

# GRAM PANCHAYAT ELECTIONS, 2006



## *Hand Book for Contesting Candidates*

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## **CHAPTER – I**

### **1. INTRODUCTION:**

If you are a candidate for election to the office of the Member or Sarpanch of a Gram Panchayat, you should know the relevant provisions of the law, rules and instructions governing the elections to these posts so that you may not commit any mistakes, experience any difficulty or inconvenience in connection with your candidature. It is for your benefit and convenience that this hand book, giving in brief, the important and relevant rules and instructions on elections, is brought out.

### **2. TERM OF OFFICE:**

Sarpanch and Members of a Gram Panchayat, elected at an ordinary election shall hold office for a term of 5 years from the date appointed for the first meeting of the Gram Panchayat, after the ordinary elections.

### **3. RESERVATION FOR SCHEDULED CASTES / SCHEDULED TRIBES, WOMEN AND BACKWARD CLASSES:**

The details of offices of Sarpanch and Members of Gram Panchayat, reserved for SC, ST, BC and Women will be notified in the District Gazette before every ordinary elections. This information will also be mentioned in the election notice issued by the Election Officer appointed for every gram panchayat.

### **4. REGISTERED VOTERS:**

The elections to the posts of Sarpanch and Member, Gram Panchayat are held on the basis of adult suffrage. Every person who is 18 years of age and over and registered as a voter in the electoral roll of a Gram Panchayat, is eligible to vote.

### **5. ELECTORAL ROLL OF GRAM PANCHAYAT:**

The electoral rolls of a gram panchayat is prepared in accordance with the provisions of section 11 of Andhra Pradesh Panchayat Raj Act, 1994 and Andhra Pradesh Panchayat Raj (Preparation and publication of electoral rolls) Rules, 2000 issued thereunder by adopting the

existing7 entries in the relevant part of latest Assembly Electoral Rolls and published by the District Panchayat Officers concerned in the respective gram panchayats.

Any person who wishes to lodge any claim for inclusion of his/her name or any objection to the inclusion of a name or any objection to the particulars in any entry in the gram panchayat electoral roll, shall first get such claim or objection settled with reference to corresponding entry in the electoral roll of the Assembly Constituency concerned by lodging suitable claim or objection under the provisions of Representation of Peoples Act, 1950, and the Registration of Electoral Rules, 1960, made thereunder before the Electoral Registration Officer of the Assembly Constituency concerned. Such claims and objections can be lodged with either Electoral Registration Officer (Revenue Divisional Officer) or Assistant Electoral Registration Officer (Mandal Revenue Officer concerned).

All orders of inclusions, deletions or corrections in the electoral rolls of the Assembly Constituency issued on the basis of such claims and objections by the Electoral Registration Officer till the date of issue of election notification for the Panchayat Raj Body concerned will be duly carried out in the electoral roll of the gram panchayat concerned.

## CHAPTER - II

### QUALIFICATIONS AND DISQUALIFICATIONS

*(Extracts of Relevant provisions are appended at Annexure-I)*

1. If you want to contest as a candidate for the office of the Member or Sarpanch of Gram Panchayat, you must possess certain qualifications as detailed below:
  - (a) If you are a candidate for the seat of Member or Sarpanch of Gram Panchayat, you must be a registered voter in the electoral roll of that Gram Panchayat.
  - (b) You must not be less than 21 years of age. Your age will be computed as on the date of scrutiny of nominations.
  - (c) If you are a candidate for an office which is reserved to be filled by the candidates belonging to the Scheduled Tribes you must belong to any of the communities notified as Scheduled Tribes in respect of Andhra Pradesh State.
  - (d) If you are a candidate for an office reserved for Scheduled Castes or Backward Classes you must belong to any of the communities notified as Scheduled Castes or Backward Classes, as the case may be, in respect of Andhra Pradesh State.
  - (e) You must be a woman to contest for a post reserved for women. However, a woman candidate can contest for the general seat in the same category. Further, a candidate belonging to the reserved category (ST / SC / BC) can contest from an unreserved office.
2. If you want to offer yourself as a candidate, you should not suffer from any of the following disqualifications on the date fixed for scrutiny of nominations :
  - (a) You should not have been sentenced by a Criminal Court to imprisonment for an offence involving moral delinquency. This disqualification subsists for a period of five years from the date of expiration of such sentence.

- (b) You should not have been sentenced to imprisonment for an offence under the Protection of Civil Rights Act, 1955.
- (c) You should not have been disqualified under Section 19A, 19B or 20 A of the A.P. Panchayat Raj Act, 1994.
- (d) You should not be of unsound mind, or a deaf mute.
- (e) You should not be an applicant to be adjudicated as an insolvent or un-discharged insolvent.
- (f) You should not be having any interest in a subsisting contract made with or any work being done for the Gram Panchayat, Mandal parishad, Zilla Parishad or any State or Central Government.
- (g) You should not be employed as a paid legal practitioner on behalf of the Gram Panchayat or as a legal practitioner against it.
- (h) You should not be employed as a manager or secretary of any company or Corporation (other than a co-operative society ) in which not less than 25 percent of the paid up share capital is held by the State Government.
- (i) You should not be an honorary Magistrate under the Code of Criminal Procedure, 1973 with jurisdiction over any part of the village;
- (j) You should not be in arrears of any dues including the sums surcharged otherwise than in a fiduciary capacity, to the Gram Panchayat, upto and inclusive of the previous financial year, in respect of which a bill or notice has been duly served upon you and the time, if any, specified therein for payment has expired;
- (k) You should not be a village servant or an officer or servant of Government of India or State Government or of a local authority or an employee of any institution receiving aid from the funds of the government. You should not be an office bearer of any body constituted under a law made by the Legislature of the State or of Parliament.
- (l) You should not have been disqualified by or under any law for the time being in force for the purpose of elections to Legislature of the State.
- (m) You should not have been disqualified under Section 19(3) of the Act for having more than two children;



## **CHAPTER – III**

### **NOTIFICATION FOR ELECTION**

The election process is set in motion immediately on issue of notification by the State Election Commission under rule 4 of the A.P. Panchayat Raj (Conduct of elections) Rules, 2006 (herein after referred to as the Conduct of Election Rules), calling upon the voters of the Gram Panchayat to elect Members and Sarpanch of Gram Panchayat.

On the issue of the above notification, the Returning Officer concerned gives public notice of the intended elections for Gram Panchayat in Form – I (**Annexure- II**).

The Returning Officer shall also fix on the notice board of the gram panchayat showing voter list thereof on the date of publication of election notice.

The dates appointed for the various stages of the elections will be subject to the following guidelines, namely :

- a) the last date for making nominations shall be not earlier than the fourth day and not later than the tenth day after the publication of the Election Notification by the State Election Commission, whether or not it is a public holiday;
- b) the date for the scrutiny of nominations shall be the day immediately following the last date for making nominations whether or not it is a public holiday;
- c) the date for filing an appeal against the rejection of nominations shall be the day immediately following the date for the scrutiny of nominations and the date for disposal of the appeal shall be the day immediately following the date for filing of the appeal;
- d) The last date and time for withdrawal of the candidatures shall not be later than 3-O'clock in the afternoon of the third day succeeding the date appointed for scrutiny of the nominations, whether or not it is a public holiday;
- e) The date or dates on which a poll shall, if necessary, be taken, which, or first of which, shall be a date not earlier than the fifth day after the last date for withdrawal of the candidatures.
- f) The counting of votes shall be taken up for the officer of ward member and Sarpanch of the gram panchayat, after the completion of poll, on the same day.

## **CHAPTER - IV**

### **NOMINATIONS**

#### **1. DATE & TIME FIXED FOR RECEIPT OF NOMINATIONS:**

The date and time fixed for receipt of nominations will be indicated in the election notification issued by the State Election Commission and also the election notice issued by the Returning Officer. Generally, nominations are received between 11.00 AM and 3.00 PM on all the days, notified in the election notice, including public holidays.

#### **2. IMPORTANT POINTS TO BE NOTED AT THE TIME OF FILING OF NOMINATIONS:**

The nomination paper must be in the prescribed Form i.e., (Form III). A copy of the nomination Form is appended as **Annexure – III**. You should note the following points at the time of filing of nomination papers.

- (a) The proposer for member of a ward in the gram panchayat shall be a registered voter in the concerned ward.
- (b) The proposer for the office of Sarpanch shall be a registered voter in any ward of the concerned gram panchayat.
- (c) You can be nominated by more than one proposer separately for the same post in a separate nomination form;
- (d) You cannot contest for more than one ward under Section 234(1) of the Act. But you can file nominations for more than one ward and withdraw all but one nomination relating to one ward of your choice within the time prescribed for withdrawal of nominations, failing which all your nominations will become invalid;
- (e) You must sign the declaration on every nomination form, expressing your willingness to stand for the election;
- (f) You must take care to see that your nomination paper is presented either by you or by your proposer in person during the time prescribed and on the dates appointed for filing nomination, to the Returning Officer or such person authorised by him, at the place specified in the election notice. You have to ensure that the nomination form is complete in all

respects. You must note that nomination papers filed after the time specified on the last date for making nominations will be rejected.

- (g) On the presentation of a nomination paper the Returning Officer or such person authorised by him will satisfy himself that the names and the electoral roll numbers of the candidate and his proposer, as entered in the nomination paper, are the same as those entered in the electoral rolls;
- (h) Any inaccurate description or clerical or printing error in regard to the name of the candidate or his proposer or any other particulars relating to the candidate or his proposer, as entered in the electoral roll or in the nomination paper, may not affect the nomination, if the identity of the candidate or proposer, as the case may be, is otherwise established beyond reasonable doubt.
- (i) While filing the nomination paper, you must make sure that the Returning Officer before whom the nomination paper is filed, properly fills in and signs the form duly acknowledging the delivery of nomination papers;
- (j) Do not forget or overlook to obtain the receipt for nomination paper containing the notice of the time, date and place fixed for the scrutiny of nominations.

**(3) DECLARATIONS ACCOMPANYING NOMINATION FORM:**

**Declaration regarding SC/ST/BC status:**

- (a) A candidate for the office of Member or Sarpanch, gram panchayat which is reserved to be filled by ST or SC or BC, as the case may be shall not be deemed to be qualified to be chosen to fill the seat unless his nomination contains a declaration as in Part III of Form III (**Annexure - III**). The declaration shall be made before any Gazetted Officer of the Government or before any officer of the revenue department not below the rank of a Mandal Revenue Officer.
- (b) A candidate who is a member of a Scheduled Caste, Scheduled Tribe or Backward Class is entitled to the concessional rate of deposit as specified by State Election Commission under Rule 10(1). A candidate eligible for this concessioanl rate must file the declaration annexed as Part III of Form III (nomination paper) that he is a member of a Scheduled Caste or Scheduled Tribe or Backward Class, he claims to be.

**(2) Self declaration to be filed by the contesting candidates regarding criminal antecedents, assets and liabilities and educational qualifications:**

Rule 9(3) of conduct of election rules stipulate that every candidate shall along with the nomination paper also file a declaration with regard to him criminal antecedents, assets and liabilities and educational qualifications as required by the State Election Commission and in the prescribed format attested by the witnesses.

The State Election Commission issued order on this subject in reference No.809/SEC-B1/2003, dated 6.9.2003 and further amended in vide Order No.809/SEC-B1/2003-8, dated 24.10.2003 (copy of the order as amended is enclosed as **Annexure - IV**). As per the said order-

- (a) Every candidate contesting election to the office of Member or Sarpanch of a gram panchayat shall along with the nomination paper furnish full and complete information regarding criminal antecedents, assets and liabilities and educational qualifications in the form of a self declaration in the format appended as **Annexure – IV (A)** attested by two witnesses.
- (b) Non-furnishing of the said declaration by any candidate or his proposer, shall be considered to be violation of said order and the nomination of the candidate concerned shall be liable to be rejected by the Returning Officer at the time of scrutiny of nominations.

**(3). Declaration regarding Election Expenditure Accounts:**

A candidate shall also sign a declaration in the format shown in **Annexure- V** regarding maintenance of election expenditure accounts in the presence of Returning Officer before the date and time fixed for scrutiny of nominations. The Returning Officer shall countersign the declaration.

**4. DEPOSITS:**

As per Rule 10(1) of conduct of election rules at or before the time of presentation of nomination paper, each candidate shall remit or cause to be remitted the amount of deposit as may be specified by the State Election Commission, in any Government Treasury or Bank

wherein the concerned local body has an account or in cash with the Returning Officer. Where deposit is made in cash a receipt there for shall be given by the Returning Officer.

No candidate shall be deemed to be duly nominated, unless the deposit as has afore-said been made.

Where a candidate has been nominated for the same seat in more than one nomination paper, not more than one deposit shall be required to be made.

The person belonging to SC/ST/BC who wishes to pay deposit at concessional rate shall furnish a declaration specified in Part III of Form-III (nomination paper) irrespective of the fact whether he is contesting for a reserved or non-reserved seat.

The delivery to the Returning Officer of a receipt from a Government Treasury or Bank wherein the concerned local body has an account showing the payment by or on behalf of a candidate to the credit of the Mandal Parishad or Zilla Parishad, as the case may be, of the amount required to be deposited shall be deemed to be a deposit.

#### **5. DISPOSAL OF DEPOSITS:**

If no nomination paper is received within the time appointed in that behalf in respect of any person by whom or on whose behalf the deposit has been made or if the nomination of any such person has been rejected or the candidate has withdrawn his candidature the deposit shall be returned to the person by whom it was made.

If any candidate dies before the commencement of poll,

- (a) Where deposit was made by the candidate himself it shall be returned to his legal representative.
- (b) Where deposit was made by any person on behalf of the candidate, it shall be returned to such person or his legal representative.

If a candidate by whom or on whose behalf the deposit referred as above has been made is not elected and the number of valid votes polled by him does not exceed one eighth of the total

number of valid votes polled to all the candidates, the deposit shall be forfeited to the Government. In case of forfeited of deposit, the Returning Officer shall communicate an order to the person concerned who made the deposit citing the reason for such forfeiture.

The deposits made in respect of a candidate shall, if it is not be forfeited as aforesaid, be returned to be candidate or to the persons who have made the deposits on his behalf, as the case may be, within 30 days after publication of the result of the election.

