UTTAR PRADESH DISTRICT PANCHAYAT (ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON AND SETTLEMENT OF ELECTION DISPUTES) RULE

APPENDIX-VI The Uttar Pradesh Zila Panchayats (Election of Adhyaksha and Up-Adhyaksha and Settlement of Election Disputes) Rules, 19941 In exercise of the powers under Section 237 of the Uttar Pradesh Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961 (U. P. Act No. XXXIII of 1961) read with clause (c) of sub-section (2) of Section 27 and Section 264B of the said Adhiniyam, and in supersession of the Uttar Pradesh Zila •Parishads (Election of Adhyaksha and Up-Adhyaksha and Settlement of Election Disputes) Rules, 1963, the Governor is pleased to make the following rules: CHAPTER 1 Preliminary 1. Short title and commencement.—(l) These rules may be called the Uttar Pradesh Zila Panchayats (Election of Adhyaksha and Up-Adhyaksha and Settle- ment of Election Disputes) Rules, 1994. (2) These rules shall come into force at once

2. Definitions.—ln these rules, unless the context otherwise requires— (a) "Act" means the Uttar Pradesh Kshettra Panchayats and Zila Pancha- yats Adhiniyam, 1961; (b) "election" means an election to fill the office of. Adhyaksha or Up- Adhyaksha, as the case may be of a Zila Panchayat; (c) "member" means a member of a Zila Panchayat referred to in clause (b) sub-section (1) of Section 18 of the Act; (d) "Form" means a form given in Schedule I to these rules; (e) "Schedtde" means a schedule to these rules

3. Mukhya Nirvachan Adhikari (Panchayat) and the Returning Offi- cer.—(l) The Mukhya Nirvachan Adhikari (Panchayat) appointed by the State Government, as required by the State Election Commission, shall, under the su- perintendence, direction and control of the State Election Commissioner, perform all the functions relating to the conduct of elections. (2) The District Magistrate shall be the Returning Officer for conducting elec- tion under these Rules

4. Assistant Returning Officers.—(l) The Returning Officer may appoint one or more persons as Assistant Returning Officer to assist him in the perform- ance of his functions under these rules. (2) Every Assistant Returning Officer shall be competent to perform all or any of the functions of the Returning Officer. Substituted by Notification No, 4240/XXX111-1-94—277-94, dated November 30, 1994, pubüshed 1. in the U. P. Gazette, Part I (ka), dated 1st April, 1995, (182) 183 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 [App. VI (3) The Returning Officer may take such assistance from the officers and ser- vants of the Zila Panchayat for conducting election as he may deem necessary. (4) The Returning Officers and Assistant Returning Officers shall perform their functions under the superintendence, direction and control of the State Elec- tion Commission

CHAPTER 11 Conduct of Election of Adhyaksha Notification 5. Appointment of dates for nomination, etc.—(l) Whenever an election is required to be held under the Act to the Office of Adhyaksha of a Zila Panchayat the State Election commission shall, by notification appoint for the election: (a) the date for filing nomination paper and scrutiny thereof which shall be a date at least ten days after the date of the notification; (b) the date and time for the withdrawal of. candidature which shall ordi- narily be the third day after the date fixed for filing and scrutiny of nomination paper ; and (c) the date on which and the hours during which a pool shall, if neces- sary, be taken, which shall be a date not earlier than the third day after the date fixed under clause (b). (2) On the issue of notification under sub-rule (I) the Returning Officer shall give public notice of the election in Hindi in

form I, by affixing a copy of the no- tice at his office and another copy thereof at such conspicuous place at the head quarters of the district and in such other manner, if any, as he may think fit and shall also cause to be despatched by post under certificate of posting, a coy of the notice to each member of his last known address

6. List of Members.—(l) Before the issue of notification under Rule 5, the Re- turning Officer shall cause to be prepared a list of the persons who are members for the time being, of the Zila Panchayat and give public notice of the same by having an authentic copy of the list affixed each at his office, and on the Notice Board of the Zila Panchayat. (2) The Returning Officer may at any time before the commencement Of the poll make such corrections in the list as may be occasioned by any changes in the membership or upon discovery of any error in the list whether upon the consid- eration of any claim or abjection to the inclusion of any name made by any per- son or otherwise; Provided that no name included in the list shall be deleted therefrom with- out prior notice to such person of the proposed deletion and giving him an op- portunity of showing cause against the proposed deletion

7. Nominations.—(l) Any person who desires to be nominated as a candi- date at an election to the office of Adhyaksha of a Zila Panchayat shall deliver in person or through his proposer or seconder, a nomination paper duly completed in Farm 11 to the Returning Officer within the hours of 11 0'clock in the forenoon and 3 Oclack in the after noon on the date and place specified in the notice under 184 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 [App. VI (2) The notification paper shall be signed by the candidate himself assenting to the nomination and also by one member as proposer and another member as seconder. (3) Where a candidate seeks election to a seat reserved for the Scheduled Casts or the Back ward Classes, there shall accompany with the nomination pa- per a declaration subscribed by him stating that he is a member of the Scheduled Castes or the Backward classes as the case may be, specifying the particular caste to which he belongs. (4) A nomination paper filed after the last hour mentioned in sub-rule (1) shall forthwith be rejected by the Returning Officer. 1[7-A. Printing and price of Nomination Papers.—The District Magistrate shall, subject to any direction issued by the State Election Commission, arrange for the printing and supply of nomination papers in

