

STATE ELECTION COMMISSION :: ANDHRA PRADESH

ELECTIONS TO MPTCS / ZPTCS - 2014

FREQUENTLY ASKED QUESTIONS FOR THE GUIDANCE OF RETURNING OFFICERS

Q.1. What is the minimum age for becoming a Member, MPTC / ZPTC?

Ans. Not less than 21 years of age as on the date of scrutiny of nominations. Minimum age for becoming a Member, MPTC / ZPTC shall be 21 years (Sec. 155 and 183 of A.P. Panchayat Raj Act, 1994).

Q2. If I am not a registered voter in any MPTC/ZPTC, can I contest elections?

Ans. No. For contesting election as a Member, MPTC, a person must be a registered voter in any of the MPTCs in that Mandal Praja Parishad. Similarly, for contesting election as a Member, ZPTC, a person must be a registered voter in any of the ZPTCs in the Zilla Praja Parishad concerned [Rule 8(2)(a) of A.P. Panchayat Raj (Conduct of Election) Rules, 2006].

Q.3. If I am a registered voter in one territorial constituency (MPTC or ZPTC), can I propose a candidate to contest from another territorial constituency?

Ans. No. The proposer for a candidate to contest from a territorial constituency (MPTC or ZPTC) shall be a registered voter of that territorial constituency only (MPTC or ZPTC). The proposer should be from the same territorial constituency, either MPTC or ZPTC, as the case may be [Rule 8(2)(b) of A.P. Panchayat Raj (Conduct of Election) Rules, 2006].

Q.4. If a person is having more than two children, is such a person qualified to contest elections?

Ans. Under Sec. 19(3) read with sections 156(2) and 184(2) of A.P. Panchayat Raj Act, 1994, a person having more than two children shall be disqualified for contesting election as member.

However, if a person is having more than two children before 30.5.1994, he/she is not disqualified. Additional children born within one year, i.e., upto 30.5.1995 will not be taken into consideration. Further, if one or more children are born after 30.5.1995, such person will incur disqualification.

| No. of Children Born | | | Total | Qualified or Disqualified |
|----------------------|---------------------------------|-------------------|--------|---------------------------|
| Before 30.5.1994 | Between 30.5.1994 and 29.5.1995 | After 29.5.1995 | | |
| 3 | Nil | Nil | 3 | Qualified |
| 3 | 1 or 2 | Nil | 4 or 5 | Qualified |
| 3 | 1 | 1 | 5 | Disqualified |
| 3 | Nil | 1 | 4 | Disqualified |
| Nil | 1 | 1 | 2 | Qualified |
| Nil | 2 (single births) | 1 | 3 | Disqualified |
| Nil | Twins | 1 | 3 | Disqualified |
| Nil | 1 | Twins | 3 | Qualified |
| Nil | 1 | 2 (not twins) | 3 | Disqualified |
| Nil | Nil | 2 | 2 | Qualified |
| Nil | Nil | 1 + Twins | 3 | Qualified |
| Nil | Nil | Triplets | 3 | Qualified |
| Nil | Nil | 3 (single births) | 3 | Disqualified |

Q.5. Children given on adoption are to be counted against the natural parents or adopted parents?

Ans. As per the judgment delivered by the Hon'ble High Court of AP in WP No. 17947 of 2005 dated 19.7.2006, children given on adoption shall be counted against their natural or biological parents, but not against the parents who have adopted them. If a person possessed three children and gave one child out of the three on adoption shall also incur disqualification.

These FAQs are prepared only for the guidance of Returning Officers. However, as they are discharging a quasi-judicial function while conducting scrutiny of nominations, they have to take decisions as per the provisions of the APPR Act, 1994 and Conduct of Election Rules made thereunder.

