RNI No. MAHBIL /2009/37831

महाराष्ट्र शासन राजपत्र

असाधारण भाग चार–ब

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असाधारण क्रमांक ३९०

प्राधिकृत प्रकाशन

महाराष्ट्र शासनाने महाराष्ट्र अधिनियमांन्वये तयार केलेले

(भाग एक, एक-अ आणि एक-ल यांमध्ये प्रसिद्ध केलेले नियम व आदेश यांव्यतिरिक्त) नियम व आदेश.

CO-OPERATION, MARKETING AND TEXTILES DEPARTMENT

Mantralaya (Annex), Madam Cama Marg, Hutatma Rajguru Chowk,
Mumbai 400 032, dated the 24th October 2019

NOTIFICATION

MAHARASHTRA CO-OPERATIVE SOCIETIES ACT, 1960.

No. CSR 0818/C.R.83/13-C.—The following draft of rules further to amend the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014, which the Government of Maharashtra proposes to make in exercise of the powers conferred by sub-sections *(1)* and *(2)* of section 165 of the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961), and of all other powers enabling it in that behalf, is hereby published, as required by sub-section *(3)* of section 165 of the said Act, for the information of all the persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration by the Government of Maharashtra on or after the 25th November 2019.

2. Any objections or suggestions, which may be received by the Principal Secretary (Co-operation), Co-operation, Marketing and Textile Department, Madam Cama Marg, Hutatma Rajguru Chowk, Mantralaya Annexe, Mumbai 400 032, from any person with respect to the said draft before the aforesaid date, will be considered by the Government.

DRAFT RULES

1. These rules may be called the Maharashtra Co-operative Societies (Election to Committee) (First Amendment) Rules, 2019.

2. In rule 2 of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014 (hereinafter referred to as "the principal Rules"), in sub-rule (16), after the words "election of societies" the words "and, in case of a Housing Society having less than or upto two hundred and fifty members, includes a person appointed by its members or the Registrar, from the panel approved by SCEA for the conduct of election of that housing society" shall be added.

3. In rule 4 of the principal Rules,–

(a) in clause (III) under the heading " **Type "C" Societies** ", in entry (4), for the figures and words "200 or more than 200 members" the words "more than two hundred and fifty members" shall be substituted ;

(b) in clause (IV) under the heading **" Type "D" Societies "**, in entry (1), for the figures and word " 200 members" the words "less than or upto two hundred and fifty members" shall be substituted.

4. In rule 43 of the principal Rules, in sub-rule *(3),* in clause *(b)* after the words " District Co-operative Election Officer" the words "or the Returning Officer" shall be inserted.

5. In rule 69 of the principal Rules,-

(a) in sub-rule *(1),* after the words "District Co-operative Election Officer" the words "or the Taluka or Ward Election officer, as the case may be shall" be inserted ;

(b) in sub-rule *(2),* after the words "District Co-operative Election Officer" the words "or the Taluka or Ward Election officer, as the case may be" shall be inserted.

6. In PART-X of the principal Rules,—

(a) in the Heading after the words and letter **"Type D Societies"** the words **"except the Housing Society having less than or upto two hundred and fifty members"** shall be added ;

(b) in rule 76,-

(i) in the heading, after the words and letter **"***type 'D' societies"* the words *"except the housing society having less than or upto two hundred and fifty members"* shall be added ;

(ii) for the word, figure and letters "rule 4 (IV)" the words, figures and letters "rule 4(IV) (2) and (3) shall be substituted.

7. After PART-X of the principal Rules, the following shall be inserted, namely :—

"PART –X-1A

Special provisions in respect of Housing Society having less than or upto two hundred and fifty members.

76-A. *Election to Committee of housing society having less than or upto two hundred and fifty members.*- The special provisions of this PART shall apply in respect of election to Committee of housing society having less than or upto two hundred and fifty members.

76-B. *Appointment of Returning Officer to conduct election.*- The Returning Officer shall be appointed by the committee of the housing society having less than or upto two hundred and fifty members from the panel of Returning Officers approved by SCEA and maintained by Divisional Joint Registrar before sixty days of the expiry of the tenure of the existing Committee and communicate the same to the Registrar and if the Returning Officer is not appointed within the specified period, communicate the non-appointment of Returning Officer before fifty three days of the expiry of the tenure of the existing committee :

Provided that, no member, auditor or employee of such society shall be appointed as Returning Officer for conducting election to committee of such society :

Provided further that, if committee of such society fails to appoint Returning Officer, then the Registrar shall appoint the Returning Officer from the pannal.

76-C. *Preparation of electoral roll.- (1)* A provisional list of voters shall be prepared and published by every such society at least sixty days before the election in the year in which the election of such society is due to be held.*(2)* The provisional list of voters shall comprise of all the members on the date of the publication of provisional voters list as per Register of members maintained by such Society in Form 'I' and List of Members maintained in Form 'J' of the Maharashtra Co-operative Societies Rules, 1961.

