



കേരള സർക്കാർ
Government of Kerala
2017



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കേരള ഗസറ്റ് KERALA GAZETTE

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്
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PART III Judicial Department

THE HIGH COURT OF KERALA

NOTIFICATION

No. DI-17782/2000.

23rd October 2017.

In exercise of the powers conferred by section 122 of the Code of Civil Procedure, 1908 (Central Act V of 1908), the Kerala Court Fees and Suits Valuation Act, 1959 (Act 10 of 1960) and all other powers hereunto enabling it in this behalf, the High Court of Kerala hereby publishes the following draft of the amendments proposed to the Civil Rules of Practice, Kerala, for general information.

Notice is hereby given that any objection or suggestion with respect to the draft, received from any person within thirty days from the date of publication of this notification in the official Gazette, will be considered by the High Court. Objections or suggestions, if any, shall be addressed to the Registrar (Subordinate Judiciary), High Court of Kerala, Kochi-682 031.

Draft Rules

1. *Short title and commencement:*—(1) These Rules may be called the Civil Rules of Practice, Kerala (2nd Amendment), 2017.

(2) They shall come into force at once.

2. *In the Civil Rules of Practice, Kerala:*—(1) after Rule 238, the following headings and rules shall, respectively be inserted, namely:

‘D. ELECTION PETITIONS FILED UNDER KERALA PANCHAYATH RAJ ACT, 1994

238 A. Definitions: For the purposes of Rules 238B to 238K,

(a) “Act” shall mean the Kerala Panchayath Raj Act, 1994 (13 of 1994);

(b) “Court” means the competent Court as defined under section 88 of the Act.

238 B. Numbering:

Every Election Petition shall be registered as "Election Petition (Panchayath)" and given a separate serial number of the year and shall be entered with complete details in a separate Register maintained for the purpose. The Election Petition shall be presented in the manner provided under section 89 of the Act.

238 C. Contents of the Petition:

Every Election Petition shall, in addition to the contents required under Sections 91 and 92 of the Act, contain information as to the date of election of the returned candidate and the date on which the returned candidate was declared elected. The petitioner shall also state whether the Election Petition is filed within the time allowed by Section 89 of the Act.

238 D. Summons:

Immediately after registering, the petition shall be placed before the Court for such orders as may be required to be passed under the Act. If the petition is not dismissed under sub section (1) of Section 93 of the Act, a summons, on the direction of the Court, shall be issued to the respondents to appear before the 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 issue of the summons. The summons shall be for written statement and settlement of issues and shall be served in the manner provided for in the Code. All steps shall be taken to effect service with utmost expedition.

238 E. Copies of Petitions etc. to be furnished:

- (1) In every proceeding where summons is issued by the court as provided in Rule 238 D, the party presenting the Election Petition shall file in the court, process memo as provided in Rule 61.
- (2) Any respondent filing written objection to the petition shall serve a copy of the same on all the parties to the Election Petition.
- (3) In case the petitioner files any reply to the objection, he shall serve a copy on all the parties to the Election Petition.

238 F. Discovery, Inspection and Production of Documents:

After the pleadings in the Election Petition are received, a date shall be fixed, at the direction of the court, for

- (i) discovery of documents
- (ii) inspection of the documents disclosed, and
- (iii) the production of documents which are in the possession and power of parties.

238 G. Settlement of Issues and Witness List:

As soon as may be after the pleadings are received, issues shall be settled and the Election Petition shall 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 travelling allowance, the diet allowance and the total conveyance allowance for such of them who are required to be summoned.

238 H. Issue of witness summons:

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 hearing provided they have filed a list of the same as required under Rule 238G.

238 I. Expenses of witnesses:

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 prescribed in these rules for summoning of witnesses. Payment shall be made to the witness out of the amounts so deposited after the witness has given evidence or he is discharged by the court.

238 J. Diary of Index:

Rules 382 to 384, relating to maintenance of diaries and proceedings paper shall be applicable to Election Petitions filed under the Act.

238 K. Interlocutory Applications:

All interlocutory applications in each Election Petition shall be numbered as 'I. A.' and shall be separately recorded in the register of Interlocutory Applications maintained for the purpose. When an application is filed, the same shall be placed before the court as part of the Election Petition for passing necessary orders.

E. ELECTION PETITIONS FILED UNDER THE KERALA MUNICIPALITY ACT, 1994

238 L. Definitions: For the purpose of Rules 238M to 238V,

- (a) "Act" means the Kerala Municipality Act, 1994 (20 of 1994)
- (b) "Court" means the competent Court as defined under Section 164 of the Act.

238 M. Numbering:

Every Election Petition shall be numbered as "Election Petition (Municipal)" and given a separate serial number of the year and shall be entered with complete details in a separate Register maintained for the purpose. The Election Petition shall be presented in the manner provided under Section 165 of the Act.

