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Extra Ordinary

Lucknow. Wednesday, October 17, 1056

GOVERNMENT OF UTTAR PRADESH

Medical (B) Department

No. 4057-BI/V-127-17

Dated, Lucknow,October 10, 1956

NOTIFICATION

MISCELLANOUS

UNDERsection 42 of the U. P. Indian Medicine Act, 1939 (U. P. Act no. X 1939, the Governor is pleased to make the following rules for elections under the said Act, the same having been previously published in notification no.940-BI/V—127-17, dated July 18, 1956 in pursuance of the provisions of sub- section (1) of the said section of the Act.These rules have been made in supersession of all rules on the subject notified from time to time.

RULES FOR ELECTIONS TO THE BOARD OF INDIAN MEDICINE, U. P.

PRELIMINARY

l. In these Rules unless there be something repugnant in the subject or context— Definitions.

(a) the "Act" means the United Provinces Indian Medicine Act, 1939 as amended from time to time;

(aa)"Constituency" means a constituency as provided in rule 1-A.

(*b*) “Elector” means –

(i) in the case of an election under clause (iv) of sub-section (1) of section 5 of the Act, a person whose name is entered in the list of teachers of Ayurvedic Educational Institutions of Utter Pradesh affiliate to the Board prepared under rule 3;

(ii) in the, case of an election under clause (v) of sub-section (1) of section 5 of the Act, a person whose name is entered inthe list of teachers of Unani Educational Institutions of Uttar Pradesh affiliated to the Board prepared under rule 3.

(iii) in the case of an election to the seats of Vaids under clause (vi) of sub-section (1) of section 5 of the Act, a person whose name is entered in the list of registered Vaids sent to the Returning Officer under rule 2 ; and

(iv) in the case of an election of Hakims under clause (vi) of su of the Act a person whose name is

entered in the list of registered Hakims sent to the Returning under rule 2.

(c)"the list" with reference to any election mentioned in any sub-clause of clause *(b)* above means the list mentioned in that sub-clause.

(d) "Returning Officer" means the Deputy Director Medical and Health Services (Ayurveda), and includes in his absence, any officer author in writing by such Deputy Director to perform all or any of the functions of the Returning Officer under these rules.

Constituencies

1-A. For the purposes of election of nine members (six Vaidyas and three Hakims) by the registered. Vaidyas and Hakims respectively of Uttar Pradesh under section 5(1) (vi) of the Act, the State shall be divided into the following Constitu encies :

A. for Viadyas—

(1) Meerut Division .

(2) Agra Division.

(3) Rohilkhand-cum-Kumaun Division.

(4) Allahabad-cum-Jhansi Division.

(5) Banaras-cum-Gorakhpur Division.\

(6) Faizabatl-cum-Lucknow Division.

B. For Hakims—

(1) Meerut-cum-Agra Division.

(2) Rohilkhand-cum-Kumaun-cum-Allahabad.cum-Jhansi Division.

(3) Banaras-cum-Gorakhpur-cum-Faizabad-cum-Lucknow Division.

Note—In this rule "Division" means "Revenue" Division.

Lists of registered Vaids and registered Hakims.

2. As soon as may be after the issue of a notification under sub-rule (1) of rule 12 relating to .the election in a constituency to a-seat of Vaids or Hakim under clause (vi) of sub-section (I) of section 5 of the Act, the Registrar shall forward to the Returning Officer a list in Form 1 of all registered Vaids or Hakims, as the ease may be residing in the constituency, prepared on the basis of entries in the Register and shall forthwith communicate to the Returning Officer any change in the Register, affecting the entries in the list made before the date fixed under clause (d) of sub-rule (2) of rule 12. The Returning Officer shall make or cause to be made the change so communicated in the list received by him under this rule.

List of teachers of Ayurvedic and Unani Educational Institutions affiliated to the Board.

3. (1) For the purposes of elections under clause (iv) of sub section (1) of section 5 of the Act, the Returning Officer shall ,is soon as may be after coming into force of these rules because to be prepared in the manner hereinafter laid down a list in Form II of teachers of Ayurvedic Educational Institutions if Uttar Pradesh affiliated to the Board.

(2) For the purposes of elections under clause (v) of sub-section (1) of section 5 of the Act, the Returning Officer shall similarly cause to be prepared a list in Form .II of teachers of Unani Educational Institutions of Uttar Pradesh, affiliated to The B

(3) The State Government may at any time require the Returning Officer to prepare a fresh list referred to in sub-rule (1) or in sub-rule (2).

Preparation and notification of draft list.

4. (.1) While preparing a list under rule 3 the Returning Officer shall after collecting names in such manner as he may think fit at first cause to be prepared and notified in the official arranged in alphabetical order under each institution, stating that any person claiming to be eligible to have his name entered in the list or objecting to any entry in the list may prefer a claim or objection, as the case may be, before the Returning Officer at his office on or before the date and time to be specified in the notification.

(2) The date to be specified under sub-rule (1) shall be at least seven days after the day on which the notification is pub-

(3) The notification shall also specify the day, time and place at which hearing of claims to entry of names and those objections which only seek to have errors in entries in the draft list in the nature of clerical errors corrected shall be heard.

Particulars of guarding claims and objections.

5. (1) A claim under rule 4 shall be in writing signed either by the person desiring his name to be included in the list or by an agent authorized in writing by such person and unless it is sent by post, shall be presented either by such person personally or by such agents. The claim must state the qualification which inclusion of name is sought.