Form 11 to the candidates. The price of each nomination paper for the electin to the office of the Adhyaksha and the Up-Adhyaksha of a Zila Panchayat shall be such as may be fixed by the State Election Commission from time to time in consultation with the State Gov- ernmentl. 2[8. Deposits.—(l) A candidate shall not be deemed to be duly nominated for the election to the office of a Adhyaksha or a Up-Adhyaksha Zila Panchayat unless he deposits or causes to be deposited such sum as may be fixed by the State Election Commission from time to time in consultation with the State Gov- ernment as security. For the candidates of the reserved categories: Provided that where a candidate has been nominated by more than one nomination paper for the same election, nor more than one deposit shall be re- quired under this sub-rule. (2) Any sum required to be deposited under sub-rule (1) shall not be deemed to have been deposited under that sub-rule unless at the time of delivery of the nomination paper under Rule 7 the candidate has either deposited or caused to be deposited that sum with the Returning Officer in cash or enclosed with the nomination paper receipt showing that the said sum has been deposited by him or on his behalf in a Government Treasury or in the State Bank of India

9. Procedure of filing of nomination papers.—The Returning Officer shall on receiving a nomination paper under Rule 7 enter thereon its serial number and the date on which and the hour at which the nomination paper has been de- livered to him, and shall as soon as may be thereafter caåse to be affixed at same conspicuous place in his office at notice of the nominations in

Form Ill containing descriptions similar to those Contained in the nomination paper, both of the can- didate and of the persons who have signed the nomination papers, as proposerS and seconders

10. Scrutiny of nominations.—(l) At the scrutiny of nominations, the candi- dates, their proposer and seconders but no other persons, may attend. The Re- 1. Rule 7-A, ins. by Noti No. 1330/XXX111-1—12005-31-2002, dated 31 March, 2005, published in the U.P. Gazette, Extra. , Part 4, Section (Kha), dated 31, March, 2005 (w.e.f. 31.3.2005)• 2. Rule 8, subs. byNoti. No. March, 2005,pub1ishedinthe U.P. Gazette, Extra. , Part 4, Section (Kha), dated 31, March, 2005 (w c (Am. VI 185 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 turning Officer shall give them all reasonable facilities of examining the duly re- ceived nomination papers. (2) The Returning Officer shall examine the nomination papers and decide all objections which may be made at any nomination, and may, either on such objec- tion or on his own motion after such summary inquiry, if any, as he thinks neces- sary, reject any nomination on any of the following grounds: (a) that the candidate is not qualified to be chosen to the Office under the Act; (b) that the candidate is disqualified for being chosen to the office under the Act; (c) that there has been any failure to comply with any of the provisions of Rules 7 and 8 ; (d) that the signature of the candidate or the proposer or seconder is not genuine or has been obtained by fraud; (e) that the candidate is no tax member of the Zila Panchayat; (f) that the proposer or the seconder is not a member. (3) Nothing contained in clauses (c), (d) or (f) of sub-rule (2) shall be deemed to authorise the rejection of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper if the candidate has been duly nominated by means of another nomination paper in respect of which no irregu- larity 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 charac- ter and may for the purpose of removing any such defect or error allow any en- try to be corrected in the nomination paper including an entry relating to name or number on the electoral roll. (5) The order of the Returning Officer allowing any correction to be made under sub-rule (4) shall be final and shall not be questioned in any Court of law. (6) The Returning Officer shall hold the scrutiny on the date and time ap- pointed in this behalf under Rule 5 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by causes beyond his control. (7) The Returning Officer shall endorse on each nominated paper his deci- Sion accepting or rejecting the same and if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection. (8) For the purpose of this rule the existence of the name of a person in the list of members prepared under Rule 6 shall be conclusive evidence of the fact that he is eligible for election to the office of Adhyaksha

11. Withdrawal of candidature.—(l) A candidate may withdraw his candi- dature byi a notice in writing in Form IV, duly signed by him and,'delivered on the day and during the hours fixed under Rule 5 to the Returning Officer either by such candidate in person or by his proposer or seconder who has been author- ised in this behalf in Yriting by such candidate. 186 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 [App. VI (2) No person who has given a notice of withdrawal of his candidature under sub-rule (1) shall be allowed to cancel the notice. (3) On receiving a notice under sub- rule (1), the Returning Officer shall note thereon the date on which and the hour at which it was delivered. (4) If the candidate withdraws within the time prescribed under Rule 5, the security amount deposit by him shall be refunded. (5) The Returning Officer shall, as soon as may be after receiving notice of withdrawal under sub-rule (1), cause a notice of the withdrawal to be prepare d in Form V, and affixed in some conspicuous place in his office and on the Notice Board of Zila Panchayat

