

UTTAR PRADESH PANCHAYAT RAJ (SETTLEMENT OF ELECTION DISPUTES) RULES, 1994

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5. Disputes relating to the election In exercise of the powers conferred by Section 110, read with Section 12-C and Section 12-D of the United Provinces Panchayat Raj Act, 1947 (U.P. Act No. 26 of 1947), the Governor is pleased to make the following rules

1. Short title and commencement.—(1) These rules may be called the Uttar Pradesh Panchayat Raj (Settlement of Election Disputes) Rules, 1994. (2) It shall come into force at once

2. Definition.—In these rules unless there is anything repugnant in the subject or context, (a) 'Act' means the United Provinces Panchayat Raj Act, 1947

3. Election Petition.—(1) An application under sub-section (1) of Section 12-C of the Act shall be presented before the Sub-Division Officer, within whose jurisdiction the concerned Gram Panchayat lies, within ninety days after the day on which the result of the election questioned is announced and shall specify the ground or grounds on which the election of the respondent is questioned and contain a summary of the circumstances alleged to justify the election being questioned on such ground. Provided that no such application shall be entertained unless it is accompanied by a treasury challan to show that the amount of rupees fifty has been deposited in the personal Ledger Account of the Gram Panchayat concerned as security. (2) The person whose election is questioned and where the petition claims that the petitioner or any other candidate shall be declared elected in place of such person, every unsuccessful candidate shall be made a respondent to the application. 1. Published in the U.P. Gazette (Extra.), dated 14th September, 1994, vide Noti. No. 4300/ XXXIII- 1-94-290-94, dated 14th September, 1994. [413] u. P. PANCHAYAT RAJ ACT, 1947 414 (APPEN 4 (3) Every respondent may give evidence to prove that any person in res of whom a claim is made, that such person be declared elected, should Pect not be declared so elected on the same ground or grounds on which his election could have been questioned, if he had been elected. COMMENTS I. Appointntent of Sub-Divisional Magistrate as Prescribed Authority—cannot b challengcd.—The writ petitioners have not filed any election petition as such they have no locus standi to challenge the provisions of lthe rules wherein a Sub-Divisional Matgistrate has been appointed as Prescribed Authority. Such a challenge can be entertained at the instance of a person who is a party to an election petition which is pending before a Sub-Divisional Magistrate functioning as a Prescribed Authority. (Neeraj Kamboj v. state of u.p., 2001 (99) RD 659 at 6621

2. Deposit of Security through Treasury Challan.—In the instant case, in absence Of Treasury Challan which was the requirement of the rule held the entertainment of petition and due to non-attached an opportunity was provided to the petitioner with liberty to deposit. The amount and in case of failure the application petition liable to be rejected. The security deposit and petition being short of merit lastly dismissed. [Yeshwant Singh v. Prescribed Authority, 1997 (2) UPLBEC 990 at 993 and 994 : 1997 RR 132 : 1997 ALJ 2341 : (1997) 3 AWC 1864 : (1997) 2 ACJ 1470 (All)]

3. Impleadment of party in election petition.—The candidate who has Withdrawn his nomination before the last date and was not allotted any election symbol is not entitled to be impleaded in petition challenging election Of Pradhan. [Rajendra Prasad v. Sub-Divisional Magistrate, 2014 (4) ALJ 683 at 684 : 2014 (3) UPLBEC 2137 (All)]

4. Non-compliance of—High Court not to interfere under Article 226.—When the High Court acts itself as an Election Tribunal then of course it is bound by all the technicalities of election law. It is settled law that writ jurisdiction is discretionary jurisdiction and High Court is not bound to interfere for technical violation of law. [Jaibir Singh v. D.J., Bulandshahr, 1997 (88) RD43 : 1997 PNP 200]

5. Second Amendment of written statement.—Where first amendment to written statement was allowed and record was rejected, it was held that second application was meant for delaying the disposal of case and facts sought to be amended could have been known through due diligence and order was legally justified. [Vidyawati v. State of u.P., 2014 (124) RD 722 at 724 (All) (LB)]

4. Hearing of the petition.—(1) Subject to the provisions of the Act and these rules, every election petition shall be tried by the Sub-Divisional Officer, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, for the trial of suits • Provided that— (i) the Sub-Divisional Officer may hear the petitioner or his counsel and if he finds that the petition has no substance, reject the same without the issue of any notice to the opposite parties; (ii) it shall not be necessary for the Sub-Divisional Officer to record the evidence in full and he may maintain only a memorandum of evidence produced by the parties before him; (iii) if there is a sole petitioner and he dies, or there is a sole respondent and he dies, the petition shall abate; APPEN. 12—R. 6] U.P. PANCHAYAT RAJ (SETTLEMENT OF ELECTION DISPUTES) RULES, 1994 415 (iv) the Sub-Divisional Officer may allow only such evidence to be produced as he deems relevant for the purpose of deciding the petition; (v) the District Magistrate may at any stage on sufficient cause being shown transfer an application made under sub-section (1) of Section 12-C for hearing to another Sub-Divisional Officer; (vi) an application not presented within time or unaccompanied by a treasury challan as required under sub-rule (1) of Rule 3 may, at any time, be dismissed by the Sub-Divisional Officer; and (vii) the Sub-Divisional Officer may, on an application of either party made within five days after the date of his decision, review his order. (2) If the Sub-Divisional Officer after hearing finds in respect of any person whose election is called in question by the petition, that his election was valid, he shall dismiss the petition as against such person and may award costs at his discretion and in case he finds the application to be altogether frivolous he may also order that the security deposit shall in part or whole be forfeited to the concerned Gram Panchayat. (3) If the Sub-Divisional Officer finds that the election of any person was invalid he shall either— (a) declare a casual vacancy to have been created; or (b) declare another candidate to have been duly elected, whichever course appears, in the particular circumstances of the case, to be appropriate, and in either case may award costs at his discretion : Provided that no such declaration shall be made unless a claim for it has been made in the application. (4) The security deposit or portion thereof, as the case may be, not forfeited under sub-rule (2) and not required for payment of any costs awarded to any opposite party shall be refunded by the District Panchayat Officer to the person depositing the same or in case of his death, to his legal representative. COMMENT Election invalid—Other candidate declared elected—Infraction thereof to the Rules—Order set aside.—The Prescribed Authority had passed a valid order under Rule 4 following the prescribed procedure laid in rules any contravention, would lead the order illegal as held by the Court. [Om Prakash v. First Additional District Judge, Ballia, 1999 (90) RD 375 : 1999 (2) AWC 1678 : 1999 (1) ACJ 668 : 1999 (2) ALR 599 : 1999 RR 518 : 1999 RJ 797 : 2001 RLT 5981

5. Disputes relating to the election of Up-Pradhan, Sarpanch or Sahayak Sarpanch.—The provisions of Rules 3 and 4 shall, mutatis mutandis, apply to disputes relating to the election of Up-Pradhan of a Gram Panchayat or Sarpanch or Sahayak Sarpanch of Nyaya Panchayat

6. Omission of Rules 24, 25 and 26 of Uttar Pradesh Panchayat Raj Rules, 1947.—In Panchayat Raj Rules, 1947, Rules 24, 25 and 26 shall be omitted.