

The U.P. Kshettra Panchayats and Zila Panchayats (Election of Member) Rules, 1994

UTTAR PRADESH

India

The U.P. Kshettra Panchayats and Zila Panchayats (Election of Member) Rules, 1994

Rule

THE-U-P-KSHETTRA-PANCHAYATS-AND-ZILA-PANCHAYATS-ELECT of 1994

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1. Short title and commencement.

(1) These rules shall be called the Uttar Pradesh Kshettra Panchayats and Zila Panchayats (Election of Members) Rules, 1994. (2) These rules shall come into force at once.

2. Definitions.

- In these rules, unless there is anything repugnant in the subject or context-(a)"Act" means the Uttar Pradesh Kshettra Panchayats Act and Zila Panchayats Act, 1961;(b)"territorial constituency" means a territorial constituency referred to in clause (b) of sub-section (b) of Section 6 of the Act in the case of the territorial area of Kshettra Panchayat and a territorial constituency referred to in clause (b) of sub-section (1) of Section 18 of the Act in case of the territorial area of a Zila Panchayat;(c)"contesting candidate" means a candidate whose name is included in the list of contesting candidates prepared under Rule 20;(d)"election" means an election to fill a seat in a Kshettra Panchayat or Zila Panchayat, as the case may be;(e)"election return" means an election return in a form specified by the State Election Commission;(f)"elector" means a person registered as an elector in the electoral roll prepared for a territorial constituency under Section 9 of the United Provinces Panchayat Raj Act, 1947 which is comprised within the territorial constituency of the

Kshettra Panchayat or the Zila Panchayat, as the case may be;(g)"polling return" means a polling return in a form specified by the State Election Commission;(h)"seat" means a seat allotted to a constituency for election to a Kshettra Panchayat or a Zila Panchayat, as the case may be.

3. Language of forms, etc.

- The forms, notices, lists and orders prepared or issued under these rules shall be in Hindi in Devnagri script.

4. Conduct of election.

(1)Subject to the superintendence, direction and control of the State Election Commission, a general election under Section 6 or Section 18 of the Act shall be conducted in accordance with the provisions of these rules.(2)The Mukhya Nirvachan Adhikari (Panchayat) appointed by the State Government, as required by the State Election Commission, shall, under the supervision, direction and control of the State Election Commission, perform all the functions relating to the conducts of all elections to the Kshettra Panchayats and the Zila Panchayats.

5. Nirvachan Adhikari.

(1)For each Panchayat area, the District Magistrate shall, in accordance with the directions issued by the State Election Commission, appoint a Nirvachan Adhikari who shall be an officer of the State Government.(2)The Nirvachan Adhikari shall perform the functions required to be performed under these rules and it shall be his general duty at any election to do such acts and things as may be necessary for effectually conducting the election in the manner, provided by the Act, the rules and directions issued by the State Election Commission.(3)Without prejudice to the generality of the provisions of sub-rule (2) the State Election Commission may, if it so considers expedient, by order, direct that such of the powers, duties and functions of the Nirvachan Adhikari, under these rules as may be specified by it in the order, shall be exercised or discharged by the Matdan Adhyaksh at polling place, subject to such restrictions and conditions as may be specified in the order.

6. Sahayak Nirvachan Adhikari.

(1)The District Magistrate may appoint one or more Sahayak Nirvachan Adhikaris to assist any Nirvachan Adhikari in the performance of his functions.(2)Every Sahayak Nirvachan Adhikari shall, subject to the control of Nirvachan Adhikari be competent to perform all or any functions of the Nirvachan Adhikari.(3)References in these rules to the Nirvachan Adhikari shall, unless the context otherwise requires, be deemed to include a Sahayak Nirvachan Adhikari performing any function which he is authorised to perform under this rule.

7. Polling places.

- The Nirvachan Adhikari shall with the previous approval of the District Magistrate specify the polling places for each constituency.

8. Matdan Adhyaksh.

(1)The Nirvachan Adhikari shall appoint Matdan Adhyaksh (Presiding Officer) of each polling place and the same person may be appointed Matdan Adhyaksh for more than one polling place.(2)The Matdan Adhyaksh shall perform the functions required to be performed by him under these rules and it shall be his general duty to keep order at the polling place and to see that the poll is fairly taken.(3)If the Matdan Adhyaksh is obliged to absent himself from the polling place his functions shall be performed by such Matdan Adhikari as has been previously authorized by the Nirvachan Adhikari for the purpose.(4)References in these rules to the Matdan Adhyaksh shall, unless the context otherwise requires to be deemed to include any person performing any function of the Matdan Adhyaksh which he is authorised to perform under sub-rule (2).

