

The Bar Council of Bihar Election Rules, 1968

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Rule THE-BAR-COUNCIL-OF-BIHAR-ELECTION-RULES-1968 of 1968

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The Bar Council of Bihar Election Rules, 1968[Rules made by the Bar Council of Bihar under Section 15(2)(a) and (d) of the Advocates Act, 1961. These rules are revised and approved by the Bar Council of India vide Resolution No. 38/85].

1. Short title and commencement.

- These Rules shall be called the "Bar Council of Bihar Election Rules, 1968" and they shall come into force from the date of their approval.

2.

These Rules shall be subject to the rules made by the Bar Council of India under the powers vested in it by the Act

3. Interpretation.

- In these Rules, unless the context otherwise requires-(a)"Act" means the Advocates Act, 1961.(b)"Advocate-General" means the Advocate-General for the State of Bihar.(c)"Bar Association" means a Bar Association included in the list kept by the Bar Council for the purposes of these Rules.(d)"Bar Council" means the Bar Council for the State of Bihar.(e)"Casual Vacancy" means a vacancy that has been caused otherwise than by the expiry of the terms of office of a member.(f)"Chairman" means the Chairman of the Bar Council of the State.(g)"Clear days" means that time is to be reckoned exclusive of both the first and the last days.IllustrationThe election of members to a State Bar Council is fixed for the 15th January, 1965. Under the rules of the Bar Council Ballot Papers have to be despatched 10 clear days before the date of election. Consequently the last date for the despatch of Ballot Papers will be 4th January, 1965.(h)"Continuing candidate" means any candidate not elected and not excluded from the poll at any given time.(i)"Count"

means:-(a)all the operations involved in the counting of the first preference recorded for candidates; or(b)all the operations involved in the transfer of the surplus of an elected candidate; or(c)all the operations involved in the transfer of the total value of votes of an excluded candidate;(d)all other operations involved in, incidental to, or necessary for the entire process of ascertainment of votes.(j)"Electoral Roll" means and includes the Roll containing the names of the Advocates prepared in accordance with the rules of the Bar Council of India in Part III, Chapter I.(The names of Advocates who on the date of nomination have been on the State Roll for at least 10 years should be indicated by an asterisk mark against their name.)(k)"Exhausted Paper" means a Ballot Paper on which no further preference is recorded for a continuing candidate, and includes a Ballot Paper on which.(a)the name of two or more candidates, whether continuing or not, are marked with same figure and 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 figure not following consecutively after some other figure on the Ballot Paper or by two or more figures.(c)there is such effacement, obliteration, erasure, or mutilation as to make any preferences other than the first preference ambiguous. In such cases only the preference which has become ambiguous and other preference thereafter would be treated as exhausted paper.(l)"First preference" means the figure '1' set opposite the name of a candidate. "Second preference" means, the figure "2" set opposite the name of a candidate. "Third preference" means the figure "3" set opposite the name of a candidate, and so on.(m)'Form' means a form prescribed under these Rules.(n)'Nomination paper' means the paper prescribed in Form A of the Rules.(o)'Original vote' in relation to any candidate, means a vote derived from a Ballot Paper on which a first preference is recorded for such candidates.(p)'Polling Officer' means person appointed as such by the Returning Officer and includes the person appointed by the Returning Officer to assist the Polling Officer.(q)'Presiding Officer' means the person appointed by Bar Council.(r)'Polling Station' or 'Polling Booth' means place or places to be fixed by Bar Council.(s)'Returning Officer' means the person appointed by the Bar Council as such to conduct and hold the election.(t)'Surplus' means the number by which the value of the votes, original and transferred, of any candidate exceed the quota.(u)"Transferred vote' in relation to any candidate, means a vote the value or part of the value of which is credited, and which is derived from a Ballot Paper on which a second or a subsequent preference is recorded for such candidate.(v)'Unexhausted Paper' means a voting paper on which a further preference is recorded for a continuing candidate.(w)'Voter' means a person whose name is included in the Electoral Roll, (x) 'Ballot Box' means any box, bag or other receptacle used for insertion of voting papers.(y)'State Roll' means the Roll of Advocate prepared and maintained by the Bar Council under Section 17 of the Advocates Act, 1961.

4. Time and place of Election.

- Election of members to the Bar Council shall be held at such place or places and during such hour or hours as the Council may appoint. Different dates and different hours may be appointed for polling at different places.

5. Method of Election.

- (i) Election to the Bar Council shall be by single transferable vote by and amongst the voters on the Electoral Roll in accordance with these rules.(ii)The voting shall be by personal ballot:Provided that the Presiding Officer and other persons who are appointed to assist at the poll may cast their votes at the Polling Station where they are deputed on Ballot Papers available there and these Ballot Papers should be placed in a separate Sealed Cover and sent to the Returning Officer alongwith the Ballot Boxes.

6. Notice of publication of Electoral Roll and correction thereto.

- The Bar Council shall at least one month before the date of publication of notice notify to all Bar Associations, about the intended election and the date by which objections, if any, to the Electoral Roll may be filed before the Bar Council and shall send one copy of the Electoral Roll to the President of each Bar Association. A copy of the notice and Electoral Roll shall also be hung on the Notice Board of the Bar Council.It shall be open to any person to file an objection for correction of the State Roll and the Electoral Roll on or before the date fixed in the abovementioned notice. Such objection shall be decided by any person or Committee, so appointed by Bar Council, within a week from the receipt thereof and the State Roll and/or the Electoral Roll shall be amended accordingly and the amended roll shall be the final roll.

