

THE ODISHA ZILLA PARISHAD ELECTION RULES, 1994

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THE ODISHA ZILLA PARISHAD ELECTION RULES, 1994*

PART I

Short title and commencement..

- 1. (1)** These rules may be called "the Odisha Zilla Parishad Election Rules, 1994".
- (2)** They shall come into force on the date of their publication in the *Odisha Gazette*.

Definition.

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

- (a) "Act" means the Odisha Zilla Parishad Act, 1991 (Odisha Act 17 of 1991).
- (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 shall be so constructed that ballot papers can be inserted through an opening without affecting the secrecy of voting but the ballot papers can not be removed without opening, breaking or otherwise tampering it;
- (c) "Block Development Officer" means an officer appointed for the Block under Section 15-A of the Odisha Panchayat Samiti Act, 1959 (Odisha Act 7 of 1960);
- (d) "Clear days" includes Sundays and holidays but does not include the day of the meeting and the day of the issue of notice;
- (e) "Commissioner" means the State Election Commissioner appointed under Article 243-K of the Constitution;
- (f) "Election Officer" means unless the Commission otherwise directs, the Collector of the district or any officer authorised by the Collector by general or special order to exercise all or any of the powers and to perform all or any of the duties of an Election Officer under these rules;
- (g) "Gram Panchayat Act" means the Odisha Grama Panchayat Act, 1964 (Odisha Act 1 of 1965);
- (h) "Member of Parishad" means a member elected under clause(a) of sub-section (1) of Section 6 of the Act;
- (i) "Panchayat Election Rules" means The Odisha Grama Panchayat Election Rules, 1965;

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

- (j) "Parishad" means the Zilla Parishad constituted, under the Act;
 - (k) "Parishad Constituency" means the Constituency referred to in clause (a) of sub-section (1) of Section 6;
 - (l) "Polling Agent" means a person duly authorised by a contesting candidates to attend on his behalf at the polling of votes at one or more polling stations, or place specified for counting of votes;
 - (m) "Polling Officer" means the person appointed by the Election Officer to assist him or the Presiding Officer for conducting the elections at one or more polling stations.
 - (n) "Polling Stations" means the place fixed by the Election Officer for conduct of the poll in respect of election of a member of the Parishad;
 - (o) "Presiding Officer" means any person appointed as such by the Election Officer to preside over and the conduct of election under these rules at one or more polling stations.
 - (p) "Sarpanch" means a person elected as such in accordance with the provisions of the Odisha Grama Panchayat Act, 1964 (Odisha Act 1 of 1965);
 - (q) "Section" means a Section of the Act.
- (2) All other words and expressions used but not defined herein shall, unless the context otherwise requires, have the same meaning as have been assigned to them respectively in the Act.

PART II GENERAL

Notification
of election.

- 3.(1) A General election shall be held for the purpose of Election of members to the Parishad before the expiry of the term or on its dissolution.
- (2) The Government shall, by one or more notifications published in the Official Gazette on such dates as may be recommended by the Commissioner, call upon the Parishad Constituencies to elect members of the Parishad in accordance with the provisions of the Act and these Rules.
- (3) The Government shall send the list of Parishad constituencies together with the list of offices of Presidents 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 (2).

Appointment
of dates for
election.

- 4.(1) As soon as the notification under Rule 3 is issued, the Commissioner shall draw up and notify the programme of election of members and fix up the date of first meeting of the Parishad and communicate the same to all Election Officers :

NOTE – “First meeting of the Parishad” referred to in this sub-rule shall mean the first meeting of the Parishad as provided in clause(a) of sub-section (1) of Section 8 :

Provided that where the election of a Parishad is held simultaneously either with the Grama Panchayat or the Panchayat Samiti or both, the programme of election shall be drawn in such a manner that the date of election of a member of the Parishad should be the same date as that of the election of either the Sarpanch or member of Samiti or both.

