

THE ODISHA PANCHAYAT SAMITI ELECTION RULES, 1991

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THE ODISHA PANCHAYAT SAMITI ELECTION RULES, 1991*

PART I

Short title and
commencement.

1. (1) These rules may be called “The Odisha Panchayat Samiti Election Rules, 1991”.

(2) They shall come into force on such date, as the State Government may by notification appoint.

Definition.

2. (1) In these rules, unless the context otherwise requires—

- (a) “Act” means the Orissa Panchayat Samiti Act, 1959;
- (b) “Ballot Box” means, any box, bag or any other receptacle of such design and specification as the Commissioner may decide, used for receiving ballot papers in the course of polling at a polling station and be so constructed that ballot papers can be inserted through an opening without affecting the secrecy of voting but the ballot papers cannot be removed without opening, breaking or otherwise tampering “the ballot box”;
- (c) “Block Development Officer” means an officer appointed as such for the Block under Section 15-A of the Act;
- (d) “Clear days” includes Sundays and holidays but do not include the day of the meeting and the day of the issue of notice;
- (d-1) “Commissioner” means the State Election Commissioner appointed “under Article 243-K of the Constitution”; and
- (e) “Election Officer” means unless the Commissioner otherwise directs, the Collector of the district or and other officer authorised by him by a general or special order to exercise all or any of the duties of an Election Officer under these rules;
- (f) “Form” means a form appended to these rules;
- (g) “Grama Panchayat Act” means the Odisha Grama Panchayat Act, 1964 (Orissa Act 1 of 1965);
- (h) “Panchayat Election Rules” means the Odisha Grama Panchayat Election Rules, 1965;
- (i) “Parishad” means the Zilla Parishad constituted, under the Zilla Parishad Act, 1991;
- (j) “Polling Agent” means a person duly authorised by a contesting candidate to attend on his behalf the polling of votes at one or more polling stations or places specified for counting of votes.

* As amended up to November 2001. There might be omissions and commissions : for authenticity reference must be made to the published Rules in the Official Gazette.

- (k) "Polling Officer" means the person appointed by the Election Officer to assist him or the Presiding Officer for conducting the elections of one or more polling stations;
- (l) "Polling Station" means the place fixed by the Election Officer for conduct of the poll in respect of election of members of the Samiti;
- (m) "Presiding Officer" means any person appointed by the Election Officer at one or more polling stations located within the area of the Panchayat Samiti;
- (n) "Member of Samiti" means a member elected under Section 16(1)(h) of the Act;
- (o) "Samiti Constituency" means the area from which a Member of Samiti is elected;
- (p) "Sarpanch" means a person referred to in Section 10 of the Odisha Grama Panchayat Act, 1964;
- (q) "Section" means a section of the Act.

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

PART II GENERAL

Eligibility of candidate, proposer and seconder.

3. (1) No person shall be eligible to stand for election as a Member of Samiti unless his name finds place in the electoral roll of any of the Samiti Constituencies within the Samiti area.

(2) No person shall be eligible to be either the proposer or the seconder of a candidate for the election of the Member of Samiti unless his name finds place in the electoral roll of any of the Samiti Constituencies within the Samiti area.

Date of Election.

4. (1) The Government shall, by one or more notifications published in the Official Gazette on such date, or dates as may be recommended by the Commissioner call up the Samiti Constituencies to elect Members of the Samiti in accordance with the provisions of the Act and these rules.

(2) As soon as the notification under sub-rule (1) is issued, the Commissioner shall draw up the programme and notify of election and communicate the same to all Election Officers :

Provided that where the election of the Samiti is held simultaneously with the Grama Panchayats, the programme of election of a Member of Samiti should be the same date as that of the election of a Sarpanch.

(3) In the programme, drawn up under sub-rule (2), the Commissioner shall fix up the date of first meeting of the Samiti for the purpose of sub-section (3) of Section 16.

(4) The date of election fixed under sub-rule (2) shall not be altered or deferred save with the prior sanction of the Commissioner.

Election symbol.

5. The symbols to be used in the election of the Samiti by the candidates shall be notified by the Commissioner from time to time and the notification under this rule shall be published in the *Odisha Gazette* :

Provided that such symbols shall not, however, include any symbol allotted to the political parties by the Election Commission of India.

Electoral Roll.

6. As soon as the division and reservation of constituencies are notified by the Collector under sub-section (2-A) of Section 16, the final electoral roll of every Grama, prepared under the Panchayat Election Rules comprised within the Samiti Constituencies including the revision, addition or alteration, if any, together form the final electoral roll of that Samiti Constituency :

Provided that where the election of the Member of the Samiti is held separately than that of the election of the Gramas, the procedure laid down for preparation and final publication of electoral roll under the Panchayat Election Rules shall apply *mutatis mutandis* for preparation and final publication of electoral roll in respect of election of the Member of the Samiti.

PART II-A

DIVISION AND RESERVATION OF SAMITI CONSTITUENCIES

7-A. In this part, unless the context otherwise requires :—

- (a) 'Constituency' means a Samiti Constituency; and
- (b) 'List' means the list of constituencies arranged serially in Odia alphabetical order under clause (c) of sub-section (2-A) of Section 16.

