

The Maharashtra Council of Homoeopathy (Election) Rules, 1991

No. MHB. 1088/4/MED-8.—In exercise of the powers conferred by sub-section (1) and (a) of sub-section (2) of Section 33 of the Bombay Homoeopathic Practitioner's Act, 1959 (Born XII of 1960) and all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the Maharashtra Council of Homoeopathy (Election), Rules, 1991.

RULES

1. **Short title.** – These rules may be called the Maharashtra Council of Homoeopathy (Election) Rules, 1991.
2. **Definitions.** - In these rules, unless the context otherwise requires, -
 - a) "Act" means the Bombay Homoeopathy Practitioner's Act, 1960 (Bom. XII of 1960);
 - b) "Election" means an election of members of the Maharashtra Council of Homoeopathy;
 - c) "Electoral roll" means a correct list printed and published by the Registrar under sub-section (2) of section 4;
 - d) "Form" means a form appended to these rules;
 - e) "Section" means a section of the Act;
 - f) Words and expressions used but not defined in these rules shall have the meaning respectively assigned to them in the Act.
3. **Returning Officer.** - The Registrar shall be Returning Officer for every election to be held under section 3A.
4. **Preparation of electoral roll.** –
 - 1) For the purposes of election of members under sub-clause (i) or (ii) of clause (d) of sub-section of section 3A, the Registrar shall,--
 - (a) prepare an electoral roll of the Principals, Heads of registered institutions and of its teachers not being Principals, Heads of recognized institution,-
 - 1) whose names are registered in the register of Homoeopathic Practitioners for the State maintained under section 20, and
 - 2) who have passed four years diploma or degree in Homoeopathy, and

- 3) residing in the State, and
 - 4) engaged in teaching Homoeopathic systems of medicine in any recognized institution for a period of not less than two years immediately preceding the date fixed for nomination of candidates for the election; and
- (b) after obtaining such information as may be required shall mention against the names of the Principals, Heads of recognized institutions and its teachers, included in the electoral roll their qualifications and professional and residential address.
- 2) The Registrar shall send the copies of the electoral roll to the Principals and Heads of recognized institutions, at least thirty days before the date fixed for the receipt of nomination papers under rule 5. All objections, suggestions in respect of entries on the said electoral roll shall be lodged with the Registrar. On receipt of the objections, or suggestions if any, the Registrar shall, after making such enquiries, as he deem fit, consider the suggestions or objections and may, if necessary, amend the said electoral roll
 - 3) The Registrar shall thereafter publish the electoral roll so amended, in the Official Gazette, which shall constitute the electoral roll for the purpose of election of members under clause (d) of sub-section (1) of section 3A.

5. Fixation of dates for election. –

- 1) Election of members under clauses (c) and (d) of subsection (I) of section 3A shall be held by postal ballot.
- 2) At least fifteen days before the date fixed under clause (a) of sub-rule (2) of this rule, for the receipt of nomination papers, the Returning Officer shall publish in the Official Gazette and in at least four newspapers selected by him, a notice in Form "A" notifying the date and time fixed under sub-rule (2) calling upon the electors to elect the members.
- 3) For the purposes of election under these rules, the Returning Officer shall fix –
 - a) the last date and time for the receipt of nomination papers;
 - b) the date, time and place for scrutiny of nomination papers, such date being not later than the fourth day from the last date for the receipt of nomination papers, counting the last date for the receipt of nomination papers as the first day for the purpose;
 - c) the last date and time for the withdrawal of the candidature such date being not later than the third day from the date on which the scrutiny of nomination papers is completed, counting the day on which the scrutiny of nomination papers is

completed, as the first day for the purpose;

- d) the last date for sending by post, the ballot papers to the electors, which shall not be later than twenty one days after the date of publication of names of contesting candidates;
 - e) the last date and time for the receipt of the ballot papers by the Returning Officer from the electors; such date being not later than twenty one days after the last date for sending the ballot papers to the electors; counting the last day for sending the ballot papers as the first day for the purpose;
 - f) the date, time and place for the scrutiny and counting of votes, shall not be later than five days after the last date for the receipt of ballot papers by the Returning Officer, counting the last day by the Returning Officer from the electors as the first day for the purpose.
- 4) The Returning Officer shall, as far as possible, fix the election process before the expiry of the term of existing members:

Provided that no election shall be void merely on the ground that the election process was not completed before the expiry of the term of the existing members.