- (2) In the programme so drawn up under sub-rule(1), the Commissioner shall fix up the date of first meeting of the Parishad for the purpose of sub-section(1) of Section 8.
- (3) The date of election of the member of the Parishad so fixed by the Commissioner shall not be altered or deferred, save with the prior sanction of the Commissioner.
- (4) At least four weeks before the date fixed for conducting the poll, the Election Officer shall issue notice in Form No. 1 calling for the names of the candidates for the office of the member of Parishad from every constituency and specify therein the date, time and place of filing nomination, scrutiny, withdrawal of candidature and the date and time of poll.

Electoral
Roll.

5. As soon as the division and reservation of constituencies are notified by the Government under clause(g) of sub-section (3-A) of Section 6, the final electoral roll of every Grama prepared under the Panchayat Election Rules comprised within the Parishad constituency including revision, addition or alteration, if any, shall together form the final electoral roll of that Parishad constituency :

Provided that where the election of the Members of a Parishad is held separately than that of the election of the Gramas or the Samitis 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 Members of the Parishad.

Revision of
Electoral
Roll.

6. The Commissioner may order for revision of the electoral roll of every Parishad constituency from time to time on the basis of the revision of electoral roll of the Assembly Constituencies.

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| Election
Symbol. | <p>7. (1) The symbols to be used by the candidates at the election of the Members of the Parishad shall be such as may be notified by the Commissioner from time to time.</p> <p>(2) Notwithstanding anything contained in sub-rule (1) when a candidate contests the election to the office of the Member of the Parishad on political party basis, he shall use only the symbol of that political party and no other symbol.</p> <p>(3) Within seven days of the issue of notification under sub-rule (1) of Rule 4, the political parties shall, in writing, inform the Commissioner in Form No. 17 the designation of the person(s) authorised by them to sponsor candidates for the purpose of contesting the election under these rules and shall also furnish him the specimen signature of the person so authorised.</p> <p>(4) Upon receipt of the particulars under sub-rule (3), the Commissioner shall communicate those to the Election Officers on or before the date appointed for scrutiny of nomination papers.</p> |
| Eligibility
of a
candidate. | <p>8. No person shall be eligible to stand for election as a Member of the Parishad unless his name finds place in any of the electoral rolls, referred to in Rule 5, within the Parishad area.</p> |
| Eligibility
of proposer
and
seconder. | <p>9. No person shall be eligible to be either the proposer or the seconder of a candidate for election of the Member of Parishad from Constituency unless his name finds place in the electoral roll of the said Constituency.</p> |
| Presentation of
Nomination
paper. | <p>PART III</p> <p>FILING OF NOMINATION, SCRUTINY AND WITHDRAWAL</p> |
| Supply of
forms. | <p>10. A nomination in Form No. 4 shall be presented to the Election Officer either by the candidate himself or his proposer or seconder on the date, time and place specified in the notice.</p> |
| Deposit of
money and
process of
election. | <p>11. The Election Officer shall arrange for supply of all necessary forms relating to the election of the members of Parishad at the headquarters of the Parishad.</p> <p>12. (1) On the date fixed for presentation of the nomination papers, candidates desiring to contest election for the office of the Member of Parishad shall other than a candidate belonging to the Scheduled Tribes or the Scheduled Castes, deposit or cause to be deposited a sum of rupees two hundred with the Election Officer.</p> <p>(2) If the candidate belongs to the Scheduled Tribes or the Schedule Castes, the amount of deposit shall be rupees one hundred.</p> <p>(3) The Election Officer shall grant a receipt in Form No. 3 for the amount so deposited.</p> |

- (4) No candidate shall be allowed to contest the election of the office of the Member of Parishad unless such deposit has been made.
- (5) The deposit shall be returned to the person who made it or on whose behalf it was so made or to a person authorised by the depositors if a candidate by whom or on whose behalf the deposit, referred to in sub-rule (1) or sub-rule (2), as the case may be, has been made, withdraws his candidature in the manner and within the time specified under sub-rule (6) of Rule 14 or if the nomination of any candidate is rejected.
- (6) The deposit shall be forfeited to the State Government if a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) or sub-rule (2), has been made is not elected and the number of votes polled in his favour does not exceed one-sixth of the total number of votes polled.

