

## **HARYANA MUNICIPAL CORPORATION ELECTION RULES, 1994**

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**HARYANA GOVERNMENT  
LOCAL GOVERNMENT DEPARTMENT  
Notification**

The 4<sup>th</sup> August, 1994.

**No.S.O.64/H.Ord.4/94/S 32/94,** - In exercise of the powers conferred by section 32 of the Haryana Municipal Corporation Ordinance, 1994 (16 of 1994) and in consultation with the State Election commission and all other powers enabling him in this behalf, the Governor of Haryana hereby makes the following Rules to provide for and to regulate the matters for the purpose of \*"holding election of the Mayor and members", namely:-

(\*substituted vide Notification No. 2/10/2018-R-II dt.14/11/2018)

**1. Short title.-** These Rules may be called the Haryana Municipal Corporation Election Rules, 1994.

**2. Definitions.-** In these Rules, unless the context otherwise requires:-

(a) "agent" means any person appointed in writing by a candidate at an election to be agent for the purposes of these Rules with the acceptance in writing by such person for such appointment;

(b) "backward Classes" means such classes of citizens as may be specified by the Government from time to time;

(c) "Constituency" means a Class or ward, for the representation of which a member or members is or are to be or has or have been elected under these Rules;

(d) "election" means the election of a member, Mayor, Senior Deputy Mayor or Deputy Mayor of the Corporation;

(e) "elector" in relation to a ward, means a person whose name is entered in the electoral roll of that ward for the time being in force and who is not subject to any disqualification for voting;

(f) "form" means the form appended to these Rules;

(g) "Gazetted Officer" means a Government employee belonging to any Indian Administrative Service or State Service or any other Government employee holding a post which has been declared by competent authority to be a gazetted post;

(h) "newly constituted Corporation" means a Corporation of which the \*"Mayor and members" have been elected at a general election or nominated or appointed at the time of a general election, but have not yet taken their seats;

(\*words substituted vide Notification No. 2/10/2018-R-II dt.14/11/2018)

(i) "Ordinance" means the Haryana Municipal Corporation Ordinance, 1994;

(j) "oath of allegiance" means the oath or affirmation of allegiance prescribed by section 33 of the Ordinance;

(k) "Revising Authority" means such person as the Deputy Commissioner may appoint in respect of a ward or part of a ward for the purpose of receipt and disposal of claims and objections in respect of preparation or revision of rolls;

(l) "roll" means the electoral roll of persons entitled to vote at a Corporation election under these Rules;

(m) "Scheduled Castes" means such castes, races or tribes or parts of or groups within such castes, races or tribes as have been specified under Article 341 of the Constitution of India to be Scheduled Castes;

(n) "section" means a section of the Ordinance;

(o) "treasury" means a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over;

(p) "Tribunal" means the Municipal Corporation Elections Tribunal consisting of a person or persons appointed by the State Government under Rule 77 of these Rules to hold any enquiry in respect of an election petition under the Ordinance;

(q) Words and expressions used herein and not defined in these Rules shall have the same meaning as are assigned to them in the Ordinance.

**3. Appointment of Revising Authorities.-** The Deputy Commissioner shall appoint any Gazetted Officer to be a Revising Authority for the purpose of hearing claims and objections relating to ward wise electoral roll and may specify the ward or wards for which he shall be the Revising Authority.

**4. Preparation of ward wise roll.-** (1) The Deputy Commissioner under the superintendence, direction and control of the State Election Commission, shall cause to distribute the electors of Legislative Assembly constituency or a part thereof of the existing electoral roll prepared by Election Commission of India under the provisions of the Representation of People Act, 1950 (Central Act 43 of 1950), for the time being in force, which falls in the relevant ward of the Corporation, subject to any amendment, deletion or addition or any inclusion of any name by the Election Commission of India.

(2) The electoral roll updated by the Election Commission of India up to the date of notification issued by the State Election Commission for the preparation of ward wise roll as per sub rule (1) above, shall be taken into account. The electors of Legislative Assembly constituency, so distributed ward wise shall be the electoral roll for that ward of the Municipal Corporation which shall be prepared in Hindi and in such other language or languages and in such form, as the State Election Commission may direct.

(3) As soon as the ward wise roll of a Municipal Corporation is ready, the Deputy Commissioner shall publish it as a draft together with a notice intimating the date by which objections or claims with regard to the ward wise roll may be presented to the Revising Authority specified therein. A copy of the ward wise roll of each ward of Corporation alongwith the notice shall be pasted at the office of the Deputy Commissioner, at the office of the Municipal Corporation and at such other conspicuous place(s) as the Deputy Commissioner may determine:

Provided that a period of not less than five days shall be allowed for filing claims and objections.

- (4) (i) Every claim and objections regarding distribution of electors ward wise shall be addressed and presented to the Revising Authority in the prescribed Form A and B or may be sent by registered post to him.

Provided that claims in Form-A shall be filed by those applicants, who intend to include their name, make correction in their entry or transposing of their name in another ward in the electoral roll. Objections in Form -B shall be filed by those applicants who intend to object inclusion of name or seek deletion of a name from the electoral roll.

Provided further that only those persons shall file their claim for inclusion of their name in the electoral roll of Municipal Corporation, whose name appear in the respective electoral roll of legislative assembly, but do not appear in the draft electoral rolls published under sub-rule (3) of this rule.

(ii) The Revising Authority shall maintain a register of claims in Form I-A and register of objections in Form I-B, entering therein the particulars of every claim or objection, as the case may be, as and when it is received.

(iii) Any claim or objection under clause (i) which is not lodged within the prescribed period, or in the form, or, if lodged, by a person not entitled to lodge the same, shall be rejected.

(iv) If any claim or objection is presented by a person to the Revising Authority which is not authorized to receive it, such Revising Authority shall at once return it to the person presenting it for presentation to the appropriate Revising Authority.

(v) Where a claim or objection is not disposed of under clause (iii) or (iv) and the period prescribed for the presentation of claims and objections has expired, the Revising Authority shall forthwith post at his office a list of all claims and objections received together with notice showing the date on which and the place at which such claims and objections shall be heard. One copy of the objection shall be served upon the person regarding whom it is made.

(vi) If on an application made to the Revising Authority in this behalf or on his own motion, he is satisfied that the draft electoral roll is at variance with the relevant part of the electoral roll of the Assembly on account of any mistake in the draft rolls, he shall amend the list so as to bring it in conformity with the said electoral roll and for that purpose he may amend, delete or add an entry in that roll.

(vii) On the date and at the place fixed under sub clause (v), the Revising Authority shall hear and decide the claims and objections according to their merits after hearing the parties concerned or their authorized agents and, in the case of a claim any person who objects to the admission of such a claim and after considering such evidence as may be produced or may appear necessary to him, he shall-

- (a) reject any claim or objection which does not comply with any of the provisions of these rules or pass such orders as he may deem fit;

(b) dismiss any case in which the claimant or objector is not present or is not represented.

(viii) Any person aggrieved by any such order of the Revising Authority, may file appeal within three days from the date of order to the Deputy Commissioner, who shall within three days either confirm such order, or set it aside or pass such other order with respect to the claim or objection as he may deem fit.

(ix) As soon as the Revising Authority has disposed of all the claims and objections presented before him, he shall forward a list of such claims and objections along with his orders thereon to the Deputy Commissioner who shall cause the ward wise roll to be corrected, in accordance with the orders passed by the Revising Authority or by him in appeal under clause (viii), as the case may be. The rolls so amended shall be final and two copies thereof duly signed by the Deputy Commissioner and Revising Authority shall be kept in their offices and shall be published in the manner prescribed under sub rule (3) together with list of additions and corrections prepared in accordance with the said orders. Any ward wise roll corrected and published under the provisions of clause (ix) shall come into force from the date of such publications.

5. **Omitted** (Notification No. 4/4/2017-R-II dt.14/3/2017)

6. **Omitted** (Notification No. 4/4/2017-R-II dt.14/3/2017)

7. **Omitted** (Notification No. 4/4/2017-R-II dt.14/3/2017)

8. **Omitted** (Notification No. 4/4/2017-R-II dt.14/3/2017)

9. **Omitted** (Notification No. 4/4/2017-R-II dt.14/3/2017)

10. **Omitted** (Notification No. 4/4/2017-R-II dt.14/3/2017)

11. **Omitted** (Notification No. 4/4/2017-R-II dt.14/3/2017)

**12. Revision of roll.-** (1) The roll shall, unless otherwise directed by the State Election Commissioner, be revised in the prescribed manner before each general election to a Corporation and for any ward before bye-election to fill a casual vacancy in such a ward:

Provided that if for any reason the electoral roll is not revised the validity or continued operation of the existing electoral roll shall not thereby be affected.

(2) The roll for every ward shall be revised under sub-rule (1) either intensively or summarily, or partly intensively and partly summarily as the State Election Commissioner may direct.

(3) Where the roll or any part thereof is to be revised intensively, it shall be prepared afresh and rule 4 shall apply in relation to such revision as they apply in relation to the first preparation of a roll.

(4) When the roll or any part thereof is to be revised summarily, the Deputy Commissioner shall cause to be prepared a list of amendments to the relevant parts of the roll on the basis of such information as may be readily available and publish the roll

together with the list of amendments in draft and the provisions of rule 4 shall apply in relation to such revision as they apply in relation to the first preparation of a roll.

(5) Where at any time, between the publication of draft of the revised roll under sub-Rule (3) read with rule 4 (3) or of the roll and the list of amendments under sub-Rule (4) and the final publication of the same under rule 4 (4) (ix), any names have been decided to be included in the roll for the time being in force under Rule 14, the Deputy Commissioner shall cause the name to be included also in the revised roll unless there is, in his opinion, any valid objection to such inclusion.

**13. Omitted** (Notification No. 4/4/2017-R-II dt.14/3/2017)

**14. Inclusion, deletion and correction of names in the ward wise electoral roll finally published.** – Any person whose name is not included in the ward wise electoral roll finally published may apply to the Deputy Commissioner for addition/deletion/correction of his name in the ward wise electoral roll:

Provided that the addition/deletion or correction of any name in the ward wise electoral roll of a Municipal Corporation shall only be made, if the name of claimant/applicant exists in the relevant part of assembly electoral roll till the first day of filing nomination papers for the elections of Municipal Corporation.

**15. Omitted** (Notification No. 4/4/2017-R-II dt.14/3/2017)

**15A. Identity cards for electors in notified constituencies.**-With a view to prevent impersonation of electors and facilitating their identification at the time of poll, the State Election Commission may, by notification in the Official Gazette, direct that the Voter's Identity Card issued by the Election Commission of India shall be adopted for the Municipal Corporation elections in the State and the provisions of rules, instructions and orders made in this regard by the Election Commission of India, subject to such modifications as may be issued by the State Election Commission, shall be applicable for production by the electors at the time of poll of Municipal Corporation Election.