9. Matdan Adhikari.

(1)The Nirvachan Adhikari shall appoint for each polling place such Matdan Adhikari (Polling Officer) or Adhikaris as he thinks necessary to assist the Matdan Adhyaksh in the performance of his function and to do such other things as he is required to do under these rules.(2)If a Matdan Adhikari is absent from the polling place, the Matdan Adhyaksh may appoint any person who is present at the polling place other than a person who has been employed by or on behalf of, or has been otherwise working for a candidate in or about the election, to be the Matdan Adhikari during the absence of the Former Officer and in case of any such appointment he shall inform the Nirvachan Adhikari accordingly.

10. Simultaneous Elections.

- If the elections of Kshettra Panchayats or Zila Panchayats are held simultaneously with the election to the Gram Panchayats, the Matdan Adhyaksh and Matdan Adhikaris appointed as such under the Uttar Pradesh Panchayat Raj (Elections of Members, Pradhans and Up-Pradhans) Rules, 1994 shall be the Matdan Adhyaksh and Matdan Adhikaris for the purposes of these rules also.

11. Nirvachan Abhikarta.

(1)A candidate at an election may appoint in writing any elector of the Kshettra Panchayat or Zila Panchayat, as the case may be, to be his Nirvachan Abhikarta (Election Agent) and notice of such appointment shall be given to the Nirvachan Adhikari.(2)A Nirvachan Abhikarta may perform such functions in connection with the election as are authorised by or under these rules to be performed by Nirvachan Abhikarta.

12. Matdan Abhikarta.

(1) A contesting candidate or his Nirvachan Abhikarta may appoint one other person from amongst the electors of the Kshettra Panchayat or Zila Panchayat, as the case may be, to act as Matdan Abhikarta of such candidate at the polling place. (2) The appointment shall be made by a letter in writing which shall be lodged with the Matdan Adhyaksh before the commencement of the poll.

13. [Printing and price of nomination papers. [Substituted by Notification No. 1328/33-1-2005-31-2002, dated 31st March, 2005 (Vide U. P. Kshettra Panchayats and Zila Panchayats (Election of Members) (Fourth Amendment) Rules, 2005), published in the U. P. Gazette (Extraordinary), Part 4, Section (Kha), dated 31st March, 2005.]

- The District Magistrate shall, subject to any direction issued by the State Election Commission, arrange for the printing and supply of nomination papers to the candidates. The price of each nomination paper for election as members of a Kshettra Panchayat or a Zila Panchayat shall be such as may be fixed by the State Election Commission from time to time in consultation with the State Government.]

13A. [Deposits. [Inserted by Notification No. 1328/33-1-2005-31-2002, dated 31st March, 2005 (Vide U. P. Kshettra Panchayats and Zila Panchayats (Election of Members) (Fourth Amendment) Rules, 2005), published in the U. P. Gazette (Extraordinary), Part 4, Section (Kha), dated 31st March, 2005.]

(1) A candidate shall not be deemed to be duly nominated for the election as a Member of a Kshettra Panchayat or a Zila Panchayat unless he deposits or causes to be deposited such sum as may be fixed by the State Election Commission from time to time in consultation with the State Government as security. For the candidate of the reserved categories such deposit shall be half of the sum fixed for the candidates of unreserved categories : Provided that where a candidate has been nominated by more than one nomination paper for the same election, not more than one deposit shall be required under this sub-rule. (2) Any sum required to be deposited under sub-rule (1) shall not be deemed to have been deposited under that sub-rule unless at the time of delivery of nomination paper under Rule 16 the candidate has either deposited or caused to be deposited that sum with the Returning Officer in cash or enclosed with the nomination paper a receipt showing that sum has been deposited by him or on his behalf in a Government Treasury or in the State Bank of India.]

14. List of symbols.

- The State Election Commission shall specify symbols to be used at the elections.

15. Notice of election and fixing of dates.

(1) Whenever a general election is to be held the District Magistrate shall, under directions from the State Election Commission, call upon all the constituencies of a Kshettra Panchayat or Zila Panchayat, as the case may be, to elect members of the Kshettra Panchayat or Zila Panchayat before such date as may be fixed by the State Election Commission : Provided that nothing in this rule shall prevent the District Magistrate from issuing one notice for all the Kshettra Panchayats in the district. (2) The District Magistrate shall, subject to such directions as may be issued by the State Election Commission, also appoint- (a) the date, place and hours for making nominations; (b) the date, time and place for scrutiny of nominations; (c) the date, place and hours for withdrawal of candidature; and (d) the date or dates on which and the hours during which a poll shall, if necessary, be taken. (3) The Nirvachan Adhikari shall give public notice of the dates, places and hours appointed under sub-rules (1) and (2) in such manner as may be specified by the District Magistrate. (4) The Nirvachan Adhikari shall also specify in the notice under sub-rule (3) the polling place fixed under Rule 7.

