UTTAR PRADESH KSHETRA PANCHAYAT (ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON AND SETTLEMENT OF ELECTION DISPUTES) RULES

APPENDIX-VIII The Uttar Pradesh Kshettra Panchayats (Election of Pramukhs and Up-Pramukhs and Settlement of Election Disputes) Rules, 19941 In exercise of the powers under Section 237 read with Section 264-B of the U.P. Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961 (U.p. Act No. XXXIII of 1961) and in supersession of the U.P. Kshettra Samitis (Election of Pramukhs and Up-Pramukhs and Settlement of Election Disputes) Rules, 1962 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 Kshettra Panchayats (Election of Pramukhs and Up-Pramukhs and Set- tlement of Election Disputes) Rules, 1994. (2) These rules shall come into force at once

2. Definitions.—ln these rules, unless there is anything repugnant in the subject or context: (a) "Act" means the Uttar Pradesh Kshettra Panchayats and Zila Pancha- yats Adhiniyam, 1961; (b) "Election" means an election to fill the office of the Pramukh or Up- Pramukh, as the case may be of a Kshettra Panchayat; (c) "Member" means an elected member of a Kshettra Panchayat under clause (b) of sub-section (1) of Section 6 of the Act; (d) "Form" means a form given in Schedule I to these rules; (e) "Panchayat" means a Kshettra Panchayat established under Section 5 Of the Act; and (f) "Schedule" means a Schedule to these rules

3. Mukhya Nirvachan Adhikari (Panchayat).—The Mukhya Nirvachan Adhikari (Panchayat) appointed by the State Government, as required by the State Election Commission, shall, under the superintendence, direction and trol of the State Election Commission, perform all the functions relating to the conduct of elections

4. Returning Officer.—The District Magistrate shall be the Returning Officer for conducting elections under these rules, 1. Substituted byNoti. No. 4180/XXX111-1-1994-276-94,dated 22 November; U.P. Gazette, Extra, Part 4, Sec. (Kha), dated 22 November, 1994. (211) 212 U.P. KSHETTRA PANCHAYAT & PANCHAYAT ADHINIYAM, 1961 (App. Vill 5. Assistant Returning Officers.—(l) Returning Officer may appoint one or more persons as Assistant Returning Offices to assist him in the performance of his functions under these rules. (2) •Evéry Assistant Returning Officer shall be competent to perform all or any of the functions Of the Returning Officer. (3) The Returning Officer may take such assistance from such other staffs in a Government Department for conducting election as he may deem necessary. (4) The Returning Officer and the Assistant Returning Officer shall perform their functions and duties under the superintendence, direction and control of the State Election Commission

CHAPTER 11 Conduct of Election of Pramukh Nomination 6. Appoint of dates for nomination's, etc.—(l) Whenever an election is re- quired to be held under the Act to the office of Pramukh of a Kshettra Panchayat, . the Stale Election Commission shall, by notification, appoint of the election— (a) the date for filing nomination paper and scrutiny thereof which shall be a date at least two days after the date of notification; (b) the date"and the time for the •withdrawal of candidate which shall or- dinarily be the next day after the date fixed for filing and scrutiny of nominafion paper; and (c) the date on which and the hours during which a poll shall, if neces- sary, be taken which shall ordinarily be the next day after the date fixed under clause (b). (2) On the issue of notification under sub-rule (1), the Returning Officer shall give public notice of the election in Hindi a

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 Khand and in such other member, if any, as he may think fit and shall also cause to be despatched, by post under certificate of posting, a copy of the notice to each member at his last known address

7. List of Members.—(l) Before the issue of notification under Rule 6 the Re- turning Officer shall cause to be prepared a list of the persons who are members for the time being, of the Kshettra Panchayat and give public notice of the same by havirig an authentic copy of the list affixed each at hiS office, the office of the District Magistrate and such other conspicuous places at the Headquarters of the Kshettra Panchayats as he may think paper. (2) The Returning Officer may at any time before the commencement of the poll may 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 consideration of any claim or objection to the inclusion of any name made by any person 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

