

THE JAMMU AND KASHMIR LAMBARDARI RULES, 1980

Revenue Department Notification SRO 363 of 1980 dated 10th July, 1980.— In exercise of the powers conferred by Section 6 of the Jammu and Kashmir Lambardari Act, 1972 (X of 1972), and in supersession of the rules sanctioned under Order No. 230-C of 1948, the Government hereby make the following rules, namely :—

1. *Short title and commencement.* —(1) These rules may be called the Jammu and Kashmir Lambardari Rules, 1980.

(2) They shall come into force on the date of their publication in the Government Gazette.

2. *Definitions.*— In these rules, unless there is anything repugnant to the context,—

- (a) ‘Act’ means the Jammu and Kashmir Lambardari Act, 1972 ;
- (b) ‘Form’ means a form appended to these rules ;
- (c) ‘Section’ means a section of the Act ;
- (d) ‘Constituency’ means the limits of an estate or group of estates or sub-divisions of any estate constituted for the purpose of election or appointment of a Lambardar ;
- (e) all words used but not defined in these rules shall have the meanings assigned to them in the Jammu and Kashmir Lambardari Act, 1972.

3. *Persons eligible for election and appointment as Lambardar.*— A person shall not be qualified to be elected or appointed as Lambardar, if he,—

- (i) ¹[is under the age of 25 years] ;

1. Substituted for “is under 30 years of age” by SRO-412 of 2017 dated 29.09.2017.

- (ii) is not registered as an elector for the constituency in which he is appointed ;
- (iii) is not a permanent resident of that constituency ;
- (iv) is an employee of the Government or local body ;
- (v) is of unsound mind ;
- (vi) is an undischarged insolvent ;
- (vii) is a person who has been convicted of any offence or subjected by a criminal court to any such order as implies a defect of character involving moral turpitude and is serving a sentence of imprisonment for a criminal offence or under detention for failure to furnish security for keeping the peace or for good behaviour ;
- (viii) is of a bad character involving moral turpitude ;
- (ix) is in arrears in the payment of any dues to the Government ;
- (x) is not able to read and write urdu ;
- (xi) is not tilling land; and

¹[(xi) is not Middle pass.]

4. *Personal Security*.— No person shall be appointed as Lambardar unless he furnishes a substantial personal security or that of one surety of immovable property of the value exceeding the land revenue with cesses of such constituency to which he is appointed as Lambardar.

²[5. *Remuneration of Lambardars*.— The remuneration of the Lambardars shall be such as may be fixed by the Government from time to time.]

6. *Duties of a Lambardar*.— A Lambardar shall—

- (i) make collection of land revenue, arrears of land revenue,

1. Inserted by SRO 412 of 2017 dated 29.09.2017.

2. Substituted *ibid*.

cesses or other sums recoverable as arrears of land revenue under any law ;

- (ii) make collection of produce of the land belonging to the Government within the constituency ;
- (iii) acknowledge every payment against receipt ;
- (iv) report to the Tehsildar about the death of any assignee of land revenue or Government pensioner residing in the constituency ;
- (v) report to the concerned authority about the marriage or re-marriage of any person drawing family pension and his absence for more than a year within the constituency ;
- (vi) report to the Tehsildar about all encroachments on common lands including roads, grazing ground or Government lands and damage to Government Property such as Electric Transmission Lines etc. ;
- (vii) carry out to the best of his ability about a lawful order that he may receive from a revenue officer ;
- (viii) assist in such manner as the Revenue Officer, may from time to time, direct in crop inspections, mutation proceedings, survey, preparation of records or other revenue Department business within the limits of constituency ;
- (ix) attend the summons of all authorities, having jurisdiction in the constituency, and assist them in the discharge of the public duties ;
- (x) supply to the best of his ability about any local information which may be required by an authority and generally act for the inhabitants of the constituency in their dealings with the Government ;
- (xi) report the local Revenue Officer as well as to the nearest Police and Medical Officer about out break of any disease among

human beings and animals ;

(xii) report about any breach or break-down in the Irrigation system within his jurisdiction ; and

(xiii) report to the tehsildar or any concerned officer about any extraordinary event of public importance :

Provided that where Lambardar concerned is not in a position to recover sums mentioned in clause (i) the patwari concerned shall assist him or make recovery thereof :

Provided further the patwari concerned shall help to the Lambardar in recovering the sums mentioned in clause (i) wherever it is necessary.

7. Manner of depositing sums. —(1) A Lambardar shall till the 10th day of each calendar month deposit or cause to be deposited all sums recovered by him during the preceding month in the Treasury of the concerned Tehsil after deducting the amount due to him as remuneration.

(2) Where the amount calculated at the rate of 5 % of the sums recovered is less than Rs. 100 /- the Tehsildar concerned shall after these are deposited by the Lambardar in the Treasury, make payment to him of such amount as would be needed to make good the deficiency as provided for in rule 5.

