



The Orissa Gazette

PUBLISHED BY AUTHORITY.

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 Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART III.

Regulations, Orders, Notifications, Rules, etc., issued by the Governor and by Heads of Departments.

HOME, REVENUE AND FINANCE DEPARTMENTS.

NOTIFICATIONS.

The 26th September 1936.

No. 4434—La.-48-R.—Whereas it appears to the Government that the land specified in the schedule below and situated in the No. 81 Mukundapur village, Chatrapur taluk, Ganjam district, is needed for a public purpose, to wit, for the diversion of Purushottapur-Jaganadhapur road near Rushikulya river notice to that effect is hereby given to all whom it may concern in accordance with the provisions of section 4 (1) of the Land Acquisition Act I of 1894 as amended by the Land Acquisition Amendment Act XXXVIII of 1923; and the Governor hereby authorizes the Revenue Divisional Officer, Chatrapur and his staff and workmen to exercise the powers conferred by section 4 (2) of the Act. Under section 3 (c) of the same Act the Governor appoints the Revenue Divisional Officer, Chatrapur, to perform the functions of Collector under section 5-A of the Act.

SCHEDULE.

District	..	..	Ganjam.
Taluk	..	..	Chatrapur.
Village	..	..	No. 81. Mukundapur.

Description of land, wet or dry, inam or poramboke with survey or paimash No. 301/1 Government—Ryotwari—dry.

Name of owner or occupier.—Bhoroto Padhi (Pattadar and enjoyer).

Boundaries of the land required to be taken up—	North	S. No. 300-2.
	East	302/1 & 2.
	South	301/2
	West	299/2. A.

Approximate extent to be taken up—0.01.
Whether waste or arable—Arable.

The 26th September 1936.

No. 4435—La-48-R.—Erratum to 4 (1) notification published in *Fort St. George Gazette*, Part (1) A., dated 27th November 1934, regarding acquisition of land for the diversion of Purushottapur-Jaganadhapur road near Rushikulya river in the district of Ganjam.

Read

- | | |
|--|---|
| <i>For</i> | |
| 1. Government dry S. No. 289/2, Gopi Setti | Enfranchised Inam dry S. No. 289/2; Pattadar V. Thumbanadham; Enjoyer, Hadiya Setti, son of Gopi Setti and Satyabadi Padhi. |
| 2. V. Tummanadha | ... Varda Bodo Thumbanatho. |
| 3. Government dry | .. Inam dry. |
| Potito Padhi | ... Potito Padhi and Satyabadi Padhi. |
| 4. Government dry | ... Inam dry. |
| 5. Gopalakrishna Padhi | .. Pattadar, Gopalakrishna Padhi and enjoyer Geddarn Dinabandhu. |
| 6. Satyabadi Padhi | ... Satyabadi Padhi and Notoboro Padhi. |
| 7. V. Bhoroto | ... Sunkuru Govindo. |
| Northern Boundary 296-2 | 296-1. |
| 8. Madhava Padhi | .. Pattadar V. China Sree Rama and enjoyer Bonomali Padhi and Madhav = Padhi. |
| 9. Eastern Boundary | |
| 10. 300-2 Srimati Devi | ... S. No. 301-1. |
| Southern Boundary 301 | ... Srimati Devi, wife of Bonomali Padhi. |
| | ... 301-1. |

The 26th September 1936.

No. 4436—La-45-R.—Whereas it appears to the Government of Orissa that land is required to be taken by Government at the expense of the Puri district board for a public purpose, viz. for widening Patharganj Bajrakote Road and construction of Kandaghai culvert in the villages of Fatepur and Maludkhas, pargana Malud, zila Puri, it is hereby notified that for the above purpose a piece of land measuring, 3.49 acres, bounded on the—

- | | | |
|-------|---|---|
| North | { | By mauza boundaries of mauzas Udayagiri and Bajrakote and portion of plot nos. 888, 889, 936 and 1106 of mauza Maludkhas, |
| and | | |
| West | { | By portion of plot no. 1106 of mauza Maludkhas and portion of plot nos. 4 and 2 of mauza Fatepur, |
| South | | |
| and | { | |
| East | | |

is required within the aforesaid villages of Fatepur and Maludkhas.

This notification is made, under the provisions of section 4 of Act I of 1894, to all whom it may concern.

A plan of the land may be inspected in the office of the Collector of Puri.

Objection to the acquisition, if any, filed under section 5-A, by any person interested within the meaning of that section on or before the 2nd October 1936, before the Collector of Puri will be considered.

By order of the Governor,

A. F. W. DIXON,

Offg. Chief Secretary to Government.

HOME (REFORMS) DEPARTMENT.

Puri, the 2nd October 1936.

No.-2609—Ref. P.—In exercise of the powers conferred by paragraph twenty of the Fifth Schedule to the Government of India Act, 1935, read with paragraph twenty-six of Part I of the Government of India (Provincial Legislative Assemblies) Order, 1936, and sub-paragraph (5) of paragraph three of Part I and paragraph six of Part III of the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936, and of all other powers enabling him in that behalf, the Governor of Orissa is hereby pleased to make the following rules for the conduct of elections to the Orissa Legislative Assembly:—

Short Title.

1. These rules may be called "The Orissa Legislative Assembly Electoral Rules, Part II (Elections and Election Petitions), 1936".

Definition.

2. (1) In these rules, unless there is anything repugnant in the subject or context,—

"the Act" means the Government of India Act, 1935;

"Appendix" means an appendix to these rules;

"Form" means a form appended to these rules;

(2) In the discharge of his functions under the following rules, namely,

rules 5 (1) (b), 25 (1), 27 (b), 77 and 104 (3), the Governor shall act in his discretion;

in the discharge of his functions under the following rules, namely,

rules 2 (3), 5 (1) (a), 23 (3) (b), 27 (a), 43 (3), 113 (1), 115 (1), (4) and (5) (b), 116 (1) and (2), 119, 120, 122, 124 (1) and (2) and 125,

he shall exercise his individual judgment;

and in the discharge of his functions under the following rules, namely,

rules 48 (1) and (2), 92 and 114 (2),

he shall act on the advice tendered by Ministers.

"Gazette" means the local official gazette;

the "Corrupt Practices Order" means the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936; and

expressions to which a meaning is assigned, either generally or in relation to the province of Orissa, by the Act, or the Schedules thereto, or the Government of India (Provincial Legislative Assemblies) Order, 1936, or by the Corrupt Practices Order, or by the Orissa Legislative Assembly Electoral Rules, Part I, 1936, shall for the purpose of these rules have the meanings so assigned to them.

Interpretation of rules.

(3) If any question arises as to the interpretation of these rules, the question shall be referred for the decision of the Governor, and his decision shall be final otherwise than in connection with an enquiry into an election petition.

Returning Officer.

3. (1) In these rules "Returning Officer" means the person designated as such in the third column of Appendix A in respect of the constituency specified against him in the second column of the said appendix.

(2) The persons specified in the fourth column of the said appendix shall be called the Extra Returning Officers and may, subject to the control of the Returning Officer, perform all or any of the functions of the Returning Officer in the constituencies respectively specified in the corresponding entry in the second column thereof:

Provided that no such person shall perform any of the functions of a Returning Officer which relate to the acceptance of a nomination paper or of a paper withdrawing candidature, or to the scrutiny of nominations, or to the counting of votes, unless the Returning Officer is unavoidably prevented from performing the same, in which case the said functions may be performed in any constituency by the person specified in the corresponding entry in the fourth column of the appendix.

(3) Reference to the Returning Officer in these rules shall, unless a contrary intention appears, be deemed to include any person when performing any duty or function which he is authorised to perform under sub-rules (1) and (2).

SECTION I.

PRIMARY ELECTION.

Qualification for nomination.

4. Any person who is a member of the scheduled castes may be nominated as a candidate for a primary election if he is qualified to be chosen to fill that seat under the Act, or any Order or rule made thereunder, or an Act of the Provincial Legislature.

Notification of election.

5. (1) The Governor shall—

(a) issue a notification calling upon each constituency in which a seat is reserved for the scheduled castes to elect a member on or before a date to be specified in the notification; and

(b) appoint for the purpose—

Date of nominations.

(i) a date, not later than the fourteenth day after the date of the aforesaid notification, for the nomination of candidates for the primary election by the electors in the constituency who belong to the scheduled castes;

Date of scrutiny.

(ii) another date, not later than the third day after the date fixed for the nomination of candidates, for the scrutiny of nominations; and

Date of poll.

(iii) a further date or dates, on which a poll shall, if necessary, be taken.

Publication of appointed dates.

(2) On the issue of notifications under sub-rule (1), the Returning Officer shall give public notice of the appointed dates in Form I, in the language or languages of the electoral roll for the constituency, by posting the notice in his office and in the office of all municipalities, at the police-stations and in the office of each Collector, Tahsildar, Deputy Tahsildar, and Sub-Magistrate situated within the constituency.

Nomination of candidates.

6. (1) On or before the date appointed for the nomination of candidates, each candidate shall, either in person or by his proposer and seconder together, between the hours of 11 O'clock in the forenoon and 3 O'clock in the afternoon, deliver to the Returning Officer, a nomination paper completed in Form II and subscribed by the candidate himself as assenting to the nomination, and by two persons of the scheduled castes as proposer and seconder whose names are registered on the electoral roll of the constituency.

Certificate that candidate is of scheduled castes.

(2) The nomination paper, or the first of two or more nomination papers, delivered by a candidate, shall be accompanied by a certificate from the Subdivisional or Revenue Divisional Officer of the subdivision in which the candidate resides, stating that the candidate is a member of a scheduled caste.

Proposer and seconder.

7. (1) Any member of the scheduled castes whose name is included in the electoral roll of the constituency and who is not subject to any disabilities for being so included under the Act, or any Order or rule made thereunder, or an Act of the Provincial Legislature, may subscribe as proposer or seconder as many nomination papers as there are vacancies to be filled but no more.

Supply of Form II.

(2) Printed copies of Form II shall, on application, be supplied to any elector of the constituency at the office of the Returning Officer thereof.

Declaration regarding election agent.

8. Every nomination paper delivered under sub-rule (1) of rule 6 shall contain a declaration in writing subscribed by the candidate that the candidate has appointed or does thereby appoint as his election agent for the election either himself, or some other person who is not disqualified under the provisions of the Corrupt Practices Order for the appointment and whose name and number on the electoral roll shall be stated in the declaration; and no candidate shall be deemed to be duly nominated unless such declaration is made on the nomination paper.

Latest hour of nomination.

9. Any nomination paper which is not received before three O'clock in the afternoon on the date appointed by the Governor for the nomination of candidates shall be rejected.

Correction of nomination paper where necessary.

10. On the presentation of a nomination paper, the Returning Officer may require the person or persons presenting the same to produce a copy of the electoral roll on which the candidate and his

proposer and seconder are registered, or of the necessary entries therein, and shall satisfy himself that the name and number on the electoral roll of the candidate and his proposer and seconder as entered in the nomination paper are the same as those entered in the electoral roll. Where necessary, he shall direct that the former be amended so as to be in accordance with the latter.

Procedure upon receipt of nomination paper

11. The Returning Officer shall, on receiving a nomination paper under rule 6, inform the person or persons delivering the same of the date, hour and place appointed for the scrutiny of nominations, and shall enter in the nomination paper its serial number and shall sign thereon 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, both of the candidate and of the persons who have subscribed the nomination paper as proposer and seconder.

Withdrawal of candidature.

12. (a) Any candidate may withdraw his candidature by notice in writing subscribed by him and delivered to the Returning Officer or other person authorized on or before three O'clock in the afternoon on the date succeeding that appointed by the Governor for the scrutiny of nominations:

Provided that, if the date is a public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881, or has been notified by the Government as a date to be observed as a holiday in the office of the District Magistrate or the Sub-divisional Officer of the district or subdivision concerned, the notice shall be considered as having been received in due time if it is presented not later than three O'clock in the afternoon of the next succeeding day which is neither such a public holiday nor a day so notified.

(b) A candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal or to be renominated as a candidate for the same election.

Publication of a withdrawal.

13. The Returning Officer shall, on receiving a notice of withdrawal under rule 12, as soon as may be, cause a notice of the withdrawal to be affixed in some conspicuous place in his office.

Deposit.

14. On or before the date appointed for the nomination of candidates, each candidate shall deposit or cause to be deposited with the Returning Officer the sum of fifty rupees in cash*; and no candidate shall be deemed to be duly nominated unless such deposit has been made.

Return of deposit in the event of withdrawal, rejection or death.

15. If a candidate by whom, or on whose behalf the deposit referred to in rule 14 has been made withdraws his candidature in the manner and within the time specified in rule 12, or if the nomination of any such candidate is refused, the deposit shall be returned to the person by whom it was made; and, if any candidate dies before the commencement of

*The Returning Officer may accept a treasury receipt in lieu of cash when a candidate chooses to pay the amount in cash direct into the treasury.

the poll, any such deposit, if made by him, shall be returned to his legal representative or, if not made by the candidate, shall be returned to the person by whom it was made.

Forfeiture.

16. (1) If a candidate by whom or on whose behalf the deposit referred to in rule 14 has been made is not elected and the number of votes polled for him is less than a quarter of the lowest number of votes polled by a successful candidate, the deposit shall be forfeited to the Government.

(2) For the purpose of sub-rule (1), the number of votes polled shall be deemed to be the number of ballot papers, other than rejected ballot papers, counted.

Return of deposit of unsuccessful candidate.

17. (1) The deposit made in respect of a candidate who is not elected, if it is not forfeited under rule 16, shall be returned to the candidate or to the person who has made the deposit on his behalf, as the case may be, as soon as may be after the publication of the result of the election under rule ~~25-(5)~~ ²⁵⁻⁽⁴⁾.

Return of deposit of successful candidate.

(2) The deposit made in respect of a candidate who is elected shall be so returned as soon as may be after the publication of the result of the election in the Gazette under rule ~~83~~ ⁸².

Provided that, if a candidate is duly nominated at a general election in more than one constituency, not more than one of the deposits made by him or on his behalf shall be returned, and the remainder shall be forfeited to the Government.

SCRUTINY OF NOMINATION PAPERS.

Attendance at scrutiny.

18. On the date appointed by the Governor for the scrutiny of nominations under sub-clause (ii) of clause (b) of sub-rule (1) of rule 5, the candidates, one proposer and one seconder of each candidate, and one other person duly authorised in writing by each candidate, and, except for the purpose of assisting the Returning Officer, no other person may attend at such time and place as the Returning Officer may appoint, and the Returning Officer shall afford them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner prescribed in the foregoing rules.

Scrutiny.