**16. Omitted** (Notification No. 4/4/2017-R-II dt.14/3/2017)

**17. Custody and preservation of rolls and connected papers.**- (1) After the roll for a Municipal area or any of its ward has been finally published, the following papers shall be kept in the office of the Deputy Commissioner or at such other place as the State Election Commissioner may, by order, specify until the expiration of one year after the completion of the next intensive revision of that roll:-

- (a) one complete copy of the roll and complete manuscript roll and duplicating pasting files;
- (b) all claims and objections to the draft roll;
- (c) all applications submitted to the Revising Authority under Rule 4 (4) (i);
- (d) all applications submitted to the Deputy Commissioner under Rule 4 (4) (vii) and (viii);

- (e) all applications submitted to the Deputy Commissioner under Rule 14;
- (f) all decisions and directions of the Revising Authority;
- (g) omitted

(2) One complete copy of the electoral roll for each ward duly authenticated by the Deputy Commissioner shall be kept at such place as the State Election Commissioner may specify for a period of six years from the date of its final publication.

**18. Inspection of roll and connected papers.-** Every person shall have the right to inspect the election papers referred to in Rule 17 and to get attested copies thereof on payment of such fee as may be fixed by the State Election Commissioner

**19. Disposal of roll and connected papers.-** The papers referred to in Rule 17 shall, on the expiry of the period specified therein, be disposed of in such manner as the State Election Commissioner may, in consultation with the State Government, direct.

**20. Notification of symbols.-** (1) The State Election Commissioner shall, by notification in the Official Gazette, publish list of symbols alongwith the restrictions, if any, subject to which those may be chosen by the candidates at the election and may, in the like manner, add to or vary such list.

(2) In each ward every nomination paper delivered under Rule 24 shall also contain a declaration specifying the particular symbol which the candidate has chosen for his first preference, out of the list of symbols for the time being in force under sub-Rule (1) and also specifying two other symbols out of that list which he has chosen for his second and third preference respectively:

Provided that the choice to be made by a candidate under this Sub-Rule shall be subject to such restrictions as the State Election Commissioner may think fit to impose in that behalf.

**21. Election programme and appointment of Returning Officers.-** (1) The State Election Commissioner shall frame a programme for elections hereinafter referred to as the "election programme" of a Municipal area.

(2) The election programme shall be published at least 5 clear days before the first day fixed for making nominations and it shall specify the date or dates, on, by or within which;

- (i) the nomination papers shall be presented;

Provided that a period of not less than five days shall be given for presentation of nomination papers;

- (ii) the list of nomination papers shall be posted;
- (iii) the nomination papers shall be scrutinized;

- (iv) Omitted.
- (v) Omitted.
- (vi) a candidate may withdraw his candidature;
- (vii) the list of contesting candidates shall be posted;
- (viii) the list of polling stations shall be posted;
- (ix) the poll shall be held;

Provided that the date of poll shall not be earlier than the seventh day after the last date fixed for the withdrawal of candidatures:

- (x) the ballot papers shall be counted (here time and place fixed for the purpose shall also be specified); and
- (xi) the result of election shall be declared.

(3) The State Election Commissioner shall authorise the Deputy Commissioner to designate a Returning Officer who shall be an officer of the Government.

(4) The Deputy Commissioner may appoint one or more Assistant Returning Officers to assist Returning Officers in the performance of his functions.

(5) Every Assistant Returning Officer shall, subject to the control of the Returning Officer, be competent to perform all or any of the functions of the Returning Officer:

Provided that no Assistant Returning Officer shall perform any of the functions of the Returning Officer, which relate to the scrutiny of nomination papers unless the Returning Officer is unavoidably prevented from performing the said functions.

(6) The election programme shall be published at least **five** clear days before the first date for making nominations, by posting a copy of it at the office of the Deputy Commissioner, at the office of the Corporation and at such other conspicuous places in the Municipal area as may be determined by the Deputy Commissioner in this behalf. The last dates for making nomination papers, their scrutiny and withdrawal shall not be a public holiday. If in any case, the last date happens to be a public holiday such nominations, scrutiny or withdrawal shall take place, on the next succeeding day, which is not a public holiday.

(7) Subject to the provisions of sub-Rule (6), the State Election Commissioner may, by an order amend, vary or modify the election programme at any time:

Provided that unless the State Election Commissioner otherwise directs, no such order shall be deemed to invalidate any proceedings already taken before the date of the order.

**22. Dates to be fixed for nomination of candidates and scrutiny of**

**nominations.**-The Returning Officer shall, on the date specified under Rule 21, by

notices, posted at his office and at the office of the Corporation, and at such other places as he may determine:-

- (a) invite nomination papers of candidates for election;
- (b) fix the date, time and place where and how the nomination papers shall be delivered;
- (c) specify the authority to whom nomination papers shall be delivered; and
- (d) fix the date, time and place for the scrutiny of nomination papers of candidates.

**Explanation:-** The dates fixed under clauses (b) and (d) shall be the same as specified under Rule 21 in this behalf.

**23. \*Disqualifications for Mayor and members.-** (1) A person shall be disqualified for being chosen as , and for being a Mayor and member of the Corporation, if he incurs any of the disqualification as mentioned in section 8.

(2) No person shall be eligible for election as a Mayor and member of the Corporation who, in the case of a seat reserved for Scheduled Castes, Backward Classes or woman, is not a member of any of these categories."

(\*substituted vide Notification No. 2/10/2018-R-II dt.14/11/2018)

**24. Nomination of candidates.-** (1) Any person not \*ineligible for Mayor or membership" of the Corporation under the provisions of Rule 23 or of any other Rules or of the Ordinance or of any other Act, may be nominated as a candidate for election.

(\*words substituted vide Notification No. 2/10/2018-R-II dt.14/11/2018)

(2) On or before the date specified for the nomination of candidates under Rule 22, between the hours of eleven O'clock of the forenoon and three O'clock in the afternoon or such other hours as the Returning Officer may fix to suit local requirement, each candidate shall, either in person or by his proposer or by an agent and unless such agent is a legal practitioner, his authorization as such duly verified by a Magistrate, Sub-Registrar of the Registration Department, Lambardar, deliver to the Returning Officer at the specified place, a nomination paper completed in Form-I appended to these rules and subscribed by the candidate himself as assenting to the nomination and by an elector as proposer.

(3) In a ward where a seat is reserved for the Scheduled Castes or Backward Classes or for women, a candidate shall not be deemed to be qualified to be chosen to fill that seat unless his nomination paper contains declaration by him and verified by any of the authorities mentioned in sub-Rule (2) that the candidate is a member of the Scheduled Caste, Backward Class or a woman for which the seat has been so reserved. The declaration should also specify the particular caste of which the candidate is a member.

(4) Nothing in this Rule shall prevent any candidate from being nominated by filing more than one nomination paper \*for election of Mayor and member in the same ward":

Provided that not more than four nomination papers shall be presented by or on behalf of any candidate or accepted by the Returning Officer \*for election of Mayor or member in the same ward".

(\*words substituted vide Notification No. 2/10/2018-R-II dt.14/11/2018)

(5) On the presentation of nomination paper, the Returning Officer shall satisfy himself that the names, electoral roll numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the roll:

Provided that the Returning Officer may-

(a) permit any clerical error in the nomination paper in regard to the said names or numbers to be corrected in order to bring them in conformity with the corresponding entries in the roll; and

(b) where necessary, direct that any clerical or printing error in the said entries shall be overlooked.

**24A Form of affidavit to be filed at the time of delivering nomination papers.**-The candidate or his proposer, as the case may be, shall, at the time of delivery of nomination papers to the Returning Officer or Assistant Returning Officer or before 10.00 A.M. on the date of scrutiny of nomination papers under sub-rule (1) of rule 24, also deliver to him affidavit sworn in by the candidate before a Magistrate of the first class or a Notary in Form-1C and Form-1D.

**25. Deposit to be made by candidate.**- \*(1) The nomination paper of a candidate shall not be deemed to have been duly delivered unless at the time of delivery of the same under Rule 24, the candidate has either deposited or causes to be deposited a sum shown in the table below with the Deputy Commissioner in cash or enclose with the nomination paper a receipt showing that the said sum has been deposited in the treasury, or Government promissory notes of equal value at the market rate of the day:

**Table**

Amount of deposit			
If the candidate is not a member of Scheduled Caste, Backward Class or a Woman		If the candidate is a member of Scheduled Caste, Backward Class or a woman	
Mayor	Member	Mayor	Member
₹ 10,000.00	₹ 3,000.00	₹ 5,000.00	₹ 1,500.00

Provided that where a candidate has filed more than one nomination paper for election of Mayor and member in the same ward, not more than one deposit shall be required by him under this sub-Rule."

(\*substituted vide Notification No. 2/10/2018-R-II dt.14/11/2018)

(2) The deposit made under sub-Rule (1) shall be returned to the person by whom it was made if-

(a) the nomination paper in respect of which it has been made is rejected; or

(b) the candidate on whose behalf the deposit has been made withdraws his candidature within the time specified under Rule 29; or

- (c) the candidate dies before the commencement of the poll; or
- (d) the candidate has been elected, or the number of votes polled for him exceed one-eighth of the total number of votes polled.

(3) In all other cases, the deposit referred to in sub-Rule (1) shall be forfeited to the Government.

**Explanation:-** For the purpose of clause (d) the number of votes polled shall be deemed to be the number of ballot papers other than rejected ballot paper counted.

(4) The deposit shall, if it is not forfeited under sub-Rule (3), be returned to the candidate or the person, who has made the deposit in his behalf, as the case may be. In case the person who made the deposit dies, the deposit shall be returned to his legal representative:

\*"Provided that, if a candidate has filed nomination paper at an election of Mayor or member in more than one ward, not more than one of the deposits made by him or on his behalf shall be returned and the remainder shall be forfeited by the Government."

(\*substituted vide Notification No. 2/10/2018-R-II dt.14/11/2018)

**26. Notice to nominations, of time and place for scrutiny.-** The Returning Officer shall, on receiving the nomination papers under sub-Rule (1) of Rule 24, inform the person or persons delivering the same, of the date, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper its serial number and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him, and shall, as soon as may be thereafter, cause to be affixed in some conspicuous place in his office, a notice of the nomination containing description similar to those contained in the nomination paper, both of the candidate and of the proposer.

**27. List of nominations to be posted.-** The Returning Officer shall, on the date specified under Rule 21 in this behalf, post at his office and at the Corporation office, a list of all the candidates whose nomination papers have been presented under Rule 24, together with the descriptions similar to those contained in the nomination papers, both of the candidates and of the proposers.

**28. Scrutiny of nominations.-** (1) On the date fixed for the scrutiny of nominations under Rule 22, the candidate, one proposer and one other person duly authorized in writing by the candidate, but no other person may attend at such time and place as the Returning Officer may appoint and all reasonable facilities shall be given to them for examining the nomination papers of all candidates whose names are included in the list of candidates posted under Rule 27.

