

**THE AZAD JAMMU & KASHMIR BASIC DEMOCRACIES
ELECTION RULES**

CHAPTER I

Preliminary Provisions and Organization

1. **Short title and commencement:-** (1) These rules may be called the Azad Jammu and Kashmir Basic Democracies Election Rules, 1960.

(2) They shall, come into force at once.
2. **Definitions.-** In these rules, unless there is anything repugnant in the subject or context :-
 - (1) "appointed date" means the date or dates specified, in the Election Programme ;
 - (2) "Basic Area" means the area under the jurisdiction of a Basic Democracy ;
 - (3) "Basic Democracy" means a Union Council Union Committee or a Town Committee 'constituted under the Basic Democracies Act, 1960 ;
 - (4) "candidate" means a person who has been nominated as a candidate whether his nomination was valid or not ;
 - (5) "contesting candidate" means a candidate who has been validly nominated, and has not withdrawn his candidature ;
 - (6) "District Election Officer" means an officer appointed to assist the Collector in the conduct of elections in the district ;
 - (7) Omitted.
 - (8) "election" means an election to fill a seat in a Basic Democracy ;
 - (9) "Election Commissioner" means a Election Commissioner appointed by the Government;
 - (10) "elector" means any person whose names is borne on the electoral roll to be used at the election ;

(11) "electoral roll" means the electoral roll of persons entitled to vote at an election under these rules ;

(12) "material irregularity" means any non-compliance with the provisions of these rules which materially affects the results of an election ;

(13) "Act" means the Basic Democracies Act, 1960 ;

(14) "Polling Officer" means the officer incharge of a polling station ;

(15) "Polling Programme" means the programme according to which polling, under these rules, is to be held ;

(16) "polling station" means the premises where arrangements are made for poll ;

(17) "Deputy Election Commissioner" means an officer appointed to assist the Election Commissioner in the conduct of elections in the Azad Jammu and Kashmir Territory;

(18) "Returning Officer" means a Returning Officer appointed under these rules to conduct elections to a Basic Democracy or a group of Basic Democracies ;

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

(20) "ward" means the area notified as a ward of a Basic Area.

3. **Organisation:-** (1) Government may appoint an Election Commissioner who shall be responsible for the organisation, conduct and supervision of elections to Basic Democracies in the Azad Jammu and Kashmir Territory. In the performance of his functions under these rules, the Election Commissioner may be assisted by such number of Officers as may be appointed by Government from time to time.

(2) The Election Commissioner shall be responsible for the organisation, conduct and supervision of elections to Basic Democracies. In the performance of his functions under these rules, the Election Commissioner may be assisted by a Deputy

Election commissioner.

(3) Subject to general supervision of the Election Commissioner, the Collector shall be responsible for the organisation, conduct, and supervision of elections to Basic Democracies within his district. In the performance of his functions under these rules, the Collector may be assisted by a District Election Officer.

(4) For the conduct of elections to a Basic Democracy, or a group of Basic Democracies, the Collector shall appoint an Officer as the Returning Officer.

4. **Election Programme:-** (1) The Election Commissioner shall frame a general programme for elections to the Basic Democracies in the Azad Jammu and Kashmir Territory.

(2) Subject to the General Programme framed under sub-rule (1), the Collector shall, with the approval of the Election Commissioner, frame a programme for election to every Basic Democracy in Formal, hereinafter referred to as Election Programme.

(3) The election programme shall specify the date or dates, on, by, or within which:-

- (a) the electoral roll shall be published ;
- (b) the notice inviting nomination papers shall be published ;
- (c) the nomination papers shall be presented ;
- (d) the list of nomination papers shall be posted up ;
- (e) the nomination papers shall be scrutinised and the statement showing the result of scrutiny shall be posted ;
- (f) application for revision against the orders of the scrutiny of nomination papers may be presented ;
- (g) the revision application shall be decided ;
- (h) the candidate may withdraw his candidature ;
- (i) the list of valid nominations alongwith the symbols allotted to each candidate, shall be posted ;

- (J) the polling programme shall be published ;
- (k) the poll shall be held ;
- (l) the ballot papers shall be counted ; and
- (m) the result of the election shall be declared.

(4) The Election Programme made under sub-rule (2), shall be published by copies being posted at the office of the Collector, the office of the Tehsil, the police station, the office of the local body, or local council wherever concerned, the office of the Returning Officer, and at such other places as the Election Commissioner, or the Collector, may direct.

(5) The Collector may, with the approval of the Election Commissioner, amend, vary, or modify the Election Programme framed under sub-rule (2), provided that unless Government otherwise directs, no such amendment, variation, or modification shall be deemed to invalidate any proceeding taken before the date of such order.

5. **Principles for the demarcation of Unions and Wards and the fixation of the number of members:-** (1) The Election Commissioner may declare any rural area in a tehsil or taluka consisting of a village or a group of villages to be a Union. In declaring any rural area as a Union, of the following principles shall be observed, namely:-

- (a) That the population comprised in the area declared as a Union shall not be less than 4,000 or more than 14,000 ;
- (b) that the villages grouped in a Union shall as far as possible be contiguous ; and
- (c) that the boundaries of patwar halqas or tappas and thanas shall be maintained, as far as possible :

Provided that if the local circumstances so require the Election Commissioner may, by an order and for reasons to be recorded, depart from any of the aforesaid principles.

(2) The Election Commissioner may declare any urban area with a population not exceeding 14,000 to be a Town.

(3) The Election Commissioner may divide any urban area with a population exceeding 14,000 into such number of Unions as he may deem necessary :

Provided that, if the local circumstances so require, the Election Commissioner may, by an order and for reasons to be recorded, divide any urban area with a population less than, 14,000 into such number of Unions as he may deem necessary.

(4) In determining the number of elected members of a Basic Democracy the following principles shall be adopted, namely :-

- (a) that there shall be one elected member for an average population of 800 ; and
- (b) that where the population of any area is not exactly divisible by 800, the remainder shall be disregarded, if it is less than 400, and shall be counted as 800 if it is 400 or more :

Provided that the Election Commissioner may, by order and for reasons to be recorded, vary the total number of seats in such manner as the local circumstances may require.

(5) The population of any area shall be its population according to the last official census. Where any area is required to be divided into Unions or wards the population of the Unions or wards, if it is not available in the census record, shall be determined in accordance with the following formula :-

Population of the of Ward or Union, Union.	Population of the entire area to be divided into Unions or Wards.	Voting strength the Ward or Union.
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the voting strength of the entire area :

Provided that where it is not possible to determine the population in accordance with the aforesaid formula, the population shall be determined in such manner as may be specified by Government:-

(6) The Election Commissioner may divide a Union for a rural or Urban area or a Town into wards or declare the entire Union or Town a Ward for the purpose of election and in the demarcation of Wards the following principles shall be observed, namely :-

- (a) that the area comprised in a ward shall be contiguous as far as possible ;

- (b) that a ward shall return such number of members as may be fixed by the Election Commissioner ;
- (c) that, where a ward is a single-member ward, its population shall not be less than 400 or more than 1200 ; and
- (d) where the ward is multiple-member ward, there shall be one seat for every unit of 800 population and where the total population is not exactly divisible by 800 the remainder shall be disregarded if it is less than 400 and shall be counted as 800 if it is 400 or more :

Provided that the Election Commissioner may, by order and for reasons to be recorded, vary the number of seats to be allotted to any ward in such manner as the local circumstances may require.

