

## **Presidential And Vice-Presidential Elections Rules, 1974**

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## **Presidential And Vice-Presidential Elections Rules, 1974**

### **CHAPTER 1 Preliminary**

#### **1. Short Title And Commencement :-**

- (1) These rules may be called the Presidential and VicePresidential Elections Rules, 1974.
- (2) They shall come into force at once.

#### **2. Interpretation :-**

- (1) In these rules, unless the context otherwise requires, ---
  - (a) Act means the Presidential and Vice-Presidential Elections Act, 1952 (31 of 1952);
  - (b) article means an article of the Constitution of India;
  - (c) Form means a Form appended to these rules;
  - (d) section means a section of the Act.
- (2) The General Clauses Act, 1897 (10 of 1897), shall apply for the interpretation of these rules as it applies for the interpretation of an Act of Parliament.

### **CHAPTER 2 Nomination of candidates**

#### **3. Public Notice Of Intended Election :-**

The public notice of an intended election referred to in section 5 shall be in Form 1 and shall be published by the Returning Officer by such means, in such language or languages and in such places as the Election Commission may direct.

#### **4. Nomination Paper :-**

Every nomination paper presented under sub-section (1) of section

5B shall be completed in Form 2 or Form 3, as may be appropriate.

### **5. Notice Of Withdrawal Of Candidature :-**

(1) A notice of withdrawal of candidature under subsection (1) of section 6 shall be in Form 4.

(2) On receipt of such notice, the Returning Officer shall note thereon the date on which and the hour at which it was delivered, and cause a copy thereof, together with the note, to be affixed in some conspicuous place in his office.

### **6. Preparation And Publication Of The List Of Contesting Candidates :-**

In every case in which a poll is to be taken under clause (b) of section 8, the Returning Officer shall, immediately after the expiry of the period within which candidature may be withdrawn under sub-section (1) of section 6--

(a) prepare in Form 5 a list of contesting candidates (that is to say, candidates who have been duly nominated but have not withdrawn their candidatures within the time specified in that behalf), containing the names in alphabetical order as given in the nomination papers together with their addresses; These rules were published with the Ministry of Law, Justice and Company Affairs (Legislative Department) Notification No. S. O. 305 (E), dated 21st May, 1974. See Gazette of India, Extraordinary, Part II, Section 3 (ii)

(b) cause the list to be published in the Gazette of India and in such other manner as the Election Commission may direct; and

(c) cause a copy of the list to be affixed in some conspicuous place in his office.

## **CHAPTER 3 The Poll**

### **7. Fixing Place And Time Of Polling For Presidential Election**

**:-**

At every Presidential election where a poll is to be taken, the Election Commission shall--

(a) fix a place of polling in the Parliament House in New Delhi, and also in the premises in each State in which the Legislative Assembly, if any, of that State meets for the transaction of business;

(b) specify with reference to each such place of polling the group of electors who will be entitled to vote, and the hours during which the poll will be taken, at such place; and

(c) give due publicity to the places so fixed and the groups of electors and the hours so specified.

### **8. Fixing Place And Time Of Polling For Vice-Presidential Election :-**

At every Vice-Presidential election where a poll is to be taken, the Election Commission shall--

- (a) fix a place of polling in the Parliament House in New Delhi;
- (b) specify the hours during which the poll will be taken; and
- (c) give due publicity to the place so fixed and the hours so specified.

### **9. Presiding And Polling Officers :-**

(1) The Returning Officer or such Assistant Returning Officer as may be specified in this behalf by the Election Commission shall conduct the poll at each place of polling. Every such officer is hereinafter referred to as the presiding officer.

(2) The presiding officer may appoint such polling officer or officers as he thinks necessary to assist him in taking the poll, but he shall not so appoint any person who has been employed by, or on behalf of, or has been working for, a candidate in or about the election.