(2) After the procedure laid down under sub-Rule (1) is over, the Returning Officer shall 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 may deem necessary, reject any nomination if he is satisfied that-

(a) the candidate was on the date fixed for the nomination of candidates ineligible for election under the provisions of Rule 23 or of any other Rules or of the Ordinance or any

other Act and had not, before that date, been exempted by the Government from any disqualification imposed upon him;

(b) the proposer was not qualified to subscribe the nomination paper under these Rules;

(c) there has been any failure to comply with any of the provisions of Rule 24 or Rule 25;

(d) the candidate or any proposer is not identical with the person whose number on the roll is given in the nomination paper as the number of such candidate or proposer, as the case may be; and

(e) the signatures of any candidate or of any proposer are not genuine or has been obtained by force or by fraud.

(3) Nothing contained in clauses (b), (c) or (e) of sub-Rule (2) shall be deemed to authorise the rejection of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4) No nomination shall be rejected under clause (d) of sub-Rule (2) if a summary enquiry is sufficient to establish the identity of the candidate or the proposer.

(5) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting it. In case a nomination paper is rejected, he shall record in writing a brief statement of his reasons for such rejection. An attested copy of the decision accepting or rejecting a nomination paper shall be supplied by the Returning Officer on the same day on an application having been made by a person who is entitled to be present at the time of scrutiny of nomination paper.

(6) Omitted.

(7) Omitted.

(8) Immediately after all the nomination papers have been scrutinized and decisions accepting or rejecting the same have been recorded, the Returning Officer shall prepare a list of validly nominated candidates that is to say candidates whose nominations have been found valid and affix it to the notice board.

**29. Withdrawal of candidature.-** Any candidate may withdraw his candidature by notice in writing and delivered to the Returning Officer before three O'clock in the afternoon or such other hours as the Returning Officer may fix to suit local requirements on or before the date specified under Rule 21 in this behalf and no person who has thus withdrawn his candidature, shall be allowed to cancel his withdrawal or to be re-nominated as a candidate for the same election in the same ward.

**30. Assignment of symbols to candidates.-** (1) If in any ward a poll becomes necessary under Rule 32, the Returning Officer shall, before preparing a list of contesting candidates under Rule 31, consider the choice of symbols expressed by the contesting candidates in their nomination papers and shall, subject to any general or special directions issued in this behalf by the State Election Commissioner, assign a different symbol to each contesting candidate in

conformity, as far as practicable, with his or her choice. If more contesting candidates than one have indicated their preference for the same symbol, the Returning Officer shall decide by lot to which of such candidates the symbol will be assigned.

(2) The assignment by the Returning Officer of any symbol to a candidate shall be final except where it is inconsistent with any directions issued by the State Election Commissioner in which case the State Election Commissioner may revise the assignment in such manner as it thinks fit.

(3) Every candidate or his or her agent shall forthwith be informed of the symbol assigned to him or her and be supplied with a specimen thereof by the Returning Officer.

**31. List of contesting candidates.-** (1) Immediately after the expiry of the period within which candidatures may be withdrawn under Rule 29, the Returning Officer shall prepare in Hindi and such other language or languages as may be prescribed by the State Election Commissioner, a list of contesting candidates, that is to say, candidates who were included in the list of validly nominated candidates, and who have not withdrawn their candidature within the prescribed period and cause it to be posted at some conspicuous places in his office and at the Corporation office.

(2) The said list shall contain the names in Hindi alphabetical order and addresses of the contesting candidates as given in the nomination papers together with the symbols assigned to each candidate, if poll is necessary, under Rule 33.

**32. Candidate deemed to be elected if the number is one.-** (1) If there is \*"only one candidate for Mayor or member in any ward," the Returning Officer shall declare such candidate to be duly elected, to fill the vacancy.

(\*words substituted vide Notification No. 2/10/2018-R-II dt.14/11/2018)

(2) If there is no candidate to be elected, the State Election Commissioner shall frame fresh election programme under Rule 21 to elect person to fill the vacancy.

**33. \*"Poll to be taken if number of candidates is more than number of vacancies.-** If the number of contesting candidates for Mayor and for member in any ward is more than one, a poll shall be taken."

(\*substituted vide Notification No. 2/10/2018-R-II dt.14/11/2018)

**34. Death of a candidate before poll.-** If a candidate dies before the poll and after the date fixed for the nomination of candidates and his nomination is or has been accepted as valid by the Returning Officer, all proceedings with reference to the election of a \*"Mayor or member in the ward or wards in which he was a candidate" shall be commenced a new in all respects as if for a fresh election:

(\*words substituted vide Notification No. 2/10/2018-R-II dt.14/11/2018)

Provided that no fresh nomination shall be necessary in the case of a candidate whose name is entered on a list of contesting candidates posted under the provisions of Rule 31.

**35. List of polling stations to be published, polling officers to be appointed and ban on meetings.-** (1) The Returning Officer shall provide such number of polling stations as he may deem necessary and shall on the date specified under Rule 21 in this behalf post at his office and at the office of the Corporation, a list showing the polling stations so provided, the polling area or the group of voters for which they have respectively been provided and the hours during which they shall remain open for the poll.

(2) No person shall be permitted to vote except at the polling station of the area to which according to the poll he belongs and within the period for which the polling station remains open.

(3) The Returning Officer shall appoint a Presiding Officer for each polling station and such number of polling officers as are considered necessary and if before or at the time of the poll the Presiding Officer or the Polling Officer refuses to act or becomes incapable of acting as such, the Returning Officer shall appoint another person to act as Presiding Officer or Polling Officer, as the case may be, and the Returning Officer may, at any time, if he thinks fit, appoint any other person so to act in place of any person previously appointed.

(4) The Presiding Officer shall, in addition to performing any other duties imposed upon him by these Rules, be in general charge of all arrangements at the polling station and may issue orders as to the manner in which person shall be admitted to the polling station and generally for the preservation of peace and order at or in the vicinity of the Polling Station.

(5) No person shall convene, hold or attend any public meeting within the Corporation limits in any area of which poll is to be taken, during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in the polling area.

**36. Design of ballot boxes.-** Every ballot box shall be of such design as may be approved by the State Election Commissioner.

**37. Form of ballot papers.-** (1) Every ballot paper shall have a counterfoil attached thereto and the said ballot paper and the counterfoil shall be in such form and the particulars therein shall be in Hindi and in such other language or languages as the State Election Commissioner may direct.

(2) The names of the candidates shall be arranged on the ballot paper in the same order in which they appear in the list of contesting candidates.

(3) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.

**38. Material to be supplied at the polling station.-** The Deputy Commissioner shall provide at each polling station sufficient number of ballot boxes, copies of the relevant part of the electoral roll, ballot papers, instruments for stamping the distinguishing mark on ballot papers, articles necessary for electors to mark the ballot papers and any other article necessary during the process of poll.

**39. Arrangements at polling stations.-** (1) Outside each polling station, there shall be displayed prominently-

(a) a notice specifying the polling area the electors of which are entitled to vote at the polling station and where the polling area has more than one polling station the particulars of the electors so entitled; and

(b) a copy of the list of contesting candidates.

(2) At each polling station, there shall be set up one or more voting compartments in which electors can record their votes screened from observation.

**40. Appointment of Polling agents.-** (1) The number of polling agents that may be appointed shall be one agent and two relief agents.

(2) Every such appointment shall be made in form 2 and shall be made over to the polling agent for production at the polling station.

(3) No polling agent shall be admitted into the polling station unless he has delivered to the Presiding Officer the instrument of his appointment under sub-Rule (2) after duly completing and signing before the Presiding Officer the declaration contained therein.

**40A Appointment of election agent .-** A candidate at an election may appoint an election agent in form 2A and a notice of such appointment shall be given by forwarding the same in duplicate to the Returning Officer, who shall return one copy thereof to the election agent after affixing thereon his seal and signature in token of his approval of the appointment

**40B Appointment of counting agent.-** (1) A contesting candidate or his election agent may appoint not more than one counting agent in respect of each counting table at the place or at each of the places fixed for counting, to be present as his agents at the time of counting of votes of the ward in which he is a candidate.

(2) Every appointment of counting agent shall be made in form 2B and a copy thereof shall be forwarded to the Presiding Officer where the counting is to be made at the polling station itself and to the Returning Officer, in cases where the counting of all the votes polled at all the polling stations of a ward is to be made at one place. Another copy shall be made over to the counting agent for production before the Presiding Officer or the Returning Officer, as the case may be, not later than an hour before the time fixed for counting of votes.

(3) No counting agent shall be admitted into the place fixed for counting unless he has delivered to the Presiding Officer or the Returning Officer, as the case may be, the second copy of his appointment under sub-rule (2) after duly completing and signing the declaration contained therein and receiving from the Presiding Officer or the Returning Officer an authority for entry into the place fixed for counting.

**41. Admission to polling stations.-** The Presiding Officer shall regulate the number of electors to be admitted at any one time inside the polling station and shall exclude therefrom all persons other than-

(a) polling officers;

(b) public servants on duty in connection with the election;

- (c) persons authorized by the State Election Commissioner;
- (d) candidates and one polling agent of each candidate;
- (e) a child in arms accompanying an elector;
- (f) a person accompanying a blind or infirm elector who cannot move without help; and
- (g) such other persons as the Returning Officer or the Presiding Officer may employ under sub-Rule (2) of Rule 42 or Rule 43.

**42. Facilities for women electors.-** (1) Where a polling station is for both men and women electors, the Presiding Officer may direct that they shall be admitted into the polling station alternatively in separate batches.

(2) The Returning Officer or the Presiding Officer may appoint a woman to serve as an attendant at any polling station to assist women electors and also to assist the Presiding Officer generally in taking the poll in respect of women electors, and in particular, to help in searching any woman elector, in case it becomes necessary.

**43. Staff for identification of electors.-** The Presiding Officer may employ at the polling station such person as he thinks fit to help in the identification of the electors or to assist him otherwise in taking the poll.

**44. Preparation of ballot boxes for poll.-** (1) The Presiding Officer shall secure and seal the ballot box in such manner that the slit for the insertion of ballot papers remains open and shall allow the polling agents present to affix, if they so desire, their seals.

(2) Every ballot box used at a polling station shall bear labels, both inside and outside, marked with-

- (a) name of Corporation;
- (b) ward number;
- (c) polling station number;
- (d) serial number of the ballot box (to be filled in at the end of the poll on the label outside the ballot box only);
- (e) the date of the poll; and
- (f) place of the poll.

(3) Immediately before the commencement of the poll, the Presiding Officer shall demonstrate to the polling agents and other persons present that the ballot box is empty and bears the labels referred to in sub-Rule (2).

(4) The ballot box shall then be closed, sealed and secured and placed in full view of the Presiding Officer and the polling agents.

**45. Marked copy of the electoral roll.-** Immediately before the commencement of the poll, the Presiding Officer shall also demonstrate to the polling agents and others present that the marked copy of the roll to be used during the poll does not contain any mark against any elector entered therein.

**46. Identification of electors.-** (1) As each elector enters the polling station, the Presiding Officer or the Polling Officer authorized by him in this behalf, shall check the elector's name and other particulars with the relevant entry in the roll and then call out the serial number, name and other particulars of the elector.