16. Presentation of nomination papers.

(1) A person who desires to be nominated as a candidate at an election shall deliver either in person or by his proposer to the Nirvachan Adhikari on the date and place and during the hours fixed for the purpose under sub-rule (2) of Rule 15, a nomination paper duly completed in the form specified by the State Election Commission. (2) Where a candidate seeks election to a seat reserved for the Scheduled Tribes or the Scheduled Castes or the backward classes, there shall accompany with the nomination paper a declaration subscribed by him stating that he is a member of the Scheduled Tribes or the Scheduled Castes or the backward classes, as the case may be, specifying the particular tribe or caste to which he belongs. (3) Any nomination paper which is not received before the close of the hour appointed in that behalf on the date appointed for filing nomination papers shall be rejected by the Nirvachan Adhikari. (4) Nothing in these rules shall prevent any candidate from being nominated by more than one nomination papers for election in the same constituency. (5) Where no nomination paper is received before the close of the hour fixed in that behalf on the date appointed for filing of nomination papers, the Nirvachan Adhikari shall report the fact to the District Magistrate.

17. Notice of nomination.

- The Nirvachan Adhikari shall, on receiving the nomination paper under Rule 16, inform the person delivering the same of the date, time and place appointed for scrutiny of nominations and shall enter on the nomination paper its serial number, and shall sign thereon a certificate stating the dates on which the hour at which the nomination paper has been delivered to him. He shall also prepare a list of nominations received by him and announce the names of persons so nominated.

18. Scrutiny of nominations.

(1) On the date and at the time and place appointed for the scrutiny of the nominations the Nirvachan Adhikari shall examine the nomination papers, not already rejected under sub-rule (3) of Rule 16 in the presence of candidates and their Nirvachan Abhikarta, if any, who may be present after giving them reasonable facilities for examining the nomination papers. (2) The Nirvachan Adhikari may reject any nomination paper on any one or more of the following grounds-(a) that the candidate is not qualified under the Act to be chosen to fill the seat; (b) that the candidate is disqualified for being chosen to fill the seat under Section 13 or Section 26 of the Act; (c) that there has been failure to comply with any of the provisions of Rule 16; or (d) that the signature of the candidate or his proposer is not genuine or has been obtained by fraud. The Nirvachan Adhikari shall not reject any nomination paper on the ground of any technical defect or other error which is not of a substantial character and may for the purposes of removing any such defect or error allow any entry to be corrected in the nomination paper. (3) The Nirvachan Adhikari shall endorse on each nomination paper his decision accepting or rejecting the same and if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection. (4) At the end of the scrutiny the Nirvachan Adhikari shall announce the names of candidates whose nominations he has accepted and shall prepare a list showing the names in Hindi alphabetical order with particulars as given in their nomination papers. (5) Where all nomination papers have been rejected the Nirvachan Adhikari shall report the fact to the District Magistrate.

19. Withdrawal of candidature.

- Any candidate may withdraw his candidature by a notice in writing which shall be signed by him and delivered by him personally or through his Nirvachan Abhikarta on the date and during the hours appointed for withdrawal under Rule 15. Notice once given cannot be withdrawn and shall be final.

20. List of contesting candidates and allotment of symbols.

(1) Immediately after the expiry of the date for withdrawal of candidature appointed under Rule 15 the Nirvachan Abhikarta shall prepare a list of contesting candidates in the form specified by the State Election Commission. (2) The list of contesting candidates shall contain the names in alphabetical order of the contesting candidates as given in their nomination papers. The alphabetical order shall be determined with reference to the names proper of candidates. (3) The Nirvachan Adhikari shall simultaneously with the preparation of the list of contesting candidates, allot, subject to any general or special directions issued in this behalf by the State Election Commission a different symbol to each contesting candidate. (4) The allotment by the Nirvachan Adhikari of any symbol to a candidate shall be final except where it is inconsistent with any directions issued by the State Election Commission in this behalf in which case the State Election Commission may revise the allotment in such manner as he thinks fit. (5) Every candidate or his Nirvachan Abhikarta shall forthwith be informed of the symbol allotted to the candidate and be supplied with a specimen thereof by the Nirvachan Adhikari.

21. Uncontested elections.

(1)Whereon preparing the list under Rule 20, the Nirvachan Adhikari finds that there is only one contesting candidate for a constituency, he shall forthwith declare such candidate as duly elected.(2)The Nirvachan Adhikari shall report to the District Magistrate, the names of the candidates declared elected under this rule and the nature of seats (whether reserved or unreserved) to which they were elected the number of seats of either nature remaining unfilled.

22. Contested elections.

- Whereon preparing a list of contesting candidates under Rule 20 the Nirvachan Adhikari finds that the number of contesting candidates exceeds one, he shall forthwith publish the list in such manner as may be specified by the District Magistrate and shall also declare that a poll shall be taken on the date and place and during the hours fixed in that behalf.

