

**ANNEXURE 'B' TO COUNCIL ORDER NO. 243/55
DATED 27-10-55.**

**AZAD KASHMIR DISTRICT BOARD
ELECTION RULES 1955.**

PART I

1. **Short title:-** (1) These rules may be called the Azad Kashmir District Board Election rules, 1955.

(2) These shall come into force with immediate effect.
2. In these rules unless there is anything repugnant in the subject or context :-
 - (a) 'Board' means, a District Board ;
 - (b) 'Constituency' means a circle, for the representation of which, a member is to be elected under these rules ;
 - (c) 'Election Commissioner' means a person appointed by the Government to perform the functions of the Election Commissioner ;
 - (d) 'Gazetted Officer' means a Government servant belonging to Azad Kashmir Gazetted service, or any other Government servant holding a post which may have been declared by a competent authority to be a Gazetted Post ;
 - (e) 'Government' means the Azad Kashmir Government ;
 - (f) 'Newly constituted Board' means a Board of which the members have been elected at a general election but have not yet taken their seats ;
 - (g) 'oath of allegiance' means the oath of affirmation of allegiance prescribed by section 10 of the Act ;
 - (h) 'Prescribed date' means any date specified in the election programme under the provision of these rules ;
 - (i) 'Revising Authority' means the authority appointed under rule 9 ;

- (j) 'Roll' means the roll of persons entitled to vote at an election under these rules ;
- (k) 'the Act' means the Azad Kashmir District Boards Act of 1955 ;
- (l) 'Treasury' means a Government Treasury or Sub Treasury or a bank to which the Government Treasury business has been made over ,
- (m) 'two member constituency' means a constituency from which two members are or are to be elected under sub section (2) of .Section 9 of the Act.

3. **Election Programme:-** (1) The Election Commissioner, shall with the sanction of the Government, frame a programme, for elections to a Board hereinafter referred to as the election programme ;
- (2) The Election Programme shall specify the date, or dates on, by, or within which :-
- (a) the Roll shall be prepared ;
 - (b) the Roll shall be published ;
 - (c) the notice inviting claims and objections against any entry or the commission of any entry in the roll shall be published;
 - (d) the said claims and Objections shall be presented ;
 - (e) the list of the said claims and objections shall be posted ;
 - (f) the said claims and objections shall be heard and decided;
 - (g) the list of the said claims and objections and the orders of the Revising Authority thereon shall be forwarded to the Election Commissioner
 - (h) Applications for the revision of the order of Revising Authority may be submitted to the Election Commissioner;
 - (i) the Roll as finally corrected shall be re-published ;
 - (j) the notice inviting Nomination papers shall be published;

- (k) the nomination papers shall be presented ;
- (l) the list of nomination papers shall be posted ;
- (m) the nomination papers shall be scrutinised ;
- (n) a candidate may withdraw his candidature ;
- (o) the list of valid nominations shall be posted ;
- (p) applications for the revision of the orders of the authority scrutinising the nomination paper may be made to the Election Commissioner ;
- (q) the said revision applications shall be decided ;
- (r) the list of polling stations shall be posted ;
- (s) the poll shall be held ;
- (t) the ballot papers shall be counted and the result of the election shall be declared ;

(3) The election programme shall be published by copies being posted at the Offices of the Deputy Commissioners, the Election Commissioner, the Board, and at the Headquarters of every Tehsil in the District and at such other places as the Election Commissioner may direct.

(4) The Government or the Election Commissioner, with the sanction of the Government, may by an order, amend, vary or modify the election programme at any time ;

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

(5) The Election Commissioner may delegate such of his powers as he thinks fit to the Deputy Election Commissioner or any other officer not below the status of a Deputy Commissioner in Azad Kashmir.

4. **Terms of office of Members:-** Subject to the provision of the Act, the term of office of a member of a Board shall be three years from the date fixed for the meeting under the provisions of

sub-rule (2) of rule 5 for the administration of the oath of allegiance to the members ; provided that if the members elected at the next general elections have not taken the oath of allegiance before the expiry of the term of office of the members for the time being, the term of office of the member for the time being shall continue upto the date of the meeting on which the members elected at the next general elections have taken the oath of allegiance.

5. **Oath of allegiance:-** (1) The Deputy Commissioner of the district shall be the Chairman of the Board and shall continue to be Chairman as long as he holds the office of the Deputy Commissioner of the District.
- (2) The Deputy Commissioner shall, within a week from the notification of the Election of the members of newly constituted Board, fix a date for the meeting of the Board. The date so fixed shall be not earlier than five days from the day on which the decision for its fixation is taken. The notice of the meeting shall be despatched on the same day to the members by registered post to their ordinary places of residence and shall state that at such meeting the oath of allegiance shall be administered to the members and the vice-Chairman or Vice-Chairman shall be elected. The afore- mentioned meeting shall be deemed to be a validly convened meeting of the Board, notwithstanding anything contained in any rules made under the provisions of section 27 of the Act, and the administration of the oath of allegiance and the election of Chairman or Vice-Chairman shall be recorded as, part of the proceedings in the minutes of the meeting.
- (3) The oath of allegiance shall be administered by the Chairman of the meeting.
- (4) A member of a newly constituted Board, who was not present at the meeting convened under the provisions of sub rule (2) or a member elected to fill a casual vacancy shall take the oath of allegiance at the first meeting of the Board attended by such member.
6. **Qualifications of Voters:-** A person shall be entitled to be registered as an elector, if he :-
- (a) is a subject of Jammu and Kashmir State ;

- (b) has on the first day of January, immediately preceding the date on which the Election Commissioner orders the preparation of the roll, attained the age of 21 years ;
- (c) has not been adjudged by a court of Law to be of unsound mind ; and
- (d) resides or carries on business within the District Board area and has completed a period of 12 months on the first day of January, immediately preceding the date on which the Election Commissioner orders the preparation of the Roll, in respect of such business or residence.

Explanation.

For the purposes of clause (d), a person shall be presumed to reside at the place where he owns land or residential house or a share in residential house ; provided that the house has, during the 12 months preceding the said first day of January, not been let on rent either in whole or in part.

7. **Disqualifications for membership:-** No person shall be eligible for election as a member of. a Board who :-

- (a) is not registered as a voter on a Roll published under the provisions of sub-rule (1) of rule 13, relating to the constituency concerned and in force under the provisions of sub-rule (2) of rule 13 ; or
- (b) receives any remuneration out of the district fund for service rendered to the Board ; or
- (c) holds a contract for work to be done for, or goods to be supplied to the Board ; or
- (d) has within five years from the date fixed for the nomination of candidates under the provisions of rule 15, been dismissed from Government employment ; or
- (e) has at any time within five years from the date fixed for the nomination of candidates under the provisions of rule 15, been serving sentence of imprisonment for a period exceeding one year ; or
- (f) is an undischarged insolvent or being a discharge insolvent has not obtained from the court a certificate that his in

solvency was caused by misfortune without any misconduct on his part ; or

- (g) has been removed from the membership of a Board under Section 13 of the Act or whose election for such membership has been declared void for corrupt practices under the provisions of these rule ; or
- (h) is disqualified for membership of any Municipal Committee or Town Area Committee or Board ; as a result of removal from such Committee or Board ; or
- (i) is a whole time salaried Government Official or is a whole time salaried Officer or servant of any Local Authority ; or
- (j) has been adjudicated by a court of law to be of unsound mind ; or
- (k) is disqualified on account of corrupt practices and other offences in connection with elections ; or
- (l) has been convicted in a proceeding pending before a Court of Law for an offence involving moral turpitude.