(2) In deciding the right of a person to obtain a ballot paper, the Presiding Officer or the Polling Officer, as the case may be, shall overlook merely clerical or printing errors in an entry in the roll, if he is satisfied that such person is identical with the elector to whom such entry relates.

**47. Challenging of identity.-** (1) Any polling agent may challenge the identity of a person claiming to be a particular elector by first depositing a sum of five rupees in cash with the Presiding Officer for each such challenge.

(2) On such deposit being made, the Presiding Officer shall-

(a) warn the person challenged of a penalty for personation;

(b) read the relevant entry in the electoral roll in full and ask him whether he is the person referred to in that entry;

(c) enter his name and address in the list of challenged votes in Form 3; and

(d) require him to affix his signature in the said list.

(3) The Presiding Officer shall thereafter hold a summary enquiry into the challenge and may for that purpose-

(a) require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identity;

(b) put to the person challenged any questions necessary for the purpose of establishing his identity and require him to answer them on oath; and

(c) administer an oath to the person challenged and any other person offering to give evidence.

(4) If, after the enquiry, the Presiding Officer considers that the challenge has not been established, he shall allow the person challenged to vote; and if he considers that the challenge has been established, he shall debar the person challenged from voting.

(5) If the Presiding Officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit made under sub-Rule (1) be

forfeited to the Government, and in any other case, he shall return it to the challenger at the conclusion of the enquiry.

**48. Safeguards against personation.-** (1) Every elector about whose identity the Presiding Officer or the Polling Officer, as the case may be, is satisfied, shall allow his left forefinger to be inspected by the Presiding Officer or Polling Officer and indelible ink mark to be put on it.

(2) If any elector refuses to allow his left forefinger to be inspected or marked in accordance with sub-Rule (1) or has already such a mark on his left forefinger or does any act with a view to removing the ink mark, he shall not be supplied with any ballot paper or allowed to vote.

(3) Any reference in this Rule to the left forefinger of an elector shall, in the case where the elector has his left forefinger missing, be construed as a reference to any other finger of his left hand, and shall in the case where all the fingers of his left hand are missing, be construed as a reference to the forefinger or any other finger of his right hand, and shall in the case where all his fingers of both the hands are missing be construed as a reference to such extremity of his left or right arm as he possesses.

**49. Right to vote.-** (1) Only an elector is entitled to vote in the election.

(2) No person shall vote in more than one ward and if a person votes in more than one ward his votes in all such wards shall be void.

(3) No person shall be qualified for voting if he has been convicted of an offence punishable with imprisonment under section 171-E or 171-F of the Indian Penal Code (Act 45 of 1860), unless a period of six years has elapsed from the date of conviction or the Government has, for reasons to be recorded in writing, removed such disqualification in any particular case.

**50. Voting by marking ballot papers or voting machines.-** The voting shall be given by marking the ballot paper or by giving and recording of votes by voting machines, as the State Election Commission may, having regard to the circumstances of each case, specify.

Explanation.- For the purpose of this rule "voting machine" means any machine or apparatus whether operated electronically or otherwise used for casting or recording of votes and any reference to a ballot box or ballot paper in the Act or the rules made thereunder shall, save as otherwise provided, be construed as including a reference to such voting machine wherever such voting machine is used at any election.

**51. Voting to be in person and not by proxy.-** Voting shall be in person and not by proxy.

**51-A. Voting by postal ballot. -** (1) An elector on election duty who wishes to vote by post shall send an application in Form No.9 to the Returning Officer of the constituency in which he is enrolled, for supply of postal ballot paper at least ten days before the date fixed for poll.

(2) The form and the language of postal ballot paper shall be such as the State Election Commission may direct.

(3) The Returning Officer shall send postal ballot paper to the electors, who have applied under sub-Rule (1), by post under certificate of posting at least seven days before the date of poll. These can also be delivered to them against personal acknowledgement or proper identification.

(4) The elector shall mark his choice on the postal ballot paper, complete such other formalities as may be necessary according to the directions sent with the ballot paper and return the ballot paper to the Returning Officer so as to reach him before the hour fixed for close of poll at the polling stations.

(5) The Returning Officer shall mark "POSTAL BALLOT" against the name of the elector on the marked copy of the electoral roll.

**52. Issue of ballot papers to electors.-** (1) Every ballot paper before it is issued to an elector and the counterfoil attached thereto shall be stamped on the back with such distinguishing mark as the State Election Commissioner may direct, and every ballot paper, before it is issued, shall be signed in full on its back by the Presiding Officer.

(2) At the time of issuing a ballot paper to an elector, the Polling Officer shall record on its counterfoil the electoral roll number of the elector as entered in the marked copy of the roll of the concerned ward of the Corporation, obtain the signatures or thumb impression of the elector on the said counterfoil and mark the name of the elector in the marked copy of the electoral roll to indicate that a ballot paper has been issued to him, without however recording therein the serial number of the ballot paper issued to that elector:

Provided that no ballot paper shall be delivered to an elector unless he has put his signatures or thumb impression on the counterfoil of the ballot paper:

Provided further that it shall not be necessary for the Presiding Officer or Polling Officer or any other Officers to attest the signatures or the thumb impression of the elector on the counterfoil.

(3) No person in the polling station shall note down the serial number of the ballot paper issued to particular elector.

**53. 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 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) 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 intended to vote;

(c) fold the ballot paper so as to conceal his vote;

- (d) if required, show to the Presiding Officer the distinguishing mark on the ballot paper;
- (e) insert the folded ballot paper into the ballot box; and
- (f) quit the polling station.

(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 a ballot paper has been issued, refuses, after warning given by the Presiding Officer, 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 Presiding Officer or a Polling Officer under the direction of the Presiding Officer.

(6) After the ballot paper has been taken back the Presiding Officer shall record on its back the words "Cancelled, Voting Procedure violated" and put his signatures 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 paper; Voting procedure violated."

(8) Without prejudice to any other penalty to which an elector, from whom a ballot papers has been taken back under Sub-Rule (5), may be liable to the vote, if any, recorded on such ballot paper shall not be counted.

**54. Recording of votes of blind and infirm electors.-** (1) If the Presiding Officer is satisfied that owing to blindness or other physical infirmity, an elector is unable to recognize the symbols on the ballot paper or to make a mark thereon without assistance, the Presiding Officer shall permit the 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 Presiding Officer shall keep a record in form 4 of all cases under this Rule.

(3) The Presiding Officer shall, when he is so requested by the companion of an elector, explain to him the instructions for the recording of votes.

**55. Spoilt and returned ballot papers.-** (1) 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 Presiding Officer and on satisfying him of the inadvertence, be given another ballot paper, and the ballot paper so returned and the counterfoil of such ballot paper shall be marked "Spoilt; cancelled" by the Presiding Officer.

(2) If an elector after obtaining a ballot paper decides not to use it, he shall return it to the Presiding Officer, and the ballot paper so returned and the counterfoil of such ballot paper shall be marked as "Returned: cancelled" by the Presiding Officer.

(3) All ballot papers cancelled under sub-Rule (1) or sub-Rule (2) shall be kept in a separate packet.

**56. Tendered votes.-** (1) If a person representing himself to be a particular elector applies for a ballot paper after another person has already voted as such elector, he shall, on satisfactorily answering such questions relating to his identity as the Presiding Officer may ask, be entitled, subject to the following provisions of this Rule, to mark a ballot paper (hereinafter in these Rules referred to as a "tendered ballot paper") in the same manner as any other elector may choose.

(2) Every such person shall, before being supplied with a tendered ballot paper, sign his name against the entry relating to him in a list in form 5.

(3) A tendered ballot paper shall be the same as the other ballot papers used at the polling except that-

(a) such tendered ballot paper shall be serially the last in the bundle of ballot papers issued for use at the polling station; and

(b) such tendered ballot paper and its counterfoil shall be endorsed on the back with the words "tendered ballot paper" by the Presiding Officer in his own hand and signed by him.

(4) The elector, after marking a tendered ballot paper in the voting compartment and folding it, shall instead of putting it into the ballot box, give it to the Presiding Officer who shall place it in a cover specially kept for the purpose.

**57. Closing of poll.-** (1) Except as provided in Sub-Rule (3) the Presiding Officer shall close the polling station at the hour fixed in that behalf under Sub-Rule (1) of Rule 35 and shall not thereafter admit any elector into the polling station:

Provided that all electors present at the polling station before it is closed shall be allowed to cast their votes.

(2) If any question arises whether an elector was present at the polling station before it was closed it shall be decided by the Presiding Officer and his decision shall be final.

(3) If for any reason, it was not possible to open the polling station at the hour fixed under sub-Rule (1) of Rule 35 or, if by reason of disorder at the polling station, or for any other reason the Presiding Officer has considered it necessary to stop the polling for certain time, the Presiding Officer shall keep the polling station open for a period equal to

the period that elapsed between the hour appointed for the opening of the polling station and the hour at which it was actually opened or the time during which polling was stopped, as the case may be.

(4) If polling is to take place on more than one day at any polling station in respect of the election in any one ward the Presiding Officer shall, in the presence of candidates or their agents who may be present, close the slit of each ballot box and where a box does not contain any mechanical device for closing the slit, seal up the slit and secure the ballot boxes used at the polling station during the day and shall then hand them over to the Officer In-charge of the police station for safe custody.

**58. Account of ballot papers.-** Immediately after the close of poll at a polling station and before commencement of counting of votes under Rule 60 is taken, the Presiding Officer shall prepare an account of ballot papers in Form 6 showing total number of ballot papers received, used and un-used including tendered and also the number of ballot papers those should be found in the ballot boxes. This account shall be forwarded to the Deputy Commissioner alongwith the packets stated in Rule 66.

**59. Fresh poll in case of destruction etc. of ballot boxes.-** (1) If at any election any ballot box used at a polling station or at any other place fixed for the poll is unlawfully taken out of the custody of the Presiding Officer or is accidentally or intentionally destroyed or lost or damaged or tampered with and the Returning Officer is satisfied that in consequence thereof the result of the poll of that polling station or place cannot be ascertained, he shall report the facts to the State Election Commissioner, who shall-

- (a) declare the polling at that polling station to be void;
- (b) appoint a day and fix the hours for taking a fresh poll at the polling station; and
- (c) notify the day so appointed and the hours so fixed by him in the manner provided in these Rules.

(2) The provisions of these Rules shall apply to every fresh poll as they apply to the original poll.

**60. Counting of votes.-** (1) On the date and time specified under Rule 21 and subject to such general or special directions, if any, as may be given by the State Election Commissioner in this behalf, the Presiding Officer in the presence of the Polling Officers and of such candidates or their agents, if any, as may be present, shall have the ballot papers taken out of the ballot boxes used at the polling station, get them mixed together and then arranged in convenient bundles and scrutinised.