6. **Electoral Rolls:-** (1) For the purposes of first general elections to Basic Democracies the Collector shall adjust and re-arrange the electoral rolls prepared under the Azad Kashmir District Boards Act, 1955, and there referred to in Section 16 (2) of the Act, for all Basic Areas in the District in such manner as may be necessary to bring them in accordance with the requirements of the Act. The electoral rolls thus adjusted and re-arranged shall be published on the appointed date by placing copies for inspection by the public at the Office of the Returning Officer.

CHAPTER II

7. **Notice for nomination papers:-** The Returning Officer shall on the appointed date by a notice invite nomination papers of candidates for election to the Basic Democracy in Form II.
8. **Persons to nominate and to be nominated:-** (1) Any person whose name appears in the electoral roll of any ward of a Basic Area may nominate a candidate for such ward.
- (2) Any person whose name appears in the electoral roll of any ward of a Basic Area, and who is otherwise qualified to stand as a candidate may be nominated as a candidate for election to the Basic Democracy from any ward of the Basic Area.
9. **Nomination papers:-** (1) A candidate shall be nominated by a nomination paper in Form III. Blank forms of nomination papers may be made available for sale at the Office of the Collector and

the Returning Officer.

(2) A nomination paper shall be subscribed by two persons, hereinafter referred to as the proposer and the seconder. No person shall be a proposer or seconder unless his name appears in the electoral roll of the ward in which the seat is to be filled.

(3) A nomination paper shall be signed by the candidate as a token of his assent to the nomination. A candidate shall also give an affidavit that he is not disqualified under any law for the time being in force.

(4) A candidate may be nominated in more than one ward in a Basic Area, and in the same ward by more than one nomination paper.

(5) No person shall subscribe to more than one nomination paper, either as a proposer or a seconder, and if any person subscribes to more than one nomination paper, all such nomination papers, other than the nomination paper first received by the Returning Officer, shall be void.

10. **Deposits:-** (1) On or before the date fixed for the nomination of candidates, each candidate shall deposit with the Returning Officer or treasury or in Postal order a sum of twenty five rupees. If the amount is not deposited in cash with the Returning Officer, the treasury receipt or the postal order, as the case may be, shall, be attached in original to the nomination paper.

(2) If a person proposes to stand as a candidate from one ward only, a single deposit of twenty five rupees shall be made. If a person proposes to stand as a candidate from more than one ward, a deposit of fifty rupees shall be made for every such ward.

(3) If the number of votes polled by a candidate in any ward does not exceed fifty or ten percent of the votes polled divided by the number of seats to be filled from the ward, whichever is less, the deposit shall be forfeited.

(4) The deposit made under this rule shall be refunded within thirty days of the declaration of the final result to the candidate concerned:-

(a) if his nomination paper is rejected ; or

- (b) if he withdraws from his candidature ; or
 - (c) if he is elected ; or
 - (d) if he is not elected but the votes secured are not less than:
 - (i) in the case of single member ward, fifty or ten per cent votes polled, whichever is less ; and
 - (ii) in the case of a multiple member ward :
 - (a) fifty ; or
 - (b) ten percent of the votes polled in the ward divided by the number of seats to be filled from the ward, whichever is less.
- (5) If a candidate dies before obtaining the refund, the deposit shall be refunded to his legal representative unless it stands forfeited under the provisions of sub-rule (3).

11. **Registration of nomination papers and the publication of the statement of nomination papers:-** (1) All nomination papers delivered at the office of the Returning Officer shall immediately on receipt be registered in Form IV.
- (2) On the appointed date, a statement in Form IV showing full particulars about all nomination papers registered, shall be posted at a conspicuous place at the Office of the Returning Officer, and made available for public inspection.
12. **Inspection of nomination papers:-** On the date appointed for the scrutiny of nomination papers, the candidates, their proposers and seconders may attend at the time and place specified by the Returning Officer for the purpose, and the Returning Officer shall give such persons all reasonable opportunities for inspecting the various nomination papers.
13. **Scrutiny of nomination papers:-** On the appointed date, the Returning Officer shall scrutinize the nomination papers of various candidates ward-wise in the order in which these have been registered and may, either on such objection as may be raised, or his own motion, and after such summary enquiry as he thinks necessary, accept or reject any nomination paper. The

Returning Officer shall endorse on each nomination paper his decision accepting or rejecting it, and where he rejects a nomination paper, he shall record and order setting forth the reasons for such rejection. After scrutiny a statement in Form V showing the result of the scrutiny shall be posted at a conspicuous place at the Office of the Returning Officer.

14. **Rejection of nomination papers:-** (1) A nomination paper may be rejected on any of the following grounds :-
- (a) That the candidate is not qualified to be elected under the law for the time being in force; or
 - (b) that the proposer or seconder is not qualified to subscribe to the nomination paper; or
 - (c) that the signature of the proposer or seconder is not genuine ; or
 - (d) that the requisite deposit has not been made ; or
 - (e) that there has been any non-compliance with the provisions of these rules.
- (2) No nomination paper shall be rejected on the basis of any clerical or printing error, or on the ground of any defect which is not of substantial character. The Returning Officer may allow any such error or defect to be corrected or remedied forthwith.
15. **Revision against the order of scrutiny:-** (1) If all the nomination papers of a person proposing to stand as a candidate have been rejected, he may apply to the Revising Authority to be appointed by the Election Commissioner by the appointed date for the revision of the order of the Returning Officer.
- (2) When an application for revision has been made, the Revising Authority after hearing the person concerned, if necessary, may confirm or reverse the order of the Returning Officer.
16. **Consequences of the acceptance or rejection of nomination papers:-** (1) If the nomination paper of a candidate has been accepted, he shall be eligible to stand for election.
- (2) If a number of nomination papers have been presented by a

candidate, and some out of them have been rejected, he shall be eligible to stand for election on the basis of the nomination papers which have been accepted.

(3) If all the nomination papers presented by a candidate have been rejected and such order of rejection has not been reversed on revision under rule 25 he shall not be eligible to stand as a candidate for election.

17. **Withdrawal of candidature:-** (1) Any candidate may, by the appointed date, by an application in writing addressed to the Returning Officer, withdraw his candidature.
- (2) An application for withdrawal shall be signed by the candidate, and by two persons whose names appear in the electoral roll of the Basic Area or any ward thereof, as witnesses.
- (3) All applications for withdrawal shall be registered at the office of the Returning Officer, and on such registration, the person concerned shall be deemed to have withdrawn from election.
- (4) The withdrawal of a candidate shall be final and shall not be subject to cancellation at any subsequent stage.
18. **Statement of rejection, withdrawals and valid nomination:-** On the appointed date, the Returning Officer shall post at a conspicuous place at his office and make available for public inspection a statement in Form VI showing :
- (a) The names of persons whose nomination papers have been rejected ;
- (b) the names of persons who have withdrawn their candidature;
- (c) the names of persons who have been validly nominated; and the ward or wards for which they have been nominated ; and
- (d) the symbol allotted to each contesting candidate.
19. **Symbols of contesting candidates:-** (1) Returning Officer shall, with the approval of the Collector, allocate to each contesting candidate a symbol out of the symbols enumerated in Schedule 1:

Provided that where the number of candidates is more than the number of symbols in Schedule I the Returning Officer may, with the approval of the Collector, allot to the candidates such other symbols as he may deem necessary.

(2) For the purposes of these rules, a symbol may include a colour.

20. **Consequences of valid nominations:-** (1) If the number of candidates validly nominated in any ward is less than the number of members to be elected for such ward, such candidate or candidates shall be returned unopposed, and for the remaining seats elections shall be held as in the case of a casual vacancy.