The decision of the Government as to whether the offence committed involved moral turpitude or not shall be final; provided that the Government may exempt any person or class of persons from any of the disqualifications contained in clauses (b), (c), (e) or (f) of this rule.

Explanation:

For the purposes of this sub-rule, a copyist, who receives from Government fees the amount of which varies from month to month and a Public Prosecutor, are not whole time salaried Government Officials :

- 8. **Preparation of Preliminary Rolls:-** (1) The Election Commissioner shall order the cause a roll for each constituency to be prepared (in Form I) and published on the prescribed date together with a notice :
 - (i) inviting claims and objections relating either to the inclusion of names in, or to the exclusion of names from the electoral Roll ;

- (ii) specifying the period during which all claims and objections shall be presented ;
- (iii) specifying the authority to whom claims and objections shall be presented, hereinafter called the Receiving Authority ;
- (iv) specifying the particulars that should be given in the claims and objections.

(2) A Roll shall contain as far as possible the name of each elector, with his father's name, his cast, his age and his occupation. All the names so contained in a roll shall, as far as possible, be serially numbered and arranged in alphabetical order.

(3) Notwithstanding anything contained in these rules no person shall be entitled to give more than one vote and no person shall be recorded as a voter in more than one constituency or more than once in the same constituency.

(4) Copies of the Rolls and the notice shall be posted at the office of the Deputy Commissioner and at the office of the Board and at such other places as the Election, Commissioner may determine, and copies shall also be available for sale at a price to be fixed by the Government and the proceeds of such sale shall be credited to the district fund.

9. **Appointment of Revising Authority:-** The Deputy Commissioner/s shall be the Revising Authority, in respect of the roll relating to his district provided that the Deputy Commissioner may, at any time and for any purpose and for any period appoint any subordinate or subordinates to act as Revising Authority or Revising Authorities in addition to himself, with such territorial jurisdiction as he may fix for each.
10. **Presentation of claims and objections:-** (1) When a roll has been published under the provisions of rule 8, claims and objections relating to the inclusion of names in, or their exclusion from, the Roll may be presented to the appropriate Receiving Authority named in the notice published with the roll by four 'O' clock of the afternoon of the date specified in such notice or such other hours of the date specified as the Election Commissioner may fix to suit Local requirements, provided that:

- (a) a claim shall not relate to more than one person shall be in writing, shall be verified by the claimant and shall be presented by him or by a duly authorised agent appointed by authority in writing signed by the claimant and verified by such agent and shall be attested by a legal practitioner, Magistrate, Sub Registrar of the Registration Deptt., Lambardar or member of a local authority, and
- (b) an objection shall not be made except by a person whose name is on the roll of the constituency concerned, shall not relate to more than one person, shall be in writing, shall be verified by the objector, shall be accompanied by its duplicate copy for service on the person against whom objection is taken and shall be presented by him personally or by an agent duly authorised in the manner prescribed in clause (a).
- (2) Notwithstanding the provisions of sub rule (1) a claim or an objection may be lodged in the manner herein before prescribed on behalf of the Deputy Commissioner in respect of any omission from or entry in a roll ; provided that such a claim or objection shall not be heard or decided by the Deputy Commissioner himself as the Revising Authority.
- (3) If a claim or objection is presented by an agent, the Revising Authority shall not receive it unless such agent has certified in writing that such claim or objection was signed by the claimant or objector in his presence and that the person who signed is the person, whom he represents in such claim objection.
- (4) Any person whose name is entered on the Roll of a constituency may, by means of a claim, apply to have his name transferred to the Roll of another constituency where from he derives any part of his qualification, and such claim shall be presented to the Revising Authority for such other constituency.
- (5) The receiving Authority shall maintain a Register of Claims in Form II and a Register of Objections in Form III in which he shall cause to be entered, at the time of its receipt, particulars of every claim or objection received as the case may be and shall endorse on the claim or the objection, the serial number in the register where the entry is made.
- (6) On receiving an objection, the person to whom it is presented shall cause one copy of the same to be served on the person

against whom objection has been made. Such copy shall be served in the manner provided in the Code of Civil Procedure 1908, for service of summons, except that the serving officer shall not be required to verify the fact of service by affidavit.

11. **Posting of list of claims and objections:-** On the expiration of the period prescribed for the presentation of claims and objections, all such claims and objections as also the register mentioned in sub-rule (5) of rule 10 above shall be forwarded by the Receiving Authority to the Revising Authority, who shall post at his office a list of all claims and objections received together with a notice showing the dates on which and the places at which such claims and objections will be heard and decided.

12. **Disposal claims and objections:-** (1) In such cases as have not been dismissed, the Revising Authority shall proceed to hear the parties concerned or their authorised agents and such evidence as may be produced and shall then decide the claim or objection and record his order.

(2) Any person aggrieved by the order of a Revising Authority passed under the provisions or sub rule (1) may, within 5 days from the date of such order, apply to the Election Commissioner for revision of the order and the Election Commissioner may confirm such order or may set it aside and pass such other order, with respect to the claim or objection, as he may deem fit and such order of the Election Commissioner shall be final.

(3) Every order passed by a Revising Authority under sub-rule (1) and not set aside under sub-rule (2) and every order passed by the Election Commissioner under sub-rule (2) shall be final and shall not be called in question either by a commission appointed under part IV of these rules or by any court.

Note : It shall be necessary for revision applications under sub-rule (2) to be stamped under the provisions of the Court Fees Act 1870.

13. **Final publication of Election Roll:-** (1) A revising Authority as soon as it has disposed of all claims and objections presented to it and in any case not later than the prescribed date by which claims and objections must be heard and decided, shall forward a list of such claims and objections and of its orders accepting or rejecting them to the Election Commissioner, who shall cause the Roll to be corrected accordingly and shall then either

republish the roll so corrected or as he deems fit shall republish the preliminary roll published under the provisions of sub-rule (1) of rule 8, together with a list of additions and corrections, provided that in any case copies duly corrected shall be made available for sale as soon as may be after republication has been made.

(2) Any Roll republished under the provisions of sub-rule (1) with or without a list of additions and corrections as the case may be, shall come into force from the date of such republication and shall continue in force until a fresh Roll is prepared and republished under the provisions of sub-rule (1) for the purposes of the next general election of members, provided that the Election Commissioner may by notification direct the preparation in accordance with the rules, of a fresh Roll at a time.

(3) The Roll shall be preserved until it ceases to be in force under sub-rule (2) and may be destroyed when the fresh Roll has been finally republished and has come into force,

14. **Correction of Clerical errors etc., in rolls:-** (1) Any person whose name is on the Roll in a constituency may at time bring to the notice of the Election Commissioner by application in writing, any error in the entry in the roll relating to his name which is a clerical error and the Election Commissioner may, at any time make or cause to be made such correction in the Roll as he may deem necessary in respect of such entry.