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

(i) that the candidate is ineligible for election under the provisions of the Act, or any Order or rule made thereunder, or an Act of the Provincial Legislature;

(ii) that the proposer or seconder is disqualified from subscribing a nomination paper under sub-rule (1) of rule 7;

[1] Subs. for "25-(5)" by Notfn. No. 1155-3-A dt 2.10.37 (See O. Gazette dt 22.10.37, Pt III, p. 762)

[2] Subs. for "83" by " " " " " "

(")

(iii) that there has been a failure on the part of the candidate or his proposer or seconder to comply with any of the provisions of rules 6 to 9 and 14 above;

(iv) that the candidate or any proposer or seconder is not identical with the person whose electoral number is given in the nomination paper as the number of such candidate, proposer or seconder as the case may be;

(v) that the signature of the candidate or of any proposer or seconder is not genuine or has been obtained by fraud.

(2) (a) An entry, or a certified copy of an entry made in the electoral roll of any general constituency in Orissa of the name of a particular person as an elector shall be conclusive proof that that person is entitled to fill a general seat in the province or to subscribe a nomination paper in the constituency in which he is enrolled as an elector, unless it is proved that the candidate is ineligible for election under the provisions of the Act, or any Order or rule made thereunder, or an Act of the Provincial Legislature, or that the proposer or seconder is a person who is disqualified from subscribing a nomination paper under sub-rule (1) of rule 7.

(b) Where a person has subscribed, whether as proposer or seconder, a larger number of nomination papers than there are vacancies to be filled, those of the papers so subscribed which have been first received, up to the number of vacancies to be filled, shall be deemed to be valid.

(3) Nothing contained in clause (ii) or clause (iii) of sub-rule (1) shall be deemed to authorize the refusal of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4) Nothing contained in clause (iv) of sub-rule (1) shall be deemed to authorise the refusal of the nomination of any candidate, if the nomination paper of such candidate contains an adequate description of the name and address of such candidate, his proposer or seconder.

Acceptance or rejection of nomination.

20. (1) 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.

No adjournment of scrutiny.

(2) The scrutiny shall be completed on the day appointed in this behalf under sub-clause (ii) of clause (b) of sub-rule (1) of rule 5 and no adjournment of the proceedings shall be allowed.

Publication of the list of accepted nomination.

21. On the completion of the scrutiny of nominations and after the expiry of the period within which candidatures may be withdrawn under rule 12,

the Returning Officer shall forthwith prepare a list of persons, whose nominations have not been rejected and who have not withdrawn their candidature, and cause it to be affixed in some conspicuous place in his office.

Publication in Form III.

22. (1) If the number of such persons exceeds four, the Returning Officer shall forthwith publish in the manner prescribed in sub-rule (2) of rule 5 a list in Form III of the names in alphabetical order of the candidates as given in the nomination papers. The alphabetical order is to be determined with reference to the order of the surnames (i.e., names proper) of the candidates.

Assignment of colour.

(2) Against each candidate's name on the list shall be noted the distinctive colour allotted to him for the purpose of the ballot. The colour asked for by the candidate shall ordinarily be assigned to him. But if the same colour is asked for by two or more candidates, the Returning Officer, shall, failing agreement between the candidates as to which one of them such colour should be assigned, assign the colour at his discretion. The colours assigned shall be white, red, yellow, blue or green and thereafter any combination of two or more of these colours.

When may poll be taken.

23. (1) If the number of candidates who are duly nominated and who have not withdrawn their candidature in the manner and within the time specified in rule 12 exceeds four, a poll shall be taken.

When the number is four.

(2) If the number of such candidates is four, all such candidates shall be declared to be duly elected to the panel.

(3) If the number of such candidates is less than four, all such candidates shall be declared to be elected to the panel:—

(a) Provided that if the number of candidates nominated is one, such candidate shall at once be declared to be duly elected to fill the reserved seat in the constituency:

(b) Provided further that if no candidate is nominated, or if the number of candidates nominated is not more than one and he dies before the commencement of the poll, the Governor shall, by notification in the Gazette, call upon the scheduled caste electors of the constituency to elect a panel of candidates within such time as may be prescribed by the notification. If the constituency having been called upon under this sub-rule fails to nominate a candidate, the Governor shall not be bound to call again upon the scheduled caste electors to elect a panel of candidates and the reserved seat shall be left unfilled until such time as the Governor thinks fit to call upon the scheduled caste electors to hold a fresh election.

VOTING.

Voting.

24. (1) Votes shall be given by ballot in person and the poll shall be conducted in the manner prescribed by rules 45-66, 77-83, 85 and 86.

Counting of votes.

(2) No voter shall have more than one vote.

25. (1) The Governor shall appoint a date, the time and place for the counting of votes and the Returning Officer shall give notice in writing thereof to all candidates and election agents.

(2) Votes shall be counted by, or under the supervision of, the Returning Officer, and each candidate, and one representative of each candidate authorized in writing by the candidate shall have a right to be present at the time of counting. No other person shall be allowed to be present except such persons as the Returning Officer may appoint to assist him in counting votes, and no person shall be appointed to assist in counting the votes who has been employed by or on behalf of any candidate for any purpose whatsoever connected with the election.

(3) When the counting of the votes has been completed, the Returning Officer shall forthwith declare the candidates to whom the largest number of votes has been given to be elected.

(4) The Returning Officer shall without delay cause the names of the candidates elected to be published by affixing a notice in some conspicuous part of his office.

SECTION II.

OTHER ELECTIONS.

Nomination.

Qualification for nomination.

26. Any person may be nominated as a candidate for election to fill a seat in any territorial constituency, if he is qualified to be chosen to fill that seat under the Act, or any Order or rule made thereunder, or an Act of the Provincial Legislature:

Provided that not more than one nominee of a firm, corporation or Hindu joint family shall be nominated as a candidate for the commerce and industry constituency.

Notification of election.

27. The Governor shall—

(a) issue a notification calling upon each constituency to elect the prescribed number of members on or before a date to be specified in the notification; and

(b) appoint for the purpose—

(i) a date for the nomination of candidates, such date not being later than the fourteenth day after the date of the aforesaid notification;

(ii) another date for the scrutiny of nominations, such date being not later than the third day after the date fixed for the nomination of candidates; and

(iii) a further date or dates on which a poll shall, if necessary, be taken.

Publication of appointed dates.

28. On the issue of notification under rule 27, the Returning Officer shall give public notice of the appointed dates in Form IV, in the language or languages of the electoral roll for the constituency, by posting the notice in his office and in the office of all municipalities, at the police-stations and in the office of each Collector, Tahsildar, Deputy Tahsildar, Sub-Magistrate situated within the constituency.

Nomination of candidates.

29. (1) On or before the date so appointed for the nomination of candidates, each candidate shall, either in person or by his proposer and seconder together, between the hours of eleven O'clock in the forenoon and three O'clock in the afternoon, deliver to the Returning Officer a nomination paper completed in the manner prescribed in Form V and subscribed by the candidate himself as assenting to the nomination and by two persons as proposer and seconder whose names are registered on the electoral roll of the constituency.

Certificate for a backward tribe candidate.

(2) The nomination paper, or the first of two or more nomination papers, delivered by a candidate for a seat reserved for a representative of backward tribes shall be accompanied by a certificate from the Subdivisional or Revenue Divisional Officer of the subdivision in which the candidate resides, stating that the candidate is a member of a backward tribe.

Election agent.

(3) Every nomination paper delivered under sub-rule (1) shall contain a declaration in writing subscribed by the candidate that the candidate has appointed or does thereby appoint as his election agent for the election either himself, or some other person who is not disqualified under the provisions of the Corrupt Practices Order for the appointment and whose name and number on the electoral roll shall be stated in the declaration, and no candidate shall be deemed to be duly nominated unless such declaration is made on the nomination paper.

Proposer and seconder.

30. Any person whose name is included in the electoral roll of the constituency and who is not subject to any disabilities for being so included under the Act, or any Order or rule made thereunder, or an Act of the Provincial Legislature, may subscribe as proposer or seconder as many nomination papers as there are vacancies to be filled but no more:

Provided that—

(i) where a nominee of a firm, corporation or Hindu joint family is a candidate for election, no other nominee of the said firm, corporation or Hindu joint family shall subscribe, either as proposer or seconder, the nomination paper of such candidate; and

(ii) where a nominee of a firm, corporation or Hindu joint family has subscribed as proposer or seconder a nomination paper, no other nominee of the said firm, corporation or Hindu joint family shall subscribe as seconder or proposer the same nomination paper.

✓ Success in primary election is valid nomination to both reserved and unreserved seats.

31. Subject to proviso (a) under sub-rule (3) of rule 23, a candidate duly elected at a primary election shall be deemed to have been validly nominated as a candidate for election both to the seat reserved for the scheduled castes as well as to the non-reserved seat in the constituency.

Supply of Form V.

32. Printed copies of the nomination form in Form V shall, on application, be supplied to any elector of the constituency at the office of the Returning Officer thereof.

Latest hour of nomination.

33. Any nomination paper which is not received before three O'clock in the afternoon on the date appointed by the Governor for the nomination of candidates shall be rejected.

Correction of nomination paper where necessary.

34. On the presentation of a nomination paper the Returning Officer may require the person or persons presenting the same to produce a copy of the electoral roll on which the candidate and his proposer and seconder are registered, or of the necessary entries therein, and shall satisfy himself that the name and number on the electoral roll of the candidate and his proposer and seconder as entered in the nomination paper are the same as those entered in the electoral roll. Where necessary, he shall direct that the former be amended so as to be in accordance with the latter.

Intimation of scrutiny.

35. The Returning Officer shall, on receiving a nomination paper under rule 29, inform the person or persons delivering the same of the date, hour and place appointed for the scrutiny of nominations, and shall enter in the nomination paper its serial number and shall sign thereon 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, both of the candidate and of the persons who have subscribed the nomination paper as proposer and seconder.

Withdrawal of candidature.

36. (a) Any candidate, including a candidate elected at a primary election, may withdraw his candidature by notice in writing subscribed by him and delivered in person to the Returning Officer on

or before three O'clock in the afternoon on the date succeeding that appointed by the Governor for the scrutiny of nominations: Provided that, if the date is a public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881, or has been notified by the Government as a date to be observed as a holiday in the office of the District Magistrate or the Subdivisional Officer of the district or subdivision concerned, the notice shall be considered as having been received in due time if it is presented not later than three O'clock in the afternoon of the next succeeding day which is neither such a public holiday nor a day so notified. On receipt of a notice of withdrawal by a candidate of the scheduled castes or backward tribes the Returning Officer shall satisfy himself that the candidate understands the purport of the notice, and only if he is so satisfied shall he accept the notice.

(b) When for any reason, which shall be expressly stated, a candidate is unable to deliver the notice in person, he shall communicate the fact to the Returning Officer and the proposer and seconder together of the candidate shall deliver the notice in person.

(c) A candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal or to be re-nominated as a candidate for the same election.

Notification of withdrawal.

37. The Returning Officer or other person authorised shall, on receiving a notice of withdrawal under rule 36, as soon as may be, cause a notice of the withdrawal to be affixed in some conspicuous place in his office.

Deposit and its return.

38. (1) On or before the date appointed for the nomination of candidates, each candidate in every constituency except the labour constituency and in the case of a candidate of a backward tribe in a constituency in which a seat is reserved for a representative of the backward tribes, shall deposit or cause to be deposited with the Returning Officer the sum of two hundred and fifty rupees in cash * or in Government Promissory Notes of equal value at the market rate of the day:

Provided that the deposit of a candidate in the labour constituency or of a candidate of a backward tribe in a constituency in which a seat is reserved for a representative of the backward tribes shall be fifty rupees in cash *; and

Provided further that a scheduled caste candidate elected at a primary election shall not be called upon to make a deposit in addition to the one provided for in rule 14.

No candidate shall be deemed to be duly nominated unless the deposit required by the rule has been made.

* The Returning Officer may accept a treasury receipt in lieu of cash when a candidate chooses to pay the amount in cash direct into the treasury.

(2) If a candidate by whom, or on whose behalf the deposit referred to in sub-rule (1) has been made withdraws his candidature in the manner and within the time specified in rule 36, or if the nomination of any such candidate is refused, the deposit shall be returned to the person by whom it was made; and if any candidate dies before the commencement of the poll, any such deposit, if made by him, shall be returned to his legal representative or, if not made by the candidate, shall be returned to the person by whom it was made.

(3) If a candidate by whom, or on whose behalf the deposit referred to in sub-rule (1) has been made is not elected and the number of votes polled by him does not exceed one-eighth of the total number of votes polled, the deposit shall be forfeited to the Government:

Provided that in a constituency in which a seat is reserved for a representative of the scheduled castes, the deposit of a candidate for one of the seats reserved for the scheduled castes shall not be forfeited on the ground that the number of votes held by him does not exceed one-eighth of the total number of votes polled.

(4) For the purpose of sub-rule (3), the number of votes polled shall be deemed to be the number of ballot papers, other than rejected ballot-papers, counted.

(5) The deposit made in respect of a candidate who is not elected if it is not forfeited under sub-rule (3), and of a candidate who is elected, shall be returned to the candidate or to the person who has made the deposit on his behalf, as the case may be, as soon as may be after the publication of the result of the election in the Gazette under rule 83⁸²:

Provided that, if a candidate is duly nominated at a general election in more than one constituency, not more than one of the deposits made by him or on his behalf shall be returned, and the remainder shall be forfeited to the Government.

SCRUTINY OF NOMINATION PAPERS.

Attendance at scrutiny.

39. On the date appointed by the Governor for the scrutiny of nominations under rule 27, the candidates, their election agents, one proposer and one seconder of each candidate, and one other person duly authorized in writing by each candidate, and, except for the purpose of assisting the Returning Officer, 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 candidates which have been delivered within the time and in the manner prescribed in the foregoing rules.

[1] Subs. for "83" by No. 1155-3-A D 2. 10. 37 (See O. Gazette 22.10.37, Pt. II, P. 762)

Scrutiny.

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

(a) that the candidate is ineligible for election under the provisions of the Act, or any Order or rule made thereunder, or an Act of the Provincial Legislature;

(b) that the proposer or seconder is disqualified from subscribing a nomination paper under rule 30; and

(c) that there has been any failure on the part of the candidate or his proposer or seconder to comply with any of the provisions of rules 29, 30, 33 and 38 (1).

(2) For the purposes of this rule—

(a) an entry, or a certified copy of an entry made in the electoral roll of any general constituency in Orissa of the name of a particular person as an elector shall be conclusive proof that that person is entitled to fill a general seat in the province or to subscribe a nomination paper in the constituency in which he is enrolled as an elector, unless it is proved that the candidate is ineligible for election under the Act, or any Order or rule made thereunder, or an Act of the Provincial Legislature, or that the proposer or seconder is a person who is disqualified from subscribing a nomination paper under rule 30 then;

(b) where a person has subscribed, whether as proposer or seconder, a larger number of nomination papers than there are vacancies to be filled, those of the papers so subscribed which have been first received, up to the number of vacancies to be filled, shall be deemed to be valid.

