

**THE ODISHA MUNICIPAL (DELIMITATION OF WARDS, RESERVATION
OF SEATS AND CONDUCT OF ELECTION) RULES, 1994.**

CHAPTER-I

Preliminary

1. **Short title** - These rules may be called the Odisha Municipal (Delimitation of wards, Reservation of Seats and Conduct of Election) Rules, 1994.

2. **Definitions** - In these rules, unless the context otherwise requires,—

(a) “Act” means the Odisha Municipal Act, 1950 ;

(a-1) “Backward Class of Citizens” means the backward class of citizens other than the Scheduled Castes and Scheduled Tribes as may be specified by the State Government from time to time in the lists under the Odisha State Commission for Backward Class Act, 1993.

(b) “Ballot Box” includes any box, bag or any other receptacle used for receiving , ballot papers in the course of polling at a polling station ;

(c) “Election” means an election to fill a seat or seats in a Municipality;

(d) “Election Commission” means the State Election Commission consisting of a State Election Commissioner appointed by the Governor under Article 243-K of the Constitution;

(e) “Election Officer” means any officer of the State Government appointed as Election Officer by the Election Commission;

(f) “Form” means a form appended to these rules

(g) “Municipality” includes a Notified Area Council or a Municipal Council or a Municipal Corporation;

(h) “Polling Agent” means a person duly authorised by a contesting candidate for whom votes are polled during the election in respect of one or more polling stations or places specified for counting of votes;

(i) “Presiding Officer” means any person appointed as such by the Election Officer to preside over the conduct of elections at one or more polling stations within the ward”;

(j) “Polling Officer” means the person appointed by the Election Officer to assist him for conducting the elections at one or more polling station within Ward ;

(k) “Polling Station” means the place fixed by the Election Officer for conduct of the poll in respect of election of Councillors of the Municipality;

(l) “Section” means a Section of the Act;

(m) "Ward" means the area notified as such under clause (a) of sub-section (3) of Section 12 of the Act;

(n) All other words and expressions, used but not defined herein shall have the same meaning as respectively assigned to them in the Act.

CHAPTER-II

Division of Municipal Area into Wards, Assignment of Wards and Electoral Roll

2-A (1) Procedure for publication of notification for delimitation of Wards and reservation of seats-The District Magistrate shall prepare a draft of the notification as required under clause (a) of sub-section (3-A) of Section 12 showing the division of the area of the Municipality into Wards and reservation of seats in Form XXI and publish the same in the notice board (s) of his office and of the office of the concerned Municipality inviting objections and suggestions from all persons interested within a period of ten days from the date of such publication.

(2) Any person may submit his objection or suggestion in writing within the period specified in sub-rule (1) either in person or by messenger to the District Magistrate.

(3) Objection or suggestion received after expiry of the period prescribed in sub-rule (1) shall be rejected summarily.

(4) Objections and suggestions received under Rule (2) shall be consolidated Wardwise and after considering the same and making such further enquiry as may be necessary, the District Magistrate shall pass such orders as he may deem appropriate.

(5) The District Magistrate, after making such alterations as may be necessary, shall publish in the notice board (s) of his office and office of the concerned Municipality, the provisional notification in Form XXII showing the division of area of the Municipality into Wards and reservation of seats therein as required under sub-section (3) of Section 12 and shall forward forthwith a copy of each such notification to-the Election Commission, to the Government and to the concerned Municipality.

(6) Any person aggrieved by the orders passed by the District Magistrate under sub-rule(4) and upon publication of the provisional notification in Form XXII may file an appeal before the State Government under the second proviso to sub-section (3) of section 12 within fifteen days from the date of publication of the notification in Form XXII , which shall

be disposed of by the Appellate Authority within the period of thirty days from the date of its filing and if no appeal is filed before the State Government after expiry of the stipulated period the State Government shall intimate to the District Magistrate concerned accordingly

(7) The District Magistrate, after making such alternations as per the order of the Appellate Authority, if any, as may be necessary, shall publish in the notice board(s) of his office and office of the concerned Municipality, the final notification in Form XXII-A showing the division of area of the Municipality into wards and reservation of seats therein as required under sub-section(3) of section 12 and shall forward forthwith a copy of such notification to the Election Commission, to the Government and to the concerned Municipality.

3. Assignment of Wards by rotation-(1) Reservation of seats for Scheduled Castes, Scheduled Tribes and their Women shall be made in accordance with provisions of Section 11 of the Act in descending order of the numerical strength of their respective population for the purpose of election to the Municipalities held for the first time subsequent to the coming into force of the Odisha Municipal (Amendment) Act, 1994 (Odisha Act II of 1994).

(1-a) Reservation of seats for the Backward Class of citizens and for their women shall be made in a Municipality in accordance with the provisions of Section 11 of the Act.

(2) In subsequent elections, reservation of Wards for the Scheduled Castes, Scheduled Tribes, Backward Class of citizens and Women shall be made on the principle laid down under sub-rules (1) and (1-a) by rotation.

(3) Subject to the directions, if any, issued by the Governor of Odisha under sub-paragraph (1) of paragraph 5 of the Fifth Schedule to the Constitution of India, out of the Wards of a Municipality left after reservation of seats for Scheduled Castes and Scheduled Tribes the reservation of seats for the members of the Backward Class of citizens as provided under sub-sections (3) and (3-A) of Section 11 shall be made in respect of the Wards where concentration of such class of citizens is found to the satisfaction of the District Magistrate.

(4) The District Magistrate shall reserve the required number of Wards in the Municipality for Women in the following manner, namely:—

(i) In computing the total number of Wards for reservation of Women required under sub-section (4) of Section 11 of the Act, the Wards reserved for Women belonging to the Scheduled Castes, Scheduled Tribes and Backward Class of citizens shall be taken into account;

(ii) Reservation of Wards for Women belonging to Scheduled Castes shall be made at the first instance and then for the Scheduled Tribes;

(iii) Out of the Wards reserved for the Backward Class of citizens, the reservation of required number of seats for their Women shall be made in respect of the Wards where women population is more in descending order; and

(iv) Out of the Wards left after reservation for the Scheduled Castes, Scheduled Tribes and Backward Class of citizens including their Women, reservation of Wards for women shall be made according to the descending order of their population until the required quota is completed; and

Explanation-For the purpose of this rule, the numerical strength of population in relation to the Scheduled Castes, Scheduled Tribes and their Women shall mean the strength of such population as nearly as can be ascertained from the last preceding Census of which the relevant figures have been published.

4. Preliminary electoral roll for the Municipal Ward for each Ward- the Election Officer shall prepare in Form I an electoral roll comprising of the names of voters included in the electoral roll of the Assembly Constituency relatable to the area of that Ward.

5. The unit for registering voters-The unit for registration of electors shall be the ward. Every person whose name appears in the electoral roll of Assembly Constituency representing the area covered by the Ward shall be registered in that Ward. No person shall be entitled to be registered in the electoral roll for more than one Ward of any Municipality.

6. Language of the electoral roll-The electoral roll shall be kept in Odia provided that the Election Officer may direct that the electoral roll or any portion of it shall also be kept in any other language or languages spoken in a particular Municipality.

7. Preliminary electoral roll and its publication—(1) The preliminary electoral roll of the Wards of the Municipality shall be published by the Election Officer by affixing it to the noticeboard of his office. Copies of the complete preliminary electoral roll together with the notice referred to in sub-rule (2) shall also be published in the Municipal Office. The electoral roll of each electoral Ward shall also together with the notice referred to in sub-rule (2), be posted at a conspicuous place in the Ward.

(2) Within the preliminary electoral roll or extract therefrom, as the case may be, the Election Officer shall publish a notice in Form II specifying the mode in which and the time within which claims and objections are to be preferred and date on which the place at which he

will begin to sit for their disposal. The date fixed for the sitting shall not be less than ten days from the date of publication of the notice.

(3) Copies of the preliminary electoral roll or of the portion thereof, as the case may be, relating to each Ward shall be opened to inspection by the public for a period of five days from the date of publication of the roll.

(4) The Election Officer shall also notify the fact of publication of the electoral roll as required under sub-rule (1) in one or more Oriya newspaper circulating in the district.

8. Claims and objections—(1) Any person who is qualified under the provisions of the Representation of the People Act, 1950 and the Odisha Municipal Act, 1950 to be enlisted voter, shall be eligible to be registered in the electoral roll of the Municipality and the name of any person who is disqualified under the provisions of the said Acts to be so enlisted shall be liable for removal from the electoral roll of the Municipality. The name of a voter shall be registered in the electoral roll of the Ward to which he belongs.

(2) Any person who claims to be entitled to be registered as an elector and whose name is not entered or is entered in an incorrect place or manner or with incorrect particulars on the preliminary electoral roll and any person whose name is on the roll, and who objects to the inclusion of his own name or the name of any other person, whose name is on the electoral roll, may prefer a claim or an objection to the Election Officer. Such claims or objections shall be sent in Form III or Form IV, as the case may be, to the Election Officer so as to reach him within six days from the date of publication of the preliminary electoral roll at the Municipal Office.

(3) Claims and objections may be presented in person or sent by post or by messenger.

(4) Claims and objections received after the said period shall be rejected.

(5) The Election Officer or any other Officer whom he may authorise on his behalf shall, on the application of any person, supply him forms free of cost for preferring claims and objections.

