

# **The U.P. Antarim Zila Parishad (Election of Adayakshas and Election Petitions) Rules, 1961**

UTTAR PRADESH

India

## **The U.P. Antarim Zila Parishad (Election of Adayakshas and Election Petitions) Rules, 1961**

### **Rule**

### **THE-U-P-ANTARIM-ZILA-PARISHAD-ELECTION-OF-ADAYAKSHAS-AN of 1961**

- Published on 1 January 1961
- Commenced on 1 January 1961
- [This is the version of this document from 1 January 1961.]
- [Note: The original publication document is not available and this content could not be verified.]

The U.P. Antarim Zila Parishad (Election of Adayakshas and Election Petitions) Rules, 1961Published vide Notification No. Z.P. 867/IX-A-23 AZP-1961, published in U.P. Gazette, Extraordinary, dated June 25, 1961.

**045.**

## **Chapter I General**

### **1. Short title, application and commencement.**

(1)These rules may be called the U.P. Antarim Zila Parishad (Election of Adhyakshas and Election Petitions) Rules, 1961.(2)They shall come into force at once.

### **2. Definitions.**

- In these rules, unless the context otherwise requires -(a)'The Act' means the U.P. Antarim Zila Parishad Act, 1958, as amended from time to time;(b)'District Magistrate' means the District Magistrate appointed under section 10 of the Code of Criminal Procedure, 1898 and includes, in his absence or in case of his becoming incapacitated for performing his functions, an additional District Magistrate or other Magistrate who assumes charge of his work;(c)'Member' means member of an

Antarim Zila Parishad other than an official member thereof;(d)'Sign' in relation to a person who is unable to write his name means affix thumb-mark.(e)'Form' means a form in Schedule 1 to these rules.

### **3. Application.**

- These rules shall apply to every election to the office of Adhyaksh of an Antarim Zila Parishad.

### **4. Returning Officer.**

- The District Magistrate shall be the Returning officer for every election to the office of Adhyaksh of a Parishad.

### **5. Assistant Returning Officers.**

(1)The Returning Officer may appoint one or more persons as Assistant Returning Officers to assist him in the performance of his functions under these rules.(2)Every Assistant Returning Officer shall be competent to perform all or any of the functions of the Returning Officer.

## **Chapter II**

## **Conduct of Election**

Nomination

### **6. Appointment of dates for nomination, etc.**

(1)Whenever an election is required to be held under the Act to the office of Adhyaksh of a Parishad, the State Government shall by notification in the official Gazette appoint for the election -(a) a date for making nominations which shall be a date at least seven days after the date of the notification; and(b) a date for scrutiny of nominations; .(c) a date for withdrawal of candidatures which shall be the third day after the date fixed for scrutiny of nominations;(d) the date on which and the hours during which a poll shall, if necessary, be taken: Provided that the date for taking the poll shall be a date not more than ten days after the date fixed under clause (c).(2)On the issue of notification under sub-rule (1), the Returning Officer shall give public notice of the election in Hindi in Form 1 by affixing a copy of the notice at his office and another copy at the office of the Parishad and in such other manner, if any, as he may think fit and shall also cause to be despatched by post under certificate of posting a copy of the notice to the last known address of each member.

### **7. Nominations.**

(1)Any person who desires to be nominated as a candidate at an election to the office of Adhyaksh of a Parishad shall deliver in person to the Returning Officer within the hours of 11 o'clock in the

forenoon and 3 o'clock in the afternoon on the date and at the place specified in the notice under rule 6 a nomination paper duly completed in Form II.(2)The nomination paper shall be signed by the candidate himself as assenting to the nomination and also by one member as proposed.

## **8. Deposits.**

(1)A candidate shall not be deemed to be duly nominated unless he deposits or causes to be deposited a sum of two hundred rupees:Provided that where a candidate has been nominated by more than one nomination paper for the same election not more than one deposit shall be required under this sub-rule.(2)Any sum required to be deposited under sub-rule (1) shall not be deemed to have been deposited under that sub-rule unless at the time of delivery of the nomination paper under rule 7 the candidate has either deposited or caused to be deposited that sum with the Returning Officer in cash or inclosed with the nomination paper a receipt showing that the said sum has been deposited by him on his behalf in the State Bank or in a Government Treasury.

## **9. Procedure of filing or nomination papers.**

(1)A nomination paper filed the last hour mentioned in rule 7 shall forthwith be rejected by the Returning officer.(2)The Returning Officer shall on receiving a nomination paper under rule 7 inform person or persons delivering the same of the time and place fixed for the scrutiny of nominations and shall enter on the nomination paper its serial number, and shall sign thereon a certificate 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 in Form III containing descriptions similar to those contained in the nomination paper, both of the candidate and of the person who has signed the nomination paper as proposed.