(2) The Presiding Officer shall reject a ballot paper: -

- (a) if it bears any mark or writing by which the elector can be identified; or
- (b) if it bears no mark to indicate the vote or it bears a mark made otherwise than with the instrument supplied for the purpose; or
- (c) if votes are given on it in favour of more than one candidate; or

(d) if the mark indicating the vote thereon is placed in such manner as to make it doubtful to which candidate the vote has been given; or

(e) if it is a spurious ballot paper; or

(f) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established; or

(g) if it bears a serial number, or is of a design, different from the serial numbers or, as the case may be, design of the ballot paper authorized for use at the particular polling station; or

(h) if it does not bear both the distinguishing mark and the signature which it should have borne under the provisions of sub-Rule (1) of Rule 52:

Provided that where the Presiding Officer is satisfied that any such defect as is mentioned in clause (g) or clause (h) has been caused by the mistake or failure on his own part or that of a Polling Officer, the ballot paper shall not be rejected merely on the ground of such defect:

Provided further 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, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.

(3) Before rejecting any ballot paper under sub-Rule (2), the Presiding Officer shall allow each candidate or his agent present a reasonable opportunity to inspect the ballot paper but shall not allow him to handle it or any other ballot paper.

(4) The Presiding Officer shall endorse on every ballot paper which he rejects the word "Rejected" and the grounds of rejection in abbreviated form in his own hand and shall initial such endorsement.

(5) All ballot papers rejected under this Rule shall be bundled together.

(6) Every ballot paper which is not rejected under this Rule shall be counted as one valid vote:

Provided that no cover containing tendered ballot paper shall be opened and no such paper shall be counted.

(7) If under any circumstances the counting of ballot papers of any ward of the Corporation is postponed, the Ballot Boxes used in each ward of the Corporation, shall be kept in safe custody by the Deputy Commissioner as per the directions of the State Election Commissioner.

**61. Counting to be continuous.-** (1) The Presiding Officer shall, as far as practicable, proceed continuously with the counting of the votes and shall during any intervals when the counting has to be suspended, keep the ballot papers, packets and other documents relating to the election sealed with his own seal and the seals of such candidates or

agents as may desire, to affix their seals and shall cause adequate precautions to be taken for their safe custody.

(2) After the counting of all ballot papers contained in all the ballot boxes used at a polling station has been completed, the Presiding Officer shall fill in and sign the result of counting in form 7, announce the particulars and unless there is recounting of votes, shall transmit the same to the Returning Officer.

**62. Recount of votes.-** (1) After the announcement under sub-Rule (2) of Rule 61, a candidate or in his absence his agent, may apply in writing to the Presiding Officer or the Returning Officer to recount the votes either wholly or in part stating the grounds on which he demands such recount.

(2) On such an application being made, the Presiding Officer or the Returning Officer, as the case may be, shall decide the matter and may allow the application in whole or in part or may reject it in toto if it appears to him to be frivolous or unreasonable.

(3) Every decision of the Presiding Officer or the Returning Officer, as the case may be, under Sub-Rule (2) shall be in writing and contain the reasons thereof.

(4) If the Presiding Officer or the Returning Officer, as the case may be, decides under Sub-Rule (2) to allow a recount of votes either wholly or in part, he shall-

(a) arrange recounting of the ballot papers in accordance with his decisions;

(b) amend the result sheet in Form 7 to the extent necessary after such recount; and

(c) announce the amendments so made by him and transmit the same to the Returning Officer.

(5) No application for recount shall be entertained after the declaration of results under Rule 63.

**63. Declaration of results and procedure in case of tie.-** When the counting of votes has been completed and \*"if no fresh poll is required to be held for Mayor and for member in that ward" the Returning Officer shall forthwith consolidate the account of ballot papers in form 8 and declare the result in the following manner-

(\*words substituted vide Notification No. 2/10/2018-R-II dt.14/11/2018)

(a) The candidate who is found to have obtained the largest number of valid votes shall be declared to have been elected.

(b) If, after consolidating the result in form 8, a tie is found to exist between any candidates and the addition of one vote will entitle any of those candidates to be declared elected, the Returning Officer shall forthwith decide between those candidates by lot, and the candidate on whom the lot falls shall be considered to have received an additional vote and shall be declared to be duly elected.

**64. Preparation of return and notification of members in the Official Gazette.-** When the result has been declared under Rule 63 the Returning Officer shall forthwith prepare a return showing the names of the candidates, the number of votes recorded for each and the names of the candidates declared to have been elected and

shall forthwith post a copy of the return in a conspicuous place at his office and send a copy thereof to the Deputy Commissioner. The Deputy Commissioner shall immediately forward the names of the candidates elected to the State Election Commissioner, who shall notify the same in the Official Gazette as required under the provision of section 14.

**65. Choice of seat in case of election to more seats than one.-** Any candidate who is elected in more than one ward shall, by notice in writing signed by him and delivered to the Deputy Commissioner within seven days of the publication of the result of election in the Official Gazette, choose for which of these wards he shall serve. If he does not deliver such notice within the aforesaid period, the Deputy Commissioner shall, within fourteen days from the date of the publication of the result, declare for which ward he shall serve. Such choice or declaration, as the case may be, shall be final. Resulting vacancy or vacancies in the ward or wards not chosen or declared, shall be filled under Rule 68.

**66. Election papers to be forwarded to Deputy Commissioner.-** (1) The Presiding Officer shall seal up in separate packets on the outside of which shall be endorsed a description of their contents and forward to the Deputy Commissioner:-

- (a) the marked copy of the roll;
- (b) the counterfoils of the used ballot papers;
- (c) the ballot papers signed in full by the Presiding Officer but not issued to the voters;
- (d) the un-issued ballot papers;
- (e) the ballot papers cancelled for violation of voting procedure;
- (f) any other cancelled ballot papers;
- (g) the cover containing the tendered ballot papers and the tendered votes list;
- (h) the list of challenged votes;
- (i) account of ballot papers;
- (j) the ballot papers counted as valid; and
- (k) any other packet(s) which may be prescribed by the State Election Commissioner.

(2) The Presiding Officer shall allow candidate or his agent, who may so desire, to affix his seal on each or any of the said packets.

**67. Custody of election papers.-** (1) The Deputy Commissioner shall retain the packets forwarded to him under the provisions of Rule 66 in his custody until the expiry of one year from the date of election and shall then, subject to any direction to the contrary made by the State Election Commissioner or a competent court or a person or persons

appointed to hold an enquiry into an election under Part-V of these Rules, cause them to be destroyed.

(2) A candidate may apply to the Deputy Commissioner for inspection or supply of certified copies of any document relating to an election other than ballot papers, counterfoils of the used ballot papers and the marked copy of the roll referred to in Rule 66, on payment of a fee at the same rate as is charged in the State for the inspection of a document forming part of a record of a case dealt with by a Revenue Officer or for supply of a copy of an order by a Revenue Officer, as the case may be, and such copies shall be supplied in accordance with the procedure to be followed for a similar application in respect of a case dealt with by a Revenue Officer.

**68. Filling of casual vacancies.-** Election to fill a casual vacancy shall be conducted and completed within six months from the date of occurrence of the vacancy in the manner prescribed in these Rules for a general election and the programme of the election shall be framed as soon as may be convenient and the electoral roll in force under the provisions of Rule 11 or 12, as the case may be, shall be deemed to be the roll for the purpose of holding the election:

Provided that no election shall be held to fill casual vacancy occurring within six months prior to the holding of a general election.

(2) Every person elected or nominated to fill casual vacancy shall be elected or nominated to serve for the remainder of his predecessor's term of office. If the vacancy be a vacancy reserved for any category, the vacancy shall be filled from the same category.

**69. Appointment of Officers to perform functions of Deputy Commissioner.-**If on account of illness, absence from headquarters or any other reason, the Deputy Commissioner is unable to perform any of his functions under these Rules he may, by order in writing, appoint any Assistant Commissioner or Extra Assistant Commissioner to perform such functions on his behalf.

**70. Final authority for interpretation of these Rules.-** If any question arises regarding the interpretation of these Rules, otherwise than in connection with an election petition which has actually been presented, it shall be referred by the person interested or the official concerned to the Deputy Commissioner who, if he thinks fit, may refer it to the Government, whose decision shall be final.

**70A. Voting and counting of votes by voting machines.-**In relation to voting and counting of votes, custody, inspection and disposal of election papers etc., where voting machine is used, the provisions of rules in Part III, except the rules 36, 37, 39, 41, 44, 46, 51A, 53, 54, 56, 58, 59, 60, 66 and 67, shall, in so far as may be, apply mutatis mutandis and any reference in those provisions to ballot paper shall be construed as including a reference to such electronic voting machine.

**70B. Arrangement at polling station.-** (1) There shall be displayed outside each polling station- (a) a notice in Hindi specifying the polling area, the electors of which are entitled to vote at that polling station; and (b) another notice in Hindi giving the names of each candidate in the same order in which the names of such candidates appear in the

list of contesting candidates published under rule-31 together with the description of symbol which has been assigned to each candidate under rule 30.

(2) At each polling station, there shall be set-up one or more voting compartments in which the voters can record their votes free from observation.

(3) The Returning Officer shall provide at each polling station one electronic voting machine, copies of the relevant part of the electoral roll and such other articles and materials necessary for voters to vote.

(4) Where a polling station is for both men and women, the Presiding Officer may direct that there shall be separate queue for men and women and that they may be admitted into the polling station alternatively in separate batches.

**70C. Design of electronic voting machine.**-Every electronic voting machine (hereinafter referred to as the "voting machine") shall have a control unit and a balloting unit and shall be of such design as may be approved by the State Election Commission.

**70D. Preparation of voting machine by Returning Officer.**-Subject to the provisions of rule 37, the Returning Officer shall-

(a) fix the ballot paper containing the names and symbols of the contesting candidates in the balloting unit and secure that unit with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same;

(b) set the number of contesting candidates and close the candidate set section in the control unit and secure it with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same.

**70E. Preparation of voting machine for poll.**- (1) For securing the control unit of voting machine, the Presiding Officer shall affix his own signature on the paper seal and obtain thereon the signatures of such of the candidates, election agents and polling agents present as are desirous of affixing the same.

(2) The Presiding Officer shall thereafter fix the paper seal so signed in the space meant therefor in the control unit of voting machine and shall secure and seal the same.

(3) The seal used for securing the control unit of voting machine shall be fixed in such manner that after the unit has been sealed, it is not possible to press the "result section" without breaking the seal.

(4) Every control unit and balloting unit of the voting machine used at a polling station shall bear labels, both inside and outside marked with-

(a) the ward number and name of municipal corporation;

(b) the serial number and name of the polling station;

(c) the serial number of the unit; and (d) the date of poll.

(5) Immediately before the commencement of the poll, the Presiding Officer shall demonstrate to the polling agents and other persons present that no vote has been already recorded in the voting machine and it bears the labels as referred to in sub-rule (4).

(6) The control unit shall then be closed, sealed and secured and placed in full view of the Presiding Officer and the candidates, election agents and polling agents present and the balloting unit placed in the voting compartment.

