

## **STATE OF PONDICHERRY (REPRESENTATION OF THE PEOPLE) ORDER, 1955**

### CONTENTS

#### **PART 1 :- PRELIMINARY**

1. Short title and commencement
2. Definitions

#### **PART 2 :- REPRESENTATION IN THE REPRESENTATIVE ASSEMBLY AND MUNICIPAL COUNCILS**

3. Total number of seats in the Representative Assembly
4. Total number of seats in the Municipal Councils
5. Constituencies and their delimitation

#### **PART 3 :- ADMINISTRATIVE MACHINERY FOR THE PREPARATION AND REVISION OF ELECTORAL ROLLS AND CONDUCT OF ELECTIONS**

6. Chief Electoral Officer
7. Electoral Registration Officers
8. Revising Authority
9. Returning Officers
10. Assistant Returning Officers
11. General duty of the Returning Officer
12. Polling stations for constituencies
13. Presiding Officers for polling stations
14. General duty of the Presiding Officer
15. Duties of a polling officer

#### **PART 4 :- PREPARATION AND REVISION OF ELECTORAL ROLLS**

16. Definition
17. Electoral rolls
18. Disqualifications for registration in an electoral roll
19. No person to be registered in more than one constituency
20. No person to be registered more than once in any constituency
21. Conditions of registration
22. Electoral registration officers to prepare electoral rolls
23. Draft electoral rolls
24. Claims and objections
25. Particulars regarding claims and objections
26. Register of claims and objections
27. Notice of claims and objections

28. Inquiry into claims and objections and decision regarding the same
29. Final publication of electoral rolls
- 29A. Revision of Electoral Rolls
30. Revision of electoral rolls in special cases
31. Custody of electoral rolls
32. Sale of electoral rolls
33. Electoral rolls for Assembly constituency

**PART 5 :- QUALIFICATIONS AND DISQUALIFICATIONS FOR MEMBERSHIP OF THE REPRESENTATIVE ASSEMBLY AND MUNICIPAL COUNCILS**

34. Qualifications for membership
35. Disqualification for membership

**PART 6 :- NOTIFICATION OF GENERAL ELECTIONS**

36. Notification for election to the Representative Assembly
37. Notification for election to the Municipal Councils

**PART 7 :- CONDUCT OF ELECTIONS**

38. Appointment of dates for nomination of candidates, etc.
39. Public notice of election
40. Presentation of nomination paper and requirements for a valid nomination
41. Symbols
42. Deposit, return or forfeiture of deposits
43. Notice of nominations and the time and place for their scrutiny
44. Scrutiny of nominations
45. Withdrawal of candidature
46. Publication of nominations
47. Appointment of polling agents
48. Appointment of counting agents
49. Death or revocation of appointment of a polling agent or counting agent
50. Death or revocation of appointment of counting agent
51. Functions of polling agents and counting agents
52. Attendance of a candidate at polling stations and performance by him of the functions of a polling agent or counting agent
53. Non-attendance of polling agents and counting agents
54. Death of candidate before poll
55. Contested and uncontested elections
56. Fixing time for poll
57. Adjournment of poll in emergencies
58. Fresh poll in the case of destruction, etc. of ballot boxes
59. Right to vote
60. Manner of voting at elections
61. Provisions to be followed at or in connection with voting
62. Counting of votes

63. Procedure to be followed at the counting of votes
64. Grounds for rejection of ballot papers
65. Equality of votes
66. Declaration of results
67. Report of the result
68. Return by the Returning Officer
69. Custody of the return and of the ballot boxes and papers relating to election
70. Production and inspection of election papers
71. Disposal of election papers

## **PART 8 :- DISPUTES REGARDING ELECTIONS**

72. Definitions
73. Election petitions
74. Presentation of petitions
75. Parties to the petition
76. Contents of petition
77. Relief that may be claimed by the petitioner
78. Appointment of Election Tribunals
79. Place of trial
80. Petition to be dismissed
81. Procedure before the Tribunal
82. Appearance before the Tribunal
83. Powers of the Tribunal
84. Documentary evidence
85. Secrecy of voting not to be infringed
86. Decision of the Tribunal
87. Grounds for declaring election to be void
88. Grounds for which a candidate other than the returned candidate may be declared to have been elected
89. Procedure in case of an equality of votes
90. Communication of order to the Chief Commissioner and the transmission of the records of the case
91. Order of the Tribunal to be final and conclusive
92. Deposit of security
93. Costs

## **PART 9 :- CORRUPT PRACTICES AND ELECTORAL OFFENCES**

94. Corrupt practices
95. Public meeting on the election day
96. Disturbances of election meetings
97. Maintenance of secrecy of voting
98. Officers, etc., at elections not to act for candidates or to influence voting
99. Canvassing in or near polling stations
100. Disorderly conduct in or near polling stations
101. Penalty for misconduct at the polling station
102. Breaches of official duty in connection with elections
103. Removal of ballot papers from polling station

104. Other Offences

**PART 10 :- MISCELLANEOUS**

104A. Elections to more than one seat in the Representative Assembly or in a Municipal Council

105. Casual vacancies in the Representative Assembly

106. Casual vacancies in a Municipal Council

107. Power to remove difficulties

108. Validation of acts done previous to the commencement of this Order

**SCHEDULE 1 :- Total number of seats in the Municipal Council**

**SCHEDULE 2 :- SCHEDULE**

**SCHEDULE 3 :- SCHEDULE**

**STATE OF PONDICHERRY (REPRESENTATION OF THE PEOPLE) ORDER, 1955**

<sup>1</sup>1. Published in the Gazette of India, Extraordinary, 1955, Part II. Sec. 3, p. 543. Whereas by virtue of the agreement, dated 21st October, 1954, entered into between the Government of India and the Government of France, the Central Government has jurisdiction in and in relation to the State of Pondicherry : And whereas it is expedient that provision should be made by the Central Government for the holding at an early date of elections to the Representative Assembly as well as the Municipal Councils in the said State : Now, therefore, in exercise of the powers conferred by Secs. 3 and 4 of the Foreign Jurisdiction Act, 1947 (47 of 1947), and of all other powers enabling it in this behalf, the Central Government hereby makes the following Order, namely :-

PART 1

PRELIMINARY

**1. Short title and commencement :-**

(1) This Order may be called the State of Pondicherry (Representation of the People) Order, 1955.

(2) It shall come into force at once.

**2. Definitions :-**

(1) In this Order, unless the context otherwise requires,-

(a) 'Assembly constituency' means a territorial constituency provided in accordance with the provisions of this Order for the

purpose of election to the Representative Assembly ;

(b) 'Chief Commissioner' means the Chief Commissioner of the State of Pondicherry;

(c) 'clause' means a clause in Sch II;

(d) 'corrupt practice' means any of the practices specified by this Order as a corrupt practice;

(e) 'election' means an election to fill a seat or seats in the Representative Assembly or in a Municipal Council;

(f) 'elector' in relation to a constituency means a person whose name is entered in the electoral roll of that constituency and who is not subject to any of the disqualifications mentioned in this Order;

(g) 'Form' means a form in Sch. III;

(h) 'Municipal constituency' means a territorial constituency provided in accordance with the provisions of this Order for the purpose of election to a Municipal Council;

(i) 'Municipal Council' means the Municipal Council of a commune;

(j) 'paragraph' means a paragraph of this Order;

(k) 'person' does not include a body of persons;

(l) 'Representative Assembly' means the Representative Assembly of the State of Pondicherry;

(m) 'Schedule' means a Schedule to this Order;

(n) 'State' means the State of Pondicherry.

(2) For the purposes of this Order, a person who is unable to write his name shall, unless otherwise expressly provided in this Order, be deemed to have signed an instrument or other paper if he has placed a mark on such instrument or other paper in the presence of the returning officer or presiding officer or any other appropriate officer and such officer on being satisfied as to his identity has attested the mark as being the mark of that person.

## PART 2

### REPRESENTATION IN THE REPRESENTATIVE ASSEMBLY AND MUNICIPAL COUNCILS

#### **3. Total number of seats in the Representative Assembly :-**

The total number of seats in the Representative Assembly shall be

39; and each of the seats shall be filled by a person chosen by direct election.

**4. Total number of seats in the Municipal Councils :-**

The total number of seats in the Municipal Council of each commune specified in the first column of Schedule I shall be the number specified in the Second column thereof opposite to that commune; and each of the seats shall be filled by a person chosen by direct election.

**5. Constituencies and their delimitation :-**

(1) All Assembly constituencies and Municipal constituencies shall be single-member constituencies.

(2) As soon as may be after the commencement of this Order, the Chief Commissioner shall, by order, determine the extent of each Assembly constituency and each Municipal constituency in such manner as he thinks fit.

PART 3

ADMINISTRATIVE MACHINERY FOR THE PREPARATION AND REVISION OF ELECTORAL ROLLS AND CONDUCT OF ELECTIONS

**6. Chief Electoral Officer :-**

(1) There shall be for the State a Chief Electoral Officer who shall be appointed by the Central Government after consultation with the Chief Commissioner.

(2) Subject to the superintendence, direction and control of the Chief Commissioner, the Chief Electoral Officer shall be in charge of the preparation and revision of electoral rolls for, and the conduct of, all elections to the Representative Assembly and to every Municipal Council.

(3) The Chief Commissioner may appoint one or more persons to assist the Chief Electoral Officer in the performance of his functions under this Order.

**7. Electoral Registration Officers :-**

(1) There shall be for each Municipal constituency an Electoral Registration Officer who shall be appointed by the Chief Commissioner.

(2) The Chief Commissioner may appoint such persons as he thinks fit to assist the Electoral Registration Officer in the preparation of

the electoral roll for a Municipal constituency.