(3) At the close of each financial year a Lambardar shall, within a period of three months, reconcile the statement of collections remittances and balances with the Tehsil Accountant (Wasil Baqinawis).

(4) The Tehsildar incharge of a Tehsil shall record a certificate on the statement to the effect that the accounts maintained by the Lambardar in respect of the constituency in which he holds office, have been reconciled.

8. Suspension of a Lambardar.— If a Lambardar fails to deposit any dues recovered by him into the Government Treasury during next month he shall be placed under suspension by the Tehsildar of the Tehsil concerned.

9. Dismissal of a Lambardar. —(1) A Lambardar shall be dismissed by the Collector if—

- (a) he incurs any of the disqualification mentioned in rule 3 ;
- (b) he mortgages his holding or a part thereof, as the case may be ;
- (c) he fails to render assistance to a public servant in the discharge of his duties within his constituency ;
- (d) he is unfit to discharge his duties owing to physical or mental incapacity or remains absent from his place of residence consecutively for a period of six months ;
- (e) he takes part in any agitation against the Government or fails to give active support to the Government functionary ;
- (f) his holding is attached on account of arrears of land revenue or for any other sum recoverable from him.

(2) All vacancies caused due to dismissal of a Lambardar shall be referred to the Collector for being filled up in accordance with these rules.

10. *Punishment.*— Where a Lambardar contravened any of the provisions of these rules or neglects to perform the duties imposed upon him by these rules or by any other law for the time being in force, the Collector may by order direct—

- (a) that the remuneration to which he is entitled be withheld or forfeited to Government for a period not exceeding one year ; or
- (b) that he shall be placed under suspension for a period not exceeding one year.

11. *Temporary appointment of a substitute and his duties.* —(1) The Tehsildar may appoint a substitute in place of the Lambardar placed under suspension under rule 8 or 10 as the case may be.

(2) In case a Lambardar remains, with the permission of the Tehsildar, absent by reason of sickness or any other reason for the period exceeding six months or is unable to perform the duties imposed upon him

under these rules, a substitute may be appointed in his place ¹[for a period not exceeding six months. However in exceptional cases, the period of six months can be extended with the prior approval of District Collector].

(3) A substitute (Lambardar) appointed under the above sub-rules shall be entitled to the remuneration payable or the amounts to be recovered by him during the period of suspension of a Lambardar and perform all duties mentioned in rule 6.

12. *Removal of the substitutes.* —(1) In making appointments of substitutes election shall not be resorted to, but the substitute shall possess all the qualifications and shall not suffer from any disabilities that apply to the election of the Lambardar.

(2) A substitute may be removed at any time by appointing authority either on his own or for any other reason which will justify his removal.

13. *Appeals and Revision.* — Orders passed under rules 8, 9, 10, 11 and 12 shall be subject to review, appeal or revision in connection with procedure prescribed in that behalf in the Jammu and Kashmir Land Revenue Act, 1996 and the Rules made there under.

14. *Elections.* —(1) A general election of Lambardar shall be held in accordance with these rules, within such time and within such areas as may be prescribed by the Revenue Minister by a Notification in the Government Gazette.

²[x x x x].

(3) Where a vacancy is ordered to be filled by election, such election shall take place in accordance with these rules and the Revenue Minister may in respect of the vacancy so filled by selection order, that no fresh election shall take place till the next election or till the constituency again falls vacant.

(4) Subject to the provisions of clause (a) where the vacancy is not filled by election, the appointment to a vacant post of Lambardar shall be

1. Inserted by SRO 412 of 2017 dated 29.09.2017.

2. Sub-rule (2) omitted *ibid*.

made by the Revenue Officer not below the rank of Tehsildar subject to confirmation by the Collector ¹[for a period not exceeding six months]:

Provided that the appointee, shall possess all the qualifications prescribed in this behalf and shall not suffer from any disabilities that apply to the election of the Lambardar.

15. *Constituencies.*— The limits of an estate, sub-division of any estate or group of estates as may be constituted under the provisions of rule 3 shall form the constituency for election of the office of Lambardar.

²[16. *Term of office of the Lambardar.* —(1) The term of office for which a Lambardar may be elected shall be 05 years or till he attains the age of 60 years whichever shall be earlier.

(2) An outgoing Lambardar shall, unless the Government otherwise direct, continue in office till election of his successor.

(3) An outgoing Lambardar may, if otherwise qualified, be eligible for contesting the election.

(4) When as a result of any enquiry held under these rules, an order declaring the election of any Lambardar void has been announced, such Lambardar shall forthwith cease to hold his office.]

17. *Casual Vacancies.* —(1) Whenever a vacancy occur due to death, resignation, removal or by vacation of his seat under the provisions of sub-clause (4) of rule 16, a new Lambardar shall be elected in accordance with these rules; provided that the Divisional Commissioner may direct in any such case that the vacancy shall be left unfilled or when a vacancy occurs not more than six months before the next general elections are due, may fill such a vacancy by ³[nomination of a person for a period not exceeding six months who is otherwise qualified] for appointment as a Lambardar.