Immediately after publication of the result of election, the Returning Officer or the person authorized by the District Collector in his behalf, shall pass an order as to whether the deposit shall be refunded or forfeited. The executive authority concerned shall within 30 days from the date of publication of result return the deposit to the person who made the deposit or to his legal representative when such deposit is refundable.

#### **6. PUBLICATION OF LIST OF NOMINATIONS:**

Immediately after expiry of the hour fixed for receipt of nominations on the last date for receipt of nomination paper, the Returning Officer or a person authorized by him in this behalf shall publish a list in Form V (**Annexure –VI**) of all nominations received with a notice that the nomination papers will be taken up for scrutiny at the specified place on the date and time specified in the election notice.

## CHAPTER – V

### SCRUTINY OF NOMINATIONS

#### 1. INTRODUCTION:

(1) The next stage in the election process is the scrutiny of nomination papers by the Returning Officer. The Returning Officer is required by law to hold the scrutiny of all the nomination papers, received by him, on the date, time and place specified in the election notice.

(2) The scrutiny of the nomination papers will be done only by the Returning Officer and none else. However, if the Returning Officer is unavoidably prevented from performing the said function, the Assistant Returning Officer may conduct scrutiny of nominations. You, your proposer and only one other person duly authorised in writing by you, are allowed to be present at the time of scrutiny. You are advised to see that the person other than a proposer who will be authorised in writing by you, to be present at the time of scrutiny, is a person conversant with the rules and procedure relating to Gram Panchayat elections, so that, he may adequately safeguard your interest at the time of scrutiny. It will also be in your interest if you yourself can be present at the time of scrutiny.

(3) Three persons, including yourself can be present at the time of scrutiny and have a right to have all reasonable facilities for examining nomination papers of all candidates, which have been received. You can make any substantial and material objection but should not raise flimsy or irrelevant technical objections in regard to any nomination paper.

#### 2. GROUNDS OF REJECTIONS :-

The Returning Officer will be justified in rejecting your nomination paper on any one of the following grounds :

- (a) If you are not qualified to be a candidate under Section 17 of Panchayat Raj Act; or
- (b) If you are ineligible to be a candidate under section 18 or 19 or 19A or 19B or 20 A of the Panchayat Raj Act; or;
- (c) If your nomination paper has not been delivered in time; or

- (d) If your nomination paper has been delivered to the Returning Officer or a person authorised by him by a person other than yourself or your proposer; or
- (e) If your nomination paper has not been delivered at the place specified in the public notice issued by the Returning Officer; or
- (f) If your nomination paper has been delivered to a person other than the Returning Officer or a person authorised by him; or
- (g) If your nomination paper is not substantially in the prescribed form; or
- (h) If your nomination paper has not been signed either by you or by your proposer or by both in the places meant for such signatures in the nomination paper; or
- (i) If the deposit required has not been made by you in accordance with the law; or
- (j) If the signature of a candidate or the signature of the proposer on the nomination paper is not genuine; or
- (k) If you file nomination to contest a seat reserved for the Scheduled Castes or Scheduled Tribes or Backward Classes or Women and you do not belong to such Caste or Tribe or Class or you are not a woman, as the case may be; or
- (l) If the proposer for the office of ward member is not a registered voter in the concerned ward;
- (m) If the proposer for the office of Sarpanch is not a registered voter in any ward of the concerned gram panchayat;
- (n) If you have not filed declaration prescribed by the State Election Commission on disclosure of information relating to criminal, antecedents, assets and liabilities and educational qualification and in the proforma prescribed and attested by two witnesses.

### **3. DOCUMENTS AND OTHER MATERIALS WITH WHICH YOU SHOULD BE PRESENT AT THE TIME OF SCRUTINY:**

To meet possible objections against your nominations, you may make sure that you have with you, the following documents at the time of scrutiny of nomination papers namely:

- (a) A copy of the current electoral roll or copy of the relevant part of the electoral roll or a certified copy of the entry in the electoral roll bearing your name and the name of your proposer;
- (b) Satisfactory evidence regarding your age;



- (c) Where the deposit has been made in cash, the receipt given to you by Returning Officer and where the deposit has been made in a Government Treasury or in the Bank where the gram panchayats concerned has an account the Treasury receipt or Challan;
- (d) The receipt for the nomination paper and notice of scrutiny which was handed over to you by the Returning Officer or the authorised person on your presenting the nomination paper; and
- (e) Proof of being a member of Scheduled Caste / Scheduled Tribe / Backward Class, as the case may be, if you are contesting a seat reserved for any of the said categories.
- (f) Any other evidence or material which may be necessary to repel and rebut any objection which has been or may be raised against your nomination.

#### **4. PUBLICATION OF LIST OF VALIDLY NOMINATED CANDIDATES:**

Immediately after all the nomination papers are scrutinised and the decisions accepting them, or rejecting them have been recorded, the Returning Officer will prepare and publish a list of validly nominated candidates in Form VI (**Annexure – VII**) and affix it on the notice board. If, however, you consider that your name is incorrectly spelt or is otherwise incorrectly shown, you should bring the matter to the notice of the Returning Officer who will make the necessary corrections.

#### **5. PROVISION FOR APPEAL AGAINST REJECTED NOMINATIONS:**

As per the provisions of Rule 13 of the Conduct of Election Rules, 2006 the candidate, whose nomination paper has been rejected for the office of Sarpanch/Ward Member, Gram Panchayat, may prefer an appeal against the decision of the Returning Officer before the concerned Revenue Divisional Officer. The date for filing appeal against the rejection of the nominations shall be the day immediately following the date for the scrutiny of nominations and the date of disposal of appeal shall be the day immediately following the date for filing of the appeal.

## CHAPTER – VI

### WITHDRAWAL OF CANDIDATURE

According to sub-rule (1) of rule 14 of Conduct of Election Rules, 2006 any candidate may withdraw his candidature by notice in writing in Form VII (**Annexure – VIII**) signed by him and delivered personally to the Returning Officer at any time after the presentation of his nomination paper and not later than 3.00 O' Clock in the afternoon on the 3<sup>rd</sup> day after the scrutiny of nominations, whether or not it is a public holiday. If the notice is not delivered by the candidate in person it shall be delivered by his proposer or election agent who has been authorized in this behalf in writing by the candidate.

The Returning Officer shall give a receipt for the same as provided in Form-VII on being satisfied as to the genuine of the notice of withdrawal and the identity of the candidate.

Once a notice of withdrawal of candidature is given by a candidate to the Returning Officer, the candidate shall not be allowed under any circumstances to cancel the withdrawal.

The Returning Officer on receiving a notice of the withdrawal shall, as soon as may be, cause a notice of the withdrawal published in Form-VIII (**Annexure - IX**) on the notice board of the Gram Panchayat.

## CHAPTER - VII

### PUBLICATION OF LIST OF CONTESTING CANDIDATES AND ALLOTMENT OF SYMBOLS

#### 1. PUBLICATION OF LIST OF CONTESTING CANDIDATES:

On the expiry of the time for withdrawal of candidature, the Returning Officer shall prepare in Telugu language a list of contesting candidates in Form IX (**Annexure - X**) separately for each ward and sarpanch under Rule 15 of the conduct of election rules and publish on the notice board of the office of the Gram Panchayat or in any conspicuous place if there is no office of the Gram Panchayat.

The list shall contain the names of the candidates in alphabetical order in Telugu and shall describe them as in their nomination paper.

The arrangement of names shall be on the basis of the first letter of the name of the candidate irrespective of whether the name given is the proper name or surname. The initials, if any, prefixed to the name of the candidate shall be ignored for the aforesaid purpose. If two candidates in the same category have the same name but different initials, then two names shall be arranged interse with reference to the first letter of the initial. Further, if two or more such candidates have the same name but different surnames then their names shall be arranged interse in the alphabetical order with reference to the surnames.

If two or more candidates falling in the same category bear the same name they should be distinguished by the addition of their occupation or residence or in some other manner. In the list of contesting candidates, the names of list of candidates shall be arranged in the order in which their nominations were received by the Returning Officer.

There will be no objection to the addition of any honorific, academic, hereditary, professional or any other title to the name of a candidate but such title should on no account be taken into consideration in the arrangement of names in alphabetical order.

If the poll is for necessary i.e, the Returning Officer shall assign to each contesting candidate a distinguish symbol as per the directions issued by the State Election Commission in that behalf. In every case where a symbol as been assigned to a candidate such candidate or its election agent shall forth with be informed of his symbol so assigned and be supplied specimen thereof by the Returning Officer.

## **2. ALLOTMENT OF SYMBOLS**

The State Election Commission issues symbol notification specifying list of free symbols separately for the office of Sarpanch and Ward Member. The Returning Officer shall serially allot the symbols from the list of symbols notified by the State Election Commission to the contesting candidates for the office of Sarpanch or Ward Member, as the case may be.

In case of Sarpanch election, first symbol in the list of free symbols notified for Sarpanch should be allotted to first candidate in the list of contesting candidate for Sarpanch and symbol at Sl. No. 2 to the second candidate in the list of contesting candidates and so on.

Similarly for ward member election, the first symbol in the list of free symbols notified in ward member shall be allotted to the first candidate in the list of contesting candidates for ward member and second symbol to the second candidate in the list of contesting candidates and so on.

## **CHAPTER - VIII**

### **APPOINTMENT OF ELECTION AGENT, POLLING AGENT AND COUNTING AGENT**

#### **1. ELECTION AGENT:**

As a candidate, you may appoint any person to be your Election Agent. It is not, however, incumbent on you to appoint an Election Agent. Such appointment may, if you so desire, be made at any time you like. Every such appointment has to be made by a formal communication in Form XI (**Annexure - XI**), in duplicate, by you and forwarded to the Returning Officer. The Returning Officer will retain one copy thereof and return the duplicate copy to the Election Agent after affixing there on his signature in token of his approval of the appointment.

The Election Agent so appointed by you may perform such functions during the elections as are authorised under the Conduct of Election Rules.

Any revocation of appointment of an election agent shall be signed by the candidate and operate from the date on which it is lodged with the Returning Officer. In the event of death of election agent or of such revocation, the candidate may appoint in the like manner another person to be his election agent.

#### **2. POLLING AGENT:**

Under Rule 20 of the Conduct of Election Rules, contesting candidate for the office of the Member or Sarpanch, or his election agent may appoint one polling agent and one relief agent for each polling station and every such appointment shall be made in Form XII (**Annexure–XII**). However, at any Polling Station at any given point of time only one polling agent or relief agent could be present but not both.

Any revocation of the appointment of a Polling agent shall be signed by the candidate or his election agent. Such revocation shall operate from the date on which it is lodged with the Returning Officer. In the event of such revocation or of the death of a polling agent before the

close of poll, the candidate or his election agent may appoint in the like manner another polling agent.

The role of polling agent is to observe the polling i.e., whether the poll process is orderly free and fair. The polling agent can perform this role only if he is from local area and familiar with the identity of voters of that particular booth. A person appointed as polling agent from outside the village and not familiar with the identity of voters will not serve the purpose for which he is appointed. Moreover, in such cases, there is always a possibility of bringing in antisocial elements, rowdy sheeters etc., from outside in the guise of polling agents to intimidate the voters, polling personnel or polling agents of other candidates. The State Election Commission has, therefore, issued the following guidelines with regard to appointment of polling agents by contesting candidates.

- (i) A person to be appointed as polling agent should be a resident of the gram panchayat concerned who can identify the voters and is not an outsider.
- (ii) The Retuning Officers shall inform the contesting candidates to furnish the names and addresses of the persons whom they intend to appoint as polling agents or relief agents at least three days before date of polling.
- (iii) The Retuning Officer may cause verification of the antecedents of the persons by the police authorities, in cases of doubt.
- (iv) A person having criminal record or having a past record of indulging in electoral malpractice or otherwise having a bad reputation of rowdy sheeter etc., having potential to intimidate the voters shall not be appointed as polling agent.
- (v) Contesting candidates intending to appoint a person from outside the local area, for any exceptional reasons, shall make an application to the Retuning Officer concerned in this behalf at least three days before the date of poll. The Retuning Officer may permit such appointment after such further inquiry in addition to the procedure stipulated in clause (iii) above, as he may deem fit, about the antecedents of persons proposed to be appointed as polling agents from outside the local area.

- (vi) The three days time limit prescribed in clauses (ii) and (v) above can be relaxed by the Returning Officer, for appointment of a regular polling agent, in case of death, disability or the like of a polling agent already appointed, so as to enable the appointment of a substitute.

### **3. COUNTING AGENT:**

Each candidate may appoint such number of counting agents at place or places fixed for counting as may be specified by the District Election Authority. Generally, each candidate can appoint as many counting agents as there are counting tables.

Every such appointment shall be made in Form XIII (**Annexure- XIII**) in duplicate, one copy of which shall be forwarded to the Returning Officer while the other copy shall be made over to the counting agent for production before the Returning Officer, not later than one hour before the time fixed for counting.

The counting agent so appointed by you may perform such functions in connection with counting of votes as are authorised under the Conduct of Elections Rules.

Any revocation of the appointment of a counting agent shall be signed by the candidate or his election agent. Such revocation shall operate from the date on which it is lodged with the Returning Officer. In the event of such revocation or death of a counting agent at any time before the counting of votes is commenced, the candidate or his election agent may appoint in the like manner another person as counting agent.

## **CHAPTER – IX**

### **CAMPAIGN PERIOD**

#### **1. INTRODUCTION :**

The election law provides for an interval of not less than five clear days between the last date fixed for the withdrawal of candidatures and the poll. This period could be utilized for canvassing and educating the voters and for training the workers and agents that you will have to employ for election purpose. However, please note that campaigning stops 44 hours before the hour fixed for conclusion of poll.

#### **2. CORRUPT PRACTICES AND ELECTORAL OFFENCES:**

While undertaking your electioneering campaign, you should ensure that the highest standard of morality and purity are maintained, as that would in turn ensure free and fair election. The most potent cause which tends to mar the smooth conduct of an election and disturb the atmosphere of friendly contest, that should prevail during the elections, is the violation of the statutory provisions of election law relating to corrupt practices and electoral offences. The election law has enumerated various corrupt practices and electoral offences in Chapter II of part V of A.P.Panchayat Raj Act, 1994, which is reproduced in **Annexure - XIV**. Any such corrupt practices and offences by you, your agent and workers may vitiate your election. You should, therefore, keep in check your over enthusiastic agents and workers from indulging in any objectionable activities. Even a single proved instance of corrupt practice may be enough to unseat you, if you are successful in the election.