8. Nominations.—(l) Any person who desires to be nominated as a candi- daté at an election to the office of Pramukh of a Panchayat shall deliver in person 213 [App. VIII U.P. KSHETTRA PANCHAYAT & PANCHAYAT ADHINIYAM, 1961 or through his proposer and seconder, a nomination paper duly filled in

Form 11 to the Returning Officer within the hours of 11 0'clock in the forenoon and 3 o'clock in the afternoon on the date and at the place specified in the notice under Rule 6. (2) The nominaüon paper shall be signed by the candidate himself as assent- ing 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 Tribes or the Scheduled Castes or the Backward Classes, there shall accompany with the nomination paper a declaration subscribed by him stating that he is a member of the Scheduled Tribes or the Scheduled Castes or the Backward Classes, as the case may be, specifying the particular tribe or 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[8-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 election to the office of the Pramukh, the Senior Up-Pramukhs and Junior Up-Pramukhs of a Kshettra Panchayat shall be such as may be fixed by the State Election Commission from time to time in consultation with the State Government." 2[9. Deposits.—(l) A candidate shall not be deemed to be duly nominated for the election to the office of a Pramukh, Senior Up-Pramukh or Junior Up- Pramukh of a Kshettra 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 Government as security. Such deposit for the candi- dates of the reserved categories shall be half of the sum fixed for the candidates of unreserved categories : Provided that where a candidate has been nominated by more than one nominafion paper for the same election, not 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 nomination paper under Rule 8 the candidate has either deposited or caused to be deposited that sum with the Returning Officer in -cash or enclosed with the nomination paper a receipt showing that the sum has been deposited by him or on his behalf in a Government Treasury or in the State Bank of India. " 10. Procedure of filifig of nomination papers.—The Returning Officer shall on receiving a nomination paper under Rule 8 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, cause to be affixed at some conspicuous place in his office a notice of nominations in Form Ill containing

1. New rule 8-A, ins. and Rules 9 subs., by Noti.No. dated 31 March, 2005. Pub. in UP. Gazette Extra Part 4 sec. (Kha) Dated 31 March, 2005

2. New rule 8-A, ins.and Rules 9 subs., by Nod. No. 1329/xxx111-1-2005-31-2002, daEd31 March, 2005. Pub. in U.P. Extra Part 4 sec. Dated 31 March, 2005. 214 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 (App. VIII descriptions similar to those contained in the nomination paper, both of the can- didates and of the persons who have signed the nomination papers as proposer and seconder

11. Scrutiny of nominations.—(l) At the scrutiny of nominations, the can- didates, their proposers and seconders bul no other person, may attend. The Re- turning Officer shall give them all reasonable facilities for examining the duly received nomination papers. (2) The Returning Officer shall examine the nomination papers and decide all objections. which may be made to any nomination, and may either on such objec- tions or on his own motion after such summary inquiry, if any, as he thinks nec- essary, reject any nomination on any of the following grounds— (a) (b) (c) (d) (f) (g) that the candidate is not qualified to be chosen to the office under the Act; that the candidate is disqualified for being chosen to the office under the Act; that there has been any failure to comply with any of the provisions of Rules 8 and 9; that the signature of the candidate or the proposer or seconder is not genuine or has been obtained by fraud; that the candidate is not a member; that the proposer or the seconder is not a member; and, that the candidate does not belong to the tribe or caste or class or sex for whom the police is so served. (3) Nothing contained in clause .(c), (d), (e), (f) or (g) 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 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 charac- ter and may for the purpose of removing any such defect or error allow any en- try to be correct in the nomination paper including any entry relating to name or number on the election 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 6 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by cause beyond his control. (7) The Retuming Officer shall endorse on each nomination 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 7 shall be conclusive evidence that heis eligible for election to the post of Adhyaksha. 215 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADIIINIYAM, 1061 (App. Vill (9) Immediately after all the nomination papers have been scrutinised and decisions accepting or rejection the same have been recorded, the Returning Offi- cer shall in