7. Notice and programme of Election.

- Notice of the time and place of election shall be given by publication over the signature of the Returning Officer in one issue of an English daily newspaper of the State after one month of the notice of publication of electoral Roll under Rule 6 and not less than 45 clear days before the date of election. The notification shall specify inter alia :-(i)The date for filing Nomination Paper.(ii)The date for scrutiny of the Nomination Paper.(iii)The date for withdrawal of candidature.(iv)The date or dates of polling.(v)The dates, place and time for counting of votes; and the total number of the seats to be filled up.(vi)The minimum number of seat that should be filled from amongst Advocates who on the relevant date have been on the State Roll for at least 10 years.(vii)The names of Polling Station with necessary details where polling will take place:Provided that the last date for the filing of the Nomination Papers shall not be less than 25 clear days before the date of election and that there shall be at least 5 clear days after the last date of the scrutiny for withdrawal of the candidature.Copies of the notice shall be affixed on the Notice Board of the Bar Council and sent to the Advocate-General and to the Bar Association, and published in on local daily newspaper.

8. Candidate.

- No person shall be entitled to seek election unless his name is on the Electoral Roll.

9. Candidate how to be proposed.

- Every candidate for election as a member of Bar Council shall be proposed by one voter seconded by another voter, and accepted by the candidate. The Nomination Paper shall be delivered to the Returning Officer by the candidate, his proposer or seconder or sent by Registered Post so as to reach the Returning Officer on or before the date specified in the notification under Rule 7 :Provided that no person shall subscribe whether as proposer or seconder to the nomination of not more than the total number of members to be elected.(i)The proposer and seconder shall write their full name, address and their serial number as mentioned in Electoral Roll.(ii)Every Nomination Paper shall be accompanied by a sum of [Rs. 5000/-] [Approved by Bar Council of India in its meeting dated 15th & 16th April, 2000.] either in cash or by Bank Draft in favour of the Bihar State Bar Council Payable at Patna as Security Deposit.The deposit shall be forfeited if at an election poll has been taken, the candidate is not elected and he does not get more than $\frac{1}{4}$ th of the number of votes prescribed in this behalf as sufficient to secure the return of a candidate otherwise the amount will be returned to the candidate. The security shall also be returned to a candidate who withdraws on or before the date fixed for the withdrawal.

10. Doubt as to validity of proposals.

- On the date fixed for the scrutiny of nomination under Rule 7 above, the Returning Officer shall examine the nomination and on an objection by a candidate or on his own motion after such summary enquiry, if any, as he may deem necessary reject the nomination on the following grounds;(a)That the nomination papers did not comply with the requirement of these rules.(b)That the signature of the candidate or the proposer or seconder on the nomination paper is not genuine.The candidate and/or their agent shall be entitled to be present at the time of scrutiny and to make submission.No Nomination Paper shall be rejected except for defect of substantial nature and the Returning Officer may allow any defect to be rectified.

11. Withdrawal from Election.

- Any person whose name has been proposed as a candidate may withdraw his candidature by a communication in writing so as to reach the Returning Officer not later than the date specified for the purpose in the notification under Rule 7.

12. Declaration with number of candidates is equal to the number of seat.

- If the number of duly nominated candidates who have been on the State Roll for more than 10 years is less than to the number required by the proviso to Section 3(b) of the Act, such candidates shall be declared elected. The number thus elected shall be deemed to be the number required by the proviso. If the number of such candidates is in excess of the required number but the number of all the nominated candidates does not exceed the required number they shall be declared elected. In every other case there shall be a poll as prescribed by these Rules.

13. Publication of list of candidates.

- When the number of candidates duly proposed is more than the number of seats to be filled, the Returning Officer shall notify the names of the proposed candidates in the prescribed Form 'B' of these rules at least ten days before the date fixed for election.(i)by posting the list of the candidates on the Notice Board of the Bar Council, and(ii)by sending the list of the candidates to-(a)The Advocate-General;(b)Presidents of the Advocates' Association, Bar Association and Lawyers' Association of the High Court; and(c)Presidents of the Bar Association and Advocates' Association in the different parts of the State.(N.B. - Names of candidates who have been on the State Roll for more than 10 years, if not already declared elected shall be marked with an asterisk).

14. Returning Officer, Presiding Officer and Polling Officer.

(a)The Bar Council shall appoint the Returning Officer to conduct the election in manner hereinafter prescribed.(b)The Returning Officer shall secure the nomination of Presiding' Officer and Polling Officers by orders made by the Executive Committee.(c)The Presiding Officers and Polling Officers shall be detailed by the Returning Officer.(d)The Presiding Officer shall conduct the election at the Polling Booth to which he is so detailed.(e)The Polling Officers allotted to each Polling Station shall assist the Presiding Officer at the Polling Station in exercising his functions.(f)Any Polling Officer, if so directed by Presiding Officer, shall perform all or any of the functions of the Presiding Officer and for such time as may be necessary:Provided that no candidate shall be appointed either as Returning Officer or Polling Officer.

15. Form of Voting Paper.

- The Voting Paper shall contain the names of all the candidates, the address of the candidate and the date of his enrolment as Advocate as in the Roll shall be given against the name of each candidate. An asterisk mark shall be put against the name of candidate who on the relevant date have been on the State Roll for at least 10 years for the purposes of proviso to Section 3(2)(b) of the Act. The Voting Paper shall also bear on it the facsimile of the Returning Officer's signature. It shall state the total number of the candidate to be elected. The Voting Paper shall, as nearly as possible, be in the Form 'C'.

16. Voting in person.

- Voters shall cast their votes in person at the respective Polling Station on the dates notified in this behalf.Voters casting votes must produce their Identity Cards with Photos issued by the Bar Council in case of dispute before obtaining Ballot Paper and those Voters, who fail to produce Identity Cards shall not be supplied ballot papers. The Presiding Officer shall put his signature with date on the Identity Card in token of production of the Identity Card.