(3) Nothing contained in clause (b) or clause (c) of sub-rule (1) shall be deemed to authorize the refusal of the nomination of any candidate on the

The object of the scrutiny is not to reject the nomination papers on unimportant technical grounds but to ensure that the candidates have been properly proposed and seconded and that the electors will understand for whom they are asked to vote. The Returning Officer may for the said purpose, whenever practicable, permit the correction of nomination papers at any time before the scrutiny is completed.

Acceptance or rejection of nomination.

No adjournment of scrutiny.

Publication of the list of accepted nominations.

Publication in Form VI.

ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4) Nothing contained in clause (c) of sub-rule (1) shall be deemed to authorise the refusal of the nomination of any candidate, if the nomination paper of such candidate contains an adequate description of the name and address of such candidate, his proposer or seconder.

41. (1) 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.

(2) The scrutiny shall be completed on the day appointed in this behalf under sub-clause (ii) of clause (b) of rule 27 and no adjournment of the proceedings shall be allowed.

(3) On the completion of the scrutiny of nominations and after the expiry of the period within which candidatures may be withdrawn under rule 36, the Returning Officer shall forthwith prepare a list of persons whose nominations have not been rejected and who have not withdrawn their candidature, and cause it to be affixed in some conspicuous place in his office.

42. (1) If the number of such persons is greater than the number of vacancies, the Returning Officer shall forthwith publish in the manner prescribed in rule 28 a list in Form VI of the names in alphabetical order of the candidates as given in the nomination papers. The alphabetical order is to be determined with reference to the order of the surnames (i.e., names proper) of the candidates.

(2) In a constituency in which a seat is reserved for a representative of the scheduled castes, the names of the candidates who have been duly elected at the primary election and have not withdrawn their candidature in the manner and within the time allowed by rule 36 shall also be included in this list.

(3) In a constituency in which a seat is reserved for a representative of the scheduled castes or of the backward tribes, it shall be noted against each candidate's name on the list whether he is or is not eligible for such a seat.

(4) Against each candidate's name on the list shall be noted the distinctive colour allotted to him for the purpose of the ballot. The colour asked for by the candidate shall ordinarily be assigned to him. But if the same colour is asked for by two or more candidates, the Returning Officer shall, failing agreement between the candidates as to which one of them such colour should be assigned, assign the colour at his discretion. The colours assigned shall be white, red, yellow, blue or green and thereafter any combination of two or more of these colours.

[1]

Ins. by notification No 10650 - Election
 IS - 81 of 1937 - 4. D/ 31.8.37. (see
 G. Gazette D/ 3.9.37 Part III p. 441.

When may poll be taken.

43. (1) If the number of candidates who are duly nominated and who have not withdrawn their candidature in the manner and within the time specified in rule 36 exceeds that of the vacancies, a poll shall be taken:

Provided that if the number of candidates of the backward tribes for seats reserved for a representative of the backward tribes is equal to the number of such vacancies all such candidates shall be declared to be duly elected; and a poll shall be taken to fill the seats not so reserved from among the candidates other than those so declared to be duly elected.

When the number is equal to number of vacancies.

(2) If the number of such candidates is equal to the number of vacancies, all such candidates shall be declared to be duly elected.

When the number is less.

(3) If the number of such candidates is less than the number of vacancies, all such candidates, if any, shall be declared to be elected, and the Governor shall, by a notification in the Gazette, call upon the constituency to elect a person or persons, for the remaining vacancy or vacancies, as the case may be, within such time as may be prescribed by the notification:

Provided that where the constituency, having already been called upon under this sub-rule, has failed to elect a person or the requisite number of persons, as the case may be, to fill the vacancy or vacancies, the Governor shall not be bound to call again upon the constituency to elect a person or persons until such time, if any, as he thinks fit.

Death of nominated candidate.

44. If a candidate who has been duly nominated dies after the date appointed for the scrutiny of nominations and 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 Government, and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election:

Provided that no fresh nomination shall be necessary in the case of a candidate who stood nominated at the time of the countermanding of the poll, nor shall it be necessary to hold another primary election.

SECTION III.

VOTING.

Voting.

45. Votes shall be given by ballot, and in all constituencies other than the commerce and industry and landholders' constituencies, in person.

VOTING IN PERSON.

Hours of poll.

46. The poll shall commence at 9 A.M. and be kept open till 5 P.M.

Adjournment of poll.

47. If owing to an emergency beyond his control, such as the intervention of floods or the occurrence of serious rioting or disorder, the presiding

officer is compelled to close the polling station before the appointed hour, he may announce an adjournment of the poll to a subsequent day and hour to be fixed by him in this behalf, and the polling station shall remain open on such subsequent day for a period equal to the period during which it remained prematurely closed on the earlier day. Every such occurrence shall be reported immediately to the Returning Officer by the presiding officer, and to the Governor by the Returning Officer.

Polling stations, booths and polling areas.

48. (1) The Returning Officer of a constituency shall, with the general approval of the Governor, select for the constituency as many polling stations and as many polling booths under each polling station as he thinks necessary, and allot an electoral area, to be known as polling area, for each polling station or booth, as the case may be.

(2) The Returning Officer for every constituency for which more than one date has been appointed for the poll shall, with the general or special approval of the Governor, determine on which of the dates so appointed the electors residing in each polling area shall record their votes.

(3) The Returning Officer of a constituency shall publish in the manner laid down under rule 28 a list of polling stations selected under sub-rule (1) and of the number of booths at every such polling station giving a description of the polling area or areas for which each polling station or booth, as the case may be, has been selected and the dates allotted to each polling area under sub-rule (2).

Presiding and polling officers.

(4) The Returning Officer shall appoint a presiding officer for each polling station and such other persons (hereinafter referred to as polling officers) to assist the presiding officer as he thinks necessary.

(5) The same polling stations and presiding and polling officers may be appointed in respect of elections held simultaneously.

(6) Each polling officer may, if so directed by the presiding officer, perform all or any of the duties assigned to a presiding officer under these rules.

(7) If the presiding officer, owing to illness or other unavoidable cause, is obliged to absent himself from the polling station, his duties shall be performed by one of the polling officers, who shall be duly authorized in this behalf by the Returning Officer.

Duties of presiding officer.

19. (1) The presiding officer shall keep order at the polling station, shall see that the election is fairly conducted, shall regulate the number of electors to be admitted at one time, and shall exclude all other persons except—

(a) the polling officers, the candidates and one agent of each candidate at a time (hereinafter referred to as the polling agent) appointed in writing by the candidate,

(b) the police or other public servants on duty, and

(c) such other persons as the presiding officer may from time to time admit for the purpose of identifying electors.

(2) If any person misconducts himself at a polling station or fails to obey the lawful orders of the presiding officer or the polling officer performing the duty of the presiding officer, he may, immediately, by order of the presiding officer or such polling officer be removed from the polling station, by any police officer or by any other person authorized in writing by the presiding officer or such polling officer to remove him; and the person so removed shall not, unless with the permission of the presiding officer or such polling officer, be allowed again to enter the polling station during the day:

Provided that this power shall not be exercised so as to prevent any elector who is otherwise entitled to vote at any polling station from having an opportunity of voting at such polling station.

Restriction of voting at polling station.

50. Subject to the provisions of rule 63 no elector shall be admitted to vote except at the polling station fixed under rule 48 for the polling area under which his name appears on the electoral roll.

Close of polling.

51. The presiding officer shall close the polling station at the hour fixed in that behalf under rules 46 and 47, so as to prevent the admission thereto of any elector after that hour:

Provided that any voter who has received his ballot papers before that hour shall be allowed a reasonable opportunity to record his vote.

Polling compartment.

52. Each polling station or booth, as the case may be, shall contain a separate compartment in which electors can record their votes screened from observation, except in so far as it may be necessary to ensure that the ballot papers are duly placed in boxes.

Publication of name, colour, etc., at polling station.

53. (1) The Returning Officer shall provide in each polling compartment as many ballot boxes as there are candidates, the box of each candidate bearing the distinctive colour or colours assigned to him under rule 42. He shall also provide copies of the electoral roll or such part thereof as contains the names of the electors entitled to vote at each polling station. He shall further provide a board at least 48 hours before the commencement of the poll on which is displayed in bold and clear print the name of each candidate and the colour of the box assigned to him and the colour itself in the language of the electoral roll.

(2) The Returning Officer shall provide at each polling station instruments for stamping an official mark on the ballot papers. The official mark shall be kept secret, and a period of not less than seven years shall intervene between the use of the same official mark at different elections for the same constituency in the same polling area.

Sealing of ballot box.

54. (1) Every ballot box shall be so constructed that the ballot papers can be introduced therein but cannot be withdrawn therefrom without the box being unlocked. The presiding officer at any polling station, immediately before the commencement of the poll, shall show the ballot box empty to such persons as may be present in such station, so that they may see that it is empty, and shall then lock it up, and place his seal upon it in such manner as to prevent its being opened without breaking such seal. He shall thereupon place the box so locked and sealed inside the polling compartment for the receipt of the ballot papers, but screened from observation, except in so far as it may be necessary to ensure that the ballot papers are duly placed in it.

(2) Before the polling is open for the recording of votes, the presiding officer shall read to such persons as may be present the provisions of section 14 of the Indian Election Offences and Inquiries Act, 1920, and shall explain the substance thereof in the vernacular of the district.

Form of ballot paper.

55. The ballot paper shall be in Form VII with a counterfoil and shall be serially numbered on the back for each constituency. The class of constituency shall be indicated by a letter as given below :—

G. for General constituencies.

M. „ Muhammadan „

W. „ Women's „

I. „ Indian Christian constituency.

L. „ Labour „

The number of ballot papers to be issued.

56. (1) At a primary election a voter shall be given only one ballot paper.

(2) Sub-rule (1) shall apply also to an election other than a primary election, in which not more than one seat has to be filled.

Exception in Berhampur and Sambalpur constituencies.

(3) At elections for constituencies in which more than one seat has to be filled, except in the Berhampur General and the Sambalpur Sadr General constituencies where the voter shall be given only one ballot paper, the voter shall be given as many ballot papers as there are seats to be filled and the presiding officer shall explain to the voter that he can place all the ballot papers in the ballot box of one candidate or distribute them as he thinks fit and place them in different ballot boxes.

Simultaneous elections of more than one constituency.

(4) Where elections for more than one constituency, whether territorial or special, are held simultaneously at a polling station a voter entitled to vote for the constituencies shall be given for each constituency a ballot paper or as many ballot papers as he may be entitled to under the preceding sub-rules.

Procedure before ballot paper is issued.

(5) Immediately before a ballot paper is delivered to an elector, the number, name and description of the elector as stated in the electoral roll shall be called out. A ballot paper shall then be stamped with the official mark on the back and delivered to the elector, the number of the voter shall be entered

on a ballot paper list in Form VIIA, and a mark shall be placed on a copy of the electoral roll against the number of the elector to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received.

Voting.

57. The elector, on receiving the ballot paper or papers shall forthwith proceed into the polling compartment and there place the ballot paper or papers in the box or boxes according to his choice and for each constituency where elections for more than one constituency are being held simultaneously. Every elector shall vote without undue delay and shall quit the polling station as soon as he has put his ballot paper or papers into the box or boxes.

Assistance to incapacitated voters.

58. If an elector is incapacitated from blindness or other physical cause from voting in the manner prescribed in rule 57, the presiding officer shall ascertain from him for whom he wishes to vote and shall place the ballot paper in the box bearing the colour of the candidate for whom he wishes to vote.

Identity of voters.

59. (1) When a person presents himself to vote and at any time before a ballot paper is supplied to him, the presiding officer or polling officer may, of his own accord, and shall, if so required by a candidate or polling agent, put to such person any or all of the following questions :—

- (i) Are you the person enrolled as follows (reading the whole entry from the roll) ?
- (ii) Have you already voted at the present election in this constituency ?
- (iii) (And at a general election in a territorial constituency) have you already voted at this general election for the Legislative Assembly in any other territorial constituency except a women's constituency ?

and the person shall not be supplied with a ballot paper unless he gives an unqualified answer to the question or questions put to him and unless his answer to the first question is in the affirmative, the second question in the negative, and at a general election the third question also in the negative.

(2) Except as provided in sub-rule (1) of this rule, every person whose name is found on the electoral roll shall be entitled to be supplied with a ballot paper.

Tendered votes.

60. If a person representing himself to be 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 entitled to receive a tendered ballot paper in Form VIII. The elector shall fill up this form with such assistance as he may require from the presiding officer, who shall then sign the form, and instead of putting it into a ballot box shall place it in an envelope. The elector shall stick up the envelope and hand it over to the presiding officer. The

presiding officer shall make an endorsement containing the name of the elector and his number on the electoral roll and the name of the polling station and constituency to which the roll relates and shall set aside the cover in a separate packet the ballot papers in which shall not be counted by the Returning Officer. The name of the elector and his number in the electoral roll and the name or distinctive number of the polling station to which the roll relates shall be entered in a list in Form VIII A which shall bear the heading "Tendered votes list". The person tendering such ballot paper shall sign his name and address on that list or affix his thumb impression thereto.

Challenged votes.

61. If any polling agent declares and undertakes to prove that any person by applying for a ballot paper has committed the offence of personation, the presiding officer may require such person to enter in the list of challenged votes (which shall be in Form IX) 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. If such person on being questioned in the manner provided in rule 59 gives unqualified answers to the first question in the affirmative and the other questions in the negative, he shall be allowed to vote after he has been informed of the penalty for personation. The presiding officer shall make a note of the circumstances and of his decision on the list of challenged votes.

Spoilt ballot paper.

62. An elector who has inadvertently dealt with his ballot paper in such a manner that it cannot conveniently be used as a ballot paper may, on delivering it to the presiding officer and satisfying him of the inadvertence, obtain another ballot paper in place of the spoilt paper, and the latter shall, ~~together with its counterfeit~~, be marked as cancelled.

Voting by officers on duty at polling stations.

63. A presiding officer, polling officer, or polling agent, or public servant who is on duty at a polling station at which he is not entitled to vote shall, if he is certified by the Returning Officer of the constituency concerned to be entitled to vote at the election, be allowed to record his vote at that polling station. The said certificate shall be in the following form:—

"Certified that.....entitled to vote at.....for.....constituency has been employed in connexion with the election for.....constituency and is prevented from voting at the said station, and that I have therefore authorized him to vote at....."

Signature of the Returning Officer."

Procedure of voting by such officers.

64. A person in possession of a certificate in the form provided for in rule 63 shall deliver the certificate to the presiding officer who shall there-

[1]

The words "together with its counterfeit" by notification no 11553-A

[2]

Ins. by notification no 11553-A D/2.10.37 (in G. Gazette P. 762)

[together with the entry relating to it in the ballot paper list]

[Elector no. in the roll of this constituency]

D/2.10.37 (in G. Gazette P. 762)

upon issue to the person ballot papers in the same manner as to any other elector. Such ballot papers shall be dealt with in the following manner:—

(1) If the polling station at which the person is on duty be in the same constituency as the one in which he is entitled to vote, then the provisions contained in rules 56 and 57 shall apply. The presiding officer shall, at the end of the poll, send the certificate to the Returning Officer.