Form Ill-A, a list of validly nominated candidates, that is to say, candidates whose nominations have been found valid and affix it to his no. tice board

12. Withdrawal of A candidate may withdraw his candida.ture by a notice in writing in Form IV, duly signed by him and delivered on the day and during the hours fixed under rule 6 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 writing by such candidate. (2) No person who has given a notice of withdrawal of his candidate under sub-rule (1) shall be allowed Io cancel lhe notice. (3) On receiving a notice, under sub-rule (1) lhe Returning Officer shall note thereon the date on which, the hour at which and the name of the person by whom it was delivered. (4) If the candidate withdraws within the time prescribed under Rule 6 the security amount deposited by him shall be refunded. (5) The Returning Officer shall, as soon as may be, after receiving notice of withdrawal under sub-rule (1) and on being satisfied as to the genuineness of the notice of withdrawal and the identity of the person delivering it cause a no- tice of the withdrawal to be prepared in Form V and to the affixed to his notice board. (6) A notice of withdrawal received after the day and hour mentioned in sub- rule (1) shall be ignored by the Returning Officer, but if any time before the commencement of the poll notice of withdrawal have been received from all the candidates but one entered in the list of contesting candidates under Rule 13, the Returning Officer shall order that no poll shall be taken and shall in that case proceed as under Rule 14

13. List of valid nomination and its publication.—(l) If after withdrawal, if any, under sub-rule (1) of Rule 12 there are two or more contesting candidates, the Returning Officer shall prepare a list of the contesting candidates in

Form VI and shall publish it by affixing a copy thereof to his notice board of his office and another at the office of the Kshettra Panchayat. (2) The list of contesting candidates shall be prepared in Hindi written in Devanagri script and shall contain the names in alphabetical order, with ad- dresses of the contesting candidates as given in the nomination papers

14. Uncontested election and declaration of result.—lf only on candidate is duly nominated under sub-rule (9) of Rule 11 or if a result of withdrawals under Rule 12 there is only one candidate left, the Returning Officer shall forthwith de- clare such candidate to be duly elected to the office of Pramukh and cause a COPY of such declaration to be affixed at such prominent place at the headquarters Of the Kshettra Panchayat as he may think proper and also report the result to the District Magistrate and the State Election Commission

15. Death of a candidate before poll.—lf a candidate whose nomination has been found valid on scrutiny under Rule 11 and who has not withdrawn his can- 216 U.PI KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 (App. Viii didature under Rule 12 dies and report of his death is received by the Returning Officer before the publication of the list' of contesting candidates under sub-rule (1) of Rule 13 if a contesting candidate 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 dealt of the candidate, termand the poll and all proceeding with reference to the election shall be corn. menced anew in all respects as if 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 the countermanding of the poll: Provided further that no person who has given notice of withdrawal of his candidature under Rule 12 before the countermanding of the poll shall be eligible for being nominated for the election after such countermanding

16. Absence of candidature.—lf no person is duly nominated or all the per. sons duly nominated withdraw their candidature under Rule 12 proceedings shall be commenced anew as if for a new election. The poll 17. Manner of voting.—The election will be held in accordance with the sys- tem of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot. Votes shall be cast in person and no votes shall be received by proxy

18. Place and hour of polling.—Polling shall take place at such prominent place at the Headquarters of the Khand as may be decided by the Returning Offi- cer and within the hours specified in the notice under Rule 6

Form VII and the name of the contesting candidates shall be given therein in Hindi in the order as in the list of contesting candidates published un- der Rule 13. (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

20. Procedure before the commencement of the The Returning Of- ficer 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 insertion of ballot papers remains open

21. 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 Rule 6 and shall not admit therein any member after that hour: 217 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM. 1961 (App. Provided that all members present inside the place before it is so The Returning Officer shall 22. Procedure for giving ballot papers. have before him the list of the members prepared under Rule 7. (2) Immediately before the ballot paper is delivered to a member, a mark shall be placed against this name in that list and the name of the member as shown in that list shall be entered in the counterfoil of the ballot paper. (3) The member shall sign his name in the list in token of receipt Of the ballot paper. (4) Before delivery of ballot paper to a member, a Returning Officer shall sat. isfy 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 the 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 or other authority deciding any dispute relating to such elections