76-D. *Particulars to be included in the provisional list of Voters.*- The Provisional list of voters shall contain the surname, name, father or husband name, age, gender (in alphabetical order) with addresses as recorded in the Register of Members in FORM E-3 of every person entitled to be registered as voter with such other particulars as may be necessary to identify the member.

76-E. *Claims and objections to the provisional list of voters and the final list of voters.—(1)* The Secretary of such society or the Authorised Officer appointed by the Registrar in case where the Committee is superseded, shall publish the provisional list of voters on the notice board of the society and Office of Registrar and may also make available the same to all the members through written notice with acknowledgment or by any electronic mode.

(2) When any provisional list of voters is published for inviting claims and objections, then omissions or errors, in respect of name, address or any other particulars in the list, the same may be brought to the notice of the Returning officer of the society in writing by any member, Associate or Joint or Provisional Member of the society concerned during office hours within ten days from the date of publication of the provisional list of voters.

(3) Every claim, objection or correction shall be preferred in writing and state the grounds on which the claim is based or the objections are raised, as the case may be.

(4) The Returning Officer of the society shall, after making such enquiries as deemed necessary in this behalf, consider such claims, objections or corrections and give his decision thereon in writing to the persons concerned within ten days from the last date for receiving the claims or objections and final list of voters shall be published within the period of ten days from the last date for receiving the claims or objections in FORM E-3(1). The list as finalized by the Returning Officer after deciding all claims or objections shall be final list of voters.

(5) The copies of the final list of voters shall be displayed on the notice board of society and the office of the Registrar within a period of two days after its preparation.

76-F. *Written consent regarding voting rights.—(1)* Any member of the society shall submit consent regarding transfer of his voting rights to Associate or Joint member, if any, in writing to the Returning Officer within a period of ten days from the date of publication of the provisional list of voters.

(2) In case of Company or firm or any other body corporate or local authority or any association of persons or any legal Body constituted under any law of the time being in force, the authorized director or person or any one of the partners as appointed by the firm, shall send the name of representative duly authorized to vote at the election on its behalf to the Returning Officer, within ten days from the date of publication of the provisional list of voters.

76-G. *Conduct of Elections.—(1)* Notwithstanding anything contained in the bye-laws, in every society seats on the committee shall be reserved as per the provisions of sections 73-B and 73-C.

(2) The election of members of Committee shall be held in Special General Meeting of the society convened by the Returning Officer for this purpose and no other subject, except the election shall be kept on the agenda of such meeting.

(3) The Returning Officer shall affix the notice for Special General Meeting on the notice board of society and office of the Registrar at least fourteen days before the date fixed for Special General meeting of the society. Such notice shall contain,—

(a) date of Special General Meeting,

(b) time and venue of Special General Meeting,

(c) category-wise number of members to be elected,

(d) time period for making nominations,

(e) time period of publication of the list of nominations,

(f) time period of scrutiny,

(g) time period for publication of list of valid nomination,

(h) time period within which candidature may be withdrawn,

(i) time period of publication of final list of contesting candidates,

(j) time period of poll which shall be taken time period for counting of votes immediately after poll.

(k) declaration of result.

(4) The notice for Special General Meeting shall be served on the members of the society by any one of the following modes, namely :—

(a) through personal written notice with acknowledgement; or

(b) by Registered Post Acknowledgement due ; or

(c) by electronic mode.

(5) If the date of Special General Meeting is to be postponed for any unforeseen reasons, then the same shall be communicated by the Returning Officer to the Taluka Co-operative Election Officer, Registrar and notice in this regard shall be displayed on notice board of the society.

(6) The Returning Officer shall preside over the meeting and record the proceedings in the register kept for this purpose. The Returning Officer shall record the members present at the commencement of the meeting in the register and cause all the members who are present for the meeting to sign it. He shall not allow any other person to enter into the place of meeting except the person or persons appointed to assist him, the officers of the society, the members of the society who are entitled to vote and Police Officers, if called. He shall not allow the discussion on any other subject.

(7) The Returning Officer shall announce the schedule of election of Members of Committee, stating the category wise number of seats to be elected, time within which nominations papers shall be filled by the members, time when the nominations shall be taken up for scrutiny, time of withdrawal and the time at which the polling, if required, takes place.

(8) Every member of committee and all the employees of the society and persons related to conducting the work of election shall be bound to extend all kind of help and assistance and shall make available each record to the Returning Officer as desired by him. The society shall make available all necessary logistics and resources to the Returning Officer well in advance of the election.

76-H. *Nomination of candidates.—(1)* Nomination of the candidate for election shall be made in FORM **E-5** which shall be supplied free of cost in the Special General Meeting by the Returning Officer to members.

(2) Every nomination paper shall be signed by two members whose names are included in final list of voters. One of the members shall sign the form as proposer and the other as seconder for the nomination of the candidate.

(3) The nomination paper shall also contain a declaration signed by the candidate expressing his willingness to stand for the election. The nomination paper shall also find attached copy of caste certificate issued by the Competent Authority for the candidate contesting for the reserved seats as per section 73-B.