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

- (7) The deposit made in respect of a candidate, who is elected or in whose favour more than one-sixth of the total number of votes polled, shall be returned to him after the result of the election is published.
- (8) The 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 representative.
- (9) 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 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 the result of the election by the Election Officer.
- (10) (a) The Election Officer shall, at the appointed time, date and place receive the nomination papers in Form No. 4 and scrutinise them at the appointed time, date and place in the presence of the candidates or their proposers or seconds, if any.
 (b) If the Election Officer is satisfied that the candidate does not suffer from any disqualification under Section 33, he shall accept the nomination as valid.
 (c) 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 papers shall be endorsed on the body of the nomination papers.
- (11) If after scrutiny under sub-rule (10) if there is only one candidate validly nominated there shall be no poll and the Election Officer shall immediately declare in Form No.5 the person so nominated to have been duly elected.

Failure of election.

- 13.** If no nomination is filed or if all the nominations are rejected, the Election Officer shall forthwith report the matter to the Commissioner who shall issue a notice afresh under Rule 4, and if no nomination is filed or all the nominations are rejected for the second time, it shall be deemed to be a failure of election.

Assignment of symbol & withdrawal of candidature.

- 14.**(1) The Election Officer shall, immediately after the scrutiny, prepare a list of the validly nominated candidates in Form No. 6 and arrange them in alphabetical order in Odia.
- (2) At the time of preparing the list, the Election Officer shall allot symbols to each candidate from among those specified under Rule 7 :
Provided that where the candidate contests the election on Political Party basis, the Election Officer shall allot to that candidate the symbol of the respective Political Party.
- (3) The symbol allotted to each candidate under sub-rule (2) shall be indicated in the list in Form No. 7.
- (4) While allotting symbol of a Political Party to a contesting candidate, Election Officer shall take into account the recommendation of the Political Party concerned in favour of the particular candidate in Form No. 18 and the communication received from the Commissioner under sub-rule (4) of Rule 7.
- (5) A copy of the list of the validly nominated candidates shall be published in the notice board of the Samiti concerned in Form No. 8 at least three weeks before the date fixed for election.
- (6) A validly nominated candidate may withdraw his candidature by presenting an application in Form No. 9 personally to the Election Officer within forty-eight hours after the list of validly nominated candidates has been published under sub-rule (5).
Provided that the Election Officer shall verify the signature of the candidate before allowing the candidature to be withdrawn.
- (7) Immediately after the withdrawal of nomination under sub-rule (6), the Election Officer shall publish the Final list of contesting candidates in Form No. 8 at least two weeks before the date of poll.
- (8) If there were only two contesting candidates including the person withdrawing his candidature under sub-rule (6) the other candidate shall be declared duly elected in Form No. 5.
- (9) The Election Officer shall proceed with election if, upon withdrawal of candidature under sub-rule (6) the number of validly nominated candidates exceeds one.

PART IV
POLLING ARRANGEMENTS

Location
of polling
stations.

- 15.** (1) There shall be a polling station for every ward falling within the Parishad Constituency and shall be located within the area of the said ward :

Provided that the Election Officer may, if necessary have more than one polling station for a ward or have one polling station for more than one ward or a group of wards.

NOTE—The expression “ward” referred to in this sub-rule shall mean a ward of a Gram Panchayat.

- (2) Inside the polling station, there shall be an enclosed space which shall be used by the voters for marking the ballot papers secretly.
- (3) If at any time an election for constituency of Parishad is conducted under these rules simultaneously with the elections for Constitution of the Gram Panchayats or Panchayat Samitis or both, the polling station for a Constituency shall be located at such place as the Commissioner may, by order, determine.

Presiding
and
Polling
Officer.

- 16.** (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) Subject to such order or instruction as the Commissioner may pass, the Election Officer may also appoint Polling Officer(s) for a polling station to assist Presiding Officer.

Ballot
boxes.

- 17.** (1) The Election Officer shall provide such number of ballot boxes to each polling station as may be required.
- (2) The ballot box shall be placed within the full view of the Presiding Officer at the time of polling.

Ballot
papers.

- 18.** (1) Printed ballot papers as specified in Form No. 10 shall be used for the Election of Members of Parishad.
- (2) The ballot paper shall bear the same symbol as allotted by the Election Officer to the Individual candidates under Rule 7.
- (3) Ballot papers which bear the seal and signature of the Presiding Officer shall be issued to the voters.