23.

[* * *] [Omitted by Notification No. 1730/33-1-95, dated 30th March, 1995, published in the U. P. Gazette (Extraordinary), Part 4, Section (Kha), dated 30th March, 1995.]

24. Admission to the polling place.

(1)The Matdan Adhyaksh shall regulate the admission of electors at the polling place and shall exclude therefrom all other persons except-(a)the Matdan Adhikaris;(b)each candidate, his Nirvachan Abhikarta and his Matdan Abhikarta;(c)the police officer and other public servants on duty;(d)a child in arms accompanying an elector;(e)the companion of blind or infirm electors who cannot move without help of others; and(f)such other persons as the Matdan Adhyaksh may, from time to time, admit for the purpose of assisting him in taking the poll.(2)The Matdan Adhyaksh shall close the polling place at the hour fixed for the close of polling under sub-rule (2) of Rule 15 and shall not admit thereto any elector after that hour :Provided that all electors present within the polling station before it is so closed shall be entitled to have their votes recorded.(3)If any question arises as to whether any elector shall for the purpose of the proviso to sub-rule (2) be deemed to be present within the polling place before it is closed the question shall be referred for the decision of the Matdan Adhyaksh and his decision shall be final and shall not be questioned in any court or tribunal.

25. Procedure for voting.

- At every election under these rules the method of voting by marking the ballot paper shall be followed and no votes shall be received by proxy.

26. Ballot papers.

(1) Every ballot paper shall be of such form and design as may be approved by the State Election Commission. (2) Every ballot paper may before it is issued to an elector be stamped with such distinguishing mark as the State Election Commission may direct.

27. Ballot boxes.

(1) Every ballot box shall be of such design and colour as may be approved by the State Election Commission. (2) It shall be so constructed that a ballot paper can be inserted therein during the poll, but cannot be withdrawn therefrom without the box being unlocked or the seal being broken. (3) Each ballot box or any of its component parts or attachments shall also be marked with such other distinguishing mark or marks as the State Election Commission may direct.

28. Notice of polling.

- Outside and inside the polling place and the polling booths there shall be displayed prominently-(a) a notice specifying the polling area, the electors of which are to vote at the polling place or the polling booth, as the case may be; and (b) a copy of the list of contesting candidates prepared under Rule 20.

29. Arrangements for secrecy of voting.

- The polling place shall be furnished with such number of polling compartments in which electors can record their votes screened from observation, as the Nirvachan Adhikari thinks necessary.

30. Ballot paper and other materials to be provided at a polling place.

- The Nirvachan Adhikari shall provide at the polling place-(a) as many ballot boxes as may be necessary; (b) sufficient number of ballot papers and copies of electoral rolls relating to the polling area of the constituency the electors whereof are entitled to vote at the polling place; and (c) other equipment and accessories as may be required for taking the poll.

31. Preparation of ballot box for the poll.

(1) The Matdan Adhyaksh shall, immediately before the commencement of the poll, allow the contesting candidates and their Abhikartas who may be present at such place to inspect each ballot box to be used at the poll and demonstrate to them that it is empty. (2) The ballot box shall then be closed in the presence of the persons aforesaid and where it is necessary to use paper seals for securing the ballot boxes, the Matdan Adhyaksh shall affix his own signature on the paper seal for each ballot box and obtain thereon the signatures or seals of such candidates or their Abhikartas as may be present and may desire to affix the same. (3) The Matdan Adhyaksh shall thereafter affix the paper seal so signed or sealed in the space meant therefor in the ballot box and shall then secure and

seal each ballot box in the presence of the candidates or their Abhikartas as may be present in such manner that the slit for the insertion of ballot paper therein remains open.(4)Where it is not necessary to use paper seals for securing the ballot boxes, the Matdan Adhyaksh shall secure and seal each ballot box in such manner that the slit for the insertion of ballot paper remains open and shall allow the candidates or their Abhikartas who may be present to affix, if they so desire, their own seals as well.

32. Placing of ballot boxes for receipt of ballot papers.

- Every ballot box shall be placed for the receipt of ballot papers in the view of the Matdan Adhyaksh, the contesting candidates and their Abhikartas.

33. Identification of electors.

(1)The Matdan Adhyaksh may employ at the polling place such persons as he thinks fit to help in the identification of the electors or to assist him otherwise in taking the poll.(2)As each elector enters the polling place the Matdan Adhyaksh or the Matdan Adhikari authorised by him in this behalf shall check the electors' name and other particulars with the relevant entry in the electoral roll and then call out the serial number, name and other particulars of the elector.(3)Any contesting candidate or his Abhikarta may challenge the identity of a person claiming to be a particular elector and where such challenge is made, the Matdan Adhyaksh shall hold a summary enquiry into the challenge and may for the purpose require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identity.(4)If after such enquiry the Matdan Adhyaksh is of the opinion that the challenge has not been established, he shall allow the person challenged to vote.(5)In deciding the right of a person to obtain a ballot paper, the Matdan Adhyaksh shall overlook merely clerical or printing errors in an entry in electoral roll, provided that he is satisfied that the entry relates to such person.

