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Handbook for Presiding Officers

(where Electronic Voting Machines are used)

**WEST BENGAL STATE ELECTION COMMISSION
2000**

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HANDBOOK FOR PRESIDING OFFICERS OF POLLING STATIONS WHERE ELECTRONIC VOTING MACHINES ARE USED

CHAPTER I PRELIMINARY

INTRODUCTORY

- 1.1 As a Presiding officer, you have an important role to play in the conduct of poll. You enjoy full legal power to control the proceedings in the polling station under your charge. It is your primary duty and responsibility to ensure a free and fair poll at your polling station. It is necessary for this purpose to equip yourself fully with the law and procedure and the relevant instructions and directions of the Commission in relation to the conduct of elections so as to enable you to act strictly in accordance with them and give no room for any reasonable complaint.
- 1.2 Elections to the Municipalities/Panchayats have hitherto been held under the traditional system of ballot papers and ballot boxes. The West Bengal State Election Commission has been trying to bring improvements in the election procedures taking advantage of the scientific and technological advancement. The electronic voting machine (hereinafter referred to as voting machine) as approved by the Election Commissioner of India is a very versatile and reliable system for conduct of election. The voting machine has been designed keeping in view the present system under which ballot papers and ballot boxes are used.
- 1.3 You are the Presiding Officer for a polling station in which voting machines are going to be used. You should, therefore, acquaint yourself fully with the latest position about the rules and procedures prescribed for the conduct of poll by voting machines. You should not only familiarise yourself thoroughly with each step to be taken in the conduct of poll at the polling station, but also with the operation of voting machine. A slight mistake or lapse or wrong application of the law or rules or inadequate knowledge of various functions of the voting machine may vitiate the poll at your polling station.

BRIEF INTRODUCTION TO VOTING MACHINES

- 2.1 A voting machine consists of two Units, namely, Control Unit and Balloting Unit. These two units are interconnected, when the voting machine is put in operation, by means of a cable, one end of which is permanently attached to the balloting unit.
- 2.2 The balloting unit caters upto sixteen candidates. On the balloting unit, there is provision for display of the ballot paper containing the particulars of the election, serial numbers and names of contesting candidates and the symbols respectively allotted to them. Against the name of each candidate, there is a button by pressing which the voter can record his vote for his chosen candidate. Alongside the said button, there is also a lamp for each candidate, which will glow red to indicate that the vote has been recorded.
- 2.3 Four balloting units linked together catering upto sixtyfour candidates can be used with one control unit. On the top most portion of the control unit, there is provision

for displaying the various information and data recorded in the machine, like the number of contesting candidates, total number of votes polled, votes polled by each candidate, etc. This portion is called Display Section of the control unit. Below the Display Section, there is a compartment for holding the battery on which the machine runs. By the side of this compartment, there is another compartment in which there is a button for setting the machine for the number of candidates contesting the particular election. This button is called the 'Cand Set' button and the section of the control unit consisting of these two compartments is called the 'Cand Set Section'. Next to the Cand Set Section is the 'Result Section' of the control unit. This section contains (i) 'Close' button used for closing the poll, (ii) two 'Result' buttons for ascertaining separately the result of simultaneous elections in your case only the result I button will be used and (iii) 'Clear' button for clearing the data recorded in the machine when not required. In the bottom portion of the control unit, there are two buttons-- one marked 'Ballot' by pressing which the balloting unit becomes ready to record the vote and the other marked 'Total' button by pressing which the total number of votes recorded upto that stage (but without the candidate-wise break up) can be ascertained. This section is known as the 'Ballot Section' of the control unit. The machine uses a microcomputer. It operates on a battery and can be used anywhere and under any conditions. It is tamperproof, error-free and easy to operate. Both the Units of the machine are supplied in two separate carrying cases which are easily portable. The polling information once recorded in the machine is retained in its memory even when the battery is removed.

- 2.4 The machine, especially balloting unit, is so designed as to keep intact all essential features of the present voting system. The only difference is that the voter is required to press the button provided opposite the name and symbol of the candidate of his choice instead of marking the ballot paper with the arrow cross mark rubber stamp. The voting machine cannot be tampered with and the secrecy of vote is fully maintained. The process of voting in the voting machine is very simple and quick. Even illiterates have no difficulty in using the voting machine to record their votes. The counting of votes and declaration of results by using the voting machines will be an absolutely simple affair as there will be no doubts and disputes with regard to any vote, and the result of the poll taken at a polling station will be available on the mere pressing of the result button on the control unit.
- 2.5 The Electronics Corporation of India Limited who have produced these machines have published Manuals explaining in full the details of operation of the machines produced by them. You should study Manual very carefully.

LEGAL PROVISIONS REGARDING CONDUCT OF POLL

The provisions of the law which have a bearing on your duties as a Presiding Officer are reproduced in Annexures I and II.

BROAD OUTLINES OF DUTIES

- 4.1 This Handbook is designed to give you the information and guidance which you may need in the performance of your functions as a Presiding Officer. However, it may be noted that this Handbook cannot be treated as an exhaustive compendium in all aspects and as a substitute reference for various provisions of election law during the conduct of poll. You should, wherever necessary, refer to those legal provisions which are reproduced in *Annexures I and II*.

4.2 While detailed directions and instruction are contained in the various Chapters of this Handbook, some of the salient and important aspects of your duties are given below:

- (i) You should acquaint yourself fully with the latest position about the rules and procedures prescribed for the conduct of poll by voting machines.
- (ii) You should familiarise yourself thoroughly with the operation of the voting machine and the functions of various buttons and switches provided therein.
- (iii) You must acquaint yourself with members of your polling party and keep contact with them right from your appointment as Presiding Officer.
- (iv) You must keep in ready possession all relevant instructions of the Returning Officer.
- (v) You must have a clear idea of the location of your polling station and your itinerary to and from the polling station.
- (vi) You should attend all rehearsals and training classes without fail.
- (vii) while collecting election materials, you should ensure that all items have been handed over to you. The most important items are electronic voting machine (ballot unit and control unit), tendered ballot papers, Register of Voters (Form 16A), marked copy of electoral roll and extra copies of the roll, green paper seals, strip seals, special tags, statutory forms, sealing wax and indelible ink.
- (viii) On arrival at the polling station, you should have a clear idea of the arrangements to be made for setting up of a proper polling station especially to secure secrecy of voting, regulation of queue of voters, protection of poll proceedings free from outside interference, etc.
- (ix) Before the commencement of poll, the voting machine has to be demonstrated to the polling agents present to satisfy them that no votes are already recorded therein. It has also to be demonstrated to them that the machine is in perfect working condition. For these purposes, a mock poll shall be held by recording a few votes at random for each of the contesting candidates and tallying the result.
- (x) After holding the mock poll, the votes recorded at such mock pool have to be cleared from the voting machine so that no data relating to the mock poll remains in the memory of the machine. The control unit of the voting machine has then to be sealed and secured by fixing the green paper seal in the space provided therefor.
- (xi) The poll should commence at the hour fixed for such commencement by the Election Commission. Before commencing the poll, the candidates or their agents present and the polling officers should be warned about the maintenance of secrecy of vote and provisions of section 81 of the W.B. Municipal Election Act, 1996 read with Representation of the people Act, 1951 should be brought to their notice.
- (xii) At the commencement of poll, you have to make a declaration in a prescribed form (Annexure IV) about the demonstration of the voting machine, marked

copy of the electoral roll and the Register of Voters to candidates or their polling agents present and get it signed by them.

- (xiii) The identity of elector should be properly verified by the First Polling Officer and the unofficial identity slip carried by an elector should not be accepted as a matter of routine.
- (xiv) After an elector is identified with reference to his entry in the electoral roll his left forefinger should be marked with the indelible ink.
- (xv) In order to ensure that the indelible ink mark put on the voter's finger has properly dried up and developed into a distinct indelible ink mark mark his left forefinger should be again checked up before the voter leaves the polling station.
- (xvi) After an elector has been identified, the entry relating to the elector in the marked copy of the electoral roll should be underlined. A tick mark (✓) will also be put in the case of a female elector.
- (xvii) The serial number (not the name) of the elector as given in the marked copy of the electoral roll should be noted in the Register of Voters (Form 16A).
- (xviii) The signature or thumb impression of the elector should be obtained on the Register of Voters (Form 16A) before he is allowed to record his vote. If an elector refuses to put his signature or thumb impression on the Register of Voters, he shall not be permitted to vote.
- (xix) After the signature or thumb impression of the elector has been obtained on the Register of Voters, he shall be issued a voter's Slip showing the serial number at which the entry relating to him has been made in the Register of voters.
- (xx) The electors shall be allowed to record their votes in the voting machine on the basis of the Voters' slips in the strict order in which they have been entered in the Register of Voters.
- (xxi) If you consider an elector to be much below the minimum age of voting, i.e., 18 years, but are otherwise satisfied about his identity and the fact of inclusion of his name in the electoral roll, you should obtain a declaration from him about his age, vide - form of declaration in Annexure III.
- (xxii) You have to go on recording in the Presiding Officer's Diary the relevant events as and when they occur.
- (xxiii) You have to regulate the proceedings in the polling station for peaceful and smooth conduct of poll. You require much tact, but at the same time you should be firm and impartial.
- (xxiv) You shall close the poll at the hour fixed for that purpose by the Commission, even if the commencement of poll was delayed for any reason. However, all voters present at the polling station at the closing hour of poll shall be allowed to vote even if that means the continuing of poll for some more time. It should also be ensured that after the closing hour of poll nobody joins the queue of voters. To ensure that, you should distribute slips to all voters standing in the queue starting such distribution of slips from the tail-end of the queue.

- (xxv) At the close of poll, you are required to prepare an 'Account of Votes Recorded' in Part I of Form 16C. Authenticated copies of such account of votes recorded are required to be given to the polling agent of each candidate present. You are also required to make a declaration regarding furnishing of such copies to the candidates agents in the form prescribed by the Commission.
- (xxvi) After the close of poll, the 'Close" button on the Control Unit is to be pressed. Switch in to be off and the balloting unit is to be detached. The voting machine and all election papers should be sealed and secured in the manner prescribed by the Commission. Candidates or their agents present have also to be allowed to affix their seals, if they so desire, on the voting machine and the election papers in addition to your seals. You should follow carefully the relevant instructions about the sealing and securing of voting machines and election papers so that no mistake is committed.
- (xxvii) it is your personal responsibility to hand over the voting machine and all election papers duly sealed and secured to the officer responsible for the collection thereof, under proper receipt.

CHECK MEMO

- 6. To ensure that you have fulfilled the various statutory requirements in connection with the election, the Commission has drawn up a CHECK MEMO for you, which is given in **Annexure VI**. The said CHECK MEMO should be properly maintained by you.

CHAPTER II

FORMATION OF POLLING PARTY AND REHEARSALS

1. POLLING PARTY

Your party will consist of yourself and three Polling Officers. Where the number of electors assigned to a Polling Station is very large, say, 1400 and more, an additional Polling Officer may be appointed by the Municipal Returning Officer to assist you. While appointing the polling party your Municipal Returning Officer will authorise one of the Polling Officers in your party to perform the duties of Presiding Officer in case you are to be unavoidably absent from the polling station.

2. CONTACT WITH THE OTHER MEMBERS OF THE POLLING PARTY

Ascertain as soon as it is practicable, who the other members of your polling party are going to be. It is necessary for you to have the residential addresses of all the Polling Officers appointed to work under you. You should go over with them as frequently as possible, and explain to them, the part to be taken at the poll by each member of the party. Unless there is team work, your task as Presiding Officer will be more difficult.

3. POLLING REHEARSALS

- 3.1 Attend as many polling rehearsals as you can. This is essential for fully acquainting yourself with the operation of voting machine and for obtaining a clear idea of the polling procedure to be followed at the polling station and understanding the provisions of the law.
- 3.2 You must take with you the Polling Officer authorised to perform your duties in your unavoidable absence to these rehearsals. It is very necessary that you and such authorised Polling Officer should do the various operations on the voting machine yourself/himself and should not be content with simply watching the demonstration. Both of you should also familiarise yourselves with the fixing of the green seals, special tag, strip seal and address tags, etc.
- 3.3 You should also prepare a sample Account of Votes Recorded and paper seal account in Form 16C.
- 3.4 Even if you had worked as Presiding Officer or Polling Officer in some earlier election, you must attend the training classes/rehearsals as you may not have handled the voting machine earlier. Further, the election law and procedure, are being amended from time to time and it is necessary that you should follow the revised procedure as otherwise the conduct of election may not be in accordance with the latest procedures or instructions. Furthermore, it is always advantageous to refresh your memory even if there is no change in the law and procedure.

4. APPLICATION BY VOTERS ON ELECTION DUTY

You and your Polling Officers may be electors in the municipal area in which you are posted on duty. The order of appointment as Presiding Officer will be issued in duplicate and alongwith sufficient number of Forms 13 to enable you and the Polling Officers to apply for Postal Ballot Papers. Applications from voters on election duty for issue of ballot paper are required by law to be made at least three days before the day of poll.

CHAPTER III

COLLECTION OF VOTING MACHINE AND POLLING MATERIALS

POLLING MATERIALS

1. On the day previous to the day poll or on the day of departure for the polling station you will be supplied with all the election materials, a list of which is set out in Annexure VII. Before leaving for your polling station, make sure that you have received all the items.

CHECKING OF VOTING MACHINE

2. Check, in particular, the following:
 - (1) That the control unit and the balloting unit(s) of the voting machine given to you are the same which are meant for use at your polling station. This shall be checked with reference to the address tags attached to the said units as the number and name of the polling station shall be indicated by the Returning Officer on each of those address tags.
 - (2) That the 'Cand Set Section' of control unit is duly sealed and the address tag is firmly attached thereto.
 - (3) That the battery installed in the 'Cand Set Section' of the control unit is fully operational. This may be checked by putting the Power Switch provided in the rear compartment to 'ON' position. After the said checking, the power switch must be put to 'OFF' position.
 - (4) That you have been supplied with the requisite number of balloting units and the ballot papers are duly fixed under the Ballot Paper Screen in each of them. The number of balloting units to be supplied to you will be dependent upon the number of contesting candidates in your constituency. If the number of contesting candidates is between 2 and 16, only one balloting unit will be supplied and the slide switch seen through the window at the right side top of the balloting unit will have been set by the Returning Officer at position '1'. If the number of contesting candidates is between 17 and 32, you will be supplied with two balloting units. On the first balloting unit in which the abovementioned slide switch will be set to position '1' the ballot paper will contain the names of the candidates at Sl. Nos., 1 to 16 in the list of contesting candidates. The second balloting unit will display the second sheet of the ballot paper containing the names of contesting candidates from 17 onwards (and upto 32) and the slide switch in that unit will be set to the position '2'. Likewise, three balloting units will be supplied if the number of contesting candidates is between 33 to 48 and there will be four such units if the number of candidates exceeds 48 and is upto 64. In the third balloting unit the ballot paper will contain the names of candidates from Sl. Nos 33 onwards (upto 48) and its slide switch will be set to the position '3'. The fourth balloting unit will display on the ballot paper fixed therein the names of candidates from serial No. 49 onwards and its slide switch will show the position '4'.
 - (5) That the ballot papers and slide switches on each of the balloting units have been correctly fixed/set as explained in the preceding item. It also must be ensured that the ballot papers as fixed on the balloting units are properly

aligned and that the name and symbol of each candidate is in line with his corresponding lamp and button and the thick lines dividing the panels of the candidates on the ballot paper are in line with the corresponding grooves on the balloting unit.

- (6) That the candidates buttons which are visible on the balloting units are equal to the number of contesting candidates, and that the remaining buttons, if any, have been masked.
- (7) That each of the balloting units is duly sealed and secured at two places, i.e. at right top and right bottom portions, with the seals of the Municipal Returning Officer, and that the address tags are firmly attached thereto.

CHECKING OF POLLING MATERIALS

3. Check also—

- (1) that there is sufficient quantify of indelible ink in each of the two phials supplied to you and that the stamp Pads are not dry;
- (2) that all the three copies of the relevant part of the electoral roll are complete and identical in every respect and, in particular, that-
 - (a) the relevant part given to you pertains to the area for which the polling station has been set up and that it is complete in all respects alongwith the supplements, in every copy;
 - (b) all deletions of names and corrections of clerical or other errors as per the supplement have been duly incorporated in all the copies;
 - (c) all the pages in each working copy of the roll have been serially numbered in manuscript from No.1 onwards.
 - (d) the printed serial numbers of the voters are not corrected and no new numbers are substituted for them;
- (3) that the tendered ballot papers supplied to you are for the constituency in which the polling station assigned to you is situated and that they are not defective in any respect. You should also check that their serial numbers tally with the details supplied to you.
- (4) If you find any voting machine or any polling material defective in any respect, you must immediately bring such defect to the notice of the officer in-charge of distribution of voting machines/polling materials or the Returning Officer for necessary remedial action.

CHAPTER IV

SET UP OF POLLING STATIONS

ITINERARY

1. Have a clear idea of the routes and timings that you have to follow to reach your polling station. Details of the itinerary including the means of transport for yourself and the other members belonging to your party will be supplied to you in advance.

ARRIVAL AT THE POLLING STATION

2. You should be at the polling station with your party well in time.

ABSENCE OF POLLING OFFICER

3. If any Polling Officer appointed for your polling station is absent from the polling station, you have the power to appoint another on the spot in his place. Later, you have to inform the Municipal Returning Officer of such appointment formally. Do not, however, appoint any person who is an active supporter or worker of any of the candidates or an active opponent of any candidate.

DELEGATION OF DUTIES OF PRESIDING OFFICER

- 4.1 If you yourself have to be absent from the polling station on account of illness or other unavoidable reason, the Polling Officer previously authorised in this behalf by the District Municipal Election Officer/Municipal Returning Officer will act in your place. He will exercise all the powers and duties of the Presiding Officer.
- 4.2 You may also delegate any of your functions in the polling station to any Polling Officer working with you at the polling station. Such delegation, however, does not relieve you of your own responsibility as you are in overall charge of the entire polling station in any case.

SET UP OF POLLING STATIONS

- 5.1 On your arrival at the place where the polling station is to be set up, inspect the building proposed for the purpose and the polling station itself, if it has already been set up. Diagrams of model polling stations showing the layouts when the polling party consist of 3 Polling Officers, is set out in *Annexure VIII*. It is open to you to make minor modifications in the actual set-up of the polling station but make sure that —
 - (a) there is enough space for the voters to wait outside the polling station;
 - (b) there is separate waiting spaces for men and women as far as practicable;
 - (c) there is separate entrance and exit for voters. (this purpose can be achieved by tying a rope to make separate entrance and exit through the same door);
 - (d) there is easy flow of voters from the time they enter the polling station to the time they leave it and there is no criss-cross movement within the polling station;

- (e) the Polling Agents are seated in such a way that they can see the face of an elector as and when he elector enters the polling station and is identified by the first Polling Officer so that they can challenge the identity of the elector, if need be. They should also be able to see the entire operation at the Presiding Officer's table where the control unit is kept and also see the movement of the elector from the Presiding Officer's table to the voting compartment and his exit from the polling station after recording of vote. But they should not in any event be seated in a place where they have the chance of seeing voter actually recording his vote by pressing particular button;
 - (f) the seating arrangement of all the Polling Officers is also such that they are not in a position to see the voter actually recording his vote by pressing a particular button;
 - (g) even if there is only one door to the room housing the polling station, separate entrance and exit can be provided with the help of bamboos and ropes in the middle of the doorway. Make sure that the inside of the voting compartment is sufficiently lighted. If necessary, arrange for a suitable light to be provided for each compartment.
- 5.2 If sufficiently large number of pardanashin women electors are assigned to your polling station, you should make special arrangements for their identification and application of indelible ink on the left forefinger by a Lady Polling Officer in a separate enclosure having due regard to privacy, dignity and decency. For such special enclosure you may use locally available but absolutely inexpensive devices and using local ingenuity, such as use of charpoys or cloth such as bedspreads.
- 5.3 If more polling stations than one are located in the same building, you should satisfy yourself that necessary arrangements have been made for segregating the voters and making them wait in different queues.
- 5.4 If the polling station is located in a private building, the building and the area around it up to a radius of two hundred metres should be under your control. No watch and ward or other personnel connected with the owner, whether armed or unarmed, should be allowed to remain either at the polling station or within a radius of two hundred metres around it. The security arrangements at the polling station and within the above area will be entirely the responsibility of the police under your control.
- 5.5 No photos of leaders of political parties or slogans having a bearing on elections should be exhibited and if they are already there, you should take steps to remove them till the poll is over.
- 5.6 No cooking or lighting of fire for any purpose should be allowed inside the polling station during the day of the poll.