Appointment
of Polling
Agents.

- 19.** Each candidate shall be allowed to appoint not more than one polling agent to remain present at the polling station during the poll as well as during the counting of votes.

Polling
hours.

- 20.** The polling at each polling station shall take place during such hours as may be fixed by the Commissioner.

Marking
of Ballot
Papers.

- 21.** The ballot papers shall be marked by means of a rubber stamp bearing cross mark “X.”

PART V
POLLING

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| Supply of forms. | 22. The Election Officer shall supply to the Presiding Officer appointed for each polling station the following papers :—

(i) a list of candidates in Form No. 8;
(ii) a working copy of the voters' list relating to the polling station(s);
(iii) another copy of the voters' list relating to the polling station(s);
(iv) required number of ballot papers (Form No. 10);
(v) ballot paper account (Form No. 11). |
| Preparation by the Presiding Officer. | 23. 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 arrangements for the polling to commence exactly at the time notified by the Commissioner. |
| Permission to Polling Agents | 24. The Presiding Officer shall examine the authority of the Polling Agents, authorised by the candidates and admit them to the polling station, if he is satisfied that the authority is valid under these rules. |
| Identity of voters. | 25. The Presiding Officer may seek assistance of respectable persons of the locality or Polling Agents to identify the voters. |
| Exhibition of list of candidates and their symbols. | 26. One hour before the commencement of poll, the Presiding Officer shall cause to be exhibited a notice, at the entrance of the polling station, specifying the areas of the polling station, the date and time of poll and the copy of the list of contesting candidates arranged in alphabetical order in Odia together with a description of the symbol allotted to them. |
| Exhibiting the empty ballot box. | 27. Immediately before the commencement of the poll, the Presiding Officer shall demonstrate to the polling agents, if any, present at the polling station 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 withdrawn therefrom except by breaking or otherwise tampering with the box. |
| Voting procedure. | 28. (1) The polling shall commence at the appointed hour
(2) Whenever a voter approaches the Polling Officer, he shall check the name of the voter with reference to the working copy of the voter list furnished by the Election Officer and shall issue a ballot paper to the voter after putting a mark in indelible ink on the left forefinger below the nail.
(3) The Polling Officer shall explain clearly to each voter at the time of issuing the ballot paper, the manner of marking the ballot paper and the manner of folding it after marking.
(4) The voter shall then proceed to the enclosed space and put a cross mark on the ballot paper secretly with the stamp provided for the purpose either on the symbol of the candidate or on the name for whom he wishes to vote. |

- (5) After putting the mark, the voter shall fold the ballot paper to the innerside so as to maintain secrecy of the vote and insert it in the ballot box.
- (6) In case of difficulty, the voter may bring it to the notice of the Presiding Officer who shall assist the voter in inserting the ballot paper in the ballot box.

NOTE—Any reference to the left forefingers of voter in this rule 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 on 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 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.

Voting by
Electronic
Voting
Machine.

- 28-A** (1) The procedure as prescribed in the Odisha Gram Panchayats 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. 18-A & 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 a
voter on
duty.

- 28-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.

Marking in the
working copy.

- 29.** After issue of ballot papers, the Polling Officer shall put a tick mark against the name of the voter in the working copy of the voter list.

Blind or
incapable
voters.

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

Objection
for identity
of a voter.

- 31.** (1) A candidate or his polling agent may object to identify of a voter on the ground only that he is not the person he claims to be as per entry in the voters list.
- (2) For every objection, a fee of rupees two shall be deposited with the Presiding Officer.
 - (3) The Presiding Officer shall decide the objection by conducting a summary enquiry on the spot 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. 3-A shall be given by the Presiding Officer to the person who has made the deposit.