23. Supply of fresh ballot paper in certain circumstances.—(l) A member who has inadvertently dealt with his ballot paper in such a manner •that it cannot conveniently be used as a ballot paper may, on returning it to the Returning Offi- cer and an satisfying him of the inadvertence, obtain another ballot paper in place of the ballot paper so returned, and the latter shall, together with its coun- terfoil, be marked as "Returned and Cancelled" by the Returning Officer. (2) Any ballot paper so cancelled shall be kept in an envelope set apart for the purpose

24. Return of unused ballot papers by members.—lf a member after obtain- ng any ballot paper for the purpose of recording his vote decides not to use the ame, he shall return the ballot paper to the Returning Officer who shall mark it Returned and Cancelled" and keep it in an envelope set apart for the purpose under sub-rule (2) of Rule 23

25. Maintenance secrecy of voting by election within polling station and voting procedure.—=(l) Every member to whom a ballot paper has been issued under Rule 22 or under, any other provisions of this order, shall maintain secrecy of voting within the polling station and for that purpose observe the voting cedure hereinafter laid down. (2) Every member shall have as many preference as there are candidates but no ballot paper shall be considered invalid solely on the ground that all such preferences are not marked. (3) The member on receiving the ballot paper shall forthwith— (a) proceed to a polling compartrnent provided at the place of polling and screened from observations; 218 (b) (c) (d) (e) (f) U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 (App. place on the ballot paper lhe No. 1 in thc space opposite the name of the Candidate whom he chooses for his first preference; make as many subsequent preferences as he wishes by placing on thc ballot paper the Nos. 3, 4 and so on, in thc space opposite the names of the other candidates in order of preferences; fold the ballot paper so as to conceal his vote; insert the folded ballot paper into the ballot-box through the sit pro- vided for the purpose; and then quit the place of polling. (4) Every member shall vote without undue delay. (5) No member shall be allowed to enter a polling compartment when an- other elector is inside it. (6) The Returning Officer shall, if requested by a member explain to him the instructions contained in the ballot paper for the recording of votes. (7) If an elector 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, and in accordance with the wishes of the elector 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 elector at any polling station on the same day: Provided further that before any person is permitted to act as the companion of an elector on any day under this rule, the person shall be requited to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any polling sta- tion on that day. The Returning Officer shall keep a record in

Form 7-A of all the cases under this sub-rule. (8) If a member to whom a ballot paper has been issued refuses, after warn- ing given by the Returning Officer to observe the procedure as laid down above, the ballot paper issued to him shall, whether he has recorded his vote thereon or not, be taken back from him by the Returning Officer. (9) After the ballot paper has been taken back the Returning Officer shall re- cord on its back the words "Cancelled; Voting procedure violated" and put his signature and the date below those words. (10) All the ballot papers on which the words "Cancelled; Procedure Vio- lated" are recorded shall be kept in a separate cover which shall bear on its face the words "Ballot papers, voting procedure viola ted". (11) The vote, if any, recorded on such ballot paper shall not be counted

26. 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. 219 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 (2) The Returning Officer shall open the ballot box and shall— [App. VIII (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 such rejectiön; 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 caodidate 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

27. 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 those rules

28. Recounting.—The 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 previous counting. Provided that nothing herein contained shall make it obligatory on the Re- turning Officer to recount the same votes more than once

29. Declaration of result.—When the counting of the votes has been com- pleted 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 con- trary, forthwith— (a) declare the result to those present; (b) report the result to the District Magistrate, the State Election Commis- Sion and the State Government; (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 record on each such packet a description of its contents

30. Date of election of candidate.—The date on which a candidate is de- clared by the Returning Officer under the provisions of Rule 14 or 29 to be elected shall be the date of election of that candidate