DISPLAY OF NOTICE

- 6.1 Display prominently outside each polling station—
- (a) a notice specifying the polling area or the particulars of electors to be served by the polling station; and
 - (b) a copy of the list of contesting candidates in Form 7 and wherever practicable the facsimile of the symbol of each candidate.
- 6.2 The language of the notice should be the same as for the list of contesting candidates and the order of the names should also be the same.

CHAPTER V

ASSIGNMENT OF DUTIES TO POLLING OFFICERS

VOTING PROCEDURE IN POLLING STATION AND DUTIES OF POLLING OFFICERS

1. For efficient and smooth conduct of poll at your polling station, you should be thoroughly conversant with the procedure that is to be followed from the time an elector comes into the polling station and till he leaves it after casting his vote. The voting procedure and the duties which each Polling Officer has to perform in this whole operation are explained in detail in subsequent chapters. However, a broad distribution of duties among the Polling Officers is indicated below:

(a) *Duties of Polling Officers when polling party consists of one Presiding Officer and three Polling Officers*

FIRST POLLING OFFICER

- 2.1 The first Polling Officer will be in-charge of the marked copy of electoral roll and responsible for identification of electors. On entering the Polling Station, the elector will proceed direct to the first Polling Officer, who will satisfy himself about the identity of the elector by following the procedure laid down in Chapter XV.

SECOND POLLING OFFICER

- 3.1 The second polling officer will be in-charge of indelible ink. He will inspect the elector's left forefinger to see that it does not bear any sign or trace of indelible ink and then put a mark with the indelible ink above the root of the nail in such a way that the ink also spreads on the ridge between the skin and the root of the nail and clear mark is left on the forefinger.
- 3.2 The Second Polling Officer will also be in-charge of the Register of Voters in Form 16A. He will be responsible for maintaining in that Register the proper account of electors whose identity has been established and who vote at the polling station. He will obtain the signature or thumb impression of each elector on that Register before he is allowed to vote. He will also issue a voter's slip to each elector after he has entered the elector's particulars in the Register of Voters in accordance with the procedure described in chapter XVI.

THIRD POLLING OFFICER

4. The Third Polling Officer will be in-charge of the Control Unit of the voting machine. He will be seated at the same table where the Presiding Officer sits so that the Presiding Officer can keep a close watch on the Control Unit and the Voting process. The Third Polling Officer will collect the voter's slip, preserve the same and allow the elector to proceed to the Voting Compartment only on the basis of the voter's slip issued by the second polling officer and strictly in accordance with the Serial No. indicated in that slip. He will activate the balloting unit(s) kept in the Voting Compartment by pressing the appropriate (Ballot) button on the Control Unit as explained in detail in Chapter XVII. Before allowing the elector to proceed to the Voting compartment, he will also check and ensure that the elector's left forefinger bears a clear indelible ink mark.

CHAPTER VI
REGULATION OF ENTRY INTO AND SEATING ARRANGEMENTS
IN THE POLLING STATION

PERSONS ENTITLED TO ENTER THE POLLING STATIONS

- 1.1 Apart from the electors assigned to your polling station, the following persons can be admitted into the Polling Station:
 - (a) Polling Officers;
 - (b) Each candidate, his election agent and one polling agent of each candidate at a time;
 - (c) Persons authorised by the Commission;
 - (d) Public servants on duty in connection with election;
 - (e) Observers appointed by the Commission;
 - (f) A child in arms accompanying an elector;
 - (g) A person accompanying a blind or an infirm voter who cannot move without help; and
 - (h) Such other persons as you may from time to time admit for the purpose of identifying voters or otherwise assisting you in taking the poll.
- 1.2 The Municipal Returning Officers have been asked to issue identity cards to the contesting candidates. In case a necessity arises, you may ask for its production. Similarly, the election agents of the candidates can be asked to produce the duplicate copy of their appointment letter, which is attested by the Municipal Returning Officer.
- 1.3 You should note that the term “Public servant on duty in connection with election” does not normally include police officers. Such officers, whether in uniform or in plain clothes, should not, as a general rule, be allowed to enter the polling booth, unless you decide to call them in for the maintenance of law and order or some similar purpose. Their presence in the polling booth without any compelling reason has on occasion given rise to complaints by some candidates or parties who have alleged that their agents had been overawed by unnecessary show of force.
- 1.4 Similarly, security personnel accompanying, if any, an elector or candidate or his election agent or polling agent should also not be allowed to enter the polling station.
- 1.5 You should also note that the above expression, “Public servant on duty in connection with election” does not include the Ministers, State Ministers and Deputy Ministers of the Union and the States.
- 1.6 Entry of persons should be strictly regulated as detailed above, otherwise, the smooth and orderly conduct of poll may be vitiated. You should allow only three or four electors to enter the polling station at a time.
- 1.7 If you have a reasonable doubt about the presence of any person about whose credentials you have a reasonable suspicion in the polling booth, you can have him searched, if necessary, even though the person concerned may be in possession of a valid authority letter to enter the polling booth.

- 1.8 In the performance of your duties, you are only bound by the instructions of the Commission. You are not to take orders from or show any favour to your official superiors or political leaders including Ministers. Even in the matter of requests for entry into the polling booth from these, you should allow them only if they are in possession of a valid authority letter issued by the Election Commission.
- 1.9 A village officer or other officer or a woman attendant employed by you for helping you in the identification of electors or to assist you otherwise in taking the poll should normally be seated outside the entrance to the polling station. He/she should be admitted into the polling station only when he/she is required for identification of a particular voter or for assisting you for a particular purpose in connection with the taking of the poll. No one inside the polling station should be allowed to influence or try to influence the voters by words or gestures to vote in a particular way.

ATTENDANCE OF POLLING AGENTS

- 2.1 The polling agents of the candidates should be asked to reach the polling station at least one hour before commencement of poll in order to be present when you are going through the preliminaries. If any part of these preliminaries has already been gone through, the proceedings need not be commenced de novo to accommodate any late-comer.
- 2.2 The law does not specify any time limit for the appointment of polling agents and even if a polling agent turns up late at a polling station, he should be allowed to participate in the further proceedings at the polling station.

PRODUCTION OF APPOINTMENT LETTERS BY POLLING AGENTS

- 3.1 Every polling agent must produce before you the appointment letter in Form 11 by which the candidate or his election agent has appointed him. Check that the appointment is for your polling station. The polling agent should then complete the document and sign the declaration therein in your presence and then deliver it to you before he can be admitted into the polling station. Preserve all such appointment letters and at the end of the poll send them in a cover addressed to the Municipal Returning Officer along with other documents.
- 3.2 In case of any doubt about the genuineness of appointment letter in the said Form 11 of any polling agent presented before you, you should compare the specimen signature of the candidate/his election agent with their specimen signatures as provided by the Municipal Returning Officer.

PASSES FOR POLLING AGENTS

4. Each candidate can appoint one polling agent and two relief polling agents at each polling station. However, only one polling agent of a candidate should be allowed inside the polling station at any given time. Give every polling agent, who is admitted into the polling station, a permit or pass on the authority of which he can come in and go out of the polling station as may be necessary.

SEATING OF POLLING AGENTS

5. Give the polling agents seats close behind the Polling Officer in-charge of marked copy of the electoral roll. Where this is not practicable because of the situation of the door for entrance, they may be given seat just opposite the Polling Officers. In

any seating arrangement, they should be provided opportunity of seeing the faces of the electors and challenging their identity whenever necessary. They should not be allowed to move about in the polling station.

SMOKING TO BE PROHIBITED INSIDE POLLING STATION

6. You should not allow smoking inside the polling station. If any of the polling agents desires to smoke, he may go out of the polling station without causing any dislocation to the polling.

FACILITIES TO PRESS REPRESENTATIVES AND PHOTOGRAPHERS

- 7.1 Subject to the maintenance of peace and order there is no objection to any photographer taking photographs of a crowd of voters lining up outside the polling station.
- 7.2 The Municipal Returning Officer is not empowered to authorise any person who is not an elector or who is not required to assist you in taking the poll, to enter a polling station. Any such person including publicity officials of the State Government should not be allowed inside a polling station without a letter of authority from the Commission. In no circumstances will any photograph be allowed to be taken of a voter pressing the button of the voting machine.

FACILITIES TO OBSERVERS APPOINTED BY COMMISSION

- 8.1 The Commission is now generally appointing its observers at elections. They are appointed by the Commission under its plenary powers.
- 8.2 During the day of poll, some Observers might visit your polling station. It is quite possible that he may start his round of the constituency with the visit to your polling station and may be present there when you are going through the preliminaries before the commencement of poll. You should show him due courtesy and regard when he visits your polling station and should furnish him with such information as he may require from you for the purpose of his report to the Commission. He will only observe the poll being taken at your polling station, but will not give you any direction. If, however, he makes any suggestion with a view to providing more convenience to electors or making the poll process at your polling station smoother, you should give due consideration to such suggestion. In case, you are facing any particular problem or feeling any difficulty at your polling station, you may bring it to his notice, as he might be of help to you in solving that problem or removing that difficulty by bringing the matter to the notice of the Municipal Returning Officer or other concerned authorities for necessary remedial action.
- 8.3 Observers will be wearing badges issued by the Commission on their person and will also be carrying appointment letters and authority letters issued by the Commission.

WEARING OF BADGES, ETC., INSIDE POLLING STATION

- 9.1 No person should be allowed within the polling station or within 100 metres thereof to wear badges, emblems, etc., bearing the names of candidates or political leaders and/or their symbols or pictorial representation thereof.
- 9.2 The polling agents may, however, display on their person a badge showing the name of the candidate whose agents they are.

CHAPTER VII

PREPARATION OF VOTING MACHINE BEFORE COMMENCEMENT OF POLL

PRELIMINARIES BEFORE POLL

- 1.1 Before a voting machine is put in actual use at the polling station, some preparations, in addition to the preparations made at the Municipal Returning officer's level, are necessary at the polling station. These preparations have to be done by the Presiding Officer in the presence of the candidates/their agents before the commencement of poll.
- 1.2 You should start these preliminary preparations about one hour before the time fixed for the commencement of poll. If any polling agent is not present, the preparations should not be postponed so as to await the arrival of the polling agent. Nor should you start the preparations again if any polling agent turns up late.

PREPARATIONS ON THE BALLOTING UNIT

- 2.1 The balloting unit is already duly prepared in all respects at the Municipal Returning Officer's level and no further preparation of this unit is required at the polling station on the day of poll, except that its interconnecting cable has to be plugged into the control unit.
- 2.2 At the time of taking delivery of the voting machine along with other polling materials before proceeding to the polling station, you must have already carried out the checks mentioned in para 2 of Chapter III. As instructed therein, you must have checked that you have been provided with the requisite number of balloting units, that the ballot paper on each such unit has been properly fixed and properly aligned under the ballot paper screen, the slide switch on each unit has been set to the appropriate position and each unit is duly sealed and carries the address tag both at the right top portion and the right bottom portion.

INTERLINKING OF BALLOTING UNITS AND CONTROL UNIT

- 3.1 Where the number of contesting candidates exceeds 16, balloting units more than one, depending upon the actual number of contesting candidates, are to be used. All such balloting units to be used at a polling station are to be interlinked and the first balloting unit will alone be linked with the control unit.
- 3.2 The balloting units shall be so interlinked that the second balloting unit, i.e., the balloting unit in which the slide switch is set at position 2, is linked with the first balloting unit in which the slide switch is set at position 1. Where three balloting units are to be used, the third balloting unit will be linked with the second balloting unit and the second with the first, and where all the four balloting units are to be used, the fourth unit will be linked with the third unit, the third with the second and so on.
- 3.3 For linking a balloting unit with another, there is a socket provided in a compartment at the bottom portion of the balloting unit. The connector of the interconnecting cable of the second balloting unit will be plugged into the abovementioned socket of the first balloting unit. Likewise, the connector of the third balloting unit's interconnecting cable will be plugged into the second unit and that of the fourth unit into the third unit.

- 3.4 As mentioned above, the first balloting unit alone will be plugged into the control unit. The socket of plugging the interconnecting cable of the balloting unit into the control unit is provided in the rear compartment of the control unit.
- 3.5 The rear compartment in the control unit also contains the 'Power' switch and this switch when put to 'ON' position makes the battery of the voting machine operational and supplies the power both to the control unit as well to all the balloting units when linked to the control unit in the manner described above.

- Notes:** (1) When more than one balloting units are used, the same should be interlinked in the proper sequential order as explained in paragraph 3.2 above. Any wrong linking of the balloting units will render the machine non-functional and on pressing any button on the control unit the letters 'LE' indicating linking error will appear on the display panel of the control unit. The linking error should be set right by interlinking the balloting units in the proper sequential order.
- (2) The connector of the interconnecting cable, one end of which is attached to the balloting unit, is a multi-pin connector. The connector goes into the socket of the other balloting unit or of the control unit only one way, which can be found out easily by looking at the orientation of the pins and the word 'Top' written or inscribed on the hood of the connector. The pins of the connector are quite delicate and the connector should not be forced in the socket in such way as may damage or bend the pins. The machine will work only when the connection is made properly.
- (3) The connector of the interconnecting cable can be disconnected from the control unit or from the other balloting unit only by releasing the spring type clips on both sides of the connector hood. These spring type clips will be released when pressed inward simultaneously and the connector should then be pulled out while keeping the spring type clips so pressed.
- (4) Connecting the balloting units and the control unit or disconnecting them properly requires some practice so as to avoid any damage to the machine. This aspect should be clearly borne in mind and you yourself should connect the balloting units and the control unit.

CHAPTER VIII

PREPARATION OF CONTROL UNIT

CHECKING OF CONTROL UNIT

- 1.1 At the time of taking delivery of the control unit at the distribution centre before proceeding to the polling station, you must have carried out the checks on the control unit as mentioned in para 2 of Chapter III.
- 1.2 You must have already checked that 'Cand Set' Section of the control unit is duly sealed, that the address tag is firmly attached thereto and that the battery installed in that section is fully operational.

PREPARATION OF CONTROL UNIT

- 2.1 Before a control unit is put in use at the polling station, some further preparations, apart from the preparations made therein at the Municipal Returning Officer's level for the installation of the battery and setting the number of contesting candidates, are necessary at the polling station.
- 2.2 The preparations to be made on the control unit by the Presiding Officer are as follows:
 - (i) Interlinking the control unit with the balloting unit or the first balloting unit where more balloting units than one are used;
 - (ii) switching the power switch to 'ON' position;
 - (iii) closing the rear compartment after performing the functions at (i) and (ii) above;
 - (iv) conducting the mock poll (as explained in Chapter IX);
 - (v) clearing the machine after the mock poll and setting all counts to ZERO (as explained in Chapter IX);
 - (vi) fixing the paper Seal(s) to secure the inner compartment of the Result Section (as explained in Chapter x); and
 - (vii) closing and sealing the outer cover of the Result Section (as explained in Chapter XI).

CONNECTING THE CONTROL UNIT AND BALLOTING UNIT

3. You should plug the interconnecting cable of the balloting unit or the first balloting unit (where more balloting units than one are used) into the socket provided of the purpose in the rear compartment of the control unit. While interlinking the control unit with the balloting unit, you must take necessary precautions as mentioned in para 3 of chapter VII.

SWITCHING 'ON' THE POWER

4. The voting machine runs on a battery which has been installed in the 'Cand Set' Section of the control unit at the Municipal Returning Officer's level. For activating the battery which will supply power both to the control unit and balloting unit(s) when the same are interlinked, there is a power switch provided in the rear compartment of the control unit. After the control unit and the balloting unit(s) have been interlinked, you should put the power switch to 'ON' position. Thereupon, there

will be a beep sound emitting from the control unit and the 'ON' lamp on the Display Section of the control unit will start glowing Green.

CLOSING THE REAR COMPARTMENT

5. You should then close the rear compartment. To keep it firmly closed, a piece of thin wire may be run through the two holes provided for the purpose and the ends of the wire may be given a few twists. You should note that the rear compartment is not to be sealed as it will require to be opened again after the close of poll for switching 'OFF' the power and disconnecting the balloting unit.

CHAPTER IX
CONDUCTING MOCK POLL

DEMONSTRATION OF 'CLEAR' VOTING MACHINE

- 1.1 Before commencing the poll, you have to satisfy not only yourself but also all polling agents present that the voting machine is in perfect working order and that no votes have already been recorded in the machine.
- 1.2 For such satisfaction, you should first show to all present that all counts have been set to ZERO by pressing the 'Clear' button. The 'Clear' button is provided in a compartment in the Result Section of the control unit. This compartment is covered by an inner door and an outer cover. The inner door covers the compartments containing 'Clear' button, 'Result I' button and 'Result II' button, and the outer cover is provided above the inner door and covers also the compartment containing the 'Close' button. For reaching the 'Clear' button, you should first open the outer cover by pressing slightly inwards the latch provided on the left side. Thereafter, the inner door can be opened by inserting the thumb and a finger through the two apertures above the 'Result I' and 'Result II' buttons and then pressing the latches inside simultaneously slightly inwards. In no case should this inner door be forced open without releasing the latches in the manner described above as otherwise this most vital compartment will get damaged.
- 1.3 When the 'Clear' button is pressed, the Display Panels on the control unit will start displaying the following information sequentially:

Cd	9
to	0
01	0
02	0
03	0
04	0

05 **0**

06 **0**

07 **0**

08 **0**

09 **0**

End (every indication followed by a beep sound) (if the machine is set for 9 candidates.)

Note: If on pressing 'Clear' button, the Display Panels do not display the information as indicated above, it means that some of the earlier operations needed for clearing the machine have not been performed. To clear the machine, ensure that balloting units and control unit have been properly linked. Press 'Close' button and thereafter press 'Result I' button. Now press the 'Clear' button, the Display Panels will start displaying the information as indicated above.

1.4 The display of the above information on the Display Panels shall satisfy the polling agents present at the polling station that no votes are already recorded in the machine.

MOCK POLL

2.1 After demonstrating as above that no votes are already recorded in the machine, you should hold the mock poll by recording some votes for each of the candidate at random.

2.2 For that purpose, perform the following operations:

- (a) Press the 'Ballot' button on the Ballot Section of the control unit. On pressing the 'Ballot' button, 'Busy' lamp in the Display Section will glow Red. Simultaneously, the 'Ready' lamp on the balloting unit will also start glowing Green.
- (b) Ask any polling agent to press, according to his choice, any of the candidate's button on the balloting unit.
- (c) On the candidate's button being so pressed, the 'Ready' lamp on the balloting unit will go off and the candidate's lamp near the button will start glowing Red. Also, a beep sound will be heard emitting out from the control unit. After a few seconds, the Red light in the candidate's lamp, Red light in the 'Busy' lamp and the beep sound will go off. This will be the indication that the vote for the candidate, whose button has been pressed, has been recorded in the control unit and the machine is now ready to receive the next vote.
- (d) Repeat the process explained in the preceding paras (a), (b) and (c) for recording one or more votes for each of the remaining candidates. Keep a careful account of the votes so recorded in respect of each candidate.