(2) If the polling station at which the person is on duty be not in the same constituency in which he is entitled to vote, then the presiding officer shall along with the ballot paper or papers issue to the person an envelope or envelopes with instructions similar to those contained in sub-rule (3) of rule 56. The person shall then place the ballot paper or papers in the envelope or envelopes according to his choice, stick them up, record the name of the candidate or candidates for whom he has voted on the envelope or envelopes and enclose the envelope (s) in a cover and hand the cover over to the presiding officer. The presiding officer shall despatch the cover together with the certificate to the Returning Officer concerned. The name of the constituency and of the polling station at which such person would ordinarily have been entitled to vote shall be entered in the ballot paper list, together with his number in the electoral roll for that constituency.

Closing of poll and despatch of ballot papers.

65. The presiding officer of each polling station, as soon as practicable after the close of the poll, shall, in the presence of any candidate or polling agents who may be present, make up into separate packets and seal with his own seal and the seal of such candidates or agents as may desire to affix their seal—

- (1) each ballot box in use at such station unopened but with the key (which should also be sealed in the same manner as the ballot box) attached,
- (2) the used tendered ballot papers,
- (3) the unused ballot papers, ordinary and tendered,
- (4) the spoilt ballot papers, ordinary and tendered,
- (5) the marked copy of the electoral roll,
- (6) ~~the counterfoils of the ballot papers~~ ^{list} ~~list~~ 7
- (7) the tendered votes list, and
- (8) the list of challenged votes, and shall forward such packets to the authority mentioned in rule 66.

[1]

Rules for "the Counterfoils of the Ballot-Papers"
 (See by notification no 11553 - A of 2.10.37.
 (See G. Gazette - of 22.10.37 - Part III 1762.)

Statement to accompany ballot box,
etc.

66. (1) The packets shall be accompanied by a statement in a separate cover in Form X made by the presiding officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot box (including those dealt with under rule 64), unused, spoilt, and tendered ballot papers.

(2) Subject to any directions given in that behalf by the Returning Officer, the packets and statements shall be forwarded by the presiding officer to the Returning Officer, or where the Returning Officer is either the Revenue Commissioner or District Officer, to the nearest Subdivisional or Revenue Divisional Officer. The Subdivisional or Revenue Divisional Officer shall forward the packets to the Returning Officer. Each packet shall be numbered and shall bear a note on it as to its contents and the name of the polling station. Where no vote has been recorded in any constituency, the presiding officer shall submit a nil report together with the statement in Form X and the empty box.

POSTAL VOTING.

Postal voting.

67. Votes shall be given by the system of voting described hereinafter as postal voting in the commerce and industry and landholders constituencies.

Issue of ballot and declaration
paper.

68. Not less than fifteen clear days before the date appointed for the poll under rule 27, the Returning Officer shall issue through registered post, a declaration paper and a ballot paper to each elector to the address entered against his name in the electoral roll:

Provided that, in the case of the commerce and industry constituency the Returning Officer shall send only one set of voting papers to the firm, corporation or Hindu joint family, as the case may be, to the address of its office as given in the electoral roll, instead of to the nominee or nominees thereof.

Form of ballot paper.

69. The declaration paper shall be in Form XI and the ballot paper in Form XI-A. The ballot paper shall have the names of the candidates in the order in which they appear in Form VI. If there are two candidates whose names are the same, they shall be distinguished by the addition of their occupation or in some other way. The ballot papers shall be printed in such language or languages as the Returning Officer may consider necessary. The same serial number shall be entered on the face of the declaration paper and on the back of the ballot paper. To each elector shall be issued the declaration paper and the ballot paper whose serial numbers correspond to the number which the elector bears on the electoral roll.

Procedure before issue of ballot
paper.

70. Before the ballot paper is issued to an elector, the Returning Officer shall —

(a) have the name of the elector entered on the declaration paper; and

[1]

The figure 27(c)(iii) is to be read
as if it was sub. for the figure
27(c). (See *Corrigendum* G. Gazette D/22.10.37
Part III. ~~Jan 1938~~ p. 764)

(b) place a mark against the name of the elector concerned in the electoral roll, or the copy of it, used for the purpose of the election.

Forms to accompany ballot paper.

71. With the ballot paper, the Returning Officer shall send a cover addressed to himself in Form XII, an envelope with the number of the ballot paper entered on its face at the left-hand bottom corner of the cover, and a letter in Form XIII.

Voting.

72. (1) Each elector, upon receipt of his ballot paper, if he desires to vote in the election, shall first sign the declaration in the declaration paper in the presence of an attesting officer who shall attest his signature, and thereafter record his vote on the ballot paper by placing a mark against the name of the candidate or candidates of his choice.

(2) Any gazetted officer of Government may attest a declaration made under the rule.

Return of ballot and declaration paper.

73. The voter shall then enclose the ballot paper in the envelope and stick it up and enclose the envelope and the declaration paper in the cover and send the cover by post to the Returning Officer so as to reach him not later than the day and the latest hour fixed for the poll under sub-clause (iii) of clause (b) of rule 27. The covers received after such day and hour, shall be rejected:

Provided that, at his option, the elector may in person or by messenger deposit the cover in a ballot box which shall be provided at the office of the Returning Officer on the day and during the hours fixed for the poll.

Assistance to incapacitated voters.

74. If the elector is incapacitated from blindness or other physical cause, from voting in the manner prescribed above, it shall be competent for him to record his vote by the hand of any gazetted officer; and such officer shall, at the request of the elector, mark the ballot paper in the presence of the elector and if the incapacity is due to blindness, in the presence of another person as well and shall, on the declaration paper, certify the incapacity and attest the fact of his having been requested by the elector to mark the ballot paper for him, and of its having been so marked.

Lost or spoilt ballot papers.

75. (1) An elector who has not received his ballot and other connected papers sent by post, or whose papers before their despatch back to the Returning Officer have been inadvertently spoilt in such manner that they cannot be conveniently used, or who has lost his papers, may apply in the manner prescribed in sub-rule (2) for new papers in place of those not received, spoilt or lost, and if the papers have been spoilt, the spoilt papers shall be returned to the Returning Officer who shall cancel the same on receipt. In every case where new papers are issued, a mark shall be placed against the name of the elector in the copy of the roll referred to in clause (b) of rule 70 to denote that new papers have been issued in place of those not received, spoilt or lost.

(2) Any elector applying for new papers under sub-rule (1) shall sign a declaration to the effect that he has not received his ballot and other connected papers or that they have been spoilt or lost, as the case may be, before a Subdivisional Magistrate, Taluk Magistrate, Deputy Tahsildar or Stationary Sub-Magistrate having jurisdiction over the place mentioned in the address as entered against the elector's name in the electoral roll. If the elector is not personally known to such officer, he shall be identified by two respectable witnesses who shall also sign the declaration as having identified the elector. For the purpose of identification, the testimony of the village officers of the village in which the elector resides shall be accepted as sufficient. The officer before whom the elector signs the declaration shall forward it himself to the Returning Officer of the constituency concerned.

Election not invalid.

76. 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.

SECTION IV.—COUNTING OF VOTES.

Notice of the date of counting of votes.

77. The Governor shall appoint a date, which shall be not later than fifteen days from the date of the poll, and the time and place for the counting of votes which shall be notified in the Gazette.

Who may be present at the counting.

78. Votes shall be counted by, or under the supervision of, the Returning Officer, and each candidate, the election agent of each candidate, and one representative of each candidate authorized in writing by the candidate shall have a right to be present at the time of counting. No other person shall be allowed to be present except such persons as the Returning Officer may appoint to assist him in counting votes, and no person shall be appointed to assist in counting the votes who has been employed by or on behalf of any candidate for any purpose whatsoever connected with the election.

Procedure at counting.

79. On the day and at the time appointed under rule 77, the Returning Officer shall, before he commences to count the votes, read the provisions of section 14 of the Indian Election Offences and Inquiries Act, 1920, to such persons as may be present, and shall then proceed as follows:—

Personal votes.

(a) (i) If the constituency is one in which the voting is personal, the ballot box or boxes relating to all polling stations in the constituency of the same colour shall be opened one after another. The Returning Officer shall take out the ballot papers therefrom, count them and record the number thereof in a statement. He shall then have all the boxes of another colour opened and the ballot papers taken out, counted and the number recorded in the statement, and similarly with

Inspection of postal vote covers.

boxes of as many colours as may have been prescribed for the constituency.

- (ii) If the constituency is one in which postal voting is allowed, the covers received from or deposited by electors under the proviso to rule 73, shall be opened one after another and the envelopes and declaration papers taken out therefrom. If a cover should contain no declaration paper outside the envelope, the envelope enclosed in such cover shall be rejected and the Returning Officer shall endorse the word "rejected" on the envelope. If a cover contains a declaration paper, the Returning Officer shall examine whether the declaration paper is the one sent out by him and whether the declaration and attestation are prima facie regular. If he is not satisfied that a declaration paper is the one sent out by him to the elector concerned, or if the declaration or attestation is not in order, he shall endorse the word "rejected" on the back of the declaration paper and keep it with the connected envelope in a separate bundle. If more than one declaration paper or more than one envelope is enclosed in one and the same cover, all the declaration papers and envelopes contained in the cover shall be rejected, and the Returning Officer shall endorse the word "rejected" on the back of each declaration paper and keep the declaration papers so rejected and the envelopes contained in the cover in the same bundle of rejected papers. He shall file the other declaration papers and the envelopes containing the corresponding ballot papers in a separate heap. These envelopes shall then be opened, the ballot papers enclosed therein taken out, and counted, and the total thereof recorded by the Returning Officer in a statement. The Returning Officer shall then mix together all the ballot papers so counted and totalled up and distribute them in convenient bundles to the persons appointed to assist in counting the votes.

Inspection of ballot papers by candidates, etc.

The Returning Officer shall allow the candidates and their agents reasonable opportunities to inspect, without handling all ballot papers which in his opinion are liable to be rejected. He shall endorse on every ballot paper which is rejected the word "rejected". If any candidate or agent

present questions the correctness of the rejection, he shall also record on the ballot paper the grounds for the rejection. No candidate or agent shall be allowed to see the serial number on the back of any ballot paper.

- (c) The Returning Officer shall, as far as practicable, proceed continuously with the counting of the votes; and shall, during any necessary intervals during which the counting has to be suspended, place the ballot papers, packets and other documents relating to the election under his own seal and the seals of such candidates or agents as may desire to affix them, and shall cause adequate precautions to be taken for their custody.

Grounds of rejection of ballot paper.

80. (1) A ballot paper shall be rejected if—
in the case of all constituencies, in both personal vote and postal vote, it bears any mark by which the elector can be identified;
in the case of personal vote—it does not bear on its back the official mark; and
in the case of postal votes constituencies—

- (a) the number of votes recorded thereon exceeds the number of vacancies to be filled;
✓ (b) no vote is recorded thereon;
✓ (c) it is void for uncertainty;
(d) (i) the cover enclosing the elector's declaration paper and the envelope containing his ballot paper has neither been sent by post so as to reach the Returning Officer not later than the day and the latest hour fixed for the poll, nor deposited in the ballot box provided in the office of the Returning Officer on the day and during the hours fixed for the poll,
(ii) the cover contains no declaration paper outside the envelope;
(iii) more than one declaration paper or envelope containing the ballot paper have been enclosed in one and the same cover;
✓ (iv) the declaration paper is not the one sent out by the Returning Officer to the elector, or the declaration or attestation is not in order:

(2) Except on one or more of the abovementioned grounds, a ballot paper shall not be rejected.

(3) The decision of the Returning Officer as to the validity of a ballot paper shall be final, subject only to reversal on an election petition.

Declaration of result.

81. When the counting of the votes has been completed, the Returning Officer shall forthwith declare the candidate or candidates, as the case may be, to whom the largest number of votes has been given to be elected:

Provided that—

- (1) if a seat is reserved for a member of the scheduled castes or for a representative of the backward tribes, the Returning Officer shall first declare that one of the qualified candidates for such reserved seat to whom the largest number of votes has been given to be elected to fill it, and
- (2) thereafter the candidate, other than the candidate declared to be elected under clause (1), who has secured the largest number of votes whether such a candidate is a member of the scheduled castes or backward tribes or not.

Report of result of election:

82. The Returning Officer shall without delay report the result of the election to the Elections Officer to Government, who shall publish in the Gazette, the name or names of the candidate or candidates elected.

Verification of statement in Form X in personal voting.

83. The following procedure shall apply to constituencies other than those for which postal voting is allowed:—

The Returning Officer shall not open the sealed packets of the tendered votes, the marked copy of the electoral roll or the counterfoils of the ballot papers. He shall verify the statement submitted by the presiding officer under rule 66 by comparing it with the number of accepted ballot papers and of rejected ballot papers, the unused ballot papers in his possession and the tendered votes list, shall then reclose and reseal each packet which has been opened by him, and shall record on each packet a description of its contents and the date of the election to which it refers.

Statement in Form XIV in postal voting.

84. The following procedure shall apply in the case of postal vote constituencies:—

Upon the completion of the counting, the Returning Officer shall seal up in separate packets—

- (1) the counted ballot papers;
- (2) the rejected declaration papers and connected envelopes;
- (3) the ballot papers rejected at the count;
- (4) the rejected envelopes and the connected declaration papers, if any; and
- (5) the marked copy of the electoral roll.

He shall also prepare and sign a statement in Form XIV and shall record on each packet a description of its contents and the date of the election to which it refers.

Subs. for "Counterfoils of the ballot papers" by notification no 11553-A D/2.10.37. (See G. Gazette D/22.10.37 Pt III 1762.)

Return of the result of election in Form XV.

85. In the case of all constituencies—both personal and postal—the Returning Officer shall then prepare and certify a return in Form XV 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 name of candidate or candidates elected,
- (4) the number of votes declared invalid, and
- (5) the number of tendered votes given, and shall permit any candidates or any representative duly authorized under rule 78 to take a copy or an extract from such return.

Submission of return to Elections Officer.

86. (1) The Returning Officer shall forward a copy of the return made under rule 85 to the Elections Officer to Government as soon as possible after reporting the result of the election as required by rule 82.

Custody of election packets.

(2) All the packets relating to the elections shall, subject to the control of the Governor, remain in the custody of the Returning Officer.

SECTION V.

ELECTION AGENTS AND EXPENSES.

Application in primary election.

87. The provisions of paragraphs 4, 5 and 6 of Part II of the Corrupt Practices Order shall not apply to expenses incurred in connection with a primary election.

Disqualification of election agents.

88. No person who is for the time being disqualified under the provisions of Part IV of the Corrupt Practices Order from being a member of a Provincial Legislature, or from voting at elections shall so long as the disqualification exists, be employed by or on behalf of a candidate as an agent in connection with any election, including a primary election, held under the provisions of these Rules.

Account of Agents.

