

**THE ELECTION PETITIONS PROCEDURE
RULES, KARNATAKA**

THE ELECTION PETITIONS PROCEDURE RULES, KARNATAKA

NOTIFICATION

R.O.C.No.866/67, dated 28th March 1967

In exercise of the powers conferred by Article 225 of the Constitution of the India and all other powers thereunto enabling the High Court of Karnataka makes the following rules relating to Election Petitions presented under the Representation of the People Act, 1951:-

1. (a) These rules may be cited as Election Petitions Procedure Rules, Karnataka.

(b) They shall come into force from the date of their publication in the Karnataka Gazette.

2. 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 Karnataka;

(d) "the Judge" shall mean the Judge of the High Court of Karnataka, to whom jurisdiction in respect of election petitions is for the time being assigned by the Chief Justice under sub-section (2) of section 80(A) of the Representation of the People Act, 1951.

3. All proceedings in the High Court in respect of election petitions shall be conducted in English.

4. All petitions, applications, notes, etc., including copies thereof to be filed in election petitions shall be either printed, or type-written neatly and legibly with sufficient space between lines on strong and durable foolscap size paper according to metric measure, with a margin of not less than 5 cms. The paragraphs shall be numbered separately. Where such petitions, etc., as aforesaid consist of more sheets than one, they shall be stitched in book form and the pages numbered serially.

5. Every election petition shall, in addition to the contents required by the Act, contain information as to the date of election of the returned candidate or if there be more than one returned candidate at the election and the dates of their election are different, the later of the two dates and shall also show that the election petition is presented within the period prescribed in sub-section(1) of section 81 of the Act.

6. The petition shall be accompanied by three extra copies thereof on plain paper for use of Court and as many such copies thereof as there are respondents to be served.

7. The election petition complete in all respects along with necessary copies may be presented to the Registrar at any time during the Court hours. Immediately after it is presented, the date of presentation shall be entered in a special register maintained for the registration of election petitions.

8. After the petition is presented, the party or his advocate shall be asked to attend the office of the High Court 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 said office on the date appointed. The petitioner shall furnish his address preferably in Bangalore, where any communication may be addressed to or served on him.

9. The office of the High Court shall examine the petition and if it is not in conformity with the requirements of law and the rules applicable to the petition, raise objections specifying the nature or particulars of the defect or error. The objections should be brought to the notice of the party or the advocate on the date fixed for attendance under rule 8 and such objections shall be removed within three days thereafter, or within such further time as the Judge may allow.

10. 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 sub-section(1) of section 86 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 date specified in the summons 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 by sending the summons to the respondent to the address given by the petitioner by registered post prepaid for acknowledgement.

11. If the summons is returned unserved, the Judge may direct the service of fresh summons either by registered post prepaid for acknowledgement of that the summons be served on the respondent personally through any of the Courts subordinate to the High Court.

12. Those of the respondents who file written statements or recriminatory statements as provided under subsection (2) of section 97 of the Act shall also furnish three copies of such written statements and recriminatory statements for the use of the Court and sufficient number of copies for service on petitioner and the other respondents, as the case may be. Where a recriminatory statement under sub-section(2) of section 97 of the Act alleges any corrupt practice, the statement shall be accompanied by an affidavit in support of the allegations of such corrupt practice and the particulars thereof, along with sufficient number of copies for the purposes aforesaid.

13. 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 powers of the parties.

14. Issues will be 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 subsistence allowance and the local conveyance allowance for those of them who are required to be summoned.

15. 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 summons on the date of the hearing, provided the names of such witnesses appear in the list of witnesses filed under the preceding rule.

16. Process fees to be paid shall be the same as provided in the Process Rules made by the High Court of Karnataka under section 77 of the Karnataka Court-Fees and Suits Valuation Act, 1958.

17. Travelling allowance for the journey from the place of residence of a witness to the place where evidence is required to be given and back to the place of residence of the witness, subsistence allowance and local conveyance allowance shall be paid to the witness

according to the scale set out below subject to the conditions indicated in the notes thereunder:-

Class of witness	Travelling allowance for each of the journeys to and from the place where evidence is given where it is different from the place of residence of the witness		Subsistence allowance including expenses per day	
	By Rail	By Road		
		Where there is public conveyance such as a motor bus plying for hire	Where there is no public conveyance plying for hire	
(1)	(2)	(3)	(4)	(5)
Third class: Persons whose annual income is Rs.3,000 or below	Single lowest class fare	Single lowest class fare	Ten paise per mile	Rs. P. 5-00
Second Class: Persons whose annual income is above Rs. 3,000 but does not exceed Rs. 8,000	Single second class fare	Single second class or lower class fare where there are only two classes	Twenty paise per mile	7-50
First Class: Persons whose annual income is above Rs. 8,000	The Judge may decide and allow single first class fare where he is satisfied that the witness habitually travels by the highest class available in public conveyance; in other cases single second class fare only		Forty paise per mile	Rs. P. 10-00