34. Issue of ballot papers to electors.

(1)After the identity of a voter has been established a ballot paper shall be issued to him.(2)At the time of issuing any ballot paper to an elector the Matdan Adhyaksh shall record, in such manner as the State Election Commission may direct, the serial number thereof against the entry relating to the elector in a copy of the electoral roll set apart for the purpose (hereinafter in these rules referred to as the "marked copy" of the electoral roll).

35. Maintenance of secrecy of voting by electors within polling station and voting procedure.

(1)Every elector to whom a ballot paper has been issued under Rule 34 or under any other provision of these rules, shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.(2)The elector on receiving the ballot paper shall forthwith-(a)proceed to one of the voting compartments,(b)there make a mark on the ballot paper

with the instrument supplied for the purpose on or near the symbol of the candidate for whom he intends to vote;(c)fold the ballot paper so as to conceal his vote;(d)if required, show to the Matdan Adhyaksh the distinguishing mark on the ballot paper;(e)insert the folded ballot paper into the ballot box; and(f)quit the polling place.(3)Every elector shall vote without undue delay.(4)No elector shall be allowed to enter a voting compartment when another elector is inside it.(5)If an elector to whom ballot paper has been issued, refuses, after warning given by the Matdan Adhyaksh, to observe the procedure as laid down in sub-rule (2), the ballot paper issued to him shall, whether he has recorded his vote thereon or not, be taken back from him by the Matdan Adhyaksh or the Matdan Adhikari under the directions of the Matdan Adhyaksh.(6)After the ballot paper has been taken back, the Matdan Adhyaksh shall record on its back the words "Cancelled : voting procedure violated", and put his signature below these words.(7)All the ballot papers on which the words "Cancelled : voting procedure violated" are recorded, shall be kept in a separate cover which shall bear on its face the words "ballot papers : voting procedure violated".(8)Without prejudice to any other penalty to which an elector, from whom a ballot paper has been taken back under sub-rule (5), may be liable, the vote, if any, recorded on such ballot paper shall not be counted.

36. Recording to votes of blind and infirm electors.

(1)If the Matdan Adhyaksh is satisfied that owing to blindness or other physical infirmity an elector is unable to recognise the symbols on the ballot paper or to make a mark thereon without assistance, the Matdan Adhyaksh shall permit to elector to take with him a companion of not less than eighteen years of age to the voting compartment for recording the vote on the ballot paper on his behalf and in accordance with his wishes, and if necessary for folding the ballot paper so as to conceal the vote and inserting it into the ballot box :Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day :Provided further that before any person is permitted to act as the companion of an elector on any day under this rule, the person shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any polling station on that day.(2)The Matdan Adhyaksh shall keep a record of all cases under this rule.(3)The Matdan Adhyaksh at polling station shall when he is so requested by an elector, explain to him the instructions supplied within the ballot paper for the recording of votes.

37. Returning of ballot papers by an elector.

(1)If an elector decides not to use a ballot paper after he has obtained the same, he shall return it to the Matdan Adhyaksh.(2)Every such ballot paper shall be marked as "Cancelled : Returned' and kept in a cover set apart for the purpose and the Matdan Adhyaksh shall keep a record of all such ballot papers.(3)An elector who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on returning it to the Matdan Adhyaksh, and on satisfying him of the inadvertence, be given another ballot paper and the ballot paper so returned shall be marked "spoilt and cancelled" by the Matdan Adhyaksh and kept in a separate envelope set apart for the purpose.

38. Matdan Adhyaksh's entry into polling compartment during poll.

(1) If the Matdan Adhyaksh has reason to suspect that an elector who has entered the polling compartment has remained inside the polling compartment for unduly long time he may enter the polling compartment and take such steps as may be necessary to ensure the smooth and prompt progress of the polls. (2) Whenever the Matdan Adhyaksh enters the polling compartment under this rule, he shall be accompanied by such of contesting candidates or their Abhikartas as desire to do so.

39. Ballot papers found outside ballot boxes.

- If any ballot paper which has been issued to an elector has not been inserted by him into the ballot box, and is found anywhere in or near the polling place it shall be cancelled and dealt with in the manner laid down in Rule 37.