89. Subject to the provisions of rule 87, the books of account to be kept by an election agent under paragraph 4 of Part II of the Corrupt Practices Order shall contain a statement of all payments made by the candidate or by his election agent or by any person on behalf of the candidate or in his interests for expenses incurred on account of, or in respect of, the conduct and management of the election, and further a statement of all unpaid claims in respect of such expenses of which he or his election agent is aware.

Date of lodging of accounts and form thereof.

90. (1) The return of election expenses to be lodged with the Returning Officer under paragraph 5 of Part II of the Corrupt Practices Order shall be so lodged within thirty-five days from the date of the publication of the result of the election under rule 82 and shall contain the particulars specified in Appendix B, and shall be in the form prescribed for that purpose in the said Appendix; and the declara-

tions to be made in respect of the return shall be in the forms respectively prescribed for that purpose in the said Appendix.

(2) Every such return shall bear a non-judicial stamp or stamps of the value of one rupee, without which the Returning Officer shall not accept the return.

Notification in the Gazette.

91. When any return and the declarations made in respect thereof have been lodged with the Returning Officer, he shall, as soon as may be, cause a notice to be affixed in some conspicuous place in his office and to be published in the Gazette, specifying the date on which such return and declarations have been lodged with him and the time and place at which they may be inspected and copies thereof may be obtained by any person on payment of the fees prescribed in rule 121.

Record of candidates, election agents and date of lodging of accounts.

92. The Governor shall cause to be prepared in such manner, and maintained for such time, as he may direct, a record showing the names of all candidates at every election, other than a primary election, held under these rules and the names of the election agent of each such candidate and the date on which the return of election expenses of each such candidate has been lodged with the Returning Officer.

SECTION VI.

THE DECISION OF DOUBTS AND DISPUTES REGARDING THE VALIDITY OF A PRIMARY ELECTION.

Application.

93. Rules 94 to 106 inclusive shall apply to the decision of doubts and disputes regarding the validity of a primary election, and the provisions of Part III of the Corrupt Practices Order and of Section VII of these rules shall not apply to the decision of such doubts and disputes:

Provided that, for the purposes of Part IV of the Corrupt Practices Order, an election enquiry held by a District Magistrate under this section shall be deemed to be an enquiry under Part III of the said Order.

Definitions.

94. In this Section, unless the context otherwise requires:—

“agent” includes an election agent and any person who, on the trial of an election petition, is held by the District Magistrate to have acted as an agent in connection with the primary election with the knowledge or consent of the candidate;

“candidate” means a person who has been duly nominated as a candidate for a primary election, or who claims that he has been so nominated, or that his nomination has been improperly refused;

“elected candidate” means a candidate who has been declared as duly elected under sub-rules (2) and (3) of rule 23 or sub-rule (3) under rule 25;

“corrupt practice” means one of the practices specified in the First Schedule to the Corrupt Practices Order; and

“District Magistrate” includes any Magistrate of the first class who may be appointed in this behalf by the District Magistrate by an order in writing.

Election petition.

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

By whom to be presented.

96. An election petition against any elected candidate may be presented by any other candidate on the ground that there has been any illegality or irregularity in procedure or that a corrupt practice has been committed at the primary election.

Presentation of petition.

97. (1) An election petition shall be presented to the District Magistrate not later than three O'clock in the afternoon of the second day after the date on which the result of the primary election has been declared by the Returning Officer:

Provided that, if the second day after such date is a public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881, or has been notified by the Governor as a day to be observed as a holiday in the District Magistrate's Office, the petition shall be considered as having been received in due time if it is presented not later than three O'clock in the afternoon of the next succeeding day which is neither such a public holiday nor a day so notified.

(2) An election petition shall be deemed to have been presented to the District Magistrate when it is delivered to the District Magistrate by the candidate making the petition or by a person authorized in writing in this behalf by such candidate.

May claim a declaration.

98. A petitioner may, if he so desires, in addition to calling in question the election of an elected candidate, claim a declaration that he himself has been duly elected; in which case he shall join as respondents to his petition all other candidates who were nominated at the primary election.

Contents of petition.

99. (1) An election petition shall contain a statement in concise form of the material facts on which the petitioner relies, and shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908, for the verification of pleadings.

(2) The petition shall be accompanied by a list, signed and verified in like manner, setting forth full particulars of any corrupt practice which the petitioner alleges, including as full a statement as possible in regard to the names of the parties alleged to have committed any corrupt practice and the date and place of the commission of each such practice.

(3) When a petitioner is unable to write his name, he shall give his thumb-impression in the presence of the officer authorised to receive the petition under sub-rule (1) of rule 97 on his petition and the list referred to respectively in sub-rules (1) and (2) of rule 99.

Deposit of security.

(4) At the time of presentation of the petition, the petitioner shall deposit with it the sum of two

hundred and fifty rupees in cash, or in Government Promissory Notes of equal value at the market rate of the day, as security for the costs of the petition.

Dismissal.

100. (1) If there is any failure to comply with any of the provisions of rule 96, rule 97, rule 98 or rule 99, the District Magistrate shall dismiss the petition.

Summary enquiry.

(2) If the petition is not dismissed under sub-rule (1), the District Magistrate shall, after giving notice to the respondents, hold a summary enquiry into the petition at such place and on such date as may be fixed by him.

(3) Subject to the provisions of this Section, every election petition shall be enquired into by the District Magistrate as nearly as may be in accordance with the procedure applicable under the Code of Criminal Procedure, 1898, to summary trials, and in recording evidence the District Magistrate shall observe the procedure laid down in the said Code for summary trials in appealable cases.

Withdrawal.

101. (1) An election petition may be withdrawn by leave of the District Magistrate: provided that, if there are more petitioners than one, no application to withdraw the petition shall be made except with the consent of all the petitioners.

(2) If an application for withdrawal is granted, the petitioner shall be ordered to pay the costs of the respondent or respondents theretofore incurred, or such portion thereof as the District Magistrate may think fit.

Abatement.

102. An election petition shall abate on the death of a sole petitioner, or of the survivor of several petitioners.

Grounds of declaring elections void.

103. (1) If in the opinion of the District Magistrate—

- (a) the result of the primary election has been materially affected by the improper acceptance or refusal of any nomination, 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 these rules or of the Act or of any Order or other rule made under the Act or of an Act of the Provincial Legislature relating to the election, or by any mistake in the use of any prescribed form; or
- (b) the election of an elected candidate or candidates has been procured or induced, or the result of the primary election has been materially affected, by a corrupt practice; or
- (c) any corrupt practice specified in Part I of the First Schedule to the Corrupt Practices Order has been committed in the interests of an elected candidate or candidates; or

- (d) the election has not been a free election by reason of the large number of cases in which undue influence or bribery within the meaning of Part I or Part II of the First Schedule to the Corrupt Practices Order has been exercised or committed;

the election of the elected candidate or candidates concerned shall be void.

(2) If a person (not being entitled so to do) votes more than once at the same election, all his votes shall be deemed for the purposes of sub-rule (1) (a) to be void.

(3) If the District Magistrate reports that a returned candidate has been guilty through an agent, other than his election agent, of any corrupt practice specified in Part I of the First Schedule to the Corrupt Practices Order, but further reports that the candidate has satisfied him that—

- (a) no corrupt practice was committed at the election by the candidate or his election agent, and the corrupt practices mentioned in the report were committed contrary to the orders, and without the sanction or connivance, of the candidate or his election agent;
- (b) the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at the election;
- (c) the corrupt practices mentioned in the report were of a trivial and limited character or took the form of customary hospitality which did not affect the result of the election; and
- (d) in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents,

then the District Magistrate may find that the election of the candidate is not void.

Judgment.

104. (1) At the conclusion of his enquiry the District Magistrate shall deliver judgment in writing, and shall in such judgment record a finding whether all the elected candidates have been duly elected, and also whether the petitioner has been duly elected. His judgment shall further include a finding as to the total amount of costs which are payable and the persons by whom and to whom such costs should be paid and in what proportions.

Finding of corrupt practice.

(2) Where any charge has been made in an election petition of any corrupt practice, the District Magistrate shall further record in his judgment—

- (a) a finding whether a corrupt practice has or has not been proved to have been committed by any candidate, or his agent, or with the connivance of any candidate or his agent; and

(b) the names of all persons, if any, who have been proved at the enquiry to have been guilty of any corrupt practice and the nature of that practice, with any such recommendation as the District Magistrate may think proper to make for the exemption of any such persons from any disqualifications which they may have incurred in this connection under Part IV of the Corrupt Practices Order:

Provided that no person shall be so named in the judgment unless he has been given a hearing as to why his name should not be so recorded.

(3) All the findings recorded by the District Magistrate in his judgment shall be final, subject only to such orders as the Governor may see fit to issue on any recommendation made under clause (b) of sub-rule (2).

Delivery of judgment within 10 days.

105. Every enquiry into an election petition presented under rule 95, including the delivery of judgment, shall be completed by the District Magistrate within ten days from the date of presentation of the petition.

Report and duties of Returning Officer on receipt of judgment.

106. (1) Immediately upon delivering judgment under rule 104, the District Magistrate shall forward one copy of the judgment to the Governor and another copy to the Returning Officer.

(2) The Returning Officer, on receipt of a copy of the judgment shall, if necessary, amend forthwith the list of names posted or published by him, as the case may be, under sub-rule (3) of rule 23, or under rule 42 and shall cause the amended list to be posted or published anew; or, in the case where the Returning Officer has made a report under sub-rule (3) (a) of rule 23, he shall, if necessary, amend such report forthwith:

Provided that, where the District Magistrate has recorded a finding that the election of all the elected candidates is void and that no other candidate has been duly elected, the Returning Officer shall at once bring the fact to the notice of the Governor to enable the Governor to take action for a fresh primary election under sub-rule (2) of rule 124 or sub-rule (2) of rule 125, as the case may be.

SECTION VII.

THE DECISION OF DOUBTS AND DISPUTES REGARDING THE VALIDITY OF AN ELECTION OTHER THAN A PRIMARY ELECTION.

Definition.

107. In this section, unless the context otherwise requires—

“candidate” has the same meaning as in paragraph 1 of Part III of the Corrupt Practices Order;

“returned candidate” means a candidate whose name has been published under rule 82 as duly elected;

“corrupt practice” means one of the practices specified in the First Schedule to the Corrupt Practices Order; and

“Commissioners” means Commissioners appointed under paragraph 4 of Part III of the Corrupt Practices Order for the trial of an election petition, or, in respect of any matter to be done before the commencement of the enquiry, the President of a Commission so appointed,

Application.

✓ 108. The provisions of Part III of the Corrupt Practices Order shall, in relation to any constituency in which a seat is reserved for members of the scheduled castes, have effect subject to this modification, namely, that the election of a returned candidate shall not be called in question by reason of any irregularity or corrupt practice committed, or alleged to have been committed, in connection with a primary election.

Presentation of petition.

109. (1) An election petition presented to the Governor under Part III of the Corrupt Practices Order shall be so presented—

- (a) by a candidate or elector within fourteen days from the date of the publication of the notice of the return of election expenses in the Gazette under rule 91; or
- (b) within thirty days from that date by an officer empowered by the Governor under paragraph 3 of Part III of the Corrupt Practices Order:

Provided that an election petition presented on the ground that the returned candidate or his election agent or any other person acting with the connivance of the candidate or of his election agent has committed in relation to the election, and has been found guilty by a criminal court of so committing, the offence of bribery, undue influence or personation, may be presented to the Governor within fourteen days from the date on which such returned candidate, election agent or other person was convicted of such offence by the criminal court.

(2) When the last day of the period for the presentation of an election petition under this rule is a public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881, or has been notified by the Governor as a day to be observed as a holiday in Government offices, the petition shall be considered as having been received in due time if it is presented on the next succeeding day which is neither such a public holiday nor a day so notified.

(3) An election petition shall be deemed to have been presented to the Governor when it is delivered to the Governor or to any officer appointed by him in this behalf—

- (a) by the person making the petition; or

Contents of petition.

- (b) by a person authorised in writing in this behalf by the person making the petition; or
(c) by registered post.

110. (1) An election petition shall contain a statement in concise form of the material facts on which the petitioner relies and shall, where necessary, be divided into paragraphs numbered consecutively. It shall be signed by the petitioner and verified in the manner laid down for the verification of pleadings in the Code of Civil Procedure, 1908.

(2) The petition shall be accompanied by a list, signed and verified in like manner, setting forth full particulars of any corrupt practice which the petitioner alleges, including as full a statement as possible in regard to the names of the parties alleged to have committed any corrupt practice and the date and place of the commission of each such practice.

(3) When a petitioner is unable to write his name, he shall give his thumb-impression in the presence of the officer authorised to receive the petition under sub-rule (3) of rule 109 on his petition and the list referred to respectively in sub-rules (1) and (2).

(4) The Commissioners may, upon such terms as to costs and otherwise as they may direct, at any time allow the particulars included in the said list to be amended, or order such further and better particulars in regard to any matter referred to therein to be furnished as may, in their opinion, be necessary for the purposes of ensuring a fair and effectual trial of the petition.

When claiming a Declaration.

111. If the petitioner, in addition to calling in question the election of the returned candidate, claims a declaration that he himself has been duly elected, he shall join as respondents to his petition all other candidates who were nominated at the election.

Deposit of security.

112. At the time of presentation of the petition, the petitioner shall, except where the petition is presented under clause (b) of sub-rule (1) of rule 109, deposit with it the sum of one thousand rupees in cash, or in Government Promissory Notes of equal value at the market rate of the day, as security for the costs of the petition.

Dismissal.

113. (1) If there is any failure to comply with any of the provisions of paragraph 3 of Part III of the Corrupt Practices Order or of rule 109, rule 110, rule 111, or rule 112 of these rules, the Governor shall dismiss the petition.

Notification in Gazette and execution of bond.

(2) If the petition is not dismissed under sub-rule (1), the Commissioners shall, as soon as may be, cause a copy of the petition to be served on each respondent and to be published in the Gazette, and may call on the petitioner to execute a bond in such amount and with such sureties as they may deem proper for the payment of any further costs.

At any time within fourteen days after the date of such publication in the Gazette, any other candidate shall be entitled to be joined as a respondent on giving security in a like amount and procuring the execution of a like bond:

Provided that the execution of such a bond by the petitioner shall not be required in any case where the petition has been presented under clause (b) of sub-rule (1) of rule 109.

Procedure of enquiry.

114. (1) Subject to the provisions of this section, every election petition shall be inquired into by the Commissioners as nearly as may be in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits:

Provided that it shall only be necessary for the Commissioners to make a memorandum of the substance of the evidence of any witness examined by them.

(2) The enquiry shall be held at such place as the Governor may appoint:

Provided that the Commissioners may in their discretion sit at any other place in the province for any part of the inquiry and may depute any one of their number to take evidence at any place in the province.

Withdrawal.

115. (1) An election petition may be withdrawn only by leave of the Commissioners or, if an application for withdrawal is made before any Commissioner has been appointed, of the Governor.

