

STATE ELECTION COMMISSION :: ANDHRA PRADESH

Elections to Urban Local Bodies - 2014

Frequently Asked Questions

Q.1. What is the minimum age for becoming a Ward Member?

Ans. Not less than 21 years of age as on the date of scrutiny of nominations. Sec.13 of A.P. Municipalities Act, 1965 and Sec. 21(1) of GHMC Act, 1955 stipulate that minimum age for becoming a member of Municipality or Municipal Corporation shall be 21 years.

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

Ans. No. For contesting election as a ward member, a person must be a registered voter in any of the wards in the Urban Local Body concerned (Sec.13 of A.P. Municipalities Act, 1965 and Sec. 21(1) of GHMC Act, 1955).

Q.3. If I am a registered voter in Ward No.2, can I propose a candidate to contest from Ward No.1?

Ans. No. The proposer for a candidate to contest from Ward No.1 shall be a registered voter of Ward No.1 only. The proposer should be from the same Ward.

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

Ans. Under Sec. 13-B of APM Act, 1965 and Sec. 21-B of GHMC Act, 1955, a person having more than two children shall be disqualified for contesting election as member.

However, if a person is having more than two children before 1.6.1994, he/she is not disqualified. Additional children born within one year, i.e., upto 31.5.1995 will not be taken into consideration. Further, if one or more children are born after 31.5.1995, such person will incur disqualification.

No. of Children Born			Total	Qualified or Disqualified
Before 1.6.1994	Between 1.6.1994 and 31.5.1995	After 31.5.1995		
3	Nil	Nil	3	Qualified
3	1 or 2	Nil	4 or 5	Qualified
3	1	1	5	Disqualified
3	Nil	1	4	Disqualified
Nil	1	1	2	Qualified
Nil	2 (single births)	1	3	Disqualified
Nil	Twins	1	3	Disqualified
Nil	1	Twins	3	Qualified
Nil	1	2 (not twins)	3	Disqualified
Nil	Nil	2	2	Qualified
Nil	Nil	1 + Twins	3	Qualified
Nil	Nil	Triplets	3	Qualified
Nil	Nil	3 (single births)	3	Disqualified

These FAQs are prepared only for the guidance of Returning Officers/Election Officer. However, as they are discharging a quasi-judicial function while conducting scrutiny of nominations, they have to take decisions as per the provisions of the GHMC Act, 1955; APM Act, 1965 and Conduct of Election Rules made thereunder.

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

Ans. As per the judgment delivered by the Hon'ble High Court of AP, children given on adoption shall be counted against their natural or biological parents, but not against the parents who have adopted them. If a person possessed three children and gave one child out of the three on adoption shall also incur disqualification.

Q.6. If a person has two children with first wife who passed away and possessed one more child with his second wife. Is he qualified or disqualified? What about his second wife?

Ans. If a person has two children with first wife who passed away and possessed one more child with his second wife, he shall be disqualified. However, his second wife, who gave birth to only one child, is qualified.

Q.7. If a person has three children and one of them died before the date of scrutiny, is he qualified?

Ans. Yes. The number of living children a person is having as on the date of scrutiny is the criteria for determining his eligibility under this section.

Q.8. If a lady who already possessed two children and is pregnant as on date of scrutiny, is she qualified or disqualified?

Ans. She is qualified as she is having only two children as on the date of scrutiny.

Q.9. Whether an employee of State Government or Central Government or of a local authority is qualified to contest elections?

Ans. No. He is disqualified under Sec. 22(1)(c) of GHMC Act and Sec. 14 APM Act. However, if the resignation tendered by such an employee is accepted by the date of scrutiny, his nomination can be accepted.

Q.10. Is a Fair Price Shop dealer qualified to contest elections?

Ans. Yes. The Hon'ble High Court of Andhra Pradesh in W.P.No.14189/ 2006 and batch relied upon the judgment of Somnath Rath V. Bikram K. Arukh reported in AIR 1999 Supreme Court, 3417, held that the Fair Price Shop dealers are eligible to contest elections.