(2) If the number of candidates validly nominated in any ward is equal to the number of members to be elected for such ward, such candidate or candidates shall be returned unopposed.

(3) If the number of candidates validly nominated in any ward is greater than the number of members to be elected for such ward, the issue shall be decided by the taking of poll in accordance with the provisions of these rules ;

21. **Death of candidate before poll:-** (1) If after the closing of nominations and before the poll is taken any contesting candidate dies, the Returning Officer may, with the approval of the Collector, cancel all proceedings relating to that election and where such proceedings are cancelled fresh proceedings shall commence and new date shall be fixed for nomination scrutiny, withdrawal and other proceedings in accordance with the provisions of these rules.

(2) An order of the cancellation of proceedings issued under sub-rule (1) shall be communicated to all remaining contesting candidates, and copies thereof shall be posted at a conspicuous place at the office of the Returning Officer, and such other places as the Returning Officer may deem necessary.

CHAPTER III

The Poll

22. **Polling Programme:-** (1) The Returning Officer shall, with the sanction of the Collector, frame a Polling Programme in Form

VII.

- (2) The Polling Programme shall specify ;
- (a) the situation of the various polling stations ;
 - (b) the date or dates on which polling shall be held at the various polling stations ;
 - (c) the particulars of electors entitled to vote at the various polling stations ; and
 - (d) the hours of polling for men and for women.
- (3) The Polling Programme shall be published by posting copies thereof :
- (a) at the office of the Returning Officer ;
 - (b) at every polling station ; and
 - (c) at such other conspicuous places in the Basic Area as the Returning Officer may consider necessary.
- (4) The Returning Officer may, for reasons to be recorded and with the sanction of the Collector, amend the Polling Programme provided that due notice, not less than forty-eight hours, shall be given to the candidates and the electors concerned of the proposed amendment, in such manner as he may deem necessary.

23. **Polling Staff:-** (1) The Returning Officer shall, with the approval of the Collector, appoint for every polling station a Polling Officer, and such number of Polling Assistants, and other staff as may be necessary.
- (2) The Polling 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 subject to the general control of the Returning Officer, the Polling Officer may do all such acts and things as may be necessary for the effective conduct of the poll in accordance with these rules.
- (3) The Polling Assistants and other staff posted at a polling station shall work under the general control and direction of the

Polling Officer.

(4) Every Polling Officer, Polling Assistant and other staff posted on duty at a polling station shall be deemed to be a public servant within the meaning of Section 21 of the Pakistan Penal Code.

24. **Equipment of Polling Stations:-** The Returning Officer shall ensure that every polling station is provided with:
- (a) the requisite number of ballot papers ;
 - (b) the requisite number of ballot boxes ;
 - (c) copies of the electoral rolls for the ward or such part thereof as contains the names of the electors allotted to the polling station ;
 - (d) copies of the polling programme ;
 - (e) copies of the statement showing the names of candidates contesting the election and the symbols allotted to different candidates ;
 - (f) copies of these rules ;
 - (g) tendered ballot papers and challenged ballot-papers ;
 - (h) blank forms of the prescribed statements ;
 - (i) stationery ; and
 - (j) other material specified in the statement in Form VIII.
25. **Hours of poll and extension in polling period:-** (i) A polling station shall remain open for such hours as may be specified in the Polling Programme :

Provided that the total period allotted on any one day for polling shall not be less than eight hours and shall be uninterrupted by any interval.

(2) If at the hour of close of poll, there have been left at the polling station electors who have still to cast their ballot, the Polling Officer may extend the polling hours by such period as

he may deem necessary.

(3) If for any reason it is not possible to open the polling station at the appointed hour, or if by reason of disorder at the polling station or for any other reason the Polling Officer deems it necessary to stop the polling for a certain time, the Polling Officer shall keep the polling station open for a further period equal to the period that elapsed between the hour appointed for opening of the polling station and the hour at which it was actually opened or the term during which polling was stopped, as the case may be.

26. **Ballot papers:-** (1) The votes at the poll shall be given by ballot.

(2) The ballot of every voter shall consist of a ballot paper in Form IX. The ballot paper shall be serially numbered, the serial number being printed on the face of both the ballot paper and its counterfoil.

(3) Every elector wishing to cast his vote shall do so in person and not by proxy.

(4) Every elector shall have one vote, and he shall not exercise more than one vote, even though his name may be enrolled as an elector in more than one ward of a Basic Area, or the number of members to be elected from any ward may be more than one.

27. **Ballot Boxes:-** (1) There shall be a separate ballot box for each candidate.

(2) A ballot box shall be of wood and of such design and dimensions as may be specified by the Election Commissioner and be so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom, without the box being opened.

(3) The ballot box of each candidate shall bear the symbol allotted under rule 19 to the candidate concerned.

(4) The requisite number of ballot boxes of the standard material, design and dimensions shall be supplied by the candidates on the requisition of the Returning Officer within such time, by such date and at place as may be specified in the order of requisition. If a candidate fails to supply the requisite number of ballot boxes, he shall be deemed to have retired from the election

contest.

28. **Arrangements at the polling station before the commencing of the poll:-** (1) Before the opening of the poll, the Polling Officer, the Polling Assistants and the other staff on duty shall sign a declaration of secrecy in Form X.
- (2) After signing the declaration of secrecy the Polling Officer shall show each ballot box empty to such candidates and polling agents as may be present and shall thereafter nail the lid. When the lids of the ballot boxes have been nailed, the ballot boxes shall be placed on the tables in the compartment set apart for the purpose.
- (3) The electoral rolls of the ward or such portion thereof, the electors whereof are to cast their votes at the polling station on the particular day, shall be distributed among the Polling Assistants in such manner as the Polling Officer may determine, and at the table of each Polling Assistant a notice shall be exhibited at conspicuous places showing the particulars about the electoral roll dealt with by him.
- (4) Police officials shall be placed on duty at the entrance to the polling station, at the entrance to the compartment containing ballot boxes, and at such other places as the Polling Officer may require. The Police posted at a polling station shall work under the directions of the Polling Officer, and shall obey his lawful orders.
- (5) After complying with the requirements of the foregoing sub-rules, the Polling Officer shall at the appointed hour declare the polling station open for polling.
29. **Polling Agents:-** (1) A contesting candidate may before the commencement of the poll appoint not more than one polling agent for each polling station. Such appointment shall be in writing, and copies of the appointment letter shall be endorsed to the Returning Officer and the Polling Officer.
- (2) The appointment of any polling agent may be revoked by the contesting candidate at any time and such revocation shall be forthwith communicated to the Returning Officer and the Polling Officer :
- Provided that the Returning Officer or the Polling Officer

may, for reasons to be recorded in writing, refuse to accept the appointment of any person as a polling agent and on such refusal the contesting candidate may appoint another polling agent.

(3) A polling agent shall have the authority to be present at the polling station, but he shall not maintain contact with any elector, nor intercede with the staff on duty on behalf of any election. Any polling agent who is guilty of misconduct may be summarily ejected out of the polling station under the orders of the Polling Officer.

(4) A polling agent may bring cases of personation to the notice of the Polling Officer, and, if the Polling Officer so requires, the polling agent shall make his representation in writing.

(5) A polling agent shall act as the agent of, the candidate for the purposes of the poll, and if any statement is required to be signed by the candidate it may be signed by the polling agent on behalf of the candidate.

(6) A candidate may act as his own polling agent.