12. List of valid nominations and its publication.—(l) After withdrawals if any, under sub-rule (1) of Rule 11, the Returning Officer shall prepare a list of the duly nominated contesting candidates in

Form VI and shall publish it by affixing a copy thereof at his office and another on the Notice Board of the Zila Pancha- (2) The list of valid nominations shall be prepared in Hindi and shall contain the names in alphabetical order, with addresses of the duly nominated candi- dates as given in the nomination papers. The alphabetical order shall be deter- mined with reference to the names proper of other candidates

13. Unopposed candidate to be declared elected.— If there is only one duly nominated candidate, the Returning Officer shall forth with declare such candi- date to be fully elected to the office of Adhyaksha and cause a copy of such dec- laration to be affixed at the Notice Board of the Zila Panchayat and also report Lhe result to the State Election Commission

14. Death of contesting candidate before poll.—lf a candidate who has been duly nominated and who has not withdrawn his candidature dies and report of his death is received by the Returning Officer before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and all proceedings with reference to the election shall be commenced a new in all respects as if for a new election: Provided that no further nomination shall be necessary in the case of a can- didate whose nomination was valid at the time of countermanding of the poll: Provided further that no person who has given notice Of Withdrawal of his candidature under Rule 11 before the countermanding of the poll shall be eligible for being nominated for the election after such countermand

15. Absence of candidature.—lf no person is duly nominated or all the per- sons duly nominated withdraw their candidature under Rule 11 proceedingS shall be commenced anew as if for a new election. The Poll 16. Manner of voting.—The election will be held in accordance with the SYS- tem of proportion a representation by means of a single transferable vote and the voting at such election shall be by secret ballot. Vote shall be cast in person and no votes shall be recordéd by proxy. 187 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAI 'vv • [App. VI .—polling shall take place at such prominent place at .the headquarters of the district as may be decided by the Returning Offi_ cer and within the hours specified in the notice under Rule 5

Form VII and the names of the duly nominated candidates shall be given therein in Hindi in the order in which they appear in the list of valid nominations published under Rule 12.(2) A ballot box to be used at the poll shall be any of the types of boxes ap- proved by the State Election Commission, - — (1) The Returning Officer 19. Procedure before the commencement of poll. shall, immediately before the commencement of the poll, allow inspection of the ballot box to be used at the poll to such candidates as may be present at the place of polling. (2) The Returning Officer shall then secure and seal the box in such manner that the slit for the inspection of ballot papers remains open

20. Admission to the place of polling.—(l) The Returning Officer shall ex- Clude from the place of polling all persons except— (a) the candidates; (b) the members; and (c) such other persons as the Returning Officer may from time to time admit for the purpose of assisting him in taking the poll. (2) The Returning Officer shall close the place of polling at the hour fixed under rules and shall not admit therein any member after that hour: Provided that all members present inside the place before it is so closed shall be entitled to have their votes recorded

21. Procedure for giving ballot papers.—(l) The Returning Officer shall have before him the list of the members prepared under Rule 6. (2) Immediately before the ballot paper is delivered to a member, a mark shall be place against his name in the list. (3) The member shall sign his name in the list in token of receipt of ballot pa- per. (4) Before delivery of ballot paper to a member, the Returning Officer shall satisfy himself about the identity of the member and for that purpose he may take the assistance of such persons as he may think fit. (5) If the Returning Officer is not satisfied about the identity of any person, he may refuse to deliver a ballot paper to him after recording a brief note about the circumstances in which the refusal was made. (6) As soon as the issue of ballot papers is finished, the Returning Officer shall place the counterfoils of ballot papers in an envelope and close and seal the same. The envelope shall not be opened except upon the order of-a—Court 01 other authority deciding any dispute relating to such elections

22. Supply of fresh ballot paper in certain circumstances.—(l) A membel who has inadvertently dealt with his ballot paper in such manner that it canno 188 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 (App. VI be conveniently used as a ballot paper may, on returning it to the Returning Offi_ cer and on satisfying him of the inadvertence, obtain another ballot paper in place of Ihe ballot paper so returned, and the latter shall, together With its coun_ terfoil, be marked as "Rcturncd and Cancelled" by the Returning Officer. (2) Any ballot paper so cancelled shall be kept in an envelope set apart for lhe purpose

23. Returning of unused ballot papers by mcmbers.—lf a member after ob- taining any ballot paper for the purpose of recording his vote decided not to use the sanw, he shall return lhe ballot paper to the Returning Officer who shall mark it "Returned and Cancelled" and keep it in thc envelope set apart for the purpose under sub-rule (2) of Rule 22