Q.11. Is an Anganwadi worker eligible to contest elections?

Ans. No. They are not eligible to contest elections under Sec. 14 of APM Act and sec. 22(1)(c) of GHMC Act.

A.12. Whether the employees of APSRTC and Singareni Collieries Company Ltd are eligible to contest in the elections?

Ans. Sec. 13-A of the APM Act and Sec. 21-A of the GHMC Act read with Sec. 10 of RP Act, 1951 stipulate that a person shall be disqualified from contesting in the elections of Municipalities / Nagar Panchayats and Municipal Corporations, if and for so long as he is a Managing Agent, Manager or Secretary of any Company or Corporation in which Government has not less than twenty five percent share.

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

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

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

Q.13. Whether any person in arrears of any kind of dues to the Municipality/Corporation is eligible to contest elections?

Ans. Under sec. 15(2)(h) of APM Act and sec. 23(1)(c) of GHMC Act, any person who fails to pay arrears of any kind due by him otherwise than in a fiduciary capacity to the Municipality / Nagar Panchayat / Corporation upto and inclusive of the previous year, in respect of which a bill or notice is duly served upon him and the time, if any, specified therein for payment has expired, shall be disqualified to contest elections. However, if such dues are cleared and a receipt thereof is produced by the time of scrutiny, he shall not be disqualified. This section is applicable to the Municipalities in which the candidate is contesting. If the candidate is in arrears of any dues to other local body, he will not incur disqualification under this section.

Q.14. Can a proposer of any candidate be also a candidate for the same ward?

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

Q.15. If information given by a candidate in affidavit (in case of Ward member of Corporation) or declaration (in case of Ward member, Municipality/Nagar Panchayat) is wrong, can RO/EO reject the nomination of the candidate? Especially, if other candidates raise objection and give proof that information in affidavit is wrong.

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

Q.16. If a complaint is received that a person who has filed nomination is of unsound mind, what course of action will be taken by RO/EO?

Ans. The complainant has to prove by producing a declaration by the competent court under the Lunacy Act to the effect that the person concerned is of unsound mind. Disqualification under sec. 22(1)(c) of GHMC Act and sec. 15(2)(a) of APM Act is attracted only when there is a declaration by competent court that the person is of unsound mind.

- Q.17.** Whether nomination papers of a candidate who was physically present just a minute before 3:00 PM on the last day of nomination, but without documents will be received or not?
- Ans.** Nomination paper if available with the candidate has to be received but no other document shall be permitted to be brought into his office after 3.00 PM. In the check list, the fact of not having submitted the relevant documents will be entered. Question of rejection of nomination paper will be decided at the time of scrutiny.
- Q.18.** If during scrutiny, a proposer says on affidavit that he has not signed on nomination papers, then what will RO/EO do?
- Ans.** The RO/EO has to satisfy himself about the signature of the proposer. In case he is satisfied after summary enquiry that the signature is not of the proposer as claimed by him then the nomination paper shall be rejected and the person who filed the nomination paper with forged signature/thumb impression will have to be prosecuted under the law. However, the candidate concerned should be given adequate opportunity to present his case. If necessary, scrutiny proceedings in that candidates' case can be adjourned.
- Q.19.** Regarding signature of a proposer, if in the summary inquiry, the RO/EO finds that the signature is false, can the nomination be rejected?
- Ans.** Yes, in case the RO/EO finds on summary inquiry that the signature is false, then that nomination paper will be rejected by the RO/EO.
- Q.20.** What is the maximum number of nominations that can be filed in respect of any candidate?
- Ans.** Not more than four nominations can be presented on behalf of any candidate or accepted by the RO/EO for election to the same ward under rule 8(1) of A.P. Municipalities (Conduct of Election of Members) Rules, 2005 and rule 4(1)(b) of A.P. Municipal Corporations (Conduct of Election of Members) Rules, 2005.
- Q.21.** If a candidate filed more than one nomination and all the nominations filed by him/her were accepted, what is the number of entries to be made regarding such candidate in the list of validly nominated candidates?
- Ans.** There shall be only one entry in respect of each validly nominated candidate in the list of validly nominated candidates although more nomination papers than one in respect of him/her have been accepted as valid.
- A.22.** Can a candidate withdraw nomination immediately after scrutiny or has to wait till list of validly nominated candidates is prepared in prescribed form?
- Ans.** He should wait till the RO/EO prepares the list of validly nominated candidates in prescribed form.
- Q.23.** How many persons are allowed to enter the RO/EO's room when the nomination papers are being filed?
- Ans.** As per the election rules, nomination papers can be delivered to the RO/EO by the candidate in person or by his/her proposer. The maximum number of persons allowed to enter the office of RO/EO's room at the time of filing of nomination papers is three including the candidate and/or his/her proposer. Where a candidate chooses not be present physically to deliver nomination papers, the proposer and two other individuals shall be allowed to enter the office of the RO/EO.