#### **3. MODEL CODE OF CONDUCT FOR GUIDANCE OF POLITICAL PARTIES AND CANDIDATES:**

Apart from the above mentioned corrupt practices and electoral offences, the election campaigns may take different forms which may create feelings of bitterness, irritation, confrontation and resentment among the various parties and candidates and vitiate the atmosphere. For maintaining a healthy and peaceful atmosphere conducive to the conduct of smooth election, the State Election Commission has prescribed a Model Code of Conduct (**Annexure - XV**) which will be supplied to you after finalisation of your candidature. You must ensure that you, your supporters and agents observe the model code of conduct. Any violation of



the model code of conduct will be viewed seriously by the State Election Commission and may seriously affect your election.

#### **4.USE OF LOUD SPEAKERS:**

No Loudspeakers should be used for any meeting or procession or for general propaganda without the prior written permission of the authorities concerned and beyond the hours fixed by the Commission in this behalf. A copy of the order issued by the State Election Commission on this subject is enclosed as **Annexure – XVI**.

#### **5. DEFACEMENT OF PUBLIC OR PRIVATE PROPERTY:-**

Private places and public places shall not be disfigured during the election campaign by way of pasting election advertisements and writings on the walls in violation of item 11 of the Model Code of Conduct. In order to prevent such disfigurement, the A P State Legislature has enacted A P Prevention of Disfigurement of Open Places and Prohibition of Obscene and Objectionable posters and Advertisements Act, 1997 (Act 28 of 1997). Section 4 of the said Act makes the disfigurement of public or private place an offence punishable with imprisonment which may extend up to three months or with fine which shall not be less than Rs.1,000/- but which may extend up to Rs.2,000/- or with both. Abettors of such disfigurement are liable to be punished under Section 5 of the said Act. You must ensure that you or your agents etc. do not violate the provisions of this Act failure of which will invite Criminal Prosecution. A copy of the order issued by the State Election Commission in the matter is enclosed as **Annexure - XVII**.

#### **6. DISTURBANCE AT ELECTION MEETINGS:-**

According to Section 215 of A P Panchayat Raj Act, any person who, at a public meeting conducted in connection with conduct of elections to Panchayat Raj Bodies, acts or incites others to act in a disorderly manner for the purpose of preventing the meeting shall be punishable with fine which may extend upto to Rs 250/-

This Section applies to any public meeting of a political character held in any Constituency between the date of election notification and the date on which such election is

held. If any police officer reasonably suspects any person of committing an offence under sub-section (1) of section 215 of the said Act he may, if requested to do so by the Chairman of the meeting, require that person to declare to him immediately his name and address and, if that person refuses or fails to so declare his name and address or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

If any supporter of a rival candidate or any one opposed to you creates disturbance in any of your election meetings, the Chairman of the meeting may, under Section 215 of Panchayat Raj Act, request any police officer who may be present to ascertain the name and address of the person who disturbs the meeting. Similarly, your workers, agents and supporters should also be told not to disturb public meeting of rival candidates.

## **7. PROHIBITION OF PUBLIC MEETINGS AND PROCESSIONS DURING 48 HOURS IMMEDIATELY BEFORE THE CLOSE OF THE POLL:**

- 1) Section 214 of the Andhra Pradesh Panchayat Raj Act, 1994 stipulates that no person shall –
  - (a) Convene, hold, attend, join or address any public meeting or procession in connection with an election; or
  - (b) Display to the public any election matter by means of cinematograph, television or other similar apparatus; or
  - (c) Propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto,

In any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll in case of election to Gram Panchayats.

- 2) Any person who contravenes the above provisions shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.
- 3) The expression “election matter” means any matter intended or calculated to influence or affect the result of an election.

4) You should keep these provisions in view while holding public meetings, or taking on any processions, etc.

### **8. RESTRICTIONS ON PRINTING OF PAMPHLETS, POSTERS ETC:-**

Your attention is invited to section 216 of the Panchayat Raj Act which imposes certain restrictions on printing and publishing of election pamphlets and posters. You are advised to study the provisions of Section 216 and ensure that there is no violation of the law. A copy of the order issued by the State Election Commission in this regard is enclosed as **Annexure- XVIII**.

### **9. LIST OF DEAD, ABSENT AND BOGUS VOTERS:**

- 1) In the course of canvassing for votes on your behalf, your workers and agents may find that some of the voters whose names appear in the electoral roll are dead, that some voters may have more or less permanently left the locality and yet others are not real persons. Your workers may be asked to prepare a list of such dead, absent or bogus voters for each polling station separately.
- 2) The list should be correctly prepared. Care should be taken that the name of no real voter is included therein. It will cause annoyance if any real voter is wrongly included in the list of dead, absent or bogus voters and his right to vote is questioned at the polling station.
- 3) Hand over to your polling agent for each polling station a copy of the list of such dead, absent or bogus voters for that polling station so that he may watch for any person coming to vote in the name of any such voter on the polling day and may draw the attention of the presiding officer to the fact.
- 4) By following the above instructions diligently, you will not only help yourself but also assist the election authorities materially in preventing bogus voting.

### **10. DOS AND DONTS FOR GUIDANCE OF CANDIDATES:**

The election law is quite comprehensive and the procedure is quite elaborate. It is upon their due observance that the purity of the election depends. Some of the Dos and Don'ts are suggested for your guidance in **Annexure - XIX**. It should be noted that these are not exhaustive but are only illustrative and for your guidance.

## **CHAPTER – X**

### **POLLING DAY**

#### **1. DECLARATION OF HOLIDAY ON POLLING DAYS :**

The day of poll, if it does not fall on a Sunday or other holiday, will be generally declared as a local holiday for all offices and public sector undertakings. An appeal will also be made to all private and commercial establishments to observe the day of poll as a holiday in lieu of the usual weekly holiday or to accord permission for a sufficient period to enable the workers to cast their votes.

#### **2. RESTRICTIONS ON CANVASSING:**

You are prohibited from canvassing in or near the polling stations on polling day. No person shall commit any of the following acts within a polling station or in any public or private place within a distance of 100 metres of a polling station namely;

- (a) canvassing for votes;
- (b) soliciting the vote of any elector;
- (c) persuading any elector not to vote for any particular candidate;
- (d) persuading any elector not to vote at the election;
- (e) exhibiting any notice or sign (other than an official notice) relating to the election;
- (f) using or operating within or at the entrance of the polling station or in any public or private place or in its neighbourhood, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loud-speaker;
- (g) shouting or otherwise acting in a disorderly manner within or at the entrance of a polling station or in any public or private place in the neighbourhood.

#### **3. CANDIDATES' ELECTION BOOTHS:**

The Candidates' election booth should not be set up within 100 metres of a polling station.

#### **4. UNOFFICIAL IDENTITY SLIPS:**

The candidates may issue unofficial identity slips containing the following information to the voters.

- (i) The name and serial number of the voter in the electoral roll;
- (ii) The number of the part of the electoral roll;
- (iii) The serial number and name of the polling station; and
- (iv) Date of poll.

The identity slips should be on white paper and should not contain the name of the candidate and/or the election symbol of the candidate or his party. The slips should not also contain any slogans or any exhortation to vote for a candidate since these slips if carried by the voters to the polling stations would amount to canvassing within the polling station which is not permissible. The circulation of any slips within 100 meters of the polling station would also amount to canvassing which is not permissible under the law.

#### **5. DETENTION OF VOTERS:**

It is an offence to detain any voter in a camp or any other place whether with or without his consent or obstruct his way to a polling station in order to prevent him from voting. If you receive information that any person is so detained or obstructed, you should report the matter to the Police Officer of the nearest police station and to the Election Officer who will take effective action to enable the persons who are wrongfully detained or obstructed to exercise their franchise even if the detention or obstruction is done in a private place.

#### **6. ARRANGEMENTS AT POLLING STATIONS:**

Outside each polling station there will be displayed a notice specifying the polling area, the electors who are entitled to vote at the polling station. The list of contesting candidates with serial numbers and the symbols assigned to them shall be displayed both outside and inside the polling station.

## **7. ADMISSION TO POLLING STATION:**

The Presiding Officer is authorised to admit only the following persons into the polling station and no one else:

- a) polling officer;
- b) each candidate, his election agent and one polling agent of each candidate at a time;
- c) the other public servant on duty in connection with elections.
- d) a child in arms accompanying an elector;
- e) a person accompanying a blind or infirm voter who cannot move without held.
- f) such persons as the Presiding Officer may, from time to time, admit for the purpose of identifying electors.
- g) persons authorized by the State Election Commission.

## **8. WHEN POLLING AGENTS SHOULD REACH THE POLLING STATION:**

The Polling Agents are expected to reach the polling station at least half-an-hour before the commencement of the poll. This will enable them to be present when the Polling Officer prepares the ballot box for being placed on the table and goes through the other preliminary arrangements before the commencement of the poll. If any part of these preliminaries has already been gone through, the proceedings will not be commenced *de novo* to accommodate any late comer. Each presiding agent will be supplied by the presiding officer with a pass on the authority of which he can go in and out of the polling station as may be necessary.

## **9. DUTIES OF POLLING AGENT:**

The main duty of your polling agent is to see that your interests relating to free and fair poll are safeguarded at the polling station, for which he has been appointed as your polling agent. His other duties are:

- a) to help the Presiding Officer to detect and prevent impersonation of voters by challenging persons who try to impersonate voters;
- b) to help in having the ballot boxes properly secured and sealed according to the rules before and after the poll; and
- c) to see that the documents relating to the poll are also secured and sealed properly as required by law.

## **10. THINGS TO BE BROUGHT BY POLLING AGENT:**

The Polling Agent should provide himself with the following items when he comes to the polling station;

- a) his letter of appointment;
- b) a copy of the electoral roll for the polling station;
- c) a list of the names of the dead, absent bogus votes included in the list;
- d) a small brass seal, and
- e) pen, paper and pencil;

Within the polling station or one hundred metres there of, the polling agent may not wear a badge containing a photograph or displaying any slogans for exhortation to vote.

## **11. PREPARATION OF BALLOT BOX:**

The presiding officer will allow the ballot box to be inspected by the polling agent of each candidate and see that it is empty, that there are no defects in it and in particular that no ballot paper or other paper can be inserted into it after it has been closed and sealed.

A paper seal will be used for securing the ballot box. The polling agent may verify that no damaged paper seal is used to seal any ballot box. The polling agent may put his signature on the paper seal for each ballot box that is used during the poll.

The presiding officer will prepare an account of the paper seals used. The polling agents may take note of the serial numbers of the paper seals used.

## **12. SERIAL NUMBER OF BALLOT PAPERS TO BE USED AT THE POLLING STATION:**

At the commencement of the poll, the Presiding Officer will allow the polling agents to note the first and the last of the serial number of the ballot papers which will be used at the polling station. The polling agent should not however, note down the serial numbers of all ballot papers or ballot papers issued to any voter. He should not take any notes, or make any mark in

the electoral roll or elsewhere which may enable any person to work out the serial numbers of the ballot papers issued to the voters as this would violate the secrecy of the vote. The presiding Officer has been given the authority to prevent any one from taking any such notes and to seize and forfeit any document on which a polling agent may have made any such note. If a polling agent persists in taking such notes, inspite of warnings, he will not be allowed to remain in the polling station as a penalty for his misconduct. The Polling Agent is permitted only to make tick marks in his copy of the electoral roll against the names of the voters who have voted. The polling officers will take care to issue ballot papers, not necessarily in serial order, so that no one can even guess the serial number of the ballot paper issued to a voter.

### **13. REGULATION OF ENTRY OF VOTERS:**

There will be separate queues for men and women voters. The persons who enforce the queues will allow 3 or 4 voters into the polling station at a time as the Presiding Officer may direct. Other voters waiting to come in will be made to stand in queue outside. Infirm voters and women voters with babies in arms may be given preference over other votes in the queue. Men and women voters will be admitted into the polling station in alternate batches. The formation of more than one queue for men voters or for women voters will not be allowed.

### **14. FACILITIES TO PRESS REPRESENTATIVES AND PHOTOGRAPHERS:**

Subject to the maintenance of peace and order, there is no objection to an photographer taking photographs of a crowd of voters lining up outside the polling station. However, no one including the publicity officials of the State Government shall be allowed inside a polling station without a letter of authority from the State Election Commission. In no circumstances, will any photograph be allowed to be taken of a voter recording his vote.

### **15. COMPULSORY IDENTIFICATION OF VOTERS:**

Under sub-rule (3) of Rule 41 of Conduct of Election rules, 2000, every elector shall produce identity card issued to him/her under the provisions of Registration of Electors Rules, 1960 made under the RP Act, 1950 or any such documents as may be specified by order by the State Election Commission before the Presiding Officer or Polling Officer authorized in this behalf in order to establish his or her identity at the polling station. The State Election



Commission in its Order No.777/SEC-F/2004, dated.16.8.2004 notified the following documents that can be produced by the electors at the polling station for the purpose of identification of voters.

- (i) Electoral Photo Identity Cards,
- (ii) Passports,
- (iii) Driving Licenses,
- (iv) Income Tax Identity (PAN) Cards,
- (v) Service Identity Cards issued to its employees by State/Central Government, Public Sector Undertakings, Local Bodies or other Private Industrial Houses,
- (vi) Bank/Kisan/Post Office Passbooks,
- (vii) Student Identity Cards issued by Recognised Educational Institutions,
- (viii) Property Documents such as Pattadar Pass Books, Registered Deeds, etc,
- (ix) Ration Cards,
- (x) SC/ST/OBC Certificates issued by competent authority,
- (xi) Pension Documents such as ex-servicemen's Pension Book/Pension payment Order, ex-servicemen's widow/Dependent Certificates, Old Age Pension Order, Widow Pension Order,
- (xii) Railway Identification Cards,
- (xiii) Freedom Fighter Identity Cards,
- (xiv) Arms Licenses,
- (xv) Certificate of Physical Handicap issued by Competent Authority.