24. Manner of recording voting.—(l) Every member shall have as many preferences as there are candidates but no ballot paper shall 'be considered inva- lid solely on the ground thal all such preferences are not marked. (2) A member in giving his vote— (a) shall mark on his ballot paper the number 1 in the space opposite the name of the candidate whom he chooses for his first preference; and (b) may in addition, make as many subsequent preferences as he wishes by marking on his ballot paper the numbers 2, 3, 4 and so on in the space opposite the names of other candidates in order of his prefer- ence. (3) The Returning Officer shall, if requested by a member explain to him the instructions contained on the ballot paper for recording of votes. (4) For making his preference a member shall enter a polling compartment provided at the place of polling and screened from observation. (5) After the preference have been marked the member shall fold the ballot paper and put it into the ballot box through the slit provided for the purpose. (6) If a member is unable to read the ballot paper or to record his vote thereon by reason of illiteracy, blindness or other infirmity the Returning Officer shall, on being satisfied about such illiteracy, blindness or infirmity permit the elector to take with him a companion of not less than 21 years of age who is able to read the ballot paper and record the vote thereon on behalf of, and in accor- dance with, the wishes of the member and if necessary •to fold the ballot paper so as to conceal the vote and insert it into the ballot box: Provided that no person shall be permitted to act as companion of more than one member at the polling on the same day: Provided further that before any person is permitted to act as the companibn of a member under this rule he shall be required to declare that he will keep se- cret the vote recorded by him on behalf of the member and that he has not al- ready acted as the companion of any other member at the polling on that day• The Returning Officer shall keep a record in

Form 7 A of all the cases under this sub-rule. Counting 25. Procedure at the counting.—(l) As soon as the poll is closed the Return- ing Officer shall in the presence of the contesting candidates and the members who may be present proceed to count the votes. (App. VI 189 i. u.p. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 (2) The Returning Officer shall open the ballot box and shall— (a) count the number of ballot papers taken out therefrom and record it in a statement; (b) scrutinise the ballot papers and separate those which in his opinion are valid from those which in his opinion are invalid endorsing on the lat- ter the word "rejected" with reasons for sttch rejections; and (c) arrange all the valid ballot papers in parcels according to the first pref- erence recorded for each candidate. (3) A ballot paper shall be rejected as invalid on which— (a) the number 1 is not marked; or (b) the number 1 is marked opposite the name of more than one candidate or is so marked as to render it doubtful to which candidate it is in- tended to apply; or (c) the number 1 and some other numbers are marked opposite the name of the same candidate; or (d) any mark is made by which the voter may afterwards be identified

26. Determination of result.—After all the valid ballot papers have been ar- ranged in parcels according to the first preference recorded for each candidate, the Returning Officer shall proceed to determine the result of the voting in ac- cordance with the instructions contained in Schedule 11 to these rules

27. Recounting.—The Returning Officer may, either on his own initiative or at the instance of any candidate, recount the votes, whether once or more than once, when the Returning Officer is not satisfied as to the accuracy of the previ- ous counting: Provided that nothing herein contained shall make it obligatory on the Re- turning Officer to recount the same votes more than once

28. Declaration of result.—When the counting is completed and the result of the voting has been determined, the Returning Officer shall in the absence Of any direction by the State Election Commission to the contrary forthwith— (a) announce the result to those present; (b) report the result to the State Election Commission and the State Gov- ernment; (c) prepare and certify a return of the election in

Form VIII ; and (d) seal up in separate packets the valid ballot papers and the rejected bal- lot papers and recorded on each such packet a description of its con- tents

29. Custody, inspection and disposal of election papers.—(l) The Return- ing Officer shall, after reporting the result under sub-rule (b) of Rule 28 forward the sealed envelopes and packets, referred to in the preceding rules and also the records referred to in sub-rule (6) of Rule 24, the retum of election prepared un- der sub-rule (c) of Rule 28, each placed in a separate sealed envelope, to the Dis- trict Panchayat Raj Officer. Each envelope or packet shall have written over it specification of the contents thereof. u.p. KSHETiRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1 (App. VI 190 (2) While in the custody of the District Panchayat Raj Officer, the packets of ballot papers whether unused, cancelled valid or rejected and the •list of members used while issuing ballot papers shall not be opened and their contents shall not be inspected by or produced before any person or authority except under the orders of the Competent Court, Inspection of other papers shall be allowed by the District Panchayat Raj Officer to any person within such hours as he may fix (3) Inspection of election papers whether allowed by the Competent court for the purpose. on the District Panchayat Raj Officer under sub-rule (2) shall be subject to the conditions of payment of a fee of Rs. 10 per day on which the inspection is made and copies of the return prepared under sub-rule (c) of Rule 28 shall be furnished by the District Panchayat Raj Officer to any person who may ask for the same on payment of a fee Rs. 10 for each copy. (4) Election papers referred to in sub-rule (1) shall be retained for a period of one year and shall thereafter be destroyed subject to any direction to the contrary given by the State Election Commission or the Competent Court. —(1) If the nomination of any candi- 30. Return and forfeiture of deposits. date is rejected by the Returning Officer, he shall pass an order for the return of the deposit made under Rule 8 to the candidate or to the person who made the deposit. (2) If a contesting Candidate dies before the commencement of the poll, the deposit made under Rule 8 shall, if made by him, be returned to his legal repre- sentatives and if not made by him, be returned to the person by whom it was made. (3) If a candidate nominated for election is not elected and the number of votes poled by him by way of first preference does not exceed one-fourth of the total number of votes poled, the deposit made under Rule 8 shall be forfeited to the State Government. Explanation.—For the purpose of this subs-rule, the number of votes polled shall refer only to the number of valid ballot papers counted. (4) In cases not covered by the preceding sub-rules and Rule 11, every de- posit made under Rule 8 shall after publication of the result of the election in the Gazette, be returned to the candidate