7-B. (1) Subject to the provision of clause (a) of sub-section (2-A) of Section 16, every Block shall be divided into constituencies and the number of constituencies so divided shall so far as practicable be equal to the number of Gramas in the Block.

(2) The list shall be prepared in Form No. 19.

7-C. Subject to the directions, if any, issued by the Governor of Odisha under paragraph 5 of the Fifth Schedule to the Constitution of India out of the constituencies left in the list of candidates, other than those reserved for the Scheduled Castes and the Scheduled Tribes, reservation of constituencies for the members of backward class of citizens shall begin from the constituency which appears first and shall continue one by one until the required quota is completed.

7-D. (1) The draft statement showing the division and reservation of constituencies in the Samiti shall be prepared in Form No. 19 and published together with a notice in Form No. 20 inviting objections and suggestions from all persons interested, within a period of seven days from the date of

such publication, who may submit his objection or suggestion in writing or may send the same to the Collector by post.

(2) Objections or suggestions received after the period specified under sub-rule (1) shall not be considered.

7-E. Objection and suggestion received under Rule 7-D shall be consolidated constituency wise and after considering the same, the Collector shall pass his orders as to whether there shall be any alteration to be made in respect of any constituency and if so, the extent thereof.

7-F. After making such alterations, if any, under Rule 7-E, the Collector shall publish the final statement of division and reservation of constituencies of the Samiti in Form No. 19 within seven days from the date of expiry of the period prescribed under Rule 7-D.

7-G. The Collector shall submit the list and statement of constituencies in Form No. 19, together with the list of offices of Chairman of Samities including those reserved for the Scheduled Castes, the Scheduled Tribes, Backward Class of citizens and Women, to the Commissioner by such date as the Commissioner may fix for the purpose which shall not, unless the Commissioner otherwise directs, be less than six weeks before the date fixed for issue of the notification under sub-rule (1) of Rule 4.

7-H. (1) On receipt of the report from the Election Officer under sub-rule (11) of Rule 11 regarding failure of election for second time on the ground that no person belonging to any particular category, for which the seat of the member has been reserved is available in the voter list of any of the Samiti Constituencies in the Block, even for nomination under sub-section (1) of Section 45-C, the Collector shall send his recommendation as required under sub-section (2) of the said section to the Government for dereservation of such seat.

(2) The recommendation of the Collector shall comprise the following, namely :—

- (i) working copy of the voter list of all the Samiti Constituencies in the Block;
- (ii) copy of Form No. 19 showing the reservation status of the membership;
- (iii) a certificate to be signed jointly by the Election Officer and the Collector in the following form :—

Certified that we have carefully verified the voter list of all the Samiti Constituencies of the Block and found that no person belonging to the reserved category is available in the said voter lists for nomination under sub-section (1) of Section 45-C.

We, therefore, recommend that the seat of the Samiti Member of-----Samiti Constituency under-----Block be dereserved under sub-section (2) of the said section.

Election Officer

Collector

(3) On receipt of recommendation from the Collector under sub-rule (1), the voter lists shall be scrutinised and after having been satisfied on the correctness of the recommendation of the Collector, the Government shall dereserve the seat under sub-section (2) of Section 45-C by publishing a notification to that effect.

(4) Copy of the notification published under sub-rule (3), shall forthwith be communicated to the Commissioner for filling up of the seat by fresh election and a copy of such notification shall also be forwarded to the Collector, Sub-Collector, Election Officer and the concerned Block.

PART III

ELECTION OF MEMBERS OF PANCHAYAT SAMITI

Inviting of
names.

8. (1) The Election Officer shall, at least four weeks before the date fixed for election issue a notice in Form No. 3 calling for names of candidates for the Office of the Member of Samiti from every Samiti Constituency and specifying the date, time and place of filing nominations; and

(2) Notices issued under sub-rule (1) shall be published in the noticeboard of each of the Grama Panchayats of the concerned Samiti, the Panchayat Samiti Office/Sub-Collector's Office and also in the noticeboard of the Collector.

Presentation of
nomination
paper.

9. A nomination can be presented to the Election Officer at the appointed date, time and place specified in the notice either by the candidate himself or his proposer or seconder.

Supply of
forms.

10. The Election Officer shall arrange for supply of forms relating to the election of the Members of Samiti at the office of the Block concerned.

Deposit of
money.

11. (1) On the date appointed for presentation of the nomination paper, a candidate wishing to stand for election for the Member of Samiti, unless he is a member of the Scheduled Tribes or the Scheduled Castes shall deposit or cause to be deposited with the Election Officer in cash, a sum of rupees one hundred.

(2) If the candidate is a member of the Scheduled Tribes or the Scheduled Castes the amount of deposit shall be rupees fifty.

(3) The Election Officer shall grant a receipt in Form No. 5 for the amount so deposited.

(4) No candidate shall be eligible to contest in the election as a Member of Samiti in respect of whom such deposit has not been made.

(5) 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 under sub-rule (15) or if the nomination of any such candidate is rejected, the money deposited shall be returned to the candidate on whose behalf it was made or to any other person authorised by him in this behalf.

(6) If a candidate by whom or on whose behalf the deposit referred to in sub-rules (1) or (2) as the case may be, has been made is not elected and the number of votes polled by him does not exceed one-sixth of the total number of votes polled, the deposit shall be forfeited to the State Government.