## **16. CLERICAL AND PRINTING ERRORS IN THE ELECTORAL ROLLS TO BE OVERLOOKED**

The particulars in respect of a voter as entered in the electoral roll are sometime incorrectly printed or have become out of date, for example, the age of the voter. The polling agent should overlook mere clerical or printing errors in any entry relating to a voter and should not raise objection about such voter, if he is otherwise satisfied about the identify of that voter.

**17. SIGNATURE OF POLLING OFFICER ON BACK OF BALLOT PAPER:**

The Presiding Officer of each polling station is required to sign his name in full on the back of each ballot paper before its issue to the voter.

**18. DISTINGUISHING MARK:**

The Distinguishing mark as specified by the State Election Commission will be stamped or written on the backside of each ballot paper of Sarpanch/Ward Member of Gram Panchayat and the counterfoil.

**19. VOTING BY BLIND AND INFIRM VOTERS:**

If the Presiding Officer is satisfied that owing to blindness or any physical infirmity a voter is unable to recognize the symbols on the ballot paper or to record his vote on it without assistance, he will permit the voter to take with him an adult companion of not less than 18 years into the voting compartment for recording the vote on his behalf and in accordance with his wishes. But the illiteracy of voter is not a sufficient cause for giving him assistance of a companion to record vote on his behalf.

No person shall be permitted to act as the companion of more than one elector at any polling station on the same day. The person acting as such companion is required to make a declaration in a prescribed form to the effect that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as a companion of any elector at any polling station on that day.

**20. REMOVAL OF BALLOT PAPERS FROM POLLING STATION TO BE AN OFFENCE:**

If you or your agents honestly suspect that any voter is illegally taking any ballot paper out of the polling station, you or your agent may draw the attention of the polling officer to the matter and request him to get the suspected voter searched by the police as he comes through the exit of the polling station.

## **21. REMOVAL OF DISORDERLY PERSONS:**

Any person who misconducts himself or fails to obey lawful directions of the polling officer during the poll, will be removed from the polling station under his order by any police officer or other person or persons authorised by him.

## **22. RIGHT TO VOTE:**

So long as the identity of a voter is established he has right to vote. Votes shall be cast only in person and no vote shall be received by proxy. No person shall vote more than once. To check personation, every voter's left forefinger will be marked by one of the polling clerks with indelible ink before a ballot paper is issued to him.

## **23. TENDERED VOTES:**

It may happen that a person presenting himself to be a particular elector comes forward to vote after another person has already voted as such elector. In that case the polling officer will put such questions to him as he thinks necessary, to satisfy himself about his identify and if he is satisfied about his identity, the presiding officer will get his left forefinger marked with indelible ink and also make necessary entry in the list of tendered votes and obtain the signature or the thumb-impression of the voter therein. The voter will then be supplied with an ordinary ballot paper of the last of the series of ballot papers allotted to the polling station, with the words "tendered ballot paper" written on the back. The voter shall then mark the tendered ballot paper in the voting compartment and fold it. He will hand over the ballot paper to the presiding Officer and not put it into the ballot box. The presiding Officer will keep all such tendered votes separately in the cover meant for the purpose. The tendered ballot paper will not be counted at the time of counting.

## **24. IMPERSONATION AND TENDERED VOTES:**

In some areas large scale impersonation is resorted to by unscrupulous elements with the backing of those who want to breach the election law to achieve their political ends. The genuine voter whose vote has already been cast is intimidated not to demand a tendered vote. In some cases, the voter himself goes back not knowing that he has a right to cast a tendered vote or he has not exercised this right since he may feel that a tendered vote is of no use as it will not be

counted. In the present election process the vote of a genuine voter is not counted and thus affecting the purity of elections. With a view to curb the pernicious practice of impersonation the State Election Commission issued a Notification to the effect that where the total number of tendered votes is not less than two percent of the total votes cast in a polling station, the State Election Commission may order a re-poll. The candidates are requested to take special note of this new provision and assist with the State Election Commission in maintaining purity of elections.

#### **25. INSPECTION OF VOTER'S LEFT FOREFINGER BEFORE ISSUE OF BALLOT PAPER:**

If any elector refuses to allow his left forefinger to be inspected or marked in accordance with instructions or has already such a mark on his left forefinger or does any act with a view to removing the mark, he shall not be supplied with any ballot paper or allowed to vote.

#### **26. ELIGIBILITY OF VOTER NOT TO BE QUESTIONED**

Every person whose name is entered in the marked copy of the electoral roll is entitled to vote at the election. So long as there is no doubt as to the identity of such person, no question can be raised by a polling agent at the polling station before the Presiding Officer about the eligibility of such a person to be registered as a voter.

#### **27. ISSUE OF BALLOT PAPERS:**

Under the law, before a ballot paper is issued to an elector whose identity has been established, his signature or thumb impression shall be obtained on the counterfoil of the ballot paper. If any elector refuses to put his signature or thumb impression on the counterfoil of the ballot paper, no ballot paper shall be issued to him.

#### **28. MAINTAINS OF SECRECY OF VOTING BY ELECTORS:**

Every elector who is permitted to vote shall maintain absolute secrecy of voting within the polling station. He should strictly observe the prescribed voting procedure. If he refuses,

after warning given by the Presiding Officer, to observe the voting procedure, the Presiding Officer or a Polling Officer under the direction of Presiding Officer shall not allow such elector to vote and the ballot paper issued to him shall be taken back and cancelled by the Presiding Officer.

All such cancelled ballot papers shall not be inserted into the ballot box, but shall be kept separately by the Presiding Officer in a cover to be specifically provided for the purpose.

### **29. REFUSAL TO VOTE:**

If a voter, after receiving the ballot paper does not wish to vote, he may return it to the Presiding Officer without marking it. The ballot paper and the counterfoil of such ballot paper will be cancelled by writing on it the words "Returned: Cancelled". If any elector has marked a ballot paper wrongly in favour of one candidate by mistake or otherwise in the first instance and on second thought he wishes to vote in favour of another candidate or inadvertently spoils it and return it to the Presiding Officer, he will be given another ballot paper. In every such case the voter should satisfy the Presiding Officer of his inadvertence. The ballot paper so returned and the counterfoil of such ballot paper is marked "Spoilt: Cancelled". Every elector to whom a ballot paper has been issued is required to maintain secrecy of voting within the polling station and for that purpose the voting procedure discussed earlier is to be observed. If an elector to whom a ballot paper has been issued, refuses, after warning given by the Presiding officer, to observe the procedure, the ballot paper issued to him will, whether he has recorded his vote thereon or not, will be taken back from him by the Presiding Officer. After the Presiding Officer has taken it back, he will record on the back of such ballot paper and on its counterfoil the words "Cancelled voting procedure violated". The vote, if any, recorded on such ballot paper will not be counted.

### **30. LIST OF DEAD, ABSENT AND ALLEGEDLY SUSPICIOUS VOTERS**

It is expected that a polling agent will have with him a copy of the electoral roll and also a list of the names of the dead, absent and allegedly suspicious voters which might have been prepared by the candidate or his party. A copy of this list should be supplied to the Presiding Officer also. If any person claims to be a voter whose name is mentioned in that list, the polling

agent should draw the Presiding Officers attention to that fact. This will not amount to a formal challenge. The Presiding Officer will check that person's identity.

### **31. CHALLENGING A VOTER'S IDENTITY:**

A polling agent may challenge the identify of a person who comes as a voter if he has knowledge that the person claiming to be that voter is not that person. For each challenge, the challenger has to deposit Rs.5 in cash. The Presiding Officer will conduct a summary enquiry into each challenge. The deposit will be returned at the conclusion of the enquiry, unless the presiding officer decides that the challenge was frivolous or that it was not made in good faith, in which case the challenge fee will be forfeited.

### **32. CLOSE OF POLL:**

The presiding Officer will close the poll at the hour fixed for the close of the poll, but all the electors present at the polling station before it is closed shall be entitled to cast their votes.

### **33. SEALING OF ELECTION PAPERS:**

Each candidate or his election agent or his polling agent who is present at the polling station may affix the seals on the envelopes and packets containing the following documents:

- i) the unused ballot papers with counterfoils;
- ii) (a) the tendered ballot papers and (b) list of tendered votes;
- iii) the spoilt and returned ballot papers;
- iv) the signed but unused ballot papers with counterfoils, if any;
- v) the marked copy of the electoral roll;
- vi) the list of challenged votes;
- vii) the unused and damaged paper seals if any;
- viii) appointment letters of polling agents;
- ix) the ballot papers cancelled for violation of voting procedure;
- x) the counterfoils of used ballot papers; and
- xi) Any other paper that the Returning Officer has directed to be kept in a sealed packet.

It is in your interest to advise your polling agent to affix their seals on those packets so that complaints regarding tampering can be avoided.

### **34. CLOSING OF BALLOT BOX AFTER POLL:**

At the close of the poll, the ballot boxes will be inspected for verifying:

- i) that the slit for insertion of ballot papers is still open;
- ii) that the paper seal or other seals on each box are in tact after the seal cover or the window cover, as the case may be has been opened;
- iii) that the slit for insertion of ballot papers is thereafter effectively closed and cannot be opened again; and
- iv) that the seal cover or the window cover, as the case may be, is secured and sealed with the Polling Officer's seal.

### **35. PREPARATION OF BALLOT PAPER ACCOUNT:**

After the close of poll, the Presiding Officer is required to prepare under rule 52 of Conduct of Election Rules, 2000, a ballot paper Account of the ballot paper used at the polling station. Such account shall be prepared in Part I of the Form XXV.

### **36. SUPPLY OF ATTESTED COPIES OF BALLOT PAPER ACCOUNT TO POLLING ATENTS:**

Under the said rule 52 of Conduct of Election Rules, 2000, every Presiding Officer is also required to furnish to every polling agent present at the close of the poll, a true attested copy of the ballot paper account as prepared by him in Form XXV, after obtaining a receipt from those polling agents, copies of the accounts should be furnished to every polling agent present even without his asking for it.

### **Extracts from A.P. Panchayat Raj act, 1994:**

#### **Section 17:**

**Qualification of candidates -** No person shall be eligible for election as a Member/Sarpanch of a Gram Panchayat, unless his name appears in the electoral roll of that Gram Panchayat and **he/she is not less than 21 years of age:**

**Section 18:**

**Disqualification of certain office holders etc:** (1) No village servant and no officer or servant of the Government of India or any State Government or of a local authority or an employee of any institution receiving aid from the funds of the Government and no office bearer of any body constituted under a law made by the Legislature of the State or of Parliament shall be qualified for being chosen as or for being a Member/Sarpanch of a Gram Panchayat.

***Explanation:*** For the purpose of this section the expression “Village Servant” means in relation to,--

- (i) the Andhra Area, any person who holds any of the village offices of nearaganti, neeradi, vetti, kawalkar toti, talayar, tandalagar, sathsindhi or any such village office by whatever designation it may be locally known;
- (ii) the Telangana Area, any person who holds any of the village offices of neeradi, kawalkar, sathsindhi or any such village office by whatever designation it may be locally known.

(2) A person who having held an office under the Government of India or under the Government of any State or under any local authority has been dismissed for corruption or for disloyalty to the State or to the local authority shall be disqualified for a period of five years from the date of such dismissal.

(3) For the purposes of sub-section (2), a certificate issued by the State Election Commissioner to the effect that a person having held office under the Government of India or under the Government of State or under any local authority has or has not been dismissed for corruption or for disloyalty to the State or to the local authority shall be conclusive proof of that fact:

Provided that no certificate to the effect that a person has been dismissed for corruption or for disloyalty to the State or to the local authority shall be issued unless an opportunity of being heard has been given to the said person.

(4) Every person convicted of an offence punishable under Chapter IX-A of the Indian Penal Code (Central Act 45 of 1860), or under any law or rule relating to the infringement



of the secrecy of an election, shall be disqualified from voting or from being elected in any election to which this Act applies or from holding the office of Member/Sarpanch of a Gram panchayat for a period of five years from the date of his conviction or for such shorter period as the Court, may by order, determine.

(5) Apart from the disqualifications specified in sub-sections (1), (2) and (4) of Sections 18, 19 and 20 a person shall be disqualified for being chosen as, and for being, a Member /Sarpanch of a Gram Panchayat, if he is otherwise disqualified by or under any law for the time being in force for the purpose of elections to the Legislature of the State.

Provided that no person shall be disqualified on the ground that he is less than 25 years of age, if he has attained the age of 21 years;

Provided further that where a person is convicted for an offence specified under sub-section (1) or sub-section (2) of Section 8 of the Representation of People Act, 1951 (Act 43 of 1951) or under Section 19 of this Act, while he is a Member /Sarpanch of a Gram Panchayat, the disqualification arising out of such conviction shall not take effect until the expiry of the time for filing an appeal against such conviction and where an appeal is filed until the disposal of the appeal;

Provided also that a person convicted for an offence under sub-section (1) of section 8 of the Representation of People Act, 1951 (Act 43 of 1951) (Extract of Section is given at the end) shall be disqualified for being chosen as or for continuing as a Member /Sarpanch of a Gram Panchayat as the case may be, for a period of six years from the date of conviction and a person convicted under sub-section (2) thereof shall be disqualified for a period of six years from the date of conviction and for a further period of five years from the date of release.

**Section 19:**

The following persons are disqualified from contesting the post of Member/ Sarpanch of a Gram Panchayat.

(1) A person who has been convicted by a Criminal Court, --

(a) for an offence under the Protection of Civil Rights Act, 1955 (22 of 1955); or

(b) for an offence involving moral delinquency; shall be disqualified for election as a Member for a period of five years from the date of conviction or where he is sentenced to imprisonment while undergoing sentence and after a period of five years from the date of expiration thereof.

(2) A person shall be disqualified for being chosen as a member if on the date fixed for scrutiny of nominations for election, or on the date of nomination under sub-section (2) of section 16 he is –

- (a) of unsound mind and stands so declared by a competent court;
- (b) a deaf-mute or suffering from leprosy;
- (c) an applicant to be adjudicated an insolvent or an undischarged insolvent;
- (d) interested in a subsisting contract made with, or any work being done for, the Gram Panchayat, Mandal Parishad, Zilla Parishad or any State or Central Government;

Provided that a person shall not be deemed to have any interest in such contract or work by reason only of his having a share or interest in –

- (i) a company as a mere shareholder but not as a director;
- (ii) any lease, sale or purchase of immovable property or any agreement for the same; or
- (iii) any agreement for the loan of money or any security for the payment of money only; or
- (iv) any newspaper in which any advertisement relating to the affairs of the Gram Panchayat is inserted.