31. Procedure to be followed in filling casual vacancies.—For filling a cas- ual vacancy in the office of Adhyaksha, the procedure to be followed shall, as far as may be, be the same as laid down in the foregoing rules

CHAPTER 111 Conduct of Election of Up-Adhyaksha 32. Election of Up-Adhyaksha.—Rules 3 to 31 and Forms I to VIII shall muta- tis mutalldis apply in cases of election of an Up-Adhyaksha and shall for that purpose be construed and used with all requisite adaptations in respect of head- ings, citations, references and entries appropriate to the occasion: Provided that nothing in these rules shall be deemed to prohibit the electionS to the offices of the Adhyaksha and the Up-Adhyaksha being held separately or together: U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 (App. VI Provided further that where elections to the offices of Adhyaksha and Up. 191dhyaksha are held together, all procedure shall be taken separately in respect of election to each of such offices save only that separate ballot papers for all such elections issued under Rule 21 together and the same may, after being marked, be put into the same ballot box

CHAPTER IV Disputes Regarding Elections of Adhyaksha and Up-Adhyaksha 33. Time and manner of presenting An election petition call- ing in question the election of an Adhyaksha or Up-Adhyaksha may be pre- sented to the Judge at any time within thirty days from the date of declaration of the result under Rule 13, Rule 28, as the case may be. (2) It shall be presented in person by the petitioner or if there are more than one petitioner, by any one or more of them

34. Form, etc.of Ån election petition shall specify the ground or grounds on which the election of the returned candidate is questioned and shall contain a summary of the circumstances alleged to justify the election being questioned on such grounds. (2) The person whose election is questioned and where the

petitioner claims that any other candidate shall be declared elected in the place of such person, every unsuccessful candidate shall be made a respondent to the petition

35. Relief that may be claimed by the petitioner.—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

36. Security.—(l) At the time of presenting an election petition the petitioner shall enclose with it a receipt showing that a sum of two hundred and fifty ru- pees 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 an election petition the Court-fee prescribed in the Court Fees Act, 1870, or if no such Court fee is prescribed in that Act, a fee Of RS• 125 in Court-fee stamps

37. Recrimination when seat claimed.—When in an election petition a decla- ration 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 in question his election

38. Procedure.—(l) Except so far as provided by the Act or in these rules, the procedure provided in the Civil Procedure Code, 1908, in regard to suits' shall' insofar as it is not inconsistent with the Act or any provisions of these rules and it can be made applicable, be allowed in the hearing of the election petition* 192 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 (App. VI Provided that— (a) any two or more elections relating to the election of the same person may be heard together; (b) the Judge shall not be required to record or to have recorded the dence in full but shall make a memorandum of' the evidence in his opinion for the purpose of deciding the case; (c) the Judge may, at any stage of the proceedings require the petitioner to give further cash security for the payment of the costs incurred likely to be incurred by any respondent; or (d) for the purpose of deciding any issue the Judge shall be required to order production of or to receive only so much evidence, oral or documentary, as he considers necessary ; (e) no appeal or revision shall lie on a question of fact or law against any decision of the Judge; (f) the Judge may review his decision on any point on an application be. ing made within fifteen days from the date of the decision by any per_ son considering himself aggrieved thereby; and (g) no witness or other person shall be required to state for whom he has voted at an election. (2) The provisions of Lhe Indian Evidence Act, 1872 (Act No. 1 of 1872) shall be deemed to apply in all respects to the trial ofan election petition. (3) Before the hearing of a election petition commences or before the final hearing takes place, the petition may be withdrawn by the petitioner or the peti- fioners, as the case may be, by making an application to the Judge requesting for the withdrawal of the petition and upon the making of such an application the petition shall stand withdrawn and no further action shall be taken for its trial

39. Abatement of petitions.—(l) An election petition claiming a declaration mentioned in clause (a) of Rule 35 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 any election petition claims the declarations mentioned in clause (b) Of Rule 35 and the returned candidate dies, the Judge shall cause notice Of such event to be published in the Gazette and thereupon any person who might have been a petitioner, may within fourteen days of the publication apply to be substi- tuted in place of the returned candidate to oppose the petition and shall be enti- tled to continue the proceedings upon such terms as the Judge may think fit

40. Orders of the Judge.— (1) If the Judge after making such inquiry as he deems fit finds in respect of any person whose election.is called in question b! a petition that his election was valid, he shall dismiss the petition as against such person and award costs at his discretion. (2) If the Judge finds that the election of any person was invalid he shall ther— (a) declare a casual vacancy to have been created • U.P. KSHETTRA PANCHAYAT & ZILA PANC [App. VI (b) declare another candidate to have been duly elected and in either 193 may award costs at his discretion