(2) Any person whose name was entered on a Roll, published under the provisions of sub-rule (1) of rule 8 may, if his name is omitted from the Roll republished under the provisions of Sub-rule (1) of rule 13 and no order for such omission has been passed under the provision of rule 12, apply to the Election Commissioner, for the restoration of his name to such Roll and the Election Commissioner, shall cause his name to be restored accordingly.

Note : Under the Court Fees Act 1870, it is not necessary to affix a stamp on a application presented under this rule.

15. **Invitations of Nomination papers:-** (1) The Deputy Commissioner of a district shall be the Returning Officer for all the constituencies in his district.

(2) The Returning Officer shall on the prescribed date, by notice posted at his office and at the office of the Board ;-

- i) invite nomination papers of candidates for election ; and
- ii) specify the date, time and place, when and where the nomination papers shall be submitted.

16. **Nomination of candidates:-** (1) Any person not ineligible for membership of the Board under the provisions of rule 7 or of any other rules or of the Act or of any other law for the time being in force, may be nominated as a candidate for election, provided that on or before the prescribed date between the hours of eleven O'clock of the forenoon and three O'clock of the afternoon or such other hours as the Returning Officer may fix to suit local requirement, shall either in person or by his proposer and seconder together or by a duly authorised agent appointed by authority in writing signed by him, deliver to the Returning Officer a nomination paper completed in Form IV appended to these rules and subscribed by the candidate himself as assenting to the nomination and by two persons as proposer and seconder whose names are included in the Roll of the constituency concerned republished under the provisions of sub-rule (1) or rule 13.

(2) No person shall subscribe as proposer or seconder, a larger number of nomination papers than there are vacancies to be filled and if a person has subscribed a larger number of nomination papers than there are vacancies to be filled, only those of the papers so subscribed which have been first received upto the number of such vacancies shall be deemed to be valid.

17. **Deposits to be made by candidates:-** (1) Each candidate nominated under the provisions of rule 16 shall at or before the time of the delivery of his nomination papers deposit or cause to be deposited in the Treasury or Sub Treasury or with the Returning Officer, the sum of two hundred rupees in cash and the nomination paper of a candidate shall not be deemed to have been duly presented unless such deposit has been made: provided that not more than one such deposit need be made by any candidate in respect of his candidature for any constituency.

(2) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made, withdraws his candidature within the time specified in rule 18, or if nomination of

any such candidate is refused, the deposit shall be returned to the person by whom it was made, and if any candidate dies before the commencement of the poll, any such deposit, if made by him shall be returned to his legal representative, or, if not made by the candidate, shall be returned to the person by whom it was made.

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

(4) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made is elected or is not elected, the deposit shall, if it is not forfeited under sub-rule (3), be returned to the candidate or to the person who has made the deposit in his behalf, as the case may be, as soon as may be after the publication of the result of the election in the Gazette.

Explanation. For the purposes of this sub-rule the, number of votes polled shall be deemed to be; the number of ballot papers, other than spoilt and, tendered ballot paper, counted.

18. **Withdrawal of candidature:-** Any candidate may withdraw his candidature by notice in writing subscribed by him and delivered to the Returning Officer, before three O'clock of the afternoon or such other hours as the Returning officer may fix to suit local requirements, on any day upto and including the date prescribed for the withdrawal of candidature and no person who has thus withdrawn his candidature shall be allowed to cancel his withdrawal or, to be re-nominated as a candidate for the same election in the same constituency.
19. **List of nominations to be posted:-** The Returning Officer shall on the prescribed date post, at his office and at the office of the Board, list of all the candidates whose nomination papers have been presented under rule 16, together with descriptions of the candidates and of the persons who have subscribed in the nomination papers as proposers or seconders, similar to these contained in the nomination papers of each candidate.
20. **Candidates etc. to be allowed to examine nomination papers:-** On the date fixed for the scrutiny of nominations the candidates, one proposer and one seconder of each candidate and

one other person for each candidate duly authorised in writing by such candidate and no other person may attend at such time and place as the Returning Officer may appoint, and all reasonable facilities shall be given to them for examining the nomination papers of all candidates whose names are included in the list of candidates posted under the provisions of rule 19.

21. **Scrutiny of nominations and decision of objections:-** (1) On the date prescribed for the scrutiny of nomination after facilities have been given for the examination of nomination papers under provisions of rule 20, the Returning Officer shall examine the nomination papers of all candidates whose names are included in the list of candidates posted under the provisions of rule 19 and shall decide all objections made to any nomination and shall, either on such objection or on his own motion after such summary enquiry, as he may deem necessary, refuse any nomination if he is satisfied :
- (a) that the candidate is ineligible for election under the provisions of rule 7 or any other law for the time being in force and has not been exempted by the Azad Kashmir Government from the disqualification imposed upon him;
 - (b) that the proposer or seconder was not qualified to subscribe the nomination paper under the provisions of rule 16.
 - (c) that there has been any failure to comply with any of the provisions of rule 16 or rule 17 ;
 - (d) that the candidate or any proposer or seconder is not identical with the person whose number on the roll is given in the nomination paper as the number of such candidate, proposer or seconder, as the case may be ;
 - (e) that the signature of any candidate or of any proposer or seconder is not genuine or has been obtained by force or by fraud; provided further that no nomination shall be refused under clause (d) of this sub-rule if a summary enquiry is sufficient to establish the identity of the candidate, proposer and seconder with the persons who subscribed the nomination paper as such respectively,
- (2) The Returning Officer appointed under the provisions of sub-rule (i) of rule 15 shall endorse on such nomination paper his decision accepting or rejecting it, and if he rejects it, he shall

record in writing a brief statement of his reasons for so rejecting it ;

(3) Any person aggrieved by any order passed by the Returning office may, by the prescribed date, present, in person or by counsel or by a duly authorised agent appointed by authority in writing signed by him and attested by a Magistrate, sub-Registrar of the Registration Department, Lumberdar or member of a local authority, to the Election Commissioner an application for revision of such order.

(4) When any application for revision of an order has been submitted to the Election Commissioner, the Election Commissioner, may, after hearing the applicant or his counsel confirm such order, or, after sending by registered post notices to the other candidates for election from the same constituency, intimating the date on which such application will be heard and after hearing on such date any representation which the applicant and any such other candidate as may appear, may make, set aside such order and pass such other order as he may deem fit.

22. **List of valid nominations to be posted up:-** (1) On completion of the scrutiny of nominations and after incorporating the decisions if any, of the Election Commissioner made under sub-rule (4) of rule 21 and after the expiry of the period within which candidature may be withdrawn, the Returning Officer shall forthwith prepare a list of valid nominations and cause it to be posted at some conspicuous place in his office and at the office of the Board.

(2) The Returning Officer shall assign to each candidate a distinctive colour or combination of colours and shall set such distinctive colour or combination of colours against the name of each candidate referred to in sub rule 1 in the list.

23. **Death of a candidate before the poll:-** If a candidate dies before the poll and after the date fixed for the nomination of candidates and his nomination has been accepted as valid by the Returning Officer, all proceedings with reference to the election of a member in the Constituency in which he was a candidate other than the preparation and final publication of the Roll shall be commenced in all respects as if for a fresh election, provided that no fresh nomination shall be necessary in the case of a candidate whose name is entered on a list of valid nominations posted under the provisions of rule 22.

