

APPENDIX II

RULES FRAMED BY THE HIGH COURT OF JUDICATURE AT BOMBAY IN REGARD TO ELECTION PETITIONS UNDER THE REPRESENTATION OF THE PEOPLE ACT, 1951

(ACT NO. 43 OF 1951)

1. In these rules, unless the context otherwise requires—
 - (a) “the act” shall mean the Representation of the People Act, 1951;
 - (b) “the code” shall mean the Code of Civil Procedure, 1908;
 - (c) “the High Court” shall mean the High Court of Judicature at Bombay;
 - (d) “the Judge” shall mean the Judge of the High Court of Judicature at Bombay who has been assigned by the Chief Justice under sub-section (2) of the section 80(A) of the Representation of the People Act, 1951, for the trial of Election Petitions;
 - (e) “the Nagpur Bench” shall mean the Bench of High Court of Judicature at Bombay functioning at Nagpur.
 - (f) “The Aurangabad Bench” shall mean the Bench of High Court of Judicature at Bombay functioning at Aurangabad.
 - (g) “The Panaji Bench” shall mean the Bench of High Court of Judicature at Bombay function at Panaji, Goa.
2. All proceeding in the High Court in respect of election petitions shall be conducted in English.
3. All petitions, applications, precopies, notes, etc., including copies thereof to be filed in election petitions shall be either printed, or typewritten neatly and legibly with sufficient space between lines on strong and durable foolscap size paper or on a size of paper nearest to the foolscap, size according to metric measure, with a margin of not less than 5 cms. Where such petitions etc. as aforesaid consist of more sheets than one, they shall be stitched in book-form.
4. Election Petitions arising from areas constituting Judicial Districts of Akola, Amravati, Bhandara, Buldhana, Chandrapur, Gadchiroli, Nagpur, Wardha and Yeotmal shall be presented either in person or by an Advocate duly authorised in that

behalf by the party concerned to the Additional Registrar of the Nagpur Bench or to such other officer as the said Additional Registrar may, by general or special order issued from time to time, appoint in this behalf:

Election Petitions arising from the areas constituting Judicial Districts of Aurangabad, Beed, Jalana, Latur, Nanded, Osmanabad and Parbhani shall be presented either in person or by an Advocate duly authorised in that behalf by the party concerned to the Additional Registrar of the Aurangabad Bench or to such other officer order issued from time to time, appoint in this behalf; Election Petitions arising in the State of Goa which lie in the High Court at Bombay shall be presented either in person or by an Advocate duly authorised in that behalf by the concerned to the Special Officer of the Panaji Bench, Goa, or to such other Officer as the Special Officer may be general or special order issued from time to time, appoint in this behalf;

Election Petitions arising from the rest of the areas of the State of Maharashtra or arising in the residuary Union Territory of Daman and Diu, and the Union Territory of Dadra and Nagar Haveli which lie to the High Court of Bombay shall be presented to the Prothonotary and Senior Master, High Court, Bombay, or such other Officer as the Prothonotary and Senior Master may, by special or general orders passed from time to time appoint in this behalf.

Substitute the following in place of existing sub-rule (b) of Rule 23 relating to Rules framed by the High Court of Judicature at Bombay in regard to Election Petitions under the Representation of People Act, 1951 (Act No. 43 of 1951) at page 298:-

“Advocates filing their Vakalatnamas in Petitions filed at Nagpur, Aurangabad and Panaji shall give their office address at Nagpur, Aurangabad and Panaji and Advocates appearing in Petitions filed at Bombay shall give their office address in Bombay. All notices, processes etc. shall be served on the Advocate at the office address given by him unless the Judge otherwise directs. Such service will be regarded as proper service on the party.”

7. After the petition is presented, the party or Advocate shall be asked to attend the office on the third day from the date of the presentation to remove objections, if any. An undertaking in writing will be obtained from the party or Advocate to remain present in the office on the date appointed. The petitioner shall furnish his address preferably in Bombay or Nagpur, as the case may be, where any communication may be addressed to or served on him.

8. The office shall examine the petition with a view to see whether it is in conformity with the requirements of law and the rules applicable to the same, and if it is not in

conformity with law and the rules, raise objections which could be removed by the party or the Advocate concerned. These objections should be brought to the notice of the party or the Advocate on the date fixed for attendance under rule 7 and such objections shall be removed, subject to the orders of the Judge, if any, within two days thereafter.

9. Immediately after the time fixed for the removal of objections, the petition shall be placed before the Judge for such orders as may be required to be passed under section 86 of the Act. If the petition is not dismissed under section 86(1) of the Act, a summons, on the direction of the Judge, shall be issued to the respondents to appear before the High Court on a fixed date and answer the claim or claims made in the petition. Such date shall not be earlier than three weeks from the date of the issue of the summons. The summons shall be for written statement and settlement of issues and shall be served on the respondents through the sheriff in Greater Bombay, and through the District Judges in the rest of the State in the manner provided for the service of summons. The Prothonotary and Senior Master and the District Judges will make their best endeavour to serve the summons on the respondents and make a return of the service of the summons with the greatest expedition.