30. **Admission of the polling station:-** (1) No person shall be admitted to a polling station unless :

- (a) he is a bonafied elector entitled to cast his vote at the polling station ;
- (b) he is a candidate or his authorised polling agent ;
- (c) he is an official on duty ;
- (d) he is an authorised companion of a blind or incapacitated elector ; or
- (e) he has been granted special permission in this behalf by the Returning Officer or the Polling Officer.

(2) The Polling Officer shall regulate the order in which the electors shall be admitted to the polling station, and may direct that the electors shall be admitted to the polling station in a queue.

(3) The polling Officer may regulate the number of electors to be admitted to the polling station at one lime.

(4) The officials on duty at a polling station, and the polling agents shall not leave the polling station during the course of poll, except which the written permission of the Polling Officer.

31. **Maintenance of order :-** (1) The polling Officer shall keep order at the polling station.
- (2) Any person who in the opinion of the Polling Officer is guilty of misconduct or who fails to obey the lawful orders of the Polling Officer may be removed from the polling station by any police officer or by any other person authorised in writing by the Polling Officer to remove him, and the person so removed shall not, without the permission of the Polling Officer, again enter the polling station during the day.
- (3) The powers conferred by this rule shall not be exercised as to deprive an elector otherwise entitled to vote of the opportunity to vote.
32. **Delivery of ballot paper to the elector:-** (1) On admission to the polling station, an elector shall proceed to the Polling Assistant dealing with the electoral roll containing his name, and after intimating his name, and other particulars ask for a ballot paper.
- (2) The Polling Assistant shall call out the number, name and description of the elector as stated in the electoral roll and if there is no reason to doubt the identity of the elector or his right to vote at the polling station, the Polling Assistant shall :
- (a) Place a mark in the electoral roll against the number of the elector to denote that a ballot paper has been issued, but without showing the particulars about the ballot paper issued;
 - (b) require the elector to sign or fix thumb-impression on the counterfoil of the ballot paper in token of having received the ballot paper ; and
 - (c) deliver the ballot paper to the elector after the fulfillment of the foregoing requirements.
33. **Delivery of ballot paper in disputed case:-** (1) If on admission to a polling Station, a person asks for a ballot paper, and if there

is any doubt or dispute about the identity of the elector or his right to vote at the polling station or if such identity or right is questioned by a candidate or a polling agent, the Polling Assistant shall refer the matter to the Polling Officer.

(2) The Polling Officer shall put to the person concerned the following questions:

- (a) Are you the person enrolled as follows (reading the whole entry relating to the elector from the electoral roll) ?
- (b) Have you already voted at the present election ? and
- (c) Such other questions as he may deem fit or necessary.

If, as a result of answers to these questions, the Polling Officer is satisfied about the identity or the right to vote of the person concerned, the Polling Officer shall direct the Polling Assistant to issue the ballot paper to such person. If the Polling Officer is not satisfied about the identity or the right to vote of the person concerned, the case shall be disposed off in accordance with the relevant provisions of these rules.

(3) If there is any clerical or printing error, the Polling Officer may disregard such error if he is satisfied that the entry in the electoral roll refers in fact to the person asking for the ballot paper.

34. **Spoiled ballot paper:-** (1) If an elector has inadvertently dealt with his ballot paper in such manner that it cannot conveniently be used as a ballot paper he may apply to the Polling Officer for the replacement of the spoilt ballot Paper.

(2) If the polling Officer is satisfied of such inadvertence he may direct the Polling Assistant to issue another ballot paper to the elector concerned in lieu of the spoilt ballot paper.

(3) The spoilt ballot paper shall be cancelled under the signature of the Polling Officer and shall be put in a separate envelope.

35. **Tendered ballot paper:-** (1) If a person representing himself to be an elector asks for a ballot paper when another person has already represented himself to be that elector and has voted as such, the Polling Assistant shall refer the case to the Polling Officer.

(2) The Polling Officer shall ask such person the questions specified in sub-rule (2) of Rule 33, and may ask him to submit a written statement which shall be signed or thumb-marked by such person.

(3) Such person shall thereafter be issued a tendered ballot paper in the manner prescribed for ordinary ballot papers.

(4) A tendered ballot paper shall be printed in a ink different from that of an ordinary ballot paper.

(5) Instead of being put in the ballot box, the tendered ballot paper shall be handed over to the Polling Officer. The Polling Officer shall endorse on the tendered ballot paper :-

(a) the name of the person casting the ballot, and his number in the electoral roll ; and

(b) the name of the candidate for whom the person concerned wishes to vote.

(6) All the tendered ballot papers shall be kept in a separate packet, under the custody of the Polling Officer.

36. **Challenged ballot papers:-** (1) If a person representing himself to be an elector asks for a ballot paper, and a candidate or a polling agent declares and undertakes to prove that any person by asking for a ballot paper has committed the offence of personation, the Polling Assistant shall refer the case to the Polling Officer.

(2) The Polling Officer may require the person concerned and any candidate or polling agent making the challenge; to submit a written statement and such statement shall be signed or thumb marked by the person making the statement.

(3) If after such summary enquiry as he may deem necessary, the Polling Officer is satisfied that the person concerned is entitled to the ballot paper, he may by an order over-rule the challenge, and direct that the ballot paper shall be issued to the person concerned in the manner prescribed by these rules. If the Polling Officer is not satisfied about the right of the person concerned to the ballot paper, he shall record an order to that effect and direct that a challenged ballot paper shall be issued to the person concerned.

(4) A challenged ballot paper shall be in an ink different form that of an ordinary ballot paper or a tendered ballot paper.

(5) Instead of being put in the ballot box, the challenged ballot paper shall be handed over to the Polling Officer. The Polling Officer shall endorse on the challenged ballot paper:-

(a) the name of the person casting the ballot and his number in the electoral roll ; and

(b) the name of the candidate for whom the person concerned wishes to vote.

(6) All challenged ballot papers shall be kept in a separate packet under the custody of the Polling Officer.

37. **Electors guilty of personation:-** (1) If a person representing himself to be an elector asks for a ballot paper and there is reason to suspect that the person is guilty of personation, the case shall be reported to the Polling Officer.

(2) The polling Officer shall put to the person concerned such questions as may be necessary, and may require him to submit a written statement which shall be signed or thumb marked by the person concerned.

(3) If after such summary enquiry as he may deem necessary, the Polling Officer is satisfied that prima facie the person concerned is guilty of an offence of personation, he shall refuse the ballot paper to such person, and shall take the necessary action for the prosecution of the person in question for the offence of personation.

38. **Procedure for the casting of ballots :-** (1) On receipt of the ballot paper, the elector shall take it to the Polling Officer who shall fix his initials thereon.

(2) The elector shall not place any mark on the ballot paper or otherwise deface it.

(3) After the ballot paper has been initialed by the Polling Officer, the elector shall immediately proceed to the compartment where the ballot boxes are kept and drop the ballot paper in the box of the candidate of whom he wishes to vote.

(4) After dropping the ballot paper in the ballot box, the elector shall leave the polling station forthwith.