(2) Every person elected against a casual vacancy shall hold his appointment for the time and subject to the condition upon which it was

1. Inserted by SRO 412 of 2017 dated 29.09.2017.

2. Substituted *ibid.*

3. Substituted for “nomination of a person who is otherwise qualified” *ibid.*

tenable by the person in whose place he has been selected, and no longer¹[but he shall be eligible, if otherwise qualified, for re-election].

18. *Returning Officers and preparation of Electoral Rolls.*— The Returning officers for the various constituencies shall be the local Tehsildars who shall be responsible for the preparation of Electoral Rolls and the holding of elections. The Revenue Minister may, however, appoint any other officer by name or by virtue of his office to function as a Returning Officer for the purposes of these Rules.

19. *Polling Areas.*— For the purpose of preparing the Electoral Rolls and for holding elections, each Tehsil shall be divided in such polling areas as may be fixed by the Tehsildar and the electors residing in each such polling areas shall cast their votes at the polling station that may be fixed for this purpose.

20. *Publication of the Polling Areas.*— Every Tehsildar shall post a notice at the Tehsil office showing the name of villages included in each polling area and shall direct all Patwaris to give wide publicity to such notice within their patwar circles.

21. *General conditions of registration and disqualification.*— No person shall be entitled to be registered as an elector on the Electoral Roll of a constituency who—

- (a) is not a permanent resident of the State ; or
- (b) has not attained the age of 21 years on the first day of April of the year in which the general elections are held ; or
- (c) has been adjudged by a competent Court to be of unsound mind ; or
- (d) does not reside within the constituency.

Explanation.— For the purpose of this rule and rule 3, a person may be presumed to reside in a constituency if he owns a family

1. Substituted for “but he may, if otherwise qualified be re-elected” by SRO 412 of 2017 dated 29.09.2017.

dwelling house or a share in a family dwelling house in the constituency and that house has not during the twelve months preceding the date of the notification referred to in rule 14 been let on rent.

22. *Bar to voting at an election.*— No person shall be entitled to vote at any election if on the date on which the poll is taken he is undergoing a sentence of imprisonment.

23. *Preparation of Electoral Rolls.*— There shall be a separate Electoral Roll for each constituency and no person who is not for the time being included in the Electoral Roll for any constituency shall be entitled to vote in that constituency.

24. *Duration of the Electoral Roll.* —(1) A new Electoral Roll shall be prepared before each general election and it shall remain in force for five years from the date of that general election.

(2) Any bye election for filling up a casual vacancy shall be conducted on the basis of the Electoral Roll in force for the time being.

(3) The Electoral Roll for the constituencies may from time to time in whole or in part be revised and kept up to date as may be directed in each case by the Divisional Commissioner.

25. *Electoral Registrars and preparation of contents of provisional rolls.* —(1) The Tehsildars will be called to function as Electoral Registrars for preparing the new Electoral Roll and for disposing of all claims and objections relating thereto. The Collector may appoint additional officers from amongst the Returning Officers appointed under rule 18 to work as Electoral Registrars, if need be. They shall prepare for the area for which they are responsible a provisional roll in separate parts, one part for each polling area, of all persons who are qualified to be registered as electors.

(2) Each provisional roll shall contain the following heads :—

- I. village or ward,
- II. serial number of elector,

III. name of elector,

IV. father's name,

V. residence; and

VI. qualifications.

(3) The names of all qualified voters shall be shown separately for each village or ward and shall be serially numbered.

26. Printing, Posting and Publishing of Provisional Rolls. —(1) The Electoral Registrar shall on or before the date fixed by the Divisional Commissioner forward a duly checked copy of the Provisional Roll to the Collector who may cause the roll to be printed and supply copies to the Electoral Registrars, or otherwise the Electoral Registrar shall himself make out as many copies of the rolls as may be required.

(2) The Electoral Registrars shall cause a copy of the Provisional Roll for each polling area, to be posted at each Government Revenue Office, Police Station or Chowki, Government or Aided School and Panchayat Office within the polling area and two copies of the roll for all polling areas within the Tehsil to be posted at the Tehsil Office. Such copies shall be posted at such a place and in such a way as to enable members of the Public easily to inspect them, and shall remain posted, as near as may be from such date after the publication of the Provisional Roll as the Collector may direct to the date on which the Provisional Roll is replaced by the final Electoral Roll. The fact of Posting of Rolls should be notified through the agency of the Town Area Committee or Municipal Committee and Revenue Agency and by beat of drum.

27. Penalty for damaging Provisional Rolls.— Any Person who willfully damages any copy of the roll which has been posted under the foregoing rules shall on conviction before Magistrate be liable to fine which may be not less than Rs. 100/-.

28. Sale of Provisional Rolls.— Copies of the Provisional Roll may be purchased from the Electoral Registrar on payment of 25 paise for each constituency.