**70F. Form of ballot paper.-** (1) Every ballot paper shall be in such form as may be specified by the State Election Commission.

(2) The names of the candidates shall be shown on the ballot paper in the same manner and arranged in the same order in which they appear in the list of contesting candidates.

(3) The particulars on the ballot paper shall be in Hindi in Devnagri script.

(4) The ballot papers shall be serially numbered.

(5) The symbol allotted to the candidates under rule 30 shall be shown alongside the name of the candidates on the ballot paper.

(6) The space allotted to each candidate on the ballot paper shall have the same dimension.

(7) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.

**70G. Procedure for voting by voting machines.-** (1) Before permitting a voter to vote, the Polling Officer shall-

(a) record the electoral roll number of the elector as entered in the marked copy of the electoral roll in a register of voters in form 11;

(b) obtain the signature or thumb impression of that voter on the said register of voters; and

(c) mark the name of the elector in the marked copy of the electoral roll to indicate that he has been allowed to vote: Provided that no elector shall be allowed to vote unless he has put his signature or thumb impression on the register of voters.

(2) (a) Before permitting an elector to vote, the Presiding Officer shall cause a mark to be put on the left forefinger of the voter with an indelible ink : Provided that where such a mark already exists on the left forefinger of the elector, it shall be deemed that he had cast his vote already at the election and shall not be permitted to vote : Provided further that no elector shall be allowed to vote unless he has allowed a mark to be put on his left forefinger with indelible ink.

(b) Any reference in clause (a) of this sub-rule to the left forefinger of a elector shall in the case where the elector has his left forefinger missing, be construed as a reference to

any other finger of his left hand and shall in the case where all the fingers of his left hand are missing be construed as a reference to the forefinger of the right hand and shall, in case the fingers of both the hands are missing, be construed as a reference to such extremity of the left or right arm as he possesses.

(3) It shall not be necessary for any Presiding Officer or Polling Officer or any other officer to attest the thumb impression of the voter on the register of voters.

**70H. Procedure for voting and secrecy of voting.-** (1) Every elector who has been permitted to vote under rule 70G shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.

(2) Immediately on being permitted to vote, the elector shall proceed to the Presiding Officer or the Polling Officer in charge of the control unit of the voting machine who shall, by pressing the appropriate button on the control unit, activate the balloting unit, for recording of the elector's vote.

(3) The elector shall, thereafter, forthwith-

(a) proceed to one of the voting compartments;

(b) record his vote by pressing the button on the balloting unit against the name and symbol of the candidate for whom he intends to vote; and

(c) come out of the voting compartment and quit the polling station.

(4) Every elector shall vote without undue delay.

(5) No elector shall be allowed to enter a voting compartment when another elector is inside it.

(6) If an elector who has been permitted to vote under rule 70G refuses after warning given by the Presiding Officer, to observe the procedure as laid down in sub-rule (3), the Presiding Officer or a Polling Officer under the direction of Presiding Officer shall not allow such elector to vote.

(7) Where an elector is not allowed to vote under sub-rule (6), a remark to the effect that voting procedure has been violated, shall be made against the name of the voter in the register of voters in form 11 by the Presiding Officer under his signature.

**70I. Presiding Officer's entry in the voting compartment during poll.-** (1) The Presiding Officer may, whenever he considers it necessary to do so, enter the voting compartment during poll and take such steps as may be necessary to ensure that the balloting unit is not tampered or interfered with in any way.

(2) If the Presiding Officer has reason to suspect that an elector who has entered the voting compartment, is tampering or otherwise interfering with the balloting unit or has remained inside the voting compartment for unduly long period, he shall enter the voting

compartment and take such steps as may be necessary to ensure the smooth and orderly progress of the poll.

(3) Whenever the Presiding Officer enters the voting compartment under this rule, he shall permit the polling agents present to accompany him if they so desire.

**70J. Recording of votes by blind or infirm electors.-** (1) If the Presiding Officer is satisfied that owing to blindness or other physical infirmity, an elector is unable to recognize the names and symbols of the candidates on the balloting unit of the voting machine or unable to record the vote by pressing the appropriate button thereon without assistance, the Presiding Officer shall permit the voter to take with him a companion of not less than eighteen years of age to the voting compartment for recording the vote on his behalf and in accordance with his wishes:

Provided that no person shall be permitted to act as the companion of more than one voter 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 shall 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 voter at any polling station on that day.

(2) The Presiding Officer shall keep a record in form 4 of all cases under this rule.

**70K. Identity of voter.-** At any time before permitting the elector to vote, the Presiding Officer or Polling Officer may, of his own accord, if he has reason to doubt the identity of the elector or his right to vote at such polling station he shall, if so required by a candidate or polling agent, satisfy himself by putting to the voter such questions as he may deem necessary that such person is identical with the elector to whom such entry relates.

**70L. Tendered votes.-** (1) If a person representing himself to be a particular voter seeks to vote after another person has already voted as such voter, he shall, on satisfactorily answering such question relating to his identity as the Presiding Officer may ask, instead of being allowed to vote through the balloting unit, be supplied with a tendered ballot paper which shall be of such design as the State Election Commission may specify.

(2) Every such person shall, before being supplied with a tendered ballot paper, write his name against the entry relating to him in the list in form 5.

(3) On receiving the ballot paper he shall forthwith --

(a) proceed to the voting compartment;

(b) record there his vote on the ballot paper by placing a cross mark 'X' with the instrument or article 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) show to the Presiding Officer, if required, the distinguishing mark on the ballot paper;

(e) give it to the Presiding Officer who shall place it in a cover specially kept for the purpose; and

(f) leave the polling station.

(4) If owing to blindness or physical infirmities, such elector is unable to record his vote without assistance, the Presiding Officer shall permit him to take with him a companion, subject to the same conditions and after following the same procedure as laid down in rule 70G for recording the vote in accordance with his wishes.

**70M. Elector deciding not to vote.-** If an elector, after his electoral roll number has been duly entered in the register of voters in form 11 and has put his signature or thumb impression thereon as required under sub-rule (1) of rule 70G, decides not to record his vote, a remark to this effect shall be made against the said entry in form 11 by the Presiding Officer and the signature or thumb impression of the elector shall be obtained against such remark.

**70N. Voting by officers on election duty.-** (1) An elector who has been put on election duty as a Presiding Officer, a Polling Officer or in any other capacity in a polling station of a ward other than the one in which he is entitled to vote, and wishes to vote in the polling station in which he is on election duty, he shall send an application in form 10 to the Returning Officer to allow him to vote at the polling station at which he is on duty, at least seven days before the days fixed for poll, and if the Returning Officer is satisfied that the applicant is a public servant and voter on election duty, he shall-

(a) issue to the applicant an Election Duty Certificate in form 12;

(b) mark Election Duty Certificate against his name in the marked copy of the electoral roll to indicate that an Election Duty Certificate has been issued to him; and

(c) ensure that he is not allowed to vote at the polling station where he shall otherwise have been entitled to vote.

(2) On production of such certificate, the Presiding Officer shall-

(a) obtain thereon, the signature of the person producing it;

(b) have the person's name and electoral roll number and part number, along with name of polling station as mentioned in the certificate, entered at the end of the marked copy of the electoral roll; and

(c) permit him to cast his vote in the same manner as for a voter entitled to vote at that polling station.

(3) After recording the vote under sub-rule (2), the certificate referred to in sub-rule (1) shall be placed in an envelope and sealed by the Presiding Officer.

(4) An elector who has been put on election duty as a Presiding Officer, a Polling Officer or in any other capacity in a ward other than the one of which he is voter, who wishes to vote by post at an election, shall send an application in form 9 to the Returning Officer of the Constituency (Ward) in which he is enrolled for supply of postal ballot paper at least seven days before the days fixed for poll, and if the Returning Officer is satisfied that the applicant is on election duty in a ward other than of which he is a voter, he shall issue a postal ballot paper of such ward to him by post, under postal certificate, together with-

- (a) a declaration in form 13;
- (b) a cover in form 14;
- (c) a larger cover in form 15; and
- (d) instructions for the voter in form 16.

Provided that the Returning Officer shall at the same time-

- (a) record on the counterfoil of the postal ballot paper the electoral roll number of the voter entered in the marked copy of the electoral roll;
- (b) mark the name of voter in the marked copy of electoral roll to indicate that a postal ballot paper has been issued to him, without however recording therein the serial number of postal ballot paper issued to that voter; and

(c) ensure that voter is not allowed to vote at a polling station. Provided further that every postal ballot paper shall have a counterfoil attached thereto, and the postal ballot paper and the counterfoil shall be of such design as the State Election Commission may direct: Provided further that the Returning Officer may, in the case of an elector on election duty who is entitled to vote by post, deliver the ballot papers and forms or cause them to be delivered to such elector personally.

(5) The Returning Officer shall seal up in a separate packet the counterfoils of the postal ballot papers issued to voters.

(6) (a) The voter referred to in sub-rule (4) shall record his vote on the postal ballot paper in accordance with the directions contained in form 16 and then enclose it in the cover in form 14.

(b) The voter shall sign the declaration in form 13 in the presence of, and have the signature attested by any Gazetted Officer or by the Presiding Officer of the polling station at which he is on election duty.

(c) After the voter has recorded his vote and made a declaration in form 13, he shall return the postal ballot paper and declaration to the Returning Officer in accordance with the directions contained in form 16 so as to reach the Returning Officer before the time fixed for the commencement of counting of votes.

(7) In relation of voting by postal ballot paper referred to in sub-rule (4) such procedure, subject to provisions of this rule, shall be adopted as may be specified by the State Election Commission.

**700. Sealing of voting machine after close of poll.-** (1) As soon as practicable, after the closing of the poll, the Presiding Officer shall close the control unit to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit.

(2) The control unit and the balloting unit shall thereafter be sealed and secured separately in such manner as the State Election Commission may direct and the seal used for securing them shall be so fixed that it shall not be possible to open the units without breaking the seals.

(3) The polling agents or election agents or candidates present at the polling station, who desire to affix their seals, shall also be permitted to do so.

**70P. Sealing of polling materials and other papers.-**(1) The Presiding Officer of each polling station, as soon as practicable after the close of the poll, shall in the presence of any candidate or election agent or polling agent who may be present, make up into separate packet and seal with his seal and the seal of such candidates or agents as may desire to affix their seals on the envelopes of the following:-

(a) the marked copy of the electoral roll;

(b) the tendered ballot papers;

(c) the list of tendered votes;

(d) the list of challenged votes;

(e) the certificate in form 12 produced by officers on election duty;

(f) the register of voters in form 11; and

(g) any other papers directed by the State Election Commission to be kept in a sealed packet.

(2) The Presiding Officer shall, after sealing all the packets, endorse on such packet a declaration of its contents.

**70Q. Accounts of votes recorded.-**(1)The Presiding Officer shall at the close of the poll, prepare an account of votes recorded in form 17.

(2) The Presiding Officer shall place the account of votes recorded in a separate envelope and endorse on it the words, "Account of Votes Recorded".