24. **Candidates deemed to be elected if their number is equal to or less than the number of vacancies:-** Subject to the provisions of rule 23, if the number of candidates validly nominated in any constituency is equal to or less than the number of members to be elected for such constituency then such candidate or candidates shall be deemed to have been elected and if the number of such candidates is less than the number of members to be elected, the Election Commissioner shall further fix another date for the election of the remaining members.
25. **Poll to be taken if number of candidates is greater than number of vacancies:-** If the number of candidates validly nominated in any constituency is greater than the number of members to be elected for such constituency, a poll shall be taken on the prescribed date or dates, in the manner hereinafter appearing.
26. **List of polling stations to be published and Polling Officers to be appointed:-** (1) The Deputy Commissioner with the previous approval of the Election Commissioner shall, select such number of polling stations as he may deem necessary, and shall, on the prescribed date or dates, post at his office, at the office of the Board, at the headquarters of every tehsil in the district and at such other places as he may deem necessary, a list showing the polling stations so selected, the polling area for which each such station has been selected and the hours during which each such station shall remain open for the casting of votes. No person shall be permitted to cast his vote except at the polling station of the area to which according to the roll he belongs and during the period for which the polling station remains open: provided that in all cases 6 hours and a half shall be allotted for the casting of votes and a break of not less than three quarters of an hour shall be allowed at a convenient time.
- (2) The Deputy Commissioner shall appoint a Presiding Officer and one Polling Officer for each Polling station and such other persons (hereinafter referred to as Polling Assistants) to assist, the Presiding Officer as the Deputy Commissioner may deem necessary, and if before or at the time of the poll the Presiding Officer or the Polling Officer or the Polling Assistant refuses to act or becomes incapable of acting as such, the Deputy Commissioner shall appoint another person to act as Presiding-Officer, Polling Officer or Polling Assistant, as the case may be, and the Deputy Commissioner may at any time, if he thinks fit,

appoint any other person so to act in place of any person previously appointed.

(3) The Presiding Officer shall in addition to performing any other duties imposed upon him by these rules, be in general charge of all arrangements at the polling station and may issued orders in the manner in which persons shall be admitted to the polling station and generally for the preservation of peace and order at or in the vicinity of the polling station.

27. **Materials to be supplied at polling stations:-** The Election Commissioner shall provide at each polling station instruments for stamping the official marked on the ballot papers, as many different coloured ballot boxes as may be necessary, and copies of the Roll or such part thereof as contains the names of the electors entitled to vote at such stations.

Note : The official mark shall be kept secret.

28. **The ballot box:-** (1) There shall be a separate ballot box for each candidate, of the same colour or combination of colours assigned to him under sub-rule (2) of rule 22.

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

29. **Procedure before the commencement of the poll:-** The Presiding Officer at a polling station, immediately before the commencement of a poll, shall show each ballot box empty to such person as may be present at such station so that they may see that it is empty, and shall thereupon forthwith lock it up and place upon it the seal provided for the purpose, in such manner as to prevent its being opened without breaking such seal and shall keep it so locked and sealed, and shall thereafter open the polling station for polling at the hour appointed under the provisions of sub rule (1) of rule 26.

30. **Voting to be in person and not by proxy:-** (1) Voting shall be by ballot and every person, other than a serving member of Azad Kashmir forces, wishing to cast his vote shall do so in person, and not by proxy. The ballot paper shall be in Form V.

(2) The Government may by notification prescribe a procedure whereby serving members of Azad Kashmir forces may vote by

post.

(3) No person after entering a polling station, shall exhibit to any polling assistant, or other officers any paper purporting to show the name or description of such person.

31. **Question to be put to electors:-** At any time a ballot paper is delivered to an elector, the Presiding Officer or a Polling Officer may of his own accord if he has reason to doubt the identity of the elector or his right to vote at the polling station, and shall, if so required by a candidate or his agent, put to the elector the following questions :-
- (a) Are you the person enrolled as follows (reading the whole entry relating to the elector from the Roll) ?
 - (b) Have you already voted at the present election in any constituency?
 - (c) Such other questions as he may deem fit or necessary. The elector shall not be supplied with a ballot paper unless he answers the first question in the affirmative and the second question in the negative or if he refuses to answer any other question put to him in pursuance of this rule.
32. **Procedure for distributing ballot papers:-** Immediately before he delivers a ballot paper to an elector, the Presiding Officer or a Polling Officer shall cause it to be stamped with the official mark and shall call out the number, name and description of the elector as given as the Roll and shall cause the number of the elector on the roll to be entered on the counterfoil of the ballot paper and the signature of the elector; or if the elector is unable to affix his signature, a rolled impression of his left thumb, to be obtained on such counterfoil, and shall make a mark in a copy of the Roll against the number of the elector to denote that he has received his ballot paper but without indicating the particular ballot paper which he is to receive and shall then hand over the ballot paper to the elector.
33. **Casting of Vote:-** When an elector has received a ballot paper, he shall forthwith proceed to the place set apart for the casting of ballot paper, drop his ballot paper, into the ballot box of the colour earmarked for the candidate for whom he wishes to vote and then he forthwith leave the polling station, provided that :-

- (i) If the elector is blind, he may hand over the ballot paper to the Presiding Officer who shall drop it into the ballot box intended for the candidate named by the elector ;
- (ii) If the elector is colour blind he may require the Presiding Officer to show him and Presiding Officer shall show him the ballot box intended for the candidate for whom he wishes to vote.

34. **Tendered votes:-** If a person representing himself to be a particular elector named on the Roll applies for a ballot paper after another person has voted as such elector, the applicant shall after duly answering such questions as the Presiding Officer may ask, be entitled to cast a ballot paper in the same manner as an other voter; such Ballot paper (hereinafter referred to as a "Tendered ballot paper") shall be of a colour different from the other ballot paper, and, instead of being put into the ballot box shall be given to the Presiding Officer and endorsed by him with the name of the voter and his number on the Roll and the name of the elector to which the Roll relates and the name of the candidate for whom he wishes to vote and shall be set aside in a separate packet and shall not be counted. The name of the voter and his number in the Roll and the name of the polling station to which the Roll relates and the name of the candidate for whom the vote has been cast shall be entered in a list in Form VI which shall bear the heading "Tendered Votes List". The person tendering such ballot paper shall sign his name and address thereon or affix his thumb impression and the Presiding Officer shall sign his name across such impression.
35. **Challenged votes:-** If any candidate or his agent declares and undertakes to prove, that any person by applying for a ballot paper has committed the offence of personation, the Presiding Officer may require such person to state his name and address and shall than enter such name and address in the list of challenged votes in Form VII and shall require such person to sign such entry, or, if he is unable to write, to affix his thumb impression thereto and the Presiding Officer shall sign name across such impression and may further require such person to produce evidence of identification. If such person on being questioned in the manner provided in rule 31 answers the first question in the affirmative and the second question in the negative and replies satisfactorily to any other question put to him in pursuance of that rule, and if having been required to produce evidence of identification he produces evidence which

the Presiding Officer considers satisfactory, he shall be allowed to vote after he has been informed of the penalty for personation. The Presiding Officer shall make a note of the circumstances and of his decision on the list of challenged votes.