Explanation—The total number of votes polled shall be deemed to be the number of ballot papers other than spoilt ballot papers counted.

(7) The deposit made in respect of a candidate, who is elected or has polled more than one-sixth of the total number of votes polled, shall be returned to him immediately after the result of the election is published.

(8) A deposit required to be returned to any person under sub-rule (5) or sub-rule (7) shall, if such person is dead, be returned to his legal heir.

(9) Notwithstanding anything contained in this rule, a deposit made under sub-rule (1) or sub-rule (2), as the case may be, shall not be returned unless a claim therefore is preferred by the person on whose behalf the deposit is made or by his legal representative, as the case may be, within six months from the date of declaration of result of the election by the Election Officer.

(10) The Election Officer shall, at the appointed time, date and place receive the nomination papers in Form No. 6 and scrutinise them in the presence of the candidates or their proposers.

If the Election Officer finds that the candidate does not suffer from any disqualification under Section 45 of the Act, he shall accept their nomination as valid. Objections, if any, filed in the course of scrutiny shall be enquired into summarily by the Election Officer and his decision accepting or rejecting the nomination paper shall be endorsed on the body of the nomination papers.

(11) If no nomination is filed or if all the nominations filed are rejected, a notice for fresh election shall be issued and if no nomination is filed or all the nominations are rejected for the second time, the Election Officer shall report the matter to Government through the Collector for nomination of a person under Section 45-C.

(12) If after scrutiny under sub-rule (10) or after withdrawal of candidature under sub-rule (15) there is only one candidate duly nominated for the election of the Member of Samiti, there shall be no poll and the Election Officer shall immediately declare in Form No. 7 the name of such person to have been duly elected uncontested.

(13) (a) In case of a contest, the Election Officer shall, immediately after the scrutiny prepare a list of the validly nominated candidates in Form No. 8 and arrange them in alphabetical order in Oriya.

(b) Omitted

(c) In case the number of contesting candidates exceeds the number of symbols specified by the Government, the Election Officer may allot any other symbol to the candidates :

Provided that such additional symbols shall not, however, include any symbol allotted to the political parties by the Election Commission of India.

(d) The symbol so assigned to each candidate shall also be indicated in the list in Form No. 9.

(14) A list of the validly nominated candidates for the election of the Member of Samiti shall be published in the noticeboards of the Election Officers and the Samiti concerned in Form No. 8 at least three weeks before the date fixed for election.

(15) A validly nominated candidate contesting for the Member of Samiti may withdraw his candidature by presenting a written application in person in Form No. 10 to the Election Officer within forty-eight hours after the nomination papers have been scrutinised and the list of validly nominated candidates has been prepared and published under sub-rule (14) :

Provided that the Election Officer shall verify the signature of the candidate before allowing the candidature to be withdrawn.

(16) After withdrawal of candidature under sub-rule (15), the final list of contesting candidate along with allotment symbol to each of them shall be published by the Election Officer in Form No. 8 in the noticeboards of the Election Office, Panchayat Samiti and the Grama Panchayat concerned at least two weeks before the date fixed for election.

PART IV

POLLING ARRANGEMENT

Location of
Polling
Station.

12. (1) The Polling Station for a Ward of a Grama Sasan within the Samiti Constituency shall be located within the area of that Ward :

Provided that the Election Officer may, if necessary, have a single Polling Station for more than one Ward.

(2) Inside a Polling Station, there shall be an enclosed space which shall be used by voters for marking the Ballot Papers secretly.

Presiding
and Polling
Officer.

13. (1) There shall be a Presiding Officer at each Polling Station who shall exercise such powers of the Election Officer as may be delegated to him.

(2) There may also be such number of Polling Officers for each Polling Station according to actual requirement.

Ballot
Boxes.

14. (1) The Election Officer shall provide such number of Ballot Boxes to each Polling Station as may be required.

(2) The Ballot Boxes shall be placed in a Polling Station in full view of the Presiding Officer at the time of polling.

Ballot
Paper.

15. (1) Only the printed Ballot Papers as contained in Form No. 11 shall be used for the election of Member of Samiti.

(2) The Ballot Papers for the election of the Member of Samiti shall bear the symbols assigned by the Election Officer to each contesting candidate.

(3) The Ballot Papers which bear the seal and signature of the Presiding Officer of the Polling Station shall be issued to the voters.

Appointment
of Polling
Agents.

16. Each contesting candidate may appoint not more than one Polling Agent to remain present on his behalf at the Polling Station during the poll as well as at the time of counting of the votes.

Polling
hours.

17. The polling at each Polling Station may take place during such hours as may be fixed by the Commissioner.

System of
marking
ballot.

18. The Ballot Papers shall be marked by the voters by means of a rubber stamp bearing cross mark.

PART V

CONDUCT OF POLLING

Supply of
forms.

19. (1) The Election Officer shall supply to the Presiding Officer appointed for the Polling Station the following papers, namely :-

- (i) a list of candidates published in Form No. 8 for the election of the Member of the Samiti;
- (ii) a working copy of the Voter's list relating to the Polling Station (s);
- (iii) another copy of the Voter's list relating to the Polling Station (s);
- (iv) required number of Ballot Papers in Form No. 11;
- (v) Form No. 12 for recording Ballot Paper account;
- (vi) Form No. 9 containing the list of the contesting candidates and symbols allotted to each of them.

