

Andhra Pradesh Farmers Management of Irrigation Systems (Election Tribunals in Respect of Water Users Associations, Distributory Committees and Project Committees) Rules, 1997

ANDHRA PRADESH

India

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Rule

ANDHRA-PRADESH-FARMERS-MANAGEMENT-OF-IRRIGATION-SYSTEMS RULES, 1997

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Andhra Pradesh Farmers Management of Irrigation Systems (Election Tribunals in Respect of Water Users Associations, Distributory Committees and Project Committees) Rules, 1997 In exercise of the powers conferred by Section 43 reads with Sections 4, 6 and 8 of the Andhra Pradesh Farmer's Management of Irrigation Systems Act, 1997, the Governor of Andhra Pradesh hereby makes the following rules for the settlement of election disputes in respect of Water Users Associations, Distributory Committees and Project Committees; namely :-

Part 1 – Preliminary

1. Short title, commencement and extent.

(1) These rules may be called the Andhra Pradesh Farmer's Management of Irrigation Systems (Election Tribunals in respect of Water Users Associations, Distributory Committees and Project Committees) Rules, 1997. (2) These rules shall come into force at once. (3) These rules shall apply to all Water Users Associations, Distributory Committees - and Project Committees in the State.

2. Definitions.

- In these rules unless the context otherwise requires: (1) "Act" means the Andhra Pradesh Farmers' Management of Irrigation Systems Act, 1997. (2) "Competent Authority" means the officer appointed under Section 21 of the Act. (3) "District Munsif, Subordinate Judge" and "District Judge" mean the District Munsif, the Subordinate Judge and District Judge appointed under the Andhra Pradesh Civil Courts Act, 1972. (4) "Election Authority" means the Commissioner of the Command Area Development Authority, or any other Officer having jurisdiction specified in Rule 1 of the Election Manual appended to the Andhra Pradesh Farmers' Management of Irrigation Systems Rules, 1997. (5) "Rules" and the "Election Manual" shall mean the Andhra Pradesh Farmers' Management of Irrigation Systems Rules, 1997 and the Election Manual appended thereto respectively. (6) The words and expressions used but not defined in these rules shall have the respective meanings assigned to them in the Act.

Part 2 – Part

3. Settlement of Election disputes; and limitation for presentation of Election Petition.

(1) Save as otherwise provided, no election held under the Act, whether of a member or President of the Managing Committee of a Water Users Association, a member or President of a Managing Committee of a Distributory Committee, or of a member or Chairman of the Managing Committee of the Project Committee shall be called in question except by an election petition presented in accordance with these rules to the Election Tribunal as defined in sub-rule (2) by any candidate or elector against the candidate who has been declared to have been duly elected (herein after called the returned candidate or if there are two or more returned candidates against all or any such candidates. (2) The Election Tribunal shall be : (a) the District Munsif, if there is more than one District Munsif, the Principal District Munsif, having territorial Jurisdiction over the place in which the office of the water users association is located, in respect of the election of members of the managing committee and president of the water users associations. (b) the Sub-ordinate Judge or if there is more than one Subordinate Judge, the Principal Sub-ordinate Judge, having territorial Jurisdiction over the place in which the office of the distributory committee is located in respect of the election disputes and matters pertaining to the election of members of the managing committee and president of the distributory committee. (c) the Principal District Judge having territorial jurisdiction over the place in which the office of the project committee is located in respect of the election disputes and matters pertaining to the election of members of the Managing Committee and Chairman of the Project Committee. (3) An Election Tribunal exercising Jurisdiction under these rules shall be deemed to exercise such jurisdiction as a personal designate and not in his capacity as a Judge. (4) The election petition shall be presented within thirty days from the date of the declaration of the result of the election: Provided that for settlement of disputes arising out of the elections conducted under the Act prior to the commencement of these rules an election petition may be filed before the election Tribunal specified in sub-rule (2) having jurisdiction within thirty days from the date of commencement of these rules. Explanation. - (i) If the Election Tribunal is

closed on the last day of the thirty days aforesaid the petition may be presented to the Election Tribunal immediately on the next working day.(ii)The petition shall contain a statement in concise form, the material facts on which the petitioner relies and the particulars of any election offences which he alleges and shall, where necessary, be divided into paragraphs numbered consecutively. It shall be signed by the petitioner and verified in the manner prescribed for the verification of pleadings in the Code of Civil Procedure, 1908.

4. Joinder of Parties.

- (i) If the irregularities alleged in the petition are likely to affect the validity of the election of more than one returned candidate, the petitioner shall join as respondents to his petition all such returned candidates.(ii)The petitioner may, if he so desires, in addition to calling in question the election of the returned candidates or of all or any of the returned candidates, as the case may be, claim a declaration that he himself or any other candidate has been duly elected, in which case he shall join as respondents to his petition all other candidates who were nominated for the election but who had not withdrawn before the polling.

5. Security Deposit.

- (i) At the time of presentation of the petition, the petitioner shall deposit with it in cash Rs. 500/- (Rupees Five hundred only) as security for the costs of the same.Explanation. - (i) Where the election of more than one returned candidate is called in question a separate deposit shall be made in respect of each such returned candidate.(ii)If the provisions of sub-rule (1) are not complied with, the Election Tribunal shall dismiss the petition.(iii)Upon compliance with the provisions of sub-rule (1), the Election Tribunal shall proceed to enquire into the petition.