(2) An objection under rule 4 shall be in writing and be signed and presented as in sub-rule (1), and if it is an objection against the entry of any name in the list it shall be filed in duplicate and shall be accompanied with a properly stamped and addressed envelope for the service of: notice of hearing by registered post upon the objector or his agent and the person to the entry of whose name the objection relates. The objec- tion shall specify the correction sought, and if it seeks the omission of any name entered in the draft list such name with all its particulars entered in the draft list against that name and the grounds on which, objection is taken to the inclusion of the name.

Hearingand Decision. Of claims and objections.

6. (1) Hearing of claims and of objections referred to in sub-rule (3) of rule 4 shall commence on the date, time and place notified in the notification under rule 4 in such order as the Returning Officer thinks fit. The Returning Officer may take into consideration such evidence as may be filed along with the claim or objection or as may be produced by the claimant or objector or his agent when the claim or objection is heard. The Returning Officer shall hear the claims and objections from day-to-day till all such claims and objection have been disposed of but he may, in his discretion, adjourn the hearing of any claim or objection to enable the claim objector or agent to produce evidence in support of the claim or objection.

(2) An objection to the inclusion of any name shall be heard on such date and at such time and place as the 'Returning Officer may fix and notice thereof shall be served upon the objector or his agent and the person to the inclusion of whose name the objection relates. The notice shall be served by registered post and in the case of the person to the inclusion of whose name the objection relates the notice shall be accompanied with a copy of the objection. 'The Returning Officer shall hold

a summary enquiry to enable the parties or any of them to produce evidence.

(3) The Returning Officer shall record in writing his order in respect of every claim or objection and cause the draft list amended and corrected in accordance with the decisions recorded by him. The list as so amended and corrected shall be final and shall be published in the official *Gazette* and a. copy thereof shall also be posted at the office of the Returning Officer for general information for a period of one week.

Duration of final list.

7. A list of electors published under sub-rule (3) of rule 6 shall come into force upon the date of its publication in the official *Gazette* and shall, subject to the provision of rule 8, continue to be in force till a fresh list comes into force under these rules.

Amendment of final list.

8. (1) The Returning Officer may at any time order the correction of any clerical or printing error and removal of any duplicate entries in the list and such correction or removal shall be made in the list and notified in the official *Gazette,* for general information.

(2) While a list is in force under rule 7 any person may file a claim for inclusion of his name in the list or object to any name included in the list or to any particular relating to any name :

Provided that no claim to the inclusion of any name or objection to the entry of any name on the list shall be entertained by the Returning Officer during the period between the publication of notification of election under sub-rule (1) of rule 12 and the declaration of the result of such election under rule 19 or 'rule 32 nor unless such claim or objection is accompanied with a fee of Rs.2 to be paid in cash at the time of the presentation of the claim or objection.

(3) The provisions of rules 5 and 6 shall, as far as may be, apply to claims and objections filed under this rule :

Provided firstly, that each claim and objection shall be accompanied with a properly stamped and addressed envelope for service of notice of hearing by registered post upon the claimant or objector or his agent and, if the objection is to the removal of any name from the list or to the correction of any entry other than relating to the objector, also with a similar envelope for service of notice upon the person to whose name or particulars the objection relates ; and

Secondly, any addition, omission or correction ordered by the Returning Officer upon the hearing of any claim or objection.

Inspection and issue of copies of lists.

9. (1) A list, referred to in rule 2 or rule 3 may be inspected at such time and place as the Returning Officer may specify.

(2) Copies of any list referred to in rule 2 or rule 3 shall be supplied by the Returning Officer on payment ol such fees as he may specify.

RIGHT TO VOTE

Right to vote.

10. No person who is not, and except as expressly provided by the Act or these rules., every person for the time being entered in the list shall be entitled to vote at an election :

Provided that, in the case of an election in one constituency under clause (vi) of sub-section (1) of section 5 of the Act, no

person whose name is not. Entered in the list pertaining to that constituency shall be entitled to vote.

ELECTION BY FACULTIES

Election by faculties.

11. (1) Whenever an election tinder clause (iii) of sub-section. (1) of section 5 of the Act becomes necessary at a general election of the members of the Board, the State Government shall issue a notification in the official Gazettecalling upon the Faculty concerned with the Ayurvedic or Unani-Tibbi system of medicine of each University having such Faculty to elect a member by such date as may be specified in the notification.

(2) Upon the issue of the notification referred to in sub-rule (1) a meeting, of the Faculty, shall be convened in accordance with the law and rules governing the calling and holding of meetings of the Faculty concerned before the date fixed in the notification under sub-rule (1) and the Faculty shall elect a person by the system of the single non-transferable vote to be a-member of the .Board. The Faculty shall communicate the name of such member to the State Government.

(3) If a casual vacancy on the Board occurs by reason of the death, resignation, removal or avoidable of election of a person elected under this rule, a bye-election shall be held as soon as may be on the occurrence of a vacancy in the manner provided in this rule :

Provided that only the Faculty which elected the outgoing member shall be called upon to fill the vacancy.

NOTIFICATIONS AHOUT OTHER ELECTIONS

Notification of elections under clauses (iv), (v) and (vi) of subsection (1) of section 5 of the Act.

12. (1) Whenever an election under clause(iv),(v) or (vi) of sub-section (I) of section 5 of The Act becomes necessary at a general election of members of the Board or to fill any casual vacancy, the .State Government shall issue a notification in the official Gazettecalling upon the electors concerned to elect a member or members before a date to be specified in the notification.

(2) As soon as may be after the publication of a notification under sub-rule (1) the Returning Officer shall by notification

(a)the date for making nominations which shall be a date not earlier than the eighth day after the publication of the notification under this sub-rule ;

(b*)* the date for scrutiny of nominations which shall be a date not later than the third day after the date for making nominations;

(c)last date for withdrawal of candidature which shall be the third day after the date of scrutiny for nominations fixed under clause (b) *;* and

(d)the date by which ballot papers after voting shall reach the Returning Officer which shall be a date not earlier than the fifteenth day after the last date for withdrawal fixed under clause (c).