Preparation by
Presiding Officer.

20. It shall be the responsibility of the Presiding Officer to proceed to the Polling Station well in advance of the time fixed for the poll and make necessary arrangements so as to ensure that polling commences exactly at the time notified by the Commissioner.

Permission to
Polling Agents.

21. (1) The Presiding Officer shall examine the authority of the Polling Agents, if any present authorised by the candidates and admit them to the Polling Station, if he is satisfied that the authority is valid under these rules.

(2) If necessary, the Presiding Officer may seek the assistance of respectable persons of the locality to identify the voters.

Exhibition of list of
candidate.

22. (1) One hour before the commencement of the poll, a copy of the list of contesting candidates together with a description of the symbol assigned to each in Form No. 9 shall be exhibited prominently to the public at the Polling Station.

(2) A notice specifying the area of the Polling Station and the date and time of poll shall also be exhibited.

Verification of
Ballot Box.

23. Immediately before commencement of the poll, the Presiding Officer shall demonstrate to the Polling Agents, if any are present, that the Ballot Box is empty and is either locked up or so secured by any device that the Ballot Papers can be inserted therein but cannot be removed therefrom except by breaking or otherwise tampering with the box.

24. (1) The Polling shall commence exactly at the appointed hour.

(2) On arrival of each voter at the Polling Station, the Presiding Officer shall direct the Polling Officer to check up his name with reference to the working copy of the voter's list furnished by the Election Officer and shall issue a Ballot Paper to the voter after a mark in indelible ink on the left forefinger below the nail is made by the Polling Officer.

(3) The Presiding Officer shall explain to the voter the manner of marking the Ballot Paper, if necessary.

(4) The voter shall then proceed to the enclosed space in the booth and affix the cross mark on the Ballot Paper secretly with the stamp provided for the purpose against the symbol of the candidate to whom he wishes to vote.

(5) After affixing the cross mark the voter shall fold the Ballot Paper to the inner side so as to maintain secrecy of the vote and insert the same into the Ballot Box intended for the purpose.

(6) In case of difficulty, the voter shall approach the Presiding Officer who shall assist the voter in inserting the Ballot Paper into the Ballot Box.

(7) Any reference in this rule to the left forefinger of voter shall, in the case where the voter 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, as the case may be, any other finger of his right hand and shall, in 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.

Voting by
Electronic Voting
Machine.

24-A. (1) The procedure as prescribed in the Panchayat Election Rules relating to voting and counting by electronic voting machine shall *mutatis mutandis* apply to the voting under these rules.

(2) The forms prescribed for such voting shall be in Form No. 20-A and 20-B.

(3) Any reference to Ballot Box or Ballot Paper for such voting shall be construed as and including a reference to such voting machine.

Voting by
Electronic Voting
Machine.

24-B. The procedure for voting by a voter on duty at the same or another Polling Station as prescribed in the Panchayat Election Rules shall *mutatis mutandis* apply to the voting under these rules.

Working copy
of Electrol

25. After issue of the Ballot Papers, the Polling Officer shall tick mark the name of the voter in the working copy of the voter's list.

Blind Voters

26. In case of voter who is physically incapacitated or is blind, the Presiding Officer shall at the request of such voter allow him to take a companion to the place set apart for voting.

Objection as to
the identity of
Voters

27. (1) Any contesting candidate or his Polling Agent may object to the identity of a voter on the ground only that he is only the person he claims to be as per entry in the voters list.

(2) For every such objection a fee of rupees two shall be deposited with the Presiding Officer.

(3) The Presiding Officer shall decide the objection summarily and his decision shall be final.

(4) If the objection is allowed, the deposit shall be refunded to the person who deposited the amount.

(5) If the objection is disallowed, the deposit shall be forfeited and a receipt in Form No. 5-A shall be granted by the Presiding Officer to the person who has made the deposit.

Procedure for
conducting the
poll

28. (1) The Presiding Officer shall so regulate the entry into the Polling Station that the polling proceeds in an orderly manner.

(2) All voters who appear between the hours fixed for the poll within the Polling Station area shall be allowed to vote.

(3) No voter shall be admitted inside the Polling Station area after the time fixed for closing the polling.

Polling Officer as
the Presiding
Officer.

29. When the Presiding Officer is unable to remain at the Polling Station temporarily for reasons beyond his control, he shall authorise one of the Polling Officers to act as the Presiding Officer.

Prodedure for
counting of
Votes.

30. (1) After the close of polling, the Presiding Officer shall seal the Ballot Box in presence of candidates or their polling agents who may be present, prepare separate sealed packets of all papers and reports and forward the same to the Election Officer after which the Election Officer shall proceed to take up counting of votes on the scheduled date in presence of the candidates and their polling agents, if any, who may be present at the counting centre.