17. Polling Station for voters voting in person.

- There may be one or more polling station at each place. Different dates may be fixed for polling at the different Stations. Polling shall ordinarily be from 10 A.M. to 5 P.M. The Returning Officer shall appoint a sufficient number of Polling Officers for the Stations. The Bar Council may give such general directions as it may consider necessary with regard to place where Polling Stations ought to be established and the persons to be appointed as Polling Officer.

18. Second Voting Paper not to be issued.

- When a Voting Paper has once been handed over to a Voter, a second Voting Paper shall not be issued to him unless he satisfies the Presiding Officer that the Voting Paper has been spoiled or mutilated or in which case a duplicate voting paper may be issued to him.

19. Despatch of Voting Papers.

- Despatch of voting papers to Polling Officer for voting in person:-(1)The Secretary shall deliver the Polling Officers of the booths, requisite number of voting papers and some additional voting papers bearing the facsimile of the Returning Officer, with a covering letter stating the number of the papers being delivered and enclosing an extract from the Electoral Roll relating to the polling both and other papers, if any, and instructions.(2)The Secretary shall deliver the boxes & other materials to the Presiding Officer of the booths as per details below:-(i)One box which is meant for casting of votes must be locked and be sealed with a particular seal, as prescribed by the Council, and the hole on the top of the box should also be pasted with a slip duly signed and sealed by the Returning Officer. The paper so pasted on the top of the box be torn at the polling station in order to enable the voters to cast their votes.(ii)One Big Box in which unused Ballot Papers, Cloth, Seal, Lac, Match Box, Candle, Needle, Thread, Copies etc. can be kept.(iii)Sufficient cloth for wrapping the box in which vote is cast.

20. Screened space.

- In every Polling Station there shall be one or more screened space provided for the voters to mark the Ballot Paper so that their marking may not be visible to any person. In the screened space only one voter shall be allowed entry at one time.

21. Authorised representatives of candidates.

- Each candidate shall be entitled to nominate an Advocate to be his authorised representative for every Polling Station to act on his behalf to safeguard his interest on the day of election.

22. Admission to Polling Station.

(a)The Presiding Officer concerned shall open the Polling Station at the hour fixed and thereafter admit electors allotted to the Polling Station for the purpose of casting their votes.(b)The Presiding Officer shall exclude from the Polling Station all persons other than-(i)Polling Officers;(ii)Candidates and his authorised agents; and(iii)Voters allotted to the Polling Station who have not cast their votes;(iv)Person or persons admitted for the purpose of identity of electors and by the Presiding Officer to assist him in the discharge of his duties.(v)Other persons admitted by the Presiding Officer to assist him in the discharge of his duties :Provided that the Presiding Officer may at any time authorise representative from the Polling Booths either due to lack of space or due to other specified circumstances.The Returning Officer shall with the approval of the Executive Committee issue instructions to the Presiding Officer regulating the procedure to be followed in recording votes at the Polling Booth including admission of the voters to the Polling Station. Such regulations shall provide that all persons who had entered the Polling Station before the hour fixed for closing the poll under Rule 17 shall be entitled to vote at that Polling Station.(c)The Presiding Officer shall subject to instruction issued by the Returning Officer regulate the number of voters to be admitted at any one time inside the Polling Station.(d)The Presiding Officer shall close a Polling Station at the hour fixed in that behalf under Rule 17 and shall not thereafter admit any voter into the Polling Station:Provided that all voters present at the Polling Station within the area fixed for the purpose before its close shall be allowed to cast their votes.

23. No canvassing in Polling Station.

- No person shall be permitted to canvas during the polling hours fixed under Rule 17 within the Polling Station and thereafter until all the Voters within the Polling Station have cast their votes.

24. Identification of voters.

(a)The voter entering the Polling Station shall be required to give his name, his father's name and such other particulars and details as may be considered necessary to enable the Presiding Officer to be satisfied about the identity of the Voter in cases in which he does not personally know the Voter.(b)In case where the Presiding Officer is not satisfied about the identity of any person who claims to be a voter, he shall issue a Ballot Paper to that person upon his signing a Register kept for the purpose at the Polling Station. Such Ballot Paper would be marked separately with an endorsement on the back with the words "Disputed Ballot Papers" by the Presiding Officer in his own hand and signed by him.If a person representing himself to be a particular voter applies for a Ballot Paper after another person has already voted as such voter he shall on satisfactorily answering such question relating to the identity as the Presiding Officer may ask, be entitled subject to the following provisions of this rule to mark Ballot Paper hereinafter referred to as "Tendered Ballot Paper" in the same manner as any other voter. Every such person shall being supplied a "Tendered Ballot Paper" sign his name against entry relating to him in a register maintained separately for the purpose. A 'Disputed' or 'Tendered' Ballot Paper shall be the same as any other Ballot Paper used at the Polling Station except that:(a)they shall serially be the last 2 in the list of Ballot Paper issued for use at the Polling Station; and(b)endorsed on the back with the words

'Disputed Ballot Paper' or 'Tendered Ballot Paper' as the case may be by the Presiding Officer in his own hand signed by him. The Voter after marking a "Disputed Ballot Paper" or a 'Tendered Ballot Paper' in the voting compartment and folding, it shall instead of putting it into the Ballot Box give it to the Presiding Officer who shall place it in separate covers specially kept for the purpose of 'Disputed' or 'Tendered' Ballot Paper as the case may be. The said Register and Ballot Papers shall be looked into and scrutinised and considered in dispute relating to the election where any point arises concerning the matter.