40. Tendered votes.

(1) If a person representing himself to be particular elector applies for a ballot paper after another person has already voted as such elector, he shall, on satisfactory answering such questions relating to his identity as the Matdan Adhyaksh may ask, be supplied with a ballot paper which shall be endorsed on the back with the words "tendered ballot paper" by the Matdan Adhyaksh in his own handwriting and signed by him. (2) Every such person before being supplied with a tendered ballot paper sign his name against the entry relating to him in a list in the specified form. (3) Such person shall thereafter, record his vote on the tendered ballot papers as far as may be in accordance with the provisions of Rule 35 but shall not insert his ballot paper in the ballot box. (4) Every such tendered ballot paper shall be handed over to the Matdan Adhyaksh who shall forthwith place it in a cover specially kept for the purpose. Such votes shall not be counted by the Nirvachan Adhikari.

41. Sealing of ballot boxes, etc. after poll.

(1) As soon as practicable after the close of the poll the Matdan Adhyaksh shall close the slit of each, ballot box and where the box does not contain any mechanical device for closing the slit, he shall seal up the slit and also allow any contesting candidate or his Abhikarta who may be present to seal the same. (2) All the ballot boxes shall thereafter be sealed and secured in the manner specified. (3) The Matdan Adhyaksh shall then make up separate packets-(a) the cover containing the tendered ballot papers; (b) the cancelled ballot papers; (c) the marked copy of the electoral roll; (d) unused ballot papers; and (e) any other paper directed by the Nirvachan Adhikari to be kept in a sealed packet. (4) Each such packet shall be sealed with the seals of the Matdan Adhyaksh as also of such of the contesting candidates or their Abhikartas as any desire to affix their seal thereon.

42. Account of ballot papers.

- The Matdan Adhyaksh shall at the close of the poll prepare a ballot paper account in the specified form.

43. Transmission of ballot boxes, etc. to the Nirvachan Adhikari.

- As soon as may be after the ballot boxes and packets have been sealed in accordance with Rule 41 the Matdan Adhyaksh shall deliver or cause to be delivered to the Nirvachan Adhikari at such place as the Nirvachan Adhikari may direct-(a)the ballot boxes;(b)the packets referred to in Rule 41;(c)the ballot paper account; and(d)all other papers used at the poll.

44. Transport of ballot boxes and packets and their custody.

- The Nirvachan Adhikari shall make adequate arrangements for the safe transport of all ballot boxes, packets and other papers referred to in Rule 43 and for their safe custody until the commencement of the counting of votes.

45. Adjournment of poll in emergencies.

(1)If at election the proceedings at the polling place are interrupted or obstructed by any riot or violence or if it is not possible to take the poll on account of any natural calamity or any other sufficient cause, the Matdan Adhyaksh for such polling place shall announce an adjournment of the poll to a date to be notified later and where the poll is so adjourned, the Matdan Adhyaksh shall forthwith inform the Nirvachan Adhikari.(2)Whenever a poll is adjourned under sub-rule (1), the Nirvachan Adhikari shall immediately report the circumstances to the District Magistrate and shall as soon as may be with his previous approval appoint a day for the taking of a fresh poll and fix the place at which and the hours during which a fresh poll shall be taken and notify the same in such manner as may be specified by the District Magistrate.(3)In every such case as aforesaid the Matdan Adhyaksh shall take a fresh poll and the provisions of these rules shall apply in relation to fresh poll as they apply to the original poll.

46. Fresh poll in case of destruction, etc., of ballot boxes.

(1)If at any election any ballot box is unlawfully taken out of the custody of the Nirvachan Adhikari or of any Matdan Adhyaksh, or is in any way tampered with, or is either accidentally or intentionally destroyed or lost, the polling at the election in respect of the polling place to which such ballot box relates shall be void.(2)Whenever the polling has become void under sub-rule (1) the Nirvachan Adhikari shall as soon as practicable after the act or event causing such voidance has come to his knowledge, report the matter to the District Magistrate and, shall with his previous approval, appoint a day for the taking of a fresh poll and fix the place at which and hours during which the poll shall be taken and notify the same in such manner as may be specified by the District Magistrate.(3)In every such aforesaid case the Matdan Adhyaksh shall take a fresh poll and the provisions of this Chapter shall apply to every such fresh poll as they apply to the original poll.

47. Appointment of time, place and date for the counting.

(1)The Nirvachan Adhikari shall appoint a date for the counting of votes which shall be as soon as practicable after the completion of the poll and shall fix the place and time at which the votes shall be counted.(2)The Niivachan Adhikari shall give notice of such date, time and place to the contesting candidates or their Nirvachan Abhikartas.(3)If at the time so appointed for the counting of votes the ballot boxes containing the votes to be counted are not received by the Nirvachan Adhikari or if due to any other unavoidable cause he is unable to proceed with counting, he may postpone the counting to another date and fix the time and place for it and give notice thereof to the contesting candidates or their Nirvachan Abhikartas.