- (e) When the votes are being so recorded, press the 'Total' button on the Ballot Section of the control unit to verify at any time that the total votes recorded in the machine tally with the number of votes which have been polled upto that stage.

Note: 'Total' button should be pressed only after the vote has been recorded for any candidate and the 'Busy' lamp in the Display Section is off.

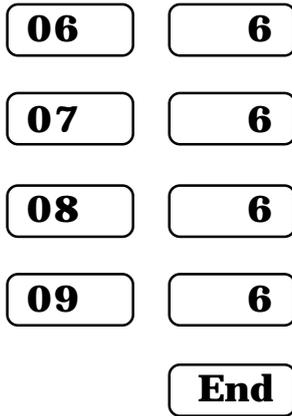
- (f) At the end of the mock poll, press the 'Close' button in the Result Section. On the 'Close' button being so pressed, the Display Panels in the Display Section will show the following information sequentially:

nP	1	
Cd	9	
to	54	(if the no. of votes polled is 54)
End		

Note: Subject to availability of time, there is no objection to permit the recording of more votes at mock poll. It is not necessary that the number of votes recorded for each candidate should be the same.

- (g) Now press the button marked 'Result I' in the Result Section. On that button being pressed, the Display Panels will start showing the following information sequentially:

Cd	9
to	54
01	6
02	6
03	6
04	6
05	6



- (h) Next, press the 'Clear' button to clear the account of votes recorded during the mock voting. On the 'Clear' button being so pressed, all counts will show ZERO as explained in para 1.3 above.

CHAPTER X

FIXING OF GREEN PAPER SEAL IN THE CONTROL UNIT

FIXING GREEN PAPER SEAL

- 1.1 In the conventional system of voting where ballot papers and ballot boxes are used, the ballot boxes are sealed and secured by fixing a paper seal specially printed by the Commission. Once the paper seal is fixed in a ballot box and the lid of the box is closed, the box cannot be opened and the ballot papers contained therein cannot be tampered with or taken out for counting unless the green paper seal is torn. Similar safeguard has been provided in the voting machine so that once the control unit is sealed and poll commences, nobody should be able to tamper with the polling process. To achieve and ensure this, provision has been made for fixing similar paper seal in the control unit of the voting machine.
- 1.2 There is a frame provided for fixing the paper seal on the inner side of the door of the inner compartment of the Result Section of the control unit.
- 1.3 The paper seal should be so fixed that its coloured surface is visible through the aperture from outside.
- 1.4 In order that the seal is firmly fixed in the frame and does not shift from its position, a thin cardboard padding should be provided. It can be checked that the paper seal cannot be shifted from its position by gently pulling at one of its ends. It should be ensured that no damaged paper seal is used in any case and if any paper seal gets damaged in the process of fixing, it should be replaced then and there before the door of the inner compartment is closed.

SIGNATURES OF PRESIDING OFFICER AND POLLING AGENTS ON PAPER SEAL

2. After fixing the paper seal, the door of the inner compartment should be closed by pressing it. It should be closed in such a manner that the two open ends of the paper seal project outwards from the sides of the inner compartment. Then on the white surface of the paper seal so projecting outwards, the Presiding Officer should affix his signature in full immediately below the serial number of the paper seal. It shall be got signed by such of the candidates or their polling agents as are present and are desirous of affixing their signatures. The Presiding Officer should verify that the signatures of the polling agents on the paper seal tally with their signatures on their letters of appointment.

ACCOUNT OF PAPER SEALS

- 3.1 The Presiding Officer should keep an account of the paper seals supplied to him for use at the polling station and the paper seals actually used by him for sealing and securing the control unit. Such account shall be maintained by him in the form specifically prescribed for the purpose vide Item 9 of Part I of Form 16C appended to the W.B. Municipalities (Conduct of Election) Rules, 1995.
- 3.2 The Presiding Officer should allow the candidates or their polling agents present to note down the serial number of paper seals so supplied for use and of paper seals actually used.

CHAPTER XI

CLOSING AND SEALING OF CONTROL UNIT

CLOSING AND SEALING OF THE INNER COMPARTMENT OF THE RESULT SECTION

- 1.1 After the paper seal has been fixed and secured and signed by the Presiding Officer and polling agents and the door of the inner compartment closed by being pressed fit, that door should then be sealed by passing a thread through the two holes provided for the purpose on the left side of the inner door and putting a thread seal with the seal of the Presiding Officer.
- 1.2 It is not necessary for the candidates or their polling agents to put their seals on this inner door as they have affixed their signatures on the green paper seal and will also be allowed to put their seals on the outer cover to the Result Section which covers the inner door.

CLOSING AND SEALING OF OUTER COVER OF RESULT SECTION

- 2.1 After the inner compartment of Result Section of the control unit has been closed and sealed, the outer cover of the Result Section should be pressed fit for closing that Section. Before pressing that outer cover, the open ends of the green paper seal(s) should be carefully folded in such a manner that no part of the paper seal protrudes from either side of the outer cover.
- 2.2 After the outer cover of Result Section has been closed, that cover should be sealed by (i) passing a thread through the two holes provided for the purpose on the left side of the outer cover, (ii) putting a thread seal with the seal of the Presiding Officer and (iii) attaching a label (address tag) similar to the one which is attached to the 'Cand Set Section' at the Returning Officer's level.
- 2.3 The address tag will contain the following particulars:
"Election to the
from Constituency (Ward) No.
Control Unit No.
Sl. No. and Name of
Polling Station.....
Date of Poll
- 2.4 The Municipal Returning Officer will provide sufficient number of blank printed address tags as part of polling materials. Particulars in the address tag should be carefully filled by you. The serial number of each control unit is inscribed on by parmanent marker.
- 2.5 The candidates or their polling agents present should also be permitted to affix their seals, if they so desire, on the outer cover.
- 2.6 By so closing and sealing the inner compartment and the outer cover, the whole Result Section gets sealed and secured and the votes which will be recorded by the Control Unit cannot be tampered with.

VOTING MACHINE READY FOR ACTUAL POLL

- 3.1 The voting machine is now ready in all respects for the actual poll.
- 3.2 Before commencing the poll, you should place the balloting unit(s) inside the voting compartment. As already instructed, the voting compartment should be located at sufficient distance from your table where the control unit shall be kept and operated. The interconnecting cable between the balloting unit and the control unit has a length of approximately five metres. Therefore, the voting compartment should be at a reasonable distance. The cable should be so routed that it does not obstruct the movement of voters inside the polling station and they do not tread on or trip over it.

CHAPTER XII

COMMENCEMENT OF THE POLL

COMMENCEMENT OF THE POLL

1. Commence the poll at the stroke of the hour fixed for the purpose. Your preliminaries should be completed by then. If unfortunately the preliminaries are not over, admit three or four voters at the hour fixed for the commencement of the poll and let the First Polling Officer deal with them in regard to their identification, etc. until the preliminaries are completed by you. This sort of overlapping of preliminaries is very undesirable and every effort should be made to avoid it. Even if for any unforeseen reason you do not commence the poll at the appointed hour, you should not extend the appointed closing time except as provided in Chapter XXIV.

WARNING ABOUT SECRECY OF VOTING

2. Before commencing the poll, explain to all present the provisions of Section 81 of the W.B. Municipal Election Act, 1994 and Section 128 of the R.P. Act (*Annexure II*), regarding their duty to maintain the secrecy of the vote and the penalty for any breach thereof.

PRECAUTIONS FOR INDELIBLE INK

3. Ask the Polling Officer in-charge of indelible ink to take adequate precautions to see that the phial containing the indelible ink is kept in such a manner that it does not get tilted and the ink spilt during the poll. For that purpose, take some sand or loose earth in a cup or an empty tin or some such broad-bottomed vessel, and push the phial down three-quarters of its length into the centre of the vessel so that it is firmly embedded in the sand or earth. Also ensure that the plastic rod attached to the cork is left standing in the phial and not taken out except for the purpose of marking the voter's forefinger. The rod should always be held with its marking end pointing vertically downwards. Otherwise, some of the ink will drip down the rod and spoil the fingers of the person using it.

MARKED COPY OF THE ELECTORAL ROLL

4. Before the commencement of poll, you should also show the polling agents and others present at the polling station that the copy of electoral roll intended to be used as the marked copy does not contain any marks or entries other than the "ED votes" marks against the names of those voters to whom election duty votes have been allowed.

REGISTER OF VOTERS IN FORM 16A

5. Also show to the polling agents and others present that the Register of Voters (in form 16A), does not already contain any entry in respect of any elector.

ENTRY OF VOTERS TO POLLING STATION TO BE REGULATED

6. There should be separate queues for men and women voters. The persons who enforce the queues will allow three or four voters into the polling station at a time, as you direct. Other voters waiting to come in should be made to stand in queue outside. Infirm voters and women voters with babies in arms may be given precedence over other voters in the queue. Men and women voters should be admitted into the polling station in alternate batches. The formation of more than one queue for men voters or for women voters should not be allowed.

CHAPTER XIII

SAFEGUARDS FOR FREE AND FAIR ELECTION

DECLARATIONS BY PRESIDING OFFICER AS SAFEGUARDS FOR ENSURING FREE AND FAIR ELECTION

1. In order to ensure that you have duly carried out the instructions contained in the foregoing chapters regarding the demonstration of the voting machine, marked copy of the electoral roll and Register of Voters, which are necessary safeguards for ensuring free and fair election, you are required to read out the declaration prescribed in *Annexure IV* before the commencement of the poll. This should be done immediately after reading out the provisions of section 81 of the W.B. Municipal Elections Act, 1994 read with section Representation of the People Act, 1951, regarding maintenance of secrecy of voting. You should read out the declaration aloud to the hearing of all persons present in the polling station and sign the declaration and obtain thereon the signatures of such of the polling agents as are present and are willing to affix the same. You should also record thereon the name of the polling agents who decline to affix their signatures on it.

PROCEDURE TO BE FOLLOWED AT THE TIME OF USE OF NEW VOTING MACHINE

2. During the course of poll, if it becomes essential under compelling circumstances to use a new voting machine, you are again required to read out a further declaration, prescribed in, *Annexure IV* (At the end of the poll, you should record a further declaration as prescribed in *Annexure V* in the same manner). The declaration will be put into a separate packet and delivered to the Municipal Returning Officer after the conclusion of the poll along with the account of votes recorded and the paper seal account in Form 16C.

CHAPTER XIV
ENFORCEMENT OF ELECTION LAW IN AND AROUND
POLLING STATION

IMPARTIALITY ESSENTIAL

1. Your tact, firmness and impartiality, particularly the last, are the most important safeguards against any breach of the peace. Treat all parties and candidates equally and decide fairly and justly every disputed point. Needless to say, neither you nor any other officer at your polling station should do any act, which could be interpreted as furthering the prospects of any candidate at the election.

BAN ON CANVASSING

2. It is an offence to canvass within one hundred meters of the polling station. Any person who does so can be arrested without warrant by the police and may be prosecuted under section 81 of the W.B. Municipal Elections Act, 1994 read with section 130 of the Representation of the People Act, 1951 (*See Annexure II*).

CANDIDATE'S ELECTION BOOTH

3. According to the instructions of the Commission, no election booths of the candidates should be allowed to be set up as such booths pose many difficulties in the way of holding free, fair and smooth elections by creating obstructions to voters, confrontation among various party workers and law and order problems. However, the candidates may provide one table and two chairs for the use of their agents and workers for the distribution of unofficial identity slips to voters beyond a distance of 200 meters from the polling station with an umbrella or a piece of tarpaulin over their head to protect them from the sun/rain. No crowd should be allowed to collect around such tables. If any instance of violation of the above instructions of the Commission is brought to your notice, you should report the matter to the Sector Magistrate or other officials responsible for maintenance of law and order around your polling station for necessary remedial action by them.

DISORDERLY CONDUCT IN OR NEAR THE POLLING STATION

4. Enforce the provisions contained in section 81 of the W.B. Municipal Elections Act, 1994 read with section 131 of the R.P.Act. (*See Annexure II*). If any person behaves in a disorderly manner, you can have him arrested then and there by a Police Officer and have him prosecuted. The police have the power to take such steps, and use such force, as may be reasonably necessary for preventing such behaviour. These powers should, however, be resorted to only when persuasion and warning have proved ineffective. If the use of a megaphone or loudspeaker interferes with the work of the polling station, you should take steps to stop such use. The section does not prescribe any limit of distance. It is left to you to decide whether it is near enough and loud enough to disturb the proceedings at the polling station.

REMOVAL OF DISORDERLY PERSONS

5. Any person who misconducts himself or fails to obey your lawful directions during the poll may be removed from the polling station on your orders by any Police Officer or other persons authorised by you (see section 81 of the W.B. Municipal Elections Act, 1994 and section 132 of the R.P.Act, 1951 *Annexure II*).

ILLEGAL HIRING OF VEHICLES FOR THE CONVEYANCE OF VOTERS

- 6.1 You have no positive powers to check the illegal conveyance of voters. If a complaint to that effect is made, tell the complainant that he may take action to prosecute the offender under section 81 of the W.B. Municipal Elections Act, 1994 read with section 133 of R.P. Act, 1951 or use the fact as a ground for filing an election petition against the offending candidate in due course. Forward any complaint filed before you to the Sub-divisional or other magistrate who has jurisdiction to deal with such cases with such remarks which you can make from your own observation and personal knowledge.
- 6.2 Also follow the instructions/directive issued by the Commission regulating the playing of vehicles on the day of poll.

REMOVAL OF VOTING MACHINE FROM POLLING STATION TO BE AN OFFENCE

7. Any person who at any election, fraudulently or unauthorisedly takes or attempts to take a voting machine out of a polling station or willfully aids or abets the doing of any such act commits a cognizable offence punishable with imprisonment upto one year or with fine upto five hundred rupees or with both. In this connection section 81 of the Municipal Elections Act, 1994 and section 135 of the R.P. Act, 1951 read with Explanation to section 61A may be seen of the R.P. Act, 1951 may be seen.

BREACH OF OFFICIAL DUTY BY ELECTION OFFICERS

8. Your attention is also drawn to section 81 of the W.B. Municipal Elections Act, 1994 read with section 134 of the R.P. Act, 1951 which provides that if any Presiding or Polling Officer is without reasonable cause guilty of any act, or even of any omission, in breach of his official duty, he commits a cognizable offence.

PROHIBITION OF GOING ARMED TO OR NEAR A POLLING STATION

9. As per the provisions of Section 81 of W.B. Municipal Elections Act, 1994 read with section 134B of the Representation of the People Act, 1951, no person (other than the Returning Officer, the Presiding Officer, any Police Officer and any other person appointed to maintain peace and order at a polling station who is on duty at the polling station) can, on a polling day, go armed with arms, as defined in the Arms Act, 1959, of any kind within the neighbourhood of a polling station. If any person contravenes these provisions, he is liable to imprisonment for a term, which may extend to two year or with fine, or with both. The offence is cognizable.

CHAPTER XV

VERIFICATION OF ELECTOR'S IDENTITY AND PROCEDURE IN CASE OF CHALLENGE

VERIFICATION OF ELECTOR'S IDENTITY

- 1.1 As has already been explained in Chapter V, an elector on entering the polling station will proceed directly to the first Polling Officer who will be in-charge of the marked copy of the electoral roll and responsible for identification of electors. The Polling Officer should properly verify his identity with reference to the entry in the electoral roll.
- 1.2 Usually, each voter brings with him an unofficial identity slip, which might have been issued to him by a candidate or his agents. This slip should be on plain white paper and may contain the name of the elector, his serial number in the electoral roll, part number of the electoral roll and the number and name of the polling station where he is to cast his vote. The slip should not contain the name of the candidate and/or the name of the party and/or facsimile of symbol allotted to him. If any slip has been issued by a candidate or his party in violation of these instructions of the Commission and is brought to the polling station, it should be brought to the notice of the polling agent of the candidate concerned forthwith for putting an immediate end to such violation.
- 1.3 It should be noted that carrying of unofficial identity slip by an elector does not guarantee the identity of the voter nor does it absolve the Polling Officer of his duty and responsibility of satisfying himself about the identity of such voter.
- 1.4 The first Polling Officer *in-charge* of the marked copy of the electoral roll and identification of electors should not treat the identity of an elector established by the mere production of an 'unofficial identity slip' which he brings to the polling station. Though such a slip helps in locating the entries relating to an elector in the electoral roll, it cannot be automatically taken for granted that the person producing the slip is that particular voter. Further, an illiterate voter cannot read the entries in the unofficial identity slip and satisfy himself that the slip held by him/her actually relates to him/her. Therefore, the first Polling Officer should simply take the slip and read out only the Serial Number of the entry of the elector in the electoral roll and *not* read out his/her name and other particulars from the slip. Thereafter, the Polling Officer should ask the person to announce his / her name loudly and if necessary other particulars relating to the entry so as to ensure that he / she is the genuine voter producing the identity slip. If full satisfaction is not obtained, the person may be directed to present himself before the Presiding Officer, who should make a further probe to satisfy himself about the identity of the elector. The Presiding Officer should not hesitate to hand over the elector to the police in case he is found to be an impersonator.
- 1.5 Though normally a voter coming to a polling station is presumed to be the genuine voter, this presumption is not irrebuttable. If from the surrounding circumstances like the difference in the age of the elector given in the electoral roll and the age of the person as ascertainable from his appearance, the Polling Officer entertains any doubt about the identity of the voter before him, he should satisfy himself about the

real identity and the genuineness of the voter. In such a case he should not accept the identity of the voter on the mere production of the identity slip and should refer the matter to the Presiding Officer for his decision. Otherwise also, the Polling Officer should make test check if identity of voters with reference to unofficial identity slips brought by them.

LIST OF DEAD, ABSENT AND ALLEGEDLY BOGUS VOTERS.

2. It is expected that polling agents may bring with them a copy of the list of the names of dead, absent and allegedly bogus voters. The candidate or his party may supply similar list to you. If any person claims to be a voter whose name is mentioned in that list you shall check that person's identity rigorously. This will not amount to a formal challenge.

CHALLENGING A VOTER'S IDENTITY

3. Every person whose name is entered in the electoral roll is entitled to vote at the election. Unless, there is a challenge by a candidate or his election or polling agents, or unless you are clearly satisfied that he is a bogus voter, it should normally be presumed that the person claiming to be a voter and giving out the name and other details correctly is that voter. If there is a challenge or if you feel any reasonable doubt about the identity of the person from the surrounding circumstances, you should hold a summary inquiry and decide the question.

CHALLENGE FEE

4. You should not entertain any challenge by a candidate or his election/polling agent of a voter's identity until the challenger pays Rs. 2/- in cash. After the amount has been paid, furnish a receipt therefore to the challenger in the Form prescribed in *Annexure X*. Warn the person challenged about the penalty for personation, read out the relevant entry in the electoral roll in full and ask him whether he is the person referred to in that entry, enter his name and address in the list of Challenged Votes (Form 14) and ask him to sign or affix his thumb impression thereof. If he refuses to do so, do not allow him to vote.

SUMMARY INQUIRY

5. First ask the challenger to produce evidence to show that the person challenged is not the voter that he claims to be. If the challenger fails to adduce *prima facie* evidence in support of his challenge, disallow the challenge and allow the person challenged to vote. If the challenger succeeds in making out a *prima-facie* case that the person is not the voter in question, you should call upon the latter to produce evidence to rebut the challenge i.e. to prove that he is the voter he claims to be. If he proves his claim by such evidence, allow him to vote. If he fails to do so, hold that the challenge has been established. In the course of the inquiry, you are free to ascertain the truth from the village officer, the neighbours of the voter in question and any other person present. While taking evidence, you may administer an oath to the person challenged or any other person offering to give evidence. In case the challenge has been established, you should hand over the person to the policeman on duty, together with your complaint, addressed to the Station in the jurisdiction of which your polling station falls.