39. **Voting by blind and incapacitated person:-** (1) If an elector is blind or is otherwise incapacitated and cannot attend the polling station or vote there at without the assistance of a companion he may apply to the Polling Officer to allow him the assistance of a companion at the polling station, and shall state in the application full particulars about himself and about his companion.
- (2) If the Polling Officer is satisfied that the applicant is really blind or incapacitated and cannot vote without the assistance of a companion, the application may be granted, and thereupon anything which is by these rule required to be by an elector done by such blind incapacitated person with the assistance of the companion.
40. **Adjournment of Poll :-** (1) If at any lime, the poll at any polling station is interrupted or obstructed by riot, open violence, or by reason of any natural calamity or circumstances beyond the control of executive authorities, the Polling Officer may by a written order adjourn the poll, and shall forthwith inform the Returning Officer of such adjournment.
- (2) When a poll is adjourned, the Returning Officer shall with the approval of the Collector fix another date when a fresh, poll shall be held and the poll already held shall be cancelled.
41. **Inspection of the Polling Station:-** The Election Commissioner, the Collector, the Deputy Election Commissioner or any other officer authorised by Government, the Election Commissioner or Collector in this behalf, may inspect a polling station at any time and give such instructions as he may deem necessary. An inspecting Officer may record his remarks in part VII of the statement in Form XI kept with the Polling Officer. The inspecting Officer may exercise all or any of the powers of the Polling Officer.
42. **Statement:-** At the end of the poll on each day the Polling Officer shall prepare a statement in Form XI showing :

**PART I
GENERAL**

1. Date.
2. Basic Democracy.
3. Ward.
4. Polling station.
5. Time of the opening of the polling station.
6. Time of the closing of the polling station.
7. Total number of electors .
8. Number of electors who actually voted.

**PART II
BALLOT ACCOUNT**

1. Total number of ballot papers received.
2. Total number of ballot papers issued.
3. Serial number of ballot papers issued.
4. Total number of spoilt ballot papers.
5. Total number of ballot papers found from the ballot boxes or deposited with the Polling Officer.
6. Total number of unissued ballot papers,
7. Serial number of unissued ballot papers.
8. Total number of missing ballot papers.

**PART III
BALLOT PAPERS CAST**

1. Serial number.
2. Name of the candidate.
3. Symbol allotted to the candidate.
4. Total number of ballot papers found from the ballot box of the candidate.
5. Signature of the candidate or his polling agent.

**PART IV
TENDERED BALLOT PAPERS**

1. Name of ward.
2. Name and address of voter.
3. Number in the electoral roll.
4. Signature or thumb mark of the voter.

**PART V
CHALLENGED BALLOT PAPERS**

1. Name of ward.
2. Name and address of voter.
3. Number in the electoral roll.
4. Name of identifier if any.
5. Signature or thumb-mark of the voter.

**PART VI
OFFENCES**

1. Serial No.
2. Name of persons who committed election offences.
3. Nature of the offence.
4. Action taken.

**PART VII
INSPECTION**

Name, designation and remarks of the Inspecting Officer.

**PART VIII
MISCELLANEOUS**

1. Report about the conduct of the candidates and their polling agents.
2. General remarks and suggestions.
 - (2) The statement in Form XI shall be put in a separate envelope and sealed.
43. **Opening of ballot boxes after the close of poll:-** (1) As soon as may be after the close of the poll, the Polling Officer shall in the presence of any candidates and polling agents who may be present :
 - (a) arrange the ballot boxes in the order of the candidates according to the list of valid nomination ; and
 - (b) thereafter open each box in turn.
 - (2) When a ballot box is opened, the ballot papers found therein shall be counted, and the result recorded in the statement in Form XI (Part III). These ballot papers shall thereafter be placed in an

envelope and sealed. Over the envelope, the name of the polling station, the name of the candidate, and the number of ballot papers shall be written in bold capital letters.

(3) Thereafter, the ballot boxes of other candidates shall be opened, and dealt with as under sub-rule (2), until such envelopes have been prepared and sealed for all contesting candidates.

(4) If any candidate or polling agent desires that his seal should also be put on the envelope of ballot papers, such seal may be put accordingly.

44. **Packets:-** (1) The Polling Officer shall in the presence of such candidates and polling agents as may be present place the envelopes of the ballot papers of various candidates prepared under rule 43, and the statement in Form XI prepared under rule 42 in one packet and seal it with the seal provided. Over the packet the Polling Officer shall note under his signature the name of the Polling Station and in bold letters the word "BALLOT PAPERS TO BE OPENED BY THE RETURNING OFFICER".
- (2) The Polling Officer shall in the presence of such candidates and polling agents as may be present place in separate envelopes:
- (a) the counterfoils of ballot papers, tendered ballot papers and challenged ballot papers ;
 - (b) all tendered ballot papers cast under rule 35 alongwith the necessary record, if any ;
 - (c) all challenged ballot papers cast under rule 36 alongwith the necessary record, if any ; and
 - (d) the spoiled ballot papers ;

Each envelope shall be sealed and placed in one packet. The packet shall be sealed with the seal provided and over the packet the Polling Officer shall note under his signature the name of the polling; station, the nature of the contents of the packet and in bold letters the words "FOR THE ELECTION TRIBUNAL".

(3) The Polling Officer shall in the presence of such candidates and agents as may be present place in separate envelopes:

- (a) the marked copies of the electoral rolls ;
- (b) the appointment letters of the polling agents ;
- (c) the Declaration of Secrecy ;and
- (d) the office record of the polling station.

All envelopes shall be placed in one packet. The packet shall be sealed with the seal provided, and over the packet, the Polling Officer shall note under his signature, the name of the polling station, the nature of the contents of the packet, and in bold letters the words "FOR THE COLLECTOR".

(4) All unused material shall be placed in one packet, and over the packet shall be written in bold letters the words "UNUSED MATERIAL".

(5) The packets made under sub-rules (1), (2), (3) and (4) shall be put together in one parcel and this parcel shall be sealed with the seal provided, and outside the parcel shall be given the name, number of the polling station and the nature of contents of the parcel.

(6) The parcel made under sub-rule (5), shall be delivered 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 safeguarding of the packet made over to him and shall forward it with the least possible delay to the Returning Officer. The Returning Officer shall cause every parcel received under this rule to be kept in safe custody in the treasury or in such other manner as may be approved by the Collector till it is required for counting.

(7) After the close of the poll, the ballot boxes supplied by the candidates shall be returned to the candidates concerned, if no longer required.

CHAPTER IV

Counting, Declaration of Result and Other Matters

45. **Attendance at the count of votes:-** (1) The Returning Officer shall on the appointed date give notice in writing in Form XII to the candidates of date and time when and the place where the votes will be counted.

(2) No person shall be allowed to be present at the counting of votes except :

(a) the officials on duty ;

(b) the candidates and their authorised agents hereinafter referred to as the counting agents.

(3) A candidate may appoint not more than one counting agent for the purposes of attending the count, and the intimation of such appointment shall be forwarded to the Returning Officer before the commencement of the count.

46. **The counting of votes:-** (1) On the day appointed for the counting of votes, the Returning Officer and the staff posted on the duty of counting shall sign a declaration of secrecy in Form X.

(2) The Returning Officer shall open the packet marked "BALLOT PAPERS TO BE OPENED BY THE RETURNING OFFICER" prepared under sub-rule (1) of rule 44, and shall retain unopened all other packets received from the polling stations under sub-rules (2), (3) and 4.

(3) The envelopes of ballot papers of each candidate shall be kept together. The envelopes of various candidates shall be arranged in the order in which such candidates were nominated, and the votes shall be counted in the same order.

(4) The envelopes of ballot papers of the first, candidate shall be opened. The total number of ballot papers shall be checked with the list of such ballot papers received from the polling station. Thereafter the ballot papers shall be distributed among the officials appointed for counting and scrutiny.