9. Inquiries and correction before hearing under Rule 10—Before the date fixed for the hearing of claims and objections, the Election Officer shall make all necessary inquiries relating to such claims and objections or cause such inquiries to be made and may, of his own motion, remove from the list of names the persons whom he knows or has reason to believe to be dead and may also correct purely clerical or accidental mistakes.

10. Preparation to hear claims and objections—The Election Officer shall not less than three days before the date of commencement of hearing claims and objections—

(a) post in his own office and in the office of the Municipality lists in Form V of all claims and objections received in time and of all corrections made by him of his own motion; and

(b) send a copy of every notice of objection to the person to whose registration objection has been taken and wherever possible give intimation to the person concerned of the correction made by him on his own motion.

Explanation—In the lists referred to in clause (a) and in the copy and intimation sent under clause (b), the Election Officer shall give notice that the claims, objections and corrections will be taken into considerations by him at a place and on a date to be specified therein.

11. Hearing of claims and objections—The Election Officer shall sit in open office at the place and on the day fixed and shall hold a summary enquiry from day-to-day until all the claims and objections are disposed of. He shall have power to adjourn the proceedings at any stage to such other date and place as he may fix. Notice of the adjourned date shall also be given to each of the parties whose claims and objections have not been disposed of. The Election Officer shall make such further inquiry as he thinks fit in regard to each claim or an objection contested. He shall also pass final orders in writing on the list of corrections made of his own motion. The Election Officer shall complete all work under this rule and under Rule 13 by a period not exceeding four days. The orders passed by the Election Officer subject to appeal shall be final and shall not be liable to be questioned in any legal proceeding.

11-A. Any person aggrieved by the orders passed by the Election Officer under Rule 11 shall file an appeal petition before the District Magistrate within five days from the date of completion of all works under Rules 11 and 13 by the Election Officer. The District Magistrate shall within seven days from the last date of receipt of the appeal dispose of the appeal by conducting a summary enquiry, either by himself or by an officer authorized by him not below the rank of Additional District Magistrate. The order passed by the District Magistrate as Appellate Authority shall be final.

12. Presumption about sending notice—Any notice which is required to be sent by the Election Officer under these rules to any person shall be deemed to have been sufficiently sent, if sent by post to the address of that person as given by him for the purpose, or as appearing on the electoral roll, or if there is no such address, to his last known place of abode,

13. **Appearance during hearing**—On the consideration of any claim or objection or other matter by the Election Officer, any person interested therein may appeal and be heard either in person or by an agent duly authorised in writing.

14. **Evidence on oath**—The Election Officer may, in his discretion or at the request of any person interested, require that the evidence tendered by any person shall be on oath and may administer oath for the purposes.

15. **Final electoral roll**—(1) The Election Officer shall correct, the roll in accordance with his order under Rules 11 and 11 -A. The roll as thus corrected shall be the final electoral roll for the ward and shall be signed by the Election Officer. It shall be published for not less than three days by posting it in his office, in the office of the Municipality and at a conspicuous place in the ward. If it is more convenient, the preliminary roll together with lists of additions and corrections may be published as the final roll.

(2) Notwithstanding anything contained in these rules any person may apply to the Election Officer for the correction of an existing entry in the final electoral roll and if the Election Officer is satisfied that the entry relates to the applicant and is erroneous or defective in any particular, he may correct the roll accordingly and publish such correction in the same manner as the final roll.

(3) At any given time, the final roll as published by the Election Officer read with addition and corrections published as aforesaid up to such time shall be conclusive proof of the title of every person included therein to vote.

16. **Preservation of electoral roll**—Two copies of the final electoral roll for each ward and any additions hereto or corrections thereof shall be signed by the Election Officer. Of these, one copy shall be kept in his office and the other copy shall be sent to the Chairperson of the Municipality.

17. **Conclusiveness of the electoral roll**—On failure to observe, the date prescribed by these rules or to observe other directions regarding the preparation or publication of any electoral roll shall entitle anyone to question the validity and conclusiveness of the roll in election proceedings.

18. **Final electoral rolls of Municipality**—The final electoral rolls of all the Wards in a Municipality shall together form the complete electoral roll of Municipality. The final electoral roll of each Ward shall be divided into parts for each polling areas before the date of poll.

19. **Exemption from damages**—None of the officers entrusted with the preparation or publication of any electoral roll shall be held legally liable for damages by the reason only of any omission or inaccuracy in respect of such roll or any non-compliance with the dates prescribed by or with the other directions regarding the preparation or publication of such roll contained in these rules.

20. **Inspection, sale and supply of electoral roll**—For the purpose of inspection buy and sale to the public and supply to Polling Officer, the Election Officer shall keep copies of the electoral rolls or of the relevant portions thereof as well as of the lists of addition and corrections, if any.

21. (Omitted).

22. **Publication of lists of amendments**—When any list of amendment has been published under Rule 20 or where any name is entered or any entry or correction is made in a material particulars relating to any name on the roll, the electoral roll concerned shall be deemed to have been amended accordingly.

CHAPTER-III

Nomination of Candidates for Election of Councillors

23. (1) As soon as notification by the State Government under Sub-Section 2 of Section 12 is published, the Election Commission shall, by notification in the official gazette, appoint:—

(a) the last date for making nomination;

(b) the date for the scrutiny of the nominations which shall be the second day after the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(c) the last date for the withdrawal of the candidature which shall be the third day after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(d) the date or dates on which and the hours during which a poll shall, if necessary, be taken which or the first of which shall be a date not earlier than the tenth day after the last date appointed for withdrawal of candidature.

Explanations—In this Section, ‘Public holiday’ means any day which is a public holiday for the purposes of Section 25 of the Negotiable Instruments Act, 1881 or any day which has been notified by the State Government to be a holiday for the government offices in the State.

(2) Notwithstanding anything contained in sub-rule (1), the Election Commission shall, by notification, appoint the date for the stages of the election proceeding as contained in clauses (a) to (d) of sub-rule (1) for the purpose of election to fill up the vacancy in the office of the Councillor due to death, resignation, removal or otherwise, soon after the occurrence of the vacancy so caused.

24. Election notices and dates—(1) On the issue of a notification under Rule 23, the Election Officer appointed for the Municipality shall, in accordance with the said notifications, give public notice in English and in Oriya languages stating –

- (a) the offices in respect of which the election is to be held ;
- (b) the Wards for which the Councillors to be elected ;
- (c) number of Wards reserved for Scheduled Tribes or Scheduled Castes or Backward Class of citizens or Women ;
- (d) the place at which, the date on which and the hours between which forms of nomination paper may be obtained by the persons;
- (e) the dates on which, the place at which and the hours between which nomination paper should be presented.

Explanation—The dates shall be the dates as notified by the Election Commission under Rule 23;

(f) the date on which the nomination papers will be taken up for scrutiny;

Explanation—This date shall be the date as notified by the Election Commission under Rule 23;

(g) the date by which a candidate may withdraw his candidature ;

Explanation—This date shall be the date as notified by the Election Commission. The hour of such withdrawal shall be before 3 O'clock in the afternoon on date appointed for withdrawal of candidature;

(h) the date on which and the place or places at which the votes of the electors will be taken should there be a poll and the hours during which the poll will be opened.

Explanation—The date and hours shall be the date and hours as notified by the Election Commission under Rule 23; and

(i) the date on which and place and hour at which the Election Officer will commence the counting of the votes.

(2) The notice shall be published by affixing it at the office of the Municipality concerned, office of the Election Officer and at a conspicuous place in the Ward for which an election is to be held.

(3) The Election Officer shall after publication of the notice forward a copy of the same to the office of the Election Commission.

25. Presenting nomination paper—(1) The nomination of every candidate for the office of a Councillor shall be made by means of a nomination paper in Form VIII, which shall, on application, be supplied free of cost by the Executive Officer of the Municipality concerned, if he is so authorised by the Election Officer to any elector whose name is registered in the electoral roll of any Ward:

Provided that (a) any elector registered in any Ward of the Municipality shall be eligible to stand as a candidate for the office of a Councillor from any Ward of the Municipality;

(b) no elector who is less than twenty-one years of age as on the date of publication of the preliminary electoral roll referred to in Rule 7 shall be eligible to stand as a candidate for the office of a Councillor.

(2) Every nomination paper shall be signed by two electors of the Ward concerned for the offices of Councillors as proposer and seconder and the candidate shall sign a declaration on it expressing his willingness to stand for election for the office proposed.

(3) An elector shall not sign for more than one candidate.

(4) Every nomination paper shall be presented by the candidate in person or by his proposer and seconder together on the date, at the place and during the hour appointed by the Election Officer or by such other person as may be authorised by him on his behalf.

(5) The Election Officer or such other authorised person shall forthwith number the nominations papers serially in the order in which they are presented to in respect of each office of Councillor and enter on each nomination paper the time at which and the person or persons by whom it is presented.

(6) Where a person has signed, whether as proposer or seconder, more than one nomination paper, the paper received first only shall be deemed to be valid nomination paper.

(7) The nomination paper submitted by every candidate shall contain the name of the party symbol, if-any, allotted by the Election Commission of India to the Political Party by which the candidate has been sponsored.