RETURN OF FORFEITURE OF CHALLENGE FEE

6. Immediately after the inquiry is over return the challenge fee of two rupees to the person who made the challenge after taking his receipt in Column 10 of Form 14-List of Challenged Votes and on the counterfoil of the relevant receipt in the receipt book, in every case, except where you are of the opinion that the challenge was frivolous or was not made in good faith. In the latter case, forfeit the challenge fee to Government and do not return it to the challenger and enter the word "forfeited" in Column 10 of Form 14 and the relevant counterfoil in the receipt book, instead of taking the depositor's signature or thumb impression.

CLERICAL AND PRINTING ERRORS IN THE ROLL TO BE OVERLOOKED

7. The particulars in respect of a voter as entered in the electoral roll are sometimes incorrectly printed or have become out of date e.g., regarding the exact age of the voter. You should overlook mere clerical and printing errors in any entry relating to a voter in the roll, provided that you are otherwise satisfied about the identity of the person claiming to be the voter, according to other particulars entered in electoral roll. When the electoral roll has been prepared in more than one language and the name of a person has not been included in the marked copy of the electoral roll, such a person should be allowed to vote if his name appears in the version of the electoral roll in the other language for the same area. An entry in respect of every such elector should be noted by you in ink on the marked copy of the electoral roll.

ELIGIBILITY OF A VOTER NOT TO BE QUESTIONED

8. So long as the identity of a voter is established to your satisfaction, he has the right to vote. No question can be raised at the polling station about the eligibility of such a person to be a voter. For instance, you are not entitled to hold any inquiry into the question whether he is over 18 years of age or ordinarily resides in the constituency.

DECLARATION OF ELECTOR ABOUT HIS AGE

- 9.1 But in the case of a person whom you consider much below the qualifying age, you must be clearly satisfied about his claim of being an elector with reference to the entry in the electoral roll relating to him.
- 9.2 If you are *prima facie* satisfied about his identity and the fact of inclusion of his name in the electoral roll but consider him to be below the minimum voting age, you should obtain a declaration as in *Annexure X* from that elector about his age on the 1st day of January of the year with reference to which the existing electoral roll of the constituency has been prepared/revised. Before obtaining the declaration from such elector, you should inform him of the penal provision in section 27 of the W.B. Municipal Elections Act, 1994 read with section 31 of the Representation of the People Act, 1950, for making declaration.

CHAPTER XVI

APPLICATION OF INDELIBLE INK AND OBTAINING SIGNATURE/ THUMB IMPRESSION OF ELECTOR BEFORE PERMITTING HIM TO RECORD HIS VOTE

INSPECTION OF VOTER'S LEFT FOREFINGER AND APPLICATION OF INDELIBLE INK

- 1.1 As soon as may be, after the identity of an elector has been verified by the first Polling Officer, and if there is no challenge as to the elector's identity, his left forefinger will be marked with indelible ink by the second polling officer in the manner described in Chapter V. If any elector refuses to allow his left forefinger to be inspected or marked in accordance with instruction or has already such a mark on his left forefinger or does any act with a view to removing the ink, he shall not be allowed to vote.
- 1.2 In case it is noticed that an elector has applied any oily or greasy substance on his finger in order to neutralise the indelible ink mark to be put on his finger, such oily or greasy substance should be removed by the polling officer with the help of a piece of cloth or rug before putting indelible ink mark on the finger of that elector.
- 1.3 Indelible ink mark is required to be made before obtaining the signature/thumb impression of the elector, so that by the time the elector leaves the polling station after casting his vote, there is sufficient time gap for the indelible ink to dry up and develop a distinct indelible mark.
- 1.4 Further, before the elector leaves the polling station, his left forefinger should again be checked by the Presiding Officer / Third Polling Officer, who is in charge of the control unit. If the elector has removed the ink or the ink mark is indistinct, his left forefinger should again be marked with indelible ink.

APPLICATION OF INDELIBLE INK AT FRESH POLL

2. At the time of fresh poll/countermanded poll, the marking with indelible ink made at the original poll should be ignored and fresh marking with indelible ink should be put at the root of the nail of the voter's left *middle* finger in such a way that a portion of the ink spreads on the ridge between the skin and the root of the nail and a clear mark is left.

APPLICATION OF INDELIBLE INK WHEN ELECTOR HAS NO LEFT FOREFINGER

3. If an elector has no left forefinger, then indelible ink should be applied on any such finger which he has on his left hand. If he does not have any fingers on his left hand, the ink should be applied on his right forefinger and if he has no right forefinger, on any other finger which he has on his right hand starting with his right forefinger. If he has no fingers on either hand, ink should be applied on such extremity (stump) of his left or right hand as he possesses.

RECORD OF ELECTORAL ROLL NUMBER OF ELECTOR IN REGISTER OF VOTERS

- 4.1 After the left forefinger of the elector has been marked first time by the Second Polling Officer in the manner explained in the preceding paragraph, he should maintain the record of such elector in the Register of Voters (Form 16A) and obtain the signature/thumb-impression of the elector on that Register.

- 4.2 Such record shall be maintained by the Second Polling Officer in the Register of Voters in the following manner:
- (i) In column (1) of the Register of Voters, the Second Polling Officer will write down the serial numbers of electors in consecutive order, starting with serial number 1. Each page of the Register will contain provision for writing 20 serial numbers. At the commencement of poll, he can write such serial numbers in advance on a few pages.
 - (ii) In column (2) of the said Register, the Second Polling Officer will write down the electoral roll number (i.e., the serial number) of the elector as entered in the marked copy of the electoral roll. For example, if the name of the first elector who comes to vote at the polling station at the commencement of poll is entered at serial number 756 in the marked copy of the electoral roll, the Second Polling Officer will write down serial number 1 in the first column and serial No. 756 in the second column of the Register of voters. Likewise, if the second voter's name is entered at serial number 138 in the electoral roll, the Second Polling Officer will write serial number 2 in column 1 and serial number 138 in column 2 of the Register, and so on.
- 4.3 After columns (1) and (2) of the Register have been filled-in in respect of an elector in the manner described above, his signature/thumb impression shall be obtained by the Second Polling Officer in column (3) of that Register.

SIGNATURE OF ELECTOR

5. A signature may be described as the writing of a person's name on a document with the intention of authenticating that document. A literate person, while signing on the register of voters, will be required to write his name, i.e. both his name or names and his surnames in full or in any case his surname in full or names either in full or by means of initials of that name or names. The preferable course in the case of a literate voter will be to request him to sign his name, i.e., both his name or names and his surname in full. If a literate person puts simply a mark and insists that, that mark should be taken as a signature, while claiming to be a literate person, then, that mark cannot be taken to be his signature because as stated, signature means, in the case of a literate person, the writing of the name of that person by himself in authentication of a document on which he writes his name. In such a case, if he refuses to sign his name in full as indicated above, then his thumb impression should be taken. If he refuses to give his thumb impression also, then he should not be allowed to vote under the foregoing paragraph 4.

THUMB IMPRESSION OF ELECTOR

- 6.1 If an elector is unable to sign his name, the impression of his left thumb should be obtained on the Register of Voters. It should be noted that it is not necessary for the Presiding Officer or any Polling Officer to attest such thumb impression on the Register.
- 6.2 In conformity with rule 29 of the W.B. Municipalities (Conduct of Election) Rules, 1995 regarding application of indelible ink, if the left thumb of voter is missing, then the impression of right thumb should be taken. If both thumbs are missing, the impression of one of the fingers of the left hand starting from the forefinger should

be taken. If there are no fingers on the left hand, the impression of the fingers of the right hand should be taken. If no fingers are available, the voter being unable to record his vote himself will necessarily have to seek assistance of a companion under rule 32 of the said rules. In that case, the signature or thumb impression of the companion should be taken on the Register of Voters.

- 6.3 It is necessary that the thumb impression on the Register of Voters should be a clear thumb impression. The thumb of the voter should not be inked so lightly from the stamping pad that it gives only a faint or undecipherable impression. Nor should the thumb be inked so heavily that it gives a smudge impression instead of a clear thumb impression on the register.
- 6.4 After taking the thumb impression, the ink on the elector's thumb should be wiped off with the help of wet piece of cloth.

SIGNATURE/THUMB IMPRESSION ON THE REGISTER OF THE REGISTER OF VOTERS BY BLIND OR INFIRM OR LEPER VOTERS

- 7. Thumb impression of a blind voter or a voter suffering from leprosy should be obtained on the Register of Voters. In case any such voter is literate, he may be allowed to put his signature in place of thumb impression. In case of infirm voter who cannot use either of his hands, his companion shall put his signature or thumb impression on the Register. A note may be made against such entry in the Register regarding that signature or thumb impression being of the companion.

ISSUE OF VOTER'S SLIP TO ELECTOR

- 8.1 After an elector's left forefinger has been marked with indelible ink, the entry relating to him made in the Register of Voters and his signature/thumb-impression obtained on that Register, the Second Polling Officer shall prepare a Voter's Slip for that elector in the following form:

VOTER'S SLIP

Serial No. of elector as per Col. (1) of the Register of voters

Serial No. of elector as entered in the electoral roll

Initials of Polling Officer

- 8.2 These Voter's Slips will be got printed by the Returning Officer in a paper of half the dimension of a post-card and will be supplied to you, as one of the items of polling materials, in stitched bundles of hundred slips and/or fifty slips each, having regard to the number of electors assigned to your polling station.
- 8.3 The Voter's Slips prepared by the Second Polling Officer in respect of each elector under paragraph 8.1 above shall be delivered by him to that elector and the elector shall be directed to proceed to the Presiding Officer or, as the case may be, the Third Polling Officer whoever is in-charge of the control unit of the voting machine.

CHAPTER XVII

RECORDING OF VOTES AND VOTING PROCEDURE

- 1.1 The elector will come to you or, as the case may be, the third polling officer in-charge of the control unit with the voter's slip issued to him by the Second Polling Officer. He will be allowed to vote only on the basis of such voter's slip.
- 1.2 It is absolutely essential that the voters record their voting machine in exactly the same order in which they have been entered in the Register of Voters. You or the polling officer in-charge of the control unit should, therefore, allow a voter to proceed to the voting compartment strictly according to the serial number mentioned in the voter's slip.
- 1.3 If due to any exceptional circumstance or unforeseen or unavoidable reason, it has not been possible to follow such exact serial order in respect of any elector, a suitable entry showing the exact serial number at which he has voted should be recorded in the remarks column of the Register of Voters against the person concerned. Similar entries should also be made in respect of the subsequent voters whose serial order has been disturbed thereby.

PERMITTING ELECTOR TO RECORD VOTE

- 2.1 When the elector comes with the voter's slip to you or, as the case may be, the Third polling officer in-charge of control unit, the voter's slip will be taken from him and he will be allowed to vote.
- 2.2 All voter's slips collected from electors shall be carefully preserved and kept in a separate cover at the end of poll. The Municipal Returning Officer will provide a special cover for the purpose which will be sealed and secured in the manner directed in Chapter XXVII.
- 2.3 After the voter's slip has been collected from the elector, his left forefinger shall be checked by you/Third Polling Officer in-charge of the control unit. If the indelible ink made thereon is indistinct or has been removed, the same shall be applied again, so as to leave a clear indelible mark.
- 2.4 The elector shall then be directed to proceed to the voting compartment to record his vote.

VOTING PROCEDURE

- 3.1 To enable the elector to record his vote, the "Ballot" button on the control unit shall be pressed by you/Third Polling Officer in-charge of that unit. On the "Ballot" button being pressed, the Busy lamp in the control unit will glow Red and simultaneously the "Ready" lamp on each balloting unit in the voting compartment will start glowing Green.
- 3.2 The elector will record his vote in the voting compartment by pressing on the balloting unit, the button provided against the name and symbol of the candidate of his choice. When he presses that button, the lamp provided on the balloting unit against the name and symbol of that candidate will start glowing Red and the green lamp on the balloting unit will go off. Also, a beep sound will be emitted by the control unit.

After a few seconds, the beep sound and the red light in the candidate's lamp on the balloting unit and the red light in the 'Busy' lamp on control unit will go off.

- 3.3 These visual and audio signs indicate that the voter inside the voting compartment has recorded his vote. The voter should forthwith come out of the voting compartment and leave the polling station.
- 3.4 The above procedure will be repeated every time a voter is allowed to record his vote. It should be ensured that only one voter enters the voting compartment at a time. It should also be ensured that the "Ballot" button on the control unit is pressed only when the previous voter has come out of the voting compartment.

TALLYING OF NUMBER OF VOTES POLLED PERIODICALLY

- 4.1 At any point of time, if it is desired to ascertain the total number of votes polled up to that time, the 'Total' button on the control unit should be pressed. The display panel on the control unit will then show the total number of votes polled by that time. This should be periodically done and tallied with the number of voters allowed to vote up to that time as reflected in the Register of Voters.
- 4.2 In any event, the Presiding Officer must ascertain and tally the number of votes polled during every two-hours interval and record the number of votes polled in the relevant columns in the Presiding Officer's Diary.
- 4.3 The "Total" button should be pressed only when the busy lamp is not on, i.e. only after an elector allowed has recorded his vote, and before the next elector is allowed to vote.

PRESIDING OFFICER'S ENTRY IN VOTING COMPARTMENT DURING POLL

- 5.1 Sometimes, the Presiding Officer may have a suspicion or reason to suspect that the balloting unit kept in the screened voting compartment is not functioning properly or that an elector who has entered the voting compartment is tampering or otherwise interfering with the balloting unit or has remained inside the voting compartment for an unduly long period. The Presiding Officer has a right under rule 39P of the W.B. Municipalities (Conduct of Elections) Rules, 1995 to enter the voting compartment in such cases and to take such steps as may be considered necessary by him to ensure that the balloting unit is not tampered or interfered with in any way and that the poll progresses smoothly and in a proper fashion.
- 5.2 Whenever the Presiding Officer enters the voting compartment, he should permit the polling agents present to accompany him, if they so desire.

CHAPTER XVIII

MAINTENANCE OF SECRECY OF VOTING BY ELECTORS

VOTING PROCEDURE TO BE STRICTLY OBSERVED

1. Every elector who is permitted to vote shall maintain absolute secrecy of voting within the polling station. He should strictly observe the voting procedure mentioned in Chapter XVII.

REFUSAL TO OBSERVE VOTING PROCEDURE

- 2.1 If any elector refuses, after warning given by the Presiding Officer, to observe the voting procedure, the Presiding Officer or a polling officer under the direction of the Presiding Officer shall disallow such elector to vote under rule 39L of the W.B. Municipalities (Conduct of Elections) Rules, 1995. If the elector has already been issued the voter's slip, such slip should be withdrawn from him and cancelled.
- 2.2 Where an elector is not allowed to vote for violating voting procedure, a remark to the effect that voting procedure has been violated shall be made in the remarks column in the Register of Voters (Form 16A) against the entry relating to that elector in that Register by the Presiding Officer. The Presiding Officer shall also put your full signature below that entry. It shall, however, not be necessary to make any change in the serial number of that elector or of any succeeding elector in column (1) of the Register of Voters.

CHAPTER XIX

VOTING BY BLIND AND INFIRM VOTERS

- 1.1 If you are satisfied that owing to blindness or other physical infirmity, an elector is unable to recognise the symbol on the balloting unit or unable to record his vote by pressing the appropriate button thereon without assistance, you shall permit that elector under rule 39M to take with him a companion of not less than 18 years of age to the voting compartment for recording the vote on his behalf and in accordance with his wishes.
- 1.2 No person shall be permitted to act as the companion of more than one elector at any polling station on the same day.
- 1.3 Before any person is permitted to act as the companion of the elector, he shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any other polling station on that day. The declaration shall be obtained by you from the companion in the form prescribed by the Commission for the purpose *vide Annexure XII*.
- 1.4 You shall also keep a record of all such cases in Form 15.

CHAPTER XX

ELECTORS DECIDING NOT TO VOTE

- 1.1 If an elector, after his electoral roll number has been duly entered in the Register of Voters (Form 16A) and he has put his signature/thumb impression on that register, decides not to record his vote, he shall not be forced or compelled to record his vote.
- 1.2 A remark to the effect that he has decided not to record his vote shall be made by you in the remarks column against the entry relating to him in the Register of Voters. You shall put your full signature below that remark.
- 1.3 The signature or thumb impression of the elector shall also be obtained against such remark under rule 49Q.
- 1.4 It shall, however, not be necessary to make any change in the serial number of the elector or of any succeeding electors in column (1) of the Register of Voters.

CHAPTER XXI

VOTING BY PUBLIC SERVANTS ON ELECTION DUTY

FACILITIES FOR VOTING TO PUBLIC SERVANT ON ELECTION DUTY:

- 1.1 The provisions relating to the exercise of vote by persons on election duty are contained in rule 18 of the West Bengal Municipalities (Conduct of Elections) Rules, 1995.
- 1.2 Presiding Officers, Polling Officers, or other public servants on election duty have been given the right to opt to vote. Any such voter opting to vote has to apply to the Municipal Returning Officer in Form 13 for such facility. The Municipal Returning Officer on being satisfied that the person is entitled to the concession, will allow him to cast his vote before him.

CHAPTER XXII

TENDERED VOTES

1. If a person presents himself at the polling station and seeks to vote representing himself to be a particular elector after another person has already voted as such elector, you shall satisfy yourself about the identity of the elector concerned. If you are satisfied about the identity of the elector on his satisfactorily answering such questions relating to his identity as you may ask, you shall allow the elector concerned to vote by means of a tendered ballot paper, **but not through the voting machine.** Complaints are often received by the Commission that some Presiding Officers send such persons without trying to verify their identity. This should never be done. The Presiding Officer must try to verify the identity and ask him to give a “Tendered Vote”, if his identity is established. It should be remembered that the number of tendered votes is an indicator of the extent of false voting, if any, at a polling station. Therefore, tendered votes should never be discouraged.

DESIGN OF TENDERED BALLOT PAPER

- 2.1 A tendered ballot paper shall be of such design and particulars thereon shall be in such language or languages as the Commission may specify. The Commission has specified that the tendered ballot paper shall be of the same design as the ballot paper which shall be used for display on the balloting unit of the voting machine at the polling station.
- 2.2 The Municipal Returning Officer will, therefore, provide to each polling station twenty ballot papers, which he has got printed for use in the balloting units of voting machines, to be used as tendered ballot papers. In case it becomes necessary to supply any additional ballot papers to any polling station for the above purpose, the same will be arranged to be supplied to the Presiding Officer of the polling station concerned on demand through the Sector Officer-in-charge of that polling station.
- 2.3 You will write the words “Tendered Ballot Paper” on the back of these ballot papers in your own hand, if these words are not already stamped there, and issue them, if necessary, as tendered ballot papers.

ACCOUNT OF TENDERED BALLOT PAPERS

You shall keep a correct account of all ballot papers (i) received for use as tendered ballot papers, (ii) issued as such to electors, and (iii) not used and returned, in Item 8 of Part I of Form 16C.

RECORD OF VOTERS TO WHOM TENDERED BALLOT PAPERS ISSUED

You shall also maintain complete record of the electors who have been issued with tendered ballot papers, in Form 16B. You shall also obtain the signature or thumb impression of the elector in Column (5) of that Form before delivering a tendered ballot paper to him.

RECORDING OF VOTE ON TENDERED BALLOT PAPER

- 5.1 While delivering a tendered ballot paper to the elector, he shall also be supplied with inked arrow cross mark rubber stamp. This stamp is the same which is used for

marking ballot papers, where the conventional system of ballot papers and ballot boxes is used and which will be supplied as one of the items of polling materials for use at the polling station.