### **10. Design And Form Of Ballot Papers :-**

(1) Every ballot paper shall have a counterfoil attached thereto and the said ballot paper and the counterfoil shall be in such form, and the particulars therein shall be in such language or languages, as the Election Commission may direct.

(2) The names of the candidates shall be printed on the ballot paper in the same order as in the list of contesting candidates published under rule 6.

(3) Every presiding officer shall be supplied with a sufficient number of ballot papers by the Election Commission.

### **11. Ballot Boxes :-**

Every ballot box used at the poll shall be of a design previously approved by the Election Commission.

### **12. Procedure Before The Commencement Of Poll :-**

(1) The presiding officer shall, immediately before the commencement of the poll, allow inspection of the ballot box to be used at the poll to such candidates and authorised representatives

of candidates as may be present at the place of polling.

(2) The presiding officer shall then secure and seal the box in such manner that the slit for the insertion of ballot papers remains open, and shall also allow such candidates and authorised representatives of candidates as may be present to affix their own seals, if they so desire.

### **13. Admission To The Place Of Polling :-**

(1) The presiding officer shall exclude from the place of polling all persons except-

(a) the polling officers and other public servants on duty;

(b) the candidates, and one representative authorised in writing by each candidate;

(c) the electors;

(d) persons authorised by the Election Commission; and

(e) such other persons as the presiding officer may from time to time admit for the purpose of assisting him in taking the poll.

(2) The presiding officer shall close the place of polling at the hour fixed under clause (b) of rule 7 or, as the case may be, under clause (b) of rule 8 for the close of the poll and shall not admit therein any elector after that hour:

Provided that all electors present at the place before it is so closed shall be entitled to have their votes recorded.

### **14. Procedure For Giving Ballot Papers :-**

(1) The polling officer shall be furnished with an authentic list or part thereof of the electors entitled to vote at the place of polling.

(2) Immediately before a ballot paper is delivered to an elector, a mark shall be placed against his name in that list, and the number of the elector as shown in that list shall be entered on the counterfoil of the ballot paper.

(3) The elector shall sign his name in the list in token of receipt of the ballot paper, whereupon, but not earlier, the ballot paper shall be delivered to him.

### **15. Supply Of Fresh Ballot Paper In Certain Circumstances :-**

(1) An elector who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and on

satisfying him of the inadvertence, obtain another ballot paper in place of the ballot paper so delivered, and the latter shall, together with its counterfoil, be marked as cancelled by the presiding officer. (2) Any ballot papers so cancelled shall be kept in a separate envelope set apart for the purpose.

**16. Return Of Unused Ballot Papers By Electors :-**

If an elector after obtaining any ballot paper for the purpose of recording his vote decides not to use the same, he shall return the ballot paper to the presiding officer, who shall mark it =Returned and cancelled and keep it in a separate envelope set apart for the purpose.

**17. Manner Of Recording Votes :-**

(1) Every elector shall have as many preferences as there are candidates but no ballot paper shall be considered invalid solely on the ground that all such preferences are not marked.

(2) An elector in giving his vote-

(a) shall place on his ballot paper the figure 1 in the space opposite the name of the candidate whom he chooses for his first preference; and

(b) may, in addition, mark as many subsequent preferences as he wishes by placing on his ballot paper the figures 2,3,4 and so on, in the spaces opposite the names of other candidates, in order of preference.

Explanation. -The figures referred to in clauses (a) and (b) of this sub-rule may be marked in the international form of Indian numerals or in the Roman form or in the form used in any Indian language but shall not be indicated in words.

(3) The presiding officer shall, if requested by an elector, explain to him the instructions contained on the ballot paper for the recording of votes.

**18. Maintenance Of Secrecy Of Voting By Electors Within Place Of Polling And Voting Procedure :-**

(1) Every elector to whom a ballot paper has been delivered under rule 14 shall maintain secrecy of voting within the place of polling and for that purpose observe the voting procedure hereinafter laid down.