(3) The notification shall also state that nomination papers shall be received, at the office of the Returning Officer between the hours of 10 a.m. and 3 p.m. on the date fixed under clause

(a) of sub-rule (2) and the scrutiny of nominations shall commence at the office of the Returning Officer on the date fixed under clause *(b)* of the said sub-rule at 10 a.m.

Nomination AND Scrutiny

Nomination

13. (1) An elector who desires to be nominated as a candidate at an election under clause (iv), (v) or (vi) as the case may be, of sub-section (1) of section 5 of the Act, shall

Deliver either in person or by his proposer or seconder to the Returning Officer on. the date within-the time and at the place specified the notification under sub-rules (2) and (3) of rule 12, a nomination paper duly completed in

Form III.

(2) The nomination paper shall be subscribed by the candidate himself as assenting- to the nomination and also by two electors as proposer and seconder.

(3) On receipt of a nomination paper the Returning Officer shall forthwith endorse thereon the date and hour of receipt and shall forthwith reject those nomination papers which are not received by him on the date, within the time and at the place appointed in the notification under sub-rule (2) of rule 12.

Form IV of nominations received and not rejected under sub-rule (3) at a conspicuous place in his office.

14. (1) A candidate shall not be deemed to be duly nominated unless he deposits or causes to be deposited a sum of Rs.50. Deposits.

(2) A sum required to be deposited under sub-rule (1) shall not be deemed to have been deported under that sub-rule unless at the time of the delivery of nomination paper under rule 13 the candidate has either deposited or caused to be deposi-ted that sum with the Returning Officer in cash or enclosed with the nomination paper a money order receipt showing that the said sum lias been sent by him by money order for payment to the Board.

15. (I) On the date and at the time and place fixed for the scrutiny of nominations under rule 13 the candidates, one pro-poser and one seconder of each candidate and one other person, duly authorized in writing by each candidate but no other person, may be present and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have not been rejected under rule 13. Scrutiny of Nominations.

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

(a)that the candidate is not qualified to be chosen to fill the seat under the Act; or

(b)that the candidate is disqualified for being chosen to fill the seat tinder the Act; or

(c)that there has been any failure to comply with any of the provisions of rules 18 and 14; or

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

(3)Nothing contained in clause*(c)* or clause*(d)* of sub-rule (2) shall.be deemed to authorize the refusal of the nomina-tion of any candidate on the ground of any irregularity in respect of a nomination paper if the candidate has been duly nominated by means of another nomination paper in respect of which no 'irregularity has been committed.

(4) The Returning Officer shall not reject any nomination paper on the ground of any technical defect or other error which is not of a substantial character and may for the purposes of removing any such defect or error allow any entry to be correc-ted in the nomination paper.

(5) The order of the Returning Officer allowing any correc-tion to be made under sub-rule (4) shall be final and shall not be questioned by any court or any tribunal including an election tribunal appointed under the Act.

(6) The Returning Officer shall hold the scrutiny on the date appointed in this behalf under rule 12 and shall not allow any adjournment of the proceedings except when such pro-ceedings are interrupted or obstructed by riot or open, violence or by causes b

Provided that in case an objection is made the candidate concerned may be allowed time to rebut it not later than the next day but one following the date fixed for scrutiny and the Returning Officer shall record his decision on the date to which the proceeding have been adjourned.

(7) The Returning Officer shall endorse on each nomina-tion paper his decision accepting or rejecting the name and if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

List of valid nominations.

16. (1) After the scrutiny of nomination papers has been completed the Returning Officer shall prepare a list of valid nominations in

Form V in Hindi containing the names in alphabetical order with addresses of the validly nominated candidates as given in the nomination papers,

(2) A copy of the list shall be posted at the office of the Returning Officer not later than the day next following that on which scrutiny is completed.

Withdrawal of candidature.

17. (1) Any candidate may withdraw his candidature by a notice in writing which shall be in Form VI and which shall be subscribed by him and delivered before 3 o'clock in the afternoon on the day fixed under rule 12 to the Returning Officer either by such candidate in person or by his proposer, seconder who has been authorized in this behalf in writing by such candidate.

(2) No person who has given a notice of withdrawal of his candidature tinder sub-rule (1) shall be allowed to cancel the notice.

Notice of withdrawal.

18. (1) On receiving a notice under rule 17 the Returning Officer shall note thereon the date on which and the hour at which it was delivered and if it was received within the time in sub-rule (1) of rule 17 order the return of the deposit mentioned in rule 14 to the candidate or the person making a deposit.

(2) The Returning Officer shall as soon as may be after receiving notice of withdrawal under rule 17 cause-a notice of withdrawal to be prepared in

Form VII and affixed in some conspicuous place in his office and delete the name of the candidate withdrawing his candidature from the list prepared under rule 16.

Declaration of results in certain cases.

19. (1) If on preparing the list under rule 16 or after deleting the names under rule 18 the Returning Officer finds that the number of nominated candidates therein does not exceed the number of seats he shall forthwith declare all such candidates to be duly elected.

(2) If the number of candidates declared elected under sub-rule (1) falls short of the number of seats to be filled, the Returning Officer shall report the number of vacancies to the State Government which shall commence proceedings anew for election to the vacant seats.

Publication of list of valid paper.

20. Except where action is taken under rule 19, the Returning Officer shall publish in the official Gazettethe list of valid nominations as prepared under rule 16 and amended under rule 18 and shall also cause a copy thereof to lie posted in his office.