(8) (i) The nomination paper submitted by an independent candidate shall contain the name of the symbol, which such candidate proposes to adopt from among the symbols specified in Appendix:

Provided that the Election Commission may issue directions to the Election Officers of the Municipalities sufficient before the date of presentation of nomination papers in the matters of giving preference of allotment of symbols out of those specified in the Appendix or any other symbol to a candidate set-up by a political party which is a State Party or a candidate of the registered unrecognised political parties in accordance with the provision contained in the Election Symbols (Reservation and Allotment) Order, 1968.

(ii) Where more than one contesting independent candidate have indicated their choice for the same symbol, the Election Officer shall with due regard to the order of nomination papers received by him, allot the symbol, and any such candidate who does not get the symbol of his choice, shall be allotted with another symbol specified in the said Appendix as may be decided by the Election Officer with due consideration of choice of the candidate.

(iii) The decision of the Election Officer in allotment of symbols under this sub- rule subject to directions of Election Commission shall be final.

(9) For the purposes of election contested in political party basis, a candidate shall be deemed to have been duly sponsored by a political party, if—

(i) the candidate has made a declaration in his nomination paper to that effect; and

(ii) a notice in Form X has been delivered to the Election Officer by the time and date indicated in the said form.

NOTE I—The notice in Form X is to be signed by the President or the Secretary of the State Level Organisation of the Political Party or any other office bearer authorised in Form IX by the political party to send such notice; and

NOTE II—The name and specimen signature of such authorised person are to be communicated to the Election Officer at least two days before the date fixed for scrutiny of nomination papers.

(10) The rejection of nomination paper of any candidate on the ground of any irregularity in respect thereof shall not affect the validity of the nomination of the candidate, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(11) The nomination papers received after the date and time appointed shall be rejected.

26. Correcting nomination papers-On the presentation of a nomination paper, the Election Officer or other authorised person referred to in sub-rule (4) of Rule 25 may require the person or persons presenting the same to produce a copy of the electoral roll on which the candidate and his proposer and seconder are registered or of the necessary entries therein and shall satisfy himself that the name and number of the candidate and his proposer and seconder as entered in the nomination paper are the same as those entered in the electoral roll. Where necessary, he shall direct the former be amended so as to be in accordance with the latter.

27. Candidate depositing money—(1) On or before the date appointed for the presentations of nomination papers, each candidate, wishing to stand for election to a Municipal Council shall deposit or cause to be deposited with the Election Officer in cash a sum of rupees fifty in case of a Member of the Scheduled Tribe and Scheduled Caste if he proves himself to be the member of such Tribe/Caste by producing a certificate to that effect from the competent authority before the Election Officer and rupees one hundred in case of others. No candidates shall be deemed to be duly nominated for any ward in respect of which such deposit has not been made. A candidate is required to deposit separately in respect of each Ward he wishes to stand.

Explanation—The delivery to the Election Officer of a receipt from a Government • treasury in the district evidencing the payment by or on behalf of a candidate to the credit of the Municipality of the amount required to be deposited under this sub-rule shall be deemed to be a deposit of such amount within the meaning of this sub-rule made by or on behalf of such candidates at the time of such delivery.

(2) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made, withdraws his candidature in the manner and within the time specified in sub-rule (1) of Rule 31 or if the nomination of any such candidate is rejected, the deposit shall be returned to the person by whom it was made and if any candidate dies before the commencement of the poll any such deposit, if made by him, shall be returned to his legal representative or if not made by the candidate, shall be returned to the person, by whom it was made.

(3) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made is not elected and the number of votes polled by him does not exceed one- eighth of the total number of votes polled, the deposit shall be forfeited to the Municipality.

Explanation—For the purpose of this sub-rule (3) the number of votes polled shall be deemed to be the number of ballot paper other than spoiled ballot papers, counted.

(4) The deposit made in respect of a candidate who is elected shall be so returned as soon as may be after the candidate has taken his seat in the Municipal Council or in pursuance of a direction by the State Government for the return of the deposit the fact that the seat has not been so taken by the candidate.

(5) Notwithstanding anything contained in sub-rule(2) and (4) where a candidate is duly nominated 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 to the Municipality.

Explanation—A candidate is said to be duly nominated, 'within the meaning of this sub-rule, in any Ward if his nomination therefore is not rejected under sub-rule(2) of Rule 29 notwithstanding the fact that he withdraws his candidature for such ward within the time specified in sub-rule(1) of Rule 31 or dies before the commencement of the poll therein.

(6) A deposit required to be returned to any person under sub-rule (2) or sub-rule (4) shall, if such person is dead, be returned to his legal representative.

(7) Notwithstanding anything contained in this Rule, a deposit made under sub-rule (1) shall not be returned unless a claim therefor is preferred by the person who made the deposit or by his legal representative as the case may be, within six month of the date of the declaration of the results of the election by the Election Officer or where such declaration is made on two different dates within six months of the later of such dates.

28. **List of received nomination papers**-On the day appointed for the receipt of nomination papers and immediately after the hour for their receipt is past, the Election Officer or other authorised person referred to in sub-rule (4) of Rule 25 shall publish at his office in Odia a list in Form XI of all nominations received with a notice that the nomination paper will be taken up by the Election Officer for scrutiny at his office or other specified place on the date, appointed and at the hour specified under Rule 24.

29. **Scrutiny of nomination papers**—(1) On the date appointed for the scrutiny of nomination, the candidates, one proposer and one seconder of each candidate and any other person duly authorised in writing by each candidate, and except for the purpose of assisting the Election Officer, no other person, may attend at such time and place as may be specified under Rule 28 and the Election Officer shall give such person all reasonable facilities to examine the nomination papers of all candidates which have been received as aforesaid.

(2) The Election Officer shall then examine the nomination papers and shall decide all objections which may be made at the time to any nominations and may, either on such objections or on his own motion after such summary enquiry, if any, as he thinks necessary, reject any nomination on any of the following grounds:

- (i) that the candidate is ineligible for contesting election under Sections 16 of the Act;
- (ii) that the candidate is unable to produce an affidavit from the competent authority to the effect that he has not more than one spouse living and not more than two children ;
- (iii) that the proposer or seconder is a person whose name is not registered on the electoral roll for the Ward of the Municipality;
- (iv) that there has been any failure on the part of the candidate or his proposer or seconder to comply with any of the provisions of Rule 25 or 27; or
- (v) that in case the election is solely for a seat reserved for the Scheduled Tribes or for Scheduled Castes or for women or for the backward class of citizens, the candidate does not belong to the Scheduled Tribes, or Scheduled Castes or woman or to the backward class of citizens, as the case may be. In the case of a member of the Scheduled Castes or Scheduled Tribes or backward class of citizens, the candidate is to prove himself to be a member of such Caste/Tribe/Backward class of citizens by producing a certificate to that effect from the competent authority before the Election Officer.

(3) The Election Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected shall record in writing a brief statement of his reasons for such rejection. The scrutiny shall be completed on the date appointed on this behalf under Rule 24 and no adjournment of the proceeding shall be allowed.

(4) The decision of the Election Officer shall be final.

30. Publication of valid nomination papers and final list of contesting candidates—

(1) (a) On completion of the scrutiny of nomination, the Election Officer shall prepare a list of validly nominated candidates in Form No. XII for each Ward arrange them in alphabetical order in oriya and published on the noticeboard of this office.

(b) After expiry of the period, within which candidature may be withdrawn under sub-rule(1) of Rule 31, the Election Officer shall in Odia, prepare a final list of contesting candidates for each ward in Form XII-A of person whose nominations have not been rejected and who have not withdrawn their candidature and publish it on the noticeboard of his office not later than two

days after the expiry of the period within which candidature may be withdrawn and at least four days before the date fixed for the polling.

(2) The list shall contain the names of the candidates in alphabetical order and shall describe them in their nomination papers and also specify the symbols assigned to them under sub-rules (7) and (8) of Rule 25.

(3) Copies of the list shall forthwith be sent to be posted in the offices of the Municipality, and the concerned Sub-Collector. A copy of the list relating to a ward shall also be posted at a conspicuous place at each Ward.

31. Withdrawal of candidature—(1) Any candidate may withdraw his candidature- by giving notice in writing signed by him and delivered to the Election Officer before 3 O'clock in the afternoon on the date appointed by the Election Officer under Rule 24. Unless the notice is delivered by the candidate himself to the Election Officer the candidate's signature on the notice shall be attested by a person empowered to attest Vakalat. A candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal or to be renominated as a candidate for the same election.

(2) The Election Officer on receiving a notice of withdrawal shall as soon as may be cause a notice of the withdrawal to be published on the noticeboard of his office.

32. Procedure after nomination -(1) The following provisions shall apply in respect of candidates who have been duly nominated and have not withdrawn their candidature in the manner and within the time specified in sub-rule(1) of Rule- 31.

(a) If there is only one candidate duly nominated for the office of Councillor for any Ward of the Municipality, the Election Officer shall declare such candidate to be duly elected.

(b) If there is no candidate duly nominated election proceedings shall be started afresh for filling up-the vacancy, in all respects as if for a new election

Provided that if in respect of a particular Ward reserved for the candidate belonging to the Scheduled Castes or to the Scheduled Tribes or for woman or for backward class of citizens no nomination is filed by any such candidate to contest the election in respect of that Ward the Election Officer shall forthwith report the fact through the Election Commission to the State Government for appropriate action under sub-section (5) of Section 11 of the Act.