29. Hearing of claims and objections by Electoral Registrar.—

The Electoral Registrar shall fix dates for the hearing of claims and objections relating to the provisional Roll. He shall give notice of these dates to the public by affixing a list of those dates on the notice board outside his office and in such other manner as he shall consider effectual. On the dates fixed the Electoral Registrar shall sit from 10 A.M. to 4 P.M. at his office and shall deal with the claims and objections. The work before the Electoral Registrar shall be so arranged as to enable him effectually to dispose of the claims and objections within one week of the commencement of the sitting.

30. Contents and form of claim.— Within one week of the date of the posting of publication of the Provisional Roll, as directed by Rule 26(2) any person who claims to be entitled to be registered as an elector and who is not entered or is entered in an incorrect place or with incorrect particulars on the Provisional Roll may present a petition claiming that his name be entered in the Electoral Roll of the constituency or the entry relating to his name be corrected. The petition need not bear a court fee stamp. The petition shall be signed by the petitioner and shall be in duplicate, the second copy being available for posting at the office of the Electoral Registrar. It shall contain the following particulars :—

- (i) Name of claimant ;
- (ii) Father's or husband's name ;
- (iii) City and ward or Town or village where claimant resides ;
- (iv) Qualifications by which he claims to be entitled ;
- (v) The mistake, if any, in the Electoral Roll.

31. Contents and form of an objection.— Within one week of the date of polling or publication of the Provisional Rolls as required by Rule 26(2) any person whose name is entered in the Provisional Roll may present a petition objecting to the entry of the name of any other person as an elector of the same constituency. The petition shall bear a court-fee stamp of Rs. 2/-. The petition shall be signed by the petitioner and shall be in duplicate, one copy being available for service on the person objected to

and one copy for posting at the office of the Electoral Registrar. It shall contain the following particulars :—

- (1) Name, village or ward and serial number of objector in the Provisional Roll ;
- (2) Name village or ward and serial number of person to whose entry objection is taken ;
- (3) Grounds of objection.

32. *Place and method of presentation of claim or objection.*— A petition of claim or objection may be presented at the office of the Electoral Registrar of the polling area to which the claim or objection related by the petitioner in person, or by agent authorised in writing or may be sent to him by post.

33. *Limitation.*— Claims and objections received after the prescribed date shall be rejected.

34. *Authority receiving claim or objections to enter it in register.*— The Electoral Registrar shall maintain a register for entry of claims in Form “A” and another register for entry of objections in Form “B” attached to these rules. All claims and objections received shall be entered seriatim in these registers. The Electoral Registrar shall give notice of the claims by affixation of the petition on a notice board outside his office-building and by posting a list of such claims on the same board. As regards objections he shall serve a copy of each objection on the person the entry of whose name on the Electoral Roll is objected to and shall post on the aforesaid notice board a list of the objections containing the names of the party objected to and of the party objecting.

The lists so posted and the copy of objections so served shall also mention the date fixed for the hearing of the claim or the objection, as the case may be.

35. *Electoral Registrar empowered to take up a case suo moto.*— The Electoral Registrar may on his own motion and at any time between the posting or publication of the provisional roll, as the case may be, and

within two weeks of the earliest date fixed by him for hearing claims and objections under rule 29 make a claim for the entry of name on the roll or an objection to an entry and shall cause a copy of his objection and a notice of the date of hearing to be served on the person to whom objection is taken and shall post at his office a copy of the claim or objection and of the notice of hearing.

36. Appearance of parties

On the date appointed for the hearing a party to a claim or objection may appear personally or by an agent duly authorised by him in writing.

37. Hearing and decisions of claims or objections

At the place and time fixed for the hearing of the claims and objections, the Electoral Registrar shall call up the cases in the order in which they have been registered and shall dismiss the claim of any person who is not present or represented. The Electoral Registrar shall then proceed to hear the parties or their authorised agents in such cases as have not been dismissed and shall hear such evidence as may be produced and as he may think necessary and shall record and declare his decision forthwith. If a person to the inclusion of whose name in the Electoral Roll objection has been taken is not present although due notice has been served on him, the Electoral Registrar shall, as far as possible, decide the case on its merits. The Electoral Registrar shall not adjourn the proceedings in a case once begun except for reasons to be recorded in writing.

38. Electoral Registrar's order to be final

The orders made by the Electoral Registrar shall be subject to review by an officer nominated for the purpose by the Government.

39. Amendment of the Roll

After disposing of each case the Electoral Registrar shall make the appropriate entry or correction in his copy of the Provisional Roll clearly in red ink and affix his initials and as soon as possible after the disposal of all cases, shall forward his corrected copy of the Provisional Roll to the Collector. In cases where changes have been made in the Provisional Roll,

the serial number of electors on the roll shall also be renumbered by the Electoral Registrar.

40. *Reprinting and republication of the Rolls.*— The Collector may take such action as may be necessary for the printing of the final electoral roll and shall send copies of the roll or parts of the roll to the Returning Officers to be posted in substitution for the Provisional Roll at such places where the Provisional Roll has been posted under sub-rule (2) of rule 26 or otherwise the Electoral Registrar shall himself make out as many copies as may be required.