(5) After counting, scrutiny, and rejection of invalid votes, the valid votes cast in favour of a candidate shall be recorded in a statement in Form XIII. The votes of the candidates shall thereafter be placed in the envelope and sealed. The total number of votes cast, the number of votes rejected, and the number of valid votes obtained by a candidate shall be recorded in bold capital letters at the top of the envelope.

(5) Tendered ballot papers and challenged ballot papers shall not

be included in the count.

(7) The Returning Officer shall give the candidates and the counting agents all such reasonable facilities for observing the count, and all such information with respect thereto as he can give consistently with the orderly conduct of business and discharge of his duties in connection therewith.

(8) When counting the votes, the ballot paper shall be kept in such a manner that the identity of the elector is not disclosed.

(9) The Returning Officer shall, as far as practicable, proceed continuously with the counting of 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 election, under the seal provided and the seals of such candidates as may desire to affix them, and shall cause adequate precautions to be taken for their safe custody.

(10) A candidate or a counting agent may for reasons to be stated in writing request that the ballot papers counted once may be recounted. If the Returning Officer accepts the request, the ballot papers shall be recounted. If the Returning Officer is of the opinion that the request is unreasonable he may refuse to do so and record reasons for such refusal.

47. **Rejection of ballot papers:-** (1) Any ballot paper which does not bear the initials of the Polling Officer or on which is written or marked any thing other than the particulars required to be given under these rules, by which the elector can be identified, shall be void and not be counted.
- (2) If Returning Officer decides to reject a ballot paper he shall endorse the word "Rejected" on the ballot paper, and if a candidate or a counting agent objects to such rejection shall add to the endorsement the words "rejection objected" to.
- (3) No ballot paper shall be rejected merely because of a blot of ink, a scratch of pencil, or any be muddled impression of thumb or fingers due to inadvertent handling of the ballot papers.
- (4) The decision of the Returning officer on any question respecting the acceptance or rejection of ballot paper shall, subject to review on an election petition, be final.

48. **Declaration of Result:-** (1) When the votes of all the contesting candidates have been counted , the names of candidates shall be arranged in the order of the number of valid votes obtained and the candidates in that order equivalent to the number of seats to be filled shall be declared elected.
- (2) If, for the purposes of the declaration of result, there is a tie between two or more candidates who have obtained an equal number of votes, the Returning Officer shall decide the issue by drawing lots, in the presence of such candidates and counting agents as may be present and the decision of the Returning Officer as a consequence of the drawing of lot shall, subject to review on an election petition, be final.
- (3) The Returning Officer shall prepare a statement in Form XIII, showing the names of the contesting candidates, the valid votes obtained by each candidate, the vote rejected in the case of each candidate, and the names of the candidates elected. A copy of this statement shall be forwarded to the Collector and a copy shall be pasted at a conspicuous place at the office of the Returning Officer.
49. **Casual vacancies:-** Whenever there is a casual vacancy, an election shall be held to fill such vacancy in the manner provided by these rules, as if it were a general election.
50. **Vacating of seats held in more than one ward:-** (1) If a candidate has been elected for two or more wards he shall within seven days of the declaration of result and if such results are declared on different dates, within seven days of the date of the last of such results, make a declaration addressed to the Collector specifying the ward which he wishes to represent, and on such declaration the seat of such person in the other wards shall be deemed to have been declared vacant. If no declaration is made within the specified period, the Collector may decide which ward shall be represented by the person concerned, and his seats in the remaining wards shall be deemed to have been rendered vacant.
- (2) If a seat in any ward is rendered vacant under sub-rule (1) the candidate who, according to the statement referred to in rule 48, obtained the next highest number of votes shall be declared by the Collector to have been elected for the ward.
51. **Election Record:-** (1) After the holding of general elections, the Returning Officer shall forward the entire election record of the

office arranged in different sealed packets to the Collector;

(2) The Collector shall retain the election record and the packages received under rule 49, for a period of one year, and shall thereafter, unless otherwise directed by an Election Tribunal or a court of competent jurisdiction, cause it to be destroyed.

(3) The election record, except the ballot, be open to public inspection subject to such conditions as may be specified by the Collector, and copies thereof may be supplied on payment of such fee and subject to the such conditions as may be specified by the Collector.

52. **Election report:-** (1) Within a week of the completion of the election proceedings, the Returning Officer shall submit to the Collector a detailed report about the election. Among other matters, the report shall show :-

(a) The administrative arrangements made for holding election ;

(b) a detailed narrative of the various stages of election proceeding ;

(c) the extent to which the electorate participated including the total number of votes and the number of persons who actually voted ;

(d) how the candidates conducted their election campaigns ;

(e) such other matters as the Collector may specify.

(9) The Collector shall forward to the Election Commissioner through the Commissioner within one month of the completion of the general elections a detailed report about the election in the District.

53. **Election expenses:-** (1) An account shall be kept by the candidate or his authorized agent of all expenses incurred in this connection.

(2) The total expenses incurred by a candidate or his authorised agent for the purposes of election shall not exceed two hundred rupees for union councils, and rupees five hundred for Union Committees and Town Committees.

(3) The election expenses shall include expenditure on holding public meetings, organising any public display issuing advertisements, circulars or publications but shall not include any expenditure which is not authorised under any of provisions of these rules or any other law for the time being in force.

(4) Within ten-days next following declaration of result, the candidate shall submit to the Collector a statement showing election expenses incurred in the conduct of election.

54. **Bar of jurisdiction:-** Notwithstanding anything to the contrary contained in any law for the time being in force, no court shall, during the course of elections, issue any ad-intrim injunction in respect of elections.

CHAPTER V Election Petition

55. **Election petition:-** (1) No election shall be called in question except by an election petition presented in accordance with these rules.

(2) An election petition shall be presented within thirty days next after the declaration of result under rule 48.

(3) Where a petitioner has been a contesting candidate, he shall join as respondents to his petition all the other contesting candidates, and a copy of the election petition shall be served upon each respondent.

(4) An election petition shall:

- (a) contain a precise statement of the material facts on which the petitioner relies ;
- (b) set forth full particulars of any corrupt practices; material irregularity; offence or other illegal act alleged by the petitioner, including as full a statement as possible of the names of the persons alleged to have committed such practices or acts and the date and place of the commission of every such corrupt practice, material irregularity, offence or other illegal act.

(5) In the election petition, the petitioner may claim any of the following declarations:

- (a) that the election of the returned candidate is void ; or
 - (b) that the election of the returned candidate is void and that the petitioner or some other person has been duly elected ; or
 - (c) that the election as a whole is void.
- (6) Every election petition and every schedule or annexure thereto shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Act V of 1908), for the verification of pleadings.
- (7) Every election petition shall be accompanied by a receipt showing that the petitioner has deposited a sum of one hundred rupees in a treasury in favour of the Election Tribunal as security for the costs of the petition. At any time during the trial of the election petition, the Election Tribunal may call upon the petitioner to increase such security, and the additional amount thus required shall be deposited by the petitioner in the treasury. The security shall be refunded after the decision of the petition, after deducting the costs, if any, under rule 61.
- (8) An election petition may be presented by any elector or candidate.
- (9) An election petition shall be presented to the Election Tribunal, and shall be deemed to have been presented:
- (a) when it is delivered in person to the Election Tribunal by the petitioner or by a person authorised in writing in his behalf by the petitioner ; or
 - (b) when delivered by registered post to the Election Tribunal.
- (10) The Election Tribunal may upon such terms as to costs and otherwise as it may direct, at any time, allow the particulars contained in the election petition to be amended or order further particulars in regard to any matter referred to therein to be furnished as may in its opinion be necessary for purpose of ensuring fair and effectual trial of the petition, provided that particulars of any additional corrupt practices, material irregularities, offences or other illegal acts not contained in the election petition shall not be added by means of any such amendment.