### **8. Revising Authority :-**

(1) For each of the territories of Pondicherry, Karaikal, Mahe and Yanam there shall be a Revising Authority.

(2) For the territory of Pondicherry such officer of the Government of the State as may be nominated or designated by the Chief Commissioner in this behalf shall be the Revising Authority and for each of the territories of Karaikal, Mahe and Yanam the respective Administrator thereof shall be Revising Authority.

### **9. Returning Officers :-**

(1) For each Assembly constituency and each Municipal constituency there shall be a Returning Officer.

(2) Unless the Chief Commissioner otherwise directs, in the territory of Pondicherry such officer of the Government of the State as may be nominated or designated by the Chief Commissioner in this behalf, and in each of the territories of Karaikal, Mahe and Yanam the respective Administrator thereof, shall be the Returning Officer for all the Assembly and Municipal constituencies.

### **10. Assistant Returning Officers :-**

(1) The Chief Commissioner may appoint one or more persons to assist any Returning Officer in the performance of his functions.

(2) Every Assistant Returning Officer shall, subject to the control of the Returning officer, be competent to perform all of any of the functions of the Returning Officer.

### **11. General duty of the Returning Officer :-**

It shall be the general duty of the Returning Officer at any election to do all such actions and things as may be necessary for effectually conducting the election in the manner provided by this Order.

### **12. Polling stations for constituencies :-**

The Returning Officer shall, with the previous approval of the Chief Electoral Officer, provide a sufficient number of polling stations for each Assembly constituency and each Municipal constituency and shall publish in such manner as the Chief Electoral Officer may direct, a list showing the polling stations so provided and the polling area for which they have respectively been provided.

### **13. Presiding Officers for polling stations :-**

(1) The Returning Officer shall appoint a Presiding Officer for each polling station and such polling officer or officers as he thinks necessary, but he shall not appoint any person who has been employed by, or on behalf of, or has been otherwise working for, a candidate in or about the election :

Provided that if a polling officer is absent from the polling station the Presiding Officer may appoint any person who is present at the polling station other than a person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election, to be the polling officer during the absence of the former officer, and inform the Returning Officer accordingly.

(2) If the Presiding Officer is, owing to illness or other unavoidable cause, obliged to absent himself from the polling station, his functions shall be performed by such polling officer as has been previously authorised by the Returning Officer to perform such functions during any such absence.

### **14. General duty of the Presiding Officer :-**

It shall be the general duty of the Presiding Officer at a polling station to keep order there and to see that the poll is fairly taken.

### **15. Duties of a polling officer :-**

It shall be the duty of the polling officers at a polling station to assist the Presiding Officer for such station in the performance of his functions.

#### PART 4

#### PREPARATION AND REVISION OF ELECTORAL ROLLS

### **16. Definition :-**

In this Part, unless the context otherwise requires, 'constituency' means a Municipal constituency.

### **17. Electoral rolls :-**

For every constituency there shall be an electoral roll which shall be prepared and revised in accordance with the provisions of this Order.

### **18. Disqualifications for registration in an electoral roll :-**

(1) A person shall be disqualified for registration in an electoral roll of a constituency if he-

(a) is not a citizen of India or a citizen of France;

(b) is of unsound mind and stands so declared by a competent Court.

(2) The name of any person who becomes so disqualified after registration shall forthwith be struck off the electoral roll in which it is included.

**19. No person to be registered in more than one constituency :-**

No person shall be entitled to be registered in the electoral roll for more than one constituency.

**20. No person to be registered more than once in any constituency :-**

No person shall be entitled to be registered in the electoral roll for a constituency more than once.

**21. Conditions of registration :-**

**1** .- Subject to the foregoing provisions of this Part, every person who-

(a) is not less than twenty-one years of age on the 1st December, 1958; and

(b) has been ordinarily resident in a constituency for not less than 180 days during the period of twelve months ending on the 30th November, 1958; shall be entitled to be registered in the electoral roll of that constituency.

Explanation.- A person shall be deemed to be ordinarily resident in a constituency if he ordinarily resides in that constituency or owns or is in possession of, a dwelling house therein.]

1. Subs, by G.S.R. 1128, dated 27th November, 1958.

**22. Electoral registration officers to prepare electoral rolls :-**

The electoral roll of each constituency shall be prepared by an Electoral Registration Officer.

**23. Draft electoral rolls :-**

(1) As soon as the electoral roll of a constituency has been prepared, the Electoral Registration Officer shall deposit it with the Chief Electoral Officer and a true copy of the same shall be sent to

such person or persons in the constituency as the Chief Electoral Officer may specify and such person or persons shall make it available for public inspection free of any charge for such period and during such hours of the day as Chief Electoral Officer may fix in this behalf.

(2) The date on and from which, the period during which and the hours between which the electoral roll of a constituency shall be made available for public inspection shall be announced by beat of drum in the constituency and in such other manner, if any, as the Chief Electoral Officer may determine.

#### **24. Claims and objections :-**

(1) Any person may, within fifteen days from the date on which the electoral roll has been first made available for public inspection under paragraph 23 or within such further time as the Chief Electoral Officer may allow-

(a) lodge any objection he may have to make to the roll as prepared and as made available for public inspection; or

(b) prefer any claim for having his name included in the electoral roll.

(2) A notice shall be published in every constituency by beat of drum and in such other manner, if any, as the Chief Electoral Officer may determine inviting persons to lodge objections or prefer claims in respect of the electoral roll of the constituency.

(3) Every claim objection shall be made as far as practicable in such form as the Chief Electoral Officer may specify and shall be addressed to the Revising Authority.

(4) An objection or claim which is not lodged or preferred within the period specified in sub-paragraph (1) shall be rejected.

#### **25. Particulars regarding claims and objections :-**

(1) An objection or claim shall be signed either by the person desiring his name to be included in an electoral roll or by an agent authorised in writing by such person and unless it is sent by post, shall be presented either by such person or by such agent.

(2) When an objection is made to the inclusion in the electoral roll of the name of any person whose name appears therein or to any particular in any entry in the roll, such objection shall contain in

respect of such person or entry, as the case may be all particulars entered in the roll.

**26. Register of claims and objections :-**

The Revising Authority shall maintain a register of claims and objections.

**27. Notice of claims and objections :-**

(1) The Revising Authority shall by beat of drum in the place where and the time when each claim or objection preferred or lodged in time will be heard and direct every person concerned to be present either in person or by an agent with such evidence as he may wish to adduce; and where an objection is to the inclusion of the name of a person in the electoral roll the Revising Authority shall also serve notice on that person in such manner as the Chief Electoral Officer may direct requiring him or his agent to attend at the place and the time fixed for hearing of the objection.

**28. Inquiry into claims and objections and decision regarding the same :-**

(1) The Revising Authority shall hold a summary inquiry in respect of every claim and objection and shall record his decision.

(2) The Revising Authority shall also direct the Electoral Registration Officer to correct any clerical error which the Revising Authority may himself discover in the roll.

**29. Final publication of electoral rolls :-**

The electoral roll as amended in accordance with the provisions of paragraph 28 shall be printed and published in such manner as the Chief Electoral Officer may determine and the electoral roll shall come into operation immediately upon such publication.

**29A. Revision of Electoral Rolls :-**

**1 .-**

(1) The Electoral roll now in force shall be revised every year commencing with the year 1960 the qualifying date with reference to which the revision is to be made being taken as 31st March :

Provided that if for any reason the electoral roll is not revised in any year the validity or continued operation of the electoral roll shall not thereby be effected.

(2) Notwithstanding anything contained in sub-section (1), the

Chief Commissioner may, at any time, for reasons to be recorded, direct a special revision of the electoral roll for any constituency or part of a constituency in such manner as he may think fit:

Provided that, subject to the other provisions of this Order, the electoral roll for the constituency, as in force at the time of the issue of any such direction, shall continue to be in force until the completion of the special revision so directed.

(3) For the purpose of the revision of the electoral roll for any constituency under sub-sections (1) and (2), a list of amendments to the electoral roll for the time being in force shall be prepared and the provisions of paragraphs 22 to 29 of this Order, shall be prepared and the provisions of paragraphs 22 to 29 of this Order, shall, so far as may be, apply in relation to the preparation of such list as they apply in relation to the preparation of such list as they apply in relation to the preparation of the electoral roll.]

1. Subs, by G.S.R. 1128, dated 27th November, 1958.

### **30. Revision of electoral rolls in special cases :-**

(1) At any time prior to thirty days immediately preceding the commencement of the poll in a constituency any person whose name is not included in the electoral roll of that constituency may, on payment of a fee of Re. 1, make an application to the Electoral Registration Officer for the inclusion of his name in the electoral roll of that constituency.

Provided, however, if at the time the application is made, the notification under paragraph 36 has issued, the fee payable shall be Rs. 5.]

(2) The Electoral Registration Officer shall, if satisfied after such inquiry as he thinks fit that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein.

(3) The fee prescribed in sub-paragraph (1) shall be paid by affixing one or more non-judicial stamps to the application and shall in no case be refunded.

### **31. Custody of electoral rolls :-**

The Chief Electoral Officer shall specify the officer or authority with whom the final electoral roll for each constituency and other papers in relation thereto shall be kept for safe custody.

### **32. Sale of electoral rolls :-**

Printed copies of the final electoral roll for each constituency shall be available for sale to the public at such price as may be determined by the Chief Commissioner.

**33. Electoral rolls for Assembly constituency :-**

The electoral roll for every Assembly constituency shall consist of the electoral rolls of so much of all the Municipal constituencies as comprised within that Assembly constituency; and it shall be necessary to prepare or revise separately the electoral roll for any such Assembly constituency.