## **10. Scrutiny of nominations.**

(1)At the scrutiny of nominations, the candidates, their proposers and one other person duly authorized in writing by each candidate, but no other person, may attend, and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner laid down in rule 7.(2)The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination , and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, refuse any nomination on any of the following grounds:(a)that the candidate is not qualified to be chosen to the office under the Act; or(b)that the candidate is disqualified for being chosen to the office under. Act; or(c)that there has been any failure to comply with any of the provisions of rules 7 and 8; or(d)that the signature of the candidate or any proposer is not genuine or has been obtained by fraud; or(e)that the proposer is not a member.(3)Nothing contained in clause (c), (d) of sub-rule (2) shall be deemed to authorize the refusal 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 technical defect or other error which is not of a substantial character and may for the purpose of removing any such defect or error allow any entry to be corrected in the nomination paper including an entry relating to name or number on the electoral roll.(5)The order of the Returning Officer allowing any correction to be made under sub-rule (4) shall be final and shall not be questioned by any court or any tribunal including an election tribunal appointed under the Rules.(6)The Returning Officer shall hold the scrutiny on the date appointed in this behalf under rule 6 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by causes beyond his control:Provided that in case an objection is made the candidate concerned may be allowed time to rebut it not later than the next day but one following the date fixed for scrutiny, and the Returning Officer shall record his decision on the date to which the proceedings have been adjourned.(7)The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and if nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.(8)For the purpose of this rule the production of a certified copy of an entry in the electoral roll of any Legislative Assembly Constituency showing that a person's name is entered in the roll as an elector from any area in the district shall be conclusive evidence of the fact that the person named therein is eligible for election for the purpose of sub-section (4) of section 4 of the Act.

## **11. Withdrawal of candidature.**

(1)Any candidate may withdraw his candidature by a notice in writing which shall be in Form IV and which shall be signed by him and delivered before three o'clock in the afternoon on the day fixed under rule 6 to the Returning Officer either by such candidate in person or by his proposer who has been authorized in this behalf in writing by such candidature.(2)No person who has given a notice of his candidature under sub-rule (1) shall be allowed to cancel the notice.(3)On receiving a notice, under sub-rule (1) the Returning Officer shall note thereon the date on which and the hour at which it was delivered, and if it was received" within the time mentioned in sub-rule (1), order the return of the deposit mentioned in rule 8 to the candidate or the person making the deposit.(4)The Returning Officer shall, as soon as may be after receiving notice of withdrawal under sub-rule (1) cause a notice of the withdrawal to be prepared in Form V and affixed in some conspicuous place in his office.(5)A notice of withdrawal received after the day and hour mentioned in sub-rule (1) shall be ignored by the Returning Officer, but if at any time before the commencement of the poll notices of withdrawal have been received from all the candidates but one, entered in the list of valid nominations under rule 13, the Returning Officer shall order that no poll shall be taken and shall in that case proceed as under rule 12.

## **12. Uncontested election and declaration of result.**

- If only one candidate is duly nominated under rule 10 or if as a result of withdrawals under rule 11 there is only one duly nominated candidate left, the Returning Officer shall forthwith declare such candidate to be duly elected to the office of Adhyaksh, cause a copy of such declaration to be affixed at the office of the Parishad and at his office and report the result to the State Government.

### **13. List of valid nominations and its publication.**

(1) If after withdrawals, if any, under sub-rule (1) of rule 11 there are two or more validly nominated candidates, the Returning Officer shall prepare a list of valid nominations in Form VI and shall publish it by affixing a copy thereof at this office and another at the office of the Parishad. (2) The list of valid nominations shall be prepared in Hindi and shall contain the names in alphabetical order, with addresses of the validly nominated candidates as given in the nomination papers. The alphabetical order shall be determined with reference to the surnames of candidates having surnames and the proper names of other candidates.

### **14. Death of candidate before poll.**

- If a candidate who has been duly nominated dies thereafter 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 anew in all respects as if for a new election: Provided that no further nomination shall be necessary in the case of a candidate whose nomination was valid at the time of the countermanding of the poll: Provided further that no person who has given notice of withdrawal of his candidature under rule 11 before the countermanding of the poll shall be ineligible for being nominated for the election after such countermanding.

### **15. Absence of candidature.**

- If no person is duly nominated or all the persons duly nominated withdraw their candidature under rule 11, proceedings shall be commenced anew as if for a new election. The Poll

### **16. Manner of voting.**

- The election will be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot. Votes shall be cast in person and no votes shall be received by proxy.