- 5.2 On receiving the tendered ballot paper, the elector concerned will mark his vote thereon in the voting compartment by placing the cross mark on or near the symbol of the candidate for whom he intends to vote by means of the arrow cross mark rubber stamp.
- 5.3 The elector will then fold the tendered ballot paper and, after coming out of the voting compartment, hand it over to you.
- 5.4 You shall keep all the tendered ballot papers and the list in Form 16B in a cover specially provided for the purpose and seal the cover at the close of the poll.
- 5.5 If owing to blindness or physical infirmity, such elector is enabled to record his vote without assistance, the Presiding Officer shall permit him to take with him a companion in accordance with the procedure mentioned in Chapter XIX.

CHAPTER XXIII
**ADJOURNMENT/STOPPAGE OF POLL FOR RIOT,
BOOTH CAPTURING, ETC.**

ADJOURNMENT OF POLL FOR RIOT, ETC.

1. Under section 61(1) of the West Bengal Municipal Election Act, 1994, the Presiding Officer of a polling station is empowered to adjourn the poll on account of —
 - (i) a natural calamity like flood, a severe storm and the like, or
 - (ii) non-receipt or loss of damage to essential polling materials like voting machine, authentic copy of electoral roll and the like, or
 - (iii) disturbance of peace at the polling station making it impossible to take the poll, or
 - (iv) non-arrival of the polling party at the polling station due to obstruction on the way or any other serious difficulty, or
 - (v) any other sufficient cause.
- 2.1 If there is a riot or any attempt of open violence, use the police to control the same. If, however, it cannot be controlled and it is impossible to continue the poll, you should adjourn the poll. The poll should also be adjourned if the taking of the poll is rendered impossible on account of any natural calamity or other sufficient cause. A passing shower of rain or strong wind would not be a sufficient cause for adjournment of poll. The discretion given to you to adjourn the poll should be exercised most sparingly and only in cases where it has become physically impossible to take the poll.
- 2.2 In every case of adjournment of poll, report immediately the full facts to the Municipal Returning Officer. Wherever a poll is adjourned, announce formally to all present that the poll will be taken on a day to be notified subsequently by the Commission.
- 2.3 Seal and secure both the units of the voting machine and all election papers in the presence of the polling agents as if the poll has come to a close in the normal way.

COMPLETION OF ADJOURNED POLL

- 3.1 Where the poll has been adjourned at a polling station, the adjourned poll will recommence on the date and time fixed by the Commission from the stage at which it was left immediately before the adjournment, i.e. the electors who have not already voted before the poll was adjourned will alone be permitted to vote at the adjourned poll. The Municipal Returning Officer will provide the Presiding Officer of the polling station at which such adjourned poll is taken, with the sealed packets containing the marked copy of the electoral roll and the Register of Voters in Form 16A which were earlier used at that polling station, and a new voting machine.
- 3.2 Before the recommencement of the adjourned poll, the sealed packet containing the marked copy of the electoral roll and the Register of Voters should be reopened by the Presiding officer in the presence of the candidates or their agents, who may be present at the polling station, and this very marked copy of the electoral roll and the Register of Voters should be used for completion of adjourned poll.

- 3.3 The provisions of rules 19 to 38B of the W.B. Municipalities (Conduct of Elections) Rules, 1995 will apply to the conduct of an adjourned poll as they apply to the poll before it was so adjourned.
- 3.4 Where the poll could not be commenced due to non-arrival of the polling party or other reasons, the provisions of abovementioned rules will apply to every such adjourned poll as they apply to the original poll.

STOPPAGE OF POLL FOR FAILURE OF VOTING MACHINE, BOOTH CAPTURING ETC.

- 4.1 Under sections 63 of the West Bengal Municipal Elections Act, 1994, the Commission is competent to declare the poll at a polling station to be void and direct a fresh poll, if at that polling station-
- (i) any voting machine has been unlawfully taken away by any unauthorised person, or
 - (ii) any voting machine has been accidentally or intentionally destroyed or lost or damaged or tampered with and the result of the poll at that polling station cannot be ascertained for that reason, or
 - (iii) any voting machine develops a defect during the course of the recording of votes, or
 - (iv) any error or irregularity in procedure as is likely to vitiate the poll has been committed, or
 - (v) there has been booth capturing (as defined the Section 135A of the Representation of People Act; 1951).
- 4.2 If any such thing happens at your polling station, you should report full facts forthwith to the Municipal Returning Officer to enable him to report the matter to the Election Commission for its directions.
- 4.3 After considering all material circumstances, if the Commission directs fresh poll to be taken at a polling station, such fresh poll shall be taken in the same manner as the original poll.
- 4.4 All electors entitled to vote at the polling station in question will be entitled to vote again at the fresh poll. The marks of the indelible ink made at the original poll should be ignored at the fresh poll. To distinguish the marks to be made at the fresh poll from those already made at the original poll, the Commission has directed that the mark of the indelible ink should be put on the voter's left middle finger at the fresh poll.

CLOSING OF VOTING MACHINE IN THE CASE OF BOOTH CAPTURING

- 5.1 Rule 39W of the W.B. Municipalities (Conduct of Elections) Rules, 1995 provides that where the Presiding Officer of a polling station is of the opinion that booth capturing is taking place at the polling station, he shall immediately close the control unit of the voting machine to ensure that no further votes can be recorded and he shall detach the balloting unit(s) from the control unit.
- 5.2 You should resort to closing the voting machine as mentioned above only when you are certain that booth capturing is taking place and not on a mere apprehension or suspicion about the possibility of booth capturing. This is so because once the control unit is closed by pressing the close button, the voting machine will not record any further votes and the poll will have to be necessarily adjourned either for the day or temporarily till a new voting machine is provided to you for the conduct of further poll at the polling station.

- 5.3 As soon as possible after you have closed the voting machine under rule 39W, you should report the matter with full facts to the Municipal Returning Officer. The Municipal Returning Officer shall, in turn, report the full facts of such case to the Commission through the fastest means of communication available.
- 5.4 The Commission, on receipt of the report from the Municipal Returning Officer and after taking into account all material circumstances, may—
- (i) either decide to have the adjourned poll completed from the stage it was adjourned by providing a new voting machine, if it is satisfied that the poll up to that stage was not vitiated, or
 - (ii) declare the poll at the polling station as void, if it is satisfied that the poll was vitiated and direct a fresh poll at that polling station.
- 5.5 Where the poll is adjourned/stopped for the day by the closure of the voting machine under para 5.1 above, the voting machine and all election papers shall be sealed and secured in the same manner as on the close of poll.
- 5.6 Further steps to complete the adjourned poll or, as the case may be, conduct a fresh poll as directed by the Commission shall be taken in accordance with the procedure already mentioned above.

CHAPTER XXIV

CLOSE OF POLL

VOTING BY PERSONS PRESENT AT POLLING STATION AT CLOSING HOUR

- 1.1 The poll should be closed at the hour fixed for the purpose, even if for certain unavoidable reason it had commenced somewhat later than the hour appointed for the commencement of poll. However, all voters present at the polling station at the hour appointed for the close of poll should be permitted to record their votes even if the poll has to be continued for some time beyond the appointed closing hour.
- 1.2 A few minutes before the appointed closing hour of the poll, announce to all those within the limits of the polling station who are waiting to vote that they will be allowed to record their votes in turn. Distribute to all such electors, slips signed by you in full, which should be serially numbered from serial No. 1 onwards according to the number of electors standing in the queue at that hour. Continue the poll even beyond the closing hour until all these electors have cast their votes. Depute police or other staff to watch that no one is allowed to join the queue after the appointed closing hour. This can be effectively ensured if the distribution of slips to all such electors is commenced from the tail of the queue and proceeded backwards towards its head.

CLOSING OF POLL

After all the electors present at the polling station at the appointed closing hour have voted as provided in the preceding para, you should formally declare the poll as closed and should not permit any person to vote thereafter in any circumstance.

CLOSING THE CONTROL UONIT OF VOTING MACHINE

- 3.1 For closing the poll after the last voter has recorded his vote, the voting machine has to be closed so that no further recording of votes in the machine is possible. For that purpose, you should press the 'Close' button on the control unit. When the 'Close' button is pressed the display panels on the control unit will show the total number of votes recorded in the voting machine till the end of the poll . The total number of votes recorded in the machine should be immediately noted in Item 5 of Part I of Form 16CA.
- 3.2 The 'Close' button is provided in a compartment in the Result Section below the blue rubber cap on its outer cover and can be reached by simply pulling out the rubber cap. The rubber cap should be replaced after the 'Close' button has been pressed and the poll closed.
- 3.3 Once the 'Close' button is pressed, the voting machine will not accept any further votes. You should, therefore, be extremely cautious and absolutely certain before pressing the 'Close' button that no elector who was present at the time fixed for the close of poll remains to vote.

- 3.4 You should also note that the 'Close' button will function only when the 'Busy' lamp on the Control unit is not on, i.e., only after the last elector allowed to vote has recorded his vote. If the 'Busy' lamp is on by reason of the 'Ballot' button having been pressed by mistake after the last elector has recorded his vote or such last elector refusing to record his vote after the 'Ballot' button has been pressed for him, the 'Busy' lamp can be put off by switching off the 'Power' switch in the rear compartment of the control Unit and disconnecting the balloting unit(s) from the Control Unit. After disconnecting the balloting unit(s) from the control unit the 'Power' should again be put 'ON'. Now the 'Busy' Lamp will go off and the 'Close' button will become functional.

CHAPTER XXV

ACCOUNT OF VOTES RECORDED

PREPARATION OF ACCOUNT OF VOTES RECORDED

- 1.1 After the close of poll, you are required to prepare, under rule 39R of the W.B. Municipalities (Conduct of Elections) Rules, 1995, an account of votes recorded in the voting machine. Such account shall be prepared by you in Part I of Form 16C.
- 1.2 As already explained in the preceding chapter, the total number of votes recorded in the voting machine at the close of poll shall be ascertained by pressing the 'Close' button. If necessary, that button can again be pressed to get the required information.
- 1.3 You must not forget that the total number of votes recorded in the voting machine must be equal to the total number of voters registered as per column (I) of the Register of Voters (Form 16A) minus the number of voters who decided not to vote (as per the remarks column of that register) and also minus the number of voters not allowed by you to vote for violating the secrecy of voting (as per the remarks column of the said Register).
- 1.4 A sample account of votes recorded as prepared in Part I of Form 16C is given for your guidance at *Annexure XII*.
- 1.5 The account of votes recorded in Form 16C should be kept by you in a separate cover with the words 'Account of Votes Recorded' superscribed thereon.

SUPPLY OF ATTESTED COPIES OF ACCOUNT OF VOTES RECORDED TO POLLING AGENTS

- 2.1 Under the said Rule 39R, you are also required to furnish to every polling agent present at the close of the poll, an attested copy of the account of votes recorded as prepared by you in Form 16C, after obtaining a receipt from those polling agents. Copies of the accounts should be furnished to every polling agent present even without his asking for it.
- 2.2 To enable you to make the required number of copies of the account of votes recorded in Form 16C you will be supplied with as many copies of the printed form (Form 16C) as the number of contesting candidates plus two or three more for the original account. If possible, you should prepare the required number of copies with the help of carbon paper, while filling in the entries in the original account itself, so that all such copies, supplied to polling agents and the original account are identical in every respect.

DECLARATION TO BE MADE AT THE CLOSE OF POLL

- 3.1 In order to ensure that above mentioned requirements of rule 39R regarding furnishing of copies of account of votes recorded by polling agents are fulfilled by you, the Commission has devised a declaration (*Annexure V*) which should be made and completed by you at the close of poll.

CHAPTER XXVI

SEALING OF THE VOTING MACHINE AFTER CLOSE OF POLL

- 1.1 After the poll has been closed and the account of votes recorded in the voting machine has been prepared in Form 16C and copies thereof furnished to the polling agents present, the voting machine should be sealed and secured for transportation to the counting/collection centre.
- 1.2 For sealing and securing the voting machine, the balloting unit(s) and the control unit should first be disconnected and the power switch in the control unit should be switched 'OFF' The balloting unit(s) and the control unit should be put back in their respective carrying cases.
- 1.3 Each carrying case should then be sealed at both ends by passing a thread through the two holes provided for the purpose on both sides of the carrying case and putting thread seal with the 'Presiding Officer's seal on an address tag showing the particulars of the election, the polling station and the unit contained therein.
- 1.4 The particulars on the address tag on the control unit and balloting unit shall be the same as mentioned in para 2.1 of chapter III and thaton the control unit as Para 2.3 of Chapter XI. The candidates or their polling agents as are present and desirous of putting their seals should also be allowed to do so.

CHAPTER XXVII

SEALING OF ELECTION PAPERS

SEALING OF ELECTION PAPERS IN PACKETS

- 1.1 After the close of poll, all election papers relating to the poll shall be sealed in separate packets as required by rule 39T.
- 1.2 All the packets so sealed, except the packets containing (i) the Account of Votes Recorded and Paper Seal (Form 16C), (ii) the declarations by the Presiding Officer before the Commencement of poll, during the poll and after close of poll (*Annexure IV&V*), and (iii) the Presiding Officer's Diary, should be put in four large packets as explained in paragraph 3 below and sent to the Municipal Returning Officer.
- 1.3 The covers containing (i) the Account of Votes Recorded and Paper Seal Account, (ii) the declarations by the Presiding Officer, and (iii) the Presiding Officer's Diary should be sent separately along with the voting machine to the receiving centre.
2. You should allow each candidate of his election agent or his polling agent who may be present at the polling station to affix his seals on the envelopes and packets containing the following documents:
 - (i) the marked copy of electoral roll;
 - (ii) the Register of Voters;
 - (iii) Voter's slips;
 - (iv) the used tendered ballot papers and the list of tendered votes in Form 16B;
 - (v) the unused tendered ballot papers;
 - (vi) the list of challenged votes;
 - (vii) any other papers that the Returning Officer has directed to be kept in a sealed packet.

PACKING OF 'STATUTORY COVERS' AND 'NON-STATUTORY COVERS' AND ELECTION MATERIALS

3. In order to avoid delay and inconvenience of waiting at the place for depositing the sealed voting machine, election papers and all other materials, you are advised to pack the covers and other materials in four separate large packets, as explained below, and hand them over at the place appointed for receipt thereof.

1. The first packet should contain the sealed covers mentioned below and should be superscribed as "STATUTORY COVERS":
 - (i) the sealed cover containing the marked copy of the electoral roll
 - (ii) the sealed cover containing the Register of Voters;
 - (iii) the sealed cover containing voter's slips;
 - (iv) the sealed cover containing unused tendered ballot papers;
 - (v) the sealed cover containing the used tendered ballot papers and the list in Form 16B.

Even if a statement or record to be put in any cover mentioned above is nil, a slip noting on it that the statement or record is "Nil" may be put in the cover and the

total number of five covers made ready so that no necessity arises for the receiving official at the receiving centre to enquire about the non-production of any of the sealed covers to be received by him.

II. The Second packet should contain the following covers and should be superscribed as “NON-STATUROTY COVERS”:

- (i) the cover containing the copy or copies of electoral roll (other than the marked copy);
- (ii) the cover containing the appointment letters of Polling Agents in Form 11;
- (iii) the sealed cover containing the list of challenged votes in form 14;
- (iv) the cover containing the list of blind and infirm electors in From 15 and the declarations of the companions.
- (v) the cover containing the declarations obtained from electors as to their age and the list of such electors - (*Annexure-III*);
- (vi) cover containing the receipt book and cash, if any, in respect of challenged votes;
- (vii) cover containing unused and damaged paper seals;
- (viii) cover containing unused voter’s slips ;

III. The third packet should contain the following items:

- (i) the Handbook for Presiding Officer & Manual of Electronic Voting Machine;
- (ii) indelible ink set (with stopper having been secured on each phial effectively with molten candle or wax applied thereon to prevent leakage or evaporation);
- (iii) self-inking pads;
- (iv) the metal seal of the Presiding Officer;
- (v) the arrow cross-mark rubber stamp for marking tendered ballot papers;
- (vi) Cup for setting the indelible ink.

IV. All the other items, if any, should be packed into the Fourth packet.

4. Each of the five smaller covers/packets to be included in the first packet marked “Statutory Covers” should be sealed. The other smaller covers/packets containing various non-statutory papers and items of election materials to be included in the second, third and fourth packets marked “Non-Statutory Covers” may be prepared separately, but need not be sealed (except the cover containing list of challenged votes in Form 14) in order to save time. All these unsealed covers and the sealed cover, containing list of challenged votes in Form 14, should simply be placed in the respective bigger covers along with a check memo signed by the Presiding Officer. These three bigger packets need not be sealed; but may be properly secured by means of pins or thread so that the contents may be checked at the receiving centres. The first packet marked “Statutory Covers” should, however, be sealed by the Presiding Officer after checking of the contents at the receiving centre.

CHAPTER XXVIII

PREPARATION OF THE DIARY AND DELIVERY OF VOTING MACHINES AND ELECTION PAPERS AT COLLECTION CENTRES

PREPARATION OF THE DIARY

- 1.1 You should record the proceedings connected with the taking of the poll in the polling station in the diary to be maintained for the purpose. The proforma of diary is reproduced at *Annexure XIII*. However you will be furnished with a duly numbered proforma of the diary and that proforma alone should be used by you.
- 1.2 You must go on recording the relevant events as and when they occur. You should mention therein all important events.
- 1.3 It has been observed in many cases that the Presiding Officers do not make the entries in the relevant columns of the diary at regular intervals or from time to time as envisaged, and fill in all entries and complete the diary at the end of the poll. This is highly objectionable. It should be noted that any lapse on your part in the proper maintenance of diary at all points of time during the process of poll will be very seriously viewed by the Commission.

TRANSMISSION OF VOTING MACHINE AND ELECTION PAPERS TO THE RETURNING OFFICER

- 2.1 After the Voting machine and all election papers have been sealed and secured by you after the close of poll in the manner explained in Chapters XXVI and XXVII, you have to deliver them or cause them to be delivered at such place as the Returning Officer may direct and in accordance with such arrangements as the Returning Officer may make.
- 2.2 The voting machine and the election papers should be delivered at the collection centre with any delay. Any delay in this behalf will be viewed by the Commission with utmost concern and will invite severe disciplinary action against all concerned.
- 2.3 You will hand over to the Official-in-charge of the collecting centre the following twelve items of election records and materials and obtain a receipt:-
 - (i) the control unit and balloting unit(s) of the voting machine duly sealed in their respective carrying cases;
 - (ii) the cover containing the account of votes recorded and paper seal account;
 - (iii) the cover containing the declarations of the Presiding Officer;
 - (iv) the cover containing the Presiding Officer's diary;
 - (v) the first packet superscribed Statutory Covers (containing 5 covers);
 - (vi) the second packet superscribed Non-Statutory Covers (containing 9 covers);
 - (vii) the third packet containing 7 items of election materials;
 - (viii) material for voting compartment;
 - (ix) lantern, if supplied;
 - (x) waste paper basket;
 - (xi) polythene bag/gunny bag to carry polling materials; and
 - (xii) fourth packet containing all other items, if any.

All the above items will be cleared by the receiving official(s) at the collecting centre in your presence and there after you will be relieved.

Anneexure 1

EXTRACTS FROM THE WEST BENGAL MUNICIPAL ELECTION ACT, 1994

APPOINTMENT OF PRESIDING OFFICERS & POLLING OFFICER FOR POLLING STATIONS

(1) Subject to the provisions of sub-section (4) of section 6 of the West Bengal State Election Commission Act, 1994, there shall be a presiding Officer and such number of polling Officer or Officers for each polling station as the Municipal Returning Officer thinks necessary.

Provided that nothing in this sub-section shall prevent the Municipal Returning Officer from appointing the same person to be Presiding Officer for more than one polling stations in the same premises;

Provided further that if a Polling officer is absent from the polling station, the Presiding Officer may appoint any person who is present at the polling station, other than a person who has been employed by or on behalf of or has been otherwise working for, a candidate in or about the election to be Polling officer during the absence of the former Officer, and inform the Municipal Returning Officer accordingly.