6. Eligibility of candidates. –

- 1) Subject to the provisions of the Act and the rules made in this behalf, every practitioner whose name is entered in the register of Homoeopathic Practitioners maintained under section 20, and is residing in this State shall be eligible to file the nomination paper for being elected as a member under clause (c) or (d) of sub-section (1) of section 3A.
- 2) For the purposes of election of members under the clause (c) of sub-section (1) of section 3A-
 - a) the persons whose names are entered in the register of Homoeopathic Practitioners maintained under section 20 and whose names appear in the electoral role; and
 - b) is residing in this State;

Provided that no elector shall either propose or second the nomination of more than the number of seats to be filled in and if he does so, such of the nomination papers received upto the number of seats to be filled in shall be deemed to be valid and the nomination papers received thereafter shall be deemed to be invalid.

- 3) For the purposes of election of members under clause (d) of subsection (1) of section 3A-
 - a) the registered practitioner shall have passed four years diploma or degree in

Homoeopathy as prescribed by the Central Council of Homoeopathy; and

- b) is residing in this State; and
 - c) has been engaged in the teaching the Homoeopathic Systems of Medicine in any recognized institution for a period not less than two years immediately preceding the day fixed for the nomination of candidates for such election:

Provided that no registered practitioner shall be eligible to file a nomination paper for being elected as a member of the Council under more than one clause or sub-section of 3A.
 - d) candidates qualified for being elected as a member shall be proposed and seconded by persons qualified as electors. No elector shall either propose or second the nomination of more than one candidate.
- 4) The nomination papers for elections under clause (c) or clause (d) of the section 3A shall be in Form "B". The candidate shall sign the nomination paper declaring that he is willing to serve on the Council, if elected. In the absence of such declaration, the nomination paper shall be treated as invalid.
 - 5) Every nomination paper duly completed and signed by the candidate the proposer and the seconder, shall be sent by post or otherwise be delivered in the office of the Returning Officer so as to reach the office on or before the time fixed under clause (a) of sub- rule (3) of rule 5. Nomination paper received after the appointed date and time shall be rejected. Immediately on receipt of the nomination paper, the Returning Officer shall record thereon the date and the time of the receipt.
 - 6) Every candidate shall, along with the nomination paper, deposit a sum of rupees three hundred either in cash or by a money order. If the amount of deposit is remitted by money order, the money order receipt shall be attached to the nomination paper. A nomination paper not accompanied by such deposit or such receipt, shall not be accepted by the Returning Office.
 - 7) If a candidate is not elected and if the number of valid votes recorded in his favour is less than 118th of the total number of valid votes recorded, divided by the total number of members to be elected, the deposit shall be forfeited to the Council.
 - 8) After result of the election is declared, the deposit, if not forfeited under sub-rule (7), shall be returned to the candidate as soon as possible.