- Procedure for conducting of poll.
- 32.** (1) The Presiding Officer shall so regulate the entry of the voters 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 shall be allowed to cast a vote.
 (3) No voter shall be admitted inside the polling station after the time fixed for closure of the polling.
- Polling Officer to act as Presiding Officer.
- 33.** 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.
- 34.** Omitted.
- 35.** Omitted.
- Procedure for counting of votes.
- 36.** (1) Unless the Commissioner otherwise directs, after close of the polling, the Presiding Officer shall seal the ballot box in presence of the candidates or their polling agents who may be present and 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 the counting of votes on the scheduled date in presence of the candidates or their polling agents, if any.
 (2) Each ballot paper shall be scrutinised by the Election Officer in the course of counting and a ballot paper shall be liable for rejection 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 no mark indicating the vote is made thereon;
 (iii) if the mark of vote is made in favour of more than one candidate;
 (iv) if the mark indicating the vote is placed in such a manner so as to make the intent of the voter doubtful;
 (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 signature of the Presiding Officer.
 (3) The Election Officer shall record the reason(s) for rejecting the ballot paper on the ballot paper itself and may, for this purpose, use a seal.
- Recording of counting.
- 37.** (1) The result of counting of the ballot papers under sub-rule (1) of the Rule 36 shall be recorded in Form No. 11-A.
- Submission of papers.
- 38.** Immediately after close of the polling, the Presiding Officer shall prepare separate bundles of all papers, reports and unused ballot papers and after sealing them in separate packets forward them to the Election Officer on the same day.
- Declaration of the result of the votes.
- 39.** (1) On the date fixed for declaration of the result of the elections, the Election Officer shall, in the presence of candidates or their Polling Agents, check the arithmetical correctness of votes polled by different candidates in Form No. 12 so as to arrive at the total number of votes polled by each contesting candidate along with the result of votes recorded as per voting machine, if any then announce the result.

- (2) Candidate securing the maximum number of votes shall be declared as elected.
- (3) 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.
- (4) The Election Officer shall forthwith intimate the Commissioner the names of the elected candidates for the purpose of publication as required under sub-section (2) of Section 6.
- (5) After the declaration under sub-rule (2) 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.
- (6) On an application made under sub-rule (5), 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.
- (7) Every decision of the Election Officer under sub-rule (6) shall be in writing and contain the reasons therefor.
- (8) If the Election Officer decides under sub-rule (6) to allow recounting of the votes either wholly or in part, he shall—
 - (a) make the recounting in accordance with Rule 36;
 - (b) make necessary corrections in the result sheet in Form No. 12 to the extent necessary after such recounting; and
 - (c) announce the result on the basis of the corrections so made by him.

Publication of the result of the votes.

- 40.** (1) The Commissioner shall publish the names of the elected candidates in the Official Gazette.
- (2) The Commissioner shall forward copies of publication under sub-rule (1) to the Government, Revenue Divisional Commissioner(s) and the Collector(s) concerned.
- (3) The documents relating to election received from the Presiding Officer and those prepared by the Election Officer, if any, 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, be destroyed.
- (4) The documents or records referred to in sub-rule (3) 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

- 41.** (1) If there is failure of election to any of the constituencies, publication of the notification under sub-rule (1) of Rule 40 may be withheld until fresh election is held successfully :

Provided that if the Commissioner is satisfied that majority of members have been elected to the Parishad, he shall publish the result under sub-section (2) of Section 6 without waiting for the results of election, whether conducted or not of remaining Constituencies.

- (2) If there is a failure of the election held for the second time, the Commissioner shall forthwith report the matter to the Government for nomination of a person under Section 35 to fill up the vacancy.

Explanation—For the purpose of the Rule “Failure of election” means the failure of election as specified in Rule 13.

Election for
the second
time.

- 42.** (1) When it becomes necessary to hold elections for the second time in any case in the course of an 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 or to invite objections; and
- (ii) The Commissioner or any other persons empowered by him in that behalf shall issue notice calling for the names of candidates for the office of the member of Parishad at least two weeks before the date fixed for election.

- (2) When the seat of a member of the Parishad is dereserved under sub-section (2) of Section 35, the Commissioner shall, on receipt of the communication to that effect under sub-rule (4) of Rule 59-B 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).

Postponement
of election.

- 43.** (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 Commissioner.

- (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 the polling station.

Adjournment
of poll in
emergency.

44. (1) If the proceedings at any polling stations or group of 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 Commissioner.