**70R. Transmission of voting machines etc. to the Returning Officer.-** (1) The Presiding Officer shall then deliver or cause to be delivered to the Returning Officer at such place as the Returning Officer may direct-

- (i) the voting machine;
- (ii) the account of votes recorded in form 17;
- (iii) sealed packets under rule 70P; and
- (iv) all other papers used at the poll.

(2) The Returning Officer shall make adequate arrangements for the safe transport of the voting machine, packets and other papers and for their safe custody until the conclusion of the counting of votes.

**70S. Procedure of adjournment of poll.-** If the poll at any polling station is adjourned and declared void under rule 59, the provisions of these rules shall apply to every fresh poll as they apply to the original poll.

**70T. Scrutiny and inspection of voting machines.-** (1) The Returning Officer may have the control units of the voting machines used at more than one polling station taken up for scrutiny and inspection and votes recorded in such units counted simultaneously.

(2) Before the votes recorded in any control unit of a voting machine are counted under sub-rule (1), the candidate or his election agent or his counting agent present on the counting table, shall be allowed to inspect the paper seal and such other vital seals as might have been affixed on the unit and to satisfy themselves that the seals are intact.

(3) The Returning Officer shall satisfy himself that none of the voting machines has, in fact, been tampered with.

(4) If the Returning Officer is satisfied that any voting machine has, in fact, been tampered with, he shall not count the votes recorded in that machine and shall follow the procedure laid down in rule 59, in respect of the polling station where that machine was used.

**70U. Counting of votes.-** (1) After the Returning Officer or the Presiding Officer, as the case may be, is satisfied that a voting machine has, in fact, not been tampered with, he shall have the votes recorded therein counted by pressing the appropriate button marked "Result" provided in the control unit whereby the total votes polled and votes polled for each candidate shall be displayed in respect of each such candidate on the display panel provided for the purposes in the unit.

(2) As the votes polled by each candidate are displayed on the control unit, the Returning Officer shall have--

(a) the number of such votes recorded separately in respect of each candidate in Part-II of form 17;

(b) Part-II of form 17 completed in other respects and signed by the Presiding Officer or the counting supervisor and also by the candidates or their election agents or their counting agents present; and

(c) corresponding entries made in a result sheet in form 8 and the particulars so entered in the result sheet announced.

(3) No envelope containing the tendered ballot papers shall be opened and no such votes shall be counted.

**70V. Sealing of voting machines after counting of votes.-** (1) After the result of votes recorded in a control unit has been ascertained candidatewise and entered in Part II of form 17 and form 8 under rule 70U, the Presiding Officer/Returning Officer shall reseal the unit with his seal and the seals of such of the candidates or their election agents present who may desire to affix their seals thereon so, however, that the result of votes recorded in the unit is not obliterated and the unit retains the memory of such result.

(2) The control unit so sealed shall be kept in specially prepared boxes on which the Returning Officer shall record the following particulars, namely:-

- (a) the name of the municipality with ward number;
- (b) the particulars of polling station where the control unit has been used;
- (c) serial number of the control unit;
- (d) date of poll; and
- (e) date of counting.

**70W. Counting and rejection of postal ballot paper.-** (1) Subject to general or specific direction given in this behalf by the State Election Commission, the provisions of rule 60 shall apply in relation to rejection of postal ballot papers referred to in sub-rule (4) of rule 70N: Provided that postal ballot paper shall be rejected if recording of vote therein is not in accordance with the direction contained in form 16.

(2) The Returning Officer shall record the result of counting of votes received by post, if any, in the result sheet in form 8 and announce the same.

**70X. Production and inspection of election papers.-** (1) While in the custody of the Deputy Commissioner --

- (a) the packets of unused postal ballot papers with counter foils attached thereto;
- (b) the packets of used postal ballot papers whether valid, rejected or cancelled, and counterfoils thereof;
- (c) the packets of used or unused tendered ballot papers;
- (d) the packets of the marked copy of electoral roll;
- (e) the packets containing register of voters in form 11; and

(f) the packets of the declaration by electors and the attestation of their signatures, shall not be opened, inspected or produced except under the orders of a competent court.

(2) The voting machine sealed under rule 70V and kept in the custody of the Deputy Commissioner shall not be opened, inspected or produced except under the orders of a competent court.

(3) Subject to such conditions and on the payment of such fee as the State Election Commission may direct, all other papers relating to the election shall be open to public inspection and copies thereof shall, on application, be furnished.

**70Y. Disposal of election papers.-** Subject to any direction to the contrary given by the State Election Commission or by a competent court --

(a) the packets of unused postal ballot papers and tendered ballot papers shall be retained for a period of six months and shall thereafter be destroyed in such manner as the State Election Commission may direct;

(b) the voting machines kept in custody of the Deputy Commissioner under sub-rule (2) of rule 70X shall be retained intact for such period as the State Election Commission may direct;

(c) packets other than those as referred to in sub-rule (1) of rule 70X shall be retained for a period of one year and shall thereafter be destroyed: Provided that the packets containing the counterfoils of used postal ballot papers shall not be destroyed except with the previous approval of the State Election Commission; and

(d) all other papers relating to the election shall be retained for such period as the State Election Commission may direct.

71. **\*"Oath of allegiance of the office of Mayor and members, and term of the office of Mayor, Senior Deputy Mayor and Deputy Mayor etc.-** (1) The Divisional Commissioner shall, within a period of thirty days of the notification of the names of the Mayor and members elected to the Corporation, convene and preside over the first meeting of the newly constituted Corporation at forty eight hours notice to be delivered at the ordinary place of residence of elected Mayor and members. The notice shall clearly state the Oath of allegiance shall be administered to the Mayor and members present,

(2) The Commissioner shall, within a period of sixty days of the notification of the names of the Mayor and members elected to the Corporation convene a meeting of the Corporation at forty eight hours notice to be delivered at the ordinary place of residence of Mayor and members. The notice shall clearly state that the election of Senior Deputy Mayor and Deputy Mayor shall be held in this meeting to be presided over by the Mayor in the presence of the Commissioner.

(3) The Divisional Commissioner shall administer the oath of allegiance to the Mayor and members present as prescribed in section 33.

(4) The oath of allegiance shall be administered to a Mayor and member who was not present at the meeting convened under sub-rule (3) or to a member elected or nominated to fill a casual vacancy, subsequently by the Mayor and in the case of Mayor by the Divisional Commissioner concerned.

(5) The term of the office of Mayor shall be for five years or the residue of the term of his office.

(6) The term of the office of Senior Deputy Mayor and Deputy Mayor shall be for five years or the residue of the term of his office as a member, whichever is less. The Senior Deputy Mayor and Deputy Mayor shall be elected from amongst the Members of the Corporation.

(7) The offices of the Mayor in the corporations shall be filled through direct election by the electors from amongst the persons belonging to the General Category, Scheduled Castes, Backward Classes and Women by rotation which shall be determined in the manner that the number of offices of the Mayor reserved for the Scheduled Castes and Backward Classes in the State shall bear as may be the same proportion to the total number of such the offices of the Corporation as the population of Scheduled and Backward Classes in the state bears to the total population of the State.

Provided that not less than one third of the total number of offices of the Mayor in the Corporation shall be reserved for Women including the offices reserved for Scheduled Castes and Backward Women. The reservation of offices for women shall rotate to different Corporations, which shall be determined by draw of lots, by a Committee consisting of Director, Urban Local Bodies Department, Divisional Commissioner and Commissioner of the concerned Corporation:

Provided further that number of offices of the Mayor for Scheduled Castes and Backward Classes shall be determined on the basis of their population and shall rotate to different remaining Corporations firstly, having largest population of Scheduled Castes, secondly, from the remaining Corporations having largest population of Backward Classes, and they rotate in the subsequent terms of offices of the Corporation having their next largest population and so on. In case of percentage of population of two Corporations as regards Backward Classes and Scheduled Castes is the same, the reservation shall be determined by draw of lots to be conducted by a Committee referred in the above proviso.

(\*substituted vide Notification No. 2/10/2018-R-II dt.14/11/2018)

**72. \*"Election of Senior Deputy Mayor and Deputy Mayor."**- (1) If only one candidate for the each office of the (~~\*Mayor,~~) Senior Deputy Mayor and Deputy Mayor is proposed, such candidate shall be declared to have been duly elected. If the number of proposed candidates is more than one, the voting shall be by ballot. The members present shall be required to vote writing "Yes" or "No" on the ballot paper. The candidate getting the maximum number of votes shall be declared to have been elected. Special ballot paper shall be used for such voting, each bearing an Official mark to be placed thereon by the Divisional Commissioner.

(\*words substituted & omitted vide Notification No. 2/10/2018-R-II dt.14/11/2018)

(2) All ballot papers used for such voting shall, immediately after the counting of votes has been completed, be enclosed in the stout envelope and sealed by the Officer who presided at the meeting in view of the members present there at and the description of the election to which the ballot papers relate shall be inscribed thereon and such envelope shall be enclosed in another large envelope which shall be addressed and delivered to the Divisional Commissioner. The Divisional Commissioner shall preserve the inner envelope intact until the expiry of one year from the date of the election and shall then, subject to any direction to the contrary made by the State Election Commissioner, a competent court or a person or persons appointed to hold an enquiry into an election under Part V of these Rules, cause it to be destroyed with its contents.

**73. Procedure in case of the equality of votes.-** If during the election of (~~\*Mayor,~~) Senior Deputy Mayor and Deputy Mayor, it appears that there is an equality

of votes between the candidates at such election and that the addition of a vote would entitle any of the candidates to be elected as (~~\*Mayor,~~) Senior Deputy Mayor and Deputy Mayor, then the person presiding over the meeting shall decide between them by lot to be drawn in the presence of the candidates, and the candidate on whom the lot fails shall be deemed to have received an additional vote.

(\*words omitted vide Notification No. 2/10/2018-R-II dt.14/11/2018)

**74. Payment of honorarium etc. to Mayor out of Corporation fund.-** With the sanction of the State Government the amount of honorarium and other facilities such as residential accommodation, telephone, conveyance etc. may be fixed and paid to the Mayor of the Corporation out of the Corporation fund.

**75. Removal of (~~\*Mayor,~~) Senior Deputy Mayor and Deputy Mayor.-** (1) The Divisional Commissioner, on written requisition made by at least 1/3<sup>rd</sup> of the total members of the Corporation, on his satisfaction, shall convene a meeting by giving not less than fourteen days clear notice in writing to consider the requisition.

(2) A member holding office as (~~\*Mayor,~~) or Senior Deputy Mayor or Deputy Mayor shall be removed from his office by a resolution of the Corporation passed by a majority of not less than two third of the total members of the Corporation by voting by ballot.

(3) The Divisional Commissioner shall record and sign the resolution in the Proceeding Book of the Corporation.

(4) The Divisional Commissioner shall have no right to vote at such a meeting:

Provided that no meeting for the purpose shall be convened unless a period of six months has elapsed since the date of last meeting convened for removal of (~~\*Mayor,~~) or Senior Deputy Mayor or Deputy Mayor.