25. Supply of Voting Papers to voters voting in person.

- The Polling Officer, shall, on the date and at the time or hour fixed in this behalf, supply a Voting Paper to each voter in his Polling Booth after being satisfied that Rule 16 is complied who applied in person therefor, and take his signature in the list of voters against the voter's name to signify the issue of the Voting Paper.

26. Casting of votes.

(a) On receiving the Ballot Paper the voter shall sign his full name as also put his usual signature and the number of Ballot Paper received by him against his name in the Register or file, as the case may be kept at the Polling Station for the purpose. (b) The voter shall then forthwith:-(i) Proceed into the screened space provided for marking the Ballot Paper; (ii) Without undue delay mark the Ballot Paper in accordance with the provision of these Rules; (iii) Fold the Ballot Paper properly so that his marking cannot be viewed; and (iv) Put the Ballot Paper into the Ballot Box nearest to him. (c) In no shall any Ballot Paper either marked or unmarked be taken away by any voter and in all cases the Ballot Paper shall be put in the Ballot Box except where it is either torn or mutilated in which case he shall return it to the Presiding Officer as provided in these Rules.

27. Casting of votes by infirm persons.

- The Presiding Officer shall give such assistance at the Polling Station as he may consider necessary to voter who is blind and incapacitated to enable him to exercise his right to vote and may for that purpose on the request of the Voter concerned mark the Ballot Paper as directed by the voter. In all such case, the Presiding Officer shall make an endorsement in the Register kept at the Booth for the purpose.

28. Challenge as to identity of person falsely claiming to be voter.

(a) Any candidate or in his absence any authorised representative of the candidate will have the right to challenge the claim of any person to receive Ballot Paper, Cases where the candidate or his authorised representative, as the case may be, is satisfied that the person claiming Ballot Paper is not voter or is voter not allotted to the Polling Station concerned; (i) Stop the issue of Ballot Paper to such person; and (ii) Require the person offering the challenge to give in writing the fact of his challenge; (iii) On receiving written challenge make such summary inquiry, then and there in

accordance with the proviso of these rules as may be necessary; and(iv)On being satisfied that the person claiming the Ballot Paper is a voter allotted to the Polling Station, he shall direct that a Ballot Paper be given to him and in case he is not so satisfied he shall take steps in the manner provided in Rule 24(c) of these Rules.

29. Supply of fresh Ballot Paper in certain cases and return of Ballot Paper by an Elector.

- (i) Any voter who has inadvertently dealt with the Ballot Paper in such a manner that it cannot be conveniently used as a Ballot Paper may by delivering it to the Presiding Officer and satisfying him of the inadvertence obtain another Ballot Paper in place of the Ballot Paper so delivered which shall be marked as cancelled by the Presiding Officer.(ii)All the Ballot Papers so cancelled shall be kept in a separate packet set apart for the purpose.(iii)If a voter 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 Presiding Officer and the Ballot so returned shall be marked as cancelled and kept in the Packet referred to sub-rule (ii).(iv)A record shall be kept by the Presiding Officer of all Ballot Papers cancelled under sub-rules (ii) & (iii) above.

30. Votes and preference to be exercised by voters.

- (i) Every voter shall have only one vote at the election irrespective of the number of seats to be filled.(ii)A voter in giving his vote-(a)shall place on his Ballot Paper the word (in English numerical 'One' word) in the space opposite the name of the candidate whom he chooses for his first preference;(b)may in addition on his Ballot Paper the word 'two' to the word 'Twenty five' (in English numerical word) as he may choose to do in the Ballot Paper in the space opposite the names of the candidates in the order of his preference;(c)may if he chooses to indicate fewer preference than up to "Twenty five";(d)shall not make or cause to be made erasure, obliterations or alterations in the Ballot Paper.(iii)The Ballot Paper bearing the signature of the voter or any erasures, obliterations or alterations shall be deemed to have defaced.

31. Ballot Papers when invalid.

- A Ballot Paper shall be invalid:-(i)Which had not been issued by the Returning Officer for the purpose of the election.(ii)If it is deemed to have been defaced.(iii)If there is any mark in writing on the Ballot Paper by which the voter can be identified.(iv)On which the 'One' word-(a)is not marked, or(b)is set opposite the names of more than one candidate, or(c)is so placed as to render it doubtful to which candidate it is intended to apply, or,(d)and some other word or words are set opposite the name of the same candidate; or

32. Sealing of Ballot Papers.

(1)The Presiding Officer shall as soon as practicable after the close of polling in the presence of the candidate or their representative whoever be present-(a)re-paste the opening of the box in which

votes have been cast under his signature and seal.(b)take out the cloth which is kept in the other box and wrap the said box with the cloth.(c)stitch the cloth by needle & thread kept in other box.(d)sign at conspicuous places and shall put his seal wherever he deems necessary and the candidate or his representative if present may also put his signature and seal.(e)make separate packets of-(i)the unused Ballot Papers,(ii)the mutilated torn Ballot Papers,(iii)returned Ballot Papers, and(iv)Electoral Rolls and Register and papers used at the Polling Station.(f)Place all the packets, sealed Box containing votes cast and other materials in the Big Steel Box.(g)Prepare a short report in Form 'D' showing the number of Ballot Papers issued to him and the number of Ballot Papers returned unused and placed in the Big Steel Box; and(h)Close Big Steel Box by putting lock and shall be sealed by different seal at the Junctions.(2)The candidates or their representatives may and the Presiding Officer shall put their signatures on a sheet of paper which shall be pasted at necessary places so as to ensure that the Big Steel Box cannot be opened without tearing the pasted sheets of Paper.