10 In addition to the service of summons to be effected as aforesaid, a summons shall also be sent to the respondents to the address given by the petitioner by registered post prepaid for acknowledgment. The petitioner shall furnish extra copies of the petition to be served along with the summons by registered post. No extra process fees except postal charges, will be recovered.

11. Those of the respondents who file written-statements or recriminatory statements as provided under section 97(2) of the Act shall also furnish copies of such written statements and recriminatory statements for the use of the Petitioner and the respondents, as the case may be. Where a recriminatory statement under section 97(2) alleges any corrupt practice, the statement shall be accompanied by an affidavit in support of the allegation of such corrupt practice and the particulars thereof.

12. After the pleadings in the election petition are received, a date shall be fixed, at the direction of the Judge, for (1) discovery of documents, (2) inspection of the documents disclosed, and (3) the production of documents which are in the possession and power of the parties.

13. Issues will then be settled and the election petition will be posted for hearing. Within seven days of the settlement of issues, parties shall file a list of witnesses and pay the process fees and the travelling allowance, the diet allowance and the local conveyance allowance for those of them who are required to be summoned.

14. Parties shall apply for the issue of witness summons sufficiently in time for the attendance of witnesses after service. Parties may also produce witnesses without a summons on the date of the hearing, provided they have filed a list of the same as required under Rule 13.

15. Process fees to be paid shall be the same as provided in the table under Rule 5(1) of chapter XIV of the Bombay High Court Appellate Side Rules, 1960.

16. A party applying for a summons to a witness shall be required to deposit at the time of applying for summons a sum sufficient to cover the travelling allowance the diet allowance and the local conveyance allowance of the witness according to the scale given under Rule 17. Payment shall be made to the witness out of amounts so deposited after the witness has given evidence or he discharged by the Judge.

17. Travelling allowance for the journey from the place of residence to the place where evidence is required to be given and back to the place of residence, diet allowance, and local conveyance allowance shall be paid to the witnesses according to the scale indicated below subject to the conditions indicated in the notes thereunder.

Class of witness	Travelling Allowance	Diet Allowance	Local Conveyance Allowance
<p>Class I Professional men of high position, Members of Parliament and of the State Legislatures, large land owners and owners of big business organisations, and Class I Government Officials who are required to attend in their private capacity.</p>	First Class Rail or Steamer Fare.	Rs. 20 per day.	Actual taxi or horse carriage fare each way, from the place where he is put up to the place where he is required to give evidence, if he is put up within a radius of 8 kms from the place where he is required to give evidence, and if put beyond 8 kms first class local rail fare for each day.
<p>Class II Members of Local Bodies, ordinary professional and business men land owners, other than small farmers, employees in business organisations, Corporations and local bodies and class II Government officials who are required to attend the Court in their private capacity.</p>	Second Class Rail or Steamer Fare.	Rs. 12 per day	Do.
<p>Class III Artisans, clerks, small land owners, village Officers and employees in lower grades of Corporations, local bodies and business organisations and Class HI Government Servants who are required to attend the Courts in their private capacity</p>	Second Class Rail or Steamer Fare.	Rs. 8 per day	Actual bus or second class local rail fare each way.

<p style="text-align: center;">Class IV</p> <p>Labourers, petty shopkeepers, paddlers and persons other than those in the above Classes and Class IV Government [servants who are required to attend the Court in their private capacity</p>	<p>Second Class Rail or Steamer Fare.</p>	<p>Rs. 4 per day</p>	<p>Actual bus or second class local rail fare each way.</p>
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Note 1.- If there is rail as well as steamer communication between both the places for the whole of the distance, the cheaper of the two modes of travel will be admissible for travelling allowance.

Note 2.- If there is rail communication only for part of the distance and steamer communication for the rest, travel by rail and steamer for the parts for which they are respectively available shall be admissible for travelling allowance.

Note 3.- If in addition to travelling by rail and/or steamer a witness is required to travel by bus also, the actual bus fare paid for such part of the journey shall also be admissible for travelling allowance.

Note 4.- Diet allowance shall be payable, irrespective of the distance travelled, for the actual time required for the journey each way, and also for the time taken in giving evidence and for the time of detention necessary for the purpose of giving evidence. A part of the day shall be counted as equal to a day.

Note 5.- Local conveyance allowance shall be admissible for each day that the witness is required to attend the Court only at Bombay and Nagpur, and shall be payable only if the party calling the witness does not provide conveyance to the witness.

