

**AZAD GOVT.OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the August 20, 1977.

No. 2396-97/SL/77. The following Ordinance made by the President on the 20th day of August, 1977, is hereby published for general information:-

(ORDINANCE VI OF 1977)

AN ORDINANCE to amend the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970.

WHEREAS it is expedient to amend the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970) for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exists which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President is pleased to make and promulgate the following Ordinance :-

1. **Short title and commencement.-** (1) This Ordinance may be called the Azad Jammu and Kashmir Legislative Assembly (Elections) (Amendment) Ordinance, 1977.

(2) It shall come into force at once and shall be deemed to have taken effect on and from the first-day of August, 1977.

2. **Amendment of Section 2, Ordinance X of 1970.-** In the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970), hereinafter referred to as the said Ordinance, in section 2, after clause (xxiv), the following new clause (xxv) shall be inserted :-

"(xxv) 'Validly nominated candidate' means a candidate' whose nomination has been accepted;"

And

existing clause (xxv) shall be renumbered as clause (xxvi).

3. **Amendment of Section 10, Ordinance X of 1970.**- In the said Ordinance, in section 10-
- (a) in sub-section (i) for clause (a) the following shall be substituted, namely :-
 - "(a) a day on or before which nomination of the candidate is to be made.
 - (b) in sub-section (3) for the word 'before' the word 'by' shall be substituted."
4. **Amendment of Section 11, Ordinance X of 1970.**- In the said Ordinance, in section 11,-
- (a) after sub-section (3), the following proviso shall be added :-
 - "Provided that a candidate may deliver or cause to be delivered, to the Commissioner a duplicate of the nomination paper on or before the nomination day or may send it to the Commissioner by registered post so as to reach him on or before that day."
 - (b) in sub-section (5) the words 'except the one received first by the Returning Officer' shall be omitted."
5. **Amendment of Section 13, Ordinance X of 1970.**- In the said Ordinance, in Section 13,-
- (a) in sub-section (3). in clause (d), in the proviso, in sub-clause (ii) between the words 'nature' and 'and' the words and commas 'including an error in regard to the name, serial number in the Electoral Roll or other particulars of the candidate, his propose or seconder' shall be inserted.
 - (b) for sub-section (4) and (5) the following shall be substituted, namely :-
 - "(4) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting it and shall, in the case of rejection, record the reasons for rejection and, in the case of an objection being raised to his decision to accept the nomination paper, record brief reasons for rejecting the objection.
 - (5) Any person aggrieved by an order under sub-section (4) may file an appeal within a prescribed period to the

Commissioner whose decision shall be final.

- (6) Announcement of the day and time appointed for the hearing of an appeal under sub-section (5) over the radio or by publication in the press shall be deemed to be sufficient notice of the day and time so appointed."

6. **Insertion of new section 13-A, Ordinance X of 1970.-** In the said Ordinance, after section 13, the following new section shall be inserted, namely :-

"13-A. Action on duplicate of nomination paper.- (1) in a case in which the Returning Officer denies receipt of the nomination paper of a candidate and the candidate asserts that the duplicate of the nomination paper had been delivered, or sent by post to the Commissioner in accordance with the proviso to sub-section (3) of Section 11, and produces a receipt issued by the Commissioner or by the Post office on its having been so delivered or sent, it shall be the duty of the Returning Officer to inform the Commissioner of such assertion.

(2) If the Commissioner is in receipt of the duplicate of the nomination paper, he shall at the request of the Returning Officer, forward it to the Returning Officer.

(3) A duplicate of a nomination paper forwarded to the Returning Officer under sub-section (2) shall be treated as if it were the original nomination paper delivered to him under sub-section (3) of section 11 and the provisions of section 13 shall apply to it accordingly."

7. **Amendment of Section 15, Ordinance X of 1970.-** In the said Ordinance, in section 15, in sub-section (1) for the word 'agent' the word 'advocate' shall be substituted.

8. **Omission of section 15-A, Ordinance X of 1970.-** In the said Ordinance, Section 15-A, shall be omitted.

9. **Substitution of Section 18, Ordinance X of 1970.-** In the said Ordinance, for section 18, the following shall be substituted, namely:-

"18. Un-contested election.- (1) Where after scrutiny under section 13, there remains only one validly nominated candidate or where, after withdrawal under section 15, there remains only one contesting candidate, the Returning Officer shall so inform the Commissioner and forward to him all the nomination papers

received by him from the constituency concerned and such other papers as may be specified by the Commissioner.

(2) The Commissioner shall, after such inquiry as he may deem necessary in any case, by notification in the official Gazette, declare the candidate referred to in sub-section (1) to be elected to the seat:-

Provided that, if after scrutiny any candidate indicates that he intends to file an appeal under sub-section (5) of section 13, no person shall be declared elected until the period prescribed for filing such appeal has expired and no such appeal has been filed or, where an appeal is filed, until the disposal of such appeal.

10. **Amendment of Section 29, Ordinance X of 1970.-** In the said Ordinance, in Section 29, in sub-section (2), after the words 'Police officer', at the end, the words 'or member of the armed forces' shall be added.