21. If a candidate who has been duly nominated dies after the close of scrutiny of nominations and a report of his death is received by the Returning Officer before the issue of ballot papers under rule 22 the Returning Officer shall, upon being satisfied of the fact of the death, countermand the poll and al proceedings with reference to election shall be commenced anew in all respects as if for a new election :

Provided that no further nomination shall be necessary in the case of a candidate whose nomination was valid at the time of the countermanding of the poll.

Provided further that no person who has given notice of withdrawal of his candidature under rule 17 before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding.

VOTING

Returning Officer to send ballot papers by post.

22. (1) The Returning Officer shall, as soon as may be after the publication of the list of valid nominations under rule 20 send under certificate of posting to each elector a ballot paper in Form VIII and shall enter on the counterfoil of each such ballot paper the name of the elector to whom the ballot paper is sent and his serial number in the list of electors. The particulars in the ballot paper shall be printedin Hindi and the names ofthe candidates shall be printed on the ballot paper in the same order in which, they appear in the, list of validly nominated .candidates published under rule 20.

(2) Along with the ballot paper the Returning Officer shall also send—

(a) a cover address to himself-in Form IX, and

(b) an envelope with the number of ballot paper entered on its face. The Returning Officer shall have the

Form IX.

(3) The ballot paper together with the cover and envelope shall be sent to (he address of the elector as shown in the list of electors.

(4) After all the ballot, papers have been issued under this rule, the Returning Officer shall seal up the packet of counter-foils of all such ballot papers and record on such packet the description of its contents and the election to which it refers.

(5) No election shall be invalidated, by reason that an elector has not received his ballot paper provided that the ballot paper has been issued to him in accordance with these rules.

Ballot papers to be returned after recording votes thereon.

23. (1) Every elector on receiving his ballot paper sent under rule 22, if he desires to vote at the election, shall record his vote thereon and sign the declaration on its back in accordance with the instructions set out on the ballot paper.

(2) The elector shall place the ballot paper in the envelope, close the envelope and enclose it with the cover and send the cover by post or messenger to the Returning Officer in accordance with the instructions aforesaid so as to reach him before 5 p.m. on the date fixed, in this behalf under rule 12. Any cover which is not received by the Returning Officer before 5 p.m. on thedate so fixed shall be rejected. All such rejected covers shall be kept in a separate sealed packet by the Returning Officer, and a list thereof shall be prepared.

Attestationof the electors'signature on the ballot paper,

24. An elector should obtain the attestation of his signature but not of his vote on the ballot paper by a gazetted officer ' of the State or Union Government.

Attesting officer to assist infirm electors

25. (1) If an elector to whom a ballot paper has been sent under rule 22 is unable through physical incapacity to record his vote and sign the declaration on the back of the ballot paper in accordance with the provisions of rule 23 it shall be competent for him to make his declaration and to record his vote by the hand of an officer empowered, to attest his signature under rule 24.

(2) Any such elector as aforesaid may deliver the ballot paper together with the envelope and the cover received by him from the Returning Officer to an Attesting Officer and such, officer shall on being so requested by the elector certify on the back of the ballot paper the elector's incapacity and shall attest the fact that he was requested by the elector-to sign the declaration on the back of the ballot paper and to record the vote on the ballot paper for him, and that he has put the marks on the ballot paper in accordance with the wishes of.' the elector and that the ballot paper was so signed and marked by him in the presence of the elector. Such officer shall thereupon place the marked ballot paper in the envelope, close the envelope and enclose it in the cover which he shall seal and hand, over to the elector.

Issue of undelivered and frcsli ballot papers.

26 (1) When a ballot paper and other connected papers sent by post under rule 22 are for any reason returned undeli-vered, the Returning Officer may

elector personally on his applying" for the same.

(2) In cases where any elector has inadvertently dealt with his ballot paper or any of the connected papers in such a manner that the papers cannot conveniently be used, a second set of ballot, and other connected papers may be issued to the elector on the elector returning the ballot paper and other connected papers to the Returning Officer and satisfying him of the inadvertence. The papers so returned to the Returning Officer together with the counterfoil of the ballot paper so returned shall be marked as cancelled by the Returning Officer. The paper so cancelled except the counterfoil of the ballot paper shall be kept in a separate envelope set apart for the purpose.

27. (i) Every elector shall have as many votes as there arc seats to be filled at the election. Manner of recording vote.

(2) Such an elector when giving his vote shall place the mark × or + in the space opposite the name of each one of the candidates for whom he desires to vote.

COUNTINGOFVOTES

28. (1) Counting of votes shall be done at the office of the Returning Officer on the day next following the date fixed under rule 12 for return of ballot papers and shall commence at 10 a.m. Counting of votes - and declaration ; of results.

(2) The candidates and one agent for each candidate authorized by writing in this behalf but no other person may remain present at the place of counting besides the Returning Officer and the persons assisting him under his orders in the: counting of votes.

29. A. ballot paper shall be invalied on, which—

Grounds for declaring ballot papers invalid.

(a) no mark × or + his been placed against the nami of any candidate ;

(b) the mark × or + has been.placed opposite the name of more candidates than there are scats to be fillet at the election ;

(c) any mark is made by which the elector may afterward be identified ;

(d) the signature of the elector is not duly attested ; or

(e) for any reason it is not certain for which candidate or candidates the elector intended to vote :

Provided that in a case under clause *(e)* if the total number of marks × or + does not exceed the number of seats to be filled and there is no uncertainty about a vote having been cast, in favour of any candidate then the ballot paper shall not be invalid as a whole and it will be valid in respect of each candi-date in respect of whom there is no such uncertainty.

Procedure to be followed at the counting of votes.