(2) If there are more petitioners than one no application to withdraw the petition shall be made except with the consent of all the petitioners.

(3) When an application for withdrawal is made to the Commissioners, notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the Gazette.

(4) No application for withdrawal shall be granted if in the opinion of the Governor or of the Commissioners, as the case may be, such application has been induced by any bargain or consideration which ought not to be allowed.

(5) If any application for withdrawal is granted—

(a) the petitioner shall, where the application has been made to the Commissioner, be ordered to pay the costs of the respondent or respondents theretofore incurred, or such portion thereof as the Commissioners may think fit;

(b) notice of the withdrawal shall be published in the Gazette by the Governor or by the Commissioners, as the case may be; and

(c) any person who might himself have been a petitioner may, within fourteen days from the date of such

Substitution upon withdrawal of petitioner.

publication, apply to be substituted as petitioner in place of the party withdrawing, and shall, upon such application and upon compliance with the provisions of rule 112 as to security, be entitled to be so substituted and to continue the proceedings on such terms as the Commissioners may think fit.

(6) When an application for withdrawal is granted by the Commissioners and no person is substituted as petitioner under clause (c) of sub-rule (5), the Commissioners shall report the fact to the Governor.

Abatement.

116. (1) An election petition shall abate only on the death of a sole petitioner, or of the survivor of several petitioners:

Provided that, where such sole petitioner was an officer empowered by the Governor under paragraph 3 of Part III of the Corrupt Practices Order, the proceedings may be continued by any other officer empowered in that behalf by the Governor.

(2) Notice of abatement of an election petition shall be published in the Gazette by the Commissioners or, if the petition abates before any Commissioner has been appointed, by the Governor.

Substitution for petitioner upon abatement.

(3) Any person who might himself have been a petitioner may, within fourteen days from the date of such publication, apply to be substituted as petitioner, and shall, upon such application and upon compliance with the provisions of rule 112 as to security, be entitled to be so substituted and to continue the proceedings on such terms as the Commissioners may think fit.

(4) When a petition abates after the Commissioners have been appointed, and no person is substituted as petitioner under sub-rule (3), the Commissioners shall report the fact to the Governor.

Substitution for respondent upon abatement.

117. If before the conclusion of the trial of an election petition the respondent dies, or gives notice that he does not intend to oppose the petition, the Commissioners shall cause notice of such event to be published in the Gazette and thereupon any person who might have been a petitioner may, within fourteen days from the date of such publication, apply to be substituted for such respondent to oppose the petition, and shall thereupon be entitled to continue the proceedings on such terms as the Commissioners may think fit.

Recrimination when seat claimed.

118. (i) Where at an inquiry into an election petition any candidate, other than the returned candidate, claims the seat for himself, the returned candidate, or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented complaining of his election:

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the date of the publication of the election petition under sub-rule (2) of rule 113, given notice of his intention to the Commissioners and deposited as security the sum mentioned in rule 112 and, if so called on, procured the execution of the bond referred to in rule 113.

(2) Every notice given under the proviso to sub-rule (1) shall be accompanied by the statement and list of particulars required by rule 110, in the case of an election petition, and shall be signed and verified in like manner.

SECTION VIII.

CUSTODY AND PRESERVATION OF ELECTION PAPERS AND ACCESS OF PUBLIC THERETO.

Papers relating to nomination, etc.

119. The nomination papers of candidates, notices of withdrawals of candidature, and all other papers relating to nominations shall be kept in the record room of the Returning Officer and shall be destroyed after five years, unless their retention for a longer period is ordered by the Governor. Such papers shall not be open to inspection by, nor may copies be given to, any person other than those who were entitled under rules 18 and 39 to be present at the scrutiny of nominations.

Papers relating to voting, etc.

120. All papers relating to voting and counting of votes (including sealed packets of used, unused, spoilt and tendered ballot papers, marked copies of electoral rolls, counterfoils of ballot papers, tendered votes lists, challenged votes lists, statements and returns prepared by presiding or returning officers, returns of election expenses and declarations relating thereto, etc.) shall be preserved by the Returning Officer of the constituency. Such papers shall be retained for one year, and shall thereafter be destroyed, unless their retention for a longer period is ordered by the Governor. Except the Returning Officer's return of the result of an election, such papers shall not be open to inspection, and sealed packets containing ballot papers and the counterfoils of ballot papers shall not be opened, nor shall their contents be inspected or produced except under the order of a competent court or of Commissioners appointed to hold an inquiry in respect of an election.

Fee for inspection and copying.

121. Subject to rules 119 and 120, a fee of Rs. 2 shall be charged for inspection of the records, and the same fees as are prescribed for copies of revenue records shall be charged for certified or attested copies thereof.

Papers relating to election petitions.

122. (1) Election petitions in respect of primary elections, with the proceedings and judgments relating thereto, shall be preserved in the record-room of the District Magistrate for a period of one year and shall then be destroyed unless their preservation for a longer period is ordered by the Governor.

[2] Ins. by notification no 1153-A D 2. 10. 37 (see G. Gazette D 2. 10. 37 Part III 8-762)

[1] Rules for "Counterfoils of ballot papers" by notification no. 1153-A D 2. 10. 37 (see G. Gazette D 2. 10. 37 Part III 8-762)

election expenses and the declaration relating thereto

(2) Election petitions in respect of elections other than primary elections, with the proceedings and reports of the Commissioners thereon, shall be preserved in the Record Room of the Orissa Civil Secretariat for a period of five years and shall then be destroyed unless their preservation for a longer period is ordered by the Governor.

SECTION IX.

GENERAL PROVISIONS.

General election.

123. (1) A general election shall be held for the purpose of constituting the first Legislative Assembly under the Act.

(2) On the expiration of the duration of the Assembly or on its dissolution, a general election shall be held in order that a new Assembly may be constituted.

Notifications of elections.

124. (1) At any convenient time prior to the first general election, and, in the case of all subsequent general elections, on the dissolution of an Assembly, the Governor shall, by notifications in the Gazette, call upon—

(i) every constituency, save and except the constituencies in which a seat is reserved for members of the scheduled castes, to elect a member or members within such period as may be specified in the notification; and

(ii) the scheduled castes in every constituency in which a seat is reserved for members of those castes to hold a primary election within a month from the date of publication of the notification:

Provided that the Governor may, if he thinks fit, issue the first of the said notifications at any time not being more than four months prior to the date on which the term of office of the Assembly is due to expire, and may issue the second at any time not being more than six months prior to the date on which the term of office of the Assembly is due to expire.

(2) Not later than twenty days after the declaration of the result of any primary election held in pursuance of a notification issued under clause (ii) of sub-rule (1), or upon the failure of the scheduled castes in a constituency to hold a primary election in the circumstances contemplated in proviso (b) to sub-rule (3) of rule 23, the Governor shall, by another notification in the Gazette, call upon the constituency concerned to elect a member or members within such period as may be specified in the notification:

Provided that, where the election of all the candidates elected at a primary election is declared void at an election enquiry held under Section VI of these rules and no other candidate is declared at such enquiry to have been duly elected, the Governor shall again by a notification in the Gazette

call upon the scheduled castes in the constituency concerned to hold a fresh primary election within a month from the date of publication of the notification, and the further notification under this sub-rule calling on the constituency to elect a member or members shall be issued not later than twenty days after the declaration of the result of such fresh primary election.

Casual vacancies.

125. (1) When the seat of a member becomes vacant otherwise than on the dissolution of an Assembly, the Governor shall, subject to the provisions of sub-rules (2) and (3), by a notification in the Gazette, call upon the constituency concerned to elect a member to fill the vacancy within such period as may be specified in the notification.

(2) If the seat which becomes vacant is a seat reserved for members of the scheduled castes, the Governor shall first, by a notification in the Gazette, call upon the scheduled castes in the constituency concerned to hold a primary election within a month from the date of publication of the notification, and shall, not later than twenty days after the declaration of the result of such primary election, by another notification in the Gazette, call upon the constituency to elect a member within such period as may be specified in the latter notification :

Provided that, when the election of all the candidates elected at the said primary election is declared void at an election enquiry held under Section VI of these rules and no other candidate is declared at such enquiry to have been duly elected, the Governor shall again, by a notification in the Gazette, call upon the scheduled castes in the constituency to hold a fresh primary election within a month from the date of publication of the notification, and the further notification under this sub-rule calling upon the constituency to elect a member shall be issued not later than twenty days after the declaration of the result of such fresh primary election.

Eligibility of rulers, etc. of Indian States.

126. For the purpose of clause (a) of paragraph I of the Fifth Schedule, the Ruler or a subject of any Indian State shall be deemed to be qualified to be chosen to fill a seat in the Legislative Assembly.

Vacation of seats when elected to more than one.

127. If a person is elected to more than one seat, then, unless within ten days from the publication in the Gazette of the name of that person as having been so elected, or, where such publication is made on different dates, unless within ten days from the latest of such dates, the person resigns all but one of the seats, all the said seats shall become vacant.

APPENDIX A

[See RULE 3.]

ORISSA LEGISLATIVE ASSEMBLY.

I.—General Constituencies.

Serial no.	Name of Constituency.	Returning Officer.	Extra Returning Officer.
1	West Cuttack Sadr	Subdivisional Officer, Sadr, Cuttack.	Any magistrate of the first class or a magistrate generally known as the second officer, appointed in this behalf by the Returning Officer by an order in writing.
2	Central Cuttack Sadr		
3	North Cuttack Sadr		
4	East Cuttack Sadr		
5	South Cuttack Sadr		
6	Central Kendrapara	Subdivisional Officer, Kendrapara.	Ditto ditto.
7	North Kendrapara		
8	East Kendrapara		
9	East Jajpur	Subdivisional Officer, Jajpur.	Ditto ditto.
10	West Jajpur		
11	North Jajpur		
12	Angul District	Subdivisional Officer, Angul.	Ditto ditto.
13	East Puri Sadr	Subdivisional Officer, Sadr, Puri.	Ditto ditto.
14	South Puri Sadr		
15	North Puri Sadr		
16	East Khurda	Subdivisional Officer, Khurda.	Ditto ditto.
17	West Khurda		
18	Central Balasore Sadr	Subdivisional Officer, Sadr, Balasore	Ditto ditto.
19	South Balasore Sadr		
20	North Balasore Sadr		
21	East Bhadrak	Subdivisional Officer, Bhadrak.	Ditto ditto.
22	West Bhadrak		
23	Sambalpur Sadr	Subdivisional Officer, Sadr, Sambalpur.	Ditto ditto.
24	West Bargarh	Subdivisional Officer, Bargarh.	Ditto ditto.
25	East Bargarh		
26	Khariar	Subdivisional Officer, Nawapara.	Ditto ditto.
27	Ghumsur	Revenue Divisional Officer, Ghumsur.	Tahsildar, Ghumsur.
28	Kudala	Revenue Divisional Officer, Chatrapur.	Deputy Tahsildar, Kudala.
29	Chatrapur	Revenue Divisional Officer, Chatrapur.	Tahsildar, Chatrapur.
30	Aska-Surada	Revenue Divisional Officer, Ghumsur.	1. Tahsildar, Aska. 2. Deputy Tahsildar, Surada.
31	Berhampur	Sub-Collector, Berhampur.	Tahsildar, Berhampur.
32	Balliguda-Khondmals	Revenue Divisional Officer, Balliguda.	Second Officer, Khondmals. Deputy Tahsildar, Balliguda.
33	Parlakimedi	Revenue Divisional Officer, Rayagada.	Tahsildar, Parlakimedi.

[1]

Sd/- for "Revenue Divisional Officer" by notification
no 11553-A of 2.10.37 (in 6. Gazette of 22.10.37)
1762)

Serial no.	Name of Constituency.	Returning Officer.	Extra Returning Officer.
34	Naurangpur	.. Revenue Divisional Officer, Naurangpur.	Tashildar, Jeypore.
35	Jeypore-Malkangiri	.. Revenue Divisional Officer, Naurangpur.	Tahsildar, Jeypore.
36	Koraput	.. District Officer, Koraput.	Deputy Tahsildar, Koraput.

II.—Muhammadan Constituencies.

1	Cuttack Sadr	.. District Officer, Cuttack ..	Any magistrate of the first class appointed in this behalf by the Returning Officer by an order in writing.
2	North Cuttack cum Angul ..	Ditto ditto ..	Ditto ditto.
3	Balasore cum Sambalpur ..	Revenue Commissioner, Cuttack.	Personal Assistant to the Revenue Commissioner.
4	South Orissa	.. Ditto ditto ..	Ditto ditto.

III.—Women's Constituencies.

1	Cuttack town	.. S D O., Sadr, Cuttack ..	Any magistrate of the first class appointed in this behalf by the Returning Officer by an order in writing.
2	Berhampore town	.. Sub Collector, Berhampur.	Ditto ditto.

IV.—Indian Christian Constituency.

1	Orissa Indian Christian	.. Revenue Commissioner, Cuttack.	Personal Assistant to the Revenue Commissioner.
---	-------------------------	-----------------------------------	---

V.—Commerce and Industry Constituency.

1	Orissa Commerce and Industry.	Revenue Commissioner, Cuttack.	Personal Assistant to the Revenue Commissioner.
---	-------------------------------	--------------------------------	---

VI.—Landholders' Constituencies.

1	East Orissa Landholders	.. Revenue Commissioner, Cuttack.	Personal Assistant to the Revenue Commissioner.
2	West Orissa Landholders	.. Ditto ditto ..	Ditto ditto.

VII.—Labour Constituency.

1	Orissa Labour Constituency	Revenue Commissioner, Cuttack.	Personal Assistant to the Revenue Commissioner.
---	----------------------------	--------------------------------	---

FORM 1.

[See RULE 5.]

Whereas a notification dated _____ has issued to elect a member in the _____ General Constituency, in which a seat is reserved for members of the scheduled castes, on or before the _____ ;

and whereas the electors belonging to the scheduled castes in the said constituency are required at a primary election to choose candidates to stand for election to the reserved seat ;

I hereby give the following :--

PUBLIC NOTICE.

- (i) The number of candidates to be elected is four.
- (ii) Nomination papers may be delivered to the undersigned at (office) or if he is unavoidably prevented from receiving the same to _____ at _____. They should be presented between 11 A.M. and 3 P.M. or before (date).
- (iii) Forms of nomination paper may be obtained at the office of the persons above-mentioned between the hours of (hour) and (hour) from (date) to (date).
- (iv) The nomination papers will be taken up for scrutiny at (hours) on (date) in (place).
- (v) In the event of the election being contested, the poll will take place on _____ between the hours of _____ and _____ with an interval of rest between _____ and _____.
- (vi) No elector will be admitted to vote outside the polling area under which his name appears on the electoral roll.

Date. _____

Station. _____

Returning Officer.

FORM II.

[See RULE 6.]

Nomination paper.