31. Custody, inspection and disposal of election papers.—(l) The Returning Officer shall, after reporting the result under clause (b) of Rule 29 fonvard the sealed envelope and packets referred to in the preceding rules and also the re- 220 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 (A pp. VIII cords referred to in sub-rule (7) of Rule 25, the return of election prepared under clause (c) of Rule 29, each placed in a separate sealed envelope, to the District Magistrate. Each envelope or packet shall have written over it specification of the contents thereof. (2) The packets of ballot papers whether unused, cancelled, valid or rejected and the list of members used while issuing ballot papers shall not, while in the custody of the District Magistrate, be opened and their contents shall not be in- spected 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 Dis- trict Magistrate to any person within such hours as he may fix for the purpose. (3) Inspection of election papers whether allowed by the Competent Court or the District Magistrate under sub-rule (2) shall be subject to the condition of payment of a fee of Rs. 10 per day on which the inspection is made and copies of the return prepared under clause (c) of Rule 29 shall be furnished by the District Magistrate to any person who may ask for the same on payment of fee of Rs. IO 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

32. Return and forfeiture of deposits.—(l) If the nomination of any candi- date is rejected by the Ret- urning Officer he shall pass an order for the return of the deposit made under Rule 9 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 9 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 contesting candidate is not elected and the number of votes polled by him by way of first preference does not exceed one-seventh of the total number of votes polled, the deposit made under Rule 9 shall be forfeited in favour of the Government. An order for such forfeiture of deposit shall be made by the Returning Officer after the result of the election has been declared. Explanation.—For the purpose of this sub-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 12, every de- posit made under Rule 9 shall be returned to the candidate or the person who made the deposit as soon as practicable after the result of the election is declared• 33. Procedure to be followed in filling casual vacancies.—For filling a cas- ual vacancy in the office of a Pramukh 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-Pramukhs 34. Election of Up-Pramukhs.—Rules 3 to 34 and Forms I to VII shall mutatis mutandis apply in case of election of a Senior Up-Pramukh and a Junior 221 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1061 (App. VIII Pramukh of a Kshettra Panchayat and shall not for that purpose be construed and used with all requisite adaptations in respect of headings, citation, reference and entries appropriate to the occasion: Provided that nothing in these rules shall be deemed to prohibit the elections to the offices of the Pramukh, the Senior Up-Pramukh and the Junior Up- Pramukh or any of them, being held separately or together: Provided further that where elections to more than one of the aforesaid of- fices are held together, all procedure shall be taken separately in respect of elec- tions to each of such offices save only that separate ballot papers for all such clec- tions may be issued under Rule 22 together and the same may, after being marked, be placed under Rule 25 in the same ballot box

CHAPTER IV Disputes regarding Elections of Pramukhs and Up-Pramukhs 35. Time and manner of presenting petitions.—(l) An election petition call- ing in question the election of a Pramukh or Up-Pramukh may be presented to the Judge at any time within thirty days from the date of declaration of the result under Rule 14 or Rule 29, as the case may be. (2) It shall be presented in person by the petitions or if there are more than one petitioner, by any one or more of them

36. Form, etc.of petition.—(l) An 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 ground.. (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

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

38. Security.—(l) 1[At the time of presenting an election petition the peti- tioner shall enclose with it a receipt showing that a sum of five hundred rupees has been deposited by him or on his behalf in the Personal Ledger Account of the Kshettra Panchayat as security for the costs of the petition.] (2) These shall be paid on an election petition court fee prescribed in the Court Fee Act, 1870 or if no such Court-fee is prescribed in that Act, a fee of Rs• 100 in Court fee stamps

39. 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 1. Substituted by Noti. 2795/XXX111-1-95—134-95 dated 22 June, 1995. 222 u.p. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1901 [App. Vill to prove that the election of such candidate would have been void if hc had been the returned candidate and a petition had been presented calling in question of his election