(2) A Polling Officer shall if so directed by the Presiding Officer, perform all or any of the functions of a presiding officer under this Act or the rule or the orders made thereunder.

(3) If the Presiding Officer, owing to illness or other unavoidable cause, is obliged to absent himself from the polling station, his functions shall be performed by such polling Officer as has been previously authorised by the Municipal Returning Officer to perform such functions during any such absence.

(4) Any reference in this Act to the Presiding officer shall unless the context otherwise requires, be deemed to include a reference to any person performing any functions which he is authorised to perform under sub-section (2) or sub-section(3), as the case may be.

GENERAL DUTY OF THE PRESIDING OFFICER

It shall be general duty of the presiding Officer at a polling station to keep order thereat and to see that poll is fairly taken.

DUTIES OF A POLLING OFFICER

It shall be the duty of the polling Officer at a polling station to assist the Presiding Officer for such polling station in the performance of his functions.

APPOINTMENT OF POLLING AGENTS

A contesting candidate or his Election Agent may appoint in the prescribed manner such number of agents and relief agents as may be prescribed, to act as polling Agents of such candidates as each polling station provided under section 12 for the poll.

APPOINTMENT OF COUNTING AGENTS

A contesting candidate or his Election Agent may appoint in the prescribed manner one or more persons, but not exceeding such number as may be prescribed to be present as his counting Agent or agents at the counting of votes.

REVOCATION OF APPOINTMENT OR DEATH, OF POLLING AGENT OR COUNTING AGENTS

(1) Any revocation of the appointment of a polling Agent shall be signed by the candidate or his Election Agent and shall operate from the date on which it is lodged with such office as may be prescribed and, in the event of such revocation or the death of a polling Agent before the poll, the candidate or his Election Agent may appoint in the prescribed manner another polling Agent at any time before the poll is called and shall forthwith give notice of such appointment in the prescribed manner to such office as may be prescribed.

(2) Any revocation of such appointment of a Counting Agent shall be signed by the candidate or his Election Agent and shall operate from the date on which it is lodged with such Office as may be prescribed and in the event of such revocation or the death of a counting Agent before the commencement of the counting of votes, the candidate or his Election Agents may appoint in the prescribed manner another Counting Agents at any time before the counting of votes is commenced and shall forthwith give notice of such appointment in the prescribed manner to such Office as may be prescribed.

FUNCTIONS OF POLLING AGENTS AND COUNTING AGENTS

(1) A polling agent may perform such functions in connection with the poll as are authorised by or under this Act to be performed by a polling agent.

(2) A counting agent may perform such functions in connection with the counting of votes as are authorised by or under this Act to be performed by a counting agent.

ATTENDANCE OF A CONTESTING CANDIDATE OR HIS ELECTION AGENT AT POLLING STATION AND PERFORMANCE BY HIM OF THE FUNCTIONS OF A POLLING AGENT OR COUNTING AGENT

(1) At every election where a poll is taken, each contesting candidate at such election and his election agent shall have a right to be present at any polling station provided under section 25 for the taking of the poll or at the place fixed under sub-section (1) of section 29 for the poll.

(2) A contesting candidate or his election agent may himself do any act or thing which any polling agent or the counting agent of such contesting candidate, if appointed, would have been authorised by or under this Act to do, or may assist any polling agent or the counting agent of such contesting candidate in doing any such act or thing.

NON-ATTENDANCE OF POLLING OR COUNTING AGENTS

Where any act or thing is required or authorised by or under this Act to be done in the presence of the polling or counting agents, the non-attendance of any such agent or agents at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

ADJOURNMENT OF POLL IN EMERGENCIES

- (1) If at an election the proceedings at any polling station provided under section 12 for the poll are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling station of such place on account of any natural calamity, or any other sufficient cause, the Presiding Officer for such polling station, or the Municipal Returning Officer presiding over such place, as the case may be, shall announce an adjournment of the poll to a date to be notified later, and where the poll is so adjourned by a Presiding Officer he shall forthwith inform the Municipal Returning Officer concerned.
- (2) Whenever a poll is adjourned under sub-section (1) the Municipal Returning Officer shall immediately, report the circumstances to the appropriate authority and the Election Commission, and shall, as soon as may be, with the previous approval of the Election Commission, appoint the day on which the poll shall recommence, and fix the polling station or place at which and the hours during which, the poll will be taken, and shall not count the votes cast at such election until such adjourned poll shall have been completed.
- (3) In every such case as aforesaid, the Returning Officer shall notify in such manner as the Election Commission may direct the date, place and hours of polling fixed under sub-section (2).

FRESH POLL IN THE CASE OF DESTRUCTION, ETC., OF THE BALLOT BOXES

- (1) If at any election—
 - (a) any ballot box used at a polling station or at a place fixed for the poll, is unlawfully taken out of the custody of the Presiding Officer or the Returning Officer, or is accidentally or intentionally destroyed or lost or is damaged or tampered with, to such an extent, that the result of the poll at that polling station or place cannot be ascertained; or
 - (aa) any voting machine develops a mechanical failure during the course of the recording of votes; or
 - (b) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll, the Returning Officer shall forthwith report the matter to the Election Commission.
- (2) Thereupon, the Election Commission shall, after taking all material circumstances into account, either-
 - (a) declare the poll at the polling station or place to be void, appoint a day and fix the hours, for taking a fresh poll at that polling station or place and notify the day so appointed and the hours so fixed in such manner as it may deem fit; or
 - (b) issue such direction to the Municipal Returning Officer as it may deem proper for the further conduct and completion of the election, provided the Commission is satisfied that the result of a fresh poll at that polling station or place or place will not, in any way, affect the results of the election or that the error or irregularity in procedure is not material.
- (3) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.

[ADJOURNMENT OF POLL OR COUNTERMANDING OF ELECTION ON THE GROUND OF BOOTH CAPTURING.—

- (1) If at any election,-
 - (a) booth capturing has taken place at a polling station or at a place fixed for the poll (hereafter in this section referred to as a place) in such a manner that the result of the poll at that polling station or place cannot be ascertained, or
 - (b) booth capturing takes place in any place for counting of votes in such a manner that the result of the counting at that place cannot be ascertained, the Returning Officer shall forthwith report the matter to the Election Commission.
- (2) The Election Commission shall, on the receipt of a report from the Returning Officer under sub-section (1) and after taking all material circumstances into account, either
 - (a) declare that the poll at that polling station or place be void, appoint a day and fix the hours, for taking fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit; or
 - (b) if satisfied that in view of the large number of polling stations or place involved in booth capturing the result of the election is likely to be affected, or that booth capturing had affected counting of votes in such a manner as to affect the result of the election, countermand the election in that constituency.

Explantation:- In this section, “booth capturing” shall have the same meaning as in section 135A of the Representation of the people Act, 1951.

MANNER OF VOTING AT ELECTION

At every election where a poll is taken votes shall be given by ballot in such manner as may be prescribed, and no votes shall be received by proxy.

Provided that notwithstanding anything contained in this Act or the rules made thereunder, the manner of giving or recording of votes by a voting machine shall be such as may be prescribed provided further that a voting machine may be used at an election in such constituency or constituencies as the commission may, having regard to the circumstances in each case, by notification, specify.

SPECIAL PROCEDURE FOR PREVENTING PERSONATION OF ELECTORS

With a view to preventing personation of electors provision may be made by rules made under this Act-

- (a) for the marking with indelible ink or the thumb or any other finger of every elector who applies for a ballot paper or ballot papers for the purpose of voting at a polling station before delivery of such paper or papers to him;
- (b) for the production before the Presiding Officer or a Polling Officer of a polling station by every such elector as aforesaid of his identity card before the delivery of a ballot paper or ballot papers to him if under rules made in the

behalf under the Representation of the People Act, 1950 electors of the constituency in which the polling station is situated have been supplied with identity cards with or without their respective photographs attached thereto; and

- (c) for prohibiting the delivery of any ballot paper to any person for voting at a polling station if at the time such person applies for such paper he has already such a mark on his thumb or any other finger or does not produce on demand his identity card before the Presiding Officer or a Polling Officer of the polling station.

RIGHT TO VOTE

- (1) No person who is not, and except as expressly provided by this Act, every person who is, for the time being entered in the electoral roll of any constituency shall be entitled to vote in that constituency.
- (2) No person shall vote at an election in any constituency if he is subject to any of the disqualifications referred to in section 16 of the Representation of the People Act, 1950.
- (3) No person shall vote at a general election in more than one constituency of the same class and if a person votes in more than one such constituency, his votes in all such constituencies shall be void.
- (4) No person shall at any election vote in the same constituency more than once. Notwithstanding that his name may have been registered in the electoral roll for that constituency more than once, and if he does so vote, all his votes in that constituency shall be void.
- (5) No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police:

Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

ELECTORAL OFFENCES FOR THE PURPOSES OF THE ACT

For the purposes of this Act. the electoral offences under Chapter III of part VII of the Representation of the People Act, 1951 shall be the electoral offences under this act, III and the provisions of Chapter III of part VII of that Act shall apply to the electoral offences under this act.

EXTRACTS FROM THE WEST BENGAL MUNICIPALITIES (CONDUCT OF ELECTIONS) RULES, 1995

14. APPOINTMENT OF POLLING AGENTS

- (1) The number of polling agents that may be appointed under section 51 shall be one agent and two relief agents.
- (2) Every such appointment shall be made in Form 11 and shall be made over to the Polling Agent for production at the polling station or the place fixed for the poll, as the case may be.
- (3) No polling agent shall be admitted into the polling station or the place fixed for the poll unless he has delivered to the Presiding Officer the instrument of his appointment under sub-rule (2) after duly completing and signing before the Presiding Officer the declaration contained therein.

15. REVOCATION OF THE APPOINTMENT OF A POLLING AGENT

- (1) The revocation of the appointment of Polling Agent under sub-section (1) of section 53 shall be made in Form 12 and lodged with the Presiding Officer.
- (2) In the event of any such revocation the candidate or his Election Agent may, at any time before the poll is closed, make a fresh appointment in the manner specified in rule 14 and the provisions of that rule shall apply to every such agent.

17. VOTING NORMALLY TO BE IN PERSON

Save as hereinafter provided, all electors voting at an election shall do so in person at the polling station provided for them under section 12.

22. ARRANGEMENTS AT POLLING STATIONS

- (1) Outside each polling station there shall be displayed prominently –
 - (a) a notice specifying the polling area the electors of which are entitled to vote at the polling station and, when the polling area has more than one polling station, the particulars of the electors so entitled; and
 - (b) a copy of the list of contesting candidates.
- (2) At each polling station, there shall be set up one or more voting compartments in which electors can record their votes screened from observation.
- (3) The Municipal Returning Officer shall provide at each polling station a sufficient number of ballot boxes, copies of the relevant part of the electoral roll, ballot paper, instruments for stamping the distinguishing mark on ballot papers and articles, necessary for electors to mark the ballot papers.

23. ADMISSION TO POLLING STATIONS

The presiding officer shall regulate the number of electors to be admitted at any one time inside the polling station and shall exclude therefrom all persons other than –

- (a) polling officer,
- (b) public servants on duty in connection with the election,
- (c) persons authorised by the Commission,
- (d) candidates, their election agents and subject to the provisions of rule 14, one polling agent of each candidate.

- (e) a child in arms accompanying an elector,
- (f) a person accompanying a blind or infirm elector who cannot move without help, and
- (g) such other persons as the Municipal Returning Officer or the presiding officer may employ under sub-rule (2) of rule 26 or sub-rule (1) of rule 27.

24. PREPARATION OF BALLOT BOXES FOR POLL

- (1) Where a paper seal is used for securing a ballot box, the Presiding Officer shall affix his own signature on the paper seal and obtain thereon the signatures of such of the Polling Agents present as are desirous of affixing the same.
- (2) The Presiding Officer shall thereafter fix the paper seal so signed in the space meant therefor in the ballot box and shall then secure and seal the box in such manner that the slit for the insertion of ballot paper therein remains open.
- (3) The seal used for securing a ballot box shall be affixed in such manner that after the box has been closed, it is not possible to open it without breaking the seals.
- (4) Where it is not necessary to use paper seals for securing the ballot boxes, the Presiding Officer shall secure and seal the ballot box in such manner that the slit for the insertion of ballot papers remains open and shall allow the Polling Agents present to affix, if they so desire, their seals.
- (5) Every ballot box used at a polling station shall bear labels, both inside and outside, marked with –
 - (a) the number of the ward and name of the Municipality to which the ward relates;
 - (b) the serial number and name of the polling station;
 - (c) the serial number of the ballot box (to be filled in at the end of the poll on the label outside the ballot box only); and
 - (d) the date of poll.
- (6) Immediately before the commencement of the poll, the Presiding Officer shall demonstrate to the Polling Agents and other persons present that the ballot box is empty and bears the labels referred to in sub-rule (5).
- (7) The ballot box shall then be closed, sealed and secured and placed in full view of the Presiding Officer and the Polling Agents.

25. MARKED COPY OF ELECTORAL ROLL

Immediately before the commencement of the poll, the Presiding Officer shall also demonstrate to the Polling Agents and other Agents and others present that the marked copy of the electoral roll to be used during the poll does not contain any entry other than that made in pursuance of rule 18.

26. FACILITIES FOR WOMEN ELECTORS

- (1) Where a polling station is for both men and women electors, the Presiding Officer may direct that they shall be admitted into the polling station alternately in separate batches.
- (2) The Municipal Returning Officer or the Presiding Officer may appoint a woman to serve as an attendant at any polling station to assist women electors and also to assist the Presiding Officer generally in taking the poll in respect of women electors

and in particular to help in searching any women elector in case it becomes necessary.

27. IDENTIFICATION OF ELECTORS

- (1) The Presiding Officer may employ at the polling station such persons as he thinks fit to help in the identification of the electors or to assist him otherwise in taking the poll.
- (2) As each elector enters the polling station, the Presiding Officer or the Polling Officer authorised by him in this behalf shall check the electors name and other particulars with the relevant entry in the electoral roll and then call out the serial number, name and other particulars of the electors.
- (3) In deciding the right of a person to obtain a ballot paper the Presiding Officer or the Polling Officer as the case may be shall overlook the merely clerical or printing errors in an entry in the electoral roll, if he is satisfied that such person is identical with the elector to whom such entry relates.

28. CHALLENGING OF IDENTITY

- (1) Any Polling Agent may challenge the identify of a person claiming to be a particular elector by first depositing a sum of two rupees in cash with the Presiding Officer for each such challenge.
- (2) On such deposit being made the Presiding Officer shall-
 - (a) warn the person challenged of the penalty for personation;
 - (b) read the relevant entry in the electoral roll in full and ask him whether he is the person referred to in that entry;
 - (c) enter his name and address in the list of challenged voters in Form 14, and
 - (d) require him to affix his signature in the said list.
- (3) The Presiding Officer shall thereafter hold a summary inquiry into the challenge and may for that purpose,-
 - (a) require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identity;
 - (b) put to the person challenged any questions necessary for the purpose of establishing his identify and require him to answer them on oath; and
 - (c) administer an oath to the person challenged and any oter person offering to give evidence.
- (4) If, after the inquiry, the Presiding Officer considers that the challenge has not been established he shall allow the person challenged to vote; and if he considers that the challenge has been established, he shall debar the person challenged from voting.
- (5) If the Presiding Officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit made under sub-rule (1) be forfeited to Government, and in any other case, he shall return it to the challenger at the conclusion of the inquiry.

29. SAFEGUARDS AGAINST PERSONATION

- (1) Every elector about whose identity the Presiding Officer or the Polling Officer, as the case may be, is satisfied, shall allow his left forefinger to be inspected by the Presiding Officer or Polling Officer and an indelible ink mark to be put on it.
- (2) If any elector refuses to allow his left forefinger to be inspected or marked in accordance with sub-rule (1) or has already such a mark on his left forefinger or does any act with a view to removing the ink mark, he shall not be supplied with any ballot paper or allowed to vote.
- (3) Any reference in this rule to the left forefinger of an elector shall, in the case where the elector has his left forefinger missing, be construed as a reference to any other finger of his left hand and shall, in the case where all the fingers of his left hand are missing be construed as a reference to the forefinger or any other finger of his right hand and shall in the case where all his fingers of both the hands are missing be construed as a reference to such extremity of his left or right arm as he possesses.

Voting by Electronic Voting Machines

39A. DESIGN OF ELECTRONIC VOTING MACHINES

Every electronic voting machine (hereinafter referred to as the voting machine) shall have a control unit and a balloting unit and shall be of such design as may be approved by the Election Commission.

39B. PREPARATION OF VOTING MACHINE BY THE MUNICIPAL RETURNING OFFICER

- (1) The balloting unit of the voting machine shall contain such particulars and such language or languages as the Commission may specify.
- (2) The names of the candidates shall be arranged on the balloting unit in the same order in which they appear in the list of the contesting candidates.
- (3) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.
- (4) Subject to the foregoing provisions of this rule, the municipal returning officer shall-
 - (a) fix the label containing the names and symbol of the contesting candidates in the balloting unit and secure that unit with his seal and the seals of such of the contesting candidates or their Election Agents present as are desirous of affixing the same.
 - (b) set the number of contesting candidates and close the candidate set section in the control unit and secure it with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same.

39C. ARRANGEMENTS AT THE POLLING STATIONS

- (1) Outside each polling station there shall be displayed prominently-
 - (a) a notice specifying the polling area, the electors of which are entitled to vote at the polling station and, when the polling area has more than one polling station, the particulars of the electors so entitled; and
 - (b) a copy of the list of the contesting candidates.

- (2) At each polling station shall be set up one or more voting compartments in which the electors can record their votes free from observation.
- (3) The Municipal Returning Officer shall provide at each polling station one voting machine and copies of relevant part of the electoral roll and such other election material as may be necessary for taking the poll.
- (4) Without prejudice to the provisions of sub-rule (3), the Municipal Returning Officer may with the previous approval of the Election Commission, provide one common voting machine for two or more polling stations located in the same premises.

39D. ADMISSION TO POLLING STATIONS

The Presiding Officer shall regulate the number of electors, to be admitted at any one time inside the polling station and shall exclude there from all persons other than.

- (a) polling officers;
- (b) public servants on duty in connection with the election;
- (c) persons authorised by the Commission;
- (d) candidates, their Election Agents and subject to the provisions of rule 14 one Polling Agent of each candidate;
- (e) a child in arms accompanying as elector;
- (f) a person accompanying a blind or infirm elector who cannot move without help; and
- (g) such other persons as the Municipal Returning Officer of the Presiding Officer may employ under sub-rule (2) of rule 39G or sub-rule (1) of rule 39-H.

39E. PREPARATION OF VOTING MACHINE FOR POLL

The control unit and balloting unit of every voting machine used at polling station shall bear a label marked with-

- (a) the serial number, if any, and the name of the constituency;
 - (b) the serial number and name of the polling station or stations as the case may be;
 - (c) the serial number of the unit; and
 - (d) the date of poll.
- (2) Immediately before the commencement of the poll, the Presiding Officer shall demonstrate to the Polling Agents and other persons present that no vote has been already recorded in the voting machine and if bears the label referred to in sub-rule (1).
 - (3) A paper seal shall be used for securing the control unit of the voting machine, and the Presiding Officer shall affix his own signature on the paper seal and obtain thereon the signature of such of the Polling Agents present as are desirous of affixing the same.
 - (4) The Presiding Officer shall thereafter fix the paper seal so signed in the space meant therefore in the control unit of the voting machine and shall secure and seal the same.
 - (5) The seal use for securing the control unit shall be fixed in such manner that after the unit has been sealed it is not possible to press the "result button" without breaking the seal.

- (6) The control unit shall be closed and secured and placed in full view of the Presiding Officer and the Polling Agents and the balloting unit placed in the voting compartment.