56. **Election Tribunal:-** (1) The election petitions presented under these rules shall be enquired into and tried by the Election Tribunal.
- (2) The Election Tribunal shall consist of such person or persons as may be appointed by Government.
57. **Substitution of petitioners and respondents and withdrawal and abatement of election petitions:-** (1) Where at any stage in the trial of an election petition no petitioner appears, the Election Tribunal may, on the application of any person who might himself have been a petitioner, order that such person may be substituted for the original petitioner or petitioners on such terms as it may think proper. If no application for substitution is made, the election petition may be dismissed for default, but the Election Tribunal may make such order as to costs as it thinks proper.
- (2) An election petition may be withdrawn by leave of the Election Tribunal. Where an application for leave to withdraw an election petition is made, notice thereof shall be served on the other parties to the petition. No application for leave to withdraw an election petition shall be granted unless the Election Tribunal is satisfied that no agreement or bargain has been made or that the terms of the agreement or bargain are such that the application may be allowed. If the application is granted, the petitioner shall be required to pay such costs as may be determined by the Election Tribunal. A notice of allowing or disallowing an application for withdrawal shall be served by the Election Tribunal on the other parties to the petition. Within fourteen days next following such notice any person who might himself have been a petitioner may apply to the Election Tribunal for leave to be substituted as a petitioner and if he complies with the provisions of the rule as to security for costs, he may be so substituted on such terms as the Election Tribunal may decide and may continue the proceedings.
- (3) An election petition shall abate on the death of a sole petitioner or of the survivor of several petitioners. The Election Tribunal shall give a notice of such abatement to the parties concerned. Within the fourteen days next following such notice any person who might himself have been a petitioner may apply to the Election Tribunal for leave to be substituted as petitioner and if he complies with provisions of the rule as to security for costs, he may be so substituted on such terms as the Election

Tribunal may decide and may continue the proceedings.

(4) If before the conclusion of the trial of an election petition a respondent dies or gives notice that he does not intend to contest the petition, and no respondent remains to contest the petition, the Election Tribunal shall issue a notice to such effect, and any person who might himself have been a petitioner may, within the fourteen days next following the issuing of the notice, apply to be substituted as a respondent to opposed the election petition and shall, subject to such terms as the Election Tribunal may decide, be entitled to continue the proceedings.

58. **Trial of Election Petition:-** (1) If in the case of an election petition, any of the provisions of these rules have not been complied with or if the allegations contained therein are vague or frivolous, the Election Tribunal may dismiss the election petition, and inform the petitioner accordingly:

(2) If an election petition presented under these rules is not dismissed, the Election Tribunal shall proceed to enquire into the allegations contained in the election petition.

(3) The enquiry shall be held in place to which the public have free access and notice of the time and place of enquiry shall be given to the parties not less than seven days before the first day of the enquiry. The place of enquiry shall be within the District.

(4) Every election petition shall be tried as nearly as may be in accordance with the procedure applicable under the Code of Civil Procedure 1908 (Act V of 1908) to the trial of suits :

Provided that :

(a) unless it is satisfied that there is a special reason for taking down the evidence of any witness in writing, the Election Tribunal may make a memorandum of the substance of the evidence of each witness as his examination proceeds ; and

(b) the Tribunal may refuse to examine a witness if it considers that his evidence is not material or that he is called on frivolous grounds or for the purpose of delaying the proceedings.

(5) The provisions of the Evidence Act, 1872 (I of 1872), shall apply to the trial of an election petition.

(6) Any appearance, application or act before the Election Tribunal may be made or done by a party in person or by an advocate or pleader or any person entitled or allowed to plead in any civil court and duly appointed to Act on his behalf :

Provided that the Election Tribunal may, where it considers necessary, direct any party to appear in person.

(7) The Election Tribunal shall have the same powers as are vested by the Code of Civil Procedure, 1908, in a court trying a civil suit, and in particular powers in respect of:

- (a) discovery and inspection ;
- (b) enforcing the attendance of witnesses, and, requiring the deposit of their, expenses ;
- (c) compelling the production of documents ;
- (d) examining witnesses on oath ;
- (e) granting adjournments ;
- (f) receiving evidence taken on affidavit ; and
- (g) issuing commissions for the examination of witnesses, and it may summon and examine *Suo moto* any person whose evidence appears to it to be material.

(8) Notwithstanding anything in any enactment to the contrary no document shall be inadmissible in evidence at the trial of an election petition only on the ground that it is not duly stamped or registered.

(9) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in the trial of an election petition upon the ground that the answer to such question may incriminate or tend to incriminate him, or that it may expose or tend to expose him to any penalty or forfeiture :

Provided that :

- (a) no witness or other person shall be required to state for whom he has voted at an election;
- (b) a witness who answers truly all questions which he is

required to answer shall be entitled to receive a certificate of indemnity from the Election Tribunal ; and

- (c) an answer given by a witness to a question put by or before the Election Tribunal shall not, except in the case of any criminal proceeding for perjury in respect of his evidence, be admissible in evidence against him in any civil or criminal proceeding. A certificate of indemnity granted to any witness may be pleaded by him in any court and shall be a full and complete defence to or upon any charge under the Pakistan Penal Code or under these rules arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any disqualification In connection with an election imposed by the Act or any other law for the time being in force.

(10) When in an election petition a declaration is claimed that any candidate other than the returned candidate has been duly elected, the returned candidate or any other party may give evidence to prove that the election of such other candidate would have been declared void had he been the returned candidate and had a petition been presented calling his election in question :

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he has within fourteen days next following the commencement of the trial given notice to the Election Tribunal of his intention so to do and has also deposited the security or increased security under these rules. Every notice under this sub-rule shall be accompanied by such particulars as are required in the case of an election petition and shall be signed and verified in like manner.

(11) The reasonable expenses incurred by any person in attending to give evidence may be allowed to him by the Election Tribunal and shall, unless the Election Tribunal otherwise directs, be deemed to be part of the costs.

59. **Grounds for declaring an election void:-** The Election Tribunal shall declare an election to be void if it is satisfied that :

- (a) the nomination of the returned candidate was invalid ; or
- (b) on the nomination day the returned candidate was not qualified for or was disqualified from being elected for the

ward ; or

- (c) the failure of any person to comply with the provisions of the Act or these rules has materially affected the results of the election ; or
- (d) the result of the election has been materially affected by the improper acceptance or rejection of any nomination paper ; or
- (e) the improper reception or refusal of any vote, or the reception of any vote which should not have been received, has materially affected result of the election ; or
- (f) the election of the returned candidate has been procured or induced by any corrupt practice or illegal act ; or
- (g) a corrupt practice or illegal act has been committed by returned candidate or his authorised agent or by any other person with the connivance of the candidate or his authorised agent ; or
- (h) corrupt practices, material irregularities, illegal payments, employments, or hirings have so extensively prevailed at the election that they may be reasonably supposed to have affected the result.