6. Copies of the petition to be served.

- The Election Tribunal shall, as soon as may be, cause a copy of the petition to be served on each respondent and on the concerned Election Authority. Copies shall also be affixed to the notice board of the Election Tribunal and of the Office of the Water Users Association, the Distributory Committee the Project Committee concerned. The or Election Tribunal may also call on the petitioner to execute a bond for such amount and with such sureties as he may require for the payment of any further costs. At any time within fourteen days after such service or affixing, any other candidate shall be entitled to be joined as a respondent on furnishing such security as may be demanded by the Election Tribunal.

7. Election Tribunal to enquire.

- (i) Every election petition shall be enquired into by the Election Tribunal, as early as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) for the trial of suits:Provided that it shall only be necessary for the Election Tribunal to make a memorandum of the substance of evidence of any witness examined by him.(ii)The Election

Tribunal shall have the powers which are vested in a Court under the Code of Civil Procedure, 1908 when trying a suit, in respect of the following matters; namely:(a)discovery and inspection;(b)enforcing the attendance of witnesses and requiring the deposit of their expenses;(c)compelling the production of documents;(d)examining witnesses on oath;(e)reception of evidence taken on affidavit; and(f)issuing commissions for examination of witnesses, and summons to examine witnesses suo moto whose evidence appears to be material.

8. Withdrawal of Election Petition.

- (i) No election petition shall be withdrawn without the leave of the Election Tribunal.(ii)If there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.(iii)When an application for withdrawal is made, notice thereof fixing a date for hearing of the application shall be given to all other parties to the petition and shall be published in the manner specified in Rule 6.(iv)No application for withdrawal shall be granted if the Election Tribunal is of the opinion that such application has been induced by any bargain or consideration which, they consider, ought not to be allowed.(v)If the application is granted:(a)the petitioner shall be ordered to pay the costs of the respondents incurred or such portion thereof as the Election Tribunal may think fit; and(b)Such withdrawal shall be communicated to the competent authority concerned with the water users association, distributory committee or the project committee, as the case may be, and to the Election Authority concerned by the Election Tribunal.

9. Execution of the order of costs.

- Any order made by the Election Tribunal as to the costs of the enquiry may be executed in the same manner as if it was a case of arrears of land revenue; and be recovered in accordance with the provisions of the Andhra Pradesh Revenue Recovery Act, 1864 (Act II of 1864) and be remitted to the party in whose favour it is ordered by the Election Tribunal.

10. Abatement of election petition.

- An election petition shall abate on the death of a sole petitioner or of the survivor of several petitioners; and such abatement shall be communicated to the competent authority of water users association, the distributory committee or the project committee, as the case may be, and the concerned Election Authority by the Election Tribunal.

11. Returned Candidate to prove.

- Where at, an enquiry into an election petition any candidate, other than a Returned candidate, claims the seat for himself, the returned candidate or candidates or any other party to the proceedings may give evidence to prove that the election of such candidate would have been void if he had been a Returned candidate and a petition has been presented complaining of his election.

12. Election Offences.

(1) If in the opinion of the Election Tribunal; - (a) that on the date of his election, a Returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Act; or (b) that any election offence as defined in Chapter IX-A of the Indian Penal Code, 1860 has been committed by a Returned candidate or his election agent or by any other person with consent of the Returned Candidate or his election agent; or (c) that any nomination has been improperly rejected; or (d) that the result of the election, in so far as it concerns a Returned Candidate has been materially affected: (i) by the improper acceptance of any nomination; or (ii) by any election offence committed in the interest of the returned Candidate by an agent other than his election agent, with the connivance of the Returned Candidate; or (iii) by the improper reception, refusal or rejection of any vote, or the reception of any vote which is void; or (iv) by any non compliance with the provisions of the Act, or any rules or orders made under the Act; the Election Tribunal shall declare the election of the Returned Candidate to be void. (2) If the Election Tribunal holds the returned Candidate guilty under Clause (1)(b) and Clause 1(d) (ii) of this rule, the Election Tribunal shall in addition to declaring the election of the returned Candidate as void, shall also declare that the Returned Candidate shall be disqualified to contest in any elections under this Act, for a period of six years from the date of the order.

13. Petitioner to prove his election.

- If any person who has lodged a 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. (a) that in fact, the petitioner or such other candidate, received the majority of the valid votes, or (b) that, but for the votes obtained by the returned candidate, by election offences, the petitioner or such other candidate would have obtained a majority of the valid votes; the Election 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.

14. Disqualification for voting.

- Any person disqualified by decision of the Election Tribunal under rule 12 (2) for any period shall be disqualified for the same period for voting any elections under the Act.

15. Declaration by the Tribunal.

- (i) At the conclusion of the inquiry, the Election Tribunal shall declare whether the election of the Returned Candidate or Candidates is void under rules 12 and 13. (ii) If he declares the election of the Returned Candidate or Candidates void he shall further pass an order either; (a) declaring that any other party to the petition who has under these rules claimed the seat has been duly elected; or (b) order a fresh election. (iii) The order of the Election Tribunal under sub-rules (i) and (ii) shall be final. (iv) A copy of every order under sub-rule (i) or sub-rule (ii) shall be communicated to the

competent authority of the water users association, the distributory committee and the project committee as the case may be, and the concerned Election Authority.