7. Scrutiny of nomination papers and withdrawal of candidature. –

- 1) The nomination papers received by the Returning Officer on or before the date or the time fixed under clause (a) of sub-rule (3) of rule 5 shall be scrutinized by him at the

- time, date and place appointed by him in this behalf under clause (b) of sub-rule (3) of rule 5. A candidate or his representative duly authorised by him may remain present at the time of scrutiny of the nomination papers. The Returning Officer shall give reasonable facilities to all the candidates or their authorised representative or to both, to examine nomination papers which have been delivered to the Returning Office within the time fixed under clause (a) of sub-rule (3) of rule 5.
- 2) The Returning Officer shall scrutinize the nomination papers, and he may, either on his own motion, or an objection raised by any person present at the time of scrutiny of nomination papers, after such summary enquiry, as he may think necessary, treat any nomination paper as invalid for any of the following reasons, namely, :-
 - a) that the nomination paper does not comply with the requirement of rule 5.
 - b) That the candidate or his proposer or his seconder is not a elector;
 - c) that the nomination paper has been proposed or seconded by an elector who has subscribed either as proposer or seconder for more nomination papers than the number of seats to be filled in;
 - d) that the candidate is disqualified under section 9 for being elected;
 - e) that the candidate has failed to deposit a sum of rupees three hundred as required by sub-rule (6) of rule 6;
 - f) that the signature of the candidate or his proposer or his seconder is believed to have been obtained by fraud, coercion or misrepresentation; on
 - g) that the candidate has failed to comply with the provisions of the Act or these rules.
 - 3) The Returning Officer shall endorse on each nomination paper his decision, whether the nomination paper has been accepted or rejected. In case, the nomination paper has been rejected, he shall record the reasons therefor.
 - 4) a candidate may withdraw his candidature by a notice, in writing, signed by him, so as to reach the Returning Officer, on or before the time fixed for the withdrawal of candidature under clause (c) of sub-rule (3) of rule 5.
 - 5) After the expiry of the period fixed for withdrawal of candidature the Returning Officer shall forthwith put up on the notice board at the office of the Council, the names of all the contesting candidates.
 - 6) If the number of contesting candidates is equal to the number of seats to be filled in, the Returning Officer shall forthwith declare all such candidates to have been duly elected to fill such seats and the report the names of the elected candidates to the State Government for publication in the Official Gazette.

- 7) If the number of contesting candidates is less than the number of seats to be filled in, the Returning Officer shall forthwith declare all such candidates to be duly elected and send a report to the State Government, stating, -
 - a) the names of the elected candidates for publication in the Official Gazette; and
 - b) the number of vacancies which remain unfilled after election.
- 8) If the number of contesting candidates is more than the number of seats to be filled in, the Returning Officer shall forthwith publish names and addresses of the contesting candidates in the Official Gazette and on the notice board at the office of the Council.

8. Printing of ballot papers. – The Returning Officer shall make arrangements for the printing of ballot papers in Form C. The names of the contesting candidates shall be arranged according to the English alphabetical order of their surnames.

9. Dispatch of ballot papers. –

- 1) As soon as possible after the names and addresses of contesting candidates are published in the Official Gazette, but not later than thirty days before the date fixed for the receipt of ballot papers from the electors, the Returning Officer shall send under certificate of posting to every elector—
 - a) a ballot paper in Form "C";
 - b) a smaller envelope in Form "D";
 - c) a larger envelope addressed to himself in Form "E".
- 2) An elector, who has not received a ballot paper and other connected papers as provided in sub-rule (1) or the ballot paper has been spoilt in such a manner that it cannot be conveniently used, or has been lost, may, send to the Returning Officer a declaration to that effect, signed by him requesting the Returning Officer to send him a duplicate ballot paper so spoilt or lost. In every case, where duplicate ballot paper is issued, a record thereof shall be kept by the Returning Officer and mark "Duplicate" shall be placed on such papers and on the large cover which shall bear the same serial or alphabetical number as was originally given on the large envelope sent to the elector. The ballot papers issued in such cases shall also be marked "Duplicate". The Returning Officer shall cancel any such spoilt papers received from the elector.
- 3) When papers are returned un-delivered and if the elector to whom it was sent applies in person for such papers, within the time specified in sub-rule (1), the Returning Officer shall, if he is satisfied with respect to the identity of the elector, deliver such papers to the elector, after obtaining an acknowledgement from the elector.