(c) If the number of candidates duly nominated exceeds that of the vacancy, a poll shall be taken.

(2) The Election Officer shall forthwith report the names of all candidates declared to be elected under sub-rule (1) to the Election Commission.

33. Deleted.

34. Death of a candidate-If before the poll is taken, candidate who has been duly nominated, dies and the Election Officer shall upon being satisfied of the fact of death of the candidate, countermand the polls and report the fact to the Election Commission and the election proceeding shall be started afresh in all respects as if for a new election :

Provided that no fresh nomination shall be necessary in the case of a candidate who stood nominated at the time of the countermanding of the poll.

CHAPTER -IV

Polling

35. Appointment of Presiding Officer, Polling Officers and Agents—(T) If a poll has to be taken the Election Officer shall appoint forthwith Presiding Officer and one or more polling Officers for each polling station.

(2)The Election Officer shall provide for each Presiding Officer and Polling Officer such number of clerks as may be necessary and may, if necessary appoint one or more persons to assist the Polling Officer in identifying the electors. Polling Officers shall neither be councillors nor employees of the Municipality concerned.

(3)The Presiding Officer shall keep order at the polling station, shall see that the election is fairly conducted, shall regulate the number of electors to be admitted at one time and shall not allow any other persons except—

(a) the candidate and at each booth one agent of each candidate at a time (hereinafter referred to as the Polling Agent) appointed in writing by the candidate with the prior approval of the Election Officer.

(b)The police or other public servants on duty; and

(c)his own clerks and such persons as the Polling Officer may from time to time admit for the purpose of identifying electors.

36. Provision of polling station—The Election Officer of every Municipality shall with the previous approval of the Election Commission, provide sufficient number of polling stations for each Ward and shall publish in such manner as the Election Commission may direct, a list showing the polling stations so provided and the polling areas for which they have been provided:

Provided that if there is any inconvenience to have polling station in the particular ward the Election Commission may direct to establish the polling station in the neighbouring Ward, but no polling station of any Ward of any Municipality shall be located outside the limits of that Municipality;

Provided further that for good and sufficient reason the Election Commission may allow the Election Officer to change the location of the polling station at any time before the commencement of poll and it shall be the duty of the Election Officer to give wide publicity of such change in the polling area.

37. Polling Booth—Each polling station and at a polling station having more than one polling booth each such booth shall contain a separate compartment in which electors can record their votes screened from observation except in so far as it may be necessary to ensure that the ballot papers are duly placed in boxes. As far as possible separate compartments and separate entrances and exits shall, where action is not taken under Rule 38 be provided for women electors.

38. Deleted

39. Ballot box—(1) The Election Officer shall provide at each polling station sufficient number of ballot boxes according to the requirement. Every ballot box shall be of such design as may be approved by the Election Commission. The ballot boxes shall be so made as to contain a slit for insertion of ballot paper and shall bear labels, both inside and outside, marked with, (a) the name or number of the Ward, (b) the name of the polling station, (c) the serial number of the ballot box used in that polling station (to be filled in at the end of the poll on the label outside the ballot box only) and (d) the date of poll.

(2) Every ballot box shall be so constructed that ballot papers can be introduced therein but cannot be withdrawn there from without the box being unlocked.

40. Arrangements at polling stations—(1) Outside each polling station there shall be displayed prominently-

(a) a notice specifying the polling area, the electors who are entitled to cast their votes at the polling stations and, when the polling area has more than one polling station the particulars of the electors so entitled; and

(b) copies of the lists in Form XII-A of the contesting candidates.

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

(d) The Presiding Officer shall keep 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 and articles necessary for elector to mark the ballot papers.

41. Prohibition of public meetings and canvassing—(1) No person shall convene hold or attend any public meeting in any polling area during the period of forty-eight hours preceding the hour fixed for the closure of the poll for any election in that polling area.

(2) No person shall, on the date or dates on which a poll is taken, commit any of the following acts within the polling stations, or in any public or private place within a distance of one hundred meters of the polling station, namely:—

- (a) canvassing for votes; or
- (b) soliciting the vote of any elector; or
- (c) persuading any elector not to vote for any particular; candidate; or
- (d) persuading any elector not to vote at the election; or
- (e) exhibiting any notice or sign (other than official notice) relating to election.

(3) Any person who contravene the provision of sub-rules (1) and (2) shall be punished with fine which may extend to one hundred rupees.

(4) An offence under this rule shall be cognizable.

42. Placing of ballot boxes—(1) The Presiding Officer at any polling station, immediately before commencement of the poll, shall demonstrate to the polling agents and other persons present at such station that the ballot box is empty and bears the labels referred to in sub-rule (1) of Rule 39 and shall then lock it up and place his seal upon it in such manner as to prevent its being opened without breaking such seal and allow such polling agents, as may be present and willing to give their seals in the box and thereupon shall place the box so locked and sealed on table in full view of all present.

(2) Before the polling station is opened for the recording of votes, the Presiding Officer shall read before such persons as may be present the provisions of Section 128 of the Representation of the People Act, 1951 and shall explain the substance thereof.

43. Ballot Papers—(1) Every ballot paper shall have a counterfoil attached thereto and the said ballot paper and the counterfoil shall be in Form No. XIII and shall be numbered.

(2) Every ballot paper shall be in such size as the Election Commission may direct and the particulars therein shall be written in Oriya.

(3) The names of the candidates shall be arranged on the respective ballot papers in the order which they appear in the list for each ward in Form XII-A.

(4) At the time of issuing a ballot paper to an elector, the Polling Officer shall mark the name of the elector against the entry relating to the elector in the copy of electoral roll set apart for the purpose.

(5) Save as provided in sub-rule (4), no person in the polling station shall note down the serial number of the ballot paper, issued to particular electors.

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

44. Issue of ballot papers to electors—(1) Immediately before any ballot paper is delivered to an elector the number, name and description of the elector as stated in the electoral roll shall be called out. The Polling Officer shall stamp the ballot paper with such distinguishing mark as the Election Commission may direct and deliver the same to the elector.

45. Voters Procedure—(1) The elector on receiving the ballot paper shall forthwith proceed into the polling compartment, make a mark on the ballot paper with the instrument supplied for the purpose on or against the symbol of the candidate for whom he intends to vote, fold the ballot paper so as to conceal his mark and insert the same into the ballot box and then quit the polling station.

(2) Every elector shall vote without undue delay.

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

(4) The Presiding Officer shall ensure that the ballot paper is duly and properly inserted by the elector in the ballot box.

46. Recording of votes of blind and or infirm elector—(1) If the Presiding Officer is satisfied that owing to blindness or other physical infirmities an elector is unable to recognize the symbol 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 18 years of age to the voting compartment for recording the vote on the ballot paper on his behalf and in accordance with his wishes who would also then fold the said ballot paper so as to conceal the vote and insert 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 other polling station on that day.

(2) The Presiding Officer shall keep a record in Form XIV-A of all such cases under this Rule.

47. Special facility to women voters—Special facilities in accordance with instruction, if any, issued by the Election Commission in that behalf, may be accorded to women electors.

48. Questioning voters—(1) When a person presents himself to cast his vote and at any time before a ballot paper is supplied to him the Polling Officer may, of his own accord and shall if so required by a candidate or polling agents, put such person either or both, of the following questions :—

- (i) Are you the person enrolled as follows (reading the whole entry from the roll)?
- (ii) Have you already voted at the present election at this polling station or at any other polling station?

(2) The person shall not be supplied with a ballot paper unless he gives an unqualified answer to the question/or questions put to him and unless his answer to the first question is in the affirmative and the second in the negative. Except as mentioned here in every person whose name is found on the electoral roll shall be entitled to be supplied with a ballot paper.

49. Safeguards against personation—(1) Every elector about whose answers to the questions put under rule 48 the Polling Officer is satisfied shall allow his left forefinger to be inspected by the Polling Officer and an 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 (i) 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 cast his/her 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.

50. Tendered ballot paper—(1) If a person representing himself to be a particular elector named on the electoral roll applies for a ballot paper after another person has voted as such elector, the applicant shall, after satisfactorily answering such questions as the Polling Officer may ask, be entitled to receive a ballot paper in the same manner as any other elector.

(2) The Presiding Officer shall write the word “Tendered” in bold characters on the back of the ballot paper before it is handed over to such person. On receipt of such ballot paper (hereinafter referred to as tendered ballot paper) the elector shall proceed into the compartment for recording his vote and after recording his vote place it in an envelope, specially meant for tendered ballot papers. Thereafter the same shall be handed over by the elector to the Presiding Officer. The Presiding Officer shall make an endorsement containing the name of the elector and his number on the electoral roll and the name or number of the ward for which the election is held, and shall set aside the envelope in a separate packet, alongwith the ballot papers in which shall not be counted by the Election Officer. The name of the elector and his number in the electoral roll and the name or distinctive number of the polling station to which the roll relates shall be entered in a list in Form XIV which shall bear the heading, “Tendered votes list”. The person tendering such ballot paper or papers shall sign his name and address on that list or affix his thumb impression thereto.

Explanation-In cases falling under this rule to which rule 51 is also applicable the provisions of this rule as well as of rule 51 shall be followed.