30. (1) On the date and at the time and place mentioned in rule 28 the Returning Officer shall open the cover containing the ballot papers received by him under rule 23 before 5 p.m. on the date fixed for return of ballot papers under rule 12 and take out and thereafter scrutinize the ballot papers taken out from the cover and separate the ballot papers which he deems valid from those which he

rejects, endorsing on the letter the word rejected and the ground of rejection.

(2) The Returning Officer shall thereafter cause to be counted the valid votes given to each candidate as recorded on the ballot papers which he has not rejected.

(3) If the counting of votes be not completed by 6 p,m. on the day appointed, the Returning Officer may adjourn, the proceedings until the following day at 10 a.m. and in such case shall place all the documents relating to the election, under his own seal and the seals of the candidates or their agents, if any are present and desire to affix their seals and shall otherwise take proper precautions for the security of the documents. The Returning Officer may in like manner adjourn the proceedings from day-today until the counting of the votes has been com-pleted.

(4) After the counting is completed the Returning Officer may on his own motion or at the request of any candidate for whom, votes have been cast or his agent recount the votes.

Preparation of 31. (1) As soon as the counting, or if there is recounting,

return. the recounting, is completed the Returning Officer shall prepare a return in

Form X setting forth—

(a) the names of candidates for whom valid votes were given ;

(b) the number of valid votes for each candidate, and

(c) the number of ballot papers rejected, and shall permit any candidate or his representative to take a copy or abstract from the return.

Declaration of result.

32. The Returning Officer shall also record in the return mentioned in rule 31 the names of as many candidates as there are seats to be filled obtaining the highest number of votes and shall declare them elected and announce their names as candi- dates duly elected.

Decisionin case of equality of votes,

33. Where an equality of votes found to exist between any candidate and the addition of one vote -would entitle any candidate to be declared elected, the determination of the candidate to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn by the Returning Officer in the presence of the candidates or their agents who may be present at the moment,

Notification of of result.

34. The Returning Officer shall communicate theresult the election to the State Government by forwarding a copy

Form X and the State Government shall notify the names of the candidates elected.

MISCELLANEOUS

35. (1) The Returning Officer shall dispose of the election papers in such manner as the Slate Government may direct. Disposal, Inspection and copies of election papers.

(2) The packets of ballot papers, whether valid or rejected, and of the counterfoils thereof shall not be opened and their contents shall not. be inspected by, or produced before any person or authority except under the order of a competent court or a tribunal.

(3) All other papers relating to the election shall be open to public inspection subject to the payment of a fee which the State Government may fix on such conditions, if any, as the State Government may specify.

(4) Copies of the return by the Returning Officer forwarded under rule 34 and of any election paper other than those mentioned in sub-rule (1) shall be furnished by the person in whose custody the papers may be on payment of such fees as the State Government may specify.

36. (1) If the nomination of any candidate is rejected by the Rcurning Officer an order for return of deposit made under rule 14 shall be made while rejecting the nomination. Return and forfeiture of deposit,

(2) H a candidate dies before the commencement of the poll the deposit made under rule 14 shall, if made by him, be returned to his legal representatives or, if not made by him, shall be returned to the person by whom it was made.

(3)If a candidate nominated for the election is not elected and the number of votes polled by him does not exceed one-seventh of the total number of votes polled or, in the case of an election for more than one member, one-sixth of the total number of votes polled divided by the total number of member to be elected, the deposit made under rule 14 shall be forfeited to the Board.

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

(5) In cases not covered under the preceding sub-rule and rule 18 every deposit made under rule 14 shall after the publica-tion of the result of election in the Official *Gazette* be returned to the candidate or to the person'who made the deposit :

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

Reporting of casual vacancies.

37. As soon as may be after a vacancy occurs in the offices of member of the Board by death, resignation; removal or any other cause, the Registrar shall' report the vacancy to the State Government:

Provided that if the Board has directed under the Proviso to sub-section (2) of section 13 of the Act, that the vacancy be left unfilled the Registrar shall also forward a copy of the resolution-making the direction.

Period for filling casual vacancy under section 13.

38. The period within which a vacancy shall be filled under section 1 3 of the Act shall be three months from the date on which vacancy occurs :

Provided that the State Government may by order for "sufficient cause Date by which enlarge this period up to a maximum of five months, '

selection should be completed.

39. If any electoral body fails to elect the requisite number of member or members or to fill up any vacancy by the date appointed under sub-rule (1) of rule 12 or if such date has been altered under rule 40, by the altered date, the State . Government shall make nomination or nominations under section 6 of the Act.

Alteration of dates in emergencies.

Seats remaining unfilled.

40. (1) Subject to the provisions of rule 38 the State Government may in the case of any grave emergency or otherunavoidable cause extend the date notified under sub-rule (1)of rule 12.

(2) Subject to the provisions of rule VI, the Returning Officer may in the case of any grave emergency or other unavoidable cause alter the dates notified under sub-rule (2) of rule 12.

(3) The extension and alteration in the dates as aforesaid may be made even though the date or dates originally notified may have expired.

Seats remaining unfilled.

5

41. (1) If at any election held under clauses (iv), (v) or (vi) of section of the Act, any seat remains unfilled by reason of failure to make nominations or rejection of nominations, the Returning Officer shall immediately report the fact to the State Government.

(2) On the receipt of a report under sub-rule (1) the State Government may, subject to the provisions of rule 38, commence proceedings anew as if for a new election.

Power of the Re-turning Officer to obtain Information.

41 A. The Returning Officer may, with a view to discharge his duties under these, rules, require the President, or the Registrar of the Board to furnish to him such information or document in the possession of the President or the Registrar as may be necessary to obtain, and the President or the Registrar, as the case may be, shall comply with such requisition.

DISPUTES RELATING TO ELECTIONS

Questioning of elections.