41. Powers of the If the petition is found to be frivolous the Judge may direct that the security or any part thereof shall be forfeited to the (2) An order for costs passed by the Judge shall be executed by him State Government.on an application made in that behalf in the same manner and in accordance With the same procedure as if it were a decree for the payment of money made by himself 42. •Ground for which a candidate other than the returned candidate may in a suit. be declared to have been elected.—lf

any person who has lodged' an election petition has in addition to calling in question the election of the returned date; claimed a declaration that he himself or any other candidate has been duly elected and the' Judge is of the opinion that in fact the petitioner, or such other candidate received a majority of the valid votes, the Judge 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 other 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 the returned candidate and a petition had been pre- sented calling in question his election

43. Procedure in case of equality of votes.—lf during the trial of an election petition it appears that there is an equality of votes between candidates at the election and that one of them is to be eliminated then— (a) any decision, made by the Returning Officer under the provision of these rules, shall, insofar as it determines the question between those candidates, be effective also for the purposes of petition; and (b) so far as that question is not determined by such a decision, the Judge shall decide between them in accordance with the provisions of the in- structions in Schedule 11 to these rules

44. Taking effect of Judge's order.—An order of the Judge under sub-rule (2) of Rule 40 shall take effect from the date of the order

45. Communication of order and transmission of record.— The Judge shall as soon as may be after announcing the orders made by him under Rule 40 send a copy thereof each to State Election Commission, the State Government and the District Magistrate

46. Disposal of security deposit and recovery of, costs.—(l) Subject to provi- sions of sub-rule (1) of Rule 41, costs, if any, awarded to any respondent by a Judge shall be recoverable out of the security deposited under Rules 36 and 38 and the balance of the security deposit, if any, shall be refunded to the petition.er• (2) The costs or any portion thereof, awarded to any respondent and not re- covered from the security deposit referred to in sub-rule: (l) and costs payable to petitioner from any respondent shall be recoverable in accordance with the visions of sub-rule (2) of Rule 41. 194 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT AD INIYAM, 1961 IApp.Vl (3) While making his order under Rule 40 the Judge shall also about the recovery of costs and the refund of security deposits in P with the provisions of this rule and the District Magistrate shall carry out the der accordingly on receipt of a copy of the Judge's Orders under Rule 45

47. Appeal against the order of the An appeal shall lei fro every order made by the Judge under Rule 40 to the High Court Within Provided that the High Court may entertain an appeal after the expiry of th said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.(2) Every person who prefers an appeal under sub-rule (1) shall enclose With the memorandum of appeal a Government Treasury receipt showing that a posit of five hundred rupees has been made by him either in a Government Treasury or in the State Bank of India in favour of the High Court as security for costs of the appeal

CHAPTER V 48. Manner of raising disputes under clause (c) of sub-section (2) of Section 27.—(1) If a dispute arises as to whether a person has become disqualified to be Adhyaksha or Up-Adhyaksha for the purposes of Section 19, the matter shall be referred by means of a written petition by any person whose name is registered as an elector in the electoral roll for a territorial constituency of the Zila Pancha- yat, to the Judge at any time during the currency of the term of the said Adhyak- Sha or Up-Adhyaksha, as the case may be. (2) Every petition under sub-rule (1) shall be presented in person by the peti- tioner or if there are more signatories to the petition, then by any one or more of them

49. Form, etc.of petition.—(l) A petition presented under Rule 4S shall spec- ify the grounds on which the person is alleged to have become disqualified to be Adhyaksha or Up-Adhyaksha and shall contain a summary of the circumstances alleged to justify the dispute being raised on such grounds. (2) The Adhyaksha or the Up-Adhyaksha against whom the dispute has been raised shall be made as a respondent to the petition

50. Security.—At the time of presenting petition under Rule 48 the petitioner shall enclose therewith a receipt showing that a sum of two hundred rupees has been deposited by him or on his behalf in Government Treasury or in the State Bank of India as security for the costs of the petition

51. Orders of the Judge.—lf the Judge finds that the person, against whom the petitioner has been raised under Rule 48 has become disqualified to be Adhyaksha or Up-Adhyaksha, as the case may be, for purposes of Section 19, he shall declare a casual vacancy to have occurred in the said office

92. Other procedure etc.—The provisions of Rules 36 (2), 38, 39 (2), 41, 44, 45 and 46 'shall, as far as may be apply to the disputes raised under Rule 48. up, P, P/djr,fffßfßf 11,381 VORM J (Rule From of notice of ejection to the office of Adhyakgha Whereati Adhyak%ha han to ZjJa Panchayat, f Returning Officer for (he gaid election do hereby give the foJJowing; Public Notice (i) Nomination paperg may be delivered to the underg;gned at (place) or if he is unavoidabJy prevented from receiving thc game, to (pJacc) they nhaJJ be pregentcd between 11 a.m. and 3 p.m. at (date). (ii) The nomination paperg wiJJ be taken up for scrutiny at (hours) date jn (place). (iii) In the event of the election being contested the poJJ will take pJace between the hours of on. (place). Date Address . .at Returning Officer. Note.—Forms of nomination paper may be obtained from the office of the Re- turning Officer .....,,..... .....between the hours of . and ..(hours) (hours) from (date) .....,, ...to (date). L 2. 3. 4. 5. 6. 7