PART 5

QUALIFICATIONS AND DISQUALIFICATIONS FOR MEMBERSHIP OF THE REPRESENTATIVE ASSEMBLY AND MUNICIPAL COUNCILS

**34. Qualifications for membership :-**

A person shall not be qualified to be chosen to fill a seat in the Representative Assembly or a Municipal Council unless he-

(a) is a citizen of India or a citizen of France;

(b) is not less than twenty-three years of age; and

(c) in the case of a seat in the Representative Assembly is, or is eligible to be registered as, an elector for any Municipal constituency in the State and in the case of a seat in the Municipal Council of a Commune is, or is eligible to be registered as, an elector for any Municipal constituency in that Commune.

**35. Disqualification for membership :-**

A person shall be disqualified for being chosen as, and for being, a member of the Representative Assembly or a Municipal Council-

(a) if he is not a citizen of India or a citizen of France;

(b) if he holds any office of profit under the Government of the State or under a Municipal Council;

<sup>1</sup> [(c) if he has, whether by himself or by any person, entered into any contract with the Government of the State or with a Municipal Council for the supply of goods to, or for the execution of any works or the performance of any services undertaken by the Government;]

(d) if he is of unsound mind and stands so declared by a competent court;

(e) if he is an undischarged insolvent.

1. Subs, by G.S.R. 1128, dated 27th November, 1958.

PART 6

NOTIFICATION OF GENERAL ELECTIONS

**36. Notification for election to the Representative Assembly**

:-

For the purpose of constituting the Representative Assembly under this Order, the Chief Commissioner shall, by one or more notifications published in such manner as he thinks fit, call upon all the Assembly constituencies to elect members in accordance with the provisions of this Order.

**37. Notification for election to the Municipal Councils :-**

For the purpose of constituting a Municipal Council under this Order the Chief Commissioner shall, by one or more notifications published in such manner as he thinks fit, call upon all the Municipal constituencies to elect members in accordance with the provision of this Order.

PART 7

CONDUCT OF ELECTIONS

**38. Appointment of dates for nomination of candidates, etc.**

:-

As soon as the notification calling upon a constituency to elector member has been issued under this Order, the Chief Commissioner shall, by notification published in such manner as he thinks fit appoint-

(a) the last date for making nomination which shall be a date not later than the seventh day after the date of publication of the first mentioned notification;

<sup>1</sup> [(b) the date or dates for the scrutiny of nominations the first of which shall be a date not later than the third day after the last date of making nominations;

(c) the last date for the withdrawal of candidature which shall be the third day after the date or the last of the dates for the scrutiny of nominations; and]

(d) the date or dates on which a poll if necessary, shall be taken which or the first of which shall be a date not earlier than the twenty-first day a later the last date for the withdrawal of candidature.

1. Substituted by S.O. 538, dated 29th February, 1960.

**39. Public notice of election :-**

On the issue of a notification under paragraph 38, the Returning Officer shall give public notice of the intended election in such form and manner as may be specified by the Chief Electoral Officer inviting nominations of candidates for such election and specifying the place at which the nomination papers are to be delivered.

**40. Presentation of nomination paper and requirements for a valid nomination :-**

(1) On or before the date appointed under Cl. (a) of paragraph 38 each candidate shall either in person or by an agent authorised by him in writing in this behalf, between the hours of 11 o'clock in the forenoon and 3 o'clock in the afternoon deliver to the Returning Officer at the place specified in this behalf in the notice issued under paragraph 39 a nomination paper completed in Form I.

(2) A nomination paper which is not received before 3 o'clock in the afternoon on the last day appointed under Cl. (a) of paragraph 36 shall be rejected.

(3) On the presentation of a nomination paper the Returning Officer shall-

(a) permit any clerical error or in nomination paper in regard to the name and other particulars of the candidate to be corrected in order to bring them in conform it with the corresponding entries in the electoral roles; and

(b) where necessary, direct that any clerical or printing error in the said entries shall be overlooked.

(4) Nothing in this paragraph shall prevent any candidate from being nominated by more than one nomination paper for election in the same constituency.

**41. Symbols :-**

A candidate may at any time before the scrutiny of nominations in form the Returning Officer in writing that he has chosen out of the list of symbols prepared by the Chief Electoral Officer in this behalf one particular symbol for his first preference and two other symbols for his second and third preferences respectively.

**42. Deposit, return or forfeiture of deposits :-**

(1) A candidate shall not be deemed to be duly nominated unless he deposits or causes to be deposited in the case of any election to the Representative Assembly a sum of fifty rupees and in the case of an election to a Municipal Council a sum of twenty rupees:

Provided that where a candidate has been nominated by more than one nomination paper for election in the same constituency no more than one deposit should be required of him under this paragraph.

(2) Any sum required to be deposited under sub-paragraph (1) shall not be deemed to have been deposited under that sub-paragraph unless at the time of delivery of the nomination paper under sub-paragraph (1) of paragraph 40 a candidate has either deposited or caused to be deposited that sum with the Returning Officer in cash or enclosed with the nomination paper a receipt showing that the same sum has been deposited by him or on his behalf in a Government Treasury.

(3) If a candidate by whom or on whose behalf the deposit has been made withdraws his candidature in the manner and within the time specified in paragraph 45 or if the nomination of any such candidate is rejected, the deposit shall be returned to the person by whom it was made or if such person is dead, to his legal representative.

(4) If a candidate not elected, and the number of votes polled by him does not exceed one-sixth of the total number of votes polled, the deposit shall be forfeited to the Central Government.

Explanation.-In this sub-paragraph, the number of votes polled shall be deemed to be the number of ballot papers counted other than rejected ballot papers.

(5) The deposit shall, where it is not forfeited under sub-paragraph (4), be returned to the person by whom it was made or if he is dead, to his legal representative, after the publication of the result of the election in the Official Gazette.

### **43. . Notice of nominations and the time and place for their scrutiny :-**

The Returning Officers shall on receiving the nomination paper under sub-paragraph (1) of paragraph 40 inform the person or persons delivering the same of the date, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper its

serial number and shall sign there on a certificate stating the date on which, and the hour at which, the nomination paper has been delivered to him and shall, as soon as may be thereafter, cause to be affixed in some conspicuous place in his office a notice of the nomination containing descriptions similar to those contained in the nomination paper of the candidate.

**44. Scrutiny of nominations :-**

(1) On the date fixed for the scrutiny of nominations under paragraph 38 the candidates and two other persons duly authorised in writing by each candidate but no other person may attend at such time and place as the Returning Officer may appoint and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all the candidates which have been delivered within the time and in the manner laid down in paragraph 40.

(2) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination and may, either on such objection or of his own motion, after such summary inquiry, if any, as he thinks necessary, refuse any nomination on any of the following grounds, namely :-

(a) that the candidate is not qualified for being chosen to fill the seat under this Order, or

(b) that the candidate is disqualified for being chosen to fill the seat under Order, or

(c) that there has been any failure to comply with any of the provisions of paragraph 40 or paragraph 42, or

(d) that the signature of the candidate on the nomination paper is not genuine or has been obtained by fraud.

(3) Nothing contained in (c) or (d) of sub-paragraph (2) shall be deemed to authorise the refusal of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper in respect of which no irregularity has been committed.

(4) The Returning Officer shall not reject any nomination paper on the ground of any technical defect which is not of a substantial character.

(5) The Returning Officer shall hold the scrutiny on the date appointed in this behalf under (b) of paragraph 38 and shall not allow any adjournment on the proceedings except when such proceedings are interrupted or obstructed by not open violence or by causes beyond his control :

Provided that in case an objection is made the candidate concerned may be allowed time to rebut it not later than the next day but one following the date fixed for scrutiny; and the Returning Officer shall record his decision on the date on which the proceedings have been adjourned.

(6) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and if the nomination paper is rejected shall record in writing a brief statement of his reasons for such rejection.

#### **45. Withdrawal of candidature :-**

(1) Any candidate may withdraw his candidature by a notice in writing in Form II which shall be subscribed by him and delivered before 3 o'clock in the afternoon on the day fixed under clause (c) of paragraph 38 to the Returning Officer either by such candidate in person or by a person who has been authorised in this behalf in writing by such candidate :

Provided that if that day is observed as a holiday in the offices of the Government of the State the notice of withdrawal of candidature shall be considered as having been delivered in due time if it is delivered before three o'clock in the afternoon on the next succeeding day which is not a holiday observed in the offices of the Government of the State.

(2) No person who has given a notice of withdrawal of candidature under sub- paragraph (1) shall be allowed to cancel the notice.

(3) The Returning Officer shall, on receiving a notice of withdrawal under sub- paragraph (1) as soon as may be thereafter, cause a notice of withdrawal to be affixed in some conspicuous place in his office.

#### **46. Publication of nominations :-**

(1) The Returning Officer shall, immediately after the expiry of the period within which candidatures may be withdrawn under paragraph 45 prepare and publish a list of the validly nominated

candidates in such manner as may be specified by the Chief Commissioner and assign in that list a different symbol to each candidate in conformity as far as practicable with his choice.

**47. Appointment of polling agents :-**

(1) A candidate who has been duly nominated under this Order and who has not withdrawn his candidature in accordance with the provisions of paragraph 42 may, appoint one agent and two relief agents to act as polling agents of such candidate at each polling station and such appointment shall be made by a letter in writing in duplicate in Form III signed by the candidate.

(2) As soon as may be after the appointment of each polling agent of a candidate the candidate shall give notice of the appointment to the Returning Officer by forwarding to such officer the letter of appointment referred to in sub-paragraph (1).