### **17. Place and hour of polling.**

- Where a poll is taken votes shall be given at a place in the office of the Parishad and within the hours notified in the notice under rule 6.

### **18. Ballot papers and ballot box.**

(1) Ballot papers to be used at the election shall be in Form VII and the names of the validly nominated candidates who have not withdrawn their candidature under rule 11 shall be given therein in Hindi in the order as in the list of valid nominations published under rule 13. (2) A ballot box to be used at the poll shall be any of the types of boxes approved by the Director of Elections

(Local Bodies) under sub-para (2) of para 37 of the U.P. Municipalities (Conduct of Election of Members) Order, 1953.

## **19. Procedure before the commencement of poll.**

(1)The Returning Officer shall, immediately before the commencement of the poll, allow inspection of the ballot box to be used at the poll to such candidates as may be present at the place of polling.(2)The Returning Officer shall then secure and seal the box in such manner that the list for the insertion of ballot papers remains open, and shall also allow such candidates as may be present to affix their own seals if they so desire.

## **20. Admission to the place of polling.**

(1)The Returning Officer shall exclude from the place of polling all persons except -(a)the candidates;(b)the members; and(c)such other person as the Returning Officer may from time to time admit for the purpose of assisting him in taking the poll.(2)The Returning Officer shall close the place of polling at the hour fixed under rule 6 and shall not admit therein any member after that hour:Provided that all members present inside the place before it is so closed shall be entitled to have their votes recorded.

## **21. Procedure for giving ballot papers.**

(1)The Returning Officer shall have before him the list of the members prepared under rule 35.(2)Immediately before the ballot paper is delivered to a member, a mark shall be placed against him in that list and the name of the member as shown in that list shall be entered in the counterfoil of the ballot paper.(3)The member shall sign his name in the list in token of receipt of ballot paper, whereupon, but not earlier, the ballot paper shall be delivered to him.(4)Before delivery of ballot paper to a member the Returning Officer shall satisfy himself about the identity of the member and for that purpose he may take the assistance of such persons as he may think fit.(5)If in the case of any person, the Returning Officer is not satisfied about his identity, he may refuse to deliver a ballot paper to him after recording a brief note about the circumstances in which the refusal was made.

## **22. Supply of fresh ballot paper in certain circumstances.**

(1)A member who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as a ballot paper may, on delivering it to the Returning Officer and on satisfying him of the inadvertence, obtain another ballot paper in place of the ballot paper so delivered and the letter shall, together with its counterfoil, be marked as cancelled by the Returning Officer.(2)Any ballot papers so cancelled shall be kept in a separate envelope set apart for the purpose.

## **23. Return of unused ballot papers by members.**

- If a member after obtaining any ballot paper for the purpose of recording his vote decides not to use the same, he shall return the ballot paper to the Returning Officer, who shall mark it "Returned and cancelled" and keep it in a separate envelope set apart for the purpose.

## **24. Manner of recording votes.**

(1) Every member shall have as many preferences as there are candidates, but no ballot paper shall be considered invalid solely on the ground that all such preferences are not marked. (2) A member in giving his vote - (a) shall place on his ballot paper the number 1 in the space opposite the name of the candidate whom he chooses for his first preference; and (b) may, in addition mark as many subsequent preferences as he wishes by placing on his ballot paper the numbers 2, 3, 4 and so on, in the space opposite the names of other candidates in order of preferences. (3) The Returning Officer shall, if requested by a member, explain to him the instructions contained on the ballot paper for the recording of votes. (4) For marking his preference a member shall enter a polling compartment provided at the place of polling and screened from observation. (5) After the preferences have been marked the member shall fold the ballot paper and put it into the ballot box through the slit provided for the purpose. (6) If owing to physical incapacity or illiteracy a member is unable to mark his preferences on the ballot paper or to read it, the Returning Officer shall, on being so requested by the member, record the vote in the ballot paper according to the direction of the member. The member shall then himself or with the assistance of the Returning Officer put the ballot paper folded up into the ballot box. The Returning Officer shall have this done with as much secrecy as is feasible and shall keep a brief record of each such instance without indicating the manner in which the vote has been cast.