- 4) The Returning Officer shall place a mark against the name of every elector in the electoral roll to whom a ballot paper and other relevant papers, specified in sub-rule (1), have been sent. Such marked copy of the electoral roll and the counterfoils of the ballot papers so sent to electors, shall be kept in a packet and the packet shall be sealed immediately after the last date and the time fixed for the receipt of ballot papers from the electors. This packet shall not be opened except for the purposes of an election petition.

10. Recording of votes by electors. –

- 1) Every elector desirous of voting shall, subject to the provisions hereinafter appearing, record his votes On the ballot paper.
- 2) Every elector shall have as many votes as there are members to be elected.
- 3) No elector shall vote for more candidates than the number of members to be elected. If any elector records his votes for more candidates than the number of members to be elected, then, the whole of the ballot paper shall be rejected.
- 4) An elector shall record each vote by placing clearly a mark (+) in column 3 of the ballot paper, opposite the name of the candidate to whom he wishes to give his vote. The mark shall be so placed as to indicate clearly and beyond doubt as to whom he has given his vote. If the mark is so placed to make it doubtful as to which candidate the elector has given his vote such ballot paper shall be deemed to be invalid.
- 5) No elector shall give more than one vote to any candidate, if he gives more than one vote, only the first vote shall be deemed to be invalid.
- 6) The elector shall not put his signature on the ballot paper or make any other mark on it which will reveal identity of the elector. If any elector does so, the whole or his ballot paper shall be deemed to be invalid.
- 7) After the elector has recorded his vote he shall place in the smaller cover supplied to him by the Returning Officer shall close the smaller cover and secure it by seal or otherwise. The smaller cover containing the ballot paper shall then be placed in the larger cover supplied by the Returning Officer and after closing it write his name in full and put his signature in the left hand corner of the larger cover at the place provided for. The elector shall then post it so as to reach the Returning Officer on or before the time fixed for the receipt of ballot papers under clause (d) of sub-rule (3) of rule 5:

Provided that if any elector, on account of blindness or any other physical handicap is incapable of recording his votes or signing the larger cover, it shall be competent for such elector to record his votes with the help of a Gazetted Officer or a Magistrate. Such officer or Magistrate shall, in such a case record on the back of the larger cover

a certificate in the following manner, namely: -

"I hereby certify that

(Name of the Officer/Magistrate)

.....

(Name of the elector)

being incapable of recording his votes due to

(Here state the nature of incapacity)

requested me to record his votes and I have, in his presence, recorded his votes according to his desire.

Name and signature of the
Gazetted Officer / Magistrate

Designation

Office Address

- 8) On receipt of the larger cover containing the ballot paper, the Returning Officer shall keep all such envelopes in a sealed box. The larger cover containing ballot papers received after the time fixed under clause (d) of sub-rule (3) of rule 5 shall be kept in a separate packet and shall not be opened.

11. Scrutiny and counting of votes. –

- 1) The scrutiny and counting of votes shall be undertaken by the Returning Officer at the time, day and at the place appointed by him under clause (e) of sub-rule (3) of rule 5.
- 2) the Returning Officer shall nominate as scrutinizers such number of persons as he thinks fit for the purpose of helping him in the scrutiny and counting votes.
- 3) A candidate or his representative duly authorised by him in this behalf may remain present at the time of counting votes.
- 4) The whole ballot paper shall be treated as invalid, if, -
 - a) the elector has failed to put his signature and write his full name on the larger envelope containing the smaller envelope in which ballot paper is kept;
 - b) the mark "X" is placed opposite the names of more candidates than the number of seats to be filled;

- c) the elector has put his signature on the ballot paper or has made any other mark thereon which may reveal his identity;
 - d) the mark (X) is so placed as to make it doubtful to which candidate the elector has given his vote.
- 5) The Returning Officer receives more than one ballot paper from one smaller envelope, all such ballot papers shall be treated as invalid,
 - 6) If any elector has given more than one vote to any candidate, only one of such votes given shall be taken to be valid, provided that the ballot paper is otherwise not invalid.
 - 7) Where equal number of votes have been recorded in favour of two or more candidates, the Returning Officer shall determine by drawing lot in such manner as he shall determine in the presence of the candidate or his representative duly authorised as to whom an additional vote shall be given and then declare him as elected.