36. **Spoiled ballot papers:-** A voter, who has inadvertently dealt with his ballot paper in such a manner that it cannot conveniently be used as a ballot paper, may after delivering such ballot paper to the Presiding Officer and satisfying him of such inadvertence obtain another ballot paper in place of the spoiled ballot paper, and the latter together with its counterfoil, shall be marked as cancelled.
37. **Closing of polling station:-** (i) The Presiding Officer shall on each day on which polling is to take place close the polling station at the hour appointed under the provisions of sub-rule (i) of rule 26, and no ballot paper shall be issued to any elector after such hour, but any elector who has already received a ballot paper shall be allowed a reasonable time within which to record his vote, provided that if for any reason it was not possible to open the polling station at the hour appointed under the provision of sub-rule (i) of rule 26, or if by reason of disorder at the polling station ; or for any other reason, the Presiding Officer deems it necessary to stop the polling for a certain time, the Presiding Officer shall keep the polling station open for a further period equal to the period that elapsed between the hour appointed for the opening of the polling station and the hour at which it was actually opened or the time during which polling was stopped as the case may be.
- (ii) In emergencies such as disturbance of the public peace or floods, the Presiding Officer may close the polling and announce an adjournment of the poll. He shall immediately report the circumstances and the fact of adjournment to the Election Commissioner, who shall with the sanction of Government, fix another date for the polling to take place and proclaim the date so fixed in the area of which polling had been postponed, by beat of drum and notices being posted at the office of the Board and at his own office.
38. **Preliminary counting of the papers:-** (1) As soon as practicable, after the close of each day's poll, the Presiding Officer of each polling station shall in the presence of any candidates or polling agents who may be present, break open the

seals and unlock one of the ballot boxes, count the total number of the ballot papers in that box and enter the result of counting in Form IX. He shall then make a separate parcel of these ballot papers and seal the parcel with the seal provided and also affix to it the seal or seals of such of the candidates or polling agents as may desire to have their seals put. Outside the parcel, the Presiding Officer shall note under his signature the name of the polling station and the name of the candidate in whose box these ballot papers had been found with the total number of such ballot papers. He shall deal similarly with the remaining ballot boxes one by one and enter the result in the list as mentioned above. The Presiding Officer shall then require such of the candidates or polling agents as may be present to countersign the list and shall permit any of them who may so desire to take a copy of the list.

(2) The Presiding Officer shall then make the following into separate parcels and seal all such parcels with the seal provided and the seals of such candidates or agents, as may desire to affix their seals :

- (a) the list in Form IX mentioned in sub rule (i) ;
- (b) the un-issued ballot paper ;
- (c) tendered ballot papers ;
- (d) spilt ballot papers ;
- (e) un-issued tendered ballot papers ;
- (f) marked copy of the Roll ;
- (g) counterfoils of the ballot papers ;
- (h) counterfoils of the tendered ballot papers ;
- (i) list of challenged votes ;
- (j) unused issued ballot papers and the list of such ballot papers in Form-X.
- (k) written authorities of the candidates appointing their polling agents.

(3) Outside every parcel made under sub-rule (2) the Presiding

Officer, shall note under his signature, the name of the polling station and the nature of contents of the parcel and he shall then make all the parcels into one packet, seal the packages with the seal provided and mark on it the name and number of the polling station, make over the packages with the least possible delay to a Police Officer deputed to take charge of it at the polling station. The Police Officer shall be responsible for the safe guarding of the package made over to him and shall forward it with the least possible delay to the Returning Officer who will cause it to be kept in a Treasury or sub Treasury till it is required for counting.

(4) The Presiding Officer shall forward separately to the Returning Officer an account of ballot papers in Form-VIII.

39. **Notice of final counting of ballot papers:-** (1) The Returning Officer shall on a prescribed date give notice in writing to all candidates and election agents of the date, time and place when and where the votes will be counted.
- (2) No person shall be allowed to be present at the counting of votes except the Returning Officer and a person or persons authorised by Azad Kashmir Government and such other persons as the Returning Officer may appoint to assist him in counting the votes, and the candidates and their election agents. No person shall be appointed to assist in the counting of votes who is a candidate or who has been appointed by or on behalf of a candidate for any purpose whatsoever connected with the election.
- (3) On the day appointed for the counting of votes the Returning Officer shall, before he begins to count the votes read the provisions of Section 14 of the Election Officers and Enquiries Act, 1920, to such persons as may be present.
40. **Final counting of ballot papers:-** After complying with the provisions of rule 39, the Returning Officer shall open separately all packages forwarded to him from polling stations and shall retain un-opened all parcels contained therein except the parcels of issued ballot papers containing the ballot papers of each candidate and the parcels of ballot papers recorded for a particular candidate shall be placed together but shall be kept separate from these containing the ballot papers for any other candidate. The counting of all the ballot papers recorded for the same candidate shall be completed before the counting of the ballot papers contained in the parcel for the other candidate or

candidates is concerned. The order in which the counting of votes of the various candidates shall proceed shall be the alphabetical order of the names of the candidates. In the case of dispute the decisions of the Returning Officer shall be final. The Returning Officer or a person authorized by him shall in presence of the candidates or their election agents or representatives as may be present, assign a distinctive mark or stamp to each candidate and after opening each parcel one by one for each candidate and taking out the ballot papers therein, shall stamp each ballot paper with the mark or stamp assigned to the candidate. He shall then distribute such ballot papers in convenient bundles to the persons appointed to assist in the counting of votes. He shall also check number of ballot papers for each candidate forwarded by the Presiding Officer as found in the ballot box of the candidate with the list of such ballot papers received from the Presiding Officer. This shall be done for each candidate separately.

(2) When the ballot papers have been so distributed but not before, the Returning Officer shall allow the candidates and their agents reasonable opportunity to inspect, without handing the ballot papers and shall on every ballot paper which is rejected endorse the word 'Rejected'. If any candidate or agent present questions the correctness of the rejection he shall also record on the ballot paper the ground for rejection.

(3) A ballot paper shall be rejected if it does not bear the official mark, or if it bears any mark by which the voter can be identified. The decision of Returning Officer on the validity of a ballot paper shall be final subject only to reversal on an election petition.

(4) The Returning Officer shall as far as practicable, proceed continuously with the counting of the votes and shall, during any necessary intervals during which the counting has to be suspended, secure the ballot papers, parcels and other documents relating to the election, under the seal provided and the seals of such candidates or agents as may desire to affix them, and shall cause adequate precautions to be taken for their custody.

(5) After the ballot papers contained in the parcel of the particular candidate have been examined and counted, the Returning Officer shall record the number thereof in a statement. The number of valid and rejected ballot papers shall be recorded separately.

14. (1) Every Officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law communicate to any person any information calculated to violate such secrecy.
- (2) Any person who wilfully acts in contravention of the provisions of this section shall be punished with imprisonment of either description for a term not exceeding three months or with fine, or with both.

The parcels of the next candidate shall then be dealt with in the same manner and so on, until the ballot papers contained in the parcels of all candidates have been counted and their number recorded in the statement.