## **25. Tendered Votes.**

- If a person representing himself to be a member named in the list of members prepared under rule 35, applies for a ballot paper after another person has already voted as such member, the applicant shall, after duly answering such questions as the Returning Officer may ask, be entitled to receive a ballot paper (referred to in these rules as a "tendered ballot paper") in the same manner as any other member. A tendered ballot paper shall be in Form VIII, and shall instead of being put in the ballot box, be handed over by such person to the Returning Officer who shall thereupon take such person inside the polling compartment and shall in the presence of such person make the preferences on the ballot paper against the name or names of the candidate or candidates for whom such person desires to vote and also record on the ballot paper the name of the member and his serial number in the list. The Returning Officer shall then place the ballot paper in a separate packet set apart for the purpose. At the end of the poll the packet containing such ballot papers shall be sealed. Such votes shall not be counted by the Returning Officer. The name of the member and his serial number in the list prepared under rule 35 shall be entered in a list in Form IX. The person tendering such ballot paper shall sign against the entry relating to him in that list.

## **26. Adjournment of poll in emergencies.**

(1) If the proceedings at the place of polling are interrupted or obstructed by riot or open violence or if it is not possible to take the poll on account of a natural calamity or other sufficient cause, the Returning Officer shall announce an adjournment of poll to a date to be notified later. (2) Whenever a poll is adjourned under sub-rule (1) the Returning Officer shall as soon as may be, fix the date on which and the hours during which the adjourned poll shall be taken and shall intimate the said details to all concerned in such manner as he may think fit. (3) On the date on which such adjourned poll is taken, the members who have already voted at the poll before its adjournment would not be entitled to vote, but only the remaining members who were entitled to vote before its adjournment may vote. Counting

## **27. Procedure at the counting.**

(1) As soon as the poll is closed the Returning Officer shall, in the presence of the candidates and members who may be present, proceed to count the votes. (2) The Returning Officer shall open the ballot box and shall - (a) count the number of ballot papers taken out therefrom and record it in a statement; (b) scrutinize the ballot papers and separate those which in his opinion are valid from those which in his opinion are invalid endorsing on the latter the word "rejected" and the ground of rejection; and (c) arrange all the valid ballot papers in parcels according to the first preferences recorded for each candidate. (3) A ballot paper shall be rejected as invalid on which - (a) the number 1 is not marked; or (b) the number 1 is marked opposite the name of more than one candidate or is so marked as to render it doubtful to which candidate it is intended to apply; or (c) the number 1 and some other number are marked opposite the name of the same candidate; or (d) any mark is made by which the member may afterward be identified.

## **28. Determination of result.**

- After all the valid ballot papers have been arranged in parcel according to the first preference record for each candidate, the Returning Officer shall proceed to determine the result of the voting in accordance with the instructions contained in Schedule II to these Rules.

## **29. Recounting.**

- The Returning Officer, may, either on his own initiative or at the instance of any candidate recount votes, whether once or more than once when the Returning Officer is not satisfied as to the accuracy of a previous counting: Provided that nothing herein contained shall make it obligatory on the Returning Officer to recount the same votes more than once.

## **30. Declaration of result.**

- When the counting is completed and the result of the voting has been determined, the Returning Officer shall forthwith - (a) announce the result to those present; (b) report the result to the State



Government;(c)prepare and certify a return of the election in Form X ; and(d)seal up in separate packets the valid ballot papers and the rejected ballot papers and record on each such packet a description of its contents.

### **31. Notification of result.**

- The State Government shall as soon as may be after the declaration of the result under rule 12 or rule 10 notify the result by causing it to be published in the official Gazette.Miscellaneous

### **32. Custody, inspection and disposal of election papers.**

- The provisions of rule 14 of the U.P. Antarim Zila Parishad' (Election of Representatives of Gaon Sabhas) Rules, 1961, shall as far as may be apply to the case of every election to the office of Adhyaksh of a Parishad.

### **33. Alteration of dates in emergencies.**

- Notwithstanding anything elsewhere in these Rules the State Government may in the case of any grave emergency or other unavoidable cause , alter any of the dates notified under rule 6. The extension or alteration in the date or dates notified as aforesaid may be made even though the dates originally notified may have expired.

### **34. Return and forfeiture of deposits.**

(1)If the nomination of any candidate is rejected by the Returning Officer he shall pass an order for the return or deposit made under rule 8 to the candidate or to the person who made the deposit.(2)If a candidate dies before the commencement of the poll, the deposit made under rule 8 shall, if made by him, be returned to his legal representatives and, if not made by him, be returned to the person by whom it was made.(3)If a candidate nominated for election is not elected and the number of votes polled by him by way of first preference does not exceed one seventh of the total number of votes polled, the deposit made under rule 8 shall be forfeited to the Government.(4)For the purpose of sub-rule (3), the number of votes polled shall be deemed to be the number of ballot papers other than the rejected ballot papers counted.(5)In cases not covered by the preceding sub-rules, and rule 11 every deposit made under rule 8 shall after publication of the result of the election in the official Gazette be returned to the candidate or to the person who made the deposit.

