

# Andhra Pradesh Municipalities (Decision of Election Disputes) Rules, 1967

ANDHRA PRADESH

India

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### Rule

### ANDHRA-PRADESH-MUNICIPALITIES-DECISION-OF-ELECTION-DISPUTES-RULES-1967

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Andhra Pradesh Municipalities (Decision of Election Disputes) Rules, 1967 In exercise of the powers conferred by clause (b) of sub-section (1) of Section 326 of Andhra Pradesh Municipalities Act, 1965 (Andhra Pradesh Act 6 of 1965), the Governor of Andhra Pradesh hereby makes the following rules for the decision of election disputes, the same having been previously published at pages 55-60 of Rules Supplement to Part 1 of Extraordinary issue of the Andhra Pradesh Gazette, dated 7th April, 1965 as required under clauses (a) and (b) of sub-section (1) of Section 327 of the said Act.

### 1.

(1) Save as otherwise provided, no election held under the Andhra Pradesh Municipalities Act, 1965 whether of a Councillor, Chairman or Vice-Chairman, shall be called in question except by an election petition presented in accordance with these rules to an Election Tribunal as defined by sub-rule (2) by any candidate or elector against the candidate who has been declared to have been duly elected (hereinafter called the returned candidate) or if there are two or more returned candidates against all to any of such candidates. (2) The Election Tribunal shall be - (a) the Subordinate Judge having territorial jurisdiction over the Municipal area or if there is more than one such Subordinate Judge, the Principal Subordinate Judge, or (b) If there is no such Subordinate Judge, the District Judge having such jurisdiction; Provided that an election petition may, on application be transferred - (i) if presented to a Subordinate Judge under clause (a) by the District Judge, concerned to another Subordinate Judge within his jurisdiction or to his own file; and (ii) if presented to a District Judge under clause (b) by the High Court to another District Judge or to Subordinate Judge in another district. (3) Where an election petition is transferred to any

subordinate or District Judge under the foregoing proviso, such judge shall be deemed to be the Election Tribunal.(4)An Election Tribunal exercising jurisdiction under these rules shall be deemed to exercise such jurisdiction as a person a designata and not in his capacity as a judge of the Court over which he preside.

## **2.**

(1)The petition shall presented within fifteen days of the date of the declaration of the results of the election.Explanation. - If the Court of the Subordinate Judge or District Judge who is an Election Tribunal is closed on the last of the Fifteenth day referred to in this sub-rule, the petition may be presented to the Election Tribunal on the next day of the opening of such Court.(2)The petition shall contain a statement in concise form of the material facts on which the petitioner relies and the particulars of any corrupt practice 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 pleading under Code of Civil Procedure, 1908.

## **3.**

(1)If the irregularities alleged in the petition are likely to affect validity of the election of more than one returned candidate, the petitioner shall join as respondents to his petition all such returned candidates.(2)A petitioner may claim any of the following declarations:- (a)that the election of the returned candidate is void;(b)that the election of the returned candidate is void and that he himself or any other candidate has been duly elected and in such case he shall join as respondents to his petition all other candidates who were nominated for the election but had not withdrawn before the polling; and(c)that the election as whole is void.

## **4.**

(1)At the time presentation of the petition, the petition shall deposit with it, as security for the cost of the same,(i)a sum of five hundred rupees in the case of election of Chairman; and (ii) a sum of one hundred rupees in any other case.Explanation. - 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.(2)If the provisions of sub-rule (1) are not complied with, the Election Tribunal shall dismiss the petition.(3)Upon compliance with the provisions of sub-rule (1) the Election Tribunal shall proceed to inquire into the petition.

## **5.**

The Election Tribunal shall, as soon as may be cause a copy of the petitioner to be served one each respondent and on the Chairman of the municipal council concerned and the Election Authority. Copies shall also be affixed to the notice board of the court over which the Election Tribunal presides in his capacity as a judge and of the municipal office. The 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. Any candidate not already a respondent shall upon an application made to the tribunal within fourteen days after such publication of the notice shall be entitled to be joined as a respondent on furnishing similar such security as may be demanded by the Election Tribunal.

## 6.

Every election petition shall be inquired into by the Election Tribunal as nearly as may be in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits: Provided that it shall only be necessary for the Election Tribunal to make a memorandum of the substances of the evidence of any witness examined by him. Provided further that the Tribunal shall have the discretion to refuse, for reasons to be recorded in writing, to examine any witness if it is of the opinion that their evidence is not material for the decision of the petition or that the party tendering such evidence is doing so on frivolous grounds or with a view to delay the proceedings. Provided also that no witness or other person shall be required to state for whom he has voted at an election. Explanation. - The Election Tribunal shall have the powers which are vested in a Court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters:-(a)discovery and inspection;(b)enforcing the attendance of witness and requiring the deposit of their expenses;(c)compelling the production of documents;(d)examining witness on oath;(e)reception of evidence taken on affidavit; and(f)issuing commissions for examination of witnesses and may summon and examine suo motu any person whose evidence appears to him to be material; and shall be deemed to be a civil court within the meaning of Sections 480 and 482 of the Code of Criminal Procedure, 1898 (V of 1898).