39F. MARKED COPY OF ELECTORAL ROLL

Immediately before the commencement of the poll the Presiding Officer shall also demonstrate to the Polling Agents and others present that the marked copy of the electoral roll to be used during the poll does not contain any entry other than that made in pursuance of rule 18.

39G. FACILITIES FOR WOMEN ELECTORS

- (1) Where a polling station is for both men and women electors, the Presiding Officer may direct that they shall be admitted into the polling station alternately in separate batches.
- (2) The Municipal Returning Officer or the Presiding Officer may appoint a women to serve as an attendant at any polling station to assist women electors and also to assist the Presiding Officer generally in taking the poll in respect of women electors and in particular to help / frisk any women elector in case it becomes necessary.

39H. IDENTIFICATION OF ELECTORS

- (1) The Presiding Officer may employ at the polling station such persons as he thinks fit to help in the identification of the electors or to assist him otherwise in taking the poll.
- (2) As each elector enters the polling station, the Presiding Officer or the Polling Officer authorised by him in this behalf shall check the elector's name and other particulars with the relevant entry in the electoral roll and then call out the serial number, name and other particulars of the elector.
- (3) Where the polling station is situated in a constituency electors of which have been supplied with identify cards under the provisions of the Registration of Electors Rules, 1960, the elector shall produce his identify card before the presiding officer of the Polling Officer authorised by him in this behalf.
- (4) In deciding the right of a person to cast his vote the Presiding Officer or the Polling Officer, as the case may be, shall overlook the clerical or printing errors in an entry in the electoral roll, if he is satisfied that such person is identical with the elector to whom such entry relates.

39I. CHALLENGING OF IDENTITY

- (1) Any Polling Agent may challenge the identify of a person claiming to be a particular elector by first depositing a sum of two rupees in cash with the Presiding Officer for each such challenge.
- (2) On such deposit being made, the Presiding Officer shall-
 - (a) warn the person challenged of the penalty for personation;
 - (b) read the relevant entry in the electoral roll in full and ask him whether he is the person referred to in that entry;
 - (c) enter his name and address in the list of challenged vote in Form 14; and
 - (d) require him of affix his signature in the said list.

- (3) The Presiding Officer shall thereafter hold a summary inquiry into the challenge and may for that purpose—
 - (a) require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identity;
 - (b) put to the person challenged any questions necessary for the purpose of establishing his identity and require him to answer them on oath; and
 - (c) administer an oath to the person challenged and any other person offering to give evidence.
- (4) If, after the inquiry, the Presiding Officer considers that the challenge has not been established he shall allow the person challenged to vote; and if he considers that the challenge has been established, he shall debar the person challenged from voting.
- (5) If the Presiding Officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit made under sub-rule (1) be forfeited to Government, and in any other case, returned to the challenger at the conclusion of the inquiry.

39J. SAFEGUARDS AGAINST PERSONATION

- (1) Every elector about whose identity the Presiding Officer or the Polling Officer, as the case may be, is satisfied, shall allow his left forefinger to be inspected by the Presiding Officer or Polling Officer and an indelible ink mark to be put on it.
- (2) If any elector—
 - (a) refuses to allow his left forefinger to be inspected or marked in accordance with sub-rule (1) or has already such a mark on his left forefinger or does any act with a view to removing the ink mark, or
 - (b) fails or refuses to produce his identity card as required by sub-rule (3) of rule 39-H he shall not be allowed to vote.
- (3) Any reference in this rule to the left forefinger of an elector shall, in the case where the elector has his left forefinger missing, be construed as a reference to any other finger of his left hand and shall in the case where all the fingers of his left hand are missing be construed as a reference to the forefinger or any other finger of his right hand, and shall in the case where all his fingers of both the hands are missing be construed as a reference to such extremity of his left or right arm as he possesses.

39K. PROCEDURE FOR VOTING BY VOTING MACHINES

Before permitting an elector to vote, the Polling Officer shall—

- (a) record the electoral roll number of the elector as entered in the marked copy of the electoral roll in a register of voters in Form 16-A;
- (b) obtain the signature or the thumb impression of the elector on the said register of voters; and
- (c) mark the name of the elector in the marked copy of the electoral roll to indicate that he has been allowed to vote :

Provided that no elector shall be allowed to vote unless he has put his signature or thumb impression on the register to voters.

39L. MAINTENANCE OF SECRECY OF VOTING BY ELECTORS WITHIN THE POLLING STATION AND VOTING PROCEDURES

- (1) Every elector who has been permitted to vote under rule 39K shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.
- (2) Immediately on being permitted to vote the elector shall proceed to the Presiding Officer or the polling officer in-charge of the control unit of the voting machine who shall, by pressing the appropriate button on the control unit, activate the balloting unit; for recording of elector's vote.
- (3) The elector shall thereafter forthwith-
 - (a) proceed to the voting compartment;
 - (b) record his vote by pressing the button on the balloting unit against the name and symbol of the candidate for whom he intends to vote; and
 - (c) come out of the voting compartment and leave the polling station.
- (4) Every elector shall vote without undue delay.
- (5) No elector shall be allowed to enter the voting compartment when another elector is inside it.
- (6) If an elector who has been permitted to vote under rule 39K or rule 390 refuses after warning given by the Presiding Officer to observe the procedure laid down in sub-rule (3), the Presiding Officer or a Polling Officer under the direction of the Presiding Officer shall not allow such elector to vote.
- (7) Where an elector is not allowed to vote under sub-rule (6), a remark to the effect that voting procedure has been violated shall be made against the elector's name in the register of voters in Form 16A by the presiding officer under his signature.

39M. RECORDING OF VOTES OF BLIND OR INFIRM ELECTORS

- (1) If the Presiding Officer is satisfied that owing to blindness or other physical infirmities an elector is unable to recognise the symbol on the balloting unit of the voting machine or unable to record his vote by pressing the appropriate button thereon without assistance, the Presiding Officer shall permit the elector to take with him a companion of not less than eighteen years of age to the voting compartment for recording the vote on his behalf and in accordance with his wishes;
Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day;
Provided further that before any person is permitted to act as the companion of an elector on any day under this rule that person shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any other polling station on that day.
- (2) The Presiding Officer shall keep a record in Form 15 of all cases under this rule.

39N. ELECTOR DECIDING NOT TO VOTE

If an elector, after his electoral roll number has been duly entered in the register of voters in Form 16A and has put his signature or thumb impression thereon as required under sub-rule (1) of rule 39K decides not to record his vote, a remark to

this effect shall be made against the said entry in Form 16A by the Presiding Officer and the signature or thumb impression of the elector shall be obtained against such remark.

39O. TENDERED VOTES

- (1) If a person representing himself to be a particular elector seeks to vote after another person has already voted as such elector, he shall on satisfactorily answering such questions relating to his identity as the Presiding Officer may ask, be, instead of being allowed to vote through the balloting unit, supplied with a tendered ballot paper which shall be of such design, and the particulars of which shall be in such language or languages as the Commission may specify.
- (2) Every such elector shall before being supplied with tendered ballot paper write his name against the entry relating to him in Form 16B.
- (3) On receiving the ballot paper he shall forthwith—
 - (a) proceed to the voting compartment;
 - (b) record there his vote on the ballot paper by placing a cross mark 'X' with the instrument or article supplied for the purpose on or near the symbol of the candidate for whom he intends to vote.
 - (c) fold the ballot so as to conceal his vote.
 - (d) show to the Presiding Officer, if required the distinguishing mark on the ballot paper;
 - (e) give it to the Presiding Officer who shall place it in a cover specially kept for the purpose; and
 - (f) leave the polling station.
- (4) If, owing blindness or physical infirmities, such elector is unable to record his vote without assistance; the Presiding Officer shall permit him to take with him a companion, subject to the same conditions and after following the same procedure as laid down in rule 39M for recording the vote in accordance with his wishes.

39P. PRESIDING OFFICER'S ENTRY IN THE VOTING COMPARTMENT DURING POLL

- (1) the Presiding Officer may whenever he considers it necessary so to do, enter the voting compartment during poll and take such steps as may be necessary to ensure that the balloting unit is not tampered or interfered with in any way.
- (2) If the Presiding Officer has reason to suspect that an elector who has entered the voting compartment is tampering or otherwise interfering with the balloting unit or has remained inside the voting compartment for unduly long period, he shall enter the voting compartment and take such steps as may be necessary to ensure the smooth and orderly progress of the poll.
- (3) Whenever the Presiding Officer enters the voting compartment under this rule, he shall permit the polling agents present to accompany him if they so desire.

39Q. CLOSING OF POLL

- (1) The Presiding Officer shall close a polling station at the hour fixed in that behalf under section 60 and shall not thereafter admit any elector into the polling station: Provided that all electors present at the polling station before it is closed shall be allowed to cast their votes.

- (2) If any question arises whether an elector was present at the polling station before it was closed it shall be decided by the Presiding Officer and his decision shall be final.

39R. ACCOUNT OF VOTES RECORDED

- (1) The Presiding Officer shall at the close of the poll, prepare an account of votes recorded in Form 16C and enclose it in a separate cover with the words 'Account of Votes Recorded' superscribed thereon.
- (2) The Presiding Officer shall furnish to every polling agent present at the close of the poll a true copy of the entries made in Form 16C after obtaining a receipt from the said Polling Agent therefor and shall attest it as a true copy.

39S. SEALING OF VOTING MACHINE AFTER POLL

- (1) As soon as practicable after the closing of the poll, the Presiding Officer shall close the control unit to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit.
- (2) The control unit and the balloting unit shall thereafter be sealed and secured separately in such manner as the Commission may direct and the seal used for securing them shall be so affixed that it will not be possible to open the units without breaking the seals.
- (3) The Polling Agents present at the polling station, who desire to affix their seals, shall also be permitted to do so.

39T. SEALING OF OTHER PACKETS

- (1) The Presiding Officer shall then make into separate packets-
 - (a) the marked copy of the electoral roll;
 - (b) the register of voters in Form 16A;
 - (c) the cover containing the tendered ballot papers and the list in Form 16B;
 - (d) the list of challenged votes in Form 14A; and
 - (e) any other papers directed by the Commission to be kept in a sealed packet.
- (2) Each packet shall be sealed with the seal of the Presiding Officer and with the seal either of the candidate or of his Election Agent or of his Polling Agent who may be present at the polling station and may desire to affix his seal thereon.

39U. TRANSMISSION OF VOTING MACHINES, ETC. TO THE RETURNING OFFICER

- (1) The Presiding Officer shall, then, deliver or cause to be delivered, to the Municipal Returning Officer at such place as the Returning Officer may direct.-
 - (a) the voting machine;
 - (b) the account of votes recorded in Form 16C;
 - (c) the sealed packets referred to in rule 39T ; and
 - (d) all other papers used at the poll.
- (2) The Municipal Returning Officer shall make adequate arrangements for the safe transport of the voting machine, packets and other papers for their safe custody until the commencement of the counting of votes.

39V. PROCEDURE ON ADJOURNMENT OF POLL

- (1) If the poll at any polling station is adjourned under sub-section (1) of section 61, the provision of rules 39R to 39U shall, as far as practicable, apply as if the poll was closed at the hour fixed in that behalf under section 60.
- (2) When an adjourned poll is recommenced under sub-section (2) of section 61, the electors who have already voted at the poll so adjourned shall not be allowed to vote again.
- (3) The Municipal Returning Officer shall provide the Presiding Officer of the polling station at which such adjourned poll is held, with the sealed packet containing the marked copy of the electoral roll, register of voters in Form 16A and a new voting machine.
- (4) The Presiding Officer shall open the sealed packet in the presence of the Polling Agents present and use the marked copy of the electoral roll for marking the names of the electors who are allowed to vote at the adjourned poll.
- (5) The provisions of rule 39A to 39U shall apply in relation to the conduct of an adjourned poll before it was so adjourned.

39W. CLOSING OF VOTING MACHINE IN CASE OF BOOTH CAPTURING

Where the Presiding Officer is of opinion that booth capturing is taking place at a polling station or at a place fixed for the poll, he shall immediately close the control unit of the voting machine to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit.”;

- (2) in part IV,-
 - (a) after the heading “Counting of Votes at the Election”. *insert* the following words and figure :-
“Chapter I
Counting of Votes where Ballots have been used”;
 - (b) in rule 40, for the word “part,”, *substitute* the word “chapter,”;
 - (c) after chapter I, *insert* the following chapter :-

CHAPTER II

COUNTING OF VOTES AT AN ELECTION WHERE ELECTRONIC VOTING MACHINE AVE BEEN USED

61A. APPOINTMENT OF POLLING AGENTS

In this part, unless the context otherwise requires,-

- (a) "candidate" means a contesting candidate;
- (b) "counting agent" means a counting agent duly appointed under section 52, and includes a candidate and the election agent of a candidate when present at the counting;
- (c) "polling station" means a polling station provided under section 12.

61B. TIME AND PLACE FOR COUNTING OF VOTES

The Municipal Returning Office shall at least one week before the date fixed for the poll, appoint the place or places where the counting of votes will be done and the date and time at which the counting will commence and shall give notice in Form 21A to each candidate or his election agent.

61C. APPOINTMENT OF COUNTING AGENTS AND REVOCATION OF SUCH APPOINTMENT

- (1) The number of counting agents that a candidate may appoint under section 52 shall, subject to such general or special direction as the Commission may issue in this behalf, not exceed not at the place or each of the places fixed for counting under rule 61B.
- (2) Every such appointment shall be made in Form 18 in duplicate, one copy of which shall be forwarded to the Municipal Returning Officer while the other copy shall be made over to the counting agent for production before the Municipal Returning Officer not later than one hour before the time fixed for counting under rule 61B.
- (3) No counting agent shall be admitted into the place fixed for counting unless he has delivered to the Municipal Returning Officer the second copy of his appointment under sub-rule (2) after duly completing and signing the declaration contained therein and receiving from the Municipal Returning Officer an authority for entry into the place for counting.
- (4) The revocation of appointment of a counting agent under sub-section (2) of section 53 shall be made in Form 19 and lodged with the Municipal Returning Officer.
- (5) In the event of any such revocation before the commencement of the counting of votes, the candidate or his election agent may make a fresh appointment in accordance with sub-rule (2).

61D. ADMISSION TO THE PLACE FOR COUNTING

- (1) The Municipal Returning Officer shall exclude from the place of counting of votes all persons other than -
 - (a) the Assistant Municipal Returning Officer;
 - (b) such persons as the Municipal Returning Officer may appoint to assist him in the counting of votes;

- (c) public servants on duty in connection with the election or authorised by the Municipal Returning Officer;
 - (d) candidates, their election agents and counting agents;
 - (e) persons authorised by the Commission; and
 - (f) any other person authorised by the municipal Returning Officer.
- (2) No person who has been employed by or on behalf of, or has been working for a candidate, shall be appointed under clause (b) of sub-rule (1).
- (3) Any person, who during the counting of votes, misconducts himself or fails to obey the lawful directions of the Municipal Returning Officer, may be removed from the place of counting by the Municipal Returning Officer or by any police officer on duty or any person authorised in this behalf by the Municipal Returning Officer.

61E. EXPLAINING THE COUNTING PROCEDURE

The Municipal Returning Officer shall, before the commencement of the counting, briefly explain the counting procedure to all those allowed admission in the counting place under sub-rule (1) 61D and caution them as to the maintenance of secrecy, the violation of which shall be an electoral offence under section 81.

61F. COUNTING OF VOTES CAST BY VOTERS ON ELECTION DUTY

- (1) On the day at the time and place appointed under rule 61B the Municipal Returning Officer shall first open the covers containing the ballot papers recording the votes of persons on election duty, which were received by him under rule 18 and scrutinise the ballot papers and count them and record their number and other details in Form 22.
- (2) The Municipal Returning Officer shall reject a ballot paper
- (a) if it bears any mark or writing by which the elector can be identified, or,
 - (b) if it bears no mark on the front or it bears a mark made otherwise than with the instrument supplied for the purpose, or
 - (c) if there are marks on it in favour of more candidates than one, or
 - (d) if the mark is so placed as to render it doubtful as to which candidate the vote has been given to, or
 - (e) if it is a spurious ballot paper, or
 - (f) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established:

Provided that-

- (i) where the Municipal Returning Officer is satisfied that any defect has been caused by any mistake or failure on the part of the Municipal Returning Officer, the ballot paper shall not be rejected on the ground of such defect;
 - (ii) a ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.
- (3) Before rejecting any ballot paper under sub-rule (2), the Municipal Returning Officer shall allow the candidate or his election agent and each counting agent present a reasonable opportunity to inspect the ballot paper but shall not allow him to handle it or any other ballot paper.

- (4) The Municipal Returning Officer shall endorse on every ballot paper which he rejects the letter "R" and the grounds for rejection in abbreviated form either in his own hand by means of a rubber stamp and shall initial his endorsement, and his decision shall be final.
- (5) All ballot papers rejected under this rule shall be counted and bundled together.
- (6) Every ballot paper which is not rejected under this rule shall be counted as one valid vote.
- (7) The Municipal Returning Officer shall thereafter make separate packets of –
 - (a) all valid ballot papers, and
 - (b) all rejected ballot papers as found by him at the scrutiny and counting under sub-rule (1)

The Municipal Returning Officer shall seal both the packets with his seal and the seals of the candidates or their election agents if they wish to affix their seals thereon, and note on the packets the number of constituency, the date of counting and a description of the contents.

61G. SCRUTINY AND INSPECTION OF VOTING MACHINES

- (1) The Municipal Returning Officer may then have the control units of the voting machines used at more than one polling station taken up for scrutiny and inspection and votes recorded in such units counted simultaneously.
- (2) Before the votes recorded in any control unit of a voting machine are counted under sub-rule (1), the candidate or his election agent or his counting agent present at the counting table shall be allowed to inspect the paper seal and such other vital seals as might have been affixed on the unit and to satisfy themselves that the seals are intact.
- (3) The Municipal Returning Officer shall satisfy himself that none of the voting machines has in fact been tampered with.
- (4) If the Municipal Returning Officer is satisfied that any voting machine has in fact been tampered with he shall not count the votes recorded in that machine and shall follow the procedure laid down in section 62 or section 63 as may be applicable in respect of the polling station where that machine was used.

61H. COUNTING OF VOTES

- (1) After the Municipal Returning Officer is satisfied that a voting machine has in fact not been tampered with, he shall have the votes recorded therein counted by pressing the appropriate button marked "Result" provided in the control unit whereby the total votes polled and votes polled by each candidate shall be displayed in respect of each such candidate on the display panel provided for the purpose in the unit.
- (2) As the votes polled by each candidate are displayed on the control unit, the Municipal Returning Officer shall have:-
 - (a) the number of such votes recorded separately in respect of each candidate in Part II of Form 16C.
 - (b) Part-II of Form 16C completed in other respects and signed by the counting supervisor and also by the candidates or their election agents or their counting agents present; and
 - (c) corresponding entries made in a result sheet in Form 23 and the particulars so entered in the result sheet announced.

61I. COUNTING OF VOTES TO BE CONTINUOUS

The Municipal Returning Officer shall, as far as practicable proceed continuously with the counting of votes and shall, during any interval when the counting has to be suspended, keep the voting machines and other packets/paper relating to the election sealed with his own seal and seal of such candidate or election agent or counting agent as may desire so affix their seals, and shall cause adequate precautions to be taken for their safety during such interval.

61J. COMPILATION OF RESULTS OF DIFFERENT POLLING STATIONS

The Municipal Returning Officer shall thereafter compile the results of the counting of the polling station(s) of a constituency, add to them the number of the valid votes as counted sub-rule (1) of rule 61F and record the results finally in Form 23.

61K. DECLARATION OF RESULT

- (1) The Municipal Returning Officer shall, after completion of the procedure in rule 61F and 61J forthwith declare to be elected the candidate to whom the largest number of valid votes has been given.
- (2) Where an equality of votes is found exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, the determination of the person to whom such additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Municipal Returning Officer and the candidates or their representatives who may be present and in such manner as he may determine.