42. No election of a person as a member of the Board (under clause (iv) , (v) or (vi) of sub-section (1) of section 5 of the Act shall be called in question except by an election petition presented in accordance with these rules.

Time and manner of presenting petitions.

43. (1) An election petition under rule 42 may be pre-sented by any unsuccessful candidate or a candidate whose nomination paper was rejected or by any elector within 30 days after the

(2) The petition shall be presented in person by the petitioner or if there are more than one petitioner by any one or more of them.

(3) The petition shall be presented to the District Judge of Lucknow.

Form, etc. of petition.

44. An election petition shall specify the ground or grounds on which the election of a returned candidate is questioned and shall contain a summary of the circumstances alleged to justify the election being questioned on such grounds, the person or persons declared elected at the election and where the petition claims that any other candidate shall be declared in the room of the person whose election is questioned, every unsuccessful candidate shall be made a respondent to the petition.

Relief that may be claimed by the petition.

45. A petitioner may claim either of the following declarations :

(a) that the election of the returned candidate is void,

(b) that the election of the returned candidate is void and that, he himself or any other candidate has been duly elected,

Security and Court-fees.

46. (1) At the time of presenting an election petition the petitioner shall enclose with it a receipt showing that a sum of two hundred rupees has been deposited by him or on his behalf in a Government treasury or in the State Bank of India as security for the costs of the petition.

(2) There shall be paid on the election petition a fee of one hundred rupees in Court-fee stamps.

Grounds for questioning election.

47. The election of a person as member of the Board under clause (iv), (v) or (vi) of sub-section (1) of section 5 of the Act, may be questioned on one or more of the following grounds, that: is to say—

(a) that the returned candidate has committed, any corrupt practice within the meanning of rule 48 ;

(b) that the nomination of any candidate has beer wrongly rejected or the nomination of any success .ful candidate has been wrongly included ;

(c) that the result of the election has been materially affected by—

(i) the improper rejection or refusal of a vote;

(ii) any non-compliance with the provisions of the Act or any rules or orders made under the Act ;

(d) that the elected candidate was declared to be elected by reason of the improper acceptance or rejection of one or more votes.

Corrupt practices.

48. A person shall be deemed to have committed a corrupt practice who, directly or indirectly, by himself or by any other person—

(i) induces, or attempts to induce, by fraud, intentional misrepresentation, coercion, or threat of injury, any voter to give or to refrain from giving a vote in favour of any candidate ;

(ii) with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money, or valuable consideration or any place, or employment or holds out any promise of individual advantage or profit to any person ;

(iii) gives or procures the giving of a vote in the name of a

Recrimination when voter who is not the person giving such vote.

seat claimed. 49. When in an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling

Trial. in question his election.

50. A Tribunal constituted of the District Judge of Lucknow or such other district judge as the State Government may nominate in consultation with the High Court shall try the petition at a place to be

Procedure befor the specified by the State Government.

Tribunal. 51. (1) Except so far as provided by the Act, or elsewhere in this Order the procedure provided in the Civil Procedure' Code in regard to suits shall, so far as it is not inconsistent with the Act, or any provisions of this Order and so far as it can be made applicable, be followed in the hearing of election petitions :

Provided that—

(a) any two or more elections petitions relating to the election of the. same person may be heard together ;

(b) the tribunal shall not be required to record or have recorded the evidence in full but shall make a memorandum of the evidence sufficient in its opinion for thepurpose of deciding the case ;

(c) the tribunal may, at any stage of the proceedings, require the petitioner to give further cash security for the payment of. the costs incurred or likely to be incurred by any respondent ;

(d) for the purpose of deciding any issue the tribunal shall be required to order production of or receive only so much evidence, oral or documentary, as it considers necessary ;

(e) no appeal or revision shall lie on a question of fact- or law against any decision of the tribunal ;

(f) the tribunal may review its decision on any point on application of any person considering him- self aggrieved thereby, being made within fifteen days, from the date of the decision.

(2) The provision of the Indian Evidence Act, 1872, shall be deemed to apply in all respects to the trial of an election petition.

52. (1) before the appointment of a tribunal to try an election petition, the petition, may be withdrawal by the petitioner or the petitioners, as the case may be, by making an application to the District judge, Lucknow stating the intention to withdraw the petition and upon the making of such an application the petition shall stand withdrawn and no further action be taken for its trial,

Withdrawal of petition.

(2) After the appointment of a tribunal to try election petition the

petition may be withdrawn with the leave of the tribunal by making an application as aforesaid to the tribunal.

Abatement of petitions.

53. (1) An election petition claiming a declaration mentioned in clause (a) of rule 45 shall abate upon the death of the returned candidate.

(2) An election petition shall abate upon the death of the sole petitioner or all the petitioners.

(3) If an election petition claims the declarations mentioned in clause (b) of rule 45 and the returned candidate dies, the tribunal shall cause notice of such event to be published in the official Gazette and thereupon any person who might have been a petitioner, may within fourteen days of the publication apply to be substituted in place of the returned candidate to oppose the petition and shall be entitled to continue the proceedings upon such terms as the tribunal may think fit;

Power of the Tribunal.

54. (1) The Tribunal shall have the same powers and privilege as a judge of a Civil Court, and may for the purpose of serving any notice or issuing any profess or doing any other similar act, be entitled to employ, with the consent of the District Magistrate, any peon or other officer or clerk attached to the Court of the District Magistrate.

(2) If the petition is found to be-frivolous the tribunal may direct that the security or any part thereof shall be forfeited to the State Government.

(3) An order for costs passed by the election tribunal shall be executable by any Munsif within whose jurisdiction the person ordered to pay costs resides or works as if it were a decree passed by him in favour of the person who has been awarded costs.

Order of the Tribunal.