41. *Correction by Electoral Registrar of clerical and minor errors on application.*— At any time before the disposal of all claims and objections any elector whose name is entered in the Provisional Roll, may, on a petition which need not bear a court fee stamp, bring to the notice of the Electoral Registrar any error in any entry relating to his name which is a clerical error or a mistake which neither affects his right to be registered as an elector nor gives him the right to be registered and the Electoral Registrar may make any such correction as he deems proper.

42. *Nomination for election.*— Any person may apply as a candidate for election in any constituency for which he is eligible for election under these rules.

43. *Dates for certain stages of elections.*— Subject to the provisions of rules 14, 15 and 17 the Collector shall appoint for each constituency :—

- (a) a date by which applications from candidates shall be received ;
- (b) a further date not later than the 10th day after the first mentioned date within which scrutiny of the applications shall be completed by the Returning Officers ; and
- (c) a further date or dates on which a poll shall if necessary, be taken; and the date so appointed shall be notified in the constituency in such manner as the Collector may think fit.

44. Form of applications

The applications shall be in the following form duly attached with a non-judicial stamp of Rs.

2/-

1. Name of Constituency ..

2. Name of Candidate ..

3. Father's name

4. Age (date of birth)

5. Residence

6. Village or ward and

Serial No. on the Electoral Roll

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45. Candidates to submit nomination papers

On or before the date appointed under Rule 43, each candidate shall, in person deliver to the Returning Officer an application after it has been duly filled up and signed by the candidate himself and the Returning Officer shall give him a receipt therefor.

46. *Nomination papers to be arranged in a file in order of time.*— The applications for each constituency shall be arranged in a file in order of the time at which they are received in the office of the Returning Officer.

47. *Further procedure on the nomination papers.*— The Returning Officer shall inform the candidates whose applications have been received by him of the date, hour and place appointed for the scrutiny of nominations and on the date so appointed the candidates and their counsel may attend at such time and place as the Returning Officer may appoint and the Returning Officer shall give him all reasonable facilities for examining the applications of any or all other candidates for the same constituency.

48. *Scrutiny and decision by Returning Officer.*— On the date appointed for the scrutiny of applications the Returning Officer shall examine the applications and shall decide all objections which may be made to any application and may, either on such objection or on his own motion after such summary enquiry, if any, as he thinks necessary reject any application on any, of the following grounds that :—

- (1) the candidate is not eligible for election under these rules ;
- (2) there has been any failure to comply with any of the provisions of rules 44 and 45 ;
- (3) the candidate is not identical with the person whose village and serial number on the electoral roll is given in the application as the number of such candidate ;
- (4) the signature of the candidate is not genuine or has been obtained by fraud.

49. *Returning Officers to write his decision on each nomination paper-scrutiny proceedings not to be adjourned.*— The Returning Officer shall endorse on each application his decision accepting or rejecting the same and if the application is rejected shall record in writing a brief statement of his reasons for such rejection. The scrutiny shall be completed on the day appointed in this behalf under rule 47 and no adjournment proceedings shall be allowed.

50. *Returning officer's decision to be final.*— The orders of the Returning Officer shall be final unless the same are reversed as a result of an Election Petition.

51. *Withdrawal of candidature.*— Any candidate may withdraw his candidature by notice in writing subscribed by him and delivered to the Returning Officer before 3 P.M. on the day following the date appointed for the scrutiny of applications. A candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal or offer himself as a candidate for the same election. The Returning Officer shall cause a notice of the withdrawal to be affixed in some conspicuous place in his office.

52. *Procedure of only one or more candidates validly nominated in a constituency.* —(1) If in a constituency only one candidate has been validly nominated the Returning Officer shall declare him to have been duly elected and shall forthwith report the fact to the Collector who shall notify it in such manner as he thinks fit.

(2) If two or more candidates have been duly nominated for one constituency, an election shall be held in that constituency.

53. *Returning Officer to determine the colour of ballot boxes for candidates.*— Not later than one day after completing the scrutiny of nominations for each constituency the Returning Officer shall, if the number of candidates for the constituency whose nominations are valid and who have not withdrawn under rule 51 is more than one, determine the colour with which the ballot boxes for votes of that candidate shall be painted.

The colours shall be as follows :—

Black, white, red, yellow, green, blue and such other colours and in such other order as the Collector may, if necessary describe. To each candidate in each constituency whose nomination he accepts the Returning Officer shall assign a colour in the order named i.e., to the first candidate he shall assign the colour black, to the second the colour white, to the third the colour red and to the fourth the colour yellow and so on.

54. *List of valid nomination to be posted.*— The Returning Officer shall then forthwith prepare a list of the valid nominations for each constituency and shall cause it to be affixed in some conspicuous place in his place, and shall cause a similar list to be affixed at some conspicuous place at the Tehsil Office and at each village where a polling station has been appointed, or if the constituency is part of a city, in each ward.