48. Ganana Abhikarta.

(1)A contesting candidate or his Nirvachan Abhikarta may appoint one person to be present as his Ganana Abhikarta (counting agent) at the counting of votes.(2)Every such appointment shall be made in writing before the commencement of the counting.(3)No Ganana Abhikarta shall be admitted into the place fixed for counting unless he has delivered to the Nirvachan Adhikari the letter of his appointment under sub-rule (2).

49. Persons who may be present at the counting.

(1)The Nirvachan Adhikari shall not allow any person to be present at the counting of votes except such persons as he may appoint to assist him in counting of votes and every contesting candidate, his Nirvachan Abhikarta and his Ganana Abhikarta.(2)No person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election shall be appointed to assist the Nirvachan Adhikari in counting the votes.(3)Any person who during the counting of votes misconducts himself or fails to obey the lawful directions of Nirvachan Adhikari may be removed from the place where the votes are being counted by the Nirvachan Adhikari or by any police officer on duty or by any person authorised in this behalf by the Nirvachan Adhikari.

50. Procedure at the counting.

- On the date and at the time and place appointed under Rule 47 the Nirvachan Adhikari shall proceed as follows :(a)The Nirvachan Adhikari shall satisfy himself that all the ballot boxes used at the poll and which are to be counted at that place have been received and accounted for.(b)The Nirvachan Adhikari shall then allow the candidates and their Nirvachan Abhikartas and Ganana Abhikartas present at the counting an opportunity to inspect the ballot boxes and the seals for satisfying themselves that they are in order.(c)The Nirvachan Adhikari shall also satisfy himself that none of the boxes has in fact been tampered with. If any ballot box is found by him to have been tampered with or destroyed or lost, the Nirvachan Adhikari shall not proceed with the counting of votes and the provisions of Rule 46 shall apply.(d)If the Nirvachan Adhikari is satisfied that all such ballot boxes as are to be counted at such place have been received and are in order, he shall take up the counting of the ballot papers contained in the ballot boxes. All the ballot boxes used at polling

place shall be opened, and the counting of the ballot papers found in those boxes proceeded with in accordance with the instructions of the State Election Commission, at the same time.(e)An account of the ballot papers found in the boxes of the polling place shall be recorded in a statement in the form specified by the State Election Commission.(f)The Nirvachan Adhikari shall allow the candidates, to their Nirvachan Abhikartas and Ganana Abhikartas, who may be present, reasonable opportunity to inspect all ballot papers which in the opinion of the Nirvachan Adhikari are liable to be rejected, but shall not allow them to handle these or any other paper. The Nirvachan Adhikari shall on every ballot paper which is rejected endorse rejection in Hindi in Devanagri script. If any candidate or his Nirvachan Abhikarta questions the correctness of the rejection of any ballot paper, the Nirvachan Adhikari shall also record briefly on such ballot paper, the grounds for his rejection.(g)After the counting of all ballot papers contained in the ballot boxes of the polling place has been completed the Nirvachan Adhikari shall cause all such ballot papers to be kept in a separate packet on which shall be indicated such particulars as will identify the polling place, the name of the Kshettra Panchayat or the Zila Panchayat, as the case may be, and the constituency to which the ballot papers relate.

51. Grounds for rejection of ballot papers.

(1)The Nirvachan Adhikari shall reject a ballot paper-(a)if it bears any mark or writing by which an elector can be identified; or(b)if it is spurious ballot paper; or(c)if it has been so damaged or mutilated that its identity as genuine ballot paper cannot be established; or(d)if it bears a serial number or a design different from the serial number or design, as the case may be, of the ballot papers authorised for use at the particular polling place; or(e)if votes are given on it in favour of more candidates than the number of seats required to be filled in a constituency; or(f)if no vote is recorded thereon.(2)A vote recorded on a ballot paper shall be rejected if the mark indicating the vote in places on the ballot paper in such manner as to make it doubtful to which candidate the vote has been given :Provided that a ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once against the name of a particular candidate if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.(3)The decision of the Nirvachan Adhikari as to the validity of a ballot paper or of a vote given on any such ballot paper shall be final subject, however, to any decision to the contrary given on the trial of an election petition calling in question the election.

52. Verification of accounts submitted by the Matdan Adhyaksh.

- The Nirvachan Adhikari shall not open the sealed packets of the tendered ballot papers or the marked copy of the electoral roll. He shall verify the statement submitted by the Matdan Adhyaksh under Rule 42 by comparing it with the numbers of counted votes and rejected ballot papers, the unused or spoilt ballot papers in his possession and the tendered voters list. He shall then re-close and re-seal each packet which has been opened by him and shall record on each packet a description of its contents, the name of the Kshettra Panchayat or Zila Panchayat, as the case may be, description of the constituency and the date of the election to which it refers.