33. Delivery of sealed Steel-Boxes and their safe keeping.

(a)The Presiding Officer, shall, as soon as practicable deliver the Steel-Box so fastened to the Returning Officer at Patna either personally or through a responsible person duly authorised in writing by him to do so.(b)The Returning Officer shall keep the sealed boxes safely in a secure place under his direct control to which no other person shall have access except under his orders.

34. Adjournment of poll in emergencies.

- (i) If at an election the proceeding at any Polling Station are interrupted or obstructed it is not possible to take the Poll on account of any natural calamity or any other sufficient cause, the Presiding Officer for such Polling Station shall announce adjournment of the Poll to a date to be notified later on; and where he has so adjourned the Poll, he shall forthwith inform the Returning Officer.(ii)Whenever a Poll is adjourned under sub-rule (i) the Returning Officer shall immediately report the circumstances to the Executive Committee and shall as soon as may be, with the approval of the Executive Committee appoint the day on which the Poll shall recommence and fix the Polling Station of place at which, and hours during which, the Poll will be taken and shall not count the votes, cast at such election until such adjourned poll shall have been completed.(iii)In every such case, as aforesaid the Returning Officer shall notify in such manner as the Executive Committee may direct the date, place and hours of Polling fixed under sub-rule (ii).

35. Fresh poll in case of destruction, etc. of Ballot Boxes.

- (i) If at any election any Ballot Box used at a Polling Station or at a place fixed for the poll is unlawfully taken out of the custody of the Presiding or the Returning Officer, losts damaged, and the Returning Officer is satisfied that in consequences thereof the result of the Poll at that Polling Station or place cannot be ascertained he shall-(a)declare the polling at the Polling Station or place to be void; and(b)report the matter forthwith to the Bar Council and to the Returning Officer.(ii)With the previous approval of the Executive Committee the Returning Officer shall, as may be-(a)appoint a day and fix the hours for taking fresh Poll at the Polling Station or place or at

some other appropriate Polling Station or place.(b)shall not count the votes cast at such election until such fresh poll shall have been completed.(c)notify the day so appointed and the hours so fixed by him in such manner as the Advocate-General may direct.

36. Same rules to Apply in adjourned or fresh poll.

- The provision of the rule for election and/or orders made thereunder shall apply to every adjourned or fresh poll as they apply to the original Poll.

37. Time, place and date for the counting of votes.

- (i) The scrutiny and counting of votes shall take Place in the Bar Council Office or such other place as the Returning Officer may fix and it shall be done at the hour and on the date previously notified under Rule 7.(ii)The scrutiny counting of votes, shall, as far as practicable, proceed continuously till such time as all the Ballot Papers are scrutinised and the votes are counted.(iii)In the event of counting being suspended for any necessary interval the counted Ballot Papers shall be kept separately in one Steel Box and the remaining Ballot Papers alongwith other document etc. relating to the election shall be kept in another Box or other Steel Boxes. All the Steel Boxes shall be duly locked and secured and sealed and kept in the proper custody with adequate precaution so that Boxes may not be tampered in any way.

38. Admission to the place fixed for counting.

- (i) The Returning Officer shall exclude from the place for the counting of votes all persons except-(a)such person as he may appoint to assist him in the counting;(b)candidates and/or their authorised representatives;(c)persons authorised by the Returning Officer.(ii)No person who has been employed by or on behalf of had been otherwise working for candidate in or about the election shall be appointed to assist the Returning Officer in the counting of votes.(iii)Any person who during the counting of votes misconducts himself or fails to obey the directions of the Returning Officer may be removed from the place where the votes are being counted.

39. Arrangement of valid voting papers in parcels.

(a)On the day fixed for counting, the Returning Officer shall open all the Ballot Boxes and the packet containing voting papers. After rejecting the voting papers, which are invalid or which cannot to taken into account for the purpose of election under these rules, the Returning Officer shall,(b)arrange the remaining Voting Papers in parcels according to the first preference recorded for each candidate.(c)count and record the number of papers in each parcel.(d)credit, to each candidate the value of papers in his parcel.

40. Ascertainment of quota.

- Every Voting Paper shall be deemed to be of the value of one hundred, and the quota sufficient to secure the return of a candidate at the election shall be determined as follows:(a)add the value credited for a candidate under clause (d) of Rule 39;(b)divide the total by a number which exceeds by one of the number or seat to be filled; and(c)add one to the quota ignoring the remainder if any resulting number is the quota.

41. Candidates with quota to be elected.

- If at the end of any count, or at the end of the transfer of any parcel or sub-parcel of an excluded candidate, the value of Voting Papers credited to a candidate is equal to or greater than the quota that candidate shall be declared elected :Provided that (i) No candidate who has not been an advocate on the State Roll for at least 10 years shall be elected if 12 candidates of less than 10 years standing have already been declared elected.(ii)If at the end of any count, there are two or more candidates who have not been on the State Roil for at least 10 years, getting more than the quota as aforesaid but the number of candidates that can yet be elected from such category under the proviso to Section 3(2)(b) is less than that number the candidate who has obtained the greater value of votes shall be declared elected in preference to the candidate whose value of votes is less.(iii)In the case of two or more persons of category referred to in proviso (ii) above, getting the same value of votes at the end of any count, the Returning Officer conducting the election shall decide by lot which of such persons shall be declared elected.(iv)The other candidate or candidates, not declared elected as aforesaid by reason of the proviso to Section 3(2)(b) of the Act and these rules, shall be excluded from the Poll.