41. **Declaration of result:-** (1) When the counting of votes has been completed; the Returning Officer shall forthwith declare the result. The candidate who is found to have obtained the largest number of valid votes shall be declared to have been elected and in the case of a two-member constituency the candidate who secures the next largest number of valid votes shall also be declared elected. If in a single member constituency, two or more candidates who get the largest number of valid votes have obtained an equal number of vote, the Returning Officer shall decide, by drawing lots, in the presence of such candidates and election agents as may be present as to which of the two candidates shall be deemed to have been elected and shall declare him elected accordingly. In a two member constituency, if two candidates have obtained the largest number of valid votes and their number is equal, they shall both be declared elected and if more than two candidates obtain the largest number of valid votes and their number are equal, the Returning Officer shall decide by drawing lots in the aforesaid manner, as to which of the two such candidates shall be deemed to have been elected and shall declare them elected accordingly. If in a two member constituency one candidate obtains the largest number of valid votes and the next largest number of valid votes has been obtained by two or more candidates, the candidate obtaining the largest number of valid votes shall be declared elected to one seat and a lot, in the aforesaid manner shall, be drawn by the Returning Officer (among the candidates) who have obtained

equal number of valid votes, to determine as to which of such candidates shall be declared elected to the second seat and shall declare him elected accordingly.

(2) When he has declared the result, the Returning Officer shall make the ballot papers into convenient bundles, close and seal them with the seal provided and after recording on each bundle a description of its contents, and the date of the election to which it refer, shall keep them in safe custody.

(3) The Returning Officer shall prepare and certify a return setting forth :-

- (a) the names of the candidates and the number of valid votes given for each ;
- (b) the names of the candidates elected ; and
- (c) the number of votes declared invalid.

The Returning Officer shall cause one copy of the return to be posted at the office of the Board and another copy to be forwarded to the Government.

42. **Custody of election papers and supply of copies of certain documents:-** (1) The Returning Officer shall retain the packets forwarded to him under the provision of rule 38 in his custody, until the expiry of one year from the date of the election and shall then subject to any direction to the contrary made by the Government or a competent Court or a person or persons appointed to hold an enquiry into an election under part III of these rules cause them to be destroyed.

(2) Any candidate may apply to the Returning Officer for a copy of the entries made in the tendered votes list or in the list of challenged votes and such copy shall be supplied in accordance with the rules governing the supply of copies contained in Standing Order No. _____.

(3) Any candidate may apply to the Returning Officer for a copy of the Roll as marked under the provision of rule 32 and such copy shall be supplied on receipt of the price of the Roll as fixed under sub-rule (6) of rule 8 together with a fee of Rs. 5/- for every hundred names marked on the Roll and the marking of such copy of the Roll shall be done by the Returning Officer

who, as soon as he has marked such copy, shall forthwith again seal up the original marked Roll.

43. **Procedure for filling casual vacancies:-** When a vacancy occurs among the elected members of a Board by the death, resignation or removal of any member and a new member has to be elected in his place in accordance with the provisions of sub-section (1) of Section 14, of the Act, such election shall be conducted in the manner prescribed in these rules from rule 15 onwards, for a general election and the date of election shall be fixed as soon as may be convenient after the occurrence of the vacancy, and the Roll in force under the provisions of rule 13 shall be deemed to be the Roll for the purpose of holding the election.
44. **Final authority for interpretation of these rules:-** If any question arises as to the interpretation of these rules otherwise than in connection with an election petition the question shall be referred to the Government whose decision shall be final.

PART-II

45. **Election of Vice-Chairman:-** A meeting held for the election of Vice-Chairman of a Board shall not be valid unless the provisions of rule 5 have been complied with. The meeting held for the election of Vice-Chairman shall be presided over by the Chairman of the Board in person.
46. **Method of electing Vice-Chairman.**
- (1) When the office of a Vice Chairman of a Board in which only one office of Vice-Chairman has to be filled ;-
- (a) If only one candidate is proposed for the office, he shall be deemed to be elected ;
- (b) If more candidates than one are proposed for the office, a poll shall be taken and the candidate obtaining the largest number of votes shall be declared to be elected ;
- (c) If two or more candidates obtain an equal number of votes, the Chairman of the meeting shall decide among the candidates by drawing lots in the presence of the members attending the meeting as to the member elected as Vice-Chairman.

(2) When there are two offices of Vice-Chairman of a Board and both such offices have to be filled :

- (a) voting shall take place at the same election for both offices of Vice-Chairman of the Board and each member of the Board shall record only one vote ;
- (b) the two candidates who obtain the largest number of votes shall be deemed to be elected ; provided that if, more than two candidates have obtained the largest and equal number of votes, the matter shall be decided by lots by the Chairman in the manner specified in clause (c) of sub-rule (1) of this rule ;
- (c) if one of the candidates obtains the largest number of votes and two or more other candidates obtain the II largest and equal number of votes, the candidate obtaining the largest number of votes shall be elected and lots shall be drawn as aforesaid among the candidates obtaining the II largest and equal number of votes to determine the II elected candidate ;
- (d) the candidate obtaining the largest number of votes shall be the senior Vice-Chairman and the candidate obtaining the second largest number of votes shall be the Junior vice-Chairman, provided if both the candidates elected have obtained an equal number of votes the matter shall be decided by the Chairman by drawing lots in the presence of candidates.

(3) All ballot papers used for such voting shall, immediately after the counting of votes have been completed, be enclosed in the envelope and sealed by the Chairman of the meeting, in the view of the members present there at and the description of the election to which the ballot papers relate shall be inscribed thereon and such envelope shall be enclosed in another large envelope which shall be addressed to the Deputy Commissioner and delivered to him. The Deputy Commissioner shall preserve the inner envelope intact until the expiry of one year from the date of the election, and shall then subject to any direction to the contrary made by the Government or a competent court or a person or persons appointed to hold an inquiry into an election under Part-III of these rules, cause it to be destroyed with its contents.

47. **Terms of office of Vice-Chairman:-** (1) The Vice-Chairman or two Vice-Chairman shall assume office from the date of election.
- (2) The term of office of a Vice-Chairman fixed under sub-Section (2) of Section 19 of the Act, shall expire ;
- (a) on his ceasing to be a member of the Board ; or
- (b) on his resignation of his office ; or
- (c) on the expiry of one year from the date of his election.
48. **Casual, vacancies - How to be filled:-** When there are two offices of Vice-Chairman of a Board and one of such office fails vacant, the Vice-Chairman remaining in office shall be deemed to be the senior Vice-Chairman and election shall be held in the manner specified in rule 45 and sub-rule (1) of rule 46 to fill the office of Junior Vice-Chairman.