Q.24. Whether the nomination paper filed by a candidate not signed at the time of submission or filing of nomination papers can be signed thereafter before scrutiny of nomination papers or not?

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

Q.25. Who can deliver the Notice of Withdrawal?

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

Q.26. What are the dates and time prescribed for submission of Form-A & Form-B?

Ans. In case of Members of Municipalities / Nagar Panchayats, Form-A shall be submitted to the Collector & District Election Authority concerned before 5:00 PM on the last date for making nominations.

In case of Members of Municipal Corporations, Form-A shall be submitted to the Commissioner of the Municipal Corporation concerned before 5:00 PM on the last date for making nominations.

In case of Members of Municipalities / Nagar Panchayats, Form-A shall be submitted to the Collector & DEA concerned before 5:00 PM on the last date for making nominations.

In case of Members of Municipal Corporations / Municipalities / Nagar Panchayats, Form-B shall be submitted to the RO/EO concerned before 3:00 PM on the last date for withdrawal of candidature.

These deadlines are applicable to all candidates set up by the Recognised Political Parties, Registered Political Parties with a reserved symbol and Registered Political Parties without reserved symbol.

Q.27 Is there any classification of the candidates belonging to recognised and registered political parties for the purpose of listing the names in the list of contesting candidates?

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

- (i) Candidates of recognised political parties (candidates set up by National parties, State parties in the State of Andhra Pradesh and State parties in other States fall under this category);
- (ii) Candidates of registered political parties (candidates set up by registered political parties with or without a reserved symbol fall under this category);
- (iii) Other candidates (independent candidates fall under this category).

Q.28. Whether candidates belonging to SC/ST/BC are eligible for concessional rate of deposit if they contest from unreserved seats?

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

Q.29 Can a candidate who has given a notice of withdrawal of his candidature in prescribed form be allowed to cancel the notice?

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

Q.30. Is there any provision for appeal against the decision of the RO/EO on acceptance or rejection of nomination papers?

Ans. No. Neither the provisions of the Acts nor conduct of election rules provide for any appeal against the decision of the RO/EO on acceptance or rejection of nomination papers. The only remedy is to approach the election tribunal after completion of the election process.

Q.31. If the name of a person is registered in two different wards of the same Urban Local Body or in two different ULBs, is such a person is disqualified from contesting elections to ULBs?

Ans. No. If a person is registered in more than one ward of the same local body or in two different local bodies, he/she is not disqualified.

No provision exists in Acts governing Urban Local Bodies to disqualify such persons from contesting elections. However, under Sec. 36(2) of the GHMC Act, if the name of a person is entered more than once in the electoral roll of the ward or is included in the electoral roll of two or more wards of the same class, such person shall not be entitled to subscribe as proposer on more than one nomination paper for each vacancy to be filled in that ward or in not more than one such ward of the same class.

Sd/- Navin Mittal
Secretary

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Joint Secretary