(4) The Returning Officer who receives the nomination papers shall enter upon the nomination paper, its serial number and certify the date and time at which the nomination paper has been received by him and shall immediately give a written acknowledgement for the receipt of nomination paper.

(5) The Returning Officer shall, at the close of time fixed for the receipt of nomination papers, prepare a list of nominations received by him and declare it in the Special General Meeting.

(6) No person shall be nominated as a candidate for election if,—

(i) his name does not appear in final list of voters ; or

(ii) he is disqualified to be the member of committee under the provisions of the Act, Rules or bye-laws.

76-I. *Scrutiny of Nomination.—(1)* The Returning Officer shall at the appointed hour, take up the scrutiny of nomination papers. He shall examine the nomination papers and shall decide all objections which may be made by any candidate or his proposer or seconder in respect of any nomination and may either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, either accept or reject any nomination.

(2) The Returning Officer shall not reject any nomination paper on the ground of any defect which is not of a material character such as spelling and clerical mistakes, incorrect voter list number.

(3) The Returning Officer shall for reasons to be recorded in writing, reject a nomination paper only on the following grounds, namely :—

(a) if the nomination paper is not signed or filled ; or

(b) if the candidate is disqualified to be elected under the Act, Rules or Bye-laws of the society.

(4) The list of valid nominations as decided by the Returning Officer shall be declared in Special General Meeting after the scrutiny of nomination papers is completed.

76-J. *Withdrawal of Nomination Paper.-* Any candidate may withdraw his candidature by notice in writing, subscribed by him and delivered to the Returning Officer in FORM **E-6** at any time after the presentation of nomination paper but before the time specified in the election programme for such withdrawal. The Returning Officer shall prepare a list of such candidates who have withdrawn their candidature. A notice of withdrawal of candidate once given shall be irrevocable.

76-K. *Preparation of list of Contesting Candidates.—(1)* The Returning Officer shall prepare and declare in FORM E-7**,** a list of contesting candidates, whose nominations are in order and who have not withdrawn their candidature within the specified time on the notice board of the society.

(2) If for any category for which election is to be held, the number of candidates whose nomination papers have been declared valid, does not exceed the number of candidates to be elected for that category, the Returning officer shall declare them to have been duly elected to the Committee.

76-L. *The Poll.—(1)* If the number of candidates whose valid nominations exceed the number of members to be elected for any category, the Returning Officer shall arrange for conducting a poll.

(2) Voting may be conducted by show of hands or by secret ballot, if demanded by more than one fifth members present in the meeting.

(3) The ballot paper shall bear the seal of the society and the counter foil thereof shall bear the initials of the Returning Officer.

(4) The names of the candidates in the ballot paper shall be arranged in alphabetical order with surname appearing first.

(5) Each voter shall be supplied with an authenticated ballot paper obtaining his signature on the counter foil.

76-M. *Counting of votes and declaration of result.—(1)* The Returning officer shall start counting of votes immediately after polling is completed as per declared election programme. The Returning Officer shall count number of valid votes received by each candidate, number of invalid votes and declare the names of successful candidates.

(2) When an equality of votes is found to exist between any candidate either for the reserved or the unreserved seats, the addition of one vote will entitle any of the candidate to be declared elected, the determination of the person or persons to whom such an additional vote shall be deemed to have been given shall be made by lots to be drawn, in the presence of the Returning officer and the candidates who may desire to be present, in such manner as the Returning Officer may determine.

(3) The Returning Officer shall immediately thereafter, record the proceedings of the election in register and shall furnish copy of proceedings together with declaration of results in FORM ' E-17 ' to the society and within seven days of the Special General Meeting to the Registrar.

76-N. *Custody of papers relating to elections.*—All the records pertaining to the election shall be carefully preserved in a box duly locked and sealed by the secretary of the society for a period of three months and destroyed thereafter. However, if the result of the election is disputed, the records pertaining to election shall be preserved until the final decision of the dispute.

76-O. The Returning Officer shall conduct meeting of elected members of committee for electing office bearers on a fixed date and its notice shall be given to every member of committee at least seven days before the date fixed there for in writing with acknowledgment. Such notice shall contain.—

(i) The number of Officers to be elected ;

(ii) Date, Place and time of the meeting.

The business transacted in this meeting shall be recorded in the minute's book of the society and same shall be communicated to the Registrar.

76-P. *(1)* In addition to the above provisions, the provisions of rules 5, 13 to 17, 22, 23, 32, 34 to 65, 67 to 74 and 78 to 86 of these rules shall also apply in respect of election to the committee of housing society having less than or upto two hundred and fifty members.

(2) The provisions of rules 6 to 12, 18 to 21, 24 to 31, 33, 66, 73, 75 and 77 of these rules shall not apply in respect of election to the committee of housing society having upto two hundred and fifty members.".

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

ABHA SHUKLA,

Principal Secretary to Government.

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