### **35. List of members.**

(1)Before issuing a notification under rule 6, the Returning Officer shall cause to be prepared a list of members of the Antarim Zila Parishad and given public notice of the same by having an authentic copy of the list affixed on the notice board of each of the office of the District Magistrate, the highest Civil Judicial Officer in the District and the Antarim Zila Parishad.(2)The Returning Officer may at any time before the commencement of the . poll make such correction in the list as may be

occasioned by any changes in membership or upon discovery of any error in the list whether upon the consideration of any claim of objection to the inclusion of any name made by any person or otherwise: Provided that no name included in the list shall be deleted therefrom without prior notice to such person of the proposed deletion and giving him an opportunity of showing cause against the proposed deletion.

## **Chapter III**

### **Disputes Regarding Elections**

#### **36. Time and manner of presenting petitions.**

(1) An election petition may be presented at any time within thirty days after the date of declaration of result under rule 12 or rule 30, as the case may be. (2) It shall be presented in person by the petitioner or if there are more than one petitioner by any one or more of them.

#### **37. From, etc., of petition.**

(1) An election petition shall specify the ground or grounds on which the election of the returned candidate is questioned and shall contain a summary of the circumstances alleged to justify the election being questioned on such grounds. (2) The person whose election is questioned and where the petition claims that any other candidates shall be declared elected in the room of such person, every unsuccessful candidate shall be made a respondent to the petition.

#### **38. Relief that may be claimed by the petitioner.**

- A petitioner may claim either of the following declaration - (a) that the election of the returned candidate is void; (b) that the election of the returned candidate is void and that he himself or any other candidate has been duly elected.

#### **39. Security.**

- At the time of presenting an election petition the petitioner shall enclose with it a receipt showing that a sum of two hundred and fifty rupees has been deposited by him or on his behalf in a Government Treasury or in the State Bank of India as security for the costs of the petition.

#### **40. Recrimination when seat claimed.**

- When in an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election.

## **41. Place of trial.**

- The trial of an election petition shall be held in the district in which the Parishad concerned is situated.

## **42. Procedure before the Tribunal.**

(1) Except so far as provided by the Act or elsewhere in these Rules the procedure provided in the Civil Procedure Code in regard to suits, shall, so far as it is not inconsistent with the Act or any provisions of these Rules and so far as it can be made applicable, be followed in the hearing of election petition: Provided that -(a) any two or more election petition relating to the election of the same person may be heard together; (b) the tribunal shall not be required to record or have recorded the evidence in full but shall make a memorandum of the evidence sufficient in its opinion for the purpose of deciding the case; (c) the tribunal may, at any stage of the proceeding, require the petitioner to give further cash security for the payment of the costs incurred or likely to be incurred by any respondent; (d) for the purpose of deciding any issue the tribunal shall be required to order production of or to receive only so much evidence, oral or documentary, as it considers necessary; (e) no appeal or revision shall lie on a question of fact or law against any decision of the tribunal; (f) the tribunal may review its decision on any point on application of any person considering himself aggrieved thereby, being made within fifteen days from the date of the decision. (2) The provisions of the Indian Evidence Act, 1872, shall be deemed to apply in all respects to the trial of an election petition.

## **43. Withdrawal of petition.**

(1) Before the appointment of a tribunal to try an election petition, the petition may be withdrawn by the petitioners or the petitioner, as the case may be, by making an application to the officer to whom it was presented stating the intention to withdraw the petition and upon making of such an application the petition shall stand withdrawn and no further action shall be taken for its trial. (2) After the appointment of a tribunal to try election petition the petition may be withdrawn with the leave of the tribunal by making an application as aforesaid to the tribunal.

## **44. Abatement of petitions.**

(1) An election petition claiming a declaration mentioned in clause (a) of rule 38 shall abate upon the death of the returned candidate. (2) An election petition shall abate upon the death of the sole petitioner or all the petitioners. (3) If any election claims the declarations mentioned in clause (b) of rule 38 and the returned candidate dies, the tribunal shall cause notice of such event to be published in the official Gazette and thereupon any person who might have been a petitioner, may within fourteen days of the publication apply to be substituted in place of the returned candidate to oppose the petition and shall be entitled to continue the proceedings upon such terms as the tribunal may think fit. .