- (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.

45. (1) If at an election—

- (a) any ballot box used at a polling station or at a place fixed for 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 hour 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 any way, 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 these rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.

46. (1) If at an election—

- (a) booth capturing has taken place at a polling station or at a place fixed for the poll (hereafter 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 the 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 station 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 thing, 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 a 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 candidate.

PART VI
**ELECTION OF THE PRESIDENT / VICE- PRESIDENT OF ZILLA
PARISHAD**

Place for holding the election.

Issue of notices and their publication.

Filing of nomination.

- 47.** The election of the President and Vice-President of the Parishad shall be held in the office of the Parishad or at such other public place at the headquarters of the Parishad as the Commissioner may determine.
- 48.** (1) The Commissioner shall, within three days of the publication of the notification under sub-rule (1) of Rule 40 issue—
- (i) a notice in Form No. 13 notifying the date, time and place of the first meeting of the Parishad; and
 - (ii) a notice in Form No. 14 calling for the names of candidates desirous of the office of the President of the Parishad.
- NOTE—**(a) First meeting as referred to clause (i) of this sub-rule shall mean the first meeting as referred to in Section 8.
- (b) The notice under clause (ii) of this 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 elected members of Parishad personally by delivering or tendering to the members to whom it is addressed and in case of default of personal service, it shall be served by registered post or if necessary by telegram.
- (3) The notice shall also be published in the noticeboard of the Parishad and the noticeboards of all the Sub-Collectors of the District.
- 49.** (1) The nomination of every candidate shall be made in Form No. 15
- (2) The form may be printed, typed, cyclostyled or be in manuscript as the Commissioner may determine.
- (3) Every nomination paper shall be signed by two members of Parishad as proposer and seconder and the candidate shall sign a declaration expressing his willingness to stand for election to the office of the President.
- (4) There shall be separate nomination paper for each nomination.
- (5) Every nomination paper shall be presented by the candidate or his proposer or seconder in person to the Election Officer on the appointed date, time and place during the hours specified in the notice.
- (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 and found to be in order.
- (7) If no nomination paper is filed or all the nomination papers filed are rejected, a notice for fresh nomination shall be issued under Rule 49 within fifteen days from the date on which nomination papers were filed or were rejected under sub-rule (6).
- (8) If no nomination is filed or all the nominations filed are rejected for the second time, the Election Officer shall forthwith report the matter to the Commissioner and then proceed ahead to complete the election of the Vice-President.

Procedure for
conducting
the election.

- 50.** (1) If there is only one validly nominated candidate for the office of the President there shall be no voting and the candidate shall be declared to have been elected as the President.
- (2) If there are two or more such candidates for the office of the President an election shall be held by secret ballot and the vote of the members present at the meeting shall be taken.
- (3) Where the votes of the members have to be taken under sub-rule (2) the name of the candidates shall be arranged in the alphabetical order and written in Odia.

Manner of
voting.

- 51.** (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 validly nominated candidates shall be printed or typed or cyclostyled or legibly written on the ballot papers arranged according to the alphabetical order of their names in the following form in Odia.

Serial Number	Name of the candidate with the name of father or husband	Voting sign
1	2	3

NOTE— “Ballot Paper” for the purpose of this rule shall be either typed or cyclostyled or in manuscripts as the Commissioner may by order determine.

- (3) The voter shall then proceed one after the other to the place set apart for voting and there secretly place a clear cross mark (x) in Column (3) of the ballot paper against the name of the candidate for whom he wishes to vote. After placing the mark he shall fold the ballot paper so as to conceal his vote and deposit it in a ballot box placed in full view of the Election Officer.

Explanation—The Officer shall explain the above procedure to the voters before the commencement of the poll and shall do so on request by any voter at any time before the close of the poll.

- (4) The Election Officer shall provide a ballot box which shall be so constructed that the ballot paper can be inserted through an opening in it without affecting the secrecy of voting but cannot be removed without opening or breaking or otherwise tampering with the arrangements of the receptacle.
- (5) The Election Officer shall immediately before the commencement of the poll demonstrate to the candidates and voters 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 withdrawn except by breaking or otherwise tampering with the box.