53. Election return by the Nirvachan Adhikari.

- The Nirvachan Adhikari shall then prepare and certify an election return in the specified form setting forth-(a)the names of candidates for whom valid votes given have been;(b)the number of valid votes given for each candidate;(c)the total number of valid ballot papers;(d)the number of rejected ballot papers;(e)the number of tendered ballot papers; and(f)the name of the candidate elected.He shall then also permit any contesting candidate or his Nirvachan Abhikarta or Ganana Abhikarta to take a copy of or an extract from such return.

54. Declaration of result.

- The Nirvachan Adhikari shall declare candidate securing the highest number of votes in their respective constituency to be duly elected.

55. Equality of votes.

- If after the counting of the votes is completed, an equality of votes is found to exist between-any candidates and the addition of one vote will entitle any of those candidates to be declared elected, the Nirvachan Adhikari shall forthwith decide between these candidates by lot, and proceed as if the candidate on whom the lot falls had an additional vote.

56. Report of result.

- As soon as may be after the result of an election has been declared, the Nirvachan Adhikari shall report the result, to the District Magistrate and shall also inform the Block Development Officer of the Kshettra Panchayat or Chief Executive Officer of Zila Panchayat as the case may be. The District Magistrate shall report the result to the State Election Commission.

57. Custody of the return and of the ballot papers and other papers relating to election.

(1)The Nirvachan Adhikari shall, after reporting the result of the election under Rule 56 forward the return to the District Panchayat Raj Officer for safe custody.(2)The Nirvachan Adhikari shall also forward to the District Panchayat Raj Officer for safe custody the packets of the ballot papers and all other papers relating to the election.

58. Production and inspection of election papers.

(1)While in the custody of the District Panchayat Raj Officer the packet of ballot papers, whether valid, rejected or tendered and of the marked copy of the electoral roll shall not be opened and their contents shall not be inspected by or produced before any person or authority except under the order of a competent court or of a District Judge hearing an election petition. The inspection when ordered shall be subject to the payment of a fee at the rate of rupees two per day on which the

inspection is done.(2)All other papers relating to the election shall be open to public inspection subject to such condition, if any, as the State Government may specify and subject to the payment of a fee at the rate of rupees twenty per day on which inspection is done.(3)Copies of the returns forwarded by the Nirvachan Adhikari under sub-rule (1) of Rule 57 shall be furnished by the District Panchayat Raj Officer on payment of a fee of rupees twenty for each copy.(4)Copy of such papers are allowed to be inspected under sub-rule (2) shall be given to any person applying for the same on payment of a fee at the same rate as is charged in the State for a copy of any order by a Revenue Officer. Application for copies of papers may be preferred on plain paper and no judicial stamps need be affixed.(5)Certified copy of any paper referred to in sub-rule (6) shall be attested by the District Panchayat Raj Officer concerned and will be issued from his office.

59. Election to unfilled seats.

(1)On receipt of report of any seat remaining unfilled the District Magistrate shall, as soon as may be, in accordance with the instructions of the State Election Commission, call upon the constituency concerned to elect a member for the Kshettra Panchayat or the Zila Panchayat as the case may be, before such date as may be fixed by him and shall also appoint a fresh date, time and place for each item mentioned in sub-rule (2) of Rule 15 and the provisions of these rules shall, as far as may be, apply in relation to the election of a member to fill such vacancy.(2)If again the constituency fails to elect a member at the election held under sub-rule (1), the District Magistrate shall report the fact to the State Election Commission.

60. Penalties.

- Any person who-(a)matters or tampers with the electoral roll or its copy or other documents in contravention of the rules; or(b)obstructs or in any way interferes with any officer or servant appointed or employed for the purposes of these rules in performances of his duties; or(c)defaces, injures, disturbs or removes any copy, notice or other documents affixed or otherwise published under these rules in any public office or elsewhere;shall be punishable with fine which may extend to one thousand rupees.

61. Bye-election.

- If a vacancy occurs by reason of death or otherwise in the office of an elected member of the Kshettra Panchayat or in the office of an elected member of the Zila Panchayat, the District Magistrate shall, in accordance with the instructions of the State Election Commission, call upon the territorial constituency concerned to elect member for the Kshettra Panchayat or the Zila Panchayat, as the case may be, before such date as may be fixed by him and shall also appoint the date, time and place of various stages of bye-election in accordance with the provisions of Rule 15 and the provisions of these rules shall, as far as may be, apply, in relation to the election of a member to fill such vacancy.

62. Disposal of election papers.

- All papers relating to the election of members of Kshettra Panchayat or Zila Panchayat except the election returns shall be destroyed after a period of one year from the date of declaration of the result of election, subject to any directions to the contrary given by the State Election Commission or a competent Court or a Tribunal. The election returns shall be retained till the termination of the next general elections and shall thereafter be destroyed subject to any directions to the contrary given by a competent authority.