**Explanation:** For the removal of doubts, it is hereby declared that where a contract is fully performed it shall not be deemed to be subsisting merely on the ground that the Gram Panchayat, Mandal Parishad, Zilla Parishad, the State or Central Government has not performed its part of the contractual obligations;

- (e) employed as paid legal practitioner on behalf of the Gram Panchayat or as legal practitioner against the Gram Panchayat;

- (f) employed as a Manager or Secretary of any Company or Corporation (Other than a Co-operative Society) in which not less than twenty-five per cent of the paid up share capital is held by the State Government;
- (g) an honorary Magistrate under the Code of Criminal Procedure, 1973, (2 of 1974) with jurisdiction over any part of the village;
- (h) already a member of the Gram Panchayat whose term of office will not expire before his fresh election can take effect or has already been elected as a member of the Gram Panchayat, Mandal Parishad or Zilla Parishad whose term of office has not yet commenced;
- (i) in arrears of any dues including the sums surcharged otherwise than in a fiduciary capacity, to the Gram Panchayat upto and inclusive of the previous year, in respect of which a bill or notice has been duly served upon him and the time, if any, specified therein for payment has expired:

Provided that where any person has paid such dues into the Government treasury or into a bank approved by the Government to the credit of the Gram Panchayat Fund and obtained a challan or receipt therefor in token of such payment, he shall not be disqualified to become a Member /Sarpanch of a Gram Panchayat on and from the date of such payment.

**(3) A person having more than two children shall be disqualified for election or for continuing as member/Sarpanch of a Gram Panchayat:**

Provided that the birth within one year from the date of commencement of the Andhra Pradesh Panchayat Raj Act, 1994 hereinafter in this section referred to as the date of such commencement, of an additional child shall not be taken into consideration for the purposes of this section:

Provided further that a person having more than two children (excluding the child if any born within one year from the date of such commencement) shall not be disqualified under this section for so long as the number on such commencement does not increase;

Provided also that the Government may direct that the disqualification in this section shall not apply in respect of a person for reasons to be recorded in writing.

**Section 19A:**

Any person who is convicted of any offence punishable under Chapter IX A of the Indian Penal Code, 1860, and any person against whom a finding of having indulged in any corrupt practice is recorded in the verdict in an election petition filed in accordance with section 233, or any person convicted of an offence punishable under Chapter II of Part V of this Act, shall be disqualified for contesting in any election held under this Act, for a period of six years from the date of such conviction or verdict, as the case may be.

**Section 19B:**

If the State Election Commission is satisfied that a person,

(a) has failed to lodge an account of election expenses within the time, in the manner required by or under this Act; and

(b) has no good reason or justification for the failure, the State election Commission shall, after following the procedure prescribed, by order published in the Andhra Pradesh Gazette, declare him;

- (i) to have ceased to hold office; and
- (ii) to be ineligible for a period of three years from the date of the said order to contest any election held for any office under this Act”.

**Section 234:**

Prohibition of holding dual offices and vacation of seats:-

- (1) No person shall be entitled to contest in the elections to the offices of Gram Panchayat from more than one ward or to the Office of Member of Mandal parishad or Zilla Parishad from more than one territorial constituency.
- (2) No person shall be a Member of the Gram panchayat, Member of the Mandal Parishad or Zilla Parishad simultaneously and if he is so elected, he shall retain only one office and vacate the other office or offices in the manner prescribed.

- (3) Where a person is elected to more than one Office of Member of the Gram Panchayat or Mandal parishad or Zilla parishad and Sarpanch or President of Chairman, he shall retain one office and vacate the other office of offices in the manner prescribed except when his continuance as member of the Mandal parishad or Zilla Parishad is necessary to continue as President or as the case may be the Chairman thereof.

**Section 20 A:**

Disqualification of Sarpanch or Upa-Sarpanch for failure to convene the meetings of Gram Sabha:-

1. Subject to the provisions of Section 22, a Sarpanch or as the case may be, Upa-Sarpanch shall cease to hold office as such, if he fails to convene the meetings of the Gram Sabha as required under sub-section (5) of Section 6 and further even on or before a date specified in show cause notice issued on him after the expiry of ten days, requiring him to convene the meeting of the Gram Sabha and cease to exercise the powers and perform the functions of the Sarpanch or Upa-Sarpanch as the case may be, unless such cessation has otherwise occurred before that date and for a period of one year from such date, he shall not be eligible to be elected as Sarpanch or Upa-Sarpanch as the case may be.

2. Every such cessation as is referred to in sub-section (1) shall be intimated by the Divisional Panchayat Officer in writing to the Sarpanch or the Upa-Sarpanch as the case may be.

## **CHAPTER - XI**

### **COUNTING OF VOTES & DECLARATION OF RESULTS**

#### **1. DATE, PLACE AND TIME OF COUNTING:**

The date, place and time fixed for counting will be indicated in the election notice issued under Rule 6 of the Conduct of election Rules. If for any unavoidable reason, the Returning Officer is unable to proceed with the counting at the place, the time and the date fixed, he will postpone the counting of votes, fix another date and time and if necessary, another place for the counting of votes. You or your election agent will be given notice of every such change in writing.

Generally, counting of votes will be done on the same day on which polling takes place. You will be also intimated of the number of counting tables that will be arranged, so as to facilitate appointment of counting agents by you for counting of votes of Ward Members (polling station-wise) and of Sarpanch by mixing, after completion of counting of votes of Members of all wards.

Every effort will be made to complete the counting on the same day. For this purpose the counting will commence at 2.00 P.M. after completion of poll.

You, your election agent and your counting agent have a right to be present at the time of counting. Instructions are issued to Returning Officers to permit you to appoint as many counting agents as there are counting tables. No other person except those authorised by the Returning Officer to assist him in counting will be allowed to be present at the time of counting.

#### **2. PERSONS ALLOWED IN COUNTING HALL:**

The following persons only will be allowed inside the counting hall :

- (i) Candidates, their Election Agents and counting agents;
- (ii) Counting Supervisors and Counting Assistants;
- (iii) Public servants on duty in connection with the election; and
- (iv) Persons authorised by the State Election Commission;

### **3. MAINTENANCE OF SECRECY**

Every person inside the counting hall is required by law to maintain, and aid in maintaining, the secrecy of voting and should not communicate to any person any information calculated to violate such secrecy. They should note that any person contravening the provisions of law in this respect is liable to be punished with imprisonment for a term which may extend to 3 months or with fine or with both (Section 217 of the A.P.Panchayat Raj Act,1994)

Before the commencement of the counting of votes, the Returning Officer will read out and explain the provisions of the above mentioned section 217 for the information of all present and for compliance on their part.

### **4. COUNTING OF VOTES RECEIVED BY POST**

Under Rule 56 of Conduct of Election Rules, 2006 the postal ballot papers are to be counted first. The Returning Officer should first deal with the postal ballot papers.

Covers in Form XIX containing postal ballot papers received after the hour fixed for the commencement of the counting of votes should not be opened. They should be rejected and kept in a separate packet and sealed, noting thereon the appropriate particular.

The covers in Form XIX received in time are opened one after another. As each cover is opened, the Returning Officer takes out the declaration in Form XVII and the cover in Form XVIII and scrutinize the declaration. If the declaration in Form XVII is not found in the cover or the declaration has not been duly signed and or not attested by an officer competent to do so or is otherwise substantially defective or if the serial number of ballot paper appearing in the declaration is different from the serial number on the cover in Form XVIII the cover containing the postal ballot paper need not be opened but the ballot paper should be rejected. All the declarations in Form XVII which have been found to be in order, are kept in separate packet in order to ensure that the secrecy of the postal ballot is kept inviolate.

Thereafter, the covers in Form XVIII are opened one after another and the validity of the ballot papers scrutinized and decisions arrived at. A postal ballot paper should be rejected.

- i. if no vote is recorded thereon; or

- ii. if votes are given on it in favour of more candidates than one; or
- iii. if it is a spurious ballot papers; or
- iv. if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established; or
- v. if it is not returned in the cover sent along with it to the elector by you; or
- vi. if the mark indicating the vote is placed on the ballot paper in such a manner as to make it doubtful to which candidate the vote has been given; or
- vii. if it bears any mark (other than the mark to record to vote) or writing by which the voter can be identified.

There is no particular mark required by law to be made by a voter to indicate his vote on a postal ballot paper. Any mark can be accepted as valid so long as it has been so made and so placed on the ballot paper that the intention of the voter to vote for a particular candidate is clear beyond any reasonable doubt. Thus a mark made anywhere in the space allotted to that candidate should be taken as a valid vote in favour of the candidate concerned. Again a vote recorded on a postal ballot paper should not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote should be for a particular candidate clearly appears from the way the ballot paper is marked.

The valid votes should then be counted and each candidate credited with the votes given to him. The total number of postal votes received by each candidate should then be calculated, entered in the Result Sheet in Form XXVI as in **Annexure - XX** in the appropriate place and announced for the information of the candidates.

## **5. GETTING THE BALLOT BOXES ETC., TO THE COUNTING TABLES:**

In counting the votes, the Returning Officer should proceed strictly according to the serial numbers of the wards, polling stations and ballot boxes. That is to say, the Returning Officer should begin with the ballot box No. 1 in ward No. 1, and follow that order in respect of all wards in a Gram Panchayat. The Returning Officer should not open more than one ballot box at a time. However, if facilities exist, the votes of different wards can be counted simultaneously at different tables. When the arrangements are complete for counting all the ballot boxes relating to a ward are placed on the counting table.



## **6. CHECKING OF SEALS OF BALLOT BOXES :**

Before a ballot box is opened, the counting agents and the candidates present are allowed to check and satisfy themselves that the seals on the box are intact and have not been tampered with.

## **7. CANDIDATES AND AGENTS ENTITLED TO CHECK IDENTITY MARKS AND PAPER SEALS :**

As each ballot box is opened, allow every candidate or his counting agent present to check the identity of the box with reference to, -

- (i) the identity marks on the paper seal, and
- (ii) the serial number of the paper seal.

## **8. COMPARISON OF SERIAL NUMBER OF PAPER SEALS :**

Where the paper seals are used and they are numbered, the serial number on the paper seal of each box should be compared with the number given in the paper seal account . If the number noted in the paper seal account and the number of the paper seal actually found on a box, do not tally, there would be prima facie suspicion that the ballot box has been tampered with or that the paper seal account is incorrect. The question is decided by the Returning Officer after checking the serial number of the unused paper seals returned by the Presiding Officer and other relevant circumstances. If it is a case of clerical error in writing paper seal account, the discrepancy is ignored.

If the paper seals are found to have been tampered with in any box in such a way that the box is no longer secure and its contents are capable of being interfered with, and if the Returning Officer is further satisfied that the box has, in fact been tampered with, the Returning Officer will not open the box or empty its contents. The Returning Officer will re-seal the box without counting. The facts are reported to the State Election Commission through the District Election Authority and on receipt of the orders of the State Election Commission for a re-poll, a re-poll will be arranged in the Polling Station concerned

## **9. OPENING OF BALLOT BOXES :**

- (a) The counting of ballot papers of Ward Members shall be done polling station wise and the counting of ballot papers of Sarpanch shall be done by mixing after completion of counting of ballot papers of Members of all wards in the Gram Panchayat.
- (b) After the identity of the ballot boxes from a polling station has been checked in the manner detailed above and found to be in order, the contents of the ballot boxes should be taken out for counting. Covers containing the tendered ballot papers should not be opened.
- (c) The counting agents are allowed to satisfy themselves that all the ballot papers have been taken out from the boxes and that they are empty before the boxes are taken away from the counting tables.
- (d) The counting assistants should be careful to see that no ballot paper goes astray while being handled by them.

## **10. COUNTING PROCEDURE:**

All the ballot papers of Sarpanch, (Pink colour) and Ward Members (white colour) contained in the ballot box or boxes used at a polling station are taken out and sorted. The total number of ballot papers of Sarpanch and Ward Member, Gram Panchayat in the box at the polling station is ascertained separately. This number shall tally with the ballot paper account of Ward Member and Sarpanch of the polling station as recorded by the Presiding Officer. Thereafter, the ballot papers of Ward Member shall be sorted out candidate wise and then counted. The ballot paper pertaining to each candidate should be scrutinised for validity. All valid ballot papers should be made out into candidate wise bundles of 25 each. All apparently invalid and doubtful ballot papers should be made out into another bundle and kept separately for further scrutiny.

While sorting, the ballot papers of Sarpanch, Gram Panchayat with their vertical fold intact are made into bundle of 25 each for convenience of counting and each bundle is kept together by a rubber band tied at both ends. These bundles of ballot papers shall be handed over to Returning Officer who shall arrange for their safe custody till scrutiny for validity and counting is taken up. Counting of ballot papers of all wards shall be taken up in a serial order and

the ballot papers of Sarpanch in each Ward shall be made into bundles and handed over to the Returning Officer. After completion of counting of ballot papers of Ward Members of all wards in the Gram Panchayat, the Returning Officer shall take the bundles of ballot papers of Sarpanch, Gram Panchayat and arrange for their mixing in a big drum or other receptacle. After mixing they will be taken up for detailed counting. They shall be counted after sorting them candidate wise. The ballot paper pertaining to each candidate should be scrutinised for validity. All valid ballot papers should be made out into candidate wise bundles of 25 each. All apparently invalid and doubtful ballot papers should be made out into another bundle and kept separately for further scrutiny by the Returning Officer personally.