PART-III CORRUPT PRACTICES

49. **Definitions:-**
In this part unless there is anything repugnant in the subject or the context ;
- (a) "Corrupt practice" means :-
- (i) Bribery, i.e. any gift, offer or promise by a candidate or an agent of a candidate, or by any other person with the convenience of the candidate or any such agent, or any gratification to any person whomsoever with the object, directly or indirectly, of inducing a person to stand or not; to stand as or to withdraw from being a candidate, or an elector to vote for a particular candidate or refrain from voting at an election, or as a regard to a person for having so stood or not stood or for having voted or refrained from voting ; the term "gratification" being restricted to pecuniary gratification or gratifications esteemable in money and not including customary hospitality or casual entertainment of voters at the time of polling or the payment of any expenses bonafide incurred at or for the purpose of any selection but including all forms of employment for reward ;
- (ii) Undue influence, that is to say, any direct or indirect

interference or attempt to interfere on the part of a candidate of an agent of the candidate or of any other person with the convenience of the candidate or any such agent with the free exercise of any electoral right, and including a threat to any candidate or voter or any person in whom a candidate or voter is interested, of injury of any kind, or inducement or attempt to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of divine displeasure or spiritual censure but not including declaration of public policy or a promise of public action or the more exercise of a legal right without intent to interference with an electoral right ;

- (iii) Personation procured by candidate or agent i.e., the procuring of, or the abetting or attempting to procure by a candidate or any agent of a candidate or by any other person with the convenience of a candidate or any such agent, the application for or the personation of a ballot paper by a person in the name of any other person, whether living or dead, or in a fictitious name or the application for or personation of a ballot paper by a person who has already voted once at an election in his own name at the same election ;
- (iv) Publication of false statements by candidate or agent i.e. the publication by a candidate or any agent of a candidate or any other person with the convenience of the candidate or any such agent, of any statement of fact which is false and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate or in relation to the candidature or withdrawal of any candidate, which statement is reasonably calculated to prejudice the prospects of such candidates election;
- (v) any act specified in sub-clauses (i), (ii) or (iv), when done by a person who is not a candidate or an agent of a candidate or a person acting with the convenience of a reception of any vote which is void or non-compliance with the provisions of the Act or of the rules made thereunder, or mistake in the use of any form annexed thereto as materially affects the result of an election.

50. **Election not to be questioned except petition:-** No election

shall be called in question except by an election petition presented in accordance with these rules.

51. **The Election Petition:-** (1) An election petition against the return of a candidate at a District Board election or against the return of a Chairman or Vice-Chairman or against an unsuccessful candidate with a view to his disqualification under Rule 65 on the ground of a corrupt practice or material irregularity in the procedure shall be in writing, signed by a person who was a candidate at the election or by not less than 5 electors, and their petition shall be presented to the Commissioner Azad Kashmir Government within 14 days after the day on which the result of the election was declared ; provided that the limit of 14 days prescribed by this rule may be extended by the Commissioner if there are in his opinion sufficient grounds for such extension.

(2) The petitioner shall enclose, with the petition, copies of the petition and of its enclosures, equal to the number of respondents.

Explanation:- For the purpose of this rule, in a constituency in which a candidate is declared to be elected under the provisions of rule 24 the day on which the list of valid nominations is posted under the provisions of sub-rule (1) of rule 22 shall be deemed to be the day on which the result of the election was declared.

52. **Contents of the petition:-** (1) The petition shall contain a statement in concise form of the material facts on which the petitioner relies and shall, where necessary, be divided into paragraphs numbered consecutively, and shall be signed by the petitioner and verified in the manner prescribed for the verification of pleadings in the Code of Civil Procedure, 1908.

(2) The petition shall be accompanied by a list signed and verified in like manner setting forth full particulars of any corrupt practice which the petitioner alleges including as full a statement as possible of the names of the parties alleged to have committed any corrupt practice and the date and place of the commission of each such practice.

The Commission appointed under rule 56 may upon such terms as to costs and otherwise as it may direct, at any time allow the particulars included in the said list to be amended or

order such further and better particulars in regard to any matter referred to therein to be furnished, as may in its opinion be necessary for the purpose of ensuring fair and effectual trial of the petition ; provided that particulars of any additional corrupt practice not contained in the said list shall not be added by means of any such amendment.

53. **Deposits to be made when petitions presented and return of deposits:-** (1) At the time, or before presenting an election petition, the petitioner or petitioners shall deposit or cause to be deposited in the treasury the sum of Rs. 100/- in cash or in Government Promissory Notes of equal value at the market rate of the day as security for all costs that may be come payable by him or them.
- (2) If a petitioner by whom the deposit referred to in sub-rule (1) has been made, withdraws his election petition as provided in rule 58 and if no other final orders have been passed on the election petition, the deposit shall, after such amount as may be ordered to be paid as costs has been deducted, be returned to the petitioner by whom it was made, and if the petitioner dies during the course of the enquiry into the election petition, any such deposit, if made by his shall after the amount of such cost as may be ordered to be paid have been deducted be returned to his legal representatives.
- (3) All applications for the refund of a deposit shall be made to the Deputy Commissioner who shall pass orders thereon in accordance with these rules.
54. **Petitions to be forwarded to Government:-** The Commissioner shall forward over election petition received by him under rule 51 to the Government.
55. **Petition to be dismissed for non-compliance with rule:-** If any of the provisions of sub-rule (1) of rule 51 and rule 53 have not been complied with the Government shall pass an order dismissing the election petition, and such order shall be final.
56. **Persons to be appointed for enquiry into a petition:-** (1) If the election petition is not dismissed under rule 55, the Chief Justice of the Azad Kashmir High Court shall appoint a person or persons, herein before and hereinafter referred to as the Commission to hold an enquiry into the allegations made in the election petition.

(2) The Chief Justice Azad Kashmir High Court may appoint any person by name or by office to be the Commission under this rule, and if a person is appointed by virtue of his office, the person for the time being holding the office shall be the Commission unless the Government shall otherwise direct.

(3) If a vacancy occurs in a Commission by reason of death, transfer, resignation or any other cause, the Chief Justice may make a fresh appointment as provided by sub-rule (2) of this rule.

(4) If, on the application of any party to an election petition, the Commissioner Azad Kashmir Government is satisfied that there are reasonable grounds for the transfer of a case from the Commission appointed to hear the election petition, he may move the Government to request the Chief Justice to make a fresh appointment as provided by sub-rule (2) above.

(5) A change of incumbency in the Commission whether by reason of death, transfer, resignation or any other cause shall not invalidate any previous or subsequent proceedings in any matter pending before it, nor shall it be necessary for a commission, on account of such change to recommence any inquiry into any matter pending before it for disposal.

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

57. **Place and Procedure of enquiry:-** (1) The enquiry shall be held in a place to which the public have free access and notice of the time and place of an enquiry shall be given to the parties not less than 7 days before the first day of the enquiry.

(2) The place of enquiry shall be within the district, provided that the Commission may, on being satisfied that special circumstances exist rendering it desirable that the enquiry should be hold else-where, appoint some other convenient place for the enquiry.

(3) Subject to the provisions of these rules every election petition shall be enquired into as early as may be in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits provided that if the Commission consists of more than one person it shall only be necessary for it to make or cause to be made a memoranda of the substance of the evidence of any witness :

Provided that a Commission may dismiss an election petition for default.