61L. PREPARATION OF RETURN OF ELECTION AND ISSUE OF CERTIFICATE OF ELECTION

The Municipal Returning Officer shall then prepare and certify a return of election showing the results in Form 24 and shall also issue a certificate of election to the returned candidate in Form 25.

61M. SENDING OF RETURN ELECTION

The Municipal Returning Officer shall without any delay send the return of election in Form 24 to the Commission for immediate publication of the names of the elected candidates in the *Official Gazette*.

61N. SEALING OF VOTING MACHINES

- (1) After the result of voting recorded in a control unit has been ascertained candidatewise and entered in Part II of Form 16C and Form 23 under rule 61F and 61H, the Municipal Returning Officer shall reseal the unit with his seal and the seals of such of the candidates or their election agents present who may desire to affix their seals thereon, so, however that the result of voting recorded in the unit is not obliterated and the unit retains the memory of such result.
- (2) The control unit so sealed shall be kept in specially prepared boxes on which the Municipal Returning Officer shall record the following particulars, namely-
 - (a) the name of the constituency;
 - (b) the particulars of polling station or stations where the control unit has been used;

- (c) serial number of the control unit;
- (d) date of poll; and
- (e) date of counting;

610. PRESERVATION OF SEALED PACKETS

The Municipal Returning Officer shall keep in his safe custody all other sealed packets received by him from the Presiding Officer under rule 39T and the sealed packets made by him under sub-rule (7) of rule 61F.

61P. COMPIATION AND DECLARATION OF RESULT IN CASES OF ADJOURNED POLL AND FRESH POLL

- (1) The counting and compliation of votes for a constituency in the case of adjourned or fresh poll shall be taken up by the Municipal Returning Officer only after such adjourned or fresh poll at any polling station, as the case may be, has been held.
- (2) The provisions of rules 61J to 61P shall apply in the matter of compilation and declaration of results.”;

ANNEXURE II

**EXTRACTS FROM THE REPRESENTATION OF
THE PEOPLE ACT, 1951**

PART - VII

CHALTER III—Electoral Offences

125. PROMOTING ENMITY BETWEEN CLAUSES IN CONNECTION WITH ELECTION

Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

126. PROHIBITION OF PUBLIC MEETINGS DURING PERIOD OF FORTY-EIGHT HOURS ENDING WITH HOUR FIXED FOR CONCLUSION OF POLL—

(1) No person shall—

- (a) convene, hold, attend, join or address any public meeting or procession in connection with an election; or
- (b) display to the public any election matter by means of cinematograph, television or other similar apparatus; or
- (c) propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto,

in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

- (2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to two years or with fine, or with both.
- (3) In this section, the expression “election matter” means any matter intended or calculated to influence or affect the result of an election.

127. DISTURBANCES AT ELECTION MEETINGS—

- (1) Any person who at a public meeting to which this section applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, or with both.
- (1A) An offence punishable under sub-section (1) shall be cognizable.
- (2) This section applies to any public meeting of a political character held in any constituency between the date of the issue of a notification under this Act calling upon the constituency to elect a member or members and the date on which such election is held.
- (3) If any police Officer reasonably suspects any person of committing an offence under sub-section (1), he may, if requested so to do by the Chairman of the meeting,

require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

128. MAINTENANCE OF SECRECY OF VOTING

- (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.
- (2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

129. OFFICERS, ETC., AT ELECTIONS NOT TO ACT FOR CANDIDATES OR TO INFLUENCE VOTING

- (1) No person who is a District Election Officer or a Returning Officer, or an Assistant Returning Officer, or a Presiding or Polling Officer at an election, or an officer or clerk appointed by the Returning Officer or the Presiding Officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.
- (2) No such person as aforesaid, and no member of a police force, shall endeavour—
 - (a) to persuade any person to give his vote at an election, or
 - (b) to dissuade any person from giving his vote at an election, or
 - (c) to influence the voting of any person at an election in any manner.
- (3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment which may extend to six months or with fine or with both.
- (4) An offence punishable under sub-section (3) shall be cognizable.

130. PROHIBITION OF CANVASSING IN OR NEAR POLLING STATION

- (1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the Polling Station or in any public or private place within a distance of one hundred metres of the polling Station, namely:—
 - (a) canvassing for votes; or
 - (b) soliciting the vote of any elector; or
 - (c) persuading any elector not to vote for any particular candidate ; or
 - (d) persuading any elector not to vote at the election; or
 - (e) exhibiting any notice or sign (other than an official notice) relating to the election.
- (2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

- (3) An offence punishable under this section shall be cognizable.

131. PENALTY FOR DISORDERLY CONDUCT IN OR NEAR POLLING STATIONS

- (1) No person shall, on the date or dates on which a poll is taken at any polling station—
- (a) use or operate within or at the entrance of the Polling Station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loudspeaker; or
 - (b) shout, or otherwise act in a disorderly manner, within or at the entrance of the Polling Station or any public or private place in the neighbourhood thereof; so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other person on duty at the Polling Station.
- (2) Any person who contravenes or willfully aids or abets the contravention of, the provisions of sub-section (1) shall be punishable with imprisonment which may extend to three months or with fine or with both.
- (3) If the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any Police Officer to arrest such person, and thereupon the police officer shall arrest him.
- (4) Any Police Officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1) and may seize any apparatus used for such contravention.

132. PENALTY FOR MISCONDUCT AT THE POLLING STATION—

- (1) Any person who, during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the Presiding Officer may be removed from the polling station by the Presiding Officer or by any Police Officer on duty or by any person authorised in this behalf by such Presiding Officer.
- (2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a Polling Station from having an opportunity of voting at that station.
- (3) If any person who has been so removed from a Polling Station re-enters the Polling Station without the permission of the Presiding Officer, he shall be punishable with imprisonment for a term which may extend to three months, or with fine or with both.
- (4) An offence punishable under sub-section (3) shall be cognizable.

132-A. PENALTY FOR FAILURE TO OBSERVE PROCEDURE FOR VOTING

If any elector to whom a ballot paper has been issued, refuses to observe the procedure prescribed for voting the ballot paper issued to him shall be liable for cancellation.

133. PENALTY FOR ILLEGAL HIRING OR PROCURING OF CONVEYANCE AT ELECTIONS

If any person is guilty of any such corrupt practice as is specified in clause (5) of section 123 at or in connection with an election, he shall be punishable with fine which may extend to three months and with fine.

134. BREACHES OF OFFICIAL DUTY IN CONNECTION WITH ELECTIONS—

- (1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine which may extend to five hundred rupees.
- (1A) An offence punishable under sub-section (1) shall be cognizable.
- (2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission, as aforesaid.
- (3) The persons to whom this section applies are the District Election Officers, Returning Officers, Assistant Returning Officers, Presiding Officers, Polling Officers and any other person appointed to perform any duty in connection with the receipt of nominations or withdrawal of candidatures, or the recording, or counting of votes at an election; and the expression “official duty” shall for the purposes of this section be constructed accordingly, but shall not include duties imposed otherwise than by or under this Act.

134-A. PENALTY FOR GOVERNMENT SERVANTS FOR ACTING AS ELECTION AGENT, POLLING AGENT OR COUNTING AGENT

If any person in the service of the Government acts as an Election Agent or a Polling Agent or a Counting Agent of a candidate at an election, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

134-B. PROHIBITION OF GOING ARMED TO OR NEAR A POLLING STATION—

- (1) No person, other than the Returning Officer, the Presiding Officer, any Police Officer and any other person appointed to maintain peace and order at a polling station who is on duty at the Polling Station, shall, on a polling day, go armed with arms, as defined in the Arms Act, 1959, of any kind within the 54 of 1959, neighbourhood of a Polling Station.
- (2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to two years or with fine, or with both.
- (3) Notwithstanding anything contained in the Arms Act, 1959, where a person is convicted of an offence under this section, the arms as defined in the said Act found in his possession shall be liable to confiscation and the license granted in relation to such arms shall be deemed to have been revoked under section 17 of that act.
- (4) An offence punishable under sub-section (2) shall be cognizable.

135. REMOVAL OF BALLOT PAPERS FROM POLLING STATION TO BE AN OFFENCE

- (1) Any person who at any election unauthorisedly takes, or attempts to take, a ballot paper out of a Polling Station, or willfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

- (2) If the Presiding Officer of a Polling Station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer :

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

- (3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the Presiding Officer, or when the search is made by police officer, shall be kept by such officer in safe custody.
- (4) An offence punishable under sub-section (1) shall be cognizable.

135-A. OFFENCE OF BOOTH CAPTURING

- (1) Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine.

Explantation —For the purposes of this sub-section and section 20-B “booth capturing” includes, among other things, all or any of the following activities namely :-

- (a) seizure of a Polling Station or a place fixed for the poll by any person or persons making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections;
- (b) taking possession of a Polling Station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from free exercise of their right to vote;
- (c) coercing or intimidating or threatening directly or indirectly any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;
- (d) seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes;
- (e) doing by any person in the service of Government of all or any of the aforesaid activities or aiding or conniving at any such activity in the furtherance of the prospects of the election of a candidate.

135-C. LIQUOR NOT TO BE SOLD, GIVEN OR DISTRIBUTED ON POLLING DAY—

- (1) No spirituous, fermented or intoxicating liquors or other substances of a like nature shall be sold, given or distributed at a hotel, eating house, tavern, shop or any other place, public or private, within a polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.
- (2) Any person who contravenes the provision of sub-section (1), shall be punishable with

imprisonment for a term which may extend to six months or with fine which may extend to two thousand reposs, or with both.

- (3) Where a person is convicted of an offence under this section, the spirituous, fermented or intoxicating liquors or substances of a like nature found in his possession shall be liable to confiscation and the same shall be disposed of in such manner as may be prescribed.

136. OTHER OFFENCES AND PENALTIES THEREFOR—

- (1) A person shall be guilty of an electoral offence if at any election he—
- (a) fraudulently defaces or fraudulently destroys any nomination paper; or
 - (b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a Returning Officer; or
 - (c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelope used in connection with voting by postal ballot; or
 - (d) without due authority supplies any ballot paper to any person, or receives any ballot paper from any person or is in possession of any ballot paper; or
 - (e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or
 - (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purpose of the election; or
 - (g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or willfully aids or abets the doing of any such acts.
- (2) Any person guilty of an electoral offence under this section shall,—
- (a) if he is a Returning Officer or an Assistant Returning Officer or a Presiding Officer at a polling station or any other officer or clerk employed on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both.
 - (b) if he is any other person, be punishable with imprisonment for term which may extend to six months or with fine or with both.
- (3) For the purposes of this section a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election or including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression “official duty” shall not include any duty imposed otherwise than by or under this Act.
- (4) An offence punishable under sub-section (2) shall be cognizable.

ANNEXURE III

FORM OF DECLARATION BY ELECTOR ABOUT AGE

I hereby solemnly declare and affirm that my age was more than 18 years on the first date of January, 2000....., i.e. the qualifying date with reference to which the existing electoral roll of the constituency was prepared/revised.

I am aware of the penal provisions of section 27 of the West Bengal Municipal Elections Act, 1994, for making any false declaration in connection with the inclusion of any name in the electoral roll or the preparation, revision or correction of the electoral roll.

Signature/Thumb impression of the Elector

.....

Father/Mother/Husband's Name

.....

Part number of elector roll

Dated.....

Serial number of elector

Certified that the above declaration was made and subscribed by the elector above named before me.

Signature of the Presiding Officer

.....

Number and name of polling station

Dated.....

.....

ANNEXURE IV

(CHAPTER XIII, Para 1 & 2)

**DECLARATION BY THE PRESIDING OFFICER BEFORE
THE COMMENCEMENT OF THE POLL**

Name of the Municipality
Constituency (Ward) No.
Serial No. and name of Polling Station
Date of Poll.....

I hereby declare :

- (1) that I have demonstrated to the polling agents and other persons present—
 - (a) by holding a mock poll that the voting machine is in perfect working order and that no vote is already recorded therein;
 - (b) that the marked copy of the electoral roll to be used during the poll does not contain any marks other than those used for issuing election duty votes;
 - (c) that the Register of Voters (Form 16A) to be used during the poll does not contain any entry in respect of any elector;
- (2) that I have affixed my own signature on the paper seal(s) used for securing the Result Section of control unit of the voting machine and obtained thereon the signatures of such of the polling agents as are present and desirous of affixing the same.

Signature
Presiding Officer

Signature of polling agents:

- 1. (of candidate)
- 2. (of candidate)
- 3. (of candidate)
- 4. (of candidate)
- 5. (of candidate)
- 6. (of candidate)
- 7. (of candidate)
- 8. (of candidate)
- 9. (of candidate)

The following polling agent(s) declined to affix his/her/their signature(s), on this declaration:

- 1. (of candidate)
- 2. (of candidate)
- 3. (of candidate)
- 4. (of candidate)

Date.....

Signature.....
Presiding Officer

ANNEXURE IV

DECLARATION BY THE PRESIDING OFFICER AT THE TIME OF USE OF SUBSEQUENT VOTING MACHINE, IF ANY

Name of the Municipality
Constituency (Ward) No.
Serial No. and name of Polling Station
Date of Poll.....

I hereby declare :

- (1) that I have demonstrated to the polling agents and other present by hodling a mock poll that the subsequent voting machine is in perfect working order and that no vote is already recorded therein;
- (2) that I have affixed my own signature on the paper seal(s) used for securing the Result Section of control unit of the voting machine and obtained thereon the signatures of such of the polling agents as are present and desirous of affixing the same.

Signature
Presiding Officer

Signature of polling agents:

- 1. (of candidate)
- 2. (of candidate)
- 3. (of candidate)
- 4. (of candidate)
- 5. (of candidate)
- 6. (of candidate)
- 7. (of candidate)
- 8. (of candidate)
- 9. (of candidate)

The following polling agent(s) declined to affix his/her/their signature(s), on this declaration:

- 1. (of candidate)
- 2. (of candidate)
- 3. (of candidate)
- 4. (of candidate)

Signature.....
Presiding Officer

Date.....

ANNEXURE V

**DECLARATION BY THE PRESIDING OFFICER
AT THE TIME OF POLL
Part - I**

I have furnished to the polling agents, who were present at the polling station at the close of the poll and whose signatures are affixed below, an attested copy of each of the entries in 'Part-I—Account of Votes Recorded' of Form 16A as required under rule 39R(2) of the West Bengal Municipalities (Conduct of Election) Rules, 1995.

Date

Signature

Time

Presiding Officer

Received an attested copy of the entries in the accounts of votes recorded (Part-I of Form 16C)

Signature of polling agents:

- | | |
|-----------------------------|-----------------------------|
| 1. (of candidate | 2. (of candidate |
| 3. (of candidate | 4. (of candidate |
| 5. (of candidate | 6. (of candidate |
| 7. (of candidate | 8. (of candidate |
| 9. (of candidate | |

The following polling agents who were present at the close of the poll declined to receive an attested copy of Part-I of Form 16C and to give a receipt therefor and so an attested copy of that Form was not supplied to them.

- | | |
|-----------------------------|-----------------------------|
| 1. (of candidate | 2. (of candidate |
| 3. (of candidate | 4. (of candidate |
| 5. (of candidate | 6. (of candidate |
| 7. (of candidate | 8. (of candidate |
| 9. (of candidate | |

Date

Signature

Time

Presiding Officer

Part - II

DECLARATION AFTER THE SEALING OF THE VOTING MACHINE

I have affixed my seals, and I have allowed the polling agents who were present at the polling station at the close of poll to affix their seals, on the carrying cases of the control unit and balloting units of the voting machine.

Date
Time

Signature
Presiding Officer

The following polling agents have affixed their seals.

Signature of polling agents:

- 1. (of candidate)
- 2. (of candidate)
- 3. (of candidate)
- 4. (of candidate)
- 5. (of candidate)
- 6. (of candidate)

The following polling agents refused or did not want to affix their seals.

- 1. (of candidate)
- 2. (of candidate)
- 3. (of candidate)
- 4. (of candidate)

Date.....

Signature.....
Presiding Officer

ANNEXURE VI
CHAPTER I, PARA 6

CHECK MEMO FOR PRESIDING OFFICERS

ITEM	ACTION OF BE TAKEN	REMARKS
1.	Obtaining and keeping in possession all relevant instructions from the Municipal Returning Officer.	Whether obtained and kept?
2.	Familiarisation with the other members of the polling party and maintenance of close relationship with them.	Whether done?
3.	Collection of election material	Whether ensured that all the election materials and that too in sufficient quantities and numbers have been collected?
4.	Checking up of balloting Unit & Control Unit of the Voting Machine, marked copies of the electoral roll, arrow cross mark rubber stamp, green paper seals, Register of Voter's, Voter's Slip's, etc.	
5.	Separate entrance and exit for voters at polling stations.	Whether ensured?
6.	Display of notice specifying the polling area and the numbers of electors assigned and also a copy of the list of contesting candidates;	Whether displayed?
7.	Inter-linking of control unit and balloting units and switching on the battery.	Whether done?
8.	Conducting mock	Whether Conducted?
9.	Fixing Green Paper Seal on Result Section of Control Unit	Whether done?
10.	Sealing the Result Section of the Control Unit.	Whether done?
11.	Declaration to be made at the Commencement of the Poll.	Whether made?
12.	Reading out the provisions of the Sec. 128 of R.P. Act, 1951 with regard to the secrecy of voting by Presiding Officer at the beginning of the poll.	Whether done?
13.	Allowing polling agents to not the serial numbers of balloting unit and control unit and Green Paper seal.	Whether allowed?
14.	Marking of indelible ink on left four-finger and obtaining the signature/thumb impression on the Registers of Voters (Form 17A)	Whether being properly done?
15.	Declaration from under-aged electors	Whether obtained?
16.	Maintenance of Presiding Officer's diary from time to time as and when they occur?	Whether events are recorded
17.	Close of poll at the appointed hour	Whether Done?
18.	Supply of Account of Votes Recorded in Form 17C copies given to all the polling agents?	Whether attested
19.	Declaration to be made at the close of poll	Whether made?
20.	Sealing of Voting Machine and election papers	Where done according to instructions?

ANNEXURE VII

(CHAPTER III, Para I)

List of polling materials for a polling station where Electronic Voting Machine is used.

1	Control Unit	1
2	Balloting Unit(s)	(Depending upon the Number of Candidates)
3	Register of voters	(Depending upon the Number of electors
4.	Address Tags	5 for control Unit and 4 for each Balloting Unit
5.	Voter's Slips	Depending upon the number of electors
6.	Ballot Papers (for tendered votes)	20 numbers
7.	Working copy of the Electoral Roll	3 copies
8.	Indelible Ink	2 phials of 5cc.
9.	Cup for setting the indelible ink	1
10.	Cloth or rag for removing oil or any other substance from the finger (s)	1
11.	Arron Cross Mark Rubber stamp for marking tendered Ballot Papers	1
12.	Paper Seals	4
13.	Card Board for strengthening the paper seals	4
14.	Material for voting compartment	1
15.	Receipt for deposit of fee for challenged votes	1 book
16.	Metal seal for Presiding Officer	1
17.	Presiding Officer's Diary	1
18.	Self inking pad (purple)	1
19.	Copying pencil	1
20.	Ordinary pencil	1
21.	Ball point pen	2 blue colour
22.	Foolscap paper	1 sheet
23.	Pins	1 packet
24.	Sutli (Thread)	1 ball
25.	Sealing wax	6 pieces
26.	Candles	4
27.	Gum paste	1 bottle
28.	Match box	1
29.	Blade	1
30.	Flexible wire	1 Metre
31.	Carbon paper	4
32.	Waste paper basket	1
33.	Lanterns, if necessary	—
34.	List of contesting candidates	2 copies
35.	List of challenged votes (Form 14)	1