12. Declaration of result of election. –

- 1) On completion of counting votes, the Returning Officer shall, forthwith declare candidates to whom the largest number of votes have been given, and the names of the candidates who have been duly elected. He shall, then forthwith inform by letter to —
 - a) the elected candidate, that he has been elected as a member to the Council ; and
 - b) the President or Administrator of the Council, as the case may be, the result of the election.
- 2) After the result of the election has been declared, the Returning Officer shall seal the ballot papers and all the documents relating to the election. He shall retain the said papers and documents with him in safe custody for a period of six months and thereafter shall cause them to be destroyed.
- 3) On receipt of the election result from the Returning Officer, the Administrator or the President, as the case may be, shall forward the said result to the State Government for publication in the Official Gazette.

13. Filling of casual vacancy of elected member of Council. – The President shall inform the State Government of every casual vacancy in the office of an elected member, which shall be filled, in accordance with the provisions of section 7.

FORM "A"

[See rule 5(2)]

Notice of Election

Election to the Maharashtra Council of Homoeopathy, Bombay

Notice is hereby given, pursuant to the provisions of rule 5 of the Maharashtra Council of Homoeopathy (Election) Rules, 1990, that –

- 1) an election is to be held for * members to the Maharashtra Council of Homoeopathy, Bombay, to be elected by the * from amongst themselves;
- 2) nomination of ** eligible to fill the seat/vacancy are invited,
- 3) forms of nomination paper may be obtained from the undersigned, on an application made in this behalf;
- 4) nomination papers may be returned so as to reach the undersigned on or before..... on the
(Hours) (Date)
- 5) nomination papers shall be taken up for scrutiny at
(Hours)
on the at
(Date) (Place)
- 6) notice of withdrawal of candidature may be sent so as to reach the undersigned on or before on the
(Hours) (Date)
- 7) in the event of the election being contested,--
 - a) the ballot papers shall be sent to the elector by post
(Date)
 - b) the ballot papers may be sent by the electors so as to reach the undersigned on or before on the.....
(Hours) (Date)
 - c) the ballot papers shall be taken up for scrutiny and counting at

(Hours)

on the
(Date)

Date :

Name and Signature of
the Returning Officer

Address:
.....

- * Here specify the number of members.
- ** Here specify the name of the category/ies
 - a) Registered Practitioners, or
 - b) Principals or Head of the recognized institutions, or
 - c) The teachers (other than Principals or Heads) of recognized InstitutionsStrike off what is not applicable.

FORM "B"

[See rule 6(4)]

Nomination Paper

Election to the Maharashtra Council of Homoeopathy, Bombay

(To be filled in by the Proposer)

I, the undersigned, being a registered practitioner, hereby propose Shri/Smt/Miss as a candidate for the forthcoming election as a member to the Maharashtra Council of Homoeopathy, Bombay.

1. Full name of the Proposer _____
2. Full postal address of the proposer.
3. Serial number of the Proposer in the electoral roll
4. Full postal address of candidate
5. Serial number of candidate in the electoral roll.

Signature of the Proposer

Date:

Place:

(To be filled in by the Seconder)

I, the undersigned, hereby second the above proposal for election of Shri/Smt/Miss as a candidate for the forthcoming election as a member to the Maharashtra Council of Homoeopathy, Bombay.

- 1) Full name of the seconder
- 2) Full postal address of the seconder
- 3) Serial number of the seconder in the electoral roll

Date:

Place:

Signature of the Seconder

(To be filled in by the candidate)

I, the undersigned Shri/Smt/Miss hereby assent to this nomination and declare that if elected I am willing to serve the Maharashtra Council of Homoeopathy, Bombay.