42. Transfer of surplus.

- (i) If the value of the Voting Paper credited to a candidate is greater than the quota, the surplus shall be transferred in accordance with the provision of this rule to the continuing candidates indicated on the Voting Papers of that candidate as being next in order of the Voter's preference.(ii)If more than one candidate have a surplus, the surplus shall be dealt with first and the others in order of magnitude :Provided that every surplus arising on the first count shall be dealt with before those arising on the second count and so on.(iii)Where there are more surpluses than one to distribute and two or more surpluses are equal regard shall be had to the original votes of each candidate, and the candidate for whom original votes are recorded shall have his surplus first distributed, and if the value of the original votes is equal the Returning Officer shall decide by lot which candidate shall have his surplus first distributed.(iv)(a)If the surplus of any candidate to be transferred arise on the original votes only, the Returning Officer shall examine all the papers in the poll belonging to that candidate, divide the unexhausted papers into sub-parcels according to the next preference recorded thereon and make a separate sub-parcel of the exhausted papers.(b)The Returning Officer shall ascertain the value of the papers in each sub-parcel of all the unexhausted papers.(c)If the value of the unexhausted papers is equal to or less than the surplus the Returning Officer shall transfer all the unexhausted papers at the value at which they were received by the candidates whose surplus is being transferred.(d)If the value of the unexhausted paper is greater

than the surplus, the Returning Officer shall transfer the sub-parcels of the unexhausted papers, and the value at which each paper shall be transferred shall be ascertained by dividing the surplus by the total number of unexhausted papers.(v)If the surplus of any candidates to be transferred arises from transferred as well as original votes, the Returning Officer shall re-examine all the papers in the sub-paragraph last transferred to the candidate, divide the unexhausted paper into sub-parcels, according to the next preferences recorded thereon and then deal with the sub-paragraph in the same manner as provided in the case of such paragraph referred to in sub-rule 4.(vi)The papers transferred to each candidate shall be added in the form of a sub-paragraph to the papers already belonging to such candidate.(vii)All papers in the paragraph or sub-paragraph of an elected candidate not transferred under this rule shall be set apart as finally dealt with.

43. Exclusion of candidates lowest on the poll.

- The Returning Officer conducting the election shall exclude from the poll the following : (i) If there are more candidates who have obtained more than the quota the candidate who cannot be declared elected under proviso (i) to Rule 41 of these rules, (ii) The candidates lowest in the Poll in the following order after all the surpluses have been transferred as provided in these rules with regard to transfer of surplus, and the number of candidates elected is less than the required number, and after the exclusion from the poll, if any, under sub-clause (i) of this rule, First such candidates as are advocates on a State Roll for less than 10 years, if the number of candidates who have been advocates on a State Roll for at least 10 years required by the Proviso to Sec. 3 (2) of the Act already declared elected is less than 10 in number. Next the other candidates. Illustrations At an election to the Bar Council if 30 is arrived at as the quota, at the end of a count, when there is no further surplus to be distributed, M and N are the contesting candidates. M (who has not been on the State Roll for at least 10 years get 150) and N (who has been on the State Roll for at least 13 years or more) gets 100. Only 9 candidates who have been advocates on State Roll for at least 10 years have already been declared elected. Hence N has to be excluded and the voting papers of M will be thereafter transferred as provided in these rules. If in the same case 10 candidates who have been advocates on a State Roll for at least 10 years had already been declared elected, N will be excluded. The Voting Papers of N will be transferred as provided in rule (ii). (i) The Returning Officer shall distribute the unexhausted papers of the candidates excluded under these rules among the continuing candidates according to the next preference recorded therein and all exhausted papers shall be set apart as finally dealt with. (ii) The papers containing original votes of an excluded candidate shall first be transferred, the transfer value of such paper being one hundred. (iii) The papers containing transferred votes of an excluded candidate shall then be transferred in the order of the transfers in which and at the value at which he obtained them. (iv) Each of such transfers shall be deemed to be a separate transfer, but not a separate count. (v) If, as a result of the transfer of paper, the value of the votes obtained by a candidate is equal to or greater than the quota, the counting then proceeding shall be completed, but no further papers shall be transferred to him. (vi) The process directed by this rule shall be repeated on the successive exclusions one after another of the candidates lowest on the poll until such seat is filled either by the election of a candidate with the quota or as otherwise provided in these rules. (vii) If at any time it becomes necessary to exclude a candidate and two or more candidates have the same value of votes and are the lowest on the Poll, regard shall be had to the original votes of each candidate and the candidate for their original votes are equal, the

candidate with the smallest value at the earliest count at which these candidate had unequal votes shall be excluded.(viii)If two or more candidates are lowest on the poll and each has the same value of votes at all counts the Returning Officer shall decide by lot which candidate shall be first excluded.(ix)If during a count, any candidate getting the quota or more has to be excluded by reason of rule 41 above, the transfer of his votes shall be deferred and made immediately after the other candidates having got the above quota in that count are declared and their votes transferred as provided for in these rules.

44. Transfer when to be discontinued.

- If as a result of the transfer of papers, the value of the votes obtained by a candidate is equal to or greater than the quota, the count then proceeding shall be completed but no further papers shall be transferred to him.