(2) An elector on receiving the ballot paper shall forthwith--

(a) proceed to one of the voting compartments;

- (b) record his vote in accordance with sub-rule (2) of rule 17;
  - (c) fold the ballot paper so as to conceal his vote;
  - (d) insert the folded ballot paper into the ballot box; and
  - (e) quit the place of polling.
- (3) Every elector shall vote without undue delay.
- (4) No elector shall be allowed to enter a voting compartment when another elector is inside it.

**19. Recording Of Votes Of Illiterate Or Disabled Elector :-**

- (1) If an elector is unable to read the ballot paper or to record his vote thereon in accordance with rule 17 by reason of illiteracy or blindness or, by not being conversant with the language in which the ballot papers are printed or, by reason of any physical or other disability, the presiding officer shall record the vote on the ballot paper in accordance with the wishes of the elector.
- (2) The elector shall then himself or with the assistance of the presiding officer fold up the ballot paper so as to conceal his vote and insert it into the ballot box.
- (3) While acting under this rule, the presiding officer shall observe as much secrecy as is feasible and shall keep a brief record of each such instance but shall not indicate therein the manner in which any vote has been cast.

**20. Account Of Ballot Papers :-**

- (1) The presiding officer shall at the close of the poll prepare a ballot paper account in Form 6 and enclose it in a separate cover with the words Ballot Paper Account superscribed thereon.
- (2) The presiding officer shall permit the authorised representative of a candidate, who so desires, to take a true copy of the entries in the ballot paper account and shall attest it as true copy.

**21. Sealing Up Of Ballot Boxes And Papers After The Close Of Poll :-**

- (1) As soon as practicable after the close of poll the presiding officer shall, in the presence of such candidates and authorised representatives of candidates as may be present, close and seal up the slit as well as the ballot box.
- (2) He shall also make up into separate packets-
- (a) the copy of the list of electors marked in accordance with rule 14:

- (b) the counterfoils of ballot papers;
- (c) the ballot papers cancelled under rules 15 and 16; and
- (d) the unused ballot papers, and seal each such packet with his own seal and the seals of those candidates and authorised representatives of candidates who may desire to affix their seal thereon.

## **22. Transfer Of Ballot Papers From Ballot Boxes In Certain Cases :-**

(1) Notwithstanding anything contained in rule 21, the Election Commission may, at a Presidential election, direct the presiding officer at any place of polling other than the Parliament House in New Delhi to follow after the close of the poll the procedure laid down in this rule instead of the procedure laid down in sub-rule (1) of rule 21.

(2) Where a direction has been issued under sub-rule (1), the presiding officer shall, as soon as practicable after the close of the poll, open the ballot box in the presence of such candidates and authorised representatives of candidates as may be present and transfer all the ballot papers contained in it without examining or counting them into a separate cover and record on such cover--

- (a) the name of the place of polling; and
- (b) the date of the poll.

(3) After such transfer he shall allow the candidates and their authorised representatives who may be present, to inspect the ballot box and demonstrate to them that it is empty.

(4) He shall then seal the cover with his own seal and the seals of those candidates and authorised representatives of candidates who may desire to affix their seals thereon.

(5) The cover so sealed shall, for the purposes of rules 23, 25, 32 and 33, be deemed to be the ballot box used at that place of polling and the provisions of those rules shall apply accordingly.

## **23. Despatch And Custody Of Ballot Boxes And Papers :-**

(1) At a Presidential election, the presiding officer at every place of polling other than the Parliament House in New Delhi shall forthwith cause the sealed ballot box and packets and all other papers used at the poll to be sent to the Returning Officer in accordance with such general or special instructions as may be issued in that behalf by the Election Commission.

(2) The Returning Officer shall make adequate arrangements for

the safe custody of all sealed ballot boxes and packets and other papers used at the poll, until the commencement of the counting of votes.