## 7.

(1)No election petition shall be withdrawn without, the leave of the Election Tribunal.(2)If there are more petitioner than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.(3)When an application for withdrawal is made, notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the manner specified in Rule 5.(4)If the application is granted(a)the petitioner shall be ordered to pay the cost of the respondent therefor incurred or such portion thereof as the Election Tribunal may think fit, and.(b)such withdrawal shall be communicated to the Chairman of the municipal council concerned and the Election Authority and also the other respondents by the Election Tribunal.(5)Any order made by the Election Tribunal regarding the costs of the inquiry shall be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by the Election Tribunal in its capacity as the Judge of a Court.

## 8.

(1)An election petition shall abates only on the death of sole petitioner or of the survivor of several petitioners.(2)Where an election petition abates under sub-rule (1) the Election Tribunal shall cause the fact to be published on the District Gazette.(3)Any person who might himself have been a petitioner may, with in fourteen days of such publication, apply to be substituted as petitioner and

upon such compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue with proceedings upon such terms as the Election Tribunal may think fit.

## 9.

Where at any inquiry 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 produce evidence to prove that the election of such candidate would have been void if he had been a returned candidate and a petition had been presented complaining of his election.

## 10.

(a) a returned candidate, his agent or any other person with the connivance of such candidate or agent, has committed or abated the commission of any election offence falling under Section 18 of the Act or under Chapter IX-A, of the Indian Penal Code, or (b) the election of a returned candidate has been procured or induced or the result of the election has been materially affected by any of the following corrupt practices:—(i) any election offence falling under Section 18, of the Act or under Chapter IX-A of the Indian Penal Code when committed by a person who is not a candidate or his agent or a person acting with the connivance of a candidate or his agent; (ii) any payment or promise of payment to any person whomsoever on account of the conveyance of any elector to or from any place for the purpose of recording his vote; (iii) The hiring, employment, borrowing or using for the purposes of the election of any boat, vehicle or animal usually kept for letting on hire or for the conveyance or passengers by hire; Provided that an elector may hire any boat, vehicle or animal of use any boat, vehicle or animal which is his own property to convey himself to or from the place where the vote is recorded; and (iv) the hiring, using or letting, as a committee-room or for the purpose of any meeting to which electors are admitted of any building, room or other place where intoxicating liquor is sold to the public; or (c) the result of the election has been materially affected by any irregularity in respect of a nomination paper or by the improper reception or refusal of a nomination paper or vote or by any non-compliance with the provisions of the Act or the Rules made thereunder. The election of such returned candidate shall be void; Provided that, if the Election Tribunal is of opinion that, any corrupt practice specified in clause (b) of this rule which does not amount to any form of bribery other than treating as hereinafter explained has been committed and if the Election Tribunal is further of opinion that the candidate has satisfied him, that; (a) no corrupt practice was committed at such election by the candidate and that any corrupt practices committed were committed contrary to the orders and without the sanction or connivance of such candidate; (b) such candidate took all reasonable means for preventing the commission of corrupt practices at such election; (c) the corrupt practices committed were of trivial, unimportant and limited character; and (d) in all other respects the election was free from any corrupt practice on the part of such candidate or any of his agents; then the Election Tribunal may find that the election of such candidate is not void. Explanation. - For the purposes of this rule 'treating' means the incurring in whole or in part by any person of the expense of giving or providing any food, drink, entertainment or provision to any person with the object, directly or indirectly, of inducing him or any other person to vote or refrain from voting or as a reward for having voted or refrained from voting.

## **11.**

(1)The Election Tribunal shall as far as possible within fourteen days of the conclusion of the enquiry, by order declare whether the election of the returned candidate or candidates is void under Rule 10;(2)If the Election tribunal declares the election of that returned candidate or candidate as void, it shall further pass on order, either-(a)declaring the petitioner or any other candidate as duly elected; or(b)ordering a fresh election:(3)The order of the Election Tribunal under sub-rules (1) and (2) shall be final.(4)A copy of every order under sub-rule (1) or sub-rule (2) shall be communicated to the Commissioner of the Municipal Council concerned and the Election Authority.

## **12.**

When an election is declared void under sub-rule (1) of Rule 11 and a fresh election is ordered under clause (b) of sub-rule 2 of that rule, the seat of the returned candidate or the seats of the returned candidates, as the case may be, shall be deemed to be vacant from the date of the order of the Election Tribunal and the authority concerned shall forthwith take necessary steps for holding such fresh election.