates] [Clause (b) was substituted for the original, by G. N. of 5.5.2000.]; or(c)if the mark indicating the vote thereon is placed in such manner as to make it doubtful to which candidate the vote has been given: or(d)if it is a spurious ballot paper; or(e)if it is so damaged or mutilated that its identity as a genuine ballot

paper cannot be established; or (f) if it bears a serial number, or a design, different from the serial numbers or, as the case may be, design of the ballot papers authorised for, use at; (g) if it does not bear the mark which it should have borne under the provisions of sub-rule (3) of rule 36 : Provided that - (i) where a Returning Officer is satisfied that any such defect as mentioned in clause (f) or (g) has been caused by any mistake or failure on the part of the Presiding Officer or the Polling Officer, the ballot paper shall not be rejected merely on the ground of such defect; (ii) a ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the votes shall be for a particular candidate clearly appears from the way the paper is marked. (3) Before rejecting any ballot paper under sub-rule (2), the Returning Officer shall allow each election agent present a reasonable opportunity to inspect the ballot paper. (4) The Returning Officer shall record on every ballot paper which he rejects the letter "R" and the grounds of rejection in abbreviated form either in his own hand or by means of a rubber stamp. (5) All ballot papers rejected under this rule shall be bundled together.

51. Procedure for counting of votes.

(1) The counting of votes shall be done by and under the supervision of the Returning Officer, with the assistance of such persons as he may appoint to assist in the counting of votes. (2) After each ballot box is opened for counting, clearly valid voting papers shall be separated from invalid and doubtful voting papers. The invalid and doubtful voting papers shall be submitted to the Returning Officer for decision. The valid voting papers shall thereafter be taken for counting and the votes recorded in favour of each candidate shall be counted with the aid of persons appointed to assist in the counting of votes. (3) The Returning Officer shall allow the candidates and their Election Agents, who may be present reasonable opportunity to inspect all voting papers, which in the opinion of the Returning Officer, are liable to be rejected, but shall not allow them to handle those or any other voting papers. The Returning Officer shall on every voting paper which is rejected endorse the letter "R". If any candidate or his Election Agent questions the correctness of the rejection of any voting paper, the Returning Officer shall also record briefly on such voting paper the grounds for its rejection.

52. Method of counting of votes.

- [(1) After scrutiny of ballot papers, invalid ballot papers shall be separated and candidate wise bundles of valid ballot papers shall be prepared. The votes secured by each candidate shall be recorded in Form No. IX.] [Sub-rule (1) was substituted for the original by G. N. of 5.5.2000.] (2) After the counting of all voting papers contained in all the ballot boxes used has been completed, the Returning Officer shall cause to be sealed in separate packets with a description endorse on such packets of the voting papers counted and that voting papers rejected. (3) The Returning Officer shall as far as practicable proceed continuously with the counting of the votes and shall during any intervals when the counting has to be suspended, keep the voting papers, packets and other documents relating to the election sealed with his own seal and seals of such candidates or election agents as may desire to affix their seals and shall cause adequate precautions to be taken for their safe custody. (4) After the counting of voting papers contained in all the ballot boxes used at all the polling stations has been completed, the Returning Officer shall prepare a consolidated

statement recording therein the total number of votes polled by each candidate.

53. Recommencing of counting of fresh poll.

(1) If a fresh poll is held under rule 47, the Returning Officer shall, after completion of that poll, recommence the counting of votes on the date and at the time and place which have been fixed by him in that behalf and of which notice has been previously given to the candidates and their election agents. (2) The provisions of rules 40, 44 and 47 shall apply so far as may be to such further counting.

54. Recount of votes.

(1) After the completion of the counting, the Returning Officer shall record in the result sheet in Form IX, the total number of votes polled by each candidate and announce the same. (2) After such announcement has been made, a candidate or in his absence his election agent, may apply in writing to the Returning Officer for a recount of all or any of the ballot papers already counted stating the grounds on which he demands such recount. (3) On such an application being made, the Returning Officer shall decide the matter and may allow the application in whole or in part or may reject it into, if it appears to him to be frivolous or unreasonable. (4) Every decision of the Returning Officer under sub-rule (3), shall be in writing and contain the reasons therefor. (5) If the Returning Officer decides under sub-rule (3) to allow an application either in whole or in part, he shall - (a) count the ballot papers again in accordance with his decision; (b) amend the result sheet in Form IX to the extent necessary after such recount; and (c) announce the amendments so made by him. (6) After the total number of votes polled by such candidate has been announced under sub-rule (1) or sub-rule (5), the Returning Officer shall complete and sign the result sheet in FORM IX and no application for a recount shall be entertained thereafter : Provided that, no step under this sub-rule shall be taken on the completion of the counting until the candidates and election agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by sub-rule (2).

