

U.P. Kshettra Panchayats and Zila Panchayats (Removal of Pramukhs and Up-Pramukhs, Adhyakshas and Up-Adhyakshas) Enquiry Rules, 1997

UTTAR PRADESH

India

U.P. Kshettra Panchayats and Zila Panchayats (Removal of Pramukhs and Up-Pramukhs, Adhyakshas and Up-Adhyakshas) Enquiry Rules, 1997

Rule

U-P-KSHETTRA-PANCHAYATS-AND-ZILA-PANCHAYATS-REMOVAL-C of 1997

- Published on 4 March 1997
- Commenced on 4 March 1997
- [This is the version of this document from 4 March 1997.]
- [Note: The original publication document is not available and this content could not be verified.]

U.P. Kshettra Panchayats and Zila Panchayats (Removal of Pramukhs and Up-Pramukhs, Adhyakshas and Up-Adhyakshas) Enquiry Rules, 1997Published vide Notification No. 1114/33-2-97-16-G-95, dated 4th March, 1997, published in the U.P. Gazette (Extraordinary), Part 4, Section (Kha), dated 4th March, 1997In exercise of the powers under Section 237 read with Section 16 and Section 29 of the Uttar Pradesh Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961 (U.P. Act No. 33 of 1961), the Governor is pleased to make the following rules :

1. Short title and commencement.

(1)These rules may be called the Uttar Pradesh Kshettra Panchayats and Zila Panchayats (Removal of Pramukhs and Up-Pramukhs, Adhyakshas and Up-Aadhyakshas) Enquiry Rules, 1997.(2)They shall come into force from the date of their publication in the Gazette.

2. Definitions.

- In these rules, unless the context otherwise requires,-(a)"Adhiniyam" means the Uttar Pradesh Kshettra Panchayat and Zila Panchayats Adhiniyam, 1961;(b)"Adhyaksha" , "Upadhyaksha",

"Pramukh" and "Up-Pramukh" shall respectively mean the Adhyaksha, and the Upadhyaksha of the Zila Panchayat and the Pramukh and any of the two Up-Pramukhs of the Kshettra Panchayat;(c)"Commissioner" means the Commissioner of the revenue division exercising jurisdiction in the district;(d)"Enquiry Officer" means an officer appointed by the State Government under Rule 5 to conduct an enquiry against a Pramukh or an Up-Pramukh under Section 16 or against an Adhyaksha or an Upadhyaksha under Section 20;(e)"Section" means Section of the Adhiniyam.

3. Procedure relating to complaints.

(1)Any person making a complaint against a Pramukh, Up-Pramukh, Adhyaksha or Upadhyaksha may send his complaint to the Secretary to the State Government in the Panchayati Raj Department, Vidhan Bhawan, Lucknow.(2)Every complaint referred to in sub-rule (1) shall be accompanied by the complainant's own affidavit in support thereof and also affidavits of all persons from whom he claims to have received information of fact relating to the accusation, verified before a notary, together with all documents in his possession or power pertaining to the accusation.(3)Every complaint and affidavit under this rule as well as any schedule or annexure thereto shall be verified in the manner laid down in the Code of Civil Procedure, 1908, for the verification of pleadings and affidavit respectively.(4)Not less than three copies of the complaint as well as of each of its annexures shall be submitted by the complainant.(5)A complaint which does not comply with any of the foregoing provisions shall not be entertained.

4. Preliminary enquiry.

(1)The State Government may, on the receipt of a complaint referred to in Rule 3, or otherwise appoint an officer not below the rank of an Additional District Magistrate in the case of a Pramukh or Up-Pramukh and District. Magistrate in the case of an Adhyaksha or Upadhyaksha to conduct a preliminary enquiry with a view to finding out if there is a prima facie case for a formal enquiry in the matter.(2)The officer appointed under sub-rule (1) shall conduct the preliminary enquiry as expeditiously as possible and submit his report to the State Government within a fortnight of his having been so appointed.