(2) Each vote cast by the voters shall be scrutinized by the Election Officer in the course of counting and a vote shall be invalid for counting on one or more of the following grounds, namely :—

- (i) if it bears any mark or writing by which the voter can be identified;
- (ii) if it does not bear the mark specified under Rule 18;
- (iii) if votes are recorded in favour of more than one candidate;
- (iv) if the mark indicating the vote placed in such a manner so as to make it doubtful as to the candidate in whose favour the same has cast;
- (v) if the Ballot Paper is spurious;
- (vi) if the Ballot Paper is so damaged or mutilated that its genuineness cannot be established;
- (vii) if the Ballot Paper does not bear the authentication mark of the Presiding Officer as specified by sub-rule (3) of Rule 15.

(3) The Election Officer shall record the reason (s) for rejecting the Ballot Paper on the Ballot Paper itself and sign the same.

(4) The result of the counting of the Ballot Papers in respect of the candidates of the Samiti shall be recorded in Form No.13.

31. (1) Immediately after close of the polling, the Presiding Officer shall prepare separate bundles of all papers, reports, used and unused Ballot Papers in respect of the Polling Station of the Samiti, seal each packet, note thereon the Polling Station to which it relates and forward the packets to the Election Officer on the same day.

(2) It will be open to the candidates or their Polling Agents to affix their seal on the aforesaid packets, if so desire.

(3) On the date fixed for declaring the result of the elections, the Election Officer shall, in presence of the candidates or their polling agents, carefully check up the votes polled by different candidates arithmetically so as to arrive at the final assessment as to the total number of votes polled by each contesting candidate and announce the result after recording the details in Form No. 14.

(4) The candidate securing the maximum number of votes in a Samiti Constituency shall be declared as duly elected.

(5) In case of equality of votes, the result shall be decided by drawing lots and the candidate whose name is drawn first shall be declared elected.

(6) The Election Officer shall forthwith intimate the Collector of the District, the name of the duly elected candidate for the purpose of publication.

(7) After declaration under sub-rule (4) has been made, a candidate or, in his absence, his polling agent may apply in writing to the Election Officer to recount the votes either wholly or in part, stating the grounds for such recounting.

(8) On an application made under sub-rule (7), the Election Officer shall decide the matter and may allow the application in whole or in part or may reject it in toto, if it appears to him to be frivolous or unreasonable.

(9) Every decision of the Election Officer under Rule (8) shall be in writing and contain the reasons therefor.

(10) If the Election Officer decides under sub-rule (8) to allow recounting of the votes either wholly or in part, he shall—

- (a) make the recounting in accordance with Rule 30;
- (b) make necessary corrections in the result sheet in Form No. 14 to the extent necessary after such recounting; and
- (c) announce the result on the basis of corrections so made by him.

32. Omitted.

33. (1) After receipt of the result from the Election Officer, the Collector of the district shall publish the names of the duly elected candidates in his noticeboard as required under sub-section (6) of Section 16.

(2) The Collector shall also cause the result to be published in the *Orissa Gazette* and also forward copies of the same to the Government and the Block Development Officer concerned.

(3) The documents relating to election proceedings received from the Presiding Officer and those prepared by the Election Officer shall be retained

in safe custody in the office of the Collector for a period of three months and shall then, unless otherwise directed by a competent Court of Law be destroyed.

(4) The documents, records, referred to in sub-rule (3) retained in the custody of the Collector shall not be opened or inspected or produced save with the prior permission of the Commissioner or of a competent Court.

Failure of election.

34. (1) If there is a failure of election to any of the Samiti Constituencies, the notification under sub-rule (1) of Rule 33 shall be withheld until receipt of the result of fresh election from the Election Officer.

(2) If there is a failure of the election so held for the second time, the Election Officer shall forthwith report the matter to the Government through the Collector of the district for nomination of a person to fill up the vacancy under Section 45-C.

Procedure for re-election

35. (1) When it is necessary to hold election for the second time in any case in the course of a General Election, the procedure prescribed in the foregoing rules for the conduct of election shall apply subject to the following, namely :—

- (i) it shall not be necessary either to publish the electoral roll; and
- (ii) the Election Officer shall issue notice calling for names of candidates for the office of the Member of Samiti at least two weeks before the date fixed for election.

(2) When seat of a member of Samiti is dereserved under sub-section (2) of Section 45-C, the Commissioner shall, on receipt of the communication to that effect under sub-rule 7-H from the Government, fix up dates for conducting election to such seat, whereupon the provisions of these rules shall apply subject to modifications prescribed under sub-rule (1).

36. Omitted.

PART VI

ELECTION OF THE CHAIRMAN/VICE-CHAIRMAN OF PANCHAYAT SAMITI

37. The Election of the Chairman and Vice-Chairman of the Samiti shall be held in the office of the Samiti or at such other public place at the headquarters of the Samiti as the Collector of the district may determine.

First meeting of the Samiti.

38. (1) The Election Officer shall, within three days of the publication of the notification under sub-rule (1) of Rule 33, issue—

- (i) a notice in Form No. 15 notifying the date, time and place of the first meeting of the Samiti; and
- (ii) a notice in Form No. 16 calling for the names of candidates for the office of the Chairman of Samiti.

NOTE— (a) First meeting as referred to in Clause (I) of this sub-rule shall mean the first meeting as referred to in sub-section (3) of Section 16.

(b) The notices under the sub-rule shall be issued at least seven clear days before the date of the meeting.