(3) The candidate shall also deliver the duplicate copy of the letter of appointment to the polling agent who shall, on the date fixed for the poll present the copy to, and sign the declaration contained therein before, the Presiding Officer of the polling station where such polling agent is appointed for duty and the Presiding Officer shall thereafter retain it in his custody and no polling agent shall be allowed to perform any duty at the polling station unless he has complied with the provisions of this sub-paragraph.

**48. Appointment of counting agents :-**

(1) Any such candidate as is mentioned in paragraph 47 may, before the commencement of the counting of votes, appoint <sup>1</sup> [such number of counting agents as may be prescribed by the Returning Officer] by a letter in writing in duplicate in Form III signed by candidate.

(2) As soon as may be after the appointment of the counting agent of a candidate and in any case before the commencement of the counting of votes the candidate shall give notice of the appointment of such counting agent to the Returning Officer by forwarding to such Officer the letter of appointment referred to in sub-paragraph (1).

(3) The candidate shall also deliver the duplicate copy of the letter of appointment to the counting agent who shall, on the date fixed for the counting agent who shall, on the date fixed for the counting

of votes present the copy to, and sign the declaration contained therein before, the Returning Officer and the Returning Officer shall thereafter retain it in his custody and no counting agent shall be allowed to perform any duty of counting agent shall be allowed to perform any duty of counting of votes unless he has complied with the provisions of this sub-paragraph.

1. Substituted by S.O. 538, dated 29th February, 1960.

**49. Death or revocation of appointment of a polling agent or counting agent :-**

(1) Any revocation of the appointment of a polling agent shall be signed by the candidate and shall be lodged with the Presiding Officer of the polling station where such polling agent was appointed for duty.

(2) A revocation of the appointment of a polling agent shall operate from the date on which it is lodged under sub-paragraph (1) with the Presiding Officer.

(3) If the polling agent of a candidate dies before the close of the poll a candidate shall forthwith report in writing the fact of such death to the Presiding Officer of the polling station where such polling agent was appointed for duty.

(4) In the event of such revocation or death before the close of the poll, the candidate may, at any time before the poll is closed, appoint another polling agent by a letter in writing in Form III, and shall forthwith give notice of such appointment to the President-Officer of the polling station where the new polling agent is appointed for duty, by forwarding the letter of appointment of the new polling agent to the Presiding Officer, and the provisions of sub-paragraph (3) of paragraph 47 shall apply in relation to a polling agent appointed under this sub-paragraph as they apply in relation to a polling agent appointed under sub- paragraph (1) of that paragraph.

**50. Death or revocation of appointment of counting agent :-**

(1) A revocation of the appointment of a counting agent shall be signed by the candidate and shall operate from the date on which it is lodged with the Returning Officer.

(2) Where the revocation of the appointment of a counting agent or the death of such counting agent takes place before the completion

of the counting of votes, the candidate shall forthwith report in writing the fact of such revocation or death to the Returning Officer and may appoint another counting agent by a letter in writing in Form III and shall forthwith give notice of such appointment to the Returning Officer by forwarding the letter of appointment of the new counting agent to such officer and the provisions of sub-paragraph (3) of paragraph 48 shall apply in relation to a counting agent under this sub-paragraph as they apply in relation to a counting agent appointed under sub-paragraph (1) of that paragraph.

**51. Functions of polling agents and counting agents :-**

(1) A polling agent may perform such functions in connection with the poll as are authorised by this Order to be performed by a polling agent.

(2) A counting agent may perform such functions in connection with the counting of votes as are authorised by this Order to be performed by a counting agent.

**52. Attendance of a candidate at polling stations and performance by him of the functions of a polling agent or counting agent :-**

(1) At every election where a poll is taken each candidate at such election shall have the right to be present at any polling station provided for the taking of the poll.

(2) A candidate may himself do any act or thing which any polling agent or the counting agent of such candidate, if appointed, would have been authorised by this Order to do, or may assist any polling agent or the counting agent of such candidate in doing any such act or thing.

**53. Non-attendance of polling agents and counting agents :-**

Where any act or thing is required or authorised by this Order to be done in the presence of polling or counting agents, the non-attendance of any such agent or agents at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

**54. Death of candidate before poll :-**

If a candidate who has been duly nominated under this Order dies

after the date fixed for the scrutiny of nominations and a report of his death is received by the Returning Officer, before the commencement of the poll the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to the Chief Commissioner and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election :

Provided that no further nomination shall be necessary in the case of a candidate whose nomination was valid at the time of the countermanding of the poll: Provided further that no person who has given notice of withdrawal of candidature before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding.

**55. Contested and uncontested elections :-**

(1) If there is only one candidate for a seat, the Returning Officer shall forthwith declare such candidate to be duly elected to fill that seat.

(2) If there are more than one candidate for a seat, a poll shall be taken.

**56. Fixing time for poll :-**

The Chief Commissioner shall fix the hours during which the poll will be taken; and the hours so fixed shall be published in such manner as he may direct :

Provided that the total period allotted on any one day for polling at an election in a constituency shall not be less than eight hours.

**57. Adjournment of poll in emergencies :-**

(1) If at an election the proceedings at any polling station provided by this Order for the poll are interrupted or obstructed by the riot or open violence, or if at an election it is not possible to take the poll at any polling station on account of any natural calamity or any other sufficient cause the Presiding Officer of such polling station shall announce an adjournment of the poll to a date to be notified later and shall forthwith inform the Returning Officer concerned.

(2) Where a poll is adjourned under sub-paragraph (1) the Returning Officer shall immediately report the circumstances to the Chief Electoral Officer and shall, as soon as may be, with the previous approval of the Chief electoral Officer, appoint the day

shall recommence and fix the polling station at which, and the hours during which, the poll will be taken and shall not count the votes casted at such election until such adjourned poll shall have been completed.

(3) In every such case as aforesaid, the Returning Officer shall notify in such manner as the Chief Electoral Officer may direct the date, place and hours of polling fixed under sub-paragraph (2).

**58. Fresh poll in the case of destruction, etc. of ballot boxes**  
:-

(1) If at any election any ballot box is unlawfully taken out of the custody of the Returning Officer or of any Presiding Officer or is in any way tampered with, or is either accidentally or intentionally destroyed or lost, the election to which such ballot box relates shall be void but only in respect of the polling at the polling station at which such ballot box was used, and to no further.

(2) Whenever the polling at any polling station shall become void under sub-paragraph (1), the Returning Officer shall, as soon as practicable after the act or event causing such voidance has come to his knowledge, report the matter to Chief Electoral Officer and shall, with the previous approval of the Chief Electoral Officer, appoint a day for the taking of a fresh poll in such polling station and fix the hours during which the poll will be taken and shall not count the votes at such election until such fresh poll shall have been completed.

(3) In every such case as aforesaid, the Returning Officer shall take a fresh poll in such polling station on the day so appointed by him and shall notify the day so appointed and the hours of polling so fixed by him in such manner as the Chief Electoral Officer may direct, and the provisions of this Order shall apply to every such fresh poll as they apply to the original poll.

**59. Right to vote** :-

(1) No person who is not, and except as expressly provided by this Order, every person who is, for the time being, entered in the electoral roll of any constituency shall be entitled to vote in that constituency.

(2} No person shall at any election vote in the same Assembly constituency or in the same Municipal constituency more than once

notwithstanding that his name may have been registered in the electoral roll for that constituency more than once, and if he does so vote, all his votes in that constituency shall be void.

<sup>1</sup> [(2A) No person shall vote at a general election in more than one Assembly constituency or in more than one Municipal constituency, and if a person votes in more than one such constituency, his votes in all such constituencies shall be void.]

(3) No person shall vote at an election if he is confined in a prison, or is in other lawful custody.

1. Inserted by S.R.O. 1320, dated 18th June, 1955.

**60. Manner of voting at elections :-**

At every election where a poll is taken votes shall be given by ballot and no votes shall be received by proxy.

**61. Provisions to be followed at or in connection with voting :-**

The provisions contained in Schedule II shall be followed at or in connection with the voting at elections held under this Order.

**62. Counting of votes :-**

(1) At every election where a poll is taken votes shall be counted by or under the supervision of the Returning Officer and each candidate and his counting agent shall have a right to be present at the time of counting.

(2) The Returning Officer shall appoint a date or dates (which shall be as soon as practicable after the completion of the poll throughout the constituencies) for the counting of votes and shall fix the place and time at which the votes shall be counted on the date or each of the dates so appointed.

(3) The Returning Officer shall give notice of each such date, time and place in writing to all candidates.

**63. Procedure to be followed at the counting of votes :-**

(1) On the date and at the time and place appointed under paragraph 62 the Returning Officer shall, before he commences to count the votes, read the provisions of paragraph 97 to such persons as may be present. He shall then with respect to ballot boxes used at the poll proceed as follows :

(i) All the ballot boxes placed for the counting of votes shall be counted and checked and the Returning Officer shall satisfy himself that all such ballot boxes contain the ballot papers which are to be counted at such place have been received and accounted for.

(ii) The Returning Officer shall then allow the candidates and their counting agents, present at the counting an opportunity to inspect the ballot boxes and their seals for satisfying themselves that they are in order.

(iii) The Returning Officer shall also satisfy himself that none of the boxes has in fact been tampered with. If any ballot box is found by the Returning Officer to have been tampered with or destroyed or lost the Returning Officer shall postpone the counting of votes and shall follow the procedure laid down in paragraph 58 and shall, after the fresh poll under that paragraph has been completed, recommence the counting on the date and at the time and place appointed by him in this behalf of which notice has been previously given to the candidates and their counting agents.

