

The Bihar Swetambar Jain Religious Trusts Rules, 1955

BIHAR

India

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Rule

THE-BIHAR-SWETAMBAR-JAIN-RELIGIOUS-TRUSTS-RULES-1955 of 1955

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The Bihar Swetambar Jain Religious Trusts Rules, 1955Published vide Notification No. 199-D, dated 15th January, 1955No. 199-D, the 15th January, 1955. - In exercise of the powers conferred by Section 82 of the Bihar Hindu Religious Trusts Act, 1950 (Bihar Act I of 1951), the Governor of Bihar is pleased to make the following Rules, the same having been previously published as required by sub-section (1) of the said Section, namely:-

1. Short title.

- These Rules may be called "The Bihar Swetambar Jain Religious Trusts Rules, 1955".

2.

These Rules shall come into force on such date as the State Government may, by notification, appoint.

3.

In these Rules, unless there is anything repugnant in the subject or context:-(a)"the Act" means the Bihar Hindu Religious Trusts Act, 1950;(b)"Section" means a Section of the Act;(c)"Signature" includes thumb-mark in case of illiterate persons provided that the thumb-mark is duly attested by a literate person;(d)"Form" means a form appended to these Rules;(e)"Board" means the Bihar State Board of Swetambar Jain Religious(f)"President" means the President of the Bihar State Board of Swetambar Jain Religious Trusts;(g)"Returning Officer" includes any other officer to whom the

Returning Officer" has delegated in writing all or any of his functions under these Rules.

4.

(1)The election of members of the Bihar State Board of Swetambar Jain Religious Trusts under clauses (b) and (c) of sub-section (2) of Section 8 shall be by the method of postal voting and by means of single transferable vote.(2)(a)The electoral roll in respect of the election of the members under clause (b) of sub-section (2) of Section 8 shall be prepared in Hindi in Devanagari script by the President on the basis of the Register of trusts maintained by him under Section 34.(b)The electoral roll prepared under clause (a) shall contain the following particulars:-(i)the name of each elector,(ii)the postal address of each elector,(iii)the name of the father or spiritual Guru of each elector, and(iv)the name of the religious trusts of which the elector is a trustee.(c)The electoral roll in respect of election of the members under clause (c) of sub-section (2) of Section 8 shall be prepared in Hindi in Devanagari script by the President. The President shall publish a notice in at least two Hindi newspapers having circulation in the State, specifying the date, which shall not be less than 30 days from the date of publication of the notice, within which applications shall be received for enrolment of members in the electoral roll. No fee shall be charged for such applications and they may be presented in person to the office of the Board or sent by post.(d)The electoral roll shall be hung up at a conspicuous place in the office of the Board and information will be sent to all the registered offices of the trusts under Section 34.(e)Any objection regarding any mistake in the electoral roll may be filed in writing before the President within fifteen days of the date on which the roll is so hung up and if no objection is filed within this period electoral roll shall become final. Any objection filed after this period shall be rejected.(f)The President shall hold a summary enquiry into the objection, if any, filed under clause (c) and shall record his decision which shall be final.The electoral roll shall if necessary, be amended in accordance with the decision of the President and the roll shall thereafter become final.(g)The President shall, as soon as may, send at least two copies of the final electoral roll to the Returning Officer.

5.

The following procedure shall be followed in respect of election of members under Rule 4(1), of these Rules namely:-(a)The Returning Officer for the purpose of conducting election under Rule 4(1) shall be the President.(b)The Returning Officer shall appoint-(i)the last date for making nominations, which shall be a date not later than the fifteenth day nor earlier than the tenth day of the date on which the order appointing such last date is published in the office of the Returning Officer.(ii)the date for the scrutiny of nominations, which shall be a date not later than the fifth day after the last date for making nominations;(iii)the last date for the withdrawal of candidatures, which shall be the seventh day after the date for the scrutiny of nominations;(iv)the date or dates on which a poll shall, if necessary, be taken which or the first of which shall be a date not earlier than the thirtieth day after the last date for the withdrawal of candidatures; and(v)a further date for counting of votes which shall not be later than the seventh day after the date or the last date on which the poll is taken:Provided that if for some reasons the counting of votes is not completed on the date so fixed, the counting shall be continued on the following date or dates as the case may be, till it is completed.(c)The dates appointed under clause (b) shall be published in the office of the