238 N. Contents of the Petition:

Every election petition shall, in addition to the contents required under Sections 167 and 168 of the Act, contain information as to the date of election of the returned candidate and the date on which the returned candidate was declared elected. The petitioner shall also state whether the Election Petition is filed within the time allowed by Section 165 of the Act.

238 O. Summons:

Immediately after registering, the petition shall be placed before the court for such orders as may be required to be passed under the Act. If the petition is not dismissed under sub section (1) of Section 169 of the Act, a summons, on the direction of the court shall be issued to the respondent to appear before the court on a fixed date and answer the allegation 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 in the manner provided in the Code. All steps shall be taken to effect service with the utmost expedition by the petitioner.

238 P. Copies of petitions etc. to be furnished:

- (1) In every proceeding where summons is issued by the Court as provided in Rule 238 O, the party presenting the Election Petition shall file in the Court process memo as provided in Rule 61.
- (2) Any respondent filing written objection to the petition shall serve a copy of the same on all the parties to the Election Petition.
- (3) In case the petitioner files any reply to the objection he shall serve a copy of the same on all the parties to the Election Petition.

238 Q. Discovery, Inspection and Production of Documents:

After the pleadings in the Election Petition are received, a date shall be fixed, which shall not exceed thirty days, at the direction of the Court, for—

- (i) discovery of documents
- (ii) inspection of the documents disclosed, and
- (iii) the production of documents which are in the possession and power of the parties.

238 R. Settlement of Issues and Witness List:

As soon as may be after the pleadings are received, issues shall be settled and the Election Petition shall be posted for trial, if necessary. Within seven days of the settlement of issues, parties shall file a list of witnesses and pay the process fees and travelling allowance, the diet allowance and the total conveyance allowance for such of them who are required to be summoned. The said witness list shall specify the witnesses, to whom summons need be issued by the court.

238 S. Issue of Witness summons:

Parties shall apply for the issue of witness summons sufficiently early in time for the attendance of witnesses after service, to be present on the day of examination. Parties may also produce witnesses without a summons on the date of hearing provided they have filed a list of the same as required under Rule 238R.

238 T. Expenses of Witnesses:

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 prescribed in these Rules for summoning of witnesses. The party shall deposit the required sum within three days of issuance of the summons by the court. The payment shall be made to the witness out of the amounts so deposited after the witness has given evidence or he is discharged by the court.

238 U. Diary of Index:

Rules 382 to 384, relating to maintenance of diaries and proceedings paper will be applicable to Election Petitions filed under the Act.

238 V. Interlocutory Applications:

All interlocutory applications in each Election Petition shall be numbered as "I. A." and shall be separately recorded in the register of Interlocutory Applications maintained for the purpose. When an application is filed, the same shall be placed before the court as part of the election petition for passing necessary orders.'

(2) in Rule 397,

(a) under the heading 'Institution Registers', after item 11, the following items shall be inserted, namely:

'11 A. Register of Panchayath Election Petitions

11 B. Register of Interlocutory Applications (Panchayath Election Petitions)

11 C. Register of Municipal Election Petitions

11 D. Register of Interlocutory Applications (Municipal Election Petitions)'

(b) under the heading 'Disposal Registers', after item 20, the following items shall be inserted, namely:

'20 A. Register of Panchayath Election Petitions disposed of

20 B. Register of Municipal Election Petitions disposed of'

(3) in Appendix-II,

(a) after 'Civil Register No. 11', the following forms shall be inserted, namely:

'CIVIL REGISTER No. 11 A

Register of Panchayat Election Petitions

Court:

Year:

1. Election Petition No. :
2. Date of Presentation:
3. Date of Presentation (after curing defects, if any):
4. Name of Petitioner:
 - (a) Age:
 - (b) Sex:
 - (c) Address:
5. Name of Respondent:
 - (a) Age:
 - (b) Sex:
 - (c) Address:
6. Nature of Election Petition:
7. Date of Respondents' first appearance:
8. Counsel for,
 - (a) Petitioner:
 - (b) Respondents:
9. Final order in the Election Petition with date:
10. Number of the application for review (rehearing) with date:

11. Fresh order in the review (rehearing), if any, with date:
- 12.

Instructions

1. If the Election Petition has been received by transfer, a note should be made to that effect at the head of the page.

2. The name of all the parties to the Election Petition should be entered under item Nos. 4 and 5 above. If the space in the register is not sufficient, a fly leaf should be attached and the remaining names entered thereon with the signature of the Chief Ministerial Officer.

3. The courts to which the Election Petitions are transferred should note the old numbers and the date of institution in the Register within brackets and should intimate to the Courts in which the Election Petitions were originally instituted, the new number given to the Election Petition.

4. Further appeals or proceedings should be entered against Serial No. 12.

CIVIL REGISTER No. 11B

Register of Interlocutory Applications (Panchayat Election Petitions)

1. Court:
2. No. of main Election Petition:
3. No. of interlocutory Application with date:
4. Name of Petitioner:
5. Name of Respondent:
6. Relief sought for:
7. Interim order, if any, with date:
8. Final order in the I.A. with date:
- 9.