#### **11. GROUNDS FOR REJECTION OF BALLOT PAPERS:**

The Returning Officer will scrutinise all doubtful and apparently invalid votes and decide in each case whether a particular vote is valid, if so in favour of which candidate or it is invalid and if so to be rejected as such.

a) A ballot paper is rejected if -

- i) if it bears any mark or writing by which the elector can be identified, or
- ii) if it bears no mark at all to indicate the vote, it bears a mark elsewhere than on or near the symbols of one of the candidates on the face of the ballot paper or, it bears a mark made otherwise than with the instrument supplied for the purpose, or
- iii) if votes are given on it in favour of more than one candidate, or
- iv) if the mark indicating the vote thereon is placed in such manner as to make it doubtful as to which candidate the vote has been given, or
- v) if it is a spurious ballot paper, or
- vi) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established, or
- vii) if it bears a serial number, or is of a design, different from the serial numbers, or, as the case may be, design, of the ballot papers authorized for use at the particular polling station, or
- viii) if it does not bear both the distinguishing mark and the signature which it should have borne under the provisions of rule 45.

Provided that where the Returning Officer is satisfied that any such defect as is mentioned in clause (vii) or clause (viii) has been caused by any mistake or failure on the part of a Presiding Officer or Polling Officer, the ballot paper shall not be rejected merely on the ground of such defect:

b) The Returning Officer should endorse on each ballot paper which is rejected the word "REJECTED" and the grounds of rejection in abbreviated form enter in your own hand or by means of a rubber stamp and initial such endorsement. Before finally rejecting any ballot paper, a reasonable opportunity is given to the candidate or his agent who desires to do so, to inspect the ballot paper. You are not allowed to handle any ballot paper physically.

## **12. RECOUNTING OF VOTES - PROCEDURE TO BE FOLLOWED :**

As soon as the counting is completed, the Returning Officer will record in the result sheet in Form XXVI (**Annexure – XX**), the total number of votes polled by each candidate and announce the same. He will then pause for a minute or two, and if during this period, any candidate or, in his absence, his election agent, asks for a recount, the Returning Officer will obtain an application in writing giving a reasonable time of 15 minutes. The Returning Officer will not complete and sign the result sheet in Form XXVI at this stage. When an application for recount is made, he will consider the grounds urged and decide the matter. He may allow the application in whole or in part, if it is reasonable, or he may reject it in toto, if it appears to him to be frivolous or unreasonable. His decision will be final but in every case, he should record a brief statement of his reasons for his decision. If in any case, he allows an application for recount, either wholly or in part, he will have the ballot papers counted again in accordance with his decision. After the recount has been completed, he will amend the result sheet to the extent necessary and announce the amendments so made by him. After the total number of votes polled by each candidate has been announced by him, he will complete and sign the result sheet.

No candidate has a right to demand a recount after the Returning Officer has completed and signed the result sheet in Form XXVI.

## **13. EQUALITY OF VOTES :**

If two candidates contesting any seat happen to secure the highest number of votes and their votes are equal in number, the result will have to be decided by lot.

For example, if A,B,C and D are the contesting candidates and the total number of votes they have secured is as follows

A	703
B	567
C	703
D	460

A lot will be drawn between A and C who have secured 703 votes each and the candidate on whom the lot falls will be declared as elected as if the candidate on whom lot falls had received the additional vote.

While drawing lots among the names of the candidates who polled equal number of votes, the Returning Officer should write each candidate's name on 5 slips of the same colour an size of the paper and all those slips should be folded tightly twice and then jumbled to make them mix beyond recognition. After such mixing, the Returning Officer should draw the slip. The candidate, whose name is first drawn shall be declared to have been elected.

#### **14. DECLARATION OF RESULT :**

(1) Tthe Returning Officer shall complete and sign the result sheet in Form XXVI (**Annexure – XX**) and send signed copies thereof to the District Election Authority and State Election Commission.

(2) He shall also declare in Form XXVII (**Annexure – XXI**), the candidate to whom the largest number of valid votes have been polled as duly elected, for the seat and send signed copies thereof to the District Election Authority, Election Authority and the State Election Commission.

#### **15. RETURN OF ELECTION:**

The Returning Officer should complete and certify the return of election in Form XXVIII (**Annexure- XXII**) and send copies there of to the State Election Commission, Election Authority and District Election Authority .

Any candidate or his agent shall on application be permitted to take a copy of an extract of return of election in Form XXVIII.

**16. CERTIFICATE OF ELECTION :**

As soon as, after a candidate has been declared elected, the Returning Officer should grant to such candidate a certificate of election in Form XXIX (**Annexure – XXIII**) under rule 63 and obtain from the candidate an acknowledgement of its receipt duly signed by the candidate immediately. Thereafter, immediately send this acknowledgement by registered post to the District Election Authority.

**17. PUBLICATION OF RESULT :**

The Returning Officer shall publish on the notice board of the Gram Panchayat concerned, a notification signed by him, specifying the names of the candidates duly elected.

## **CHAPTER – XII**

### **ELECTION OF UPA-SARPANCH :**

#### **1. DATE, TIME AND PLACE :**

The Returning Officer should convene a special meeting for the election of Upa-Sarpanch on the same day of declaration of results of members and Sarpanch, at the time and place indicated in the election notice. The place should be the office of the Gram Panchayat, unless some other place has been fixed by the District Panchayat Officer. The notice of the meeting for the election of Upa-Sarpanch shall be given to the Members and Sarpanch by affixture of the same on the notice board of the Gram Panchayat immediately after the publication of the results.

If, for any reason, the election of the Upa-Sarpanch is not held on the date aforesaid, the special meeting for the election of the Upa-Sarpanch shall be held on the next day, whether or not it is a public holiday.

The meeting specially convened for the election of Upa-Sarpanch, shall not be held, unless there shall be present at the meeting, not less than one-half of the total number of members of the Gram Panchayat within one hour from the time appointed for the meeting.

#### **2. WHO SHOULD PRESIDE :**

The Returning Officer will preside over the meeting for election of Upa- Sarpanch and conduct the election in the manner prescribed in the Andhra Pradesh Panchayat Raj (Election of Upa-Sarpanch of a gram panchayat) Rules, 2006 ( **Annexure - XXIV**).

#### **3. PUBLICATION OF RESULT :**

After declaration of the results, the Returning Officer will publish a notice signed stating the name of the person elected as Upa-Sarpanch on the notice board of the Gram Panchayat. A copy of such notice shall also be given to the candidate declared elected as Upa-Sarpanch.

## **CHAPTER - XIII**

### **ACCOUNT OF ELECTION EXPENSES**

#### **1. STATUTORY PROVISIONS:**

Section 230, 230 A and 230 B of APPR Act, 1994 deal with matters relating to maintenance, scrutiny, fixing ceiling limits and filing of accounts of elections expenses by candidates contesting in Gram Panchayat elections. There is a penal provision in section 19 B for failure to lodge election expenditure accounts within the stipulated time and in the manner required by or under the said Act. The above provisions are reproduced below for ready reference.

**2. APPLICATION OF CHAPTER (SECTION 230):** This Chapter shall apply to candidates of any election held under this Act.

**3. ACCOUNT OF ELECTION EXPENSES (SECTION 230 A):-** (1) Every candidate, at any election held under this Act shall, either by himself, or by his election agent, keep a separate and correct account of all expenditure incurred in connection with the election, between the date on which the candidate concerned has been nominated, and the date of declaration of the result of the election, both dates inclusive (hereinafter in this chapter referred to as 'election expenses').

**Explanation – 1: Election Expenses'** for purpose of this Act shall mean all expenses in connection with the election,-

- (a) incurred, or authorised by the contesting candidate, or by his election agent;
- (b) incurred by any association, or body of persons, or by any individual (other than the candidate or his election agent), aimed at promoting or procuring the election of the candidate concerned; and
- (c) incurred by any political party, by which the candidates is set up, so as to promote or procure his election:



Provided that any expenses incurred by any political party as part of its general propaganda, (which is distinguishable from its election campaign, for the promotion or procuring the election of a particular candidate), by words, either written or spoken, or by signs or visible representations, or by audiovisual devices, or through print or electronic media or otherwise, shall not constitute 'election expenses' for purpose of this Act.

**Explanation – II:-** (1) For the removal of doubts, it is hereby declared that any expenses incurred in respect of any arrangements made, facilities provided or any other act or thing done by any person in the service of the Government and belonging to any of the classes mentioned in clause (9) of section 17 A in the discharge or purported discharge of his official duty as mentioned in the proviso to that clause shall not be deemed to be expenses in connection with the election incurred or authorised by a candidate or by his election agent for the purposes of this sub-section.

(2) The account of election expenses shall contain such particulars, as may by order, be specified by the State Election Commission

(3) The total of the said expenses shall not exceed such amount, as may be order, be specified by the State Election Commission.

#### **4. LODGING OF ACCOUNT WITH THE DISTRICT ELECTION AUTHORITY (SECTION 230 B) :**

Every contesting candidate at an election shall, within forty five days from the date of declaration of the result of the election, lodge with the District Election Authority, an account of his election expenses, which shall be a true copy of the account kept by him, or by his election agent, under section 230 A.

#### **5. DISQUALIFICATION FOR FAILURE TO LODGE ACCOUNT OF ELECTION (SECTION 19 B):-** If the State Election Commission is satisfied that a person,-

- (a) has failed to lodge an account of election expenses within the time limit prescribed and in the manner required by or under this Act, and
- (b) has no good reason or justification for the failure, the State Election Commission shall, after following the procedure prescribed, by order published in the Andhra Pradesh Gazette, declare him,-
  - (i) to be ineligible for a period of three years from the date of the said order to contest any election held for any office under this Act, and
  - (ii) to have ceased to hold office, in case he is elected.”,

#### **6. INSTRUCTIONS ISSUED BY THE STATE ELECTION COMMISSION:**

The State Election Commission issued instructions on maintenance and scrutiny of accounts of election expenditure and also prescribed formats in which the day-to-day expenditure and periodical abstract of election expenditure shall be maintained by the candidates in its Order No. 349/SEC-B1/2006, dated 25.4.2006 (copy thereof is enclosed as **Annexure – XXV**).

#### **7. OFFICERS DESIGNATED FOR INSPECTION:**

The State Election Commission has also designated officers for inspection and scrutiny of day to day election expenditure and periodical expenditure maintained by the candidates during campaign period in its Order No. 349/SEC-B1/2006, dated 25.4.2006 (**Annexure – XXV**). The expenditure accounts maintained by the contesting candidates for the office of member in the proformas prescribed can be inspected and scrutinized by the returning officer concerned. As per the provision of section 232 A of the APPR Act, 1994, the State Election Commission also appoints Election Expenditure Observers during ordinary elections who are also authorized to inspect the election expenditure accounts maintained by the candidates contesting for the said offices.

#### **8. MAKING ELECTION EXPENDITURE A PUBLIC DOCUMENT:**

The State Election Commission also issued orders in the Order No. No. 349/SEC-B1/2006, dated 25.4.2006 (**Annexure – XXV**) that the daily returns and periodical returns of the expenditure should be made transparent by making them available to the public and other

contesting candidates. The Returning Officer shall make available photo copies of the returns to other candidates, any member of the public or Non-Gazetted Organizations on demand and on payment of Xeroxing charges or a certified copy as per section 76 of Indian Evidence Act, 1872 and to the media, free of cost, so as to enable them to assist the State Election Commission in effectively implementing the ceiling imposed on election expenditure to be incurred by the contesting candidates.

#### **9. CEILING LIMITS ON ELECTION EXPENDITURE:**

The State Election Commission by notification specifies the ceiling limits on election expenditure that can be incurred by contesting candidates for the offices of Sarpanch and Ward Member in Gram Panchayat elections. You shall obtain a copy of the notification from the election authority and circulate among all contesting candidates after obtaining due acknowledgement.

#### **10. FURNISHING COPIES OF THE NOTIFICATIONS, ORDERS ISSUED BY THE STATE ELECTION COMMISSION TO THE CANDIDATES:**

The Returning Officer shall furnish a copy of the following documents to all the contesting candidates.

1. Notification issued by the State Election Commission fixing ceiling on election expenditure for the offices of Sarpanch and Member, Gram Panchayat.
2. Orders issued by the State Election Commission on maintenance, scrutiny and inspection of election expenditure accounts by the candidates in the prescribed proforma.

#### **11. FINAL RETURN OF ELECTION EXPENSES:**

As per the provision of section 230 B of APPR Act, 1994 the final return of election expenses shall be lodged with the District Election Authority through Mandal Parishad

development officer concern within 45 days from the date of publication of results. Such return of election expenses shall be signed by the candidate and his election agent, if any, appointed.

Failure to lodge election expenditure accounts will make the contesting candidate liable for penal action contemplated in Section 19B.

## ANNEXURE – I

### QUALIFICATIONS AND DISQUALIFICATIONS

Extracts of Sections 17, 18, 19, 19A, 19B & 20 A of A.P.Panchayat Raj Act, and extract of Section 8 of Representation of Peoples Act, 1951.

**Section 17 : Qualification of candidates** - No person shall be eligible for election as a Member/Sarpanch of a Gram Panchayat, unless his name appears in the electoral roll of that Gram Panchayat and **he / she is not less than 21 years of age.**

**Section 18: Disqualification of certain office holders etc. :** No village servant and no officer or servant of the Government of India or any State Government or of local authority or an employee of any institution receiving aid from the funds of the Government and no office bearer of any body constituted under a law made by the Legislature of the State or of Parliament shall be qualified for being chosen as or for being a Member / Sarpanch of a Gram Panchayat.

**Explanation :** For the purpose of this Section the expression ‘VILLAGE SERVANT’ means in relation to –

(i) the Andhra Area, any person who holds any of the village offices of nearaganti, neeradi, vetti, kawalkar toti, talayar, tandalagar, sathsindhi or any such village office by whatever designation it may be locally known :

(ii) the Telangana Area, any person who holds any of the village offices of neeradi, kawalkar, sathsindhi or any such village office by whatever designation it may be locally known:

(2) A person who having held an office under the Government of India or under the Government of any State or under any local authority has been dismissed for corruption or for disloyalty to the State or to the local authority shall be disqualified for a period of five years from the date of such dismissal.

(3) For the purpose of sub-section (2), a certificate issued by the State Election Commissioner to the effect that a person having held office under the Government of India or under the Government of State or under any local authority has or has not been dismissed for corruption or for disloyalty to the State or to the local authority shall be conclusive proof of that fact;

Provided that no certificate to the effect that a person has been dismissed for corruption or for disloyalty to the state or to the local authority shall be issued unless an opportunity of being heard has been given to the said person.