40. Procedure.—(l) Except so far as provided by thc Act or in the Rules, the procedure provided in the Civil Procedure Code, 1990 in regard Io suits, shall, insofar as it is not inconsistent with the Act or any provision of these Rules and it can be made applicable, be followed in the hearing of the election petition: Provided that— (a) any two or more election petitions relating to the election of thc same person may be heard together; (b) the Judge shall not be required to record or to have recorded the cvi- dence in full but shall make a memorandum of the evidence sufficient 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 or likely to be incurred by any respondent; (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 poll on an application being made within fifteen days from the date of the decision by any person considering himself aggrieved thereby; and (g) no witness or other person shall be required to state for whom he has voted at any election. (2) The provisions of the Indian Evidence Act, 1872 (Act No. 1 of 1872) shall be deemed to apply in all respects of the trial of an election petition. (3) Before the hearing of an election petition commences or before the final hearing takes place, the petition may be withdrawn by the petitioner or the petitioners, 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

41. Abatement of petitions.—(l) An election petition claiming a declaration mentioned in clause (a) of Rules 37 shall abate upon the death of the returned candidate. (2) Afi election petition shall abate upon the death of the sole petitioner or all petitioners. (3) If any election petition claims the declaration mentioned in clause (b) Of Rule 38 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 the place of the returned candidate to oppose the petition and shall be entitled to continue the proceedings upon such terms as the Judge may think fit' 223 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 (App

42. 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 State Government.(2) An order for costs passed by the Judge shall be executed by him 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 in a suit

43. Finding of the Judge.—(l) If the Judge after making such inquiry as he deems fit finds in respect of any person whose election is called in question by 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 ei- ther— (a) declare a causal vacancy to have been created; or (b) declare another candidate to have been duly elected and in either case may award costs at his discretion

44. Grounds on which a candidate other than the returned candidate may 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 candi- 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

45. 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 purpose of the 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 instructions in Schedule 11 to these rules

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

47. Communication of order and transmission of.— The Judge shall as soon as may be after announcing the orders made by him under Rule 44 send a copy each thereof to the State Election Commission, the State Government and the District Magistrate

48. Disposal of security deposit and recovery of costs.—(l) Subject to the provisions of sub-rufé(l) of Rule 42 costs, if any, awarded to any respondent by 224 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 [App. Vill a Judge shall be recoverable out of the security deposited under Rules 39 and 41 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 (l) and cost payable to a petitioner from any respondent shall be recoverable in accordance with the provisions of sub-rule (2) of Rule 43. (3) While making his order under Rule 44 the Judge shall also pass orders about the recovery of costs and the refund of security deposits in accordance with the provisions of this rule and the District Magistrate shall carry out the orders, accordingly on receipt of a copy of the Judge's order under Rule 48

49. Appeal against the order of the Judge.—(l) An appeal shall lie from every order made by the Judge under Rule 44 to the High Court within thirty days from the date of the order: Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the applicant 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 deposit 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. SCHEDULE 1