55. (1) If the tribunal alter making such inquiry as it deems fit, finds, in respect of any person whose election is called in question by a petition, that his election was valid, it shall dismiss the petition as against, such person and award costs at its discretion.

(2) If the tribunal finds that the election of any person was invalid it shall either—

(a) declare a casual vacancy to have been created, or

(b) declare another candidate to have been duly elected and in either case may award costs at its discretion.

Grounds for which a candidate other than the roturned candidate may be declared to have been elected.

56. If any person who has, lodged an election petition has in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the tribunal is of the opinion that in fact the petitioner or such other candidate received a majority of the valid votes, the tribunal shall, after declaring the election of the returned candidate to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected :

Provided that the petitioner or such oilier candidate shall not be declared to be duly elected if it is proved that the election of such candidate would have been void if he had been returned c had been presented calling

in question his election.

Procedure in case of equlity of votes.

57. If during the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared elected, then —

(a) any decision, made by the Returning Officer under the provisions of these rules, shall, in so far as it determines the question between those candidates be effective also tor the purpose of the petition ; and

(b)inso far as .that question is not determined by such a decision, the Tribunal shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

Taking effect of Tribunals, orders

58. An order of the tribunal under sub-rule (2) of rule 55 shall take effect from the following the date of the order.

Communication of order and transpmission of record.

59. (1) The Tribunal shall as soon as may be after announcing the orders made by it under rule 55 send a copy thereof to the State Government.

(2) The Tribunal shall dispose of the record of the case in such manner as the State Government may specify.

(3) The State Government may provide for issue of copies of documents or the record on payment of fees.

Disposal of security deposit and recovery of costs.

60. (1) Subject to the provisions of sub-rule (2) of rule 56 costs if any, awarded to any respondent by a tribunal shall be recoverable out of the security deposited under rules 46 and 51 and the balance of the security deposit if any, shall be refunded to the petitioner.

(2) the costs, or any portion thereof, awarded to any respondent and not recovered from the security deposit referred to in sub-rule (1) and costs payable to a petitioner from any respondent shall be recoverable in accordance with the provisions of sub-rule (3) of rule 54.

(5) While making its order under rule 55the tribunal shall also pass orders about the recovery of costs and the refund of security deposits in accordance with the provisions of this rule.

FORM I

(RULE 2)

List of registered Voids/Hakims of Uttar Pradesh*

.....Constituency

Serial no.	Name	Father's name	Husband's name	Registration no.	Address

(The form entries may be modified, so as lo make it correspond with the entries in the Register).

*Delete the inappropriate alternative.

FORM II

(RULE 3)

List of teachers of affiliated Ayurvedic/Unani Educational Institutions of Uttar Pradesh

Serial No.	Name	Father's name	Husband's name	Institution in which working	Address

*Delete the inappropriate alternative.

FORM III

[RULE 13(I)]

Nomination Paper

Election under clause (iv)/(v)/(vi) *of sub-section* (1) *of section* 5 *of the U.P. Indian Medicine Act* 1939.

Name of Constituency]'.....

1. Name of candidate in Hindi.....
2. Father's/Husband's name.....
3. Address.....

4. Serial number of candidate in the list of electors in

Form I/Il*.....

..... 5. Registration number.....

6. Name of the Proposer.....

Form I/II*..... 8. Signature of the Proposer.....

9. Name of the Seconder.....

Form I/II*..... 11 . Signature of the Seconder.....

I hereby declare that I agree to this nomination.

Dated..... *Signature of the Candidate.*

(To be filled in by the Returning Officer)

Serial no.....

Date and time of the receipt of the nomination paper.

Returning Officer.

*Delete the inappropriate alternative.

In the case of election under clause (vi) of sub-section (1) ofseciion 5 of the Act only.

FORM IV

[(RULE 13(4)]

Notice of nominations for election under clause (iv)l(v)j(vi) of sub-section* (I) *of section 5 of the U.P. Indian Medicine Act,* 1939, *received in time*

Name of Constituency;.....

Serial No. .....

Name of candidate.....

Father's or husband's name .....

Registration number.....

Address .. ..

Name of Proposer.....

Form I/II*.....

Name of Seconder .....

Form I/II*.....

*Delete the inappropriate alternative.

†In the case of election under clause (vi) of sub-section (1) of section 5 of the Act only.

FORM V

(RULE- 16)

Form for list of valid nominations

*Election under clause (iv)j(v)l(vi)*of sub-section* (1) *of section 5 of' U.P. Indian Medicine Act,* 1939.

Final list of candidates for election

Name of Constituency†.....

Serial no.	Name of Candidate	Address of candidate
1	2	3
2		
3		
4		
5		
6		
7		
ete.		
		ReturningOfficer

*Delete the inappropriate alternative.

†In the case of election under clause (vi) of sub-section (1) of section 5 of the Act only.

FORM VI

(RULE 17)

Form of notice of withdrawal

To

RETURNING OFFICER.

(Election under clause (iv)/(v)/(vi)*: of sub-section (1) of section 5of U.P. Indian Medicine Act, 1939).

.....*Constituency†*

I, ... of ..... candidate nominated at the above mentioned election do hereby give notice that

I withdraw my candidature.

Dated (his.....day.....195 .

Signature of Candidate,

(To be filled in Office)

This notice of withdrawal was delivered to me at my office at..... (hour) on. .....(dated) by..... the candidate/the candidate's proposer seconder/agent who has been authorized by the candidate to deliver it.

Returning Officer

Assistant Returning Officer

*Delete the inappropriate alternative.

†In the case of election under clause (vi) of sub-section (1) of section 5 of the Act only.