Returning Officer, in the office of the Board and in at least one issue of one English and one Hindi Daily having circulation in the State and information will be sent about this to all the registered offices of the Trust, registered under Section 34 of the Act.(d)(i)On or before the date appointed under clause (b)(i) for making nominations, each candidate shall, either in person or by his proposer or seconder, between the hours of eleven O'clock in the forenoon and three O'clock in the afternoon deliver to the Returning Officer in his office a nomination paper completed in Form III subscribed by the candidate himself as assenting to the nomination and by two persons referred to in the clause (ii) as proposer and seconder.(ii)Any person whose name is registered in the electoral roll of the constituency may subscribe as proposer or seconder of a nomination paper.(iii)Every nomination paper shall be accompanied by a declaration in writing subscribed by the candidate himself that he is willing to serve on the Board if elected, and that he is a Hindu and no candidate shall be deemed to be duly nominated, unless such declaration is delivered along with the nomination paper.(iv)Any nomination paper received after three O'clock in the afternoon on the date appointed for the nomination of candidates shall be rejected.(v)The Returning Officer, on receiving a paper under clause (d) (i) shall inform the person delivering the same of the date, hour and place appointed for scrutiny of nominations and shall as soon as may be thereafter cause to be affixed in some conspicuous place in his office a notice of the nomination paper both of the candidate and of the persons who have subscribed the nomination paper as proposer and seconder.(vi)Any candidate may withdraw his candidature by notice in writing subscribed by him delivered to the Returning Officer before three O'clock in the afternoon on the date appointed for the withdrawal of candidatures. A candidate who has so withdrawn his candidature shall not be allowed to cancel the withdrawal or to be nominated as a candidate for the same election.(vii)The Returning Officer on receiving a notice of withdrawal under clause (d)(vi) shall, as soon as may be, cause a notice of withdrawal to be affixed in some conspicuous place in his office.(viii)At the time and place fixed by the Returning Officer for scrutiny of nominations, the candidates, and one proposer and one seconder of each candidates, and no other person, may attend, and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates which may have been delivered within the time and in the manner laid down in these Rules.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 enquiry, if any, as he thinks necessary, refuse any nomination paper which involves infringement of any provision of these Rules. The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and such decision shall be final.(ix)On completion of scrutiny of nominations and after the expiry of the period within which the candidature may be withdrawn, the Returning Officer shall forthwith prepare list of duly nominated candidates in Hindi in Devanagiri script arranged in alphabetical order and cause it to be affixed in some conspicuous place in his office.(x)If there are only as many validly nominated candidates who have not withdrawn their candidatures, as have to be elected they shall be declared to have been elected.(xi)If the number of validly nominated candidates is more than the number to be elected, a poll shall be taken.(e)Not less than fifteen days before the date appointed for the poll, the Returning Officer shall send by registered post a ballot paper in Form IV to each elector.(f)(i)After recording his vote, the elector shall send the ballot paper by registered post to the Returning Officer so as to reach him not later than 5 O'clock in the afternoon of the date appointed for the poll. Ballot papers received after that hour shall be rejected:Provided that the elector may, at his own option instead of sending the ballot

paper by post deliver it to the Returning Officer in person up to the aforesaid time.(ii)No election shall be invalidated by reason that the ballot paper duly sent to an elector under these Rules has not been received by him.(g)Votes shall be counted by or under the supervision of the Returning Officer, and each candidate or one representative of each candidate authorised in writing by the candidate shall have a right to be present at the time of counting.(h)(i)The candidate receiving the highest number of votes (calculated according to the single transferable voting system) shall be declared to have been duly elected.(ii)When an equality of votes is found to exist between any of the candidates and the addition of one vote will entitle any of the candidates to be declared elected, the determination of the person to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Returning Officer in such manner as he may determine.(iii)The Returning Officer shall report the names of the elected candidates to the State Government for publication in the Bihar Gazette as soon as the result of the election is declared.(i)An election petition against any candidate declared elected under the preceding clause may be presented to the Returning Officer by any candidate or elector within fourteen days from the date on which the result of the election was declared. A petition presented after the expiry of the said period shall be rejected.(j)If the petition is not rejected under clause (i), an enquiry shall be held in respect of the petition by an authority specially appointed for the purpose by the State Government.(k)The election of the returned candidate shall be void. If the election has been procured or induced or the result of the elections has been materially affected by a corrupt practice, or the result of the election has been materially affected by the improper acceptance or refusal of any nomination or by the improper reception or refusal of a vote, or the reception of any vote, which is void, or by non-compliance with provisions of the Act or Rules made thereunder.(l)For the purpose of these Rules the expression "corrupt practice" shall have the same meaning as it has in connection with the election of State Legislature.(m)The authority appointed under clause (j) shall decide the election petition and his decision will be final.

6.

(1)The members of the Board, or a Committee may undertake journeys only for performing specific duties assigned to them by the President or by a regular resolution of the Board or the Committee as the case may be.(2)The President and the members of the Board or a Committee will, for the purpose of travelling and other allowances, be deemed to be officers of second grade within the meaning of the relevant provisions of the Bihar Travelling Allowance Rules.(3)The President and the members of the Board or a Committee if in station at the time of a meeting and not coming from outside will not be entitled to travelling allowance but will be entitled to draw a conveyance allowance of Rs. 2/- per meeting.

7.

The record referred to in clause (a) of sub-section (2) of Section 28 shall be prepared and maintained in the manner set forth in Form I.

8.