(2) The notices issued under sub-rule (1) shall be served on all the members of Samiti personally by delivering or tendering it to the members to whom it is addressed or in default of personal service, it shall be served by registered post or if necessary by telegram.

(3) The notice shall also be published at the Samiti Office and at one or more conspicuous places of the locality.

Filling of
nomination for
Chairman.

39. (1) The nomination of every candidate shall be made in Form No. 17

(2) The Form aforesaid may be printed, typed, cyclostyled or be in manuscript

(3) Every nomination paper shall be signed by two members of the Samiti as proposer and seconder and the candidate shall also sign a declaration expressing his willingness to contest for election to the office of the Chairman.

(4) Omitted.

(5) Every nomination paper shall be presented by the candidate or his proposer or seconder in person to the Election Officer on the date, at the place and during hours specified in the notice issued under sub-rule (1) of the Rule 38.

(6) The Election Officer shall, at the appointed time, date and place, receive nomination papers and after the time for receipt of nomination papers is over, shall scrutinise them and read out the names of the candidates whose nominations have been received under sub-rule (5) and found to be in order.

(7) If no nomination paper is filed for election to the office of the Chairman of the Samiti or all the nomination papers filed are rejected, a notice for fresh election shall be issued under Rule 38 (1) within fifteen days from the date on which the nomination papers were filed under sub-rule (5).

(8) If there is a failure of the election so held for the second time, the Election Officer shall forthwith report the matter to Government through the Collector of the district for nomination of a person to the office of the Chairman under Section 45-C to fill up the vacancy.

Procedure for
conducting the
election.

40. Procedure after filing of nomination paper :—

(1) if there is only one duly nominated candidate for the office of the Chairman, there shall be no voting and the candidate be declared to have been elected as the Chairman;

(2) if there are two or more candidates filed nominations for the office of the Chairman, an election shall be held by secret ballot and the vote of the members present at the meeting shall be taken; and

(3) where the votes of the members are taken under sub-rule (2) the names of the candidates shall be arranged in the alphabetical order written in Oriya.

Voting and
declaration of
result.

41. (1) Every member present and wishing to vote shall be supplied with a ballot paper duly authenticated by the Election Officer with his seal and signature.

(2) Names of the duly nominated candidates shall be typed or cyclostyled or legibly written on the ballot paper arranged according to the alphabetical order of their names in the following format in Oriya :—

| Serial No. | Name of the Candidate with name of the father or husband | Voting sign (X) |
|---------------|--|--------------------|
| (1) | (2) | (3) |

(3) The members shall then proceed one after the other to the place set apart for voting and there secretly place a clear arrow cross mark in Column (3) of the ballot paper against the name of the candidate for whom he wishes to vote and shall then fold the ballot paper inwardly and deposit it in a ballot box placed in full view of the Election Officer.

Explanation—The Election Officer shall explain the above procedure to the member before the commencement of the poll.

(4) In the case of a member who is physically incapacitated or is blind, the Election Officer shall at the request of such member take him to the place set apart for voting, ascertain his choice, accordingly mark the voting paper, fold it up so as to maintain secrecy and deposit it in the ballot box.

Counting of votes

42. Immediately after the voting is over, the Election Officer shall count the votes in the presence of the members and record the number of votes secured by each candidate in statement in Form No.18.

Grounds for
rejection of
votes.

43. A vote shall be liable for rejection on either one or more of the following grounds, namely :—

- (i) if the ballot paper bears the signature of the voter or contains any word, sign or visible representation by which he can be identified.
- (ii) if the arrow cross marks are placed against more than one name.
- (iii) if the arrow cross mark is so placed as to make it doubtful for which candidate the vote has been cast.
- (iv) if the ballot paper does not bear the authentication mark of the Presiding Officer prescribed under sub-rule (1) or Rule 41, or
- (v) If no arrow mark is made against any candidate.

Declaration of the
result of voting.

44. Upon completion of the counting, the Election Officer shall declare the result of election of Chairman in the following manner, namely :—

(1) If there are two or more candidates, the one who secures the highest number of votes shall be declared to be duly elected.

(2) In the event of an equality of votes between two or more candidates, the Election Officer shall draw lot in the presence of the members and the candidate whose name is first drawn shall be declared to have been duly elected.

Election of
Vice-Chairman

44. A. (1) Within three days of declaration of the result of the election of the Chairman under Rule 44 or failure of election under Rule 39, the Election Officer shall issue a notice in Form No. 16 notifying the date, time and place of election to the office of the Vice-Chairman.

(2) The procedure outlined for the conduct of the election to the office of the Chairman under the foregoing rules shall apply *mutatis mutandis* to the election of the Vice-Chairman.

Proceeding
of the meeting.

45. (1) Immediately after declaration of the result under Rule 44, the Election Officer shall—

- (a) prepare a record of the proceedings of the meeting, sign it and attest with his initial, every correction made therein and permit the members present at the meeting to affix their signature to such record, if they express their desire to do so;
- (b) publish in the office of the Samiti a notification signed by him stating the name of the person elected as the Chairman and the Vice-Chairman of the Samiti respectively;
- (c) forward a copy of such notification to the Collector, in case the Collector is not the Election Officer.