#### **24. Adjournment Of Poll In Emergencies :-**

(1) If the proceedings at any place of polling are interrupted or obstructed by riot or open violence, or if it is not possible to take the poll at any such place on account of a natural calamity or other sufficient cause, the presiding officer shall announce an adjournment of the poll to a date to be notified later, and immediately report the circumstances to the Election Commission and, unless he is the Returning Officer, also to the Returning Officer.

(2) Whenever a poll is adjourned under sub-rule (1), the Election Commission shall, as soon as may be, fix the day on which, the place at which, and the hours during which the adjourned poll shall be taken, and shall notify the said details to all concerned in such manner as it may think fit.

(3) On the date on which such adjourned poll is taken, the electors who have already voted at the poll before its adjournment will not be entitled to vote, but only the remaining electors who were entitled to vote at the place of polling before its adjournment may vote.

#### **25. Fresh Poll In Case Of Destruction, Etc. , Of Ballot Boxes :-**

(1) If at an election, any ballot box is unlawfully taken away from the custody of the presiding officer or the Returning Officer or is in any way tampered with, destroyed or lost, the poll taken at the place of polling where that ballot box was used shall be deemed to have been vitiated; and the Returning Officer shall, as soon as practicable, report the matter to the Election Commission, which shall appoint a day for the taking of a fresh poll at that place and fix the hours during which it will be taken.

(2) In every such case as aforesaid, the provisions of these rules shall apply to the fresh poll as they apply to the original poll.

#### **26. Voting By Electors Under Preventive Detention :-**

(1) Notwithstanding anything in the fore going provisions of this Chapter, an elector may, if he is subjected to preventive detention

under any law for the time being in force, give his vote by postal ballot.

(2) The Election Commission shall send by registered post to the officer-in-charge of the jail or other place where the elector is detained the appropriate ballot paper, together with a form of declaration of identity and attestation of signature and necessary envelopes specially prepared for the purpose and a letter of instructions, so as to reach that officer in good time before the date fixed for polling.

(3) On the date of polling the said officer shall deliver the ballot paper and other necessary papers to the elector, allow him all reasonable facilities and sufficient time, not exceeding two hours, for recording his vote in accordance with the instructions of the Election Commission, and if and when the elector has so recorded his vote, send the ballot paper and other connected papers in a sealed cover, either by registered post or through a special messenger, to the Returning Officer so as to reach him before the time fixed for the counting of votes under rule 27.

(4) It shall be the duty of every Government to intimate to the Election Commission at the appropriate time the names of electors, if any, who are subjected to preventive detention by or under the authority of that Government, together with the necessary particulars as to their places of detention.

#### **CHAPTER 4** Counting of votes and declaration of results

##### **27. Place And Time For Counting Of Votes :-**

The counting of votes shall take place at the office of the Returning Officer in New Delhi on such day and at such time as the Election Commission may appoint in this behalf; and the Election Commission shall give notice to all the candidates of the date and time so appointed.

##### **28. Admission To The Place Fixed For Counting :-**

The Returning Officer shall exclude from the place fixed for counting of votes all persons except-

- (a) such persons as he may appoint to assist him in the counting;
- (b) the candidates and one representative at a time authorised in writing by each candidate;
- (c) public servants on duty in connection with the election; and
- (d) persons authorised by the Election Commission.

##### **29. Maintenance Of Secrecy Of Voting :-**

Before the counting begins, the Returning Officer shall read out the

provisions of section 22 to the persons present.

**30. Statement Showing The Number Of Votes Of Each Elector At The Presidential Election :-**

For the purposes of every Presidential election, the Election Commission shall furnish the Returning Officer with a statement showing the number of votes which every elector has under the provisions of clause (2) of article 55; and every ballot paper put in by an elector at that election shall be deemed to represent as many votes as that elector is shown as having in that statement.