Name of the constituency for which the candidate is nominated _____

Name of candidate _____

Father's _____ name _____

Husband's _____

Age _____

Address _____

Constituency on the electoral roll of which the candidate is registered as an elector _____

Number of the candidate in the electoral roll of the constituency in which he is registered as an elector _____

Name of proposer _____

Number of the proposer in the electoral roll of the constituency _____

Signature of the proposer _____

Name of the seconder _____

Number of the seconder in the electoral roll of the constituency _____

Signature of the seconder _____

DECLARATION BY CANDIDATE.

I hereby declare that I agree to this nomination. _____

Date _____

Signature of Candidate _____

(To be filled in by the Returning Officer or other authorized person).

CERTIFICATE OF DELIVERY.

Serial number _____

This nomination paper was delivered to me at my office at (date and hour _____)

Returning Officer.

CERTIFICATE OF SCRUTINY.

I have scrutinized the eligibility of the candidate, the proposer and seconder, and find that they are respectively qualified to stand for election, to propose and to second the nomination

Returning Officer.

N.B.—This nomination paper will not be valid unless it is delivered to the Returning Officer, or other person authorized to receive it, at his office before 3 P.M. on _____

I hereby certify that _____ son of _____
residing at _____ in police-station _____
is a member of a scheduled caste.

Dated _____ the _____ 19 _____

Signature _____

*Subdivisional
Revenue Divisional Officer,*

DECLARATION REGARDING APPOINTMENT OF ELECTION AGENT.

I hereby declare that I ^{have appointed*}
_{hereby appoint} (name) _____
No. (of the electoral roll) _____ to be my election agent.

Signature of the candidate

*A candidate may appoint himself as his election agent,

FORM III.

[See RULE 22.]

Primary election for the election of a panel of scheduled caste candidates.
Constituency.

Final list of candidates for elections.
Orissa Legislative Assembly

Serial no.	Name of candidate.	Address of candidate.	Colour allotted.
1	2	3	4
1			
2			
3			
4			
etc., etc., etc.,			

NOTE.—The poll will be taken on the _____ day of _____ 19 _____ between _____ and _____ at the polling stations already notified.

Returning Officer.

FORM IV.

[See RULE 28.]

Form of Notice.

Whereas the _____ constituency of the Orissa Legislative Assembly has been called upon by notification to elect a member on or before _____ I _____ the Returning Officer of the said constituency, do hereby give the following:—

PUBLIC NOTICE.

- (i) The number of persons to be elected is _____
- (ii) Nomination papers may be delivered to the undersigned at _____ (office) _____ or if he is unavoidably prevented from receiving the same to _____ at _____. They should be presented between 11 A.M. and 3 P.M. on or before (date)
- (iii) Forms of nomination paper may be obtained at the offices of the persons abovementioned between the hours of (hour) and (hour) from (date) to (date).
- (iv) The nomination papers will be taken up for scrutiny at (hours) on (date) in (place).
- (v) In the event of the election being contested, the poll will take place on _____ between the hours of _____ and _____
- (vi) *No elector will be admitted to vote outside the polling area under which his name appears on the electoral roll.

Returning Officer.

Date _____

Station _____

*NOTE.—This will be omitted in the case of constituencies for which postal voting is permitted.

FORM V

[See RULE 29.]

Nomination paper.

Name of the constituency for which the candidate is nominated.

Name of candidate ..

Father's name ..

Age ..

Address * .. *

[1] ~~Denomination (state whether Muham-~~
~~madan, or Indian Christian)~~

Constituency on the electoral roll of which the candidate is registered as an elector.

†Number of the candidate in the electoral roll of the constituency in which he is registered as an elector.

Name of proposer ..

†Number of the proposer in the electoral roll of the constituency.

Signature of the proposer ..

Name of the seconder ..

†Number of the seconder in the electoral roll of the constituency.

Signature of the seconder ..

DECLARATION BY CANDIDATE

I hereby declare that I agree to this nomination _____

Date _____

Signature of Candidate _____

(To be filled in by the Returning Officer or other authorized person.)

CERTIFICATE OF DELIVERY.

Serial number.

This nomination paper was delivered to me at my office at (date and hour) _____

Returning Officer. _____

CERTIFICATE OF SCRUTINY.

I have scrutinized the eligibility of the candidate, the proposer and seconder, and find that they are respectively qualified to stand for election, to propose and to second the nomination.

Returning Officer or other authorized person. _____

N.B.—This nomination paper will not be valid unless it is delivered to the Returning Officer, or other person authorized to receive it, at his office before 3 p.m. on _____ 10 .

[2] ~~Not to be entered in case of special constituency.~~

†Where the electoral roll is subdivided and separate serial numbers are assigned to the electors entered in each subdivision, a description of the subdivision in which the name of the person concerned is entered must also be given here.

[1]

“ Denomination { state whether Muhamadan
or Indian Christian } omitted by notification
no 11553-A D/ 2.10.37 (see G. Gazette 22.10.37
0762.)

[2]

I hereby certify that _____ son of _____
 residing at _____ in police-station _____, is a member
 of a _____ backward tribe.

Signature _____

Dated _____ the _____ 19 _____

*Subdivisional
 Revenue Divisional Officer.*

DECLARATION REGARDING APPOINTMENT OF ELECTION AGENT.

I hereby declare that I ^{have appointed*}
~~hereby appoint~~ (name) _____, No. (of the
 electoral roll) _____ to be my election agent.

 Signature of the candidate.

 *A candidate may appoint himself as his election agent.

FORM VI.

[See RULE 42.]

Constituency.

Orissa Legislative Assembly.

Final list of candidates for election.

Serial no.	Name of candidate.	Address of candidate.	Colour allotted.	Whether eligible for a reserved seat or not. †
1				
2				
3				
4				
etc., etc., etc.,				

Note.*—The poll will be taken on the _____ day of _____
19____ between _____ and _____ at the polling stations already
notified.

Returning Officer.

* In the case of a postal vote constituency, the note shall run as follows:—

Ballot papers should reach the Returning Officer by post before (hour) on _____ or be deposited
or caused to be deposited at the office of the Returning Officer between _____ and _____ on _____

† To be filled up where a seat is reserved for the scheduled castes or the backward tribes.

FORM VII.

[See RULE 55.]

Form of Ballot paper.

Front of form.

ORISSA LEGISLATIVE ASSEMBLY
(The letter to indicate the class of the
constituency) in large type.

Back of form.

Serial No.

FORM VII-A

FORM OF BALLOT PAPER LIST.

[See RULE 56 (5)]

Ballot Paper List.

ORISSA LEGISLATIVE ASSEMBLY

Constituency _____

Polling Station _____

Serial no. of ballot paper.	Elector's no.	Serial no. of ballot paper.	Elector's no.	Serial no. of ballot paper.	Elector's no.	Serial no. of ballot paper.	Elector's no.
1	2	3	4	5	6	7	8

FORM VIII.

FORM OF TENDERED BALLOT PAPER.

[See RULE 60]

Tendered ballot paper.

ORISSA LEGISLATIVE ASSEMBLY.

Polling station	..	..	..	..	...	..
Constituency ..	...	..	..	..	..	..
Name of voter	...	...	...	...	...	...
Number on electoral roll	...	...	...	...	...	...
Name of candidate for whom the vote is tendered				...	...	...

Date _____

Signature of Presiding Officer.

FORM VIII-A.

(See RULE 60.)

Tendered Votes List.

Name of Constituency _____

Polling Station _____

Name of Voter.	Number on electoral roll.	Number of votes recorded.	Signature or thumb impression of voter.
1	2	3	4

FORM IX.

(See RULE 61.)

List of Challenged Votes.

Name of Polling Station _____

Signature Sheet No. _____

Number on electoral roll.	Name.	Signature of elector if literate or thumb impression of elector if illiterate.	Name of identifier if any.	Order of the Presiding Officer and signature.
1	2	3	4	5

FORM X.

(See RULE 66.)

Ballot Paper Account.

Statement sent by Presiding Officer at _____ in the
 district of _____ after the polling on _____ 19____
 for the _____ constituency.

Description.	Number received.	Number of ballot papers used (a)	Number unused.	Number spoilt.	Ballot papers dealt with under rule 64 (2).	Remarks.
1	2	3	4	5	6	7
Ordinary ballot papers.						
Tendered ballot papers.						

Signature of Presiding Officer _____

NOTE.—(a) Number of ballot papers if any sent to other Returning Officers under rule 61 (2) to be shown separately in the remarks column.

[1] FORM XI.

[See RULE 69.]

Form of Declaration Paper.

.....Constituency.

.....Election.

Serial no.

* Elector's name and number on the roll

ELECTOR'S DECLARATION.

† I _____ declare that I am an elector for this constituency and have signed no other voting paper at this election for this constituency.

Signature of elector: _____

Address _____

Signed in my presence by the elector who is personally known to me
who has been identified to my satisfaction.

Date _____

Signature _____

~~£~~ ‡ Official designation _____

* The nominees of a firm, corporation or Hindu joint family in a Commerce and Industry constituency should be entered here along with the name and number of the firm, etc.

~~£~~ ‡ Name in full ~~and designation~~ to be entered here. *Must be a gazetted officer.*

[2] FORM XI-A.

[See RULE 69.]

Form of Ballot Paper.

.....Constituency _____ Election *mur* Election

Names of candidates.

Votes

(1) Place a cross mark thus X against the name of the candidate for whom you wish to vote.

(2) The mark should be placed against not more than one name.

(Back of ballot paper).

Serial no. _____

[1].

Form XI was slightly amended by Notfn. No. 115-3-3-A of 2.10.37

[2] Form XI A was amended by *ibid.*

(See Orissa Gazette of 22.10.37, 762)

FORM XII.

[See RULE 71.]

Legislative Assembly Election.

.....Constituency.

Poll on.....

To

The Returning Officer.

No. _____

Constituency,
(Station and address.)

FORM XIII.

[See RULE 71.]

Form of Letter of Intimation.

SIR

.....Constituency.

The persons whose names are printed on the ballot paper sent herewith have been nominated as candidates for the Legislative Assembly. Should you desire to vote at this election, I have to request that you will—

- (a) sign the declaration paper;
- (b) mark your vote in the ballot paper;
- (c) enclose the ballot paper in the smaller envelope and stick it up; and
- (d) put the smaller envelope and the declaration paper in the cover addressed to me and return it to me by post so as to reach me not later than ^{a.m.}_{p.m.} on the.....day of.....19....or deposit or cause to be deposited the cover addressed to me in the ballot box provided for the purpose in (place).....between.....and.....on.....

2. Rule 80 of the rules for the conduct of elections provides that a ballot paper shall be rejected if—

- (a) the number of votes recorded thereon exceeds the number of vacancies to be filled;
- (b) no vote is recorded thereon;
- (c) it is void for uncertainty;
- (d) it bears any mark by which the elector can be identified; and
- (e) (i) the cover, enclosing the elector's declaration paper and the envelope containing his ballot paper, has neither been sent by post so as to reach the Returning Officer not later than the day and the latest hour fixed for the poll, nor deposited in the ballot box provided in the office of the Returning Officer on the day and during the hours fixed for the poll;
- (ii) the cover contains no declaration paper outside the envelope;
- (iii) more than one declaration paper or envelope containing ballot paper have been enclosed in one and the same cover;
- (iv) the declaration paper is not the one sent out by the Returning Officer the elector or the declaration or attestation is not in order.

Returning Officer.

Station _____

Date _____

FORM XIV

[See RULE 84.]

Total number of electors on roll.	Number of ballot papers issued originally.	Number issued in place of ballot papers reported as not received, spoilt or lost.	Number of ballot papers received.	Number of ballot papers rejected.	Number of ballot papers counted.	Number of declaration papers filed separately.	REMARKS.
1	2	3	4	5	6	7	8

Returning Officer.

FORM XV.

[See RULE 85.]

Return showing results of the election for _____ seats for _____ constituency.

Name of candidate for whom votes have been given.						Number of valid votes.
1						2
A	..	..	..	..	..	
B	..	..	..	..	..	
C	..	..	..	..	..	
D	..	..	..	..	..	
E	..	..	..	..	..	
F	..	..	..	..	..	
Total number of valid ballot papers.						
Total number of ballot papers declared invalid						
Total number of tendered ballot papers.						

I do hereby declare that the following candidates _____

A

B

C

have been duly elected

Returning Officer.

APPENDIX B.

[See RULE 90.]

RETURN OF ELECTION EXPENSES.

1. *Receipts.*—Under the head of receipts there shall be shown the name and description of every person (including the candidate), club, society or association from whom any money, security or equivalent of money was received in respect of any expenses, whether paid or remaining unpaid, on account of, or in connection with, or incidental to the election; and the amount received from each such person, club, society or association shall be shown separately. The return of receipts shall be in the following form:—

For _____ Constituency.		
Date of receipt.	Name or description of payer.	Amount of value.
1	2	3
Total _____		

2. *Expenditure.*—Under the head of expenditure there shall be shown all payments made by the candidate or his election agent or any person on behalf of, or in the interests of, the candidate in respect of any expenses incurred on account of, or in connection with, or incidentally to the election, and all unpaid claims in respect of any such expenses of which the candidate or his election agent is aware.

Vouchers shall be attached to the return for all items of expenditure amounting to Rs. 5 and over, unless from the nature of the case (e.g., railway travel or postage) a receipt is not obtainable. The vouchers shall be numbered and arranged in serial order, and the number of the appropriate voucher shall be entered in the return against the item of expenditure.

Each item of expenditure shall be entered separately in the return, except payments on account of postage and telegrams, for which a lump sum may be shown. The name and description of the payee and the nature of the work done or of the goods supplied shall be shown in respect of each item.

The return of expenditure shall be in the following form:—

For _____ constituency.

Part A.—In this Part shall be shown the personal expenditure of the candidate, paid or incurred by him or by any person on his behalf, including all payments for personal services rendered, for hotel bills, for travelling expenses, for the purchase of books or election literature and the like.

Name and description of payee.	On what account.	Date of payment.	Voucher no.	Amount paid.	Amount incurred but not yet paid.
Total _____					

I.

Part B.—In this Part shall be shown the expenditure paid or incurred by the candidate or by any person on his behalf for the remuneration of agents (including the election agent), clerks or messengers. The name and description of each agent, clerk or messenger employed and the rate of remuneration and the amount paid or due to each shall be shown separately.

Name and description of payee.	On what account.	Rate of payment.	Date of payment.	Voucher no.	Amount paid.	Amount incurred but not yet paid.

Total _____

Part C.—In this Part shall be shown all other expenditure (including travelling expenses and cost of refreshment provided) paid or incurred by the candidate or by any person on his behalf on account of agents (including the election agent, clerks or messengers). The name and description of each agent, clerk or messenger and the amount paid or due to each shall be shown separately.

Name and description of payee.	On what account.	Date of payment.	Voucher no.	Amount paid.	Amount incurred but not yet paid.