Instructions

1. The name of all the parties to the Interlocutory Petition should be entered under item Nos. 4 and 5 above.

2. If the space in the register is not sufficient, a fly leaf should be attached and the details entered thereon with the signature of the Chief Ministerial Officer.

3. Further appeals or proceedings should be entered against Serial No. 9.

CIVIL REGISTER No. 11C

Register of Municipal Election Petitions

Court:

Year:

1. Election Petition No:
2. Date of Presentation:
3. Date of Presentation (after curing defects, if any):
4. Name of Petitioner:
 - (a) Age:
 - (b) Sex:
 - (c) Address:
5. Name of Respondent:
 - (a) Age:
 - (b) Sex:
 - (c) Address:
6. Nature of Election Petition:
7. Date of Respondents' first appearance:

8. Counsel for,
 - (a) Petitioner:
 - (b) Respondent:
9. Final order in the Election Petition with date:
10. Number of the application for review (rehearing) with date:
11. Fresh order in the review (rehearing), if any, with date:
- 12.

Instructions

1. If the Election Petition has been received by transfer a note should be made to that effect at the head of the page.
2. The name of all the parties to the Election Petition should be entered under item Nos. 4 and 5 above. If the space in the register is not sufficient, a fly leaf should be attached and the remaining names entered thereon with the signature of the Chief Ministerial Officer.
3. The courts to which the Election Petitions are transferred should note the old numbers and the date of institution in the Register within brackets and should intimate to the Courts in which the Election Petitions were originally instituted, the new number given to the Election Petition.
4. Further appeals or proceedings should be entered against Serial No. 12.

CIVIL REGISTER No. 11D

Register of Interlocutory Applications (Municipal Election Petitions)

1. Court:
2. No. of main Election Petition:
3. No. of Interlocutory Application with date:
4. Name of Petitioner:
5. Name of Respondent:
6. Relief sought for:
7. Interim order, if any, with date:
8. Final order in the I. A. with date:
- 9.

Instructions

1. The name of all the parties to the Interlocutory Application should be entered under item Nos. 4 and 5 above,
2. If the space in the register is not sufficient, a fly leaf should be attached and the details entered thereon with the signature of the Chief Ministerial Officer.
3. Further appeals or proceedings should be entered against Serial No. 9.

(b) after 'Civil Register No. 20', the following forms shall be inserted, namely:

'CIVIL REGISTER No. 20 A

Register of Panchayath Election Petitions Disposed of

1. Serial Number:
2. Number of the Election Petition disposed of:
3. Date of institution or of receipt on order of transfer:
4. Date of Disposal:
5. If transferred to another court:
6. Whether the Election Petition was contested or not:
7. If decreed exparte, date:
8. Date of setting aside exparte order:
9. Final Order for the Petitioner:

10. Final Order for the Respondent:
11. Actual number of days between date of institution and final order:
12. Amount of cost awarded:
13. Remarks:

Instructions

1. The date to be entered in item No. 3 should always be the latest date.
2. The date of original disposal as well as the date of disposal after restoration should be entered in item No. 4.
3. The date of institution should be excluded from, but the day of disposal shall be included in calculating the number of days occupied in disposal.
4. If the space in the register is not sufficient, a fly leaf should be attached and the details entered thereon with the signature of the Chief Ministerial Officer.

CIVIL REGISTER No. 20 B

Register of Municipal Election Petitions Disposed of

1. Serial Number:
2. Number of the Election Petition disposed of:
3. Date of institution or of receipt on order of transfer:
4. Date of Disposal:
5. If transferred to another court:
6. Whether the Election Petition was contested or not:
7. If decreed exparte, date:
8. Date of setting aside exparte order:
9. Final Order for the Petitioner:
10. Final Order for the Respondent:
11. Actual number of days between date of institution and final order:
12. Amount of cost awarded:
13. Remarks:

Instructions

1. The date to be entered in item No. 3 should always be the latest date.
2. The date of original disposal as well as the date of disposal after restoration should be entered in item No. 4.
3. The date of institution should be excluded from, but the day of disposal shall be included in calculating the number of days occupied in disposal.
4. If the space in the register is not sufficient, a fly leaf should be attached and the details entered thereon with the signature of the Chief Ministerial Officer.

By order,

K. BABU,

Registrar (Subordinate Judiciary).

Explanatory Note

(This does not form part of the notification, but is intended to bring out its general purport.)

The High Court of Kerala had, in its order dated 14-3-2000 in CRP 756/1998, observed that specific rules with regard to the manner in which the election petitions are to be received, processed and accounted for have to be included in the Civil Rules of Practice, Kerala. The above amendments have been made in pursuance of the said observations.

The notification is issued to achieve the above objective.