60. **Striking off or addition of votes:-** If in an election petition a seat is claimed for any candidate, the votes may be struck off or added to the accounts of the person concerned in the manner hereinafter provided:

- (a) If it is proved that the candidate or any authorised agent on his behalf has been guilty of bribery or undue influence in respect of any person who voted at the election there shall be struck off one vote for every person who voted at the election and is proved to have been so bribed or unduly influenced ;
- (b) if any person guilty of a corrupt practice or of illegal payment, employment or hiring, voted at the election, his vote shall be void ;
- (c) if any person disqualified from voting voted at the election his vote shall be void ;

- (d) if any person was issued a tendered ballot-paper, or a challenged ballot paper, and he was entitled to a ballot paper, his vote shall be added to the votes cast in favour of the candidate in whose favour such person intended to vote.

61. **Decision of the Election Tribunal:-** (1) At the conclusion of the trial of an election petition, the Election Tribunal shall make an order:

- (a) dismissing the election petition ; or
- (b) declaring the election of the returned candidate to be void ;
or
- (c) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected ; or
- (d) declaring election as a whole to be void.

(2) At the time of making an order under sub-rule (1) the Election Tribunal shall also make an order :-

- (a) Where the petition alleges any corrupt practice, an electoral offence regarding :
 - (i) the finding whether any corrupt practice or an electoral offence has been committed by, or with the connivance of, any candidate or his authorised agent, and if so the nature of the corrupt practice or offence ; and
 - (ii) the names of all persons, if any, found guilty of any corrupt practice or an electoral offence and the nature of it together with any recommendation, the Election Tribunal think proper to make, for the disqualification or exemption from disqualification of any person ;
- (b) fixing the costs to be paid and specifying the person by and to whom such costs are to be paid.

(3) No person shall be named in an order under sub-rule (2), unless :-

- (i) he has been given notice to appear before the Election Tribunal to show cause why he should not be so named ; and

(ii) he has appeared in pursuance of the notice and he has been given an opportunity of cross-examining any witness who has already given evidence against him and of calling evidence in his own defence and of being heard.

62. **Enforcement of the orders:-** (1) An order made by the Election Tribunal under rule 61 shall take effect from such date as may be specified by the Election Tribunal.

(2) Every order passed by an Election Tribunal on an election petition shall be forwarded to the Controlling Authority who shall take such farther action thereon as may be necessary.

(3) The record of the Election Tribunal shall be deemed to be the record of the Office of the Controlling Authority.

(4) The order for costs may be enforced by an application to a Civil Court as a decree passed by that Court.

CHAPTER VI Offences and Penalties

63. **Definition of corrupt practice:-** (1) A person shall be guilty of a corrupt practice:

- (a) If he is guilty of bribery ; or
- (b) if he is guilty of undue influence ; or
- (c) if he commits, abets, counsels or procures the commission of the offence of personation ; or
- (d) if, in order to support or oppose any candidate at an election, he lets, lends, employs, hires , borrows or uses any vehicle for the purpose of conveying electors to or from the poll ; or
- (e) if he calls upon or attempts to persuade any person to vote or to refrain from voting, for any candidate on the ground that the candidate belongs to a particular caste, race, tribe, sect, community, or religion ; or
- (f) if he causes or attempts to cause any person present and waiting to vote to depart without having voted ; or

(g) if he makes or publishes any false statement of fact concerning the personal character of a candidate or in such a way as to affect the candidate concerning the personal character of a relation of the candidate, for the purpose of affecting or procuring the return of any candidate, at the election.

(2) A person shall be guilty of bribery if he, directly or indirectly, by himself or by any other person on his behalf:

- (a) gives, offers, or promises any gratification to any person or persons for purposes of inducing a person to stand or not to stand as or to withdraw from being a candidate at an election or an elector to vote or to refrain from voting at an election or for the purposes of rewarding a person for having stood or not stood or for having withdrawn from being a candidate at an election or an elector for having voted or refrained from voting at an election ; or
- (b) receives, agrees, or contracts for any gratification for standing or not standing as candidate at an election or for voting or refraining from voting at an election.

Explanation for the purposes of this sub-rule "gratification" includes a gratification in money or estimable in money and all forms of entertainment and all forms of employment for reward, but does not include the payment of any election expenses incurred bona fide and duly entered in the return of election expenses.

(3) (a) A person shall be guilty of undue influence if he directly or indirectly by himself or by any other person on his behalf makes use of or threatens to make use of any force, violence, or restraint, or inflicts, or threatens to inflict, by himself or by any other person any injury, damage, harm or loss upon or against any person or to call down divine displeasure or the displeasure of any saint, or God upon or to give a religious sentence against or in respect of any person or uses official influence or Governmental patronage in order to induce or compel that person to vote, or refrain from voting, or on account of that person having voted or refrained from voting or to induce him not to offer himself as a candidate for election or to withdraw his candidature ; or

(b) if, by abduction, duress or any fraudulent device or

contrivance, he impedes or prevents the free exercise of, the franchise by an elector, or thereby compels, induces, or prevails upon an elector either to vote or to refrain from voting.

Explanation:- For the purposes of this sub-rule, "harm" includes social ostracism or excommunication or expulsion from any caste or community.

(4) A person shall be guilty of personation at an election if he votes as some other person whether that other person is living or dead or is a fictitious person.

For the purposes of this sub-rule, a person who has applied for a ballot paper for the purpose of voting shall be deemed to have voted.

64. **Electoral offences:-** A person shall be guilty of an offence if he:-
- (a) votes knowing that he is disqualified from voting ;
 - (b) votes more than once in the same ward ; or
 - (c) votes in more than one ward ; or
 - (d) removes a ballot paper from a polling station during the poll;
or
 - (e) fraudulently defaces or fraudulently destroys any nomination paper ;
 - (f) fraudulently defaces or fraudulently destroys any ballot paper ; or
 - (g) without due authority supplies any ballot paper ; or
 - (h) forges any ballot paper ; or
 - (i) fraudulently puts into any ballot box any ballot paper other than the ballot paper which he is authorised by law to put in ;
or
 - (j) without due authority destroys, breaks, open, or otherwise interferes with any ballot box or packet of ballot papers ; or

- (k) without due authority breaks any seal fixed under the provisions of these rules ; or
- (l) on any day on which a poll is taken at a polling station within one hundred yards of the polling station canvasses for votes, or solicits the vote of any elector, or persuades any elector not to vote for a particular candidate, or exhibits any notice, sign, banner, or flag designed to encourage electors from voting for any contesting candidate ; or
- (m) while polling is in progress and polling station does any act which disturbs or causes annoyance to any elector visiting the polling station for the purpose of casting a vote or interferes with the performance of duty by the officials on duty ; or
- (n) interferes or attempts to interfere with an elector at a polling station, or any official on duty ;
- (o) communicates, unless otherwise required by competent authority any information as to the name or number on the electoral roll of any elector who has or has not applied for a ballot paper or voted at a polling station ; or
- (p) ascertains or attempts to ascertain at the counting of votes the number of and ballot paper or communicates any information obtained at the counting of votes as to the candidate for whom any vote is given on any particular ballot paper ; or
- (q) knowingly induces or procures some other person to do an act, which is an offence under this rule ; or
- (r) abets the commission of any of the offences under these rules.

65. **Prosecution and penalty:-** (1) if any offence punishable under these rules has been committed, the Collector, or the Returning Officer, shall cause such enquiries to be made, and such prosecution to be instituted as the circumstances of the case may require.

(2) If an election tribunal in the order passed by it on an election petition refers to offences under these rules committed by persons named in the order the Collector shall institute

prosecution against such persons according to the circumstances of the case concerned.

(3) Any person who in relation to any election to a Basic Democracy commits or abets the commission of any offence including a corrupt practice under these rules shall on conviction be punished with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.