#### **45. Powers of the tribunal.**

(1)The tribunal shall have the same powers and privileges as a Judge of a Civil Court, and may for the purpose of serving any notice or issuing any process or doing any other similar act, be entitled to employ with the consent of the District Magistrate, any peon or other officer or clerk attached to the Court of the District Magistrate.(2)If the petition is found to be frivolous the tribunal may direct that the security or any part thereof shall be forfeited to the State Government.(3)An order for costs passed by the election tribunal may be sent by the District Magistrate for execution to the Munsif within whose jurisdiction the parishad, the election of the Adhyaksh of which is questioned, is situated, and the order so sent shall be executed by the Munsif in the same manner as if it were a decree passed by him in favour of the person who has been awarded costs.

#### **46. Order of the tribunal.**

(1)If the tribunal after making such inquiry as it deems fit finds in respect of any person whose election is called in question by a petition, that his election was valid, it shall dismiss the petition as against such person and award cost at its discretion.(2)If the tribunal finds that the election of any person was invalid it shall either -(a)declare a casual vacancy to have been created, or(b)declare another candidate to have been duly elected and in either case may award cost at its discretion.

#### **47. Grounds for which a candidate other than the returned candidate may be declared to have been elected.**

- If any person who has lodged an election petition has, in addition to calling in question the election of the returned candidate claimed a declaration that he himself or any other candidate, has been duly elected and the tribunal is of the opinion that in fact the petitioner or such other candidate received a majority of the valid votes, the tribunal shall after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected :Provided that the petitioner or such other candidate shall not be declared to be duly elected if it is proved that the election of such candidate would have been void if he had been returned candidate and a petition had been presented calling in question his election.

#### **48. Procedure in case of equality of votes.**

- If during the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that one of them is to be eliminated then -(a)any decision, made by the Returning Officer under the provisions of these Rules shall, in so far as it determines the question between those candidates be effective also for the purpose of the petition ; and(b)so far as that question is not determined by such a decision, the Tribunal shall decide between them in accordance with the provision of the instructions in Schedule II to these Rules.

## 49. Taking effect of tribunal's order.

- An order of the tribunal under sub-rule (2) of rule 46 shall take effect from the day next following the date of the order.

## 50. Communication of order and transmission of record.

(1)The tribunal shall as soon as may be after announcing the orders made by it under rule 46, send a copy thereof to the District Magistrate.(2)The tribunal shall also send the record of the case to the District Magistrate of the district within which the Parishad concerned is situated for being dealt within such a manner as may be specified by the Government.

## 51. Disposal of security deposit and recovery of costs.

(1)Subject to the provisions of sub-rule (2) of rule 45, costs if any, awarded to any respondent by a tribunal shall be recoverable out of the security deposited under rules 39 and 42 and the balance of the security deposit, if any, shall be refunded to the petitioner.(2)The costs or any portion thereof, awarded to any respondent and not recovered from the security deposit referred to in sub- rule (1) and costs payable to a petitioner from any respondent shall be recoverable in accordance with the provisions of sub-rule (3) of rule 45.(3)While making its order under rule 46, the tribunal shall also pass orders about the recovery of costs and the refund of security deposits in accordance with the provisions of this rule and the District Magistrate shall carry out the order accordingly on receipt of a copy of the tribunal's orders under rule 50.

I

Form I(Rule 6)Form of Notice of Election to the office of AdhyakshWhereas an Adhyaksh has to be elected to the Antarim Zila Parishad of.....

..I.....the Returning Officer for the said election do hereby give the following:Public Notice(i)Nomination papers may be delivered to the undersigned at..... (Place or, if he is unavoidably prevented from receiving the same, to ..,.....at.....(place). They shall be presented between 11 a.m. and 3 p.m. on.....(date).(ii)The nomination paper will be taken up for security at.....(hours) on.....(date).....in.....(place).(iii)In the event of the election being contested the poll will take place on ... .....between the hours of ...and ...at the office of the Antarim Zila Parishad.Date.....Address.....Returning OfficerOfficerNote - Forms of nomination paper may be obtained at the office of the District Magistrate/Tahsildar.....between the hours of.....(hours) and..... Hour from.....(date) .....to.....(date).Form II(Rule 7)Nomination paper for election to the office of AdhyakshAntarim Zila Parishad .....