(iv) If the Returning Officer is satisfied that all such ballot boxes contain the ballot papers which are to be counted at such place have been received and are in order, he shall take up the counting of ballot papers contained in the ballot boxes. All the ballot boxes used at a polling station shall be opened and the counting of the ballot papers found in those boxes proceeded with at the same time as far as practicable.

<sup>1</sup>[(v) On each ballot box being opened for counting, the ballot papers shall be taken out of the box and arranged in convenient bundles and, after all the valid votes recorded on the ballot papers have been counted with the aid of persons appointed to assist in the counting of votes, an account of the votes recorded in favour of each candidate shall be prepared in a suitable manner.]

(vi) The Returning Officer shall allow the candidates and their counting agents who may be present reasonable opportunity to inspect all ballot papers, which in the opinion of the Returning Officer are liable to be rejected but shall not allow them to handle those or any other ballot papers. The Returning Officer shall on every ballot paper which is rejected shall endorse the word "rejected". If any candidate or his counting agents questions the correctness of the rejection of any ballot paper, the Returning Officer shall also record briefly on such ballot paper the ground for

its rejection. A brief record shall be kept of the serial numbers of all ballot papers rejected and of such particulars as will identify the ballot box in which each such ballot paper was found.

<sup>2</sup>[(vii) After the counting of all the valid votes recorded on ballot papers contained in each ballot box has been completed by the Returning Officer and an account of such votes has been prepared, the Returning Officer shall cause the ballot papers taken out of each box to be kept in a separate packet on which shall be indicated such particulars as will identify the ballot box in which the ballot papers were found, the names of the candidates and the name of the polling station and the number of the polling booth, if any, where such ballot box was used.]

(viii) After counting of ballot papers contained in all the ballot boxes has been completed, the Returning Officer shall cause all the packets containing the ballot papers in support of each candidate to be placed together in a separate container or containers and shall seal up all such containers and shall write on each such container the name of the candidate in support of whom the ballot papers contained in such container were cast and the name of constituency and the date of the election to which it refers and permit the candidates or their agents to put their seals on each container if they so like. <sup>3</sup> [He shall also cause all ballot papers rejected by him to be kept in a separate sealed packet.]

(2) The Returning Officer shall as far as practicable proceed continuously with the counting of the votes and shall during any intervals when the counting has to be suspended, keep the ballot papers, packets and other documents relating to the election sealed with his own seal and the seals of such candidates or counting agents as may desire to affix their seals and shall cause adequate precaution to be taken for their safe custody.

(3) After the counting of ballot papers contained in all the ballot boxes used at all the polling stations in the constituency the Returning Officer shall-

(a) in the case where such votes have been counted at one place, record in a suitable statement the total number of votes polled by each candidate, and

(b) in the case where such votes have been counted at more places than one, prepare a consolidated statement recording in that

statement the total number of votes polled by each candidate in the entire constituency.

1. Substituted by S.O 1524, dated 2nd July, 1959.
2. Substituted by S.O. 1524, dated 2nd July, 1959.
3. Substituted by S.O. 1524, dated 2nd July, 1959

**64. Grounds for rejection of ballot papers :-**

(1) A ballot paper contained in a ballot box shall be rejected if-

(a) it bears any mark or writing by which the elector can be identified ;

(b) in the case where a direction has been issued under Cl. 4 of Schedule II that the ballot paper shall contain a distinguishing mark, it does not contain the distinguishing mark;

(c) it bears any serial number or mark different from the serial numbers or marks of ballot papers authorised for use at the polling station at which the ballot box in which it was found was used;

(d) the Returning Officer is satisfied that it is a spurious ballot paper or that it has been so damaged or mutilated that its identity as genuine ballot paper cannot be established.

**65. Equality of votes :-**

If, after the counting of votes is completed, an equality of votes is found to exist between any candidates, and addition of one vote will entitle any of those candidates to be declared elected, the Returning Officer shall forthwith decide between those candidates by lot and proceed as if the candidate on whom the lot falls had received an additional vote.

**66. Declaration of results :-**

When the counting of votes has been completed the Returning Officer shall forthwith declare the result of the election : Provided that upon the application of any candidate or his counting agent a total or partial recount shall be made before the Returning Officer makes the declaration, but the Returning Officer may reject any such application as may appear to him to be frivolous or unreasonable recording at the the same time the grounds for such rejection.

**67. Report of the result :-**

As soon as may be after the result of an election has been declared the Returning Officer shall report the result to the Chief Electoral

Officer and the Chief Commissioner and the Chief Commissioner shall cause to be published the declarations containing the names of the elected candidates in such manner as he thinks fit.

**68. Return by the Returning Officer :-**

The Returning Officer shall prepare and certify a return in Form VII setting forth-

- (1) the names of the candidates for whom valid votes have been given,
- (2) the number of valid votes given for each candidate,
- (3) the number of votes declared invalid,
- (4) the number of tendered votes, and
- (5) the number of the candidate elected. He shall also permit any candidate or his counting agent to take a copy of an extract from such return.

**69. Custody of the return and of the ballot boxes and papers relating to election :-**

- (1) The Returning Officer shall, after reporting the result of the election under paragraph 67, forward the return to the Chief Electoral Officer.
- (2) All ballot boxes used at the election shall be kept in such custody as the Chief Electoral Officer may direct.
- (3) The Returning Officer shall keep in his own custody the packets of ballot papers and all other papers relating to the election.

**70. Production and inspection of election papers :-**

- (1) While in the custody of the Returning Officer the packets of ballot papers, whether valid, rejected or tendered, and of the marked copy of the electoral roll shall not be opened and their contents shall not be inspected by, or produced before, any person or authority except under the order of a competent court or of a Tribunal.
- (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 Chief Commissioner may direct.
- (3) Copies of the returns by the Returning Officers forwarded under

paragraph 69, shall be furnished by the Chief Electoral Officer on payment of a fee of two rupees for each such copy.

**71. Disposal of election papers :-**

(1) The packets referred to in sub-paragraph (1) of paragraph 70, shall be retained for a period of one year and shall thereafter be destroyed subject to any direction to the contrary given by the Chief Commissioner or by a competent court or by a Tribunal.

(2) All other papers relating to the election shall be retained until the termination of the next general election for the constituency to which they relate and shall thereafter be destroyed subject to any direction to the contrary given by the Chief Commissioner or by a competent Court or by a Tribunal.

**PART 8**

**DISPUTES REGARDING ELECTIONS**

**72. Definitions :-**

In this Part, unless the context otherwise requires,-

(a) 'agent' includes a polling agent and a counting agent and any person who on the trial of an election petition or of an offence with respect to any election, is held to have acted as an agent in connection with the election with the knowledge or consent of the candidate;

(b) 'candidate' means a person who has been or claims to have been duly nominated as a candidate at any election and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate;

(c) 'costs' means all costs, charges and expenses of, or incidental to, a trial of an election petition;

(d) 'electoral right' means the right of a person to stand or not to stand as, or to withdraw from being, a candidate, or to vote or refrain from voting at an election;

(e) 'pleader' means any person entitled to appear and plead for another in a civil court and includes an advocate, a vakil and an attorney of a High Court;

(f) 'returned candidate' means a candidate who has been declared elected by the Returning Officer.

**73. Election petitions :-**

No election shall be called in question except by an election petition presented in accordance with the provisions of this Order.

**74. Presentation of petitions :-**

An election petition calling in question any election may be presented on one or more of the grounds specified in paragraphs 87 and 88 to the Chief Commissioner by a candidate at such election or any elector within thirty days from the date of the declaration of the result of the election.

**75. Parties to the petition :-**

A petitioner shall join as respondents to his petition all the candidates who were duly nominated at the election other than himself if he was so nominated.

**76. Contents of petition :-**

(1) An election petition shall contain a concise statement of the material facts on which the petitioner relies and shall be signed and verified by the petitioner.

(2) The petitioner shall also set forth full particulars of any corrupt practice that the petitioner alleges and any Schedule of annexure to the petition shall also be signed and verified by the petitioner.

**77. Relief that may be claimed by the petitioner :-**

A petitioner may claim any one of the following declarations, namely :-

(a) that the election of the returned candidate is void;

(b) that the election of the returned candidate is void and that he himself or any other candidate has been duly elected.

**78. Appointment of Election Tribunals :-**

(1) After the petition has been received, the Chief Commissioner shall appoint an Election Tribunal for the trial of the petition.

(2) The Election Tribunal shall consist of a single member who has for at least five years held a judicial office in India or in the State.

(3) If, during the course of the trial, the member of the Tribunal is for any reason unable to perform his functions or has to relinquish his membership, the Chief Commissioner shall appoint another person to be the member of the Tribunal and upon his joining the

Tribunal he may either retry the petition or proceed from the point at which the previous member left it.

(4) The Chief Commissioner may at any time withdraw an election petition from one Tribunal and transfer it to another Tribunal for trial.

**79. Place of trial :-**

The trial shall be held at such place as the Chief Commissioner may appoint.

**80. Petition to be dismissed :-**

If the provisions of paragraph 74, paragraph 76, paragraph 92 are not complied with, the Tribunal shall dismiss the petition:

Provided that if a person making the petition satisfies thereafter that sufficient cause existed for his failure to present the petition within the period laid down therefor the Tribunal may in its discretion condone such failure.

**81. Procedure before the Tribunal :-**

(1) As soon as the Tribunal receives the petition from the Chief Commissioner for trial, the Tribunal shall serve on each respondent a notice in such form as it thinks fit directing the respondent to appear before the Tribunal and answer the claim made in the petition on a day to be specified therein.

(2) Subject to the provisions of this Order, every election petition shall be tried by the Tribunal as early as may be in accordance with the procedure followed by a civil court for the trial of a suit.