(2) The Collector shall notify the name of Chairman and Vice-Chairman in his notice board forward a copy of such notification to the Government Press for publication in the *Orissa Gazette* and also forward a copy of the same to Government.

(3) Copies of the notification published under sub-rule (2) shall also be communicated to the Revenue Divisional Commissioner and the Sub-Collector within whose jurisdiction the Samiti is situated.

PART VII

MISCELLANEOUS

Filling up of
casual
vacancies.

46. (1) Casual Vacancy—In the case of a vacancy occurring on account of removal, resignation, death or otherwise of an elected member, Chairman or Vice-Chairman of the Samiti, the Block Development Officer shall forthwith report the fact to the Commissioner through the Collector of the District who shall fix a date as soon as convenient for holding a by-election to fill up the vacancy.

(2) Omitted.

(3) Unless the Commissioner otherwise directs, the rules prescribed in Parts II, III, IV, V and VI shall apply *mutatis mutandis* to such by-elections :

Provided that in case of a by-election to the office of an elected member, the electoral roll utilised at the time of election to such office shall be utilised and unless the Commissioner otherwise directs, it shall not be necessary either to publish the electoral roll or to invite objections :

Provided further that the Commissioner may, if the circumstances so warrant, fix up different dates for different stages of election proceedings to fill up casual vacancies.

Postponement of election.

46-A. (1) Notwithstanding anything contained in these rules, if at any time or in any case the proceedings at any polling station are interrupted or obstructed for any reason whatsoever and the Presiding Officer is satisfied that free and fair conduct of election has been affected thereby, he shall direct postponement of the poll and shall forthwith inform the Election Officer.

(2) On receipt of information from the Presiding Officer under sub-rule (1), the Election Officer shall after such enquiry, as he may deem fit, report the facts of the case to the Commission.

(3) If the Commissioner is satisfied on the basis of the report of the Election Officer or otherwise that conduct of free and fair election has been affected, he may direct a fresh election at that polling station.

Adjournment of poll in emergency.

46-B. (1) If the proceedings at any polling stations are interrupted or obstructed by any riot or open violence or if it is not possible to take the poll at any polling station or if at any time or in any case it appears to the Election Officer that during the course of an election, it is or has become impracticable to go ahead with the process of election including the poll due to natural calamity or otherwise, the Election Officer may, by a reasoned order, announce an adjournment of the poll to a date to be notified later and shall report the facts of the case to the Commission.

(2) If the Commissioner is satisfied on the report of the Election Officer or otherwise as regards the facts stated at sub-rule (1) above, he shall direct poll on such date, place and hours as he may satisfy.

(3) Whenever a poll is adjourned under sub-rule (1) counting of votes relating to the constituency of which the poll was adjourned shall not commence without the previous approval of the Commissioner.

Fresh poll in the case of destruction etc. of ballot boxes.

46-C. (1) If at an election—

- (a) any ballot box used at a polling station or at a place fixed for the poll is unlawfully taken out of the custody of the Presiding Officer or the Polling Officer accidentally or intentionally

destroyed or lost, or is damaged or tampered with, to such an extent that the result of the poll at that polling station or place cannot be ascertained; or

- (b) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll, the Presiding Officer shall forthwith report the matter to the Election Officer.

(2) The Election Officer, on receipt of information under sub-rule (1) and after taking prior approval of the Commissioner, shall either—

- (a) cancel the poll at that polling station, appoint a day and fix the hours for taking a fresh poll at that polling station or any other suitable place and notify the day so appointed and the hours so fixed in such manner as it may deem fit; or
- (b) If satisfied that the result of a fresh poll at that polling station or place will not, in anyway, affect the result of the election or that, the error or irregularity in procedure is not material issue such directions to the Presiding Officer as he may deem proper for the further conduct and completion of the election.

(3) The provisions of this rule or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.

Adjournment of
poll or
countermanding
of election on
the ground of
booth capturing.

46-D. (1) If at an election—

- (a) booth capturing has taken place at a polling station or at a place fixed for the poll (hereinafter in this rule referred to as a place) in such a manner that the result of the poll at that polling station or place cannot be ascertained; or
- (b) booth capturing takes place in any place fixed for counting of votes in such a manner that the result of the counting at that place cannot be ascertained, the Election Officer shall forthwith report the matter to the Commissioner.

(2) The Commissioner shall on the receipt of a report from the Election Officer under sub-rule (1) or otherwise and after taking all material circumstances into account either—

- (a) declare that the poll at that polling station or place be void, appoint a day and fix the hours for taking fresh poll at that polling station or any other suitable place and notify the date so appointed and hours so fixed in such manner as it may deem fit, or
- (b) if satisfied that in view of the large number of polling stations or places involved in booth capturing the result of the election is likely to be affected, or that booth capturing had affected counting of votes in such a manner as to affect the result of the election, countermand the election in that constituency.