**1. Name of candidate.....**

**2. Father's/Husbands' name.....**

**3. Age.....**

**4. Address.....**

**5. Assembly Constituency in the electoral roll of which the name of the candidate is included.....**

**6. Serial number of the candidate in the electoral roll of the Assembly Constituency in which his name is included with the name of sub-division of the roll, if any.....**

**7. Name of the proposer.....**

**8. Signature of the proposer.....**

Declaration by the candidate I hereby declare that I agree to this nomination. Date..... Signature of Candidate. Certificate of delivery Serial No..... This nomination paper was delivered to me at my office at..... (date and hour)..... by the candidate/proposer. Returning Officer Certificate of scrutiny I have scrutinized the eligibility of the candidate and the proposer and find they are respectively qualified to stand for election and to propose the nomination. Returning Officer Notes. - (1) The nomination paper will not be valid unless it is delivered to the Returning Officer or to an Assistant Returning Officer authorised to receive it, at the place on the date and within the hours specified in this behalf in the notice issued by the Returning Officer under rule 6 of the U.P. Antarim Zila Parishad ( Election of Adhyaksha) and Election Petition Rules, 1961. (2) In item No. the inappropriate alternative should be struck off. Husband's name is to be filled in all cases where the candidate is a married woman or a widow. (3) Where the electoral roll is sub-divided into parts separate serial numbers are assigned to the electors entered in each part, description of the part in which the name of the person concerned is entered must also be given in item No. 6. Form III (Rule 9) Notice of nominations for election to the office of Adhyaksh of Antarim Zila Parishad..... Received on..... up to 3 p.m.

Serial number.....

Name of Candidate.....

Father's or husband's name.....

Age.....

Address.....

Assembly Constituency in the electoral roll of which the name of the candidate is included, and the serial number of the candidate in such roll.

Name of Proposer.....

Form IV(Rule 11) Form of Notice of withdrawal To THE RETURNING OFFICER, Election to the office of Adhyaksh, Antarim Zila Parishad.....I,.....of.....candidate nominated at the above mentioned election do hereby give notice that I withdraw my candidature. Dated, this.....day....., 19.....Signature of Candidate (To be filled in office) This notice of withdrawal was delivered to me at my office at..... (hour) on.....(date) by.....the candidate/ the candidate's proposer who has been authorized by the candidate to deliver it. Returning Officer. Form V(Rule 11) Notice of Withdrawal of Candidature Notice(s) of withdrawal of candidature(s) for election to the office of Adhyaksh of Antarim Zila Parishad.....has/have been received on.....from the following candidate/each of the following candidates. Name(s) of candidate(s):

1.

.....

2.

..... etc. Dated.....Returning officer. Form VI(Rule 13) Form for list of valid nominations Antarim Zila Parishad.....Election to the office of Adhyaksh Final list of candidates for election

Serial No. Name of candidate Address of candidate

1 2 3

1

2

3

4

5

6

etc.

Returning Officer Form VII(Rule 18) Form of Ballot Paper Counterfoil

Antarim Zila Parishad.....

Election of Adhyaksh, 19.....

Name of elector.....

Serial No. of Ballot Paper.....

Outerfoil (Front)

Antarim Zila Parishad.....

Election of Adhyaksh 19.....

Name.....Preferences

1.....

2.....

3.....etc.

### Instructions

1. The persons whose names are given on the ballot paper have been nominated as candidates for election to the office of Adhyaksh of Antarim Zila Parishad.....

2. The vote shall be recorded by placing the number 1 in the space opposite the name of the candidate whom the voter chooses for his first preference and the voter may, in addition, mark as many subsequent preferences as he wishes by placing the numbers 2, 3, 4 and so on in the space opposite the names of other candidates in order of preference.

Outerfoil (Back) Serial Number of Ballot Paper..

Form VIII (Rule 25) Form of Tendered Ballot Paper Antarim Zila

Parishad..... Election to the office of Adhyaksh. Name of member.....

Serial number of member on the

list..... Name or names of candidate or candidates for whom this is tendered and the order of preference.

**1.**

.....

**2.**

.....

**3.**

..... etc. Dated..... Returning Officer. Form IX (Rule 25) Tendered Votes

List Antarim Zila Parishad..... Election of Adhyaksh

| Serial No. | Name of member | Serial number of member on the list | Address of the member on the list | Signature or thumb-impression of the member |
|------------|----------------|-------------------------------------|-----------------------------------|---|
| 1          | 2              | 3                                   | 4                                 | 5   |
| 1          |                |                                     |                                   |   |
| 2          |                |                                     |                                   |   |
| 3          |                |                                     |                                   |   |
| 4          |                |                                     |                                   |   |
| 5          |                |                                     |                                   |   |



Date.....Returning Officer. Form X(Rule 30)Result of Election to the Office of the  
Adhyaksh, Antarim Zila Parishad.....Returning Officer

**1. Serial number**

**2. Name of candidate**

**3. Votes secured at first count**

**4. Votes credited at first exclusion**

**5. Total of columns 3 and 4**

**6. Votes credited at second exclusion**

**7. Total of columns 5 and 6**

**8. Votes credited at third exclusion**

**9. Total of columns 7 and 8**

**10. Votes credited at fourth exclusion**

**11. Total of columns 9 and 10**

Exhausted votesTotal .....Total number of valid ballot  
papers.....representing.....votes.Total number of invalid ballot  
papers.....representing..... votes.....I declare  
that:(Name).....(Address)..... has been duly  
elected to the office of the Adhyaksh of Antarim Zila Parishad,.....Place.....Date.....  
.....Returning Officer.