5. Enquiry Officer.

- Where the State Government is of the opinion, on the basis of the report referred to in sub-rule (2) of Rule 4, that an enquiry should be held against a Pramukh or Up-Pramukh under Section 16 or against an Adhyaksha or Upadhyaksha under Section 29, it shall, by an order, appoint an officer to hold the enquiry, who shall not be below the rank of District Magistrate in the case of an enquiry under Section 16, and not below the rank of a Commissioner in the case of an enquiry under Section 29.

6. Procedure for the enquiry.

(1)The substance of the imputations, and a copy of the complaint referred to in Rule 3, if any, shall be forwarded to the Enquiry Officer by the State Government.(2)The Enquiry Officer shall draw up-(a)the substance of the imputations into definite and distinct Articles of charge; and(b)a statement of the imputations in support of each Article of charge, which shall contain a statement of all relevant facts and a list of documents by which, and a list of witnesses by whom, the Articles of charge are proposed to be sustained.(3)The Enquiry Officer shall deliver or cause to be delivered to the person against whom he is to hold the enquiry, a copy of the Articles of charge, the statement of the imputations and a list of documents and witnesses by which each Article of charge is proposed to be sustained and shall require that person by a notice in writing, to submit, within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person, and to appear in person before him on such day and at such time as may be specified.(4)On receipt of the written statement of defence, the Enquiry Officer shall enquire into such of the Articles of charges as are not admitted, and where all the Articles of charges as are not admitted, and where all the Articles of charges have been admitted in the written statement of defence, the Enquiry Officer shall record his findings on each charge after taking such evidence as he may think fit.(5)If the person who has not admitted any of the Articles of charge in his written statement of defence appears before the Enquiry Officer, he shall ask him whether he is guilty or has any defence to make and if he pleads guilty to any of the Articles of charge, the Enquiry Officer shall record the plea, sign the record and obtain the signature of that person thereon, and return a finding of guilt in respect of those charges.(6)If the person fails to appear within the specified time or refuses or omits to plead, the Enquiry Officer shall take the evidence and if there is a complainant, require him to produce the evidence by which he proposes to prove the Articles of charge, and shall adjourn the case to a later date not exceeding thirty days, after recording an order that the said person may, for the purpose of preparing his defence-(a)inspect within five days of the order or within such further time not exceeding five days as the Enquiry Officer may allow, the documents specified in the list referred to in sub-rule (2);(b)submit a list of witnesses to be examined on his behalf;(c)give a notice within ten days of the order or within such further time not exceeding ten days as the Enquiry Officer may allow, for the discovery or production of any documents that are relevant to the enquiry and are in the possession of the State Government, but not mentioned in the list referred to in sub-rule (2).(7)The person against whom the enquiry is being held may take the assistance of any other person to present the case on his behalf, and the Enquiry Officer may appoint any person as a Presenting Officer to assist him in conducting the enquiry :Provided that a legal practitioner shall not be engaged or appointed under this sub-rule.(8)If the person applies orally or in writing for the supply of copies of the statements of witnesses mentioned in the list referred to in sub-rule (2), the Enquiry Officer shall furnish him with such copies as early as possible, and . in any case, not later than three days before the commencement of the examination of the witnesses by whom any of the Articles of charge is proposed to be proved.(9)The Enquiry Officer shall, on receipt of the notice for the discovery or production of documents, forward the same or copies thereof to the authority in whose custody or possession the documents are being kept, with a requisition for the production of the documents by such date as may be specified in such requisition :Provided that the Enquiry Officer may, for reasons to be recorded in writing, refuse to requisition such of the documents as are, in his opinion, not relevant to the case.(10)On receipt of the requisition referred to in sub-rule