- (6) Every voter wishing to record his vote shall do so in person and not by proxy.
- (7) In case of the voter 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 and accordingly mark the ballot paper, fold it up so as to maintain its secrecy and insert it in the ballot box.
- (8) The Election Officer shall cause such arrangement to be made as will ensure the secrecy of the ballot.

“51A. (1) Every political party, whose member as an elector casts a vote for the purpose of election to the office of the president, or as the case may be, the Vice-President, may appoint one authorised agent and the president or the General Secretary of the State Level Political Party or State Unit of the National Political Party shall, in writing, inform the same to the Election Officer with full details of the authorised agent proposed to be so engaged for the said election prior to the scheduled date of election.

(2) Notwithstanding anything contained in rules 50 and 51, the Election Officer shall, between the period, when an elector being a member of a political party records his vote on a ballot paper and before such elector inserts that ballot paper into the ballot box, allow the authorised agent of that political party to verify as to whom such elector has cast his vote.”

Counting of votes.

52. Immediately after the voting is over, the Election Officer shall count the votes in the presence of the voters as may be present, and record the number of votes secured by each candidate in a statement in Form No.12.

Rejection of ballot paper.

53. A vote shall be liable for rejection on one or more of the following grounds:—

- (i) if the ballot paper bears the signature of the voter or contain any word, sign or visible representation by which he can be identified;
- (ii) if the cross marks are placed against more than one name;
- (iii) if the cross mark is so placed that it is doubtful as to in favour of which candidates the vote was intended to be given;
- (iv) if the ballot papers does not bear the authentication mark of the Election Officer prescribed under sub-rule (1) of Rule 51;
- (v) if no cross mark is placed against any candidate.

Declaration of result.

54. Upon completion of the counting, the Election Officer shall declare the result of the President in the following manner :—

Election of
Vice-
President.

- (1) if there are two or more candidates, one who secures the largest number of votes shall be declared duly elected;
- (2) in the event of there being an equality of votes between the two candidates, the Election Officer shall draw a lot in the presence of the voters and the candidate whose name is first drawn shall be declared to have been duly elected.

Preparation of
record of
proceeding.

- 55.** (1) Within three days of declaration of the result of the election of the President under Rule 54 or failure of an election under sub-rule(8) of Rule 49, the Commissioner shall issue or cause to be issued a notice in Form No. 16 notifying the date, time and place of election to the office of the Vice-President.
- (2) Simultaneously with the notice issued under sub-rule(1), the Commissioner shall also issue or cause to be issued a notice in Form No. 14 calling for the names of the candidates desirous for the office of the Vice-President.
- (3) The procedure outlined for the conduct of election to the office of the President under the foregoing rules shall *mutatis mutandis* be applicable to the election of the Vice-President.

Publication
of the names
of the
President
and Vice-
President.

- 56.** (1) Immediately after the meeting referred to in Rule 48 or 55, the Election Officer shall–
 - (a) prepare a record of the proceedings at the meeting, sign it and attest, with his initial on every correction made therein and permit any member present at the meeting to affix his signature to such record, if he expresses his desire to-do-so; and
 - (b) forward the record of the proceeding to the Collector, in case Collector is not the Election Officer.
- 57.** (1) The Commissioner shall notify the names of the President and Vice-President in his Notice Board, forward a copy of such notification to the Government Press for publication in the Official Gazette and shall also forward a copy of the notification to the Government, Collector and to the person elected as President and the Vice-President.
- (2) Copies of the notification published under sub-rule (1) shall also be communicated to the Chief Executive Officer of the Parishad and the Revenue Divisional Commissioner within whose jurisdiction the Parishad is situated.

Death of a
candidate
before poll.

- 58.** (1) If at an election–
 - (a) a validly nominated candidate who has not withdrawn his candidature under sub-rule (6) of Rule 14 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 (7) of Rule 14 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 poll but before publication of the result under Rule 39, there shall be no countering 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 is 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 shall be applicable in such cases.

Extraordinary power of the Commissioner.

- 59.** (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
- (3) Omitted
- (4) Omitted

Requisition of vehicles, premises etc.