Every person convicted of an offence punishable under Chapter IX-A of the Indian Penal Code (Central Act 45 of 1860), or under any law or rule relating to the infringement of the secrecy of an election, shall be disqualified from voting or from being elected in any election to

which this Act applies or from holding the office of Member / Sarpanch of a Gram Panchayat for a period of five years from the date of his conviction or for such shorter period as the Court, may by order, determine.

Apart from the disqualifications specified in sub-sections (1), (2) and (4) of Sections 18, 19 and 20 a person shall be disqualified for being chosen as, and for being, a Member / Sarpanch of a Gram Panchayat, if he is otherwise disqualified by or under any law for the time being in force for the purpose of elections to the Legislature of the State.

Provided that no person shall be disqualified on the ground that he is less than 25 years of age, if he has attained the age of 21 years;

Provided further that where a person is convicted for an offence specified under sub-section (1) or sub-section (2) of Section 8 of the Representation of People Act, 1951 (Act 43 of 1951) or under Section 19 of this Act, while he is a Member / Sarpanch of a Gram Panchayat, the disqualification arising out of such conviction shall not take effect until the expiry of the time for filing an appeal against such conviction and where an appeal is filed until the disposal of the appeal;

Provided also that a person convicted for an offence under sub-section (1) of section 8 of the Representation of People Act, 1951 (Act 43 of 1951) shall be disqualified for being chosen as or for continuing as a Member /Sarpanch of a Gram Panchayat, for a period of six years from the date of conviction and a person convicted under sub-section (2) thereof shall be disqualified for a period of six years from the date of conviction and for a further period of five years from the date of release.

**Section 19:** The following persons are disqualified from contesting the post of Member / Sarpanch of a Gram Panchayat;

(1) A person who has been convicted by a Criminal Court –

- a) for an offence under the Protection of Civil Rights Act, 1955 (22 of 1955); or
- b) for an offence involving moral delinquency; shall be disqualified for election as a Member for a period of five years from the date of conviction or where he is sentenced to imprisonment while undergoing sentence and after a period of five years from the date of expiration thereof.

(2) A person shall be disqualified for being chosen as a member if on the date fixed for scrutiny of nominations for election, or on the date of nomination under sub-section (2) of Section 16 he is –

- a) of unsound mind and stands so declared by a competent court;
- b) a deaf-mute or suffering from leprosy;
- c) an applicant to be adjudicated an insolvent or an undischarged insolvent;
- d) interested in a subsisting contract made with, or any work being done for, the Gram Panchayat, Mandal Parishad, Zilla Parishad or any State or Central Government:

Provided that a person shall not be deemed to have any interest in such contract or work by reason only of his having a share or interest in –

- i) a company as a mere share-holder but not as a director;
- ii) any lease, sale or purchase of immovable property or any agreement for the same; or
- iii) any agreement for the loan of money or any security for the payment of money only; or
- iv) any newspaper in which any advertisement relating to the affairs of the Mandal Parishad or Zilla Parishad is inserted.

**Explanation:-** For the removal of doubts it is hereby declared that where a contract is fully performed it shall not be deemed to be subsisting merely on the ground that the Gram Panchayat, Mandal Parishad, Zilla Parishad, the State or Central Government has not performed its part of the contractual obligations;

- e) employed as paid legal practitioner on behalf of the Mandal Parishad or Zilla Parishad or as legal practitioner against the Mandal Parishad or Zilla Parishad;
- f) employed as a Manager or Secretary of any Company or Corporation (other than a Co-operative Society) in which not less than twenty-five per cent of the paid up share capital is held by the State Government;
- g) an honorary Magistrate under the Code of Criminal Procedure, 1973 (2 of 1974) jurisdiction over any part of the village;
- h) already a Member of Mandal Parishad or Zilla Parishad whose term of office will not expire before his fresh election can take effect or has already been elected as a Member of Mandal Parishad or Zilla Parishad whose term of office has not yet commenced;
- i) in arrears of any dues including the sums surcharged otherwise than in a fiduciary capacity, to the Gram Panchayat upto and inclusive of the previous year, in respect of which a bill or notice has been duly served upon him and the time, if any, specified therein for payment has expired:

Provided that where any person has paid such dues into the Government treasury or into a bank approved by the Government to the credit of the Gram Panchayat fund and obtained a challan or receipt therefor in token of such payment, he shall not be disqualified to become a Member / Sarpanch of a Gram Panchayat on and from the date of such payment.

**(3) A person having more than two children shall be disqualified for election or for continuing as member/Sarpanch of a Gram Panchayat:**

Provided that the birth within one year from the date of commencement of the Andhra Pradesh Panchayat Raj Act, 1994 hereinafter in this section referred to as the date of such commencement, of an additional child shall not be taken into consideration for the purposes of this section:

Provided further that a person having more than two children (excluding the child if any born within one year from the date of such commencement) shall not be disqualified under this section for so long as the number of such commencement does not increase;

Provided also that the Government may direct that the disqualification in this section shall not apply in respect of a person for reasons to be recorded in writing.

**Section 19A:** Any person who is convicted of any offence punishable under Chapter XI A of the Indian Penal Code, 1860, and any person against whom a finding of having indulged in any corrupt practice is recorded in the verdict in an election petition filed in accordance with section 233, or any person convicted of an offence punishable under Chapter II of Part V of this Act, shall be disqualified for contesting in any election held under this Act, for a period of six years from the date of such conviction or verdict, as the case may be.

**Section 19B:** If the State Election Commission is satisfied that a person, -

(a) has failed to lodge an account of election expenses within the time, in the manner required by or under this Act; and

(b) has no good reason or justification for the failure, the State Election Commission shall, after following the procedure prescribed, by order published in the Andhra Pradesh Gazetted, declare him;

(i) to have ceased to hold office; and

(ii) to be ineligible for a period of three years from the date of the said order to contest any election held for any office under this Act”.

**Section 20 A: Disqualification of Sarpanch or Upa-Sarpanch for failure to convene the meetings of Gram Sabha:** (1) Subject to the provisions of Section 22, a Sarpanch or as the case may be, Upa-Sarpanch shall cease to hold office as such, if he fails to convene the meetings of the Gram Sabha as required under sub-section (5) of Section 6 and further even on or before a date specified in show cause notice issued on him after the expiry of ten days, requiring him to convene the meeting of the Gram Sabha and cease to exercise the powers and perform the functions of the Sarpanch or Upa-Sarpanch as the case may be, unless such cessation has otherwise occurred before that date and for a period of one year from such date, he shall not be eligible to be elected as Sarpanch or Upa-Sarpanch as the case may be.

(2) Every such cessation as is referred to in sub-section (1) shall be intimated by the Divisional Panchayat Officer in writing to the Sarpanch or the Upa-Sarpanch as the case may be.

## **EXTRACT OF SECTION 8 OF THE REPRESENTATION OF THE PEOPLE ACT, 1951 DISQUALIFICATION ON CONVICTION FOR CERTAIN OFFENCES:-**

8.(1) A person convicted of an offence punishable under

- a) Section 153 A (offence of promoting enmity between different groups on ground of religion, race, place of birth residence, language, etc., and doing acts prejudicial to maintenance of harmony) or section 171 E (offence of bribery) or section 171 F (offence of undue influence or personation at an election) or sub-section (1) or sub-section (2) of section 376 or section 376 A or section 376 B or section 376 C or section 376 D (offences relating to rape) or section 498 A (offence of cruelty towards a women by husband or relative of husband) or sub-section (2) or sub-section (3) of section 505 (offence of making statement creating or promoting enmity, hatred or ill-will between classes or



offence relating to such statement in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies) of the Indian Penal Code (45 of 1860); or

- b) the Protection of Civil Rights Act, 1955 (Act 22 of 1955), which provides for punishment for the preaching and practice of “Untouchability”, and for the enforcement of any disability arising there from; or
  - c) Section 11 (offence of importing or exporting prohibited goods) of the Customs Act, 1962); or
  - d) Section 10 to 12 (offence of being a member of an association declared unlawful, offence relating to dealing with funds of an unlawful association or offence relating to contravention of an order made in respect of a notified place) of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967); or
  - e) The Foreign exchange (regulation) Act, 1973 (46 of 1973); or
  - f) The Narcotic Drugs and Psychotropic substances Act, 1985 (61 of 1985) or;
  - g) Section 3 (offence of committing terrorist acts) or section 4 (offence of committing disruptive activities) of the Terrorists and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or
  - h) Section 7 (offence of contravention of the provisions of sections 3 to 6 of the Religious Institutions (Prevention of Misuse) Act, 1988 (41 of 1988); or
  - i) Section 125 (offence of promoting enmity between classes in connection with the election) or section 135 (Offence of removal of ballot papers from polling stations) or section 135 A (offence of booth capturing) or clause (a) of sub-section (2) of section 136 (offence of fraudulently defacing or fraudulently destroying any nomination paper) of this Act, (or)
  - j) Section 6 (offence of conversion of a place of worship) of the Place of Worship (Special Provisions) (Act, 1991) shall be disqualified for a period of six years from the date of such conviction.
- (2) A person convicted for the contravention of
- a) any law providing for the prevention of boarding or profiteering; or
  - b) any law relating to the adulteration of food or drugs; or
  - c) any provisions of the Dowry Prohibition Act, 1961 (28 of 1961); or
  - d) any provisions of the Commission of Sati (Prevention) Act, 1987 (3 of 1988)

and sentenced to imprisonment for not less than six months, shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

## ANNEXURE – II

### FORM – I [See Rule 6]

#### NOTICE FOR THE ELECTION OF MEMBER / SARPANCH

- (i) Name of the Gram Panchayat
- (ii) Name of the Mandal Parishad
- (iii) Number of Members inclusive of Sarpanch
- (iv) Number of the wards for which the Members are to be elected.
- (v) Reservation particulars where the office of Sarpanch is reserved:
- (vi) Reservation particulars of ward members

Category	Ward Nos.
ST(W)	
ST(G)	
SC (W)	
SC (G)	
BC (W)	
BC(G)	
Women	

- (vii) Nomination papers shall be presented
  - (a) On (dates)
  - (b) Time (hours) from to
  - (c) Place
  - (d) To (Whom)
- (viii) Scrutiny of nomination papers
  - (a) Place
  - (b) Date
  - (c) Time
- (ix) Withdrawal of candidature
  - (a) Place
  - (b) Last Date
  - (c) Time
- (x) Polling shall be held
  - (a) Place
  - (b) Date
  - (c) Time
- (xi) Counting of votes
  - (a) Place
  - (b) Date
  - (c) Time
- (xii) Declaration and publication of results
  - (a) Place

- (b) Date
- (c) Time
- (xiii) Meeting for the election of Upa- Sarpanch
  - (a) Place
  - (b) Date
  - (c) Time

**RETURNING OFFICER**

## ANNEXURE – III

### FORM – III [See Rule 8 (1)]

GRAM PANCHAYAT .....  
(Scheduled Area / Non-Scheduled Area)

#### NOMINATION PAPER

##### Part – I

1. Name of the Office : Member / Sarpanch
2. Name or number of the ward :
3. Whether the ward is reserved for :  
(a) SCs  
(b) STs  
(c) BCs  
(d) Women
4. Full name of the candidate :
5. Father's /Mother's/Husband's name :
6. Serial Number of candidate in the electoral Roll
7. Age :
8. Sex :
9. Occupation and Address :
10. Full name of the proposer :
11. Serial Number of proposer in the electoral roll :
12. Signature of the proposer :

##### **Part - II**

#### **(CANDIDATE'S DECLARATION)**

I, the candidate mentioned in Part – I assent to this nomination and hereby declare.

- (a) that I have completed ----- years of age
- (b) that the code of conduct prescribed by the State Election Commission has been read by me/ read over to me and I will abide by it.
- (c) that my name and my father's /mother's /husband's name have been correctly spelt out above in telugu language.

- (d) that to the best of my knowledge and belief, I am qualified and not also disqualified for being chosen to fill the seat.

**Signature of the candidate**

**Part – III**

**(Declaration in case of SC/ST/BC candidate)**

I hereby declare that I am a member of the .....  
.....Caste / Tribe which is a Scheduled Caste / Scheduled Tribe /  
Backward Class in the State of Andhra Pradesh is relation to ..... District  
or area in the State.

**Signature of Candidate**

The above declaration is solemnly affirmed before me (name of the officer in block letters) by .....who is personally known to me / who has been identified to my satisfaction by.....of.....

Signature of the Gazetted Officer or any other  
officer of the Revenue Department  
not below the rank of a MRO.

(Seal of office)

Full designation  
Date

**Part – IV**

(To be filled by the Returning Officer)

Serial No. of Nomination Paper -----

This nomination paper was delivered to me at my office at ----- (hour) on ---  
----- (date) by the candidate / proposer.

Signature of the Returning Officer or  
other authorised person

**Part – V**

(Decision of Returning Officer accepting or rejecting the nomination paper)

I have examined this nomination in accordance with rule 12 of APPR (Conduct of elections) Rules, 2006 and decide as follow:

Accepted / Rejected

Date -----

Returning Officer

----- (Perforation) -----

**Part – VI**

**RECEIPT FOR NOMINATION PAPER AND NOTICE FOR SCRUTINY**

*(To be handed over to the person presenting the nomination paper)*

Serial No. of Nomination Paper.....

The Nomination paper of.....a candidate for election of Sarpanch / Member of ward no.----- of----- Gram Panchayat was delivered to me at .....(hour) on.....(date) by the .....candidate / proposer.

All nomination papers will be taken up for scrutiny at..... (hour)..... on..... (date) at.....(place).

Date:.....

Returning Officer

## ANNEXURE – IV

### STATE ELECTION COMMISSION

*3<sup>rd</sup> Floor, Buddha Bhavan, M.G.Road, Secunderabad – 500 003*

#### ORDER

**Order No.809/SEC-B1/2003**

**Dated:06.09.2003**

Sub:- Disclosure of information regarding Criminal Antecedents, Assets and Liabilities and Educational Qualifications by candidates contesting Local Body elections.

- Ref:-
1. Judgement dated 2.5.2002 of the Hon'ble Supreme Court of India in Civil Appeal No.7178 of 2002.
  2. ECI Order No.3/ER/2002/JS-II/Vol-III, dated 28<sup>th</sup> June,2002.
  3. The Representation of People (Third Amendment) Act,2002 (Central Act No.72) of 2002.
  4. Judgement dated the 13<sup>th</sup> March,2003 of the Hon'ble Supreme Court in W.P. (Civil) Nos 490, 509 and 515 of 2002.
  5. ECI Order No.31/ER/2003/JS-II, dated the 27<sup>th</sup> March,2003.