8. FORM 11 (Rule 7) Nomination paper for election to the office of Adhyaksha Zila Panchayat Name of candidate.. Father's/Hugband' s . Age Territorial Constituency in the electoral roll of which the name of the candidate is included: Serial number of the candidate in the list of members prepared under Rule 6 of the Uttar Pradesh Zila Panchayats (Election of Adhyaksha and Up-Adhyaksha and Settlement of Election Disputes) Rules, 1994 Name and address of the proposer . Signature of the proposer . 196 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 (App. VI 9, Name and address of the seconder.....

10. Signature of the seconder Note..—lf the nomination is for an office reserved for the Sched uled Castes or the Backward Classes, the declaration under sub-rule (3) of Rule 7 of the Uttar Pradesh Zila Panchayats (Election of Adhyaksha and Up-Adhyaksha and Settle. ment of Election Disputes) Rules, 1994 shall be furnished with the nomination Declaration by the Candidate I hereby declare that I agree to this nomination. Date.... Signattlre of candidate Certificate of Delivery Serial No.,, This nomination paper was delivered to me at my office at (date and hour) by the Candidate/ Proposer/ Seconder. Retitrning Officer Certificate of Scrutiny I have scrutinised the eligibility of the candidate and the proposer and the seconder and find that they are respectively qualified to stand for election and to propose and second the nomination. Returning Officer Note.—(l) The nomination paper will not be valid unless it is delivered to the Returning Officer or to an Assistant Returning Officer authorised to receive it, at the place, on the date and within the hours specified in this behalf in the notice issued by the Returning Officer under Rule 5 of the Uttar Pradesh Zila Pancha- yats. (Election of Adhyaksha and Up-Adhyaksha and Settlement of Election Dis- putes) Rules, 1994. (2) In Item No. 2 the inappropriate alternative should be struck off, Husband's name is to be filled in all cases where the candidate is a married woman or a widow.

FORM 111 [Rule 91 Notice of nomination for election to the Office of Adhyaksha of Zila up to 3 p.m.
Panchayat received on I. 2. 3

4. Serial No... Name of candidate.....,,.... Father's/ Husband's name Age .. 197 5. 6. 7. 8. 9. To, Dated this .....day U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 Address (App. VI Name and address of proposer name and address of Territorial constituency in the electoral roll of which the name of the candidate is included Serial number of the candidate in the list of members prepared under Rule 6 of the Uttar Pradesh Zila Panchayats (Election of Adhyaksha and Up-Adhyaksha and Settlement of Election Disputes) Rules, 1994.

FORM IV [Rule 11] Form of notice of withdrawal The Returning Officer. Subject—Election to the Office of the Adhyaksha of Zila Panchayat. of ....a candidate nominated at the above- mentioned election do hereby give notice that I withdraw my candidature. 199..... Signature of candidate (To be fitted in office) This notice of withdrawal was delivered to me at my office (hours) on . ...(date) .....the candidate/ the candidate's pro- poser/ the candidate's seconder who has been .authorised by the candidates to deliver it. Returning Officer. FORM V [Rule 11] Notice of withdrawal of candidature Notice(s) of withdrawal of candidature(s) for election to the office Of Adhyaksha of Zila Panchayat has/ have been received on.....from the following candidate/from each of the following candidates; Name(s) of candidate(s) : 1. 2. etc. Dated ... • .....199..... ... Returning Officer. 198 U.P. KSHETTRA PANCHAYAT & PANCHAYAT ADHINJYAM, 1961 FORM VI [Rule 12] List of valid nomination (App. VI Zila Panchayat Election to the office of Adhyaksha. Final list of candidates for election. . Name of candidate Serial No. 2 1 1. 2. 3. 4. etc. FORM VII (Rule 18) Form of Ballot Paper Address Of candidate 3 Returning Officer. Counterfoil ..... Zila Panchayat..... District:..... Election of Adhyaksha 199.....

1. Serial No of ballot paper 2.3. etc. Outer foil (front)..... Zila Panchayat..... District..... Election of Adhyaksha 199 Preference Name of candidate Instructions 1. The persons whose names are given on the ballot paper have been nominated as candidates for election to the office of Adhyaksha of Zila Panchaya t

2. The vote shall be recorded by placing the No.l in the space opposite the name of the candidate whom the voter chooses for his first prefer- ence and the voter may in addition, mark as many subsequent prefer- ences as he wishes by placing the Nos. 2, 3, 4, and so on in the space opposite the names of other candidates in order of preference. Outer foil (Back) Serial No. of Ballot 199 AOHINIYAM, 1961