55. [Declaration of result. [Rule 55 was substituted for the original by G. N. of 5.5.2000.]

(1) The Returning Officer shall, after recording the valid votes of each candidate, category wise declare the names of the elected candidates in the following sequence, namely :- (a) Scheduled Caste (Women); (b) Scheduled Caste; (c) Backward Class of Citizens (Women); (d) Backward Class of Citizens; (e) Scheduled Tribes; (f) General (Women); (g) General. (2) In case, equal votes are obtained by two or more candidates, the name of the elected candidate shall be declared by drawing lots. (3) A woman candidate belonging to any reserved category shall be eligible to contest the election to a general seat reserved for a woman candidate. (4) A candidate belonging to any reserved category shall be eligible to contest the election to a general seat. (5) In case of non-availability of a woman candidate belonging to a particular category, the seat reserved for that category shall be allotted to a male candidate belonging to that category. (6) In case of non-availability of an eligible candidate to fill in a seat reserved for any category, then such seat shall be treated as a seat belonging to the

general category.]

56. Publication of names of elected members of the Committee.

(1)The Commissioner shall publish the names of all elected committee members by causing a list of such names together with their permanent addresses and the names of the constituencies from which they are elected to be pasted on the notice board or at any prominent place in his office.(2)The Commissioner shall send a list of all the elected committee members to the Government.

57. Custody of papers relating to elections.

- The Returning Officer shall keep in custody the packets referred to in rule 45 and all other papers relating to the elections.

58. Production and inspection of election papers.

(1)While in the custody of Returning Officer. -(a)the packets of unused ballot papers;(b)the packets of used ballot papers whether valid, tendered or rejected;(c)the packets of marked copies of the voters' list; shall not be opened and their contents shall not be inspected by, or produced before any person or authority, except under the order of the Commissioner or a Court or other Competent Authority.(2)All other papers relating to the election shall be open to public inspection.

59. Disposal of election papers.

(1)The packets referred to in rule 57 shall be retained for a period of one year and shall thereafter be destroyed subject to any direction to the contrary given by the Commissioner or a Court or other Competent Authority.(2)All other papers relating to the election shall be retained until the termination of the next election for the constituency to which they relate and shall thereafter be destroyed subject to any direction to the contrary given by the Commissioner or a Court or other Competent Authority.

60. Casual vacancies how to be filled in.

- In the event of vacancy occurring on account of death, resignation, disqualification, the member-secretary of Committee shall forthwith communicate the occurrence of the vacancy to the Collector of the District and such vacancy shall be filled in by holding bye-election in the like manner.

61. Determination of validity of election.

(1)No validity of list of voters or the allotment of seats to constituencies made or purporting to be made under the Act and rules shall be called in question in any Court.(2)If the validity of any

election, including bye-election of a member of a committee is brought in question by any person qualified either to be elected or to vote at the election to which such question refers, such person may, within seven days after the date of the declaration of the result of the election, apply in writing to the Divisional Commissioner.(3)On receipt of an application under sub-rule (1), the Divisional Commissioner shall, after giving an opportunity to the applicant to be heard and after making such inquiry as he deems fit, pass an order confirming or amending the declared result of election or setting the election aside. If the Divisional Commissioner sets aside the election, he shall fix a date, as soon as conveniently may be, for holding a fresh election.(4)Any person aggrieved by the decision of the Divisional Commissioner may, within seven days from the date on which the decision is communicated to him, appeal to the State Government against such decision: and the decision of the Divisional Commissioner, subject to the decision of the State Government in appeal, shall be final

62. Parties to the application challenging validity of election.

- Where an application, challenging the validity of an election, is made, the applicant shall, join the following persons as the non-applicants :-(a)where the applicant 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, candidate has been duly elected, all the contesting candidates other than the applicant 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 application.[Form I] [Form I was inserted by G. N. of 5.5.2000.][See rule No. 5(1)]List of Voters..... District Planning Committee..... Constituency

Sr. No.	Name of candidate	Sex	Age	Period of Tenure*	Whether elected from Reserve or Open constituency	Identity card No.
(1)	(2)	(3)	(4)	(5)	(6)	(7)

1.2.3.4.

Electoral Roll published on :Place :Date :Collector* Period of tenure in Local Authority.