The cost referred to in clause (r) of sub-section (2) of Section 28 shall be recoverable by the Board as arrear of land revenue. The requisition for recovery of such dues shall be issued over the signature of the President.

9.

Every notice under sub-section (1) of Section 30 shall be issued by registered post with acknowledgement due or delivered by hand against a written receipt duly signed by the addressee. In case of refusal by the addressee to grant such receipt, the notice will be hung up in a conspicuous place of the residence of the addressee in presence of two witnesses.

10.

Any application filed under sub-section (1) of Section 43 shall be duly signed and verified and shall contain details of the property concerned sufficient to identify it. The form of such verification shall be the same as laid down in the Code of Civil Procedure, 1908 for verifying a plaint.

11.

The general notice under sub-section (2) of Section 43 shall be published in at least one issue of an English and a Hindi newspaper printed and published in the State of Bihar or having its circulation in the State. If the District Judge thinks desirable, he may order its publication in other newspapers having circulation in Bihar also. The notice shall also be published on the notice board of District Judge concerned.

12.

Application for transfer under sub-section (1) of Section 44 shall be made in Form II.

13.

The statement referred to in sub-sections (1) and (2) of Section 59 shall be furnished in Form I and the particulars to be contained therein shall be those indicated in each item of this form.

14.

The authority to whom a trustee may appeal under sub-section (1) of Section 65 shall be the District Judge of the district in which the whole or any part of the subject matter of the religious trust concerned is situated.

15.

Fees under clause (a) of sub-section (2) of Section 70 shall be assessed by the President in a manner he deems best in the circumstances: Provided that the President shall afford an opportunity to the assessee for representing his case before him either personally or through an agent duly authorised in writing in this behalf and shall look into documentary evidence if any produced by or on behalf of the assessee in this connection.

16.

An appeal under clause (b) of sub-section (2) of Section 70 from an order of assessment shall lie to the District Judge of the district in which the whole or any part of the subject matter of the religious trust concerned is situated.

17.

The Board shall open an account in the Government Treasury or State Bank of India in the name of President and the fees payable under sub-section (3) of Section 70 shall be paid in that account by means of a challan or by remittance by Postal Money Order addressed to the Treasury Officer in case the account is opened in the Government Treasury or shall be deposited with the President or paid by remittance by postal money order addressed to the President in case the account is opened in the State Bank of India. Form I [Vide Rules 7 and 13]

1. Serial No.

2. Name of the Trust.

3. Name of the Village, RO. P.S. Sub-division and district in which it is situated (also the nearest Railway Station)

4. Names of minor Maths or temples appurtenant the main Math or temple and their situation.

5. Name of Trustees and Managers with their addresses, date of appointment and termination of office.

6. Particulars as to whether the institution is administered under a scheme settled by the court or by Trustees without any such control and particulars as to any provision in any document or custom, if any, regarding succession to the office of the Trustees or Managers.

7. Particulars of documents about the origin or creation of Trust.

8. Name of Founder or Donor, if known.

9. Objects of the Trust.

10. Details of properties both movable and immovable held by the Trust.

11. Details of properties both movable and immovable sold, transferred or settled during the last financial year.

12. Annual income. This should be of the preceding financial year and should be shown as below):-

(a)Income from all sources; and(b)Net income after deducting the amount payable as revenue rent, taxes, local and other cesses and cost of management at 12½ percent.]

13. Annual Expenditure-

(a)On remuneration to Trustees and Managers.(b)On establishment and staff.(c)On religious objects.(d)On charitable objects.(e)On miscellaneous items.

14. Particulars as to important customs usages followed.

15. Particulars of encumbrances on the Trust properties.

16. Any other information of importance.

17. Remarks.

Form II[Vide Rule 12]To,The PresidentSwetambar Jain Board of Religious Trust.Sir,In pursuance of the provision of sub-section (1) of Section 44 of the Bihar Hindu Religious Trusts Act, 1950. I hereby apply for permission to transfer the immovable property herein described in the manner indicated;

Extract from the trust deed

Property to be transferred

Particulars of transfer

Conditions and terms of transfer

Date.....Signature of the TrusteeForm III[Vide Rule 5]

1. Name of the candidate.

2. Father's Name.
3. Age.
4. Name of the proposer(1)
5. Signature of the proposer(1)
6. Name of the seconder(1)
7. Signature of the seconder(1)

Declaration by the candidate I, hereby declare that I agree to this nomination and that I am a Hindu and eligible for election. Signature of Candidate Certificate of Delivery The nomination paper was delivered to me at my office at a.m./p.m. on the 200..... Returning Officer. Certificate of Scrutiny I have scrutinised the eligibility of the candidate, the proposer and the seconder and find that they are, respectively qualified to stand for election and to propose and second the nomination. Returning Officer Form IV [Vide Rule 5] Serial No..... Electors name..... I..... (name in full) declare that I am member of the and that I wish to vote for the candidates in order of preference indicated against each. Signature or thumb impression of elector.

Name of candidates Address- Order of preference*

1.2.3.4.5.