**82. Appearance before the Tribunal :-**

Any appearance, application or act before the Tribunal may be made or done by the party in person or by a pleader duly appointed to act on his behalf :

Provided that it shall be open to the Tribunal to direct any party to appear in person whenever the Tribunal considers it necessary.

**83. Powers of the Tribunal :-**

The Tribunal shall have the powers which are vested in a civil court when trying a suit in respect of the following matters :-

(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) reception of evidence taken on affidavit; and

(g) issuing commissions for the examination of witnesses.

**84. Documentary evidence :-**

Notwithstanding anything contained in any other law to the contrary no document shall be inadmissible in evidence at the trial of an election petition on the ground that it is not duly stamped or registered.

**85. Secrecy of voting not to be infringed :-**

No witness or other person shall be required to state for whom he has voted at an election.

**86. Decision of the Tribunal :-**

(1) At the conclusion of the trial of an election petition, the 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.

(2) By the same order, the Tribunal may also fix the total amount of costs payable and specify the persons by and to whom the costs shall be paid.

**87. Grounds for declaring election to be void :-**

If the Tribunal is of opinion-

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

(b) that any corrupt practice has been committed in the interest of the returned candidate, or

(c) that the result of the election has been materially affected by the improper acceptance or rejection of any nomination, or

(d) that by reason of the fact that any person was not qualified or was disqualified for election or by the improper reception or refusal of a vote or by the reception of any vote which is void or by any non-compliance with the provisions of this Order the result of the election has been materially affected, or

<sup>1</sup> [(e) that the election has not been a free election by reason of the large number of cases in which group intimidation or the corrupt practice of bribery or undue influence has been exercised or committed, the Tribunal shall declare the election of the returned candidate to be void.]

Explanation.- In this sub-paragraph, the expression 'group intimidation' means any interference or attempt at interference by a community, group or section with the free exercise of another community, group or section of the right to vote or refrain from voting by intimidation, coercion, social or economic boycott, threat of such boycott or other similar means.

1. Inserted by S.O. 538, dated 29th February, 1960.

**88. Grounds for which a candidate other than the returned candidate may be declared to have been elected :-**

If any person who has lodged a petition has in addition to calling in question the election of the returned candidate claimed a declaration that he himself or any other candidate has been duly elected and the Tribunal is of opinion-

(a) that in fact the petitioner or such other candidate received a majority of the valid votes, or

(b) that but for the votes obtained by the returned candidate by corrupt practices the petitioner or such other candidate would have obtained a majority of the valid votes,

The tribunal shall after declaring the election of the returned candidate to be void declare the petitioner or such other candidate as the case may be, to have been duly elected.

**89. Procedure in case of an equality of votes :-**

If during the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared elected, then-

(a) any decision made by the Returning Officer under the provisions

of this Order shall, in so far as it determines the question of those candidates, be effective also for the purpose of the petition, and

(b) in so far as that question is not determined by such a decision, the Tribunal shall decide between them by lot and proceed as if the one on whom the lot falls had received an additional vote.

**90. Communication of order to the Chief Commissioner and the transmission of the records of the case :-**

The Tribunal shall after announcing the order made by it under paragraph 86 send a copy of the order and the records of the case to Chief Commissioner.

**91. Order of the Tribunal to be final and conclusive :-**

Every order of the Tribunal made under this Order shall be final and conclusive and shall take effect from the date on which it is announced by the Tribunal.

**92. Deposit of security :-**

The petitioner shall enclose with the petition a Government Treasury receipt showing that a deposit of two hundred and fifty rupees had been made by him in a Government Treasury in favour of the Secretary to the Chief Commissioner in the appropriate department as security for the costs of the petition.

**93. Costs :-**

Costs including pleader's fee shall be in the discretion of the Tribunal and shall be paid out of the security deposit provided for in paragraph 92.

PART 9

CORRUPT PRACTICES AND ELECTORAL OFFENCES

**94. Corrupt practices :-**

The following shall be deemed to be corrupt practices for the purposes of this Order :-

(1) Bribery, that is to say, any gift, offer or promise by a candidate or his agent or by any other person with the connivance of any candidate or his agent for any gratification to any person whomsoever with the object, directly or indirectly, of inducing-

(i) a person to stand or not to stand as, or to withdraw from being, a candidate at an election, or

(ii) an elector to vote or refrain from voting at an election, or as a reward to-

(a) a person for having so stood or not stood, or for having withdrawn his candidature, or

(b) an elector for having voted or refrained from voting.

Explanation.- For the purposes of this clause the term 'gratification' is not restricted to pecuniary gratifications or gratifications estimable in money, and it includes all forms of entertainment and all forms of employment for reward.

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or his agent or of any other person with the connivance of the candidate or his agent, with the free exercise of any electoral right:

Provided that-

(i) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who-

(a) threatens any candidate or any elector or any person in whom a candidate or any elector is interested, with injury of any kind including social ostracism and excommunication or expulsion from any caste or community, or

(b) induces or attempts to induce a candidate or an elector to believe that he or any person in whom he is interested will become or will be rendered an object of divine displeasure or spiritual censure,

(ii) a declaration of public policy or a promise of public action or the mere exercise of a legal right with intent to interfere with an electoral right shall not be deemed to be interference within the meaning of this clause.

(3) The procuring or abetting or attempting to procure by any candidate or his agent or by any other person with the connivance of a candidate or his agent, the application by a person for a ballot paper in the name of any other person whether living or dead or in a . fictitious name or by a person for a ballot paper in his own name when, by reason of the fact that he has already voted in the same or some other constituency he is not entitled to vote.

(4) The removal of a ballot paper from the polling station during the polling hours by a candidate or his agent or by any other person with the connivance of a candidate or his agent.

(5) The publication by a candidate or his agent or by any other person with the connivance of the candidate or his agent of any statement of facts which is false, and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of the candidate or in relation to the candidature or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospectus of that candidate's election.

(6) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or by any other person with the connivance of a candidate or his agent, any assistance for the furtherance of the prospects of the candidate's selection from any person serving under the Government of the State or under a Municipal Commune other than the giving of vote by such person.

**95. Public meeting on the election day :-**

(1) No person shall convene or hold or attend to any public meeting within any constituency on the date or dates on which a poll is taken for an election in that constituency.

(2) Any person who contravenes the provisions of sub-paragraph (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

**96. Disturbances of election meetings :-**

(1) Any person who at a public meeting to which this paragraph applies acts, or incites others to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called shall be punishable with fine which may extend to two hundred and fifty rupees.

(2) This section applies to any public meeting of a political character held in any constituency between the date of the issue of a notification under this Order calling upon the constituency to elect a member or members and the date on which such election is held.

(3) If any police officer reasonably suspects any person of committing an offence under sub-paragraph (1), he may, if requested so to do by the chairman of the meeting, require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or

address, the police officer may arrest him without warrant.

**97. Maintenance of secrecy of voting :-**

(1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-paragraph (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

**98. Officers, etc., at elections not to act for candidates or to influence voting :-**

(1) No person who is in the service of the Government of the State whether or not connected with the conduct or management of the election shall do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(2) No such person as aforesaid, shall endeavour-

(a) to persuade any person to give his vote at an election, or

(b) to dissuade any person from giving his vote at an election, or

(c) to influence the voting of any person at an election in any manner.

(3) Any person who contravenes the provision of sub-paragraph (1) or sub-paragraph (2) shall be punishable with imprisonment which may extend to six months or with fine or with both.

**99. Canvassing in or near polling stations :-**

(1) No person shall on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred yards of the polling station, namely :-

(a) canvassing for votes; or

(b) soliciting the vote of any elector; or

(c) persuading any elector not to vote for any particular candidate; or

- (d) persuading any elector not to vote for at the election, or
- (e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-paragraph (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

**100. Disorderly conduct in or near polling stations :-**

(1) No person shall, on the date or dates on which a poll is taken at any polling station,-

(a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof; any apparatus for amplifying or reproducing the human voice, such as a megaphone or loud speaker, or

(b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any polling station or in any public or private place in the neighbourhood thereof,

(2) Any person who contravenes, or wilfully aids or abets the contravention of, the provision of sub-paragraph (1) shall be punishable with imprisonment which may extend to three months or with fine or with both.

(3) If the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this paragraph, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-paragraph (1), and may seize any apparatus used for such contravention.

**101. Penalty for misconduct at the polling station :-**

(1) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the Presiding Officer or by any police officer on duty or by any person authorised in this behalf by such Presiding Officer.

(2) The powers conferred by sub-paragraph (1) shall not be

exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the Presiding Officer, he shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

(4) An offence punishable under sub-paragraph (3) shall be cognizable.

### **102. Breaches of official duty in connection with elections**

:-

(1) If any person to whom this paragraph applies is without reasonable cause guilty of any act or omission in breach of his official duty he shall be punishable with fine which may extend to five hundred rupees.

(2) The persons to whom this paragraph applies are the Electoral Registration Officers, Returning Officers, Assistant Returning Officers, Presiding Officers, Polling Officers and any other person appointed to perform any duty in connection with the preparation of all electoral rolls, the receipt of nominations, or withdrawal of candidature or the recording or counting of votes at an election; and the expression 'official duty' shall for the purposes of this paragraph be construed accordingly, but shall not include duties imposed otherwise than under this Order.

### **103. Removal of ballot papers from polling station :-**

(1) Any person who at any election fraudulently takes, or attempts to take, a ballot paper out of polling station, or wilfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(2) If the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-paragraph (1), such officer may, before such person leaves the polling station arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided that when it is necessary to cause a woman to be

searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the Presiding Officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-paragraph (1) shall be cognizable.