55. *Collector to be informed about the allotment of colours to candidates.*— The Returning Officer on the day after completing the scrutiny of nominations for each constituency shall, as soon as he has allotted colours, report to the Collector the name of the constituency the number of candidates who have been nominated for it and the colours allotted by him.

56. *Procedure if a nominated candidate dies before the date of election.*— If a candidate who has been duly nominated dies before the date appointed for the election no fresh nomination shall be necessary in the case of other candidates duly nominated.

57. *Collector to nominate qualified person if no duly nominated candidate remains.*— If no candidate has been duly nominated under these rules or if all the candidates duly nominated withdraw their candidature within 10 days of the date fixed for the election, the Revenue Officer not below the rank of Tehsildar subject to confirmation of Collector shall nominate and appoint as Lambardar any person qualified to represent the constituency.

58. *Police arrangements.*— The Deputy Commissioner shall arrange in consultation with the District Superintendent of Police for providing Police at such polling station at the time of the election in such number and with such instructions as he may consider necessary for the maintenance of public order at each polling station during the election and for assisting the presiding officers in the safe custody of the ballot boxes, books and registers used in the election until they are deposited in a Treasury in accordance with these rules.

59. *Detailing of civil servants for election duties.*— All civil officers or servants of the State other than those employed in the Police, Customs and Medical Departments, shall be held available for service in the conduct of the election, and the Returning Officer may appoint such officer or servant

who ordinarily carries on his work in the area for which he is the Returning Officer to carry out any duties imposed by these rules. If the number of these Officers is not sufficient the Returning Officer shall apply to the Deputy Commissioner who shall be competent to provide for the temporary deputation of other civil officers or servants to perform any of these duties.

60. *Appointing of presiding officer and clerks.* —(1) The Returning Officer shall with the previous approval of the Deputy Commissioner appoint a Presiding Officer, of rank not lower than that of a Naib Tehsildar and as many clerks as may be necessary to serve at each polling station during the election, and such number of Chaprasis, guards or Chowkidars as he may think necessary in order to enable the electors at the polling station to give their votes in a rapid and orderly manner in accordance with these rules.

(2) As far as possible the Returning Officer shall appoint officers whose duty is ordinarily fixed at the headquarters of a Tehsil to the charge of the polling station at the headquarters or to the polling station which are nearest to the headquarter and officers who are ordinarily required to tour as part of their duties to the charge of the outlying stations.

(3) One of each pair of clerk shall be known as the identification clerk and shall in the rural area be either the Girdawar qanungo or a competent patwari whose circle lies within the polling area to which he is appointed. The second clerk shall be known as the ballot Clerk.

61. *Secrecy of voting.* —(1) Every 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 these rules, communicate to any person any information calculated to violate such secrecy.

(2) Any person who wilfully acts in contravention of this rule shall on conviction before a Magistrate be punished with imprisonment of either description for a term not exceeding three months or with fine, which may amount to Rs. 100 /- or with both.

62. *Polling compartments and special facilities for women elector.*— (1) Each polling station shall be furnished with such number of

compartments in which electors can give their votes screened from observation as the Returning Officer thinks necessary.

(2) As far as possible, separate compartments and separate entrance and exit shall be provided for women electors. Suitable arrangements shall be made for recording the votes of pardanashin female electors, as far as practicable.

63. *Provision of election material.*— The Deputy Commissioner shall provide at each polling station materials sufficient for the purpose enabling electors to obtain the ballot papers and give their votes, as many ballot boxes and in such colour as may be necessary and copies of electoral roll or such part thereof as contains the names of the electors entitled to vote at such station. The ballot boxes in the case of the city constituencies shall also be marked with the name of the constituency which polling station serves.

64. *Conveyance of election material to the polling station.* —(1) For the Rural Constituencies, the Returning Officers subject to the direction from the Deputy Commissioner shall be responsible for conveying the ballot boxes under proper custody and other material to the headquarters, of the Tehsil in time before the date fixed for the election and shall take precautions that no one tampers with or damages this material.

(2) The Tehsildar shall arrange for the necessary transport and delivery to the charge of the presiding officer of the polling station the election material assigned to it, and the presiding officer shall proceed to the polling station with the clerks and the material in his charge to reach well before time.

65. *Commencement of poll.*— (1) The Presiding Officer shall personally see that the arrangements at the polling station are complete for the election and shall satisfy himself that the clerks and chaprasis understand their duties.

(2) He shall open the election at 10 A.M. on the date or dates fixed and immediately before that time shall (a) show the ballot boxes empty to such persons as may be present so that they may see that they are empty and shall then lock them up and seal them in such manner as to prevent

their being opened without breaking the seals and shall place them in position for the receipt of the ballot papers and shall keep them so locked and sealed, (b) give one of the two copies of the Electoral Roll of the polling area to the identification clerk and (c) give one book of each kind of ballot papers to the ballot clerk together with the instrument for stamping the official mark.

(3) He shall supply the ballot clerk with a second book of ballot papers, when the whole of the papers in the first book have been issued to electors for voting.