Total _____

Part D.—In this Part shall be shown the travelling expenses of persons (not being agents, clerks or messengers) whether in receipt of regular remuneration or not, paid or incurred by the candidate or by any one on his behalf or by the persons travelling.

Name and description of payee.	On what account.	Date of payment.	Voucher no.	Amount paid.	Amount incurred but not yet paid.

Total _____

Part E.—In this Part shall be shown the expenditure on printing, whether paid or incurred.

Name and description of payee.	On what account.	Date of payment, if any.	Voucher no.	Amount paid.	Amount incurred but not yet paid.
1	2	3	4	5	6

Total _____

Part F.—In this Part shall be shown the expenditure on advertising, whether paid or incurred.

Name and description of payee.	On what account.	Date of payment, if any.	Voucher no.	Amount paid.	Amount incurred but not yet paid.
1	2	3	4	5	6

Total _____

Part G.—In this Part shall be shown the expenditure on stationery, whether paid or incurred.

Name and description of payee.	On what account.	Date of payment, if any.	Voucher no.	Amount paid.	Amount incurred but not yet paid.
1	2	3	4	5	6

Total _____

Part H.—In this Part the cost of postage and telegrams shall be shown.

Name of expenditure.	Date of payment if separate payments are shown.	Amount paid.
1	2	3

Total_____

Part I.—In this Part shall be shown the expenditure paid or incurred on account of the hire of rooms for public meetings or as committee rooms or as an office.

Name and description of payee.	Locality and description of rooms.	Date of payment.	Voucher no.	Amount paid.	Amount incurred but not yet paid.
1	2	3	4	5	6

Total_____

Part J.—In this Part shall be shown the expenditure paid or incurred on account of the hire or use of any vehicle, boat or animal for any purpose connected with the election, including the conveyance of any elector to or from any place for the purpose of enabling him to record his vote, but excluding expenditure already recorded in Parts A to D.

Name and description of payee.	On what account.	Date of payment.	Voucher no.	Amount paid.	Amount incurred but not yet paid.
1	2	3	4	5	6

Total_____

Part K.—In this Part shall be shown all expenditure paid or incurred by the candidate or by any person on his behalf which is not included in any of the foregoing Parts.

Name and description of payee.	On what account.	Date of payment, if any.	Voucher no.	Amount paid.	Amount incurred but not yet paid.
1	2	3	4	5	6

Total _____

Part L.—In this Part shall be included every disputed claim remaining unpaid.

Name and description of claimant.	Name and alleged ground of claim.	Amount of claim.
1	2	3

Total _____

Part M.—In this Part shall be shown the total of the expenditure and claims included in each of the foregoing Parts.

Part.	Paid.	Unpaid.	Total.
1	2	3	4
A			
B			
C			
D			
E			
F			
G			
H			
I			
J			
K			
L			

Total _____

3. *Declarations.*—The form of the declaration referred to in rule 90 (1) shall be as follows:—

DECLARATION BY ELECTION AGENT.

I _____, being the appointed election agent for _____, a candidate for election in the _____ constituency, do hereby solemnly affirm that the above return of election expenses is true to the best of my knowledge and belief, and that, except the expenses herein set forth, no expenses of any nature whatsoever have to my knowledge and belief been incurred in, or for the purposes of, _____'s candidature.

Election Agent.

Solemnly affirmed before me.

Magistrate.

DECLARATION BY CANDIDATE.

I, _____, being a candidate for election in the _____ constituency, do hereby solemnly affirm that the above return of election expenses is true to the best of my knowledge and belief, and that except the expenses herein set forth, no expenses of any nature whatsoever have to my knowledge and belief been incurred in or for the purposes of, my candidature.

Candidate.

Solemnly affirmed before me.

Magistrate.

SPECIAL DECLARATION BY A CANDIDATE UNDER PARAGRAPH 5 (3) OF PART II OF THE CORRUPT PRACTICES ORDER.

I, _____, being a candidate for election in the _____ constituency, do hereby solemnly affirm that the return of election expenses signed by my election agent is (with the exceptions noted below) true to the best of my knowledge and belief, and that (with the exceptions noted below) no expenses of any nature whatsoever other than the expenses therein set forth have to my knowledge and belief been incurred in or for the purposes of my candidature:—

PARTICULARS OF EXCEPTIONS.

Candidate.

Solemnly affirmed before me.

Magistrate.

Puri, the 2nd October 1936.

No. 2610-Ref. P.—In exercise of the powers conferred by sub-section (2) of section 68 of the Government of India Act, 1935, read with paragraph 14 (1) of the Government of India (Commencement and Transitory Provisions) Order, 1936, the Governor of Orissa is hereby pleased to make the following rules, namely:—

1. These rules may be called the Orissa (Prohibition of Simultaneous Membership) Rules, 1936.

2. The period at the expiration which the seat in the Provincial Legislature of a person chosen a member of the Federal (or Indian) Legislature and of the Provincial Legislature [including a person who, being a member of the Federal (or Indian) or of the Provincial Legislature, is chosen a member of the Provincial or of the Federal (or Indian) Legislature respectively] shall become vacant, unless he has previously resigned his seat in the Federal (or Indian) Legislature, shall be ten days from the date of the publication in the *Gazette of India* or in the *Orissa Gazette*, whichever is later, of the declaration that he has been so chosen:

Provided that, in a case in which the declaration that a person, being a member of the Indian Legislature, has been chosen a member of the Provincial Legislature is published in the *Orissa Gazette* on any date earlier than the 10th April, 1937, the said period shall be the period expiring on the 20th April, 1937, or on the date of the first meeting of the Provincial Legislature, whichever is earlier.

By order of the Governor,

S. N. MOZUMDAR,

Deputy Secretary to Government.

The 30th September 1936.

No. 4617—La.-46-R.—Whereas it appears to the Government of Orissa that land is required to be taken by Government at the expense of the Puri district board for a public purpose, viz., for excavation of tank for the use of the Kanas dispensary in the villages of Dokanda and Krishna Nagar, parganas Balabhadrapur and Serai respectively, zila Puri, it is hereby notified that for the above purpose a piece of land measuring 0.635 acre bounded on the—

North—By portions of plot nos. 195 and 194 of mauza Dokanda,

East—By portion of plot no. 194 of mauza Dokanda, mauza Boundary of Kanas and plot no. 4 of mauza Krishna Nagar,

South—By portions of plot nos. 9, 4 and 13 of mauza Krishna Nagar,

West—By portions of plot nos. 13 and 1 of mauza Krishna Nagar and portion of plot no. 195 of mauza Dokanda,

is required within the aforesaid villages of Dokanda and Krishna Nagar.

This notification is made under the provisions of section 4 of Act I of 1894 to all whom it may concern.

A plan of the land may be inspected in the office of the Collector of Puri.

Objections to the acquisition, if any, filed under section 5-A, by any person interested within the meaning of that section on or before the 2nd October 1936, before the Collector of Puri, will be considered.

The 30th September 1936.

No. 4619—La.-47-R.—Whereas it appears to the Government of Orissa that land is required to be taken by Government at the public expense for a public purpose, viz., for construction of an advance line in front of Khalarda breach in the 8th mile of Surua right Embankment no. 96 B at Khalarda, in the village of Khalarda, pargana Kodinda, zila Cuttack, it is hereby notified that for the

above purpose a piece of land measuring, more or less, 2.035 acres of standard measurement bounded on the—

Area—2.035 acres.

North—By part of plots nos. 1707, 1706, 1705, 2143, 2035, 2036, 2044, 2045, 1690, 1689, 1688, 1687, 1684, 1678, 1679, 1680, 1668, 1664, 1662, 1663 and 1659 and plots nos. 1703 and 1683 and plot no. 1630 Irrigation Department land,

East—By part of plots nos. 2038, 2044, 2045, 2046, 2054, 2055, 2056, 2057, 2063, 2143, 1676, 1677, and 1668 and plots nos. 2058 and 1675 and plot no. 1630 Irrigation Department land,

South—By part of plots nos. 1715, 1714, 1710, 1711, 2022, 2023, 2030, 2029, 2038, 2044, 2045, 2046, 2054, 2055, 2056, 2057, 2063, 2143, 1676, 1677, 1668, 1666, 1662, 1660, 1659, 1645, 1643, and 1634 and plots nos. 1719, 1713, 1722, 2058 and 1675,

West—By part of plots nos. 2036, 2044, 2045, 2143, 1690, 1689, 1688, 1687, 1684 and 1678 and plot no. 1683 and plot no. 1630 Irrigation Department land,

is required within the aforesaid village of Khalarda.

This notification is made, under the provisions of section 4 of Act I of 1894 to all whom it may concern.

A plan of the land may be inspected in the office of the Land Acquisition Deputy Collec-

tor, Irrigation Branch, Cuttack, or in that of the Executive Engineer, Southern Division, Cuttack.

Objections to the acquisition, if any, filed under section 5-A, by any person interested within the meaning of that section on or before the 3rd November 1936, before the Collector of Cuttack, will be considered.

The 30th September 1936.

No. 4616-R.—DECLARATION.—Whereas it appears to the Government of Orissa that land is required to be taken by Government at the expense of the district board of Balasore for a public purpose, viz., for widening the drain near Hadisahi on the 3rd mile of Bhadrak-Chandbali road in the village of Beka, pargana Randiaorgada, zila Balasore, it is hereby declared that for the above purpose a piece of land measuring, more or less, 0.62 acre, bounded on the—

North—By plot no. 669,

East—By part of plots nos. 638, 637, 633, 626 and plots nos. 622, 620, 612, 610, 607 and 1435,

South—By plots nos. 601, 604, 597, 594, 585 and 596,

West—By part of plot no. 581 and by plot no. 583,

is required within the aforesaid village of Beka.

This declaration is made, under the provisions of section 6 of Act I of 1894, to all whom it may concern.

A plan of the land may be inspected in the office of the Collector of Balasore.

By order of the Governor,

A. F. W. DIXON,

Offg. Chief Secretary to Government.

EDUCATION, HEALTH AND LOCAL SELF-GOVERNMENT DEPARTMENT.

NOTIFICATION.

The 23rd September 1936.

No. 5320-E.—In exercise of the powers conferred by sections 4 and 5 of the Charitable Endowments Act (VI of 1890) and upon the application and with the concurrence of Rai Bahadur K. C. Sen who proposes to apply the properties hereinafter mentioned in trust, the Government of Orissa are pleased to direct that the properties of which the particulars are contained in the First Schedule hereunder written shall, as from the date of the first publication in the *Orissa Gazette* of this notification, vest and be henceforth vested in the Treasurer of Charitable Endowments for the territories subject to the Government of Orissa to be held by him and his successors (subject to the provisions of the said Charitable Endowments Act of 1890 and any rules from time to time framed thereunder by the Governor General in Council) and to be administered and the income thereof applied in the manner and for the purposes set forth in the scheme of which the particulars are contained in the Second Schedule hereunder written.

THE FIRST SCHEDULE.

Serial no.	Year.	Face value Rs.	Held by.
3½ per cent loan G. P. Notes nos —			
222988	1842-43	...	500
223401	1842-43	...	1,000
223846	1854-55	...	200

Treasurer of Charitable Endowments, Orissa

THE SECOND SCHEDULE.

The property mentioned in the First Schedule shall be constituted into a Trust which shall henceforth be known under the name and style of "The Sarojini Debi Trust Fund". The corpus of the Fund shall remain intact for ever.

2. The Deputy Commissioner of Sambalpur shall administer the said Trust Fund under sub-section (1) of section 5 of the Charitable Endowments Act, 1890.

3. The Treasurer of Charitable Endowments shall pay the income accruing from the said Fund to the Deputy Commissioner of Sambalpur, the Administrator, who shall keep an account of all sums received and spent by him and shall submit an annual account thereof to the Director of Public Instruction, Orissa, in such form as the local Government may from time to time prescribe.

4. The income accruing from the said Fund shall be spent on the payment of the teachers of the existing Sambalpur girls' school known as the Crawford Institution. In case the said institution ceases to exist then the interest accruing on the said Fund should be utilised for the upkeep of the staff of any other lower primary or upper primary Bengali girls' school in Sambalpur to be chosen by the Administrator in the first place and in the event of there being no such girls' school in existence at the relevant point of time such interest on the said Fund should be utilised for the maintenance of the staff of a Bengali girls' school in existence in Puri, known as Swargadwar upper primary school, Puri, or if there is no such school, of any other lower primary or upper primary Bengali girls' school in Orissa to be chosen for the purpose by the Administrator.

By order of the Governor,

R. P. WARD,

Offg. Secretary to Government.

LAW AND COMMERCE DEPARTMENT.

NOTIFICATION.

The 26th September 1936.

No. 3949—IP-69/36-Com.—Intimation having been received of the outbreak of cholera at Madras it is hereby notified for general information that Madras is declared to be an infected port and that the existing regulations for the prevention of the introduction of cholera by sea will be enforced in the ports of Orissa against vessels arriving from Madras.

C. C. NAIR,

Secretary to Government.

OFFICE OF THE REVENUE COMMISSIONER, ORISSA.

NOTIFICATION.

The 28th September 1936.

No. 2741-R.—The price list of staple food-crops in local areas of the following three coastal districts of the Province of Orissa prepared under section 46 of the Orissa Tenancy Act, 1913 (Bihar and Orissa Act II of 1913), for the period from 1st April 1936 to 30th June 1936 are published for general information in accordance with the provisions of that section:—

District.	Local areas.	Marts at which prices were taken.	Staple food-crop or crops.	Market days for the preparation of price lists.	Quantities per rupee in seers of 80 tolas Company's weights.			Average price for the quarter ending 30th June 1936.	Remarks.
					April 1936.	May 1936.	June 1936.		
1	2	3	4	5	6	7	8	9	10
Cuttack ..	Sadr sub-division.	Cuttack Town ..	Rice ..	First Sunday of each month	15 12	15 12	14 7	15	5
		Charchika Hat..	Do. ..	First market day of each month.	18 6	18 6	15 12	17	8
	Jajpur sub-division.	Jajpur Town ..	Do. ..	First Sunday of each month	15 12	15 12	14 7	15	5
		Kendrapara Town.	Do. ..	Do. ..	13 6	17 1	17 1	17	8
Balasore	Kendrapara sub-division.	Balasore ..	Do. ..	First Saturday of every month.	14 0	13 0	12 0	13	0
		Bhadrak ..	Do. ..	First Wednesday of every month.	16 0	14 0	13 0	14	5
	Bhadrak sub-division	Chandbali ..	Do. ..	First Thursday of every month.	18 0	17 0	16 0	17	0
		Puri ..	Do. ..	The 5th of every month ..	16 2	15 12	14 12	15	0
Puri ..	Sadr sub-division.	Banamalipur ..	Do. ..	First hat day of the month	16 8	15 8	14 7	15	8
		Khurda ..	Do. ..	The 5th of every month ..	17 1	17 1	16 0	16	13
	Khurda sub-division.	Khurda ..	Do. ..						

P. T. MANSFIELD,

Offg. Revenue Commissioner.