**104. Other Offences :-**

(1) A person shall be guilty of an electoral offence if at any election he-

(a) fraudulently defaces or fraudulently destroys any nomination paper; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a Returning Officer; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the distinguishing mark on any ballot paper; or

(d) without due authority supplies any ballot paper to any person; or

(e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election;

(g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(2) Any person guilty of an electoral offence under this paragraph shall-

(a) if he is a Returning Officer or a Presiding Officer at a polling station or any other officer or clerk employed on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both;

(b) if he is any other person, be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(3) For the purposes of this paragraph, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression 'official duty' shall not include any duty imposed otherwise than under this Order.

PART 10

MISCELLANEOUS

**104A. Elections to more than one seat in the Representative Assembly or in a Municipal Council :-**

**1** .-

(1) If a person is elected to more than one seat in the Representative Assembly or in a Municipal Council, then, unless within the prescribed time he resigns all but one of the seats in writing addressed to the Chief Commissioner, all the seats shall become vacant.

(2) The prescribed time shall be as follows :-

(a) where the declaration of the election to the seats is made on the same day, fourteen days from that date;

(b) where the dates of declaration of his election to the several seats are different, fourteen days from the last of those dates.]

1. Inserted by S.O. 538, dated 29th February, 1960.

**105. Casual vacancies in the Representative Assembly :-**

When the seat of a member elected to the Representative Assembly becomes vacant or when his election on the Representative Assembly is declared by the Tribunal to be void but no order is made by the Tribunal declaring any other candidate to have been duly elected to that seat, the Chief Commissioner shall, by a notification published in such manner as he thinks fit, call upon the Assembly constituency concerned to elect a person for the purpose of filling the vacancy so caused before such date as may be specified in the notification, and the provisions of this Order shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

**106. Casual vacancies in a Municipal Council :-**

When the seat of a member elected to a Municipal Council becomes vacant or when his election to a Municipal Council is declared by the Tribunal to be void but no order is made by the Tribunal declaring any other candidate to have been duly elected to that seat, the Chief Commissioner shall by a notification published in such manner as he thinks fit call upon the Municipal constituency concerned to elect a person for the purpose of filling the vacancy so caused before such date as may be specified in the notification and the provisions of this Order shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

**107. Power to remove difficulties :-**

Whereas notwithstanding the provisions of this Order difficulties may arise in relation to the various matters dealt with in this Order, the Chief Commissioner may, for the purpose of removing such difficulties, issue from time to time such direction as he may think necessary or expedient.

**108. Validation of acts done previous to the commencement of this Order :-**

All things done, and all steps taken before the commencement of this Order with a view to facilitating the provisional preparation of electoral rolls for the purpose of elections to the Representative Assembly or to the Municipal Councils shall, in so far as they are in conformity with the provisions of this Order, be deemed to have been done under this Order as if it were in force at the time such things were done or such steps were taken.

**SCHEDULE 1**

Total number of seats in the Municipal Council

<b>SCHEDULE I</b>		
(See paragraph 4)		
<b>Total number of seats in the Municipal Council</b>		
	Name of Commune 1	Total number of seats 2
	Territory of Pondicherry	
	1 .....	.....
	2 .....	.....
	3 .....	.....
	4 .....	.....
	5 .....	.....
	etc.	

	Territory of Karaikal	
	1 .....	.....
	2 .....	.....
etc.		
	Territory of Mahe	
	1 .....	.....
	2 .....	.....
etc.		
	Territory of Yanam	
	1 .....	.....
	2 .....	.....
etc.		

SCHEDULE 2

SCHEDULE

(See paragraph 61) 1. Admission to polling station. (1) The Presiding Officer shall regulate the number of electors to be admitted at any one time inside the polling station and shall exclude therefrom all other persons except (a) the polling officers, (b) each candidate, and one polling agent of such candidate, (c) the police officers and other public servants on duty, (d) a child in arms accompanying an elector, (e) the companions of blind or infirm electors who cannot move without help, and such other persons as the Presiding Officer may from time to time admit for the purpose of identifying electors or otherwise assisting him in taking the poll. (2) The Presiding Officer shall close the polling station at the hour fixed in that behalf under paragraph 56 and shall not admit thereto any elector after that hour : Provided that all electors present within the polling station before it is so closed shall be entitled to have their votes recorded. (3) If any question arises as to whether any elector shall, for the purpose of the proviso to sub-paragraph (2), be deemed to be present within the polling station before it is closed, the question shall be referred for the decision of the Presiding Officer and his decision shall be final. 2. Arrangements of secrecy of voting and special facilities for women electors at polling stations. (1) Each polling station shall be furnished with a compartment (hereinafter in the Order referred to as a "Marking Compartment") in which the electors can, one after another, enter and mark the ballot paper screened from observation. No elector shall be allowed to enter such compartment when another elector is inside the same for the purpose of marking the ballot paper. (2) The men and women elector shall, for the purpose of casting their votes, be admitted into a polling station alternately in different batches. (3) The Returning Officer or the Presiding Officer may appoint a woman to serve as an attendant at any polling station to assist women electors and also to assist the Presiding Officer generally in taking the poll in respect of women electors and in particular, to help in searching any woman elector in case it becomes so necessary. (4) For the purpose of identification of a woman elector her husband or any other near relative may be permitted by the Presiding Officer at his discretion to accompany her inside - the polling station, but such person shall not be permitted to accompany her in the marking compartment. (5) The Presiding Officer may permit an elector to enter the marking compartment with a child in arms. 3. Provision of ballot boxes and other articles at the polling station. (1) The

Returning Officer shall provide at each polling station one ballot box and as many spare boxes as he considers necessary. (2) Each ballot paper shall contain in parallel columns the following particulars : (a) the names of the contesting candidates in the order in which they appear in the list of validly nominated candidates; (b) the names of the parties to which they belong; and (c) the symbols allotted to them. (3) Outside and inside each polling station there shall be displayed prominently (a) a notice specifying the polling area, the electors of which are entitled to vote at the polling station, and (b) another notice giving the name of each candidate in the same language or languages and in the same order in which the names of such candidates appear in the list of validly nominated candidates. (4) The Returning Officer shall also provide at each polling station a sufficient number of ballot papers and copies of electoral rolls in respect of the polling area or areas the electors of which are entitled to vote at such polling station as well as such other equipment and accessories as may be required for taking the poll at such polling station.

4. Mark on ballot papers. (1) The Chief Electoral Officer may direct that before any ballot paper is delivered to an elector at a polling station it shall be marked with such distinguishing mark as may be specified by the Chief Electoral Officer in this behalf. (2) When any such direction has been issued by the Chief Electoral Officer, the Returning Officer shall provide at the polling station concerned instruments for stamping the distinguishing mark on the ballot paper.

5. Ballot boxes to be locked and sealed. (1) Every ballot box and every ballot paper shall be of such design and colour as have been previously approved by the Chief Electoral Officer and the ballot box shall be so constructed that ballot papers can be introduced therein but cannot be withdrawn therefrom without the box being unlocked and the seals being broken. (2) The Presiding Officer of each polling station shall, immediately before the commencement of the poll, allow inspection of each ballot box to be used at the poll to the candidates and their polling agents who may be present at such station and demonstrate to them and all other persons present that it is empty. (3) The Presiding Officer shall thereafter affix to each ballot box a paper seal provided for the purpose. He shall also affix on such paper seal his own signature or seal and obtain thereon the signatures or seals of such candidates or of such polling agents of the candidates as may be present and may desire to affix such signatures or seals; he shall thereafter secure and seal each box in their presence in such manner that the slit in the box for insertion of ballot papers therein remains open. (4) The paper seal used in a ballot box shall be affixed in such manner that it shall not be possible to open the box again without breaking such paper seal. (5) After the ballot box required to be used at the polling station has been secured and sealed, it shall be placed on the table in front of the Presiding Officer. [\*\*\*]

6. Special procedure for preventing personation of electors. (1) Every elector who applies for a ballot paper for the purpose of voting at a polling station shall, before receiving such paper or papers, allow (a) the inspection of his left forefinger to the Presiding Officer or any polling officer, and (b) an indelible ink mark to be put on his left forefinger. (2) If any such elector (a) refuses to allow such inspection of his left forefinger, or (b) refuses to allow an indelible ink mark to be put on his left forefinger or persists in doing any act with a view to remove such mark after it has been put, he shall not be entitled to be supplied with any ballot paper or cast his vote at the election. (3) Except as provided in sub-clause (4), no person who has already such a mark on his left forefinger at the time he enters the polling station shall be supplied with any ballot paper, and if any such person applies for a ballot paper he shall be liable to be arrested and prosecuted for personation. (4) Where elections in any Assembly constituency and in a Municipal