66. *Order at the polling station.* —(1) The presiding officer shall keep order at the polling station, shall see that the election is fairly conducted and shall regulate the number of electors to be admitted at one time into the polling office, and shall exclude all other persons except (a) the clerks, police and public servants on duty, (b) the candidates or one agent of each candidate as his polling agent and (c) such other persons as he may, from time to time, admit for the purpose of identifying electors :

Provided that he shall not admit any such person to a place from which that person can see the ballot boxes while the electors are giving their votes.

(2) During the progress of the election the presiding officer may give such directions to the Police Officer in charge as he may deem necessary.

(3) Any person who applies for a ballot paper in the name of any other person, whether living or dead, or in a fictitious name, or for a ballot paper in his own name after he has already voted at the election shall on conviction by a magistrate be liable to a fine which may amount to Rs. 100/-.

67. *Voting by proxy not allowed.*— Each elector must present himself in person at the polling station and shall not vote by proxy.

68. *Votes of Government servants and polling agents on duty.*— Any Government servant or any polling agent appointed under rule 66 who is on duty at a polling station in a polling area in the Electoral Roll of which his name is not registered shall, if he is certified by the Returning

Officer to be registered as an elector in another polling area of the same constituency, be allowed to give his vote at that polling station after presenting the certificate to this effect.

69. *Method of election and identification of voters.* —(1) The identification clerk under the general direction of the Presiding Officer shall satisfy himself that each elector who appears before him is entered in the Electoral Roll of the polling area and, if necessary, may ask the elector before a ballot paper is delivered to him, the following questions to establish his identity :—

- (i) Are you the person enrolled as follows (regarding the whole entry from the roll)?
- (ii) Have you already voted at the present election in this constituency? and
- (iii) Have you already voted at this election in any other constituency?

and the elector shall not be supplied with a ballot paper or he refuses to answer any one of the questions and unless he answers the first question in the affirmative, the second question in the negative and the third question also in the negative.

(2) After he is satisfied that the person appearing to vote is the elector whose name is registered in the Electoral Roll of the polling area he shall make a mark against the name registered in the Roll and shall repeat to the ballot clerk the village and serial number of the elector.

(3) The ballot clerk shall write the village and serial number of the elector in the counter foil of the ballot book. He shall stamp the ballot paper with the official mark tear it off from the book and then hand it over to the elector.

(4) The elector on receiving the ballot paper shall enter the room in which the ballot boxes are placed shall put the ballot paper into the ballot boxes of his choice shall immediately leave the room by the other door.

70. *Tendered votes.*— If a person representing himself a particular elector named on the Electoral Roll applies for a ballot paper after another person has voted as such elector, the applicant shall, after duly answering such questions as the Presiding Officer may ask, be given by a tendered ballot paper which shall be coloured red. The Presiding Officer shall write the elector's name, village serial number on the counterfoil of the tendered ballot. He shall also obtain the signature or thumb impression of the person on the counterfoil. The person shall then be allowed to place the tendered ballot paper in the ballot.

71. *Challenged votes.*— If any polling agent declares and undertakes to prove that any person by applying for a ballot paper has committed the offence of personation punishable under sub-rule (3) of rule 66, the Presiding Officer may require such person to enter in a register of challenged votes his name and address or if he is unable to write to affix his thumb impression thereto and shall himself record the village and serial number of the person. He may further require such person to produce evidence of identification before he is allowed to vote and if such person on being questioned in the manner provided in rule 69, answers the first question in the affirmative and the other questions in the negative, he shall be allowed to vote on a red ballot paper bearing a cross mark after he has been informed of the penalty for personation. The Presiding Officer shall vote his decision in each case in the register of challenged votes.

72. *Punishment for disobeying Presiding Officer.*— Any person who wilfully disobeys lawful order given by a Presiding Officer under these rules during the progress of the election shall, on conviction by a Magistrate, be liable to a fine which may extend to Rs. 100/-.

73. *Closing of a poll and packing of ballot boxes and papers.* —(1) At 6 P.M., the Presiding Officer shall stop the poll and shall not allow the ballot clerk to issue any other ballot paper. He shall immediately write across the counterfoil of the ballot paper following the last used paper in each used ballot book the words "Election Closed" with his signature and date. He shall then make a sealed package of the used ballot books, including with them the stamp for making the official mark, and also a sealed package of any ballot books which may have not been used at the election, and also a sealed package of the copy of the Electoral Roll which has been marked by the identification clerk and of his register of challenged votes. He shall

cover the slit in the lid of each ballot box with cloth sealed with the seal provided and shall attach the key to each ballot box and shall cause the box to be packed in sacking and sealed outside every package he shall note under his signature the name of the polling station and the nature of the contents of the package and he shall then make all the packages into one parcel and shall then seal the parcel and mark on it the names of the polling station and proceed with the parcel to the headquarters of the Tehsil with the least possible delay. He shall be responsible for the safeguard of the parcel as long as it is in his charge and may for this purpose obtain the assistance of the police and the village Chowkidars.