58. **Withdrawal of petition:-** (1) An election petition may be withdrawn only by leave of the Commission or if an application for withdrawal is made before any Commission has been appointed, by the Government.
- (2) If there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.
- (3) When an application for withdrawal is made to the Commission, notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published by being posted at the office of the Deputy Commissioner and at the office of the Board.
- (4) No application for withdrawal shall be granted, if in the opinion of the Government or of the Commission, as the case may be, such application has been induced by any bargain or consideration which ought not to be allowed.
- (5) If the application is granted :-
- (a) the petitioner shall, where the application has been made to the Commission, be ordered to pay the cost of the respondent thereto incurred or such portion thereof as the Commission may think fit ;
 - (b) notice of the withdrawal shall be published by being posted at the office of the Deputy Commissioner, and the office of the Board and at tehsil headquarter ;
 - (c) any person who might himself have been a petitioner may, within 14 days from the date of such publication apply to be substituted as petitioner in place of the party withdrawing

and upon compliance with the conditions of rule 53 for security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Azad Kashmir Government or the Commission may think fit.

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

59. **Abatement or substitution on death of petitioner:-** (1) an election petition shall abate only on the death of a sole petitioner or of the survivors of several petitioners.

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

(3) Any person who might himself have been a petitioner may within 14 days from the date of such publication, apply to be substituted as petitioner, and, upon compliance with the conditions of rule 53 for security shall be entitled to be so substituted and to continue the proceedings upto such terms as the Government or the Commission may think fit.

60. **Abatement or substitution on death of respondent:-** If before the conclusion of the trial of an election petition, the respondent dies or gives notice that he does not intend to oppose the petition, the Commission shall cause notice of such event to be published by being posted at the office of the Deputy Commissioner and at the office of the Board and thereupon any person who might have been a petitioner, may, within 15 days from the date of such publication apply to be substituted for such respondent to oppose the petition and shall be entitled to continue the proceedings upon such terms as the Commission may think fit.

61. **Grounds for Declaring election void or not void:-** (1) Save as hereinafter provided in these rules, if in the opinion of the Commission:-

(a) the election of a returned candidate has been procured, or induced or the result of the election has been materially, affected, by a corrupt practice, or

- (b) any corrupt practice specified in sub-clauses (i), (ii) (iii) or (iv) of clause (a) of rule 49 has been committed ; or
- (c) there has been any material irregularity ; or
- (d) the election has not been a free election by reason of the large number of cases in which the corrupt practices specified in sub clause (1) or (ii) of clause (a) of rule 49 have been committed by a candidate or an agent of a candidates or a person acting with the convenience of a candidate or such agent ; the commission shall report that the election of the returned candidate shall be deemed to be void.

(2) If the Commission reports that corrupt practices as mentioned in sub-rule (a) of rule 49 were committed during the election of a returned candidate which went in his favour, but were not so committed either by himself or by his authorised agents and if the Commission further reports that the returned candidate has satisfied that:-

- (a) the corrupt practices mentioned in the report were committed contrary to the orders and without the sanction or convenience of such candidate or his authorised election agents ;
- (b) such candidate took all reasonable means for preventing the commission of such corrupt practices ;
- (c) the corrupt practices mentioned in the said report were of a trivial unimportant and limited character and did not materially affect the result of the election ; and
- (d) in all other respects the election was free from any corrupt practices on the part of such candidate or his authorized agents, then the commission may report that the election of such candidate should not be deemed to be void.

62. **Report of Commission and procedure thereon:-** (1) At the conclusion of the inquiry the Commission shall report whether the returned candidate has in its opinion been duly elected, and in so reporting shall have regard to the provisions of rule 61.

(2) The reasonable expenses incurred by the person in attending to give evidence may be allowed by the commission to such person, and shall, unless the Commission otherwise directs, be

deemed to be part of the costs.

(3) The report of the Commission shall contain a definite finding regarding the amount of the costs that should, in the opinion of the Commission, be allowed and the parties by whom and to whom such costs should be paid and such particulars of the amount assessed as costs as are prescribed in the case of civil suits shall be either specified in the Commission's report in attached to the report in the form of a memorandum, and the Commission may recommend that interest on costs at a rate, not exceeding 6 per cent per annum may be allowed and such interest may be added to the costs ;

(4) Before submitting the report the Commission shall fix a date for the presence of the parties or their agents, and shall announce the substance of the report including the findings on costs to such of the parties or their agents as may be present on that date.

63. **Findings as to corrupt practices and persons guilty:-** Where any charge is made in an election petition of any corrupt practice the Commission shall record in its report ;

- (a) a finding that a corrupt practices has or has not been committed by any candidate or any agent of a candidate or with the convenience of any candidate or any such agent, and the nature of such corrupt practice ; and
- (b) the names of all persons (if any) who have been proved at the inquiry to have been guilty of any corrupt practice and the nature of such corrupt practice with any such recommendations as the Commission may desire to make for the exemption of any such persons from any disqualification to which they may have become liable in this connection under these rules :

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

64. **Government to pass orders on the findings of the Commission:-** The Commission shall submit a report of its findings to the Government and on receiving it the Government shall pass orders accordingly. Such orders shall be final and shall be notified in the gazette :

Provided that the Government before passing final orders, may refer any point arising in any case to a civil court for opinion, and the civil court shall deal with any case forwarded to it as nearly as may be according to the procedure applicable under the Code of Civil Procedure 1908 to the hearing of appeals.

65. **Persons guilty of corrupt practice may be declared in eligible for office on the Board:-** If as the result of an enquiry, it is established to the satisfaction of the Government that any person other than the returned candidate has been guilty of a corrupt practice other than a corrupt practice of the description referred to in sub-rule (2) of rule 61 and committed in circumstance in which the Commission may under the provisions of the said sub-rule find that an election should not be deemed to be void, the Government may declare that such persons shall be incapable of being elected or nominated to membership or to any office whether honorary or paid of any District Board for a period which may extend to five years :

Provided that the period of disqualification fixed under this rule may be reduced by order of the Government,

66. **Costs:-** (1) When issuing final order under rule 64 the Government shall after taking into consideration the findings of the Commission in regard to costs, pass such order regarding costs and the persons to whom such costs are to be paid as it may deem fit and such order shall be final.

(2) A Certified copy of any order passed by the Government regarding costs of the enquiry or a notification in the gazette containing such order be produced before the principal civil court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business, and such court shall execute such order or cause it to be executed in the same manner as if it were a decree for the payment of money made by itself in a suit.

67. **Power to remand for further enquiry:-** The Government may of its own motion direct an enquiry to be held into the conduct of any election, if there is reason to believe that a corrupt practice or material irregularity has been committed and the case shall be dealt with so far as may be in the manner prescribed in these rules.

68. **Fresh election to be held if an election is declared void:-**
When as a result of any enquiry under these rules, the election of a candidate is declared void, the Government shall direct that a new election be held :

Provided that if the Commission has found that there has been a mistake in the counting of votes or in the declaration of invalid votes, and that but for that mistake some other candidate would have been declared successful, the Government may, instead of directing that a new election should be held, declare that the candidate found to have obtained the largest number of valid votes is elected.

69. **Special provision:-** When, under the provisions of any of these rule, anything is required to be done on a specified day or before the expiry of a specified period, and That day or, as the case may be, the last day of that period is a public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881 or is to be observed as a holiday in Public Offices in any district, such thing shall be deemed to have been done in time if it is done in the district concerned on the next succeeding day which is not a public holiday nor a day so observed.
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