constituency are being held simultaneously at a polling station, an elector whose left forefinger has been marked with indelible ink at the polling station as a preliminary to his receiving the ballot paper for one such election shall not be required to have his left forefinger marked again with such ink before receiving the ballot paper for the other election and the presence of the mark made for the purpose of one of such elections shall not disentitle him from receiving the ballot paper for the other election. (5) Any reference in this paragraph or in the next following paragraph to the left fore finger of an elector shall, where the elector has no left forefinger, be construed as a reference to any other finger of his left hand, and shall, where the elector has no finger at all of his left hand, be construed as a reference to the forefinger or any other finger of his right hand, and shall, where the elector has no finger at all on either of his hands, be construed as a reference to such extremity of his left or right arm as he possesses. 7. Procedure before recording votes. (1) The elector on entering the polling station shall first allow his forefinger to be inspected by a polling officer for the purpose of ascertaining if he already has any mark of indelible ink on his finger; and if there is no such mark, such or any other polling officer (a) shall ascertain the elector's name and address and such other particulars as appear on the electoral roll and after having checked these by reference to the roll shall call out the number, name and description of the elector according to the entry in the roll; and (b) shall thereafter cause the left forefinger of the elector to be marked with an indelible ink and then deliver a ballot paper to the elector. (2) Before delivering the ballot paper to the elector, the polling officer shall, where a direction has been issued in this behalf under Cl. 4, stamp the ballot paper with such distinguishing mark as may have been specified under that clause. (3) The polling officer shall at the time of delivery of the ballot paper place against the serial number of the elector in the electoral roll a mark to denote that the elector has received a ballot paper and shall also keep a record of the serial number of the ballot paper supplied to the elector in such manner as the Returning Officer may, subject to the instructions issued in that behalf by the Chief Electoral Officer, direct. 8. Identification of electors. The Presiding Officer may employ at the polling station such persons as he thinks fit to assist him or any polling officer in identifying the electors. 9. Manner of voting after the receipt of ballot papers. (1) On receiving the ballot paper, the elector shall forthwith proceed into the marking compartment and shall, without undue delay mark the ballot paper by putting the seal provided by the Presiding Officer on or against the symbol of the candidate for whom he wants to vote and then fold the ballot paper in such a manner that the mark will not be visible to any other person and come out of the compartment and then put the ballot paper through the slit provided for the purpose into the ballot box placed in front of the Presiding Officer. (2) Every elector shall vote without undue delay and shall quit the polling station as soon as he has casted his vote; and no elector shall remain in the marking compartment longer than is necessary for marking the ballot paper. The Presiding Officer may take such steps as he may consider necessary to ensure the smooth and prompt progress of the poll. [\*\*\*] 10. Recording of votes of infirm electors. If owing to blindness or other infirmity an elector is unable to read the symbol of a candidate in the ballot paper or is physically incapable of marking the ballot paper and putting it into the ballot box, the Presiding Officer shall enter the marking compartment with such elector, ascertain from him the candidate in whose favour he desires to cast the vote, mark the ballot paper for that candidate in the manner provided in sub-clause (1) of Cl. 9, fold it so as to make the mark invisible to any other person and then put the ballot paper through the slit provided for that

purpose in the ballot box. The Presiding Officer shall have this done with as much secrecy as is feasible and shall keep a brief record of such instance without indicating the manner in which the vote has been cast. 11. Elector to be questioned in case of doubts as to his identity. If the Presiding Officer has reason to doubt the identity of an elector or his right to vote at an election, he may, in order to be satisfied about the identity of the elector, put such questions as he thinks fit and the elector shall not be supplied with a ballot paper if he refuses to answer any such questions. 12. Tendered votes. (1) If a person representing himself to be a particular elector named in the electoral roll applies for a ballot paper after another person has already voted as such elector, the applicant shall, after answering such questions as the Presiding Officer may ask, be entitled to receive a ballot paper (referred to in this Order as a 'tendered ballot paper') in the same manner as any other elector. (2) A tendered ballot paper shall be in Form IV and shall, instead of being put into the ballot box, be handed over by such person to the Presiding Officer who shall thereupon take such person inside the marking compartment and shall in the presence of such person endorse it with the name of the candidate for whom such person desires to vote and also with the name of the elector and his serial number in the electoral roll; the Presiding Officer shall then place the ballot paper in a separate packet set apart for the purpose and at the end of the poll the packet containing all such tendered ballot papers shall be signed and such votes shall not be counted by the Returning Officer. (3) The name of the constituency, the name of the elector, his serial number in the electoral roll and the name of the polling station to which the roll relates shall be entered in a list in Form V which shall bear the heading "Tendered Votes List"; and the person tendering such ballot paper shall also sign his name or affix his thumb impression against the entry relating to him in that list. 13. Challenged votes. (1) If any candidate or his polling agent declares and undertakes to prove that any person by applying for a ballot paper and claiming to be a particular voter has committed the offence of personation, the Presiding Officer shall require such person to enter in the list of Challenged Votes (which shall be in Form VI) his name and address or if he is unable to write to affix his thumb impression thereto, and may further require such person to produce evidence of identification : Provided that no action shall be taken by the Presiding Officer under this sub-clause unless a sum of ten rupees has been deposited in cash with the Presiding Officer by the candidate or such agent for each challenge he makes. (2) If the person so challenged refuses to comply with such requisition he shall not be permitted to vote. But if such person does so comply he shall be allowed to vote after he has been warned of the penalty for personation. (3) If the Presiding Officer after such inquiry on the spot as he thinks necessary is of opinion that the challenge made by the candidate or his agent under sub-clause (1) is frivolous and has not been made in good faith, he shall direct the deposit under sub-clause (1) to be forfeited to Government and his order in this respect shall be final. (4) If the deposit made under sub-clause (1) is not forfeited under sub-clause (3), it shall be returned to the person by whom it was made after the close of the poll on the day on which it is made. (5) The Presiding Officer shall in every case, whether or not the person challenged is allowed to vote, make a note of the circumstances in the list of Challenged Votes. 14. Return of ballot papers by an elector. (1) If an elector after obtaining any ballot paper for the purpose of casting his vote decides not to use the same, he shall return the ballot paper to the Presiding Officer, and the ballot paper so returned shall then be marked as "cancelled-returned" and kept in a separate envelope set apart for the purpose and a record shall be kept by the Presiding Officer of all such ballot

papers. (2) If any ballot paper which has been issued to any elector for the purpose of recording his vote has not been put into the ballot box but has been left by the elector at the polling station it shall be dealt with in accordance with the provisions of sub-clause (1) as if it has been returned to the Presiding Officer.

14-A. Special procedure of postal ballot for electors employed on duty at polling stations. (1) A Presiding Officer, a Polling Officer, any other public servant or a polling agent, who is an elector in a constituency and is by reason of his being on duty at a polling station unable to vote at the polling station where he is entitled to do so, may, on application, be allowed to record his vote in that constituency by postal ballot. (2) Every such application shall be addressed to the Returning Officer of the constituency, shall specify the name of the elector, his address and his electoral roll number and shall be made at least seven days, or such less period as the Returning Officer may in any particular case allow, before the date or the first of the dates fixed for the poll. (3) If the Returning Officer is satisfied that the applicant is entitled to vote by postal ballot under sub-clause (1) he shall make arrangement for the supply of a postal ballot paper to him.

14-B. Form of postal ballot papers. (1) A postal ballot paper to be used at elections under Cl. 14-A shall be in Form IX and shall be in such language or languages, in whole or in part, as the Chief Electoral Officer may direct. (2) The names of the candidates shall be arranged in a postal ballot paper in same order in which they appear in the list of contesting candidates.

14-C. Issue of postal ballot paper. (1) The Returning Officer shall, as soon as practicable send a postal ballot paper by registered post to each elector entitled to vote by postal ballot paper under Cl. 14-A and shall at the same time (a) enter on the counterfoil of the ballot paper the name of the elector to whom the ballot paper is sent and his electoral roll number; and (b) take necessary steps to ensure that the elector is not allowed to vote at a polling station. (2) Along with the ballot paper, the Returning Officer shall send to the elector (a) a declaration in Form X; (b) a cover in Form XI; (c) a large cover addressed to himself in Form XII; and (d) instructions for the guidance of the elector in Form XII. (3) Every officer under whose care or through whom a postal ballot paper is sent shall ensure that the same is delivered to the addressee without delay. (4) After ballot papers have been issued to all the electors entitled to vote by postal ballot, the Returning Officer shall seal up in a packet the counterfoils of all such ballot papers and record on the packet a brief description of its contents, the name of the constituency and the date on which he seals it. (5) No election shall be invalidated by reason that an elector has not received his ballot paper provided that a ballot paper has been issued to him in accordance with these rules.

14-D. Recording of votes on postal ballot papers. (1) An elector who has received a postal ballot paper and desires to vote shall record his vote on the ballot paper in accordance with the directions contained therein; he shall then secure the same in the cover in Form XI. (2) The elector shall sign the declaration in Form X in the presence of and have the signature attested by any of the following persons : (a) any Secretary to Government, Deputy Secretary or Under Secretary; (b) any Head of the Department of Government; (c) any Member of Representative Assembly; (d) any Mayor or Councillor of a Municipal Council; (e) any Magistrate but not a Village Magistrate; (f) any other officer prescribed by the Chief Commissioner.

15. Delivery of ballot boxes to the Returning Officer after the close of the poll. - The Presiding Officer of each polling station shall, as soon as practicable after the close of the poll, in the presence of any candidates or their polling agents who may be present, close the slit for insertion of ballot papers of each ballot box or, where the box does not contain any mechanical device for closing the slit,

seal up the slit, and seal and secure all the ballot boxes used at polling station, he shall also make up into separate packets: (a) the unused ballot papers; (b) the tendered ballot papers; (c) the returned ballot papers; (d) the marked copy of the electoral roll; (e) the tendered votes list; (f) the list of challenged votes; and (g) any other paper directed by the Returning Officer to be kept in a sealed packet, and shall seal each packet with his own seal and seals of such candidates or polling agents as may desire to affix their seals thereon, he shall then as soon as may be deliver the ballot boxes and all such packet and all other papers used at the poll or cause them to be delivered to the Returning Officer at such place as the Returning Officer may direct subject to any general or special instructions issued in that behalf by the Chief Electoral Officer. 16. Transport of ballot boxes and packets and their custody. The Returning Officer shall make adequate arrangements for the safe transport of all ballot boxes, packets and other papers referred to in Cl. 15 and for their safe custody until the commencement of the counting of votes.

### SCHEDULE 3

#### SCHEDULE