45. Filling the last vacancies.

(1)When at the end of any count, the number of continuing candidates is reduced to the number of seats remaining unfilled the continuing candidates shall be declared elected subject to the following:-If the total number of candidates so far declared elected from amongst the advocates on the State Roll for at least 10 years at the relevant date is less than 10, the requisite number of such candidates shall first be declared elected and only the balance from amongst other candidates shall be declared elected.(2)When at the end of any count only one seat remains unfilled and the value of the papers of some one candidate exceeds the total value of the papers of all the other continuing candidates together with any surplus not transferred, that candidate shall be declared elected. Such candidates shall not, however, be declared elected if he has been on the State Roll for less than 10 years and if the total number of candidates so far declared elected from amongst advocates on the State Roll for at least 10 years as provided in these rules, is less than 10 as aforesaid.(3)When at the end of any count only one seat remains unfilled and there are only 2 continuing candidates, and each of them has the same value of votes and no surplus papers can be transferred, the Returning Officer shall decide by lot which of them shall be excluded, and after excluding him in the manner aforesaid declare the other candidate to be elected :Provided that if the total number of candidates who have been on the State Roll for at least 10 years on the relevant date so far elected is less than the required number, then that candidate who will be on the State Roll for at least 10 years shall be declared elected and the other candidate shall be excluded.(4)In the case of any election to fill a vacancy amongst the members of the State Bar Council or while co-opting a member, the State Bar Council shall conform to the requirement of Section 3(2) of the Act and the principles laid down in these rules.(5)In the case of every election of member of a State Bar Council, the State Bar Council shall-(a)notify the minimum number of seats that should be filled up from amongst advocates who on the relevant date will be advocates on a State Roll for at least 10 year.(b)require every candidate to specify in his nomination paper the date of this enrolment and the period for which his name had been on the roll of one or more High Court under the Indian Bar Council Act, 1926, and the roll or rolls of State Bar Councils under the Advocates Act, 1961 with full particulars thereof.(c)indicate on the voting paper which of the candidates have been on a State Roll for at least 10 years as required.(6)For the purposes of computing the minimum period of 10 years provided for in the

proviso to Section 3(2) of the Act and these rules.(i)the period during which an advocate may have been on the roll of any other State Bar Council or on the roll of any High Court or High Courts under the Indian Bar Council Act, 1926 shall be taken into account, and(ii)the period shall be computed as on the last date notified for receiving the nominations for the election.

46. Fraction etc. to be disregarded.

- In carrying out of the provision of Rules 41 to 44 the Returning Officer shall disregard all fractions and ignore all preference recorded for candidates already elected or excluded from the poll.

47. Petition for re-counts.

- (i) Any candidate or in his absence his authorised representative may, at any time during the counting of votes, either before the commencement or after the transfer or completion of any of votes (whether surplus or otherwise), request the Returning Officer to re-examine and re-count the votes of all or any candidates (not being papers set aside at any previous transfer as finally dealt with), and the Returning Officer shall for with reexamine and re-count the same accordingly.(ii)The Returning Officer may in his discretion re-count the votes either once or more than once in any case in which he is not satisfied as to the accuracy of any previous count:Provided that nothing in this sub-rule shall make it obligatory on the Returning Officer to re-count the same votes more than once.

48. Determination of result and publication thereof.

- (i) Upon the completion of count, a list of the candidates elected to the Bar Council shall be prepared and signed by the Returning Officer and the list shall be submitted by him to the Advocate-General who shall certify the same by his signature.(ii)After such certification a copy of the list shall be published in the Official Gazette and a copy thereof shall be sent to the Advocate General and to each of the President of the Advocate Association, Bar Association and Lawyers Association, Patna High Court and other Bar Association, Advocates Association in the State of Bihar, for information.(iii)On the publication of the list in the Official Gazette, the persons whose names appear in the list shall be deemed to have been declared as elected to the Bar Council.

49. Disputes as to the validity of election.

(1)Any voter may contest the validity of the election of candidates declared to have been elected to the Bar Council by a petition signed by him and supported by an affidavit and delivered to the Secretary personally or sent by Registered Post so as to reach him within 16 days from the date of publication of the results of the election.(2)The petition shall be accompanied by a fee of Rs. 1000/- which shall be paid in cash or sent by money order. In case it is sent by M.O.; the M.O. receipt shall also be attached to the petition. The fee shall not be refundable.(3)Such petition shall include as respondent all the contesting candidates, and the petition shall be accompanied by as many copies as there are respondents.(4)All disputes arising under the above sub-rule shall be decided by a

Tribunal to be known as an Election Tribunal comprising 3 Advocates whose names are on the State Roll and who are of not less than 10 years standing.(5)The Election Tribunal shall be appointed by the Bar Council on or before the date on which the time of the election is fixed under Rule 4.(6)The Election Tribunal shall have all or any of the following powers:-(i)To dismiss a petition.(ii)To order re-count.(iii)To declare any candidate to have been duly elected on a re-count.(iv)To set aside the election of the candidate who either by himself or through his agent is guilty of corrupt practices.(v)In other cases to declare a vacancy to be filled up as a casual vacancy.(vi)To make an order as to costs.Explanation. - The vacancy arising under sub-rule (6)(iv) shall be filled up as a casual vacancy.