Explanation—For the purpose of this rule, “booth capturing” includes, among other things all or any of the following activities, namely :—

- (a) seizure of a polling station or a place fixed for the poll by any person or persons making polling authorities surrender the ballot papers or voting material including ballot boxes and doing of any other act which affects the orderly conduct of election;
- (b) taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and to prevent others from voting;
- (c) threatening any elector and preventing him from going to the polling station or any place fixed for the poll to cast his vote;
- (d) seizure of a place fixed for counting of votes by any person or persons, making the Counting Authorities surrender the ballot papers or voting materials including ballot boxes and the doing of anything which affects the orderly counting of votes;
- (e) doing by any person in the service of Government of all or any of the aforesaid activities or aiding or conniving at any such activity in the furtherance of the prospects of the election of a candidate.

Extra-ordinary
power of the
Commissioner.

46-E. (1) If at any time or in any case it appears to the Commissioner that circumstances exist for his satisfaction that conduct of free and fair election is likely to be or has been affected, the Commissioner may issue general or special order as the circumstances may require to ensure free and fair election.

[(2) Omitted].

Requisition of
premises,
vehicles, etc.

46-F. If it appears to the Collector that in connection with an election held under these rules—

- (a) any premises are needed or are likely to be needed for the purpose of being used as a polling station or for storage of ballot boxes before or after the poll is taken; or
- (b) any vehicle, vessel or animal needed or is likely to be needed for the purpose of transport of ballot boxes to or from any polling station, or transport of members of the police force for maintaining order during the conduct of or in connection with such election or other person for performance of any duties in connection with such election, he may by order in writing requisition such premises or vehicles, vessel or animal, as the case may be, and may make such further orders as may appear to him to be necessary or expedient in connection with such requisitioning.

Counter
manding
of poll.

46-G. (1) If at an election—

- (a) a validly nominated candidate who has not withdrawn his candidature under sub-rule (15) of Rule 11 dies and a report

of his death is received by the Election Officer before publication of the list of contesting candidates; or

- (b) a candidate dies after the publication of list of contesting candidates under sub-rule (16) of Rule 11, the Election Officer shall upon being satisfied of the fact of the death of the candidate countermand the poll and report the fact to the Commissioner.

- (2) If at an election, a candidate dies at any time on or after the date of the poll but before publication of the result under Rule 33, there shall be no countermanding and the result shall be declared as if the candidate has not died :

Provided that in case upon declaration of result of the election, the deceased candidate declared to have been duly elected, the Election Officer shall forthwith issue a notification to the effect that a casual vacancy has occurred and the provisions of these rules for conducting by-elections to fill up the casual vacancy be applicable in such cases.

Interest in any contract with the Samiti.

47. A person shall not be deemed to have any interest in a contract made with or any work being done for the Samiti constituted for a Block as specified in clause (o) of sub-section (1) of Section 45 by reason only of his having a share or interest in—

- (i) any lease, sale or purchase of immovable property or any agreement for the same; or
- (ii) any agreement for the loan of money or any security for the payment of money only; or
- (iii) any newspaper in which any advertisement relating to the affairs of the Panchayat Samiti is inserted; or
- (iv) the sale to the Panchayat Samiti of any article in which he regularly trades or the purchase for the Panchayat Samiti of any article of a value in either case not exceeding fifteen hundred rupees in the aggregate in any year during the period of the contract of work; or
- (v) any development work taken up not as a contractor but as a member of a Committee formed by the Grama Panchayat or Samiti as such from amongst its members, to which such work may be entrusted directly by any of the above bodies.

Procedure for removal of disqualification.

48. (1) A person suffering from any of the disqualifications specified in clause (h) or clause (i) of sub-section (1) of Section 45 may represent to Government giving the full facts and reasons for removal of such disqualification.

(2) The Government may, after such enquiry as they may deem necessary, remove such disqualification by a notification.

Manner of inquiry under Section 45(1)(n).

49. (1) The Collector of a district may draw and publish the list of persons proved to his satisfaction or to the satisfaction of any subordinate officer not

below the rank of a Sub-Collector who are in the habit of encouraging litigation in the villages and may from time to time alter or amend such list.

(2) No person's name shall be included in any such list until he shall have had an opportunity to showing cause against such inclusion.

(3) The Collector may send the list of persons alleged or suspected to be in the habit of encouraging litigation in the villages to the Sub-Collector who shall thereupon hold an enquiry into the conduct of such person and after giving each such person opportunity of hearing shall report to the Collector with his enquiry report and the Collector, if satisfied with the report, publish the name in the Notice- board of the Collectorate :

Provided that the Collector shall hear any such person who, before his name has been so published, appears before him and desires to be heard.

(4) A copy of every such list shall be kept hung up in the Notice Board of the Collectorate and in the office of the concerned Block Development Officer.

(5) Every person whose name is included in such list shall be deemed to be in the habit of encouraging litigations in the villages within the meaning of clause (n) of sub-section (1) of Section 45.

Interpretation
of rules.

50. (1) If any question arises as to the interpretation of these rules, the question shall be referred to the Commissioner for decision.

Determination
of disputes

51. Any dispute arising out of any of the provisions of these rules except those contained in Part II-A and Rules 47, 48 and 49 shall be deemed to be an election dispute under the Act and shall be decided by such authority and in such manner as provided in the Act.

Repeal and
savings.

52. The Odisha Panchayat Samiti (Conduct of Election) Rules, 1970 are hereby repealed :

Provided that notwithstanding such repeal anything done or any action taken under the rules so repealed shall be deemed to have been done or taken under these rules.