11. **Substitution of section 30, Ordinance X of 1970.-** In the said Ordinance, for section 30, the following shall be substituted, namely:-

"30. Voting Procedure.- (1) Where an elector presents himself at the polling station to vote, the Presiding Officer shall, after satisfying himself about the identity of the elector, issue to him a ballot paper.

(2) Before a ballot paper is issued to an elector

(a) the number and name of the elector as entered in the electoral roll shall be called out;

(b) a mark shall be placed on the electoral roll against the number and name of the elector to indicate that a ballot paper has been issued to him;

(c) a ballot paper shall on its back be stamped with the official mark and initialed by the Presiding Officer; and

(d) the Presiding Officer shall record on the counter-foil of the ballot paper the number of the elector on the electoral roll, stamp it with the official mark, put his initial on it and obtain on it in indelible ink the thumb impression of the elector.

- (3) A ballot paper shall not be issued to a person who refuses to put thumb impression on the counter-foil or whose thumb bears traces of its having already been used for putting the impression.
- (4) If a contesting candidate or his election agent or polling agent alleges that an elector to whom a ballot paper is about to be issued already has one or more ballot papers in his possession, the Presiding Officer may require the elector to satisfy him that he does not have any other ballot paper in his possession and may also take such measure as he thinks fit to ensure that such elector does not insert more than one ballot paper in the ballot box.
- (5) On receiving the ballot paper, the elector shall-
- (a) forthwith proceed to the place reserved for marking the ballot paper;
 - (b) put the prescribed mark on the ballot paper at any place within the space containing the name and symbol of the contesting candidate for whom he wishes to vote; and
 - (c) after he has so marked the ballot paper, fold and insert it in the ballot box.
- (6) The elector shall vote without undue delay and shall leave the polling station immediately after he has inserted his ballot paper in the ballot box.
- (7) Where an elector is blind or is otherwise so incapacitated that he cannot vote without the assistance of an companion, the Presiding Officer shall allow him such assistance and thereupon such elector may do with such assistance anything which an elector is required or permitted to do under this Ordinance.
12. **Amendment of Section 35, Ordinance X 1970.-** In the said Ordinance, in section 35, in sub-section (4),-
- (1) in clause (c) -
 - (a) in sub-clause (i) after the word 'mark' at the end, the words 'and initials of the Presiding Officer' shall be added; and
 - (b) for sub-clause (ii), the following shall be substituted, namely:-

- "(ii) any writing or any mark other than the mark of his thumb, the official mark, the initials of the presiding Officer and the prescribe mark or to which a piece of paper or any other object of any kind has been attached."
- (c) in sub-clause (iv) the word 'or' at the end shall be omitted ; and
- (d) sub-clause (v) shall be omitted;
- (2) in sub-section (12), clause (j) shall be omitted.
13. **Amendment of Section 40, Ordinance X of 1970.-** In the said Ordinance, in section 40, in sub-section (1) the following words, at the end, 'or who has retired from contest under Section 15-A,' shall be omitted.
14. **Amendment of Section 53, Ordinance X of 1970.-** In the said Ordinance, in section 53, for sub-section (2) the following shall be substituted, namely :-
- "(2) An Election Tribunal shall consist of a person who has been, or is, or, at the time of his retirement as a District and Session Judge, was qualified to be, a Judge of the High Court."
15. **Amendment of Section 64, Ordinance X of 1970.-** In the said Ordinance, in section 64, in sub-section (1) clauses (a) and (b) shall be omitted.
16. **Amendment of Section 86, Ordinance X of 1970.-** In the said Ordinance, in section 86,-
- (a) after the word and comma 'Ordinance, the words, brackets and figures' or any person required under sub-section (2) of section 4, to perform any functions or render any assistance' shall be inserted; and
- (b) after the word 'omission' at the end, the comma and words 'or fails to perform such functions or render such assistance' shall be added.
17. **Amendment of Section 88, Ordinance X of 1970.-** In the said ordinance, in section 88, after the words 'Police Officer' twice occurring, the words 'member of the armed forces' shall be inserted.

18. **Substitution of Section 92, Ordinance X of 1970.-** In the said Ordinance, for section 92, the following shall be substituted, namely:-

"92. Commissioner to ensure fair election, etc.- Save as otherwise provided, the Commissioner may-

- (a) Stop the polls at any stage of the election, if he is convinced that he shall not be able to ensure the conduct of the election justly, fairly and in accordance with law due to large scale malpractices, including coercion, intimidation and pressures, prevailing at the election ;
- (b) review an order by an officer under this ordinance, or the rules, including rejection of ballot papers; and
- (c) Issue such instructions and exercise such powers, and make such consequential orders, as may, in his opinion, be necessary for ensuring that the election is conducted honestly, justly and fairly, and in accordance with the provisions of this ordinance, and the rules."

19. **Insertion of Section 92 - A, Ordinance X of 1970.-** In the said ordinance, after Section 92, the following new Section shall be inserted, namely:-

"92-A. Directions of Commissioner in certain matters.- Anything required to be done for carrying out the purpose of this ordinance, for which no provision or no sufficient provision exist shall be done by such authority and in such manner as the Commissioner may direct."

Sd/-
(Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir.

Sd/-
(Mohammad Akram Shah)
Deputy Secretary
Law & Parliamentary Affairs Secretariat
Azad Govt. of the State of J & K
Muzaffarabad.