**II**

(Rule 28)Instructions for the Determination of Result

### **1. In this Schedule-**

(1)the expression "continuing candidate means any candidates not elected and not excluded from the poll at any given time;(2)the expression " first preference" means the number 1 set opposite the name of any candidate, the expression "Second preference" similarly means the number 2, the expression "third preference" the number, 3, and so on ;(3)the expression " next available

preference" means the second or subsequent preference recorded in consecutive numerical order for a continuing candidate, preferences for candidates already excluded being ignored;(4)the expression " unexhausted paper" means a ballot paper on which a further preference is recorded for a continuing candidate;(5)the expression " exhausted paper" means a ballot paper on which no further preference is recorded for a continuing candidate; provided that a paper shall be deemed to be exhausted in any case in which -(a)the names of two or more candidates whether continuing or not are marked with the same figure, and are next in order of preference; or(b)the name of the candidate next in order of preference whether continuing or not, is marked by a number not following consecutively after some other number on the ballot paper or by two or more numbers.

**2. Ascertain the number of first preference votes secured by each candidate and credit him with that number.**

**3.**

(1)If there are only two contesting candidates then -(a)if one candidate gets larger number of first preference votes than the other, declare the former as elected, or(b)if both the candidates get equal number of first preference votes, exclude one of them by drawing of lot and declare the other as elected.(2)If there are more than two candidates then -(a)if one of them is found to secure first preference votes equal to or more than the quota determined under instruction no. 3, declare him as elected, or(b)if none of them secure first preference votes equal to or more than the quota aforesaid, proceed according to the instructions hereinafter taking into consideration second and subsequent preferences as may be necessary.

**4. Add up the numbers so credited to all the candidates, divide the total by two and add one to the quotient disregarding any remainder. The resulting number is the quota sufficient to secure the return of a candidate at the election.**

**5. If at the end of the first or any subsequent count the total number of votes credited to any candidate is equal to, or greater than the quota, or there is only one counting candidate, that candidate is declared elected.**

**6. If at the end of any count, no candidate can be declared elected -**

(a)exclude the candidate who up to that stage has been credited with the lowest number of votes;(b)examine all the ballot papers in his parcel and sub-parcel, arrange the unexhausted papers in sub-parcels according to the next available preferences recorded thereon for the continuing candidates, count the number of votes in each such sub-parcel and credit it to the candidate for whom such preference is recorded, transfer the sub-parcel to that candidate and make a separate sub-parcel of all the exhausted papers, and(c)see whether any of the continuing candidates has, after such transfer and credit, secured the quota.If, when a candidate has to be excluded under clause (a)

above, two or more candidates have been credited with the same number of votes and stand lowest on the poll, exclude that candidate who had secured the lowest number of first preference votes, and if that number also was the same in the case of two or more candidates, decided by lot which of them shall be excluded. All the sub-parcels of exhausted papers referred to in clause (b) above, shall be set apart as finally dealt with and the votes recorded thereon shall not thereafter be taken into account. Illustration. - Suppose there are four candidates A, B, C and D and the number of first preference votes secured by them are - A = 12 B = 11 C = 7 D = 5 \_\_\_\_\_

### 35.

The quota will be -  $35 / 2 + 1 = 18$ . No candidate having obtained votes equal to or over the quota at the first count, the candidate having the lowest votes, namely, D will be excluded. Suppose there are second preferences marked on only four ballot papers in the parcel of D as below: A = 2 B = 2 the fifth ballot paper will be placed in the sub-parcel of exhausted papers and the two papers recording second preference for A and B each will be placed in separate sub-parcels for A and B each of them will be credited with two additional votes. The votes for A, B and C will now be - A = 12 + 2 = 14 B = 11 + 2 = 13 C = 7

### 24.

Since at the end of the second count no candidate can be declared elected, the candidate C having the lowest votes out of the three continuing candidates will now be excluded and his votes transferred to other continuing candidates A and B. Suppose second preferences are recorded in all the ballot papers in the parcel of C and are as below: A = 4 B = 3 After crediting A and B with these additional votes A would have secured 18 votes, that is, equal to the quota and B 16 votes. A will, therefore, be declared elected.