Note 6.- The Special Officer at Nagpur and the Prothonotary and Senior Master at Bombay shall decide to which class a witness belongs or which of the alternative modes of travelling should be allowed in a particular case. A witness dissatisfied by his decision may request that a reference be made to the Judge and upon such request the question shall be referred to the Judge. The Judge thereupon shall give such directions as he thinks just and proper in the case.

Note 7.- In the case of Experts and professional persons and in cases in which the Judge thinks special rates should be awarded, the Judge may award higher rates of diet allowance than provided for in this scale.

Note 8.- In cases not fully or clearly covered by this scale or in cases where the Judge thinks special considerations should prevail the Judge shall award such amounts for travelling allowance, diet allowance, and local conveyance allowance as he deems proper.

18. As soon as an order is passed by the Court under sub-section (2) of section 109, or under clause (b) of sub-section (3) of section 110, or under sub-section (2) of section 112, or under section 116 directing any matter to be published in the Official Gazette, or otherwise than in the Official Gazette, the office shall get the same published at the cost of such of the parties as the Judge may direct in that behalf. The matter directed to be published in the

Official Gazette shall be published in the State Government Gazette, or the Gazette of India, as the case may be.

19. As soon as an election petition is dismissed by the High Court under sub-section (1) of section 86, or the same has been finally disposed of on merits as provided for under sections 98 and 99, or the High Court passes an order under sub-section (1) of section 116-B, the office shall intimate the order or the decision of the High Court (i) to the Election Commission and (ii) the Speaker or the chairman, as the case may be, of the House of Parliament or of the State Legislature concerned; and thereafter, as soon as possible, it shall also forward to the Election Commission an authenticated copy of the judgement and the formal order of the Court. The officer shall also report to the Election Commission when an election petition is allowed to be withdrawn under section 111 after orders are passed in that behalf by the High Court. Where an election petition abates and no attempt has been made for substituting another person for continuing the said petition as provided under section 116, and the Court passes a final order treating the petition as abated, the office shall also report to the Election Commission.

20. A diary or index of proceedings showing the course of the election petition from the beginning to the end in chronological order shall be maintained in each election petition, as far as possible, in the form prescribed in paragraph 27 of the Civil Manual 1960 issued by the High Court of Judicature at Bombay.

Applications in the petition

21. All applications in each Election Petition shall be separately recorded in a register maintained for the purpose. The record in respect of each election petition shall have the following columns:—

REGISTER OF APPLICATIONS

Election petition No.			
Serial No. of application in the Election Petition	Date of presentation	Nature of application	Date and substance of final order
1	2	3	4

When an application is filed, the same shall be placed before the Judge as part of the election petition for passing necessary orders.

22. Applications made to the Court in a pending election petition shall be styled as "Application in a Election Petition No ".

Advocates

23. (a) An Advocate intending to act for a party shall file a Vakalatnama signed by that party.

(b) Advocates filing their Vakalatnamas in petitions filed at Nagpur shall give their office address at Nagpur, and Advocates appearing in petitions filed at Bombay shall give their office address in Bombay. All notices, processes, etc. shall be served on the Advocate at the office address given by him, unless the Judge otherwise directs. Such service will be regarded as proper service on the party.

24. A Party will be entitled to Advocate's fees at the rate of Rs. 400 per day, if represented by more than one Advocate, and at the rate of Rs. 2.50 if represented by one Advocate, subject, however, to the discretion of the Judge to allow a higher or lower rate of fees.

Costs

25. The security for costs shall be paid in cash. The amount shall be deposited with the Cashier during the hours in which the cash-business of the office is conducted. Where, pending the trial of the election petition, costs are directed to be paid or deposited by a party who has not deposited any amount as security for costs, the amount of such costs shall be similarly deposited with the Cashier. The amount so deposited shall be credited to the Civil Court Deposit Account. A separate Ledger-folio shall be opened in respect of each party and all receipts and payments made on behalf of the party shall be entered in it. Receipts shall be issued by the Cashier for all amounts received from the parties. The Cashier shall be permitted to retain as balance in hand a sum of not more than Rs. 300.

Miscellaneous

26. No document in any language other than English shall be admitted in evidence unless it is accompanied by an English translation which shall either be the official translation or a translation the accuracy of which is certified by an Advocate of the High Court. Costs of the translation shall be at the discretion of the Court.

27. All rules of the High Court applicable to the preparation of the transcript of the record for the use of the Supreme Court in an appeal to that Court arising from a decree of the High Court in a Civil Appeal shall apply *mutatis mutandis* to the preparation of the transcript of the record for the use of the Supreme Court in an appeal to that Court arising from a decision of the High Court in an election petition, subject, however, to the provisions of the Act and the rules which the Supreme Court may make in that behalf.

28. Where no specific provisions is made in the Act, the Code or the above rules, the Rules of the Bombay High Court (on the Original Side) 1980 in their application to suits will apply *mutatis mutandis* or as the Judge may direct.