- Q.6.** If a person has two children with first wife who passed away and possessed one more child with his second wife. Is he qualified or disqualified? What about his second wife?
- Ans.** If a person has two children with first wife who passed away and possessed one more child with his second wife, he shall be disqualified. However, his second wife, who gave birth to only one child, is qualified.
- Q.7.** If a person has three children and one of them died before the date of scrutiny, is he qualified?
- Ans.** Yes. The number of living children a person is having as on the date of scrutiny is the criteria for determining his eligibility under this section.
- Q.8.** If a lady who already possessed two children and is pregnant as on date of scrutiny, is she qualified or disqualified?
- Ans.** She is qualified as she is having only two children as on the date of scrutiny.
- Q.9.** Whether an employee of State Government or Central Government or of a local authority is qualified to contest elections?
- Ans.** No. He is disqualified under Sec.18(1) read with sections 156(2) and 184(2) of APPR Act, 1994. However, if the resignation tendered by such an employee is accepted by the date of scrutiny, his nomination can be accepted.
- Q.10.** Is a Fair Price Shop dealer qualified to contest elections?
- Ans.** Yes. The Hon'ble High Court of Andhra Pradesh in W.P.No.14189/ 2006 and batch relied upon the judgment of Somnath Rath V. Bikram K. Arukh reported in AIR 1999 Supreme Court, 3417, held that the Fair Price Shop dealers are eligible to contest elections.
- Q.11.** Is an Anganwadi worker eligible to contest elections?
- Ans.** No. They are not eligible to contest elections under Sec.18(1) read with sections 156(2) and 184(2) of APPR Act, 1994 (as per the Judgment of the Hon'ble High Court dtd.09.4.2007 in WP No.6894 of 2007).
- Q.12.** Whether office bearers of Water Users' Association are eligible for contesting elections?
- Ans.** No. They are disqualified under section 18(1) read with sections 156(2) and 184(2) of APPR Act, 1994 as per the judgment of the Hon'ble High Court dated 13.11.2010 in WP No. 13294 of 2010. Under section 18(1) read with sections 156(2) and 184(2), any office bearer of a body constituted under a law made by the legislature of the State or Parliament is disqualified for being chosen or for being a Member of a Mandal Praja Parishad or Zilla Praja Parishad. Water Users' Association is a body constituted under A.P. Farmers Management of Irrigation Systems Act, 1997. As such, its office bearers are disqualified under the sections referred in this answer.
- Q.13.** Whether office bearers of Cooperative Societies are eligible for contesting elections?
- Ans.** Yes. Office bearers of Cooperative Societies are entitled to contest elections to Panchayat Raj Bodies. Cooperative Societies or organisations registered under the Cooperative Societies Act, 1954 and they are not directly constituted under the said Act.
- Q.14.** Whether Chairman and Members of Trust Boards of a charitable or religious institution are eligible to contest elections?
- Ans.** No. They are disqualified under section 18(1) read with sections 156(2) and 184(2) of APPR Act, 1994. The trust board of a charitable or religious institution is appointed under section 15 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987.

These FAQs are prepared only for the guidance of Returning Officers. However, as they are discharging a quasi-judicial function while conducting scrutiny of nominations, they have to take decisions as per the provisions of the APPR Act, 1994 and Conduct of Election Rules made thereunder.

A.15. Whether the employees of APSRTC and Singareni Collieries Company Ltd are eligible to contest in the elections?

Ans. Sec. 19(2)(f) read with sections 156(2) and 184(2) of APPR Act, 1994 stipulates that a person shall be disqualified from contesting in the elections to Panchayat Raj bodies, if and for so long as he is a Managing Agent, Manager or Secretary of any Company or Corporation in which Government has not less than twenty five percent share.

All the employees of the Singareni Collieries Company Ltd and APSRTC except those working in the capacity of Managing Agent, Manager or Secretary of the Company or Corporation are eligible to contest irrespective of Government share in the Company.

If the Government share in the Company is less than 25%, persons working in the capacity of Managing Agent, Manager or Secretary of the Company or Corporation are also eligible to contest.

If the Government share in the company is 25% or more, persons working in the capacity of Managing Agent, Manager or Secretary of the Company or Corporation are not eligible to contest.

Q.16. Can a proposer of any candidate be also a candidate for the same territorial constituency?

Ans. Yes, as per law there is no bar.

Q.17. If information given by a candidate in declaration is wrong, can RO reject the nomination of the candidate? Especially, if other candidates raise objection and give proof that information in the declaration is wrong.