Note:- 1:- Subsistence allowance shall be payable, irrespective of the distance travelled, for the actual time required for the journey each way, and also for the time 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 2:- Notwithstanding anything stated above, a Government servant appearing to give evidence of facts coming to his knowledge in his capacity as a Government servant, or to produce any document in such capacity, shall be entitled to claim travelling allowance and daily allowance in accordance with the rules regulating his service condition. But, he will not be paid any amount by the Court; instead, he shall be granted a certificate of attendance:

Provided that no summons for the appearance of such witness shall be issued at the instance of any party, unless such party has deposited into the office of the High Court such amount as would be payable to such witness in accordance with the rules regulating his service conditions. The amount so deposited shall be credited to Government after the certificate above referred to is granted.

Note 3:- The Registrar shall decide to which class a witness belongs or which of the alternative modes of travelling allowance 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 4:- Where the witness resides at the place where evidence is given it will be at the discretion of the Judge to allow reasonable hire for conveyance (if one is used) in accordance with the status of the witness instead of subsistence allowance or travelling allowance.

Note 5:- In cases not fully or clearly covered by this scale or in cases where the Judge thinks that special considerations arise, the Judge may award such amount for travelling allowances, subsistence allowance, and local conveyance allowance as he deems proper.

18. The procedure for accounting the money deposited under Rule 17 shall be the same as provided in the Karnataka High Court Account Rules, 1965, for "Petty Deposits".

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 of the Act, or the High Court passes an order under sub-section (1) of section 116-B of the Act, the Registrar 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, he shall also forward to the Election Commission an authenticated copy of the Judgment and the formal order of the Court. The Registrar shall also report to the Election Commission when an election petition is allowed to be withdrawn under section 111 of the Acts after orders are passed in that behalf by the High Court. When an election petition abates and no attempt has been made for substituting another person for continuing the said petition as provided under section 116 of the Act, and the Court passes a final order treating the petition as abated, the Registrar shall report the same to the Election Commission, and also send an authenticated copy of the order.

20. A dairy 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 given below:

- (1) Number of the Election Petition;
- (2) Date of presentation;
- (3) Date of issue of summons to the respondents;
- (4) Date of service of summons on respondents;
- (5) Date of filing the written-statement or recriminatory statement;
- (6) Date of Production of documents;
- (7) Date of settlement of issues;
- (8) Date of filing the list of witnesses;
- (9) Date of commencement of hearing of the petition;

(10) Dates on which the petition was heard; and

(11) Date of conclusion of trial of the petition.

21. (1) The register referred to in Rule 7 shall be called the Register of Election Petitions and shall contain the following particulars in columns provided for the same:

1. Serial No. of the Election Petition;
2. Date of Presentation;
3. Name/s of the petitioner/s;
4. Name/s of the respondent/s;
5. Date/s of appearance of respondent/s with name/s of advocate/s if any;
6. Nature of the application (substance of the prayers);
7. Date and substance of final order.

(2) Interlocutory applications in each Election Petition will be serially numbered in the said petition in the order of presentation, and brief particulars thereof shall be entered on the page or pages immediately following the page on which the particulars of the main petition are entered in sub-rule(1). The particulars shall be:-

1. Names of applicant and respondent;
2. Nature of the prayer;
3. Date and substance of the final order.

22. The security for costs shall be paid in cash. Every petition shall be accompanied by a memorandum with a certificate from the Accounts Branch of the High Court that an amount of Rs.2,000 has been deposited as security.

23. Where any document in any language other than English is tendered and admitted in evidence the party tendering the same shall file 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 translations shall be at the discretion of the Court.

24. 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.

25. The High Court of Karnataka Rules, 1959 shall apply, where no specific provision is made in the Act, the Code or these rules.

26. In the case of petitions presented before the coming into force of these rules, the Judge may direct the petitioner to take such steps or to do such acts and things as may appear to the Judge to be necessary to bring the petition in conformity with these rules.

27. If any doubts or difficulty arises in the application of these rules in any particular case, the matter shall be posted before the Judge and his orders thereon shall be final.

NOTE: These rules have been published in Part IV section 2D of the Karnataka Gazette dated 30th March, 1967 (from pages 65 to 73)