Corrupt PracticesThe following shall be deemed to be corrupt practice.(1)'Bribery' that is to say-(A)Any gift, offer or promise of any gratification to any person whomsoever with the object, directly or indirectly of inducing:-(a)a person to stand or to withdraw or not to withdraw from being a candidate at an election,(b)an elector to vote or refrain from voting at an election, or as reward to,(i)a person for having so stood or not stood, or for having withdrawn or not having withdrawn his candidature.(ii)an elector for having voted or refrained from voting.(B)The receipt of, agreement to receive, any gratification whether as a motive or a reward-(a)by a person for standing or not standing as, or for withdrawing or not withdrawing from being a candidate; or(b)by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature.For the purposes of this clause the term gratification is not restricted to pecuniary gratification or gratifications estimatable in money and includes all forms of entertainment and all forms of employment for reward.(2)Under influence, that is to say any direct or indirect interference or attempt to interfere with the free exercise of any electoral right including the issuing or sending of any appeal or manifesto for votes whether direct or indirect:Provided that a mere intimation of candidature with a bare request for a vote shall not amount to undue influence :And Provided further that a candidate or his agent may orally ask for votes from voters; but on the date of election such request shall not be made within a radius of 200 yards from the Polling Station. And a candidate may issue a written intimation to his Voters announcing his candidature and seek their votes or their first preference votes, which intimation shall not contain any other publicity or his eulogy. Such written intimation shall also not amount to undue influence.(3)The hiring or procuring, whether on payment or otherwise of any vehicle or vessel or the use of such vehicle or vessel for the free conveyance of any elector to or from any Polling Station.(7)The trial of an election petition shall as far as possible be governed by the Civil Procedure Code.(8)No petition shall lie on the ground that any Nomination Paper was wrongly rejected or the name of any voter was wrongly included in or omitted from the Electoral Roll or any error or irregularity which is not of substantial character.(9)The Voting Papers and other records relating to elections shall not be destroyed until the expiry of the time fixed for the filing of any petitions under clause 1 of this rule.(10)In case where a petition or petitions have been filed under clause 1, no such Voting Papers or records shall be destroyed till all the election petitions are finally disposed off.

50. Rules for filling up casual vacancy.

- (A) A casual vacancy among elected members of the Bar Council shall, be deemed to occur if a member:-(a)dies; or(b)resigns his office or appointed as Advocate General; or(c)is adjudged as an insolvent or lunatic; or(d)is suspended from practice; or(e)his name is removed from the roll of

Advocates of the Bar Council for any reason including transfer to the roll of another State Bar Council; or (f) his election is declared invalid by the Tribunal of Advocates constituted under rule 47; or (g) is declared by the Bar Council of which he is a member to have been absent without sufficient excuse for three consecutive meetings of the Bar Council. (B) Method of filling up casual vacancy. - Any casual vacancy in the Bar Council shall be filled-up by the remaining members of the Council at a meeting thereof provided that if the number of the members which have been on the roll for more than ten years is less than that required under the Proviso to Section 3(2) of the Act, the member co-opted shall be one who has been on the State Roll for more than ten years. (C) Filling up of casual vacancies. - To fill a casual vacancy amongst the elected members of the Council the remaining members of the Bar Council shall elect from amongst Advocates on the roll of the Bar Council of Bihar. (D) The Chairman shall declare the casual vacancy when occurs and shall forthwith direct the Secretary to notify it. (E) The Secretary shall notify to the members of the Bar Council as well as to the Bar Associations in the State about the vacancy or the vacancies and shall further specify the date before which the nomination has to be filed and the date of the scrutiny. (F) Every candidate shall be duly proposed by a member of the Council on the prescribed nomination form and the declaration of the candidate to serve the Bar Council shall be in the prescribed Form 'A'. (G) In case there is only one candidate such candidate shall be declared by the Chairman in conformity with Section 3(2) of the Act after scrutiny. (H) If there are more than one candidate the Election shall take place at the meeting of the Bar Council. (L) The Election shall be by ballot, and the Chairman shall in case of equality of votes, draw a lot then and there and shall declare the result accordingly : Provided that such elected member shall continue to be the member of the Bar Council only for the remaining term of the member in whose place he is elected. (J) The result of the election shall be published in the official gazette and Local Newspapers and sent to the Bar Associations of the State.

51. Rules for election of Chairman and Vice-Chairman:

[(Authentic copy of Rules not available). [Rules 50 & 51 were adopted by Bar Council of Bihar Vide Resolution No.5 (B) 24.1.71 and approved by BCI and communicated vide letter No. 632/71 dated 14.3.71] Forms The Bar Council of State of Bihar Form 'A' Nomination Paper [Under Rule 3(n)] For Election to the Bar Council of State of Bihar To, The Returning Officer, Bihar State Bar Council, Patna-800001 Sir, We nominate.....an advocate on the roll of the Bar Council of enrolled on practising at.....as a candidate for election to the Bar Council of to be held on.....(1) Name.....Address.....Number in the Electoral Roll.....Date.....Signature and (2) Name.....Address.....Number in the Electoral Roll.....Date.....Signature

I am willing to serve on the Bar Council, if elected.

Name and Address of the Candidate:

Signature of the Candidate

Number in the Electoral Roll.....

Date

Enrolled on.....

The Bar Council of State of Bihar Form 'B' List of candidates [Under Rule 13] The following is the list of candidates for the election to the Bar Council to be held on.....I. Candidates whose name have been on the State Roll for at least 10 years as required under the Proviso to Section 3(2)(b) of the

Act.

Name Date of Enrolment Ordinary Place of Practice

1 2 3

II. Candidates who have been on the State Roll for less than 10 years.

Name Date of Enrolment Ordinary Place of Practice

1 2 3

Returning Officer Bar Council of State of Bihar Date..... The Bar Council Of State Of Bihar Form 'C' Voting Paper [Under Rule 15] (Election Dated.....) Twenty Five Members have to be elected.

S. No. Name as in Roll Date of Enrolment Place and Address Mark of Voter

1 A 1.5.1965

2 B 4.5.1965

An asterisk mark indicates that the name of the candidate has been on the State Roll for at least ten years. Date..... Facsimile of Returning Officer. Election to the Bar Council of State of Bihar Form 'D' Ballot Papers Account [Under Rule 32(1)(g)]

1. Name of polling booth.

2. Total number of ballot papers supplied.

3. Total number of ballot papers used.

4. Total number of duplicate ballot papers supplied.

5. Total number of duplicate ballot papers used.

6. Date.

7. Signature of Polling Officer.

Date: Place: Signature of Presiding Officer