Ans. No, the nomination of a candidate cannot be rejected for suppressing or giving false information in the declaration. The copies of the nomination papers filed by each candidate along with copy of the declaration accompanying the nomination should be displayed on the notice board in the office of RO on the day the nomination is filed. If anyone furnishes any information contradicting the statements in the nomination form or declaration by means of a duly sworn affidavit / declaration, copies of such affidavits / declarations should also be displayed on the notice board. If the RO is satisfied that the information given by the candidate in the declaration is wrong, he is required to file a formal complaint before the appropriate Court under section 177 of IPC (read with section 200 CrPC).

Q.18. If a complaint is received that a person who has filed nomination is of unsound mind, what course of action will be taken by RO?

Ans. The complainant has to prove by producing a declaration by the competent court under the Lunacy Act to the effect that the person concerned is of unsound mind. Disqualification under Sec. 19(2)(a) read with sections 156(2) and 184(2) of APPR Act, 1994 is attracted only when there is a declaration by competent court that the person is of unsound mind.

Q.19. Whether nomination papers of a candidate who was physically present just a minute before 5:00 PM on the last day of nomination, but without documents will be received or not?

Ans. Nomination paper if available with the candidate has to be received but no other document shall be permitted to be brought into his office after 5:00 PM. In the check list, the fact of not having submitted the relevant documents will be entered. Question of rejection of nomination paper will be decided at the time of scrutiny.

These FAQs are prepared only for the guidance of Returning Officers. However, as they are discharging a quasi-judicial function while conducting scrutiny of nominations, they have to take decisions as per the provisions of the APPR Act, 1994 and Conduct of Election Rules made thereunder.

Q.20. If during scrutiny, a proposer says on affidavit that he has not signed on nomination papers, then what will RO do?

Ans. The RO has to satisfy himself about the signature of the proposer. In case he is satisfied after summary enquiry that the signature is not of the proposer as claimed by him then the nomination paper shall be rejected and the person who filed the nomination paper with forged signature/thumb impression will have to be prosecuted under the law. However, the candidate concerned should be given adequate opportunity to present his case. If necessary, scrutiny proceedings in that candidates' case can be adjourned.

Q.21. Regarding signature of a proposer, if in the summary inquiry, the RO finds that the signature is false, can the nomination be rejected?

Ans. Yes, in case the RO finds on summary inquiry that the signature is false, then that nomination paper will be rejected by the RO.

Q.22. What is the maximum number of nominations that can be filed in respect of any candidate?

Ans. No restriction.

Q.23. If a candidate filed more than one nomination and all the nominations filed by him/her were accepted, what is the number of entries to be made regarding such candidate in the list of validly nominated candidates?

Ans. There shall be only one entry in respect of each validly nominated candidate in the list of validly nominated candidates although more nomination papers than one in respect of him/her have been accepted as valid.

A.24. Can a candidate withdraw nomination immediately after scrutiny or has to wait till list of validly nominated candidates is prepared in prescribed form?

Ans. He should wait till the RO prepares the list of validly nominated candidates in prescribed form.

Q.25. How many persons are allowed to enter the RO's room when the nomination papers are being filed?

Ans. As per the election rules, nomination papers can be delivered to the RO by the candidate in person or by his/her proposer. The maximum number of persons allowed to enter the office of RO's room at the time of filing of nomination papers is three including the candidate and/or his/her proposer. Where a candidate chooses not to be present physically to deliver nomination papers, the proposer and two other individuals shall be allowed to enter the office of the RO.

Q.26. Whether the nomination paper filed by a candidate not signed at the time of submission or filing of nomination papers can be signed thereafter before scrutiny of nomination papers or not?

Ans. At the time of scrutiny, if any nomination paper of a candidate is found without the signature of the candidate, the RO should reject the nomination as it is a defect of substantial nature. Signature cannot be affixed subsequently.

Q.27. Who can deliver the Notice of Withdrawal?

Ans. The Notice of Withdrawal in prescribed form shall be signed by the candidate and delivered personally to the RO before the stipulated time. If the notice is not delivered by the candidate in person, it shall be delivered by his/her proposer or election agent who has been authorised in this behalf in writing by the candidate (Rule 14 of Conduct of Election Rules, 2006).