51. Challenged ballot paper—(1) If any candidate or polling agent, declares and undertakes to prove that any person by applying for a ballot paper has committed the offence of personation, the Presiding Officer shall call upon the candidate or agent bringing forward the charge of personation to deposit with him a sum of rupees twenty in cash. A separate deposit of a sum of rupees twenty in cash shall be required for proceeding with each charge of personation. If such deposit is not made the Presiding Officer shall ignore the challenge. Such deposits shall be credited to such funds as may be directed by the Election Commission.

(2) Immediately after the deposit required by sub-rule (i) has been made the Presiding Officer shall obtain a written statement in Form XV which shall be signed by the candidate or agent, as the case may be, and attested by two credible witnesses, in the presence of the Presiding Officer.

(3) The Presiding Officer shall then require the applicant for the ballot paper to write in the list of challenged votes (which shall be in Form XVI) his name and address or if he is unable to write affix his thumb impression thereto and may further require such person to produce evidence of identification.

(4) If the applicant for the ballot paper on being questioned in the manner provided in rule 48 gives unqualified answers to the first question in the affirmative and to the second in the negative he shall be allowed to cast his vote after he has been informed of the penalty for personation. The Presiding Officer shall make a note of the circumstances and of his decision on the list of challenged votes.

(5) The Presiding Officer shall at the close of the poll forward to the Election Officer the statement mentioned in sub-rule (2) enclosed in the packet containing the list of challenged votes, if any.

(6) The Election Officer, after instituting such inquiries as may be necessary, shall take steps to prosecute the persons or person whom he believes to be guilty of the offence of personation. If it is found as a result of the judicial trial that the offence of personation has not been proved the Election Officer shall decide whether the whole or part of the deposit shall be declared forfeited and the amount so forfeited shall be credited to such funds as may be directed by the Election Commission. In coming to a decision on this point the Election Officer shall be guided by the fact and conclusions recorded at the trial. The deposit or such portion thereof as has not been declared forfeited shall be returned to the person who made the deposit.

52. Voting by a voter on duty at another polling station—(1) A Polling Officer, Public Servant or Polling Agent who being entitled to cast his vote in the ward is duly appointed or authorized for duty at a polling station at which he is not ordinarily entitled to record his vote may apply to the Election Officer concerned for a certificate entitling him to record his vote at the polling station where he is employed. The said certificate shall be in Form XVII:

Provided that if the Presiding Officer, a Polling Officer, Public Servant or Polling Agent is on duty at a polling station which is not in the ward in which he is entitled to record his vote, the Election Officer shall in addition to the certificate mentioned above furnish the Presiding Officer concerned with particulars regarding the name and serial number and symbol assigned to the candidate standing for election in that ward and also with ballot paper relating thereto.

(2) A person in possession of a certificate in the form provided under sub-rule (1) shall deliver the certificate to the Polling Officer, who shall thereupon issue ballot paper to the person. Such ballot paper shall be dealt with in the following manner:—

(i) If the polling station at which the person is on duty be in the same ward or as the one in which he is entitled to vote, then the provisions contained in Rule 45 shall apply. The Presiding Officer, shall at the end of the poll, send the certificate to the Election Officer alongwith the statement mentioned in Rule 57.

(ii) If the polling station at which the person is on duty is not in the ward in which he is entitled to vote, the Presiding Officer shall issue the ballot paper and allow the elector to record his vote in accordance with the certificate issued by the Election Officer. The ballot paper shall then be kept in an envelope meant for that purpose and handed over to the Presiding Officer.

(iii) The Presiding Officer shall make separate packets for each ward putting inside it the envelope containing the ballot papers in which votes have been so recorded, the connected certificates being fastened to the envelopes, seal up each such packet in the manner specified in rule 56 and forward the same to the Election Officer.

53. Closing of Poll—(1) The Presiding Officer shall so regulate the entry of voters that polling proceeds in an orderly manner. All registered voters who appear between the hours fixed for the poll within the polling station shall be allowed to cast his vote. No voter shall be admitted inside the polling station after the time fixed for the closure of the poll.

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

(3) A poll stopped under rule 54 shall also be held in the manner specified in sub-rules (1) and (2) above.

54. Procedure where voting is obstructed and subsequent voting—(1) Where the proceedings at any polling station are seriously interrupted or obstructed by any riot or even violence or otherwise or where a large number of electors are unable to attend the poll at a polling station by reason of any act of God such as flood or fire the Presiding Officer shall stop the poll pending the receipt of the orders of the Election Commission. The fact that the poll has been so stopped shall be immediately announced by the Presiding Officer to the persons present at the polling station.

(2) Where a Presiding Officer stops a poll under sub-rule (1) he shall observe the procedure laid down in Rules 56 and 57 and forthwith make a full report of the circumstances to the Election Officer who shall forward the same expeditiously with his remarks thereon, if any, to the Election Commission.

(3) The Election Commission shall thereupon order—

(a) that the poll be continued at the polling station for the number of hours for which it was not held on the previous occasion; or

(b) that the proceedings at the poll held at the polling station on the previous occasion be ignored and that a fresh poll be held at such polling station for the full number of hours for which it should have been held on the previous occasion.

(4) Any order passed by the Election Commission under this sub-rule shall be final.

(5) Any order passed under sub-rule (3) shall,—

(a) state—

(i) the date on which and hours between which the continuation poll or the fresh poll as the case may be, shall be held; and

(ii) the date on which and the place and hours at which the Election Officer will commence the counting of the votes under the Rule 58, and

(b) be published in the manner laid down in sub-rule (2) of Rule 24, not less than seven days before the date fixed for the continuation poll or for the fresh poll, as the case may be.

(6) (a) Where an order is passed under clause (a) of sub-rule (3) for the continuation of the poll the Election Officer shall proceed, afresh under sub-rule (1) of Rule 35 and return to the Presiding Officer appointed under that sub-rule all the packets received by him under sub-rule (2) of this rule.

(b) The Presiding Officer shall open the packets just before the commencement of the continuation poll in the presence of such persons as may be present at the polling station and commence such poll precisely at the hour fixed therefor in the order passed by the Election Commission under clause (b) of sub-rule (3).

(c) At the continuation poll the Presiding Officer shall allow only such elector to cast his vote who did not cast his vote on the previous occasion.

(7) Where an order is passed under clause (b) of sub-rule (3) for holding a fresh poll the Election Officer shall proceed afresh under sub-rule (1) of Rule 35 and a fresh poll shall be held at the polling station concerned in accordance with the provision of these rules in all respects as if it were being held at such polling station for the first time.

Explanation—There shall be no fresh nomination in cases falling under this sub-rule.

(8) Notwithstanding anything contained in the rule, if a candidate dies at anytime before orders are passed by the Election Commission under sub-rule (3) or at anytime after the passing of such order but before the commencement of the continuation poll or of the fresh poll as the case may be, the Election Officer shall upon being satisfied of the fact of the death of the candidate intimate such fact to the Election Commission, stop all further proceedings in connection with the election, and start election proceedings afresh in all respects as if for a new election :

Provided that no fresh nomination shall be necessary in the case of the remaining candidate who stood nominated at the time when the poll was stopped.

55. Spoilt and returned ballot papers—(1) An elector, who has inadvertently dealt with his ballot paper in such a manner that it cannot conveniently be used as a ballot paper may, on delivering it to the Presiding Officer and after satisfying him of the inadvertence, be given another ballot paper and the ballot paper returned by the elector 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 ballot paper so returned shall be marked as “Returned Cancelled” by the Presiding Officer.

(3) If any ballot paper which has been issued to an elector has not been inserted by him into the ballot box but is found anywhere in or near the polling station, whether within or outside the voting compartment it shall be deemed to have been returned to the Presiding Officer under sub-rule (2) and shall be dealt with accordingly.

56. Sealing ballot boxes, keys, ballot papers, etc.—(1) Subject to rule 53 the Presiding Officer shall close the polling station at the hour appointed for closing under rule 24 or sub-rule (4) of rule 54 as the case may be, so as to prevent the admission thereto of any elector after that hour.

(2) 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 polling agents who may be present make

separate packets and seal with his own seal and the seals of such candidates or agents as may decide to affix their seals—

- (i) each ballot box in use at such station unopened but with the key (which should also be sealed in the same manner as the ballot box) attached;
- (ii) the tendered ballot papers;
- (iii) the unused ballot papers;
- (iv) the cancelled ballot papers;
- (v) the copy of the electoral roll referred to in sub-rule (4) of Rule 43;
- (vi) the tendered votes list;
- (vii) the list of challenged votes with the statement or statements mentioned in sub-rules (2) and (5) of Rule 51; and
- (viii) the envelopes referred to clause (ii) of sub-rule (2) of Rule 52 and shall forward such packets to the Election Officer.

(3) Each packet shall be numbered and shall bear a note as to its contents the name of the polling station and the name or number of the ward. Where no vote has been recorded at any polling station the Presiding Officer shall submit a nil report together with statement in Form XVIII referred to in Rule 57.

57. Forwarding packets to Election Officer—The packets shall be accompanied by a statement in a separate cover in Form XVIII and made by the Presiding Officer showing the number of ballot papers entrusted to him and accounting for them under the heads of ballot papers in the ballot boxes, unused spoilt and tendered ballot papers.