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The Hon'ble Supreme Court of India in its Judgement 1<sup>st</sup> cited directed the Election Commission of India to call for information by means of a sworn Affidavit from each candidate contesting election to Parliament or State Legislature, as necessary part of his nomination paper on the following aspects in relation to his/her candidature.

- (1) Whether the candidate is convicted/acquitted/discharged of any criminal offence in the past-if any, whether he is punished with imprisonment or fine?
- (2) Prior to six months of filing of nomination, whether the candidate is accused in any pending case, of any offence punishable with imprisonment for two years or more, and in which charge is framed or cognizance is taken by the Court of law. If so, the details thereof;
- (3) The assets (immovable, movable, bank balances etc.) of a candidate and of his/her spouse and that of dependents.
- (4) Liabilities, if any, particularly whether there are any over dues of any public financial institution or Government dues.
- (5) The educational qualifications of the candidate.

2. Following the said judgement of the Hon'ble Supreme Court, the Election Commission of India issued the order second cited in exercise of its plenary powers under Article 324 of the Constitution of India directing the every candidate filing nomination paper for any election to the Council of States, House of the People, Legislative Assembly of a State or the Legislative Council of a State to furnish information required by the Supreme Court as stated above by means of a sworn affidavit in the format appended to the said order, as a necessary part of the nomination paper. Thereupon, the Government of India promulgated The Representation of the People (Amendment) Ordinance, 2002 (Ordinance No.4 of 2002) which was subsequently replaced by the Representation of the People (Third amendment) Act, 2002 which brought about the following Legislative changes namely:-

- (i) Section 33A was inserted requiring every candidate to furnish information, apart from any information which he is required to furnish, under the Representation of the People Act,1951 or the Rules made thereunder in his nomination paper delivered under sub-section (1) of section 33, as to whether,-
  - (a) he is accused of any offence punishable with imprisonment for two years or more in a pending case in which a charge has been framed by the Court of competent jurisdiction;
  - (b) he has been convicted of an offence (other than any offence referred to in sub-section (1) or sub-section (2), or covered in sub-section (3), of section 8) and sentenced to imprisonment for one year or more.
- (ii) Section 33B has been inserted, stating that no candidate is liable to disclose or furnish any such information in respect of his election which is not required to be disclosed or furnished under the Representation of the People Act,1951 or the Rules made thereunder, notwithstanding anything contained in any judgement, decree or order of any Court or any direction, order or any other instruction issued by the Election Commission of India.
- (iii) Section 75A has been inserted to provide for declaring the assets and liabilities to the Presiding Officer of the concerned House after election within ninety days from the date of taking oath or affirmation as Member.
- (iv) No requirement for giving information on educational qualifications is provided.
- (v) Penalty has been provided for giving false information in the affidavit.

3. The Representation of the People (Third Amendment Act) 2002 has been questioned in W.P.Nos. 490,509 and 515 of 2002 before the Hon'ble Supreme Court of India. In its Judgement dated 13<sup>th</sup> March,2003 the Hon'ble Supreme Court held that:

- (i) Section 33B is unconstitutional;
- (ii) The information required to be provided in respect of criminal antecedents in the newly inserted section 33A is reasonably adequate to safeguard the right to information vested in the voter/citizen.



- (iii) The provisions made in newly inserted sections 75A regarding declaration of assets and liabilities of the elected candidate to the Speaker or Chairman of the House has failed to effectuate the right to information and freedom of expression of the voters/citizens and that Parliament ought to have made a provision for furnishing this information at the time of filing nomination;
- (iv) Failure to provide for disclosure of educational qualifications does not, in practicable terms, infringe the freedom of expression; and
- (v) The Election Commission of India has to issue revised instructions to ensure implementation of the newly inserted section 33A and the earlier orders dated 28<sup>th</sup> June,2002 of the Election Commission of India relating to disclosure of assets and liabilities which will still hold good and continue to be operate. However, in so far as verification of assets and liabilities by means of summary enquiry and rejection of nomination paper on the ground of furnishing wrong information or suppressing material information should not be enforced.

4. Following the Judgement of the Hon'ble Supreme Court dated 13.3.2003, the Election Commission of India issued revised orders fourth cited, the substance of which is as follows:-

- (i) Every candidate at the time of filing his nomination paper for any election to the Council of States, House of the People, Legislative Assembly of a State or the Legislative Council of a State having such a Council, shall furnish full and complete information in regard to the matters specified by the Hon'ble Supreme Court in an affidavit, the format of which is annexed to the order.
- (ii) The said affidavit by each candidate shall be duly sworn before a Magistrate of the First Class or a Notary Public or a Commissioner of Oaths appointed by the High Court of the State concerned.
- (iii) Non-furnishing of the affidavit by any candidate shall be considered to be violation of the order of the Hon'ble Supreme Court and the nomination of the candidate concerned shall be liable to rejection by the Returning Officer at the time of scrutiny of nominations for such non-furnishing of the affidavit.
- (iv) The information so furnished by each candidate in the aforesaid affidavit shall be disseminated by the respective Returning Officers by displaying a copy of the affidavit on the notice board of his office and also by making the copies thereof available freely and liberally to all other candidates and the representatives of the print and electronic media.
- (v) If any rival candidate furnishes information to the contrary by means of a duly sworn affidavit, then such affidavit of the rival candidate shall also be disseminated along with the affidavit of the candidate concerned in the manner directed above.
- (vi) It is also clarified that the earlier direction contained in para 14(4) of its earlier order dated 28<sup>th</sup> June,2002, in so far as verification of assets and liabilities by means of summary enquiry and rejection of nomination paper on the ground of furnishing wrong information or suppressing material information is not enforceable in pursuance of the order dated 13<sup>th</sup> march,2003 of the Apex Court.

5. Though the aforesaid two judgements of the Supreme Court were delivered in the context of securing to the voters the right to information with regard to the candidates contesting elections to the Legislative Assembly of a State or the Legislative Council of a State having such Council and the Parliament, the spirit thereof equally applies to the voters exercising their franchise in elections to local bodies also, which have been conferred with Constitutional status. The democratic process should be common to all levels of electoral offices in the pyramid starting from the Gram Sabha to Lok Sabha. The Commonality of the powers between the State Election Commission and the Election Commission of India can be seen from the fact that Article 243-K is exactly in **Parimateria** with Article 324 of the Constitution of India. In view of this, the State Election Commission decided that the orders of the Supreme Court of India should be made applicable to elections to local bodies also.

6. Accordingly, the State Election Commission, in exercise of its powers under article 243K read with article 243ZA of the Constitution of India and sections 200 and 201 of the Andhra Pradesh Panchayat Raj Act, 1994 (Act 13 of 1994), section 10A of the Andhra Pradesh Municipalities Act, 1965 (Act VI of 1965) and section 9 of the Hyderabad Municipal Corporation Act, 1955 (Act II of 1956) in its application to Hyderabad Municipal Corporation or any other Municipal Corporation, constituted under the Andhra Pradesh Municipal Corporations Act, 1994 (Act 25 of 1994) and of all other powers hereunto enabling it in this behalf, hereby directs as follows:-

- (i) Every candidate contesting elections to the office of Member or Sarpanch of a Gram Panchayat, Member of MPTC or ZPTC or Member of a Municipality, or his proposer, shall along with the nomination paper furnish full and complete information, apart from any other information which he is required to furnish, in regard to all the matters specified in the format of self declaration as in Annexure-I to this Order attested by two witnesses.
- (ii) Every candidate contesting to the office of the Chairman of a Municipality or to the office of Member or Mayor of a Municipal Corporation, or his proposer shall, along with his nomination papers furnish full and complete information, apart from any other information which he is required to furnish, in regard to all the matters specified in the format of the affidavit as in Annexure-II to this Order sworn before a Notary Public or a Magistrate of the First Class.
- (iii) Non furnishing of a declaration or affidavit as the case may be, by any candidate or his proposer, shall be considered to be a violation of this order and the nomination of the candidate concerned shall be liable to be rejected by the Election Officer/Returning Officer, as the case may be, at the time of scrutiny of nomination of the concerned candidate.
- (iv) The information so furnished by each candidate in the aforesaid declaration or affidavit, as the case may be, shall be disseminated by the concerned Election Officer/Returning Officer by displaying a copy of the declaration/affidavit on the notice board of his office and also by making copies thereof available to all other candidates on demand and to the representatives of the print and electronic media.
- (v) If any rival candidate furnishes information to the contrary, by means of a declaration attested by two witnesses or by means of sworn affidavit, then such

declaration/sworn affidavit of the rival candidate shall also be disseminated along with the declaration/affidavit of the candidate concerned in the manner directed above; and

- (vi) The Election Officer, or as the case may be, the Returning Officer shall not verify by means of a summary enquiry or otherwise the correctness or otherwise of the information furnished in the declaration/affidavit and reject the nomination paper on the ground that in his opinion the information furnished is incorrect.

7. This order applies to all elections to local bodies for which election notification is given on or after 2<sup>nd</sup> October, 2003.

**(BY ORDER AND IN THE NAME OF THE STATE ELECTION COMMISSIONER)**

**Sd/- I.Rani Kumudini**  
**Secretary**

To

The Commissioner of Panchayat Raj & Rural Employment, A.P., Hyderabad.

The Director of Municipal Administration, AP., Hyderabad.

All the Collectors and District Election Authorities.

All the Chief Executive Officers, Zilla Parishad.

All the District Panchayat Officers.

All the Commissioners of Nagar Panchayats/Municipalities/Municipal Corporations.

**Copy to:**

The Chief Secretary, Government of Andhra Pradesh.

The Principal Secretary, Panchayat Raj Department.

The Principal Secretary, Municipal Administration & Urban Development Department.

The Principal Secretary to Chief Minister.

All recognised and registered political parties.

The Commissioner, Information & Public Relations, AP., Hyderabad.

**ANNEXURE – IV (A)**

**Annexure –I**

**Declaration to be furnished by candidate along with nomination paper**

**Before the Returning Officer**

for election to the office of Member (Ward No ..... ) of .....

Municipality / Sarpanch of Member ( Ward No..... ) of ..... Gram Panchayat or  
..... MPTC / ZPTC.

(1) (a) I have been accused of the following offences punishable with imprisonment for two years or more in which the charge has been framed and the particulars there of are as below:-

- (i) Section of the Act and description of the offence for which cognizance taken:
- (ii) The Court which has taken Cognizance:
- (iii) Case No. :
- (iv) Date of order of the Court taking cognizance.

(b) I have been convicted of the following offences (other than the offences for which a conviction and sentence disqualifies me for contest) and sentenced to imprisonment for one year or more and the particulars thereof are as below:-

- (i) Section of the Act and description of the offence for which cognizance taken:
- (ii) The Court which has taken Cognizance:
- (iii) Case No. :
- (iv) Date of order of the Court taking Cognizance:
- (v) Details of appeal (s) application (s) for revision, etc., if any, filed against above order taking cognizance:

(2) That I/ my spouse / my \* dependents own the following immovable properties namely;

**A. LANDS:**

- (i) Give details of Agricultural lands, with the name of owner, its location, extend, value and the relation ship to the candidate

\*\*

- (ii) Give details of urban lands, with name of the owner, its location, extent, value and the relationship of the owner to the candidate

\*\*

**B. BUILDINGS :**

- (i) Give details of buildings, their location, plinth area, value, the name of the owner and the relationship to the candidate

\*\*

(3) I/ my spouse/\* dependents own the following movable properties namely.

(i) Give details of gold, Jewelry and precious stones with the name of the owner, their value and relationship to the candidate;

\*\*

(ii) Give details of bank balance / fixed deposits and shares their value with the details of depositors or purchaser, with relationship to the candidate.

\*\*

(4) I / My spouse / my \* dependents are liable to pay the following dues to public, financial institutions and Government dues ( Give the details)

\*\*

(5) My educational qualifications are as under:

(Give the details of School and University Education)

\*\*

I, ..... hereby, declare that the contents of this self declaration are true to the best of my knowledge and nothing material has been concealed and no part of this declaration is false.

**DECLARANT**

Witnesses:

1.

2.

• Dependent means a person wholly dependent on the income of the candidate

\*\* Wherever space provided is not sufficient additional papers may be used.

**ANNEXURE - V**

**DECLARATION TO BE FILED BY THE CANDIDATE FILING NOMINATION ON ACCOUNTS OF  
ELECTION EXPENDITURE**

I....., S/o..... Resident  
of..... having filed the nomination for the office of Sarpanch / Number of ward no.  
.....of ..... Gram Panchayat of ..... Mandal Parishad, hereby acknowledge  
that I have been supplied with a copy of the State Election Commission's Order No349/SEC-B1/2006, dated 25.4.2006  
relating to maintenance of accounts of election expenditure by the contesting candidates and also the Notification  
prescribing maximum limit on expenditure which can be incurred by the contesting candidates for the said offices.

I hereby declare and undertake to keep my election expenditure within the limit prescribed and also to maintain  
true and day to day accounts of the expenditure in the manner prescribed.

I, further, declare that I am fully conversant with the legal provisions contained in APPR Act, 1994 and rules  
issued thereunder dealing with election expenses and I hereby undertake to act in accordance with these provisions of Law  
and the rules made thereunder and in the true spirit of democracy while contesting the election for the above mentioned  
office.

Signature of the Contesting Candidate

The above declaration is signed before me

Returning Officer

**ANNEXURE – VI**  
**FORM – V**  
*[See rule 11]*  
**LIST OF NOMINATIONS RECEIVED**

Election to Sarpanch / Member of Ward No. .... of ..... Gram Panchayat of  
 ..... Mandal Parishad.

S.No of Nominatio n Paper	Name of Candidate	Father's or Husband's Name	Age of the can dida te	Occupati on & Address	Particulars of Caste or Tribes for candidates belonging to SC or ST or BC	Electoral Roll number of Candidate	Name of the Proposer	Electoral Roll No. of Proposer
1.	2.	3.	4.	5.	6.	7.	8.	9.

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