FORM 1 [Rule 61 Form of notice of election in the office of Pramukh Whereas a Pramukh has to be elected to the Kshettra Panchayat . District..... I.....the Returning Officer, for the said election do hereby give the following: Public Notice (i) Nomination papers may be delivered to the undersigned at..... (Place, or if he is unavoidably prevented from receiving the same, to .....at They shall be presented between 11 a.m. and 3 p.m (date). (ii) The nomination papers will be taken up for scrutiny (hours).....on in.....(place). (iii) Notice of withdrawal of candidature may be delivered by a• candidate, his proposer or seconder to the officer mentioned in para (i) at his office (date) up on... .. . (iv) In the event of the election being contested the poll will take place on . . ..between the hours and..... at . .....(place). Dated ... Address.. .. •.... Returning Officer Note.—Forms of nomination papers may be obtained from the office of the Returning Officer.... . .....between the hours of.....and (hours) and..... l. 2. 3. ..(hours) from .....,,.. date to... . .....,,,.....(date). FORM 11 [Rule 7] Nomination paper for Election to the Office of Pramukh, Kshettra Panchayat District. Name of candidate.... ... Father's/Husband's name Age ..... 220 6, 7. 9. l'ANCllAYAt AOIIINIYAM, too I Vill ftsrrltorllit Constituency 01' the KNhetttii In the electornl roll of whleh the the enndldilte lg Included Serli)l nutuber the cnndldnte In the 118t under Rule 7 ot' the Uttnr KNt1ettiit (Flection oc Pcntnukhs ond Up•Pnunukh9 ond Settletnent ot" Election Disputes) Rules, 199/1 Nume ond liddtvgs the Nntne ond oc the seconder Signntutv ot the seconder Scheduled Castes or the Bnckwnrd Closseg. the declnrntion sub-rule (3) of Rulc 8 of the Uttar Pradesh Kshettrn Ponehnynt9 (Election ot' Ptsnmtlkhs nnd Up-Prnmukhs nnd Settlcmcnt of Election Disputes) Rules, 1994 Shull be Iltrnishecl with the notninntion pnper. Declaration by thc candidate I hereby declare thnt I agree to this notninnlion. Dated Signature of candidate Cert(/icate of Delivery This nomination paper was delivered to me at my office nt (date and hour) by the Candidate/Proposer/Seconder. Returning' Officer Certificate ofScrutiny I have scrutinized 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) Nomination paper will not be valid unless it is delivered to the Returning Officer or to nn Assisting Returning Officer authorised to receive it, at the place on the date and within their fours specified in this behalf in the notice issued by the Retyrning Officer under Rule 6 01 the Uttar Pradesh Kshettra Panchayats (Election of Pramukhs and Up-Pramukhs and Settlement of Election Disputes) Rules, 1994. (2) In Item No. 2 the inappropriate alternative should be struck off, Husband's name is to be filed in all case where the candidate is a married woman or a widow. FORM 111 [Rule 10] Notice of nomination for election to thc Office of Pramukh of Kshettra Panchayat District up to 3 p.m. received on 2. 3. 4. 5. 6. 7. 8

9. Serial No Name of candidate Father's/l-lusband's Name Age Address Name and Address of proposer Name and address of seconder Territorial constituency in the electoral roll of which the name Of candidate is included Serial number of the candidate in the list of members prepared under Rule 7 of the Uttar Pradesh Kshettra Panchayat (Election of Pramukhs and Up-Pramukhs and Settlement of Election Disputes) Rules, 1994... Returning oncer ur. Y.SHETTRA PANCHAYAT & Zu PANCHAYAT ADHNIYÅM, 1961

FORM Ill-A [Rule 11(9)] List of validity of nominated candidates for Election to the Office of Pramukh Of 'o. Name o candidate Name o ather/ usban A dress o candl ate Kshettra Pancha at 1 2: 3. 4. 5. 6. etc. Place Date To, Signature of Returning OJicer FORM [Rule 12] Form of notice of withdrawal The Returning Offcer, Subject— Election to the Offce of the Pramukh of Kshettra Panchayats. ..a candidate nominated at the above—mentioned election do hereby give notice that I withdraw may candidature: Dated, this ...aay (To be filled in ojce) Signature of candidate This notice of withdrawal "'as delivered to me at my offce at.....(hours) on . .....,,.....the candidate/the candidate's proposer/ by the candidate's seconder who has been authorised by the candidate to deliver it. Returning Offcer FORM V [Rule 12] Notice of withdrawal of candidate Notice(s) of withdrawal of candidature(s) for election to the office of Pramukh(s) of has/have been received District . Kshettra Panchayat . ...from the following candidate/from each of the following candidate: on.... . Name(s) of candidate(s): ..... .etc. FORM VI [Rule 13] List of contesting candidates Returning OJicer List ofcontesting candidates for the office ofthe Pramukh, Kshettra Panchayat Final list of candidates for election Serial No. 1 i. 3. 4. 5. 6. etc. Name of candidate 2 Address of candidate 3 Returning Officer 227 u.p. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 FORM VII (Rule 19) Form of Ballot Paper Counterfoil,.. Kshettra Panchayat. Panchayat... District..... Election of Pramukh, 19. Serial No. Ballot Paper..... Counterfoil ..... Kshettra District Name 1.. etc .....,, (App. Vill Kshettra Preferences Instructions I. The persons whose names are given on the ballot papers as the contesting candidates for election to the office of Pramukhs of Kshettra Panchayat...,,.....