- Q.28.** What are the dates and time prescribed for submission of Form-A & Form-B?
Ans. Form-A shall be submitted to the Collector & District Election Authority concerned before 5:00 PM on the last date for making nominations.

Form-B shall be submitted to the RO concerned before 3:00 PM on the last date for withdrawal of candidature.

These deadlines are applicable to all candidates set up by the Recognised National Parties, Recognised State Parties in the State of AP, Recognised State Parties of other States registered with Commission, Registered Political Parties with a reserved symbol and Registered Political Parties without reserved symbol.

- Q.29** Is there any classification of the candidates belonging to recognised and registered political parties for the purpose of listing the names in the list of contesting candidates?

Ans. For the purpose of listing the names in the list of contesting candidates, the candidates shall be classified as follows:

- (i) Candidates of recognised political parties (candidates set up by National parties, State parties in the State of AP and State parties in other States fall under this category);
- (ii) Candidates of registered political parties with a reserved symbol
- (iii) Candidates of registered political parties without a reserved symbol
- (iv) Independent candidates

- Q.30.** Whether candidates belonging to SC/ST/BC are eligible for concessional rate of deposit if they contest from unreserved seats?

Ans. Yes. Candidates belonging to SC/ST/BC are eligible for concessional rate of deposit if they contest from seats reserved for their respective categories or from unreserved seats. Rates of deposits are given below:

| Office | For SC/ST/BC Candidates | For others |
|--------------|-------------------------|------------|
| Member, ZPTC | Rs.2,500/- | Rs.5,000/- |
| Member, MPTC | Rs.1,250/- | Rs.2,500/- |

- Q.31** Can a candidate who has given a notice of withdrawal of his candidature in prescribed form be allowed to cancel the notice?

Ans. No. A candidate who has given a notice of withdrawal of candidature in the manner prescribed shall not be allowed to cancel the notice.

- Q.32.** Is there any provision for appeal against the decision of the RO on acceptance or rejection of nomination papers?

Ans. There is no appeal against acceptance of nomination. Under rule 13 of APPR (Conduct of Election) Rules, 2006, a person whose nomination paper is rejected by the RO, may prefer an appeal against the decision of RO before the concerned Revenue Divisional Officer in case of election to Member, MPTC and before the District Collector in case of election to Member, ZPTC on the day immediately following the day of scrutiny of nomination. The appeal shall be disposed of by the Appellate Authority the day immediately following the date of filing of appeal.

- Q.33.** If the name of a person is registered in more than one territorial constituency or more than once in the same territorial constituency, is such a person is disqualified from contesting elections?

Ans. No. If a person is registered in more than one territorial constituency or more than once in the same territorial constituency, he/she is not disqualified.

No provision exists in the APPR Act to disqualify such persons from contesting elections. However, under Sec. 11(6) read with section 151(2) and 179(2) of the Act, no person shall vote at an election in more than one territorial constituency or more than once in the same territorial constituency and if he does so, all his votes shall become invalid.

These FAQs are prepared only for the guidance of Returning Officers. However, as they are discharging a quasi-judicial function while conducting scrutiny of nominations, they have to take decisions as per the provisions of the APPR Act, 1994 and Conduct of Election Rules made thereunder.

Q.34. If the name of a person is registered in a territorial constituency (MPTC/ZPTC) and also in a Urban Local Body, is such a person is disqualified from contesting elections?

Ans. No provision exists in the APPR Act to disqualify such person from contesting elections.

Q.35. A person was convicted by a criminal court for an offence and sentenced to imprisonment. If such a person is released on bail, is he eligible to contest elections?

Ans. Under section 19(1) of APPR Act, 1994, a person convicted by a criminal court for certain offences, he shall be disqualified for election as a Member for a period of five years from the date of conviction. Where he is sentenced to imprisonment he shall be disqualified while undergoing sentence and for a period of five years from the expiration thereof.

Conviction by trial court attracts disqualification. Release on bail does not remove disqualification unless conviction is also stayed during pendency of appeal.

**Sd/- Navin Mittal
Secretary**

// Attested //



Joint Secretary