- 59-A.** 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 is 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 :

Provided that no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-rule until the completion of the poll at such election.

Procedure of dereservation.

- 59-B.** (1) On receipt of the report from the Election Officer under Rule 13 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 Parishad Constituencies, even for nomination under

sub-section (1) of Section 35, the Collector shall send his recommendation as required under the 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—
- (i) working copy of the voter lists of all the Parishad Constituencies;
 - (ii) statement 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 lists of all the Parishad Constituencies 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 35.

We, therefore, recommended that the seat of the Parishad Member of Parishad Constituency under Zilla Parishad be dereserved under sub-section (2) of the said section.

Election Officer

Collector

- (3) On receipt of the recommendation from the Collector under sub-rule (1), the voter lists shall be scrutinized 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 35 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 Zilla Parishad.

Resignation of
any elected
member or
President or
Vice-President.

- 60.** (1) The President or Vice-President of the Parishad or any elected member thereof may resign his office by giving notice in writing addressed to the Chief Executive Officer of the Parishad who shall lay the letter of resignation before the Parishad for information.
- (2) The resignation shall be effective from the date on which it is received by the Chief Executive Officer.

Filling up of
casual
vacancies.

- 61.** (1) [Unless the Commissioner otherwise directs]¹ in the case of vacancy occurring on account of removal, resignation, death or otherwise of an elected member, President or Vice-President of the Parishad, the Chief Executive Officer of the Parishad shall

forthwith report the fact to the Commissioner who shall appoint as soon as practicable the date and place for holding a by-election to fill the vacancy.

- (2) Omitted
- (3) The Provisions of Parts I, II, III, IV, V and VI of these rules shall *mutatis mutandis* apply to such by-election :

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.

Interest in
any contract
with the
Parishad.

62. A person shall not be deemed to have any interest in a contract made with or any work being done for the Parishad as specified under clause(p) of sub-section (1) of Section 33 by reason only of his having a share or interest in—

- (i) any lease, sale or purchase of immovable 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 Parishad is inserted; or
- (iv) the sale to the Parishad of any article in which he regularly trades or the purchase for the Parishad 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 committee formed by the Panchayat Samiti or Parishad as such from amongst its members to which such work may be entrusted directly by any of above bodies.

Procedure for
removal of
disqualification.

63. (1) A person suffering from the disqualification under clause (h) or clause (i) of sub-section (1) of Section 33 may represent Government for removal of such disqualification.

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

Persons in
the habit of
encouraging
litigation.

64. (1) The Collector of a District may frame and published list of persons proved to his satisfaction or to the satisfaction of any Subordinate Officer not below the rank of Sub-Collector, by evidence of general repute or otherwise to be in the habit of encouraging litigation in the village and may from time to time alter or amend such lists.

- (2) The name of a person shall not be included in any such lists until he is given an opportunity of showing cause against such inclusion.
- (3) A copy of every such list shall be hung up in the noticeboard of the Collectorate and in the office of all Revenue Officers subordinate to the Collector.
- (4) Every person whose name is included in such list shall be deemed to be in the habit of encouraging litigation in the villages for the purpose of clause (o) of sub-section (1) of Section 33.

65. Omitted

Prohibition for discussion in the meeting.

- 66.** (1) No action taken by the Collector or Officer duly authorised or appointed by him under these rules, shall be called in question, or discussed in any manner whatsoever, in the meetings of the Parishad.

- (2) No order or instruction issued by the Commissioner shall be called in question or discussed in any manner whatsoever in the meeting of the Parishad.

- 67.** Any servant of a local body or any Government servant shall not interfere or in anyway use his influence in an election.

- 68.** All canvassing or propaganda, public meetings, use of loudspeakers at any public place by any candidate within the local areas of the Parishad is prohibited before thirty-six hours of commencement of the poll.

- 69.** If any question arises as to the interpretation of any of the provisions of these rules the question shall be referred to the Commissioner for decision.

- 70.** Any dispute arising out of any of the provisions of these rules except those in Part II shall be deemed to be an election dispute under the Act.

Interference of Government servants.

Closure of propaganda.

Interpretation of the rules.

Determination of disputes.