FORM VII

(RULE 18)

Notice of withdrawal of candidatures

Notice(s) of withdrawal of candidate(s) for election under clause (iv)/(v)/ (vi)* of sub-section (1) of section 5 of U.P, Indian Medicine Act, 1939 has/have been received on..... form the following candidate

_____

Each of the following candidates.

.....*constituency* †.

Name(s) of candidate(s) :

1.....

.....

2.....

etc.

Date..... *Returning Officer.*

*Delete the inappropriate alternative.

†In the case of election under clause (vi) of sub-section (1) of section 5 of the Act only.

FORM VIII

(Rule 22)

Form of Ballot paper

Counter foil Outer Foil Front

Election under clause (iv)/(v)/(vi)* of sub- section (b) of section 5 of U.P. India Medicine Act, 1959.

Election under clause (iv)/(v)/(vi)* of sub-section (I) of the section 5 of the U.P. India Medicine Act, 1959.

.....Constituency

..... Name of elector

Serial no. of Ballot paper .....

Serial no. of elector in the list of electors .....

1. .....
2. .....
3. .....

etc. .....

Space of marking

*Delete the inappropriate alternative.

In the case of election under clause (vi) of sub-section (1) of section 5 of the Act only.

(Form of back of outer foil of ballot paper)

Instructions

1. The persons whose names arc given on the ballot paper sent herewith have been nominated as candidate for election under for clause (iv)/(v)/(vi)* of sub-.section(1) of section 5 of the U.P. Indian Medicine Act, 1930.'

2. The number of candidates to be elected is.....

3. The vote shall be recorded by placing the mark × or + on ballot paper opposite the name of the candidate or candidates for whom the elector wishes to vote.

4. The elector shall sign the declaration on the back of the ballot paper in the presence of the attesting officer who shall be a gazetted officer of the State or Union Government and who shall attest only the elector's signature but not his vote which should not be recorded in the presence of the attesting officer.

5. After attestation and marking, the ballot paper is to be placed in the envelope sent with the ballot paper and the envelope is to be enclosed in the cover addressed to the Returning Officer. The elector should return the cover to the Returning Officer by pre-paid post or by the messenger so as to reach him before 5 p.m. on the date.....day….....19.....

6. The provisions of the following rules may also be noted :

25. *Attesting Officer to assist infirm electors*.....(1)]f an elector to whom a ballot paper has been sent under rule 22 is unable through physical incapacity to record his vote and sign the declaration on the back of bnilot paper in accordance with the provisions of rule- 23 it shall be competent for him to make his declaration and to record his vote by the hand of an officer empowered to attest his signature under rule 24.

(2) Any such elector as aforesaid may deliver the ballot paper together with the envelope and the cover received by him from the Returning Officer to an attesting officer, and such officer shall on being so requested by the elector certify on the back of the ballot paper the elector's incapacity and shall attest the fact that he was requested by the elector to sum the declaration on the back of the. ballot paper and to record the vote on the ballot paper for him and that he has put the marks on the ballot paper in accordance with the wishes of the elector and that the ballot paper was so signed and marked by him in the presence of the elector. Such officer shall thereupon place the marked ballot paper in the envelope, close the envelope and enclose it in the cover which he shall seal and hand over to the elector.

26. *Issue of undelivered and fresh ballot papers* - (1) When a ballot paper and other connected papers sent by post under rule 23 are for any reason returned undelivered, the Returning Officer may reissue them by registered post or by delivery to the el ing for the same.

(2) In cases where any elector has inadvertently dealt with his ballot paper or any of the connected papers in such a manner that the papers cannot conveniently be used, a second set of ballot and other connec- ted papers may be issued to the elector on the elector returning the ballot paper and other connected papers to the Returning Officer and satisfying him of the inadvertence. The papers so returned to the Returning Officer together with the counterfoil of the ballot paper so returned shall be marked as cancelled by the Returning Officer. The paper so cancelled except the counterfoil of the ballot paper shall be kept in a separate envelope set apart for the purpose.

7. Covers returned by post on which the postage has not been paid will not be received by the Returning Officer.

Serial no. of ballot paper.....

……

I hereby declare that I am the person whose name appears as elector no. .....on the list of teachers of affiliated Ayurvedic/Unani* Educational Institutions of Ultar Pradesh/registered Vaid/Hakim* of Uttar Pradesh.

Signature of elector.....

Addrress .....

…… Signed in my presence by…….. who is personally known to me (or who has been indentified to my satisfaction by ……..

……)

Signature of elector..... *Designation*…….. *Addrress* .....

…… Dated……..

*Delete the inappropriate alternative.

†In the case of election under clause (vi) of sub-section (1) of section 5 of the Act only.

FORM IX

(Rule- 22)

Form of Cover

ELECTION—URGENT

To,

THE RETURNING OFFICER,

for election under clause (iv)/(v)/ (vi)* of sub-section (1) of section 5 of the U.P, Indian Medicine Act, 1939.

No……(Address).....

*The inappropriate alternative shall be deleted.

FORM X

(RULE 31)

Form of Account of Ballot Papers

Election under clause (iv)/(v)/ (vi)* of sub-section (1) of section 5 of U.P, Indian Medicine Act, 1939.

.....19.....

.....Constituency †

Serial Number	Name of candidate	Number of votes

Total number of ballot papers.....

Total votes polled.....

Total number of ballot papers rejected.....

The following candidates are declared elected.

1.(Name and address).....

.....

.....

2. ..... 3.

..... *Dated*.....

Signature of Returning Officer.

*Delete the inappropriate alternative.

In the case of election under clause (vi) of sub-section (1) of section 5 of the Act only.

-By order,
K. C, M1TTAL, I.A.S.,
Secretary to Government.,
Uttar Pradesh.

P.S.U.P. A,P. 82 Gaz. (E.)—1956. 1,825.