(2) In the cities of Srinagar and Jammu the Presiding Officer shall deliver the parcel to the Treasury Officer for safe custody till these are requisitioned by the Returning Officer for the counting of votes.

(3) The Tehsildar, or, in the case of the city constituencies the Treasury Officer, shall give the Presiding Officer a receipt on the delivery of the sealed parcel.

74. Deposit of Ballot Boxes in Treasuries.— The Tehsildar at the head-quarters of the Returning Officers shall place the sealed packages under single lock in the Treasury and shall be responsible for their safe-keeping until such time as the Returning Officer appoints for the counting of the votes. The other Tehsildars shall arrange for the safe-delivery of the packages at the Tehsil which is the head-quarters of the Returning Officer, and after delivery, the packages shall be placed in the Treasury for safe-keeping.

75. Fixing the date and place of counting of votes. —(1) The Returning Officer, shall as soon as may be practicable after the close of the poll appoint a day, time and place for the counting of votes for each constituency of which he is the Returning Officer and shall give notice in writing thereof to all candidates.

(2) The place for the counting of votes shall be at the head-quarters of the Returning Officer who shall personally visit the Tehsil for the purpose.

76. Persons to be present at counting.— Votes shall be counted by or under the supervision of the Returning Officer, and each candidate and

one representative of each candidate authorised in writing by him shall have a right to be present at the time of counting but no person shall assist the Returning Officer in counting the votes who is a candidate or who has been employed by or on behalf of any candidate for any purpose whatsoever connected with the election.

77. Method of counting the votes. —(1) On the day and at the time appointed, the Returning Officer shall open the sealed parcel of one of the polling stations, and the packages contained in it, other than the ballot boxes. He shall then open each ballot box separately in turn and shall count and record the number of votes cast in that box for the candidate to whom the box was assigned and shall also record the number of tendered votes cast for each of these candidates. He shall not open a second box until he has finished the contents of the first and until he has recorded the number of votes cast for each candidate to whom the box is assigned.

(2) When he has thus completed the separate counting of votes in each ballot box, he shall compare the number of ballot papers found in the box with the number of counter foils in the used ballot books. He shall then cause a package to be made of ballot papers, books and registers which he has examined and shall similarly open and record the contents of the parcel received from the second polling station and so on.

78. Rejection of ballot paper. —(1) The Returning Officer shall reject a ballot paper if—

- (a) it has not been stamped with the official mark, or
- (b) it bears a serial number which is not the serial number of any ballot paper issued to the polling station.

(2) The decision of the Returning Officer in rejecting a ballot paper shall be final, subject only to reversal on an election petition under these rules.

79. Suspension of counting.— The Returning Officer shall as far as practicable, proceed continuously with the counting of the votes and shall, during any necessary interval during which the counting has to be suspended secure the ballot papers, parcels and other documents relating

to the election under the seal provided and shall cause adequate precautions to be taken for their custody.

80. *Declaration of results.* —(1) When the counting of the votes has been completed for the constituency, the Returning Officer shall forthwith declare to be elected, the candidate to whom the largest number of votes has been given.

(2) Where there is an equality of votes and the addition of one vote will entitle a candidate to be declared elected the determination of the person to whom such additional one vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Returning Officer and in such manner as he may determine.

(3) The Returning Officer shall without delay report the result of the election to the Collector, who shall notify it either in the Government Gazette or in such other manner as he deems fit.

81. *Return of voting results.* — The Returning Officer shall prepare and certify return setting forth the names of the candidates for whom valid votes have been given, the number of valid votes given for each candidate the number of tendered votes given and the number of votes rejected by him and shall permit any candidate or any representative authorised by the candidate to make a copy or an abstract from such return.

82. *Preservation of election papers.* — After completing the counting of the votes the Returning Officer shall make the packets of ballot papers and other papers connected with the election into convenient bundles which he shall seal with the seal provided and shall record on each bundle a description of its contents and the date of the election to which it refers. The bundles shall be retained in the office of the Returning Officer for a period of one year and shall thereafter be destroyed subject to any directions to the contrary made by the Revenue Minister or by the officer appointed to hold an enquiry in respect of an election. The Returning Officer shall be responsible for the safe-keeping of the ballot boxes, seals locks, stamps and other materials used in the election, and shall also maintain accounts of the sale of Electoral Rolls.

83. *Choice of constituency if a person elected by more than one*

constituency.— If any person is elected by more than one constituency he shall, by notice in writing signed by him and delivered to the Collector within seven days from the date of the publication of the result of such election in the Gazette, choose for which of these constituencies, he shall serve and the choice shall be final when any such choice has been made, the constituency or constituencies in which such person has not chosen to serve shall be called upon to elect another person.

84. *Powers of Revenue Minister in case of difficulty.*— The Revenue Minister may, at any time issue instructions for conducting new elections or the postponement of the date on which elections are proposed to be held.