57A. Voting by Electronic Voting Machines—(1) Notwithstanding anything contained in these rules, the giving and recording of votes by voting machines in the manner specified hereunder may be adopted in such ward or wards as the Election Commission may having regard to the circumstances of each case, specify.

Explanation—For the purpose of these rules "Voting Machine" means any machine or apparatus whether operated electronically or otherwise used for giving or recording of votes and any reference to any ballot box or ballot paper in these rules save as otherwise provided being construed as including a reference to such voting machine whenever such voting machine is used at any election.

(2) 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 Election Commission.

57B. Preparation of Voting Machine by the Election Officer—(1) The balloting unit of the voting machine shall contain such particulars and in such language or languages as the Election Commission may specify.

(2) The names of the candidates shall be arranged on the balloting unit in the same order in which they appear in the list of valid nomination for each ward in Form XII.

(3) If two or more candidates bear the same name they shall be distinguished by the addition of their fathers' name or residence.

(4) Subject to the foregoing provisions of this rule the Election Officer shall—

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

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

57C. Preparation of Voting Machine for poll—(1) The Control unit and the balloting unit of every voting machine used at polling station shall bear a label marked with—

- (a) the name or the number of the ward,
- (b) the serial number and name of the polling station or stations as the case maybe.
- (c) the serial number of the unit, and
- (d) the date of poll.

(2) 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 label referred to in the foregoing sub-rule.

(3) A paper seal shall be used for securing the control unit of the voting machine and the Presiding Officer shall affix his own signature on the paper seal and obtain thereon the signature of such of the polling agents present as are desirous of affixing the same.

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

(5) The seal used for securing the control unit shall be fixed in such manner that after the unit has been sealed it is not possible to press the “result button” without breaking the seal.

(6) The control unit shall be closed and secured and placed in full view of the Presiding Officer and the Polling Agents and the balloting unit placed in the voting compartment.

57D. Procedure for voting by Voting Machine—(1) Before permitting an elector to vote, the Presiding Officer shall—

(a) record the electoral roll number of the elector as per the entry made in the copy of the electoral roll set apart for the purpose in a register of voters in Form XVII A;

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

(c) mark the name of the elector in the copy of the electoral roll set apart for the purpose to indicate that he has been allowed to vote :

Provided that no elector shall be allowed to vote unless he puts his signature or thumb impression on the register of voters.

(2) It shall be necessary for any Presiding Officer or any other officer to attest the thumb impression of the elector on the register of voters.

(3) Every elector shall vote without undue delay.

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

57E. Recording of votes of blind or infirm electors—(1) If the Presiding Officer is satisfied that owing to blindness or other physical infirmities an elector is unable to recognize the symbol on the balloting unit of the voting machine or unable to record his vote by pressing the appropriate button thereon without assistance, the Presiding Officer shall permit the elector to take, with him a companion of not less than 18 years of age to the voting compartment for recording the vote on his behalf which shall be in accordance with his wishes:

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

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

57F. Tendered votes—(1) If a person representing himself to be a particular elector named on the electoral roll seeks to vote after another person has voted as such elector, the elector shall, after satisfactorily answering such questions as the Presiding Officer may ask be instead of, being allowed to vote through balloting unit be supplied with a tendered ballot paper which shall be of such design and the particulars of which shall be in such language or languages as the Election Commission may specify.

(2) Every such elector shall before being supplied with tendered ballot paper write his name against the entry relating to him in Form XVIIIB.

(3) On receipt of such ballot paper (hereinafter referred to as tendered ballot paper) the elector shall proceed into the compartment for recording his vote and after recording his vote place it in an envelope, specially meant for tendered ballot papers. Thereafter the same shall be hand over by the elector to the Presiding Officer.

(4) The Presiding Officer shall make an endorsement containing the name of the elector and his number on the electoral roll and the name or number of the ward for which the election is held, and shall set aside the envelope in a separate packet, along with the ballot paper which shall not be counted by the Election Officer.

57G. Voting by a voter on duty at another polling station—(1) A Presiding Officer, or Polling Agent who being entitled to cast his vote in the Ward is duly appointed or authorised for duty at a polling station at which he is not ordinarily entitled to record his vote may apply to the Election Officer concerned for a certificate entitling him to record his vote at the polling station where he is employed. The said certificate shall be in Form XVII:

Provided that if a Presiding Officer, or Polling Agent is on duty at a polling station which is not in the ward in which he is entitled to record his vote, the Election Officer shall, in addition to the certificate mentioned above, furnish the Presiding Officer concerned with particulars regarding the name and serial number and symbol assigned to the candidate standing for election in that ward and also with a ballot paper which shall be of such design and the particulars of which shall be in such language or languages as the Election commission may specify.

(2) A person in possession of a certificate in the form provided under sub-rule (1) shall deliver the certificate to the Presiding Officer, who shall—

(i) if the polling station at which person is on duty be in the same ward or as the one in which he is entitled to vote permit him to record his vote in the same manner as for elector entitled to vote at the polling station.

(ii) if the polling station at which the person is on duty is not in the ward in which he is entitled to vote, the Presiding Officer shall issue the ballot paper and allow the elector to record his vote in accordance with the certificate issued by the Election Officer.

(iii) the Presiding Officer shall make separate packets for each ward putting inside it the envelope containing the ballot papers in which votes have been so recorded, the connected certificates being fastened to the envelopes, seal up each such packet in the manner specified in rule 57K and forward the same to the Election Officer.

57H. Account of Votes recorded: (1) The Presiding Officer shall at the close of the poll prepare an account of votes recorded in Form No. XVIIC and enclose it in a separate cover with the words "Accounts of Votes Recorded" superscribed thereon. %

(2) The Presiding Officer shall furnish to every polling agent present at the close of the poll a true copy of the entries made in Form No. XVIIC after obtaining a receipt from the said polling agent there for and shall attest it as a true copy.

57I. Sealing of Voting machine after the 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 vote 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 Election Commission may direct and the seal used for securing them shall be so affixed that it will not be possible to open the unit without breaking the seals.

(3) The Polling Agents present at the polling station who desire to affix their seals shall also be permitted to do so.

57J. Sealing of other packets : (1) The Presiding Officer shall then make into separate packet:—

- (a) the marked copy of the electoral roll;
- (b) the register of voters in Form XVIIA;
- (c) the cover containing the tendered ballot papers and the list in Form XVIIIB
- (d) the list of challenged votes;
- (e) any other papers directed by the Election Commission to be kept in a sealed packet, and

(f) the envelopes referred to clause(ii) of sub-rule (2) of rule 57G and shall forward such packets to the Election Commission.

(2) Each packet shall be sealed with the seal of the Presiding Officer and with the seal either of the candidate or of his election agent or of his polling agent who may be present at the polling station and may desire to affix his seal thereon.

(3) Each packet shall be numbered and shall bear a note as to its contents, the name of the polling station and the name or the number of the ward where no vote has been recorded at any polling station the Presiding Officer shall submit a nil report.

57K. Transmission of voting machines, etc. to the Election Officer—(1) The Presiding Officer shall then deliver or cause to be delivered to the Election Officer at such place as the Election Officer may direct—

- (a) the voting machine;
- (b) the account of votes recorded in Form XVIIC;
- (c) the sealed packet preferred to in Rule 57J; and
- (d) all other papers used at the poll.

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

(3) The provisions of Rules 35 to 37, 40, 41, 47 to 49, 51, 53 and 54 shall, so far as may be, apply in relation to voting by voting machine and any reference in those rules to:

“ballot box” or “ballot paper” shall be construed as including a reference to such “voting machine”.

CHAPTER V

Counting of votes and declaration of result

58. Counting of ballot papers—(1) The counting of votes shall commence on the day and at the place and hour fixed under Rule 24, votes shall be counted by or under the supervision of the Election Officer and each candidate, the election agent of each candidate and one representative of each candidate, authorised in writing by the candidate shall have a right to be present at the time of counting. No other person shall be allowed to be present except such persons as the Election Officer may appoint to assist him in counting votes and no person shall

be appointed to assist in counting the votes who has been employed by or on behalf of any candidate for any purpose whatsoever connected with the election.

(2) The Election Officer shall, before he commences to count the votes, read the provision of Section 128 of the Representation of the People Act, 1951 to such person as may be present, and shall then proceed as follows:—

(a) Before any ballot box is opened at a counting table, the counting agents present at the table shall be allowed to inspect the paper seal or such other seal as might have been affixed thereon and to satisfy themselves that it is intact. The Election Officer shall satisfy himself that none of the ballot boxes has in fact been tampered with.

(b) The ballot box or boxes and all envelopes which may have been received under Rule 52 for a particular ward shall be opened one after another. The Election Officer shall take out the ballot papers therefrom and count them in order of the serial number of names of candidates appearing in the ballot paper.

(c) Ballot papers of a ward, where there are more than one polling booth, shall be mixed up in a separate container after verification of ballot paper account of each such polling booth, before counting of votes.

(d) If any candidate or, in his absence, his election agent, before declaration of the result of election, requests in writing to the Election Officer to re-examine and recount the votes, the Election Officer shall upon such request re-examine and recount the same without delay. The Election Officer, may, however, re-examine and recount the votes suo motu either once or more than once in any case in which he is not satisfied as the accuracy of any previous count:

Provided that nothing in this clause shall make it obligatory on the Election Officer to re-examine or recount the same votes more than once.