(a), every authority having the custody or possession of the requisitioned documents shall produce the same before the Enquiry Officer :Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded in writing that the production of all or any of such documents would be against the public interest or security of the State, it shall inform the Enquiry Officer accordingly and the Enquiry Officer shall, on being so informed, communicate the information to the person against whom the enquiry is being held and withdraw the requisition made by him for the production or discovery of documents.(11)On the date fixed for the enquiry, the oral and documentary evidence by which the Articles of charge are proposed to be proved shall be produced and the witnesses shall be examined by the Enquiry Officer by or on behalf of the complainant, if there is one, and may be cross-examined by or on behalf of the person against whom the enquiry is being held. The witnesses may be re-examined by the Enquiry Officer or the complainant, as the case may be, on any point on which they have been cross-examined, but not on any new matter, without the leave of the Enquiry Officer.(12)The Enquiry Officer may allow production of evidence not included in the list given to the person against whom the enquiry is being held, or may itself call for new evidence or recall and re-examine any witness and in such case the said person shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and an adjournment of the enquiry for three clear days before the production of such evidence, exclusive of the day of adjournment and the day to which the enquiry is adjourned. The Enquiry Officer shall give the said person an opportunity of inspecting such documents before they are taken on the record. The Enquiry Officer may also allow the said person to produce new evidence, if he is of the opinion that the production of such evidence is necessary in the interest of justice.Note. - New evidence shall not be permitted or called for or any witness shall not be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally.(13)When the case for proving the Articles of charge against the person against whom the enquiry is being held, is closed, the said person shall be required to state his defence orally or in writings as he may prefer. If the defence is made orally it shall be recorded, and the said person shall be required to sign the record. In either case, a copy of the statement of defence shall be given to the complainant, if any.(14)The evidence on behalf of the person against whom the enquiry is being held shall then be produced. The said person may examine himself in his own behalf if he so prefers. The witnesses produced by the said person shall then be examined and shall be liable to cross-examination, re-examination and examination by the Enquiry Officer according to the provisions applicable to the witnesses for proving the Articles of charge.(15)The Enquiry Officer may, after the person against whom the enquiry is being held closed his case, and shall, if the said person has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling him to explain any circumstances appearing in the evidence against him.(16)The Enquiry Officer may, after the completion of the production of evidence, hear the complainant, if any, and the person against whom the enquiry is being held, or permit them, or him, as the case may be, to file written briefs of their respective cases.(17)If the person to whom a copy of the Articles of charge has been delivered does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the Enquiry Officer or otherwise fails or refuses to comply with the provisions of this rule, the Enquiry Officer may hold the enquiry ex parte.(18)Whenever any Enquiry Officer, after having heard and recorded the whole or any part of the evidence in an enquiry, ceases to exercise jurisdiction therein and is succeeded by another Enquiry Officer, the Enquiry Officer so

succeeding may act on the evidence so recorded by his predecessor or partly recorded by himself :Provided that if the succeeding Enquiry Officer is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice he may recall, examine, cross-examine and re-examine any such witness as hereinbefore provided.

7. Report of the Enquiry Officer.

- After the conclusion of the enquiry, the Enquiry Officer shall prepare a report which shall contain-(a)The Articles of charge and the statement of the imputations.(b)The defence of the person against, whom the enquiry has been held.(c)The assessment of the evidence in respect of each Article of charge.(d)The findings on each Article of charge and reasons therefor.Explanation. - If in the opinion of the Enquiry Officer the proceedings of the enquiry establish any Article of charge different from the original Articles of charge, he may record his findings on such Article of charge :Provided that the findings on such Article of charge shall not be recorded unless the person against whom the enquiry has been held has either admitted the facts on which such Article of charge is based or has had a reasonable opportunity of defending himself against such Article of charge.

8. Submitting the report to the Government.

- The Enquiry Officer shall forward to the State Government the Records of the enquiry which shall include-(a)the report prepared by him under Rule 6;(b)the written statement of defence, if any, of the person against whom the enquiry has been held;(c)the oral and documentary evidence produced during the course of the enquiry;(d)written briefs, if any, filled during the course of the enquiry; and(e)the orders, if any, made by the State Government and the Enquiry Officer in regard to the enquiry.