**31. Ballot Papers When Invalid :-**

(1) A ballot paper shall be invalid on which-

(a) the figure 1 is not marked; or

(b) the figure 1 is marked opposite the name of more than one candidate or is so marked as to render it doubtful to which candidate it is intended to apply; or

(c) the figure 1 and some other figure are marked opposite the name of the same candidate; or

(d) any mark is made by which the elector may afterwards be identified. Explanation. -The figures referred to in clauses (a), (b) and (c) of this sub-rule may be marked in the international form of Indian numerals or in the Roman form or in the form used in any Indian language, but shall not be indicated in words.

(2) A ballot paper shall also be invalid if, being a postal ballot paper, the signature of the elector is not duly attested.

**32. Procedure Upon Opening Each Ballot Box :-**

After each ballot box and also each sealed cover (if any) received under sub-rule (3) of rule 26, has been opened, the Returning Officer shall-

(a) count the number of ballot papers taken out there from and complete Part II of the Ballot Paper Account in Form 6;

(b) scrutinise the ballot papers and separate those which in his opinion are valid from those which in his opinion are invalid, endorsing on the latter the word =rejected and the ground of rejection; and

(c) arrange all the valid ballot papers in parcels according to the first preferences recorded for each candidate:

Provided that if, at a Presidential election, the ballot box used at a place of polling contains ballot papers of electors who, at their request are specially permitted by the Election Commission in

pursuance of rule 7 to cast their votes at the said place of polling, such ballot papers shall, after the counting and recording in Form 6 is completed, be separated and added to the other ballot papers of the same kind used by electors in the same category and shall thereafter be scrutinised.

**33. Determination Of Result :-**

After all the ballot boxes and sealed covers (if any) have been opened and the ballot papers have been scrutinised and arranged, the Returning Officer shall proceed to determine the result of the voting in accordance with the instructions contained in the Schedule to these rules.

**34. Recounting :-**

The Returning Officer may, either on his own initiative or at the instance of any candidate or of the authorised representative of a candidate in the absence of that candidate, recount votes, whether once or more than once, when the Returning Officer is not satisfied as to the accuracy of a previous count: Provided that nothing herein contained shall make it obligatory on the Returning Officer to recount the same votes more than once.

**35. Declaration Of Result :-**

(1) When the counting is complete and the result of the voting has been determined, the Returning Officer shall forthwith--

- (a) announce the result to those present;
- (b) report the result to the Central Government and the Election Commission under section 12;
- (c) prepare and certify a return of the election in Form 7; and
- (d) seal up in separate packets the valid ballot papers and the rejected ballot papers and record on each such packet a description of its contents.

(2) The Returning Officer shall, as soon as may be thereafter, forward the certified return to the Election Commission.

**CHAPTER 5 Miscellaneous**

**36. Custody Of Ballot Boxes And Election Papers :-**

All ballot boxes used at the election and the packets of ballot papers and all other papers relating to the election shall, after the election, be kept in such custody as the Election Commission may direct.

**37. Production And Inspection Of Election Papers :-**

(1) The packets of ballot papers, whether valid or rejected, and their counterfoils and the packets containing the lists of electors marked in accordance with rule 14 shall not be opened, nor shall their contents be inspected by, or produced before, any person or authority, except under the order of the Supreme Court or other competent court.

(2) All other papers relating to the election shall be open to public inspection subject to such conditions and to the payment of such fee, if any, as the Election Commission may direct.

**38. Disposal Of Election Papers :-**

The packets and other papers referred to in rule 37 shall be retained for a period of two years from the date of declaration of the result of the election, and shall thereafter be destroyed unless a direction to the contrary is given by the Supreme Court or other competent court or by the Election Commission.

**39. Copies Of Return Of Election :-**

Copies of the certified return of the election referred to in rule 35 shall be furnished by the Election Commission on payment of a fee of one rupee per copy.

**40. List Of Electors :-**

The Election Commission shall maintain a list of members of the electoral college referred to in article 54 and a list of members of the electoral college referred to in article 66, with their addresses corrected up to date for the purposes, respectively, of Presidential election and VicePresidential election.

**41. Repeal :-**

The Presidential and Vice-Presidential Election Rules, 1952, are hereby repealed.