(3) (a) The Election Officer shall allow the candidates and their agents reasonable opportunities to inspect without handling all ballot papers which in his opinion are liable to be rejected. He shall endorse the word “rejected” on every ballot paper which is rejected. If any candidate or agent present questions the correctness of the rejection he shall also record on the ballot paper the grounds for the rejection.

(b) Each ballot paper not rejected under Rule 59 shall be deemed as a valid vote and shall be counted as one valid vote.

(c) The votes polled by each candidate shall be registered in Form No.XIX and any candidate or his agent after the result of election has been declared by the Election Officer under Rules 60 shall on application be permitted to take a copy of the return.

(d) The valid ballot paper found in each ballot box shall thereafter be bundled together and kept along with the bundle of rejected ballot papers, if any found in that box in a separate packet which shall be sealed and on which shall be recorded the name of the Municipality, ward number and the date of counting.

58A. Counting of votes where electronic voting machine have been used—(1) The Election 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 at 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 satisfy themselves that the seals are intact.

(3) The Election Officer shall satisfy himself that none of the voting machine has been tampered with.

58B. Counting of votes—(1) After the Election Officer is satisfied that a voting machine has in fact not been tampered with, he shall have the vote recorded therein counted by pressing the appropriate button marked “Result” provided in the control unit whereby the total votes polled and votes polled by each candidate shall be displayed in respect of each such candidate on the display panel provided for the purpose in the unit.

(2) As the votes polled by each candidate are displayed on the control unit the election officer shall have—

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

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

(c) corresponding entries made in a result sheet in Form XIX.

58C. Sealing of voting machines—(1) After the result of voting recorded in a control unit has been ascertained candidatewise and entered in Part-II of Form XVIIC and Form XIX

under Rule 58B, the election 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 voting 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 a specially prepared box on which the election officer shall record the following particulars, namely:—

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

(3) The provisions of sub-rules (1), (2) and (3) except clauses (a), (b), (c) of sub-rule (2) of Rule 58 and Rules 60,61,63 to 66 shall so far as may be, apply in relation to voting by voting machines and any reference in those rules, to—

- (a) ballot paper shall be construed as including a reference to such voting machine,
- (b) any rule shall be construed as a reference to the corresponding Rules **57A** to **57K** or as the case may be to Rule 58A to 58C.

59. Rejection of ballot papers—(1) A ballot paper shall be rejected, if it—

- (a) bears any mark by which the elector can be identified; or
- (b) does not bear the official stamp prescribed in Rule 44; or
- (c) bears the mark belonging to a ward different from that of the ballot box in which it is found; or
- (d) if no vote is recorded thereon; or
- (e) 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
- (f) if it is so a spurious ballot paper; or
- (g) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established :

Provided that a ballot paper dealt with under clause (ii) of sub-rule (2) of Rule 52 shall not be rejected merely on the ground that it bears the mark of a ward different from the one in which the elector is entitled to vote :

Provided further that where the election officer is satisfied that any such defect as is mentioned in clause (b) or clause (c) has been caused by any mistake or failure on the part of a polling officer, the ballot paper shall not be rejected merely on the ground of such defect:

Provided also 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 vote shall be for a particular candidate, clearly appears from the way the appear is marked.

(2) Except on the grounds mentioned in sub-rule (1) a ballot paper shall not be rejected

(3) The decision of the Election Officer as to the validity of a ballot paper shall be final, subject only to reversal on an election petition.

60. Declaring the result of election—After the Election Officer has completed scrutiny and counting of votes he shall, subject to the provisions of Rule 64, declare in Form XX, the candidates, to whom most valid votes have been given, to have been duly elected.

61. Not to open electoral roll—The Election Officer shall not open the sealed packets containing tendered ballot papers and the marked copy of the electoral roll. He shall verify the statement submitted by the Presiding Officer under Rule 57 by comparing it with the number of accepted ballot papers and of rejected ballot papers and the unused ballot papers in his possession, and shall then reclose and reseal each packet which has been opened by him and record on each packet a description of its contents and the date of the election to which it refers.

62. Disposal of ballot papers—(1) The Election Officer shall, after declaring the' result, forward a copy of the result to Election Commission and shall retain in his custody the packets of ballot papers, whether counted, rejected or tendered. These packets shall not be opened and their contents shall not be inspected or produced except under the orders of an election or other competent Court.

(2) The Election Officer shall keep the packets for a period of two months after the completion of the election in the concerned Treasury/Sub-Treasury, as the case may be whereafter these shall be destroyed by burning in the presence of District Magistrate or any other officer not below the rank of Sub-Collector as may be authorized by the District Magistrates and these packets shall not be opened or their contents inspected or produced except under the orders of the State Election Commission or of an Election Tribunal or other competent Court:

Provided that where there has been a litigation, these papers shall be destroyed after two* months from the date of disposal of the litigation or two* months after the appeal period is over whichever is later.

63. Choice when elected in more than one ward—(1) If any candidate has been elected from more wards than one, he shall by notice in writing signed by him, intimate the Election Officer the ward for which he chooses to serve. Such intimation shall reach the Election Officer within twenty-four hours at the latest of the declaration of the result of the election of the wards for which such person stood as a candidate.

(2) On receipt of the intimation, the Election Officer shall declare the said candidate to have been elected for the ward. In default of such intimation the Election Officer shall declare the said candidate to have been elected as a Councillor in any one of the wards where he has been elected for more wards than one. In either case, election proceedings shall be started afresh of filling up the vacancy or vacancies in the other ward or wards, as the case may be, for which the candidate has vacated.

64. Equality of votes and drawing lots—If there is an equality of vote between any two or more candidates the Election Officer shall, after notice to the candidates concerned decide by drawing lots which candidate shall be declared to have been elected.

65. Report of the result—(1) The Election Officer shall without delay report the result of the election to the Election Commission and shall prepare and certify a return setting forth—

- (a) the result of the verification referred to in Rule 61;
- (b) the names of the candidates for whom valid votes have been given;
- (c) the number of valid votes given for each candidate;
- (d) the name of the candidate elected;
- (e) the number of votes declared invalid; and
- (f) the number of tendered vote given and shall forward a certified copy thereof to the Election Commission.

(2) The Election Officer shall permit any candidate or any representative duly authorised in writing by the candidate to take a copy or an extract from such return.

66. Publication of the results—The Election Commission shall forthwith cause the names of all the Councillors elected in the Municipality reported to him under sub-rule (2) of Rule 32 and under Rule 65 to be published in the Orissa Gazette and shall communicate copy of the list of the names so published to the State Government for information.

CHAPTER VI

Election of Chairperson and Vice-Chairperson of Municipalities

67. Reservation of offices of the Chairperson of the Municipality by rotation—(1)

For the purpose of election to the Municipalities for the first time after the Orissa Municipal (Amendment) Act, 1994 (Odisha Act 11 of 1994) comes into force, the number of offices of Chairpersons of the Municipalities in the State to be reserved for the Scheduled Castes, Scheduled Tribes, Backward Class of citizens and women shall be determined in accordance with sub-section (3) of Section 47 of the Act. After determining the total number for reservation of offices of the Chairperson of the Municipalities in the State for Scheduled Caste, Scheduled Tribes, Backward Class of citizens and women, the same shall be assigned to different Municipalities in descending order of the percentage of the respective population to the total population in each Municipality. If a Municipality qualifies at a particular general election for reservation for both Scheduled Castes and Scheduled Tribes for the office of the Chairperson on the basis of the said principle, the office of the Chairperson shall be reserved for Scheduled Castes or Scheduled Tribes, as the case may be, whose population in terms of percentage of population is higher.

(1 -A) Subject to the directions, if any issued by the Governor under sub-paragraph (I) of paragraph 5 of the Fifth Schedule to the Constitution of India, out of the Municipalities left after reservation of offices of the Chairpersons for the Scheduled Castes, Scheduled Tribes and their women, the reservation of required number of offices of the Chairperson for the members of the Backward Class of Citizens including their women in the Municipalities shall be made until the required quota is completed. The reservation of offices of Chairpersons for women belonging to Backward Class of citizen shall be made from out of the Municipalities reserved for such class of citizens keeping in view the percentage of women population to the total population of the Municipality.

(2) The reservation and assignment of Municipalities for Scheduled Castes, Scheduled Tribes, Backward Class of citizens and women in subsequent election shall be made on the same principle as in sub-rule(1) by rotation.

(3) Reservation of offices of the Chairpersons of the Municipalities for the Scheduled Castes, Scheduled Tribes, Backward Class of Citizens and women shall be made and assigned to the category to which the particular Municipality would have been entitled by taking all Municipalities into consideration in accordance with sub-rule (I) of this rule, notwithstanding of the functioning of the nominated councils immediately before commencement of these rules.

(4) The required number of offices of Chairpersons in the Municipalities in the State shall be reserved for women in the following manner, namely:—

(a) in computing total number of offices of Chairpersons for reservation for women as required under sub-section(3) of Section 47 of the Act, the offices of Chairpersons reserved for women belonging to Scheduled Castes, Scheduled Tribes and Backward Class of Citizens shall be taken into account;

(b) reservation of offices of Chairpersons for women belonging to Scheduled Castes shall be made at the first instance then for the Scheduled Tribes and then for the Backward Class of citizens; and

(c) out of the Municipalities left after reservation for the offices of the Chairpersons for the Scheduled Castes, Scheduled Tribes and Backward Class of Citizens including their women, the offices of Chairpersons in the Municipalities shall be reserved for women in descending order of the percentage of the women population to the total population in each Municipalities.