(\*words omitted vide Notification No. 2/10/2018-R-II dt.14/11/2018)

**76. Corrupt practices.-** In addition to the corrupt practices given in Section 22 of the Ordinance, the following shall be deemed to be corrupt practices for the purpose of these Rules:-

(1) The promotion of or attempt to promote feelings of enmity or hatred between different classes of the residents of the Corporation on ground of religion, race, caste, community or language by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the election of that candidate or for prejudicially affecting the election of any candidate;

(2) The procuring or abetting or attempting to procure by a candidate or his agent or any other person with the connivance of candidate or his agent, a ballot paper in the name of any other person, whether living or dead or in a fictitious name; or by a person for a ballot paper in his own name when by reason of the fact that he has already voted in the same or some other ward, he is not entitled to vote;

(3) The removal of a ballot papers from the polling station during polling hours by a candidate or his agent, or by any other person with the connivance of a candidate or his agent;

(4) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person with the consent of a candidate or his

agent, any assistance other than giving of vote for furtherance of the prospects of that candidate's election, from any person in the service of the Government other than Village Revenue Officers known as Lambardars whose duty is to collect land revenue and who are remunerated by a share of, or commission or in the amount of land revenue collected by them but who do not discharge any police functions.

**Explanation:-** A person serving under the Government of the State of Haryana shall include a Patwari, a Chowkidar or any other village officer employed in the State, whether the office he holds is a whole time office or not but shall not include any person (other than any such village officers as aforesaid) who has been declared by the Government to be a person to whom the provisions of this clause shall not apply.

**77. Appointment of Tribunal.-** (1) The Government shall appoint a Tribunal to hold an enquiry in accordance with the provisions of these rules.

(2) In the case of a one man Tribunal, the appointment shall be made from amongst:-

- (a) Subordinate Judges of the 1<sup>st</sup> Class belonging to the State Judicial Service; or
- (b) Persons who may have retired from the State Judicial Service as a District Judge.

(3) In the case of multi member Tribunal, at least one member shall be appointed from amongst the category of persons mentioned in sub-Rule (2) and the remaining members of the Tribunal may be appointed from amongst advocates duly enrolled as such under the Advocates Act, 1961, who may have served at the bar of the State High Court for a minimum period of ten years. The member appointed under sub-Rule (2) shall be designated as the Chairman of the Tribunal.

(4) The remunerations and terms of appointment of members other than those who are serving members of the State Judicial Service shall be such as may be specified by the Government.

(5) The Government may appoint a person by name or by office to be a Tribunal, and if a person is appointed by virtue of his office, the person for the time being holding the office shall be the Tribunal unless the Government otherwise directs.

(6) If a vacancy occurs in a Tribunal by reason of a death, resignation or any other causes, the Government may make a fresh appointment.

(7) If on the application of any party to an election petition the Government is satisfied that there are reasonable grounds for the transfer of case from the Tribunal appointed to hear such an election petition, it may appoint a fresh Tribunal as provided heretofore.

(8) A change of incumbency in the Tribunal whether by reasons of death, transfer, resignation or any other reason shall not invalidate any provision or subsequent proceedings in any matter pending before it, nor shall it be necessary for a Tribunal on account of such change, to recommence any enquiry into any matter pending before it for disposal.

**78. Election petition.-** (1) \*"No election of Mayor or member" shall be called in question except by an election petition presented to the Tribunal.

(2) An election petition against the return of a candidate to an election or against the return of (~~\*Mayor or~~) Senior Deputy Mayor or Deputy Mayor or against unsuccessful candidate with a view to his disqualification on the ground of a corrupt practice or material irregularity in the procedure, shall be in writing signed by a person who was a candidate at such election or an elector.

(\*words substituted & omitted vide Notification No. 2/10/2018-R-II dt.14/11/2018)

**79. Deposit to be made when petition is presented and return of deposit.-**

(1) Every election petition shall be accompanied by a receipt from the treasury for two hundred and fifty rupees or Government Promissory Notes of equal value at the market rate of the day as security for all costs that may become payable by him or them.

(2) If a petitioner, by whom the deposit referred to in sub-Rule (1) has been made, withdraws his election petition as provided in Rule 81 and in any other case after final orders have been passed on the election petition, the deposit shall, after deducting such amount as may be ordered to be said paid as costs, charges and expenses be returned to the petitioner by whom it was made, and if such petitioner dies during the course of the enquiry into the election petition any such deposit made by him, shall after the amount of such costs as may be ordered to be paid have been deducted, be returned to his legal representative.

(3) All applications for the refund of a deposit shall be made to the Tribunal who shall pass orders thereon in accordance with these Rules.

**80. Place and procedure of enquiry.-** (1) The enquiry shall be held in a place to which the public have free access and notice of the time and place of enquiry, shall be given to the parties not less than seven days before the first day of the enquiry.

(2) The place of enquiry shall be within the Corporation provided that the Tribunal may, on being satisfied that special circumstances exist rendering it desirable that the enquiry should be held elsewhere, appoint some other convenient place for the enquiry.

(3) Subject to the provisions of these Rules, every election petition shall be enquired into as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (5 of 1908) to the trial of suits, provided that if the Tribunal consists of more than one person, it shall only be necessary for it to make or cause to be made a memoranda of the substance of the evidence of any witness and provided further that a Tribunal may dismiss an election petition for default.

(4) The Tribunal shall cause to be served on each respondent a notice of the presentation of the petition, together with a copy of the petition and shall summon each respondent and in his presence, or if he fails to be present in person or by counsel after summons has been duly served upon him, in his absence, shall make an enquiry regarding the corrupt practices or irregularities alleged to have been committed.

**81. Withdrawal of petition.-** (1) An election petition may be withdrawn if an application for withdrawal is made before the Tribunal.

(2) If there are more petitioners than one, no application to withdraw a petition shall be made except with the written consent of all the petitioners.

(3) No application for withdrawal shall be granted if in the opinion of the Tribunal, such application has been induced by any bargain or consideration which ought not be allowed.

(4) When an application for withdrawal is made to the Tribunal:-

(a) a 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 by being posted at the office of the Tribunal, and the Corporation.

(b) any person who might himself have been a petitioner may, within a period of fourteen days from the date of such application, apply to be substituted as petitioner in place of the party withdrawing. Upon compliance with the conditions as to the security under Rule 79 shall

be entitled to be so substituted and to continue the proceedings upon such terms as the Tribunal may think fit;

(c) the petitioner shall be ordered to pay the costs of the respondent theretofore incurred or such portion thereof as the Tribunal may think fit.

(5) When an election petition is allowed by the Tribunal to be withdrawn, the file of the proceedings shall be forwarded to the Government for information.

**82. Abatement or substitution on death of respondent.-** If before the conclusion of the trial of an election petition, the respondent dies or gives notice that he does not intend to oppose the petition, the Tribunal shall cause notice of such event to be published by being posted at the office of the Tribunal and the Corporation and thereupon any person who might have been a petitioner may, within a period of fourteen days from the date of such publication, apply to be substituted for such respondent to oppose the petition and shall be entitled to continue the proceedings upon such terms as the Tribunal may think fit.

**83. Abatement or substitution on death of petitioner.-** (1) An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners.

(2) Notice of the abatement of an election petition shall be published by the Tribunal or, if the petition abates before any Tribunal has been appointed by the Government, by being posted at the office of the Deputy Commissioner and at the Corporation office.

(3) Any person who might himself have been petitioner may, within a period of fourteen days from the date of such a publication of notice under sub-Rule (2), apply to be substituted as a petitioner and, upon compliance with the conditions as to security under Rule 81, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Tribunal may think fit.

**84. Grounds for which candidate other than the returned candidate may be declared to be elected.-**

(1) 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 that-

(a) in fact the petitioner or such other candidate received a majority of the valid votes; or

(b) that but for the votes obtained by the returned candidate by corrupt practice the petitioner or such other candidate would have obtained a majority of the valid votes;

the 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.

(2) If during the trial of an election petition, it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared elected, then:-

(a) any decision made by the Returning Officer under clause (b) of Rule 63 shall, in so far as it determines the question between those candidates, be effective also for the purpose of the petition; and

(b) in so far as that question is not determined by such a decision, the Tribunal shall decide between them by lot and proceed as if the one on whom the lot then falls has received an additional vote.

**85. Finding as to corrupt practice and persons guilty.-** No person shall be named as having been found guilty of any corrupt practice unless he had been given a reasonable opportunity of showing cause, why he should not be so named, during that trial of the election petition.

Provided that no person shall be named in the report unless he has been given a reasonable opportunity of showing cause why his name should not be so recorded.

**86. Communication and transmission of the orders of Tribunal.-** The Tribunal shall, as soon as may be, after the conclusion of the trial of an election petition, intimate the substance of the decision to the Deputy Commissioner of the district concerned and to the Government and as soon as may be, thereafter send to the said authorities an authenticated copy of the decision.

**87. Power of State Election Commission to order an enquiry.-** The State Election Commissioner may on its own motion direct an enquiry to be held into the conduct of any election if there is reason to suspect that a corrupt practice or material irregularity has been committed and the case shall be dealt within the manner prescribed in these Rules.

**88. Fresh election to be held if an election is declared void.-** When the election of a candidate is declared void by the Tribunal, a fresh election shall be held to fill the vacancy so caused and the procedure laid down in these Rules shall apply to such fresh election.

**89. Custody of record of election enquiry.-** After an election petition has been disposed of, the Tribunal shall forward all papers relating thereto to the District Judge within whose jurisdiction the Tribunal was situated.

**90. Grounds for which candidate other than the returned candidate may be declared to be elected.-**

(1) Subject to the provisions of sub-Rule (2), if the Tribunal is of the opinion:-

(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 the Rules made thereunder;

(b) that any corrupt practice specified in clauses (1), (2), (5) or (6) of Rule 73, has been committed by a returned candidate or his agent or by any other person with the consent of a returned candidate or his 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 corrupt practice committed in the interests of the returned candidate by an agent; or

(iii) by the improper reception, refusal or rejection of any vote or reception of any vote which is void; or

(iv) by any material irregularity in the procedure of the election,

the Tribunal shall declare the election of the returned candidate to be void.

**Explanation:-** "Material irregularity in the procedure of any election" includes any improper acceptance or refusal of any nomination or improper reception or refusal of a vote or reception of any vote which is void for non-compliance with the provision of the Act or of the Rules made thereunder or any mistake in the use of any form annexed thereto which materially affect the result of an election.

(2) If in the opinion of the Tribunal, a returned candidate has been guilty by an agent, of any corrupt practice, but the Tribunal is satisfied-

(a) that no such corrupt practice was committed at the election by the candidate, and every such corrupt practice was committed contrary to the orders and without the consent of the candidate;

(b) that the candidate and his agent took all reasonable means for preventing the commission of corrupt practice at the elections; and

(c) that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agent, then the Tribunal may decide that the election of the returned candidate is not void.