2. The vote shall be recorded by placing the No.I in the space opposite the name of the candidate whom the vote may, in addition, mark as many subsequent preference as he wishes by placing the Nos. 2, 3, 4 and so on the space opposite the names of other candidates in order of preference. •Counterfoil Serial No. of Ballot Paper... . .

FORM VII-A [See Rule 25 (7)1 List of illiterate, blind and infirm voters Election of Pramukhs, Senior /Junior Up-Pramukhs of Kshettra Panchayat ... Name of Pollili Station..... Serial No. of elector in the list of members 1 Dated... Full name of elector Full name of companion Address of companion Signature of companion Signature of Returning Officer FORM VIII [See Rule 291 Result of election to the Offices of the Pramukh Kshettra Panchayat . .. .District..... . 1. 2. 3. 4. 5. 6. 7. 8. 9. IO

11. Serial No.,, Name of candidate..... ..... Votes secured at first count.....,, Votes credited at first exclusion .. Total of Columns 3 and 4 Votes credited at second exclusion....,...,. Total of Columns 5 and 6... Votes credited at third exclusion..... .. Total of Columns 7 and .. Votes credited at fourth exclusion.....,,..... Total of Columns 9 and Exhausted votes, Total'.... 228 U.P. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 (App. Vill representing .....,,Votes Total number of valid ballot papers . ,,,,representing .....Votes,..... Total number of invalid ballot papers I declare that— (Name). (Address)..... has been duly elected to the offce of the Pramukh, Kshettra Panchayat. District Place. SCHEDULE 11 [Rule 27] Returning Officer Instructions for the Determination of Result I. In this Schedule— (1) the expression "continuing candidate" means any candidate not elected and not executed from the poll at any given time; (2) the expression "first preferences" means the No. 1 set opposite the name of any candidate, the expression "second preference" similarly means-the No. 2, the expression "third preference" the No. 3, and so on; (3) the expression "next available preference" means the second or subsequent preference recorded in consecutive numerical order for a continuing candidate preferences for candidate, already excluded 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 paper" means a ballot paper on which no further prcference is recorded for a continuing candidate: Provided that a paper shall be deemed to be exhausted in any case in which— (a) the names of two or more candidates whether continuing or not are not marked with the same figure, and are next in order of preference; and (b) the name of the candidate next in order of preference whether continuing or not, is marked by a number not following consecutively 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 a candidate 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, determine the result by draWing of lots. Exclude the candidate on whom lot falls and declare the other candidate' as elected. (2) If there are more than two candidates, then— (a) if one of them is found to secure first preference votes equal 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 aforesaid, proceed according to the instructions hereinafter taking into consideration second and subsequent preferences as may be necessary. 229 u.p. KSHETTRA PANCHAYAT & ZILA PANCHAYAT ADHINIYAM, 1961 [App. VIII 5. If at the end of the first or any subsequent count the total number of votes credited to any candidate is equal to, or greater than the quota or there is only one continuing candidate, that candidate is declared elected

6. Ifat the end of any count, no candidate can be declared elected: (a) exclude the 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 the 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 stand 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. All 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 thereafter be taken into account. Illustration—Suppose there, are four candidates. A, B, C and D and the number of first preference votes secured by them are— A-12 B=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 D, will be excluded. Suppose there are second-preferences marked on fall 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 the two papers recording second preference for A and B each will be placed in separate sub-parcels for A and B, each of them will be credited with two additional votes. The votes for A, B and C will now be— 12+2 B=11+2 Since at the end of the second count no candidate can be declared elected, the candidate C having the lowest votes out of three continuing candidates will now excluded and his votes transferred to other continuing candidates A and B. Suppose second preferences recorded in all the ballot papers in the parcel ofC are as below: After crediting A and B with their additional Votes. A would have secured 18 votes' that is equal to the quota and B = 16 votes. A will, therefore, be declared elected.