Date:

Place:

Signature of the eligible candidate

(To be filled in by the Returning Officer)

Serial number of Nomination Paper

This nomination paper was delivered to me at my office at
(Hours) (Date)

Date:

Signature of the Returning Officer

Place:

Decision of the Returning Officer, accepting or
rejecting the nomination paper)

I have examined that this nomination paper in accordance with the provisions of the
Maharashtra Council of Homoeopathy (Election) Rules, 1990 and decides as follows:--

"Accepted/Rejected"

Date:

Place:

Signature of the Returning Officer

* If rejected, give reasons.

FORM "C"

(See rule 8)

Ballot Paper

For election of member under clause (c)/(d)(i)/(d)(ii) of the Act

MAHARASHTRA COUNCIL OF HOMOEOPATHY, BOMBAY

	Serial No. (1)	Name of the candidates (2)	Place for marking vote (3)
1. Serial number of Ballot Paper	(1)	* *	
2. Constituency #	(2)	* *	
3. Number of elector on the electoral roll to whom the voting paper has been sent	(3)	* *	
	(4)	* *	

Signature of the Returning Officer.

Note:- Serial Number of ballot paper shall also be marked on the back of the counterfoil and
on the outerfoil of the ballot paper.

Here insert: -

- a) Registered practitioners; or
- b) Principals or Heads of the recognized institutions; or
- c) Qualified teacher in the recognized institutions, as the case may be.

DIRECTIONS TO ELECTOR
(To be printed on the back of the ballot paper)

- 1) Before recording your vote read carefully the following directions.
- 2) The number of members to be elected is * *
- 3) You have * * Vote(s)
- 4) Record each vote by placing clearly a mark (X) in column (3) of the ballot paper against the name of the candidate, whom you wish to give your vote.
- 5) The mark shall be so placed as to indicate clearly and beyond doubt as to which candidate you have given your vote. If the mark is so placed to make it doubtful as to which candidate you have given your vote shall be invalidated.
- 6) You must not vote for more than * *candidates. If you do so, only one vote shall be taken to be valid.
- 7) You must not place more than one mark (X) against the name of a candidate. If you do so your ballot paper shall be rejected.
- 8) Your vote is secret. Do not put your signature on the ballot paper or make any other mark on it, which will reveal your identity. If you do so, you ballot paper shall be rejected.
- 9) After you record your votes, place the ballot paper in the smaller envelope, close the envelope and secure it by seal or otherwise. Place the smaller envelope containing the ballot paper in the large envelope supplied to you by the Returning Officer. Close the large envelope. Write your full name and put your signature in the left hand corner of the larger envelope at the place provided for.
- 10) Post the larger envelope by addressing it to the Returning Officer, so as to reach him before * * * * the Particulars shall be filled in by the Returning Officer.

FORM "D"

[See rule 9(1) (b)]

Smaller Envelope

(not to be opened before counting)

Election of the Maharashtra Council of Homoeopathy, Bombay

FORM "E"

[See rule 9(1) (c)]

Larger Envelope

Election of the Maharashtra Council of Homoeopathy, Bombay

ELECTION

Not to be opened before stamp counting

IMMEDIATE

To,
The Returning Officer And the Registrar
Maharashtra Council of Homoeopathy, Bombay
Piramal Mansion, IIIrd Floor, Dr. D. N. Road, Fort
Bombay 400 001

No. of elector in the
Electoral roll
Constituency *

Name of the Elector:

Signature of the elector:

* Here insert: -

- a) Registered practitioners;
- b) Principals of heads of the recognized institutions;
- c) Qualified teachers in the recognized institutions.

By order and in the name of the Governor of Maharashtra,

D. N. BAIRAT
Deputy Secretary to Government

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