(5) For reservation of the offices of Chairpersons under sub-section (3) of Section 47, Gazette showing reservation of the offices of the Chairpersons of the Municipalities for Scheduled Castes, Scheduled Tribes, Backward Class of citizens and women after inviting objections and suggestions from all persons interested to be filed before the State Government within a period of fifteen days from the date of such notification. Copy of such notification inviting objections and suggestions shall be sent to the District Magistrate for wide circulation by publishing it in the Notice Board (s) of his office and office of the Municipality.

(6) The State Government, after considering the objections and suggestions received within the specified period in respect of the notification issued under sub-rule (5), shall publish the reservation of offices of Chairpersons under sub-section (4) of Section 47.

(7) The reservation of the offices of the Chairpersons of the Municipalities shall be communicated to the Election Commission.

68. Holding of meeting for election of Chairperson—(1) The election of the Chairperson of a Municipality shall be held in the office of the Municipality or elsewhere as may be decided by the Election Commission by the Councillors specified in clause (a) of Section 8 of the Act from among themselves at meeting specially convened for the purpose.

(2) Such meeting shall be convened at the instance of the Election Commission soon after the publication of the names of elected Councillors in the **Orissa Gazette** under sub-section (2) of Section 10 of the Act.

(3) In the case of vacancy in the office of the Chairperson of a Municipality due to any cause other than the expiry of the term of office of the Chairperson, such meeting shall be convened at the instance of the Election Commission as soon as possible.

(4) The meeting to elect the Chairperson shall be presided over by an officer authorised by the Election Commission.

69. Holding meeting for election of Vice-Chairperson—(1) The election of Vice-Chairperson of the Municipality shall be held within thirty days from the date of publication of the names of the Chairperson and Councillors under Section 39 in the office of the Municipality or elsewhere, as may be decided by the Election Commission, by the Councillors specified in clause (a) of Section 8 of the Act from among themselves at a meeting which shall be specially convened for the purpose subsequent to and soon after the first meeting referred to in sub-section (2) of Section 47 of the Act as may be decided by the Election Commission.

(2) In the case of vacancy in the office of the Vice-Chairperson of a Municipality due to any cause other than the expiry of the term of office of the Vice-Chairperson, such meeting shall be convened at the instance of the Election Commission as soon as possible.

(3) Such meeting to elect Vice-Chairperson shall be convened by the Chairperson and shall be presided over by an Officer authorised by the Election Commission.

70. Nomination for the office of the Chairperson or Vice-Chairperson—A candidate for the office of the Chairperson or Vice-Chairperson of a Municipality shall be proposed by one Councillor and seconded by another. The names of the candidates proposed and seconded shall be read out by the President of the meeting.

71. Procedure after nomination—(1) If there is only one duly nominated candidate there shall be no vote and he shall be declared to have been elected.

(2) If there are two or more such candidates the votes of the Councillors present at the meeting shall be taken.

72. Voting and result of election—(1) Every Councillor wishing to cast his vote shall be supplied a voting paper on which the names of all the candidates shall be printed, typed, cyclostyled or legibly written in the following Form, both in English and Odia.

FORM
VOTING PAPERS

Name of the candidate (1)	Column for placing the cross mark against the candidate for whom the vote is given (2)
Shri	
Shri	
Shri	
Shri	

(2) The voter shall then proceed to the place set apart for the purpose and there he shall place a cross mark in Column (2) against the name of the candidate for whom he wishes to vote. He shall then fold the voting paper so as to conceal his vote and deposit the same in a ballot box placed in the view of the President of the meeting.

(3) The ballot box shall be so constructed that the paper may be placed therein but not extracted therefrom without the box being opened.

(4) President of the meeting shall then open the box and count the votes in the presence of the Councillors and declare the result of the election in accordance with following manners, namely:—

(i) if there are only two candidates, the one who secures the larger number of votes shall be declared to have been elected. In the event of there being an equality of votes between the two candidates, the President of the meeting shall draw lots in the presence of the Councillors and person whose name is first drawn shall be declared to have been duly elected ;

(ii) If there are more than two candidates, the one who obtains the smallest number of votes shall be eliminated and the votes taken again. If there is an equality of votes among all the candidates, or if two or more candidates lowest on the list have obtained an equal number of votes, the President of the meeting shall ascertain by casting lots in the presence of the Councillors which of such candidates shall be eliminated. The elimination shall be repeated until two candidates only are left when votes shall be taken for the last time and the candidate who secures the larger number of votes shall be declared to have been duly elected. In the event of there being an equality of votes at the final stage between two remaining candidates, the President of the meeting shall draw lots in the presence of the Councillors and the person whose name is first drawn shall be declared to have been duly elected.

73. Withdrawal of candidature—A candidate may withdraw his candidature at any stage of the election.

74. Invalidity of the voting paper—Any voting paper which contains the signature of any of the Councillors taking part in the vote or on which the mark is placed against more than one name shall be invalid.

75. Publication of the election result—Immediately after the meeting, the President of the meeting shall—

(a) prepare a record of the preceding at the meeting and sign it attesting with his initials every correction made therein; and also permit any Councillor present at the meeting to affix his signature to such record, if he expresses his desire to do so;

(b) publish on the Notice Board of the Municipality concerned notification signed by him stating the name of the person elected as Chairperson or Vice-Chairperson as the case may be;

(c) forward a copy of such notification to the Election Commission for publication in the **Orissa Gazette**.

76. Sealing of voting papers—(1) The President of the meeting shall then seal up the voting papers whether counted or rejected and note on each packet, the number of papers it contains and the election to which it relates.

(2) These packets shall not be opened and their contents shall not be inspected or produced except under the orders of an election tribunal constituted under the Act or of other competent Court.

(3) The Election Officer shall keep the packets for a period of three months after the completion of the election in the concerned Treasury/Sub-Treasury, as the case may be whereafter these shall be destroyed by burning in presence of District Magistrate or any other officer not below the rank of Sub-Collector as may be authorized by the District Magistrates and these packet shall not be opened or their contents inspected or produced except under the orders of the State Election Commission or of an Election Tribunal or Other competent Court:

Provided that where there has been a litigation, these papers shall be destroyed after three months from the date of disposal of the litigation or three months after the appeal period is over, whichever is later.

CHAPTER VII

Miscellaneous

77. Vacancy to be intimated to the Election Commission—(1) Where a vacancy in the office of a Councillor, or Vice-Chairperson or Chairperson of a Municipality reason of death, resignation, removal or otherwise, the same shall be reported by the Executive Officer of the concerned Municipality to Election Commission forthwith under intimation to the District Magistrate concerned and to Government.

(2) The Election Commission shall take steps to hold by-elections to fill up such vacancy.

78. Interpretation of rules—(1) If any question arises as to the interpretation of rules otherwise than in connection with an inquiry held under the rules for the decision of disputes as to the validity of an election the question shall be referred to the Election mission for decision.

(2) Pending the decision of the Election Commission on any such reference made to them or the issue of final orders on any inquiry which the Election Commission may institute upon receipt of information that an election so far it relates to the election of Councillor of a Municipality is being or about to be held in contravention of the rules, it shall be lawful for the Election Commission to direct the stay of the proceedings of the said election at any stage thereof prior to the declaration of the result. Any such election held or continued in contravention of the orders of the Election Commission under this rule shall be void and of no effect whatsoever.

(3) Unless it is otherwise ordered by the Election Commission, election proceedings under this rule shall on cancellation of the stay order, proceed from the stage at which they were stayed on fresh date to be fixed.

79. Powers to alter dates and periods—Notwithstanding anything contained in the foregoing rules the Election Commission may for special reasons empower the Election Officer to fix dates and periods other than those specified or fixed by or under these rules, for all or any of the stage of the election proceedings connected therewith so far they relate to the election of Councillor of a Municipality.

80. Prohibition of the employees of Municipal Council from taking part in election— (1) No person in the employment or pay of a Municipal Council shall directly or indirectly engage in the canvassing for votes or otherwise assist in the election of any candidate to the Municipal Council except by giving his own vote.

(2) Any breach of this rule shall render the person liable to disciplinary proceeding as provided in the Odisha Municipal Act, 1950 and the Odisha Municipal Rules, 1953.

81. Cost of election—All cost incurred in the preparation of the electoral rolls, the publication of notices, the holding of elections or taking any other necessary action under these rules shall be met from the source as may be determined by the State Government.

82. Rules repealed—(1) “The Odisha Municipal (Chairman and Councillors) Election Rules, 1950”, “Rule for Election of Vice-Chairman of the Municipalities, 1951” and “The Constitution of the Notified Area Councils (with both Nominated and Elected Members) Rules, 1969” are hereby repealed.

(1) Notwithstanding anything contained in these rules, the elections held, nomination made, orders issued and action taken in pursuance of the provisions of the rules referred to in sub-rules (1) and (2) shall continue to have force so far as they are not inconsistent with the provisions of the Odisha Municipal Act, 1950.