FORM VII-A [See Rule 24 List of illiterate, blind and infirm voters IADD. VI Election Of Adhyaksha and Up-Adhyaksha of Zila panch Name of Polling Station ayat Serial No. of elector in the list of members 1 Dated Full name of elector 2 Fttll name of companion 3 FORM VIII [See Rule 281 Address of Signature of companion companion 4 5 Signature of Returning Officer 1. 2. 3. 4. 5. 6. 7. 8. 9. 10

11. Result of election to the office of the Adhyaksha, Zila Panchayat . Serial No ..... Name of candidate ..... Votes secured at first count..... Votes credited at first exclusion..... Total of Columns 3 and Votes credited at second exclusion..... . Total of Columns 5 and 6 ..... Votes credited at third exclusion.....,,... ..... Total of Columns 7 and 8 . Votes credited at fourth Total of Columns 9 and 10 . Exhausted Total number of valid ballot papers Representing Votes Total number of invalid ballot paper. Representing votes.....,,.....,... I declare that— (Name) (Address)..... . has been duly elected to the office of the Adhyaksha, Zila Panchayat' Returning Officer, 200 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 SCHEDULE 11 (See Rule 26) Instruction for the Determination of Result 1. In this Schedule— (App,Vl (1) the expression "continuing candidate" means any candidate not elected and not excluded from the poll at any given time: (2) the expression "first preference" means the No. 1 set opposite the name of any candidate, the expression "second preference" similarly means the No. 2, the expressions "third prefefence" the No. 3 and so on; (3) the expression "next available preference" means the second or subses quent preference recorded in consecutive numerical order for a cone tinuing candidate, preferences for candidates already excluded being ignored; (4) the expression "unexhausted paper" means a ballot paper on which a further preference is recorded for a continuing candidate; (5) the expression "exhausted" means a ballot paper on which no further preference is recorded for a continuing candidate: provided that a pa- per shall be deemed to be exhausted in any case in which— (a) • the names of two or more candidates whether continuing or not are marked with the same figures, and are next in order of prefer- ence; or (b) the name of the candidate next in order of preference whether con- tinuing or not, is marked by a number not following consecutive after some other number on the ballot paper or by two or more numbers

2. Ascertain the number of first preference votes secured by each candidate and credit him with that number

3. Add up the numbers so credited to all the candidates, divide the total by two and add one to the quotient disregarding any remainder. The resulting number is the quota sufficient to secure the return of candidates at the election. 4. (1) If there are only two contesting candidates then: (a) if one candidate gets larger number of first preference votes than the other, declare the former as elected; or (b) if both the candidates get equal number of first preference votes, dé- termine the result by drawing of 1 lots. Exclude the candidate On whom the lot falls and declare the other candidate as elected. (2) If there are more than candidates, then— (a) If one of them is found to secure first preference votes équal to or more than the quota determined under Instruction No.3 declare him as elected; or (b) If none of them secure first preference votes equal to or more than the quota determined under Instruction No. 3 declare him as elected; or 201 u,p. 1<611ETTflA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 [App. VI 5, Jf at lhe end of the first or any subsequent count the total number of votes credited Io any candidate is equal to or greater than the quota or there is only one continuing candidate, that candidate ig declared electecL 6, Jf at the and of any count, no candidate can be declared elected: (a) exclude lhe candidate who up to that stage has been credited with the lowest number of votes; (b) examine all the ballot papers in his parcel and sub-parcel, arrange the unexhausted papers in sub-parcels according to the next available preferences recorded thereon for the continuing candidates, count the number of votes in each such sub-parcel and credit it to the candidate for whom such preference is recorded, transfer the sub-parcel to that candidate and make a separate sub-parcel of all the exhausted papers; and (c) see whether any of the continuing candidates has, after such transfer and credit, secured the quota. If, when a candidate has to be excluded under clause (a) above, two or more candidates have been credited with the same number of votes and sand lowest on the poll, exclude that candidate who had secured the lowest number of first preference votes, and if that number also was the same in the case of two or more candidates decide by lot which of them shall be excluded. AJI the sub-parcels of exhausted papers referred to in clause (b) above shall be set apart as finally dealt with and the votes recorded thereon shall not thereaf- ler be taken into account. there are four candidates. A, B, C and D and the num- ber of first preference votes secured by them are — A-12 11 35 The quota will be = 35/2+1 = 18 No candidate having obtained votes equal to or

over the quota at the first count; the candidate having the lowest votes, namely b, will be excluded Suppose there are second preferences marked on only four ballot papers in the parcel of D as below: The fifth ballot paper will be placed in the sub-parcel of exhausted papers and [he Iwo papers recording second prefeyence for A and B each will be placed •in •separate sub-parcels for A and B, each of them will be credited with two addi- . Ijpnal,votOs. The votes for A, B and C will now be : 202 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 A = 12+2 B-11+2 (App. VI Since at the end of the second count no candidate can be declared elected, the candidate C having the lowest votes out of the three continuing candidates will now be excluded and his votes transferred to other continuing candidates A and B. Suppose second preference as recorded in all the ballot papers in the parcel of C are as below: After crediting A and B with these additions votes. A would have secured 18 votes, that is equal to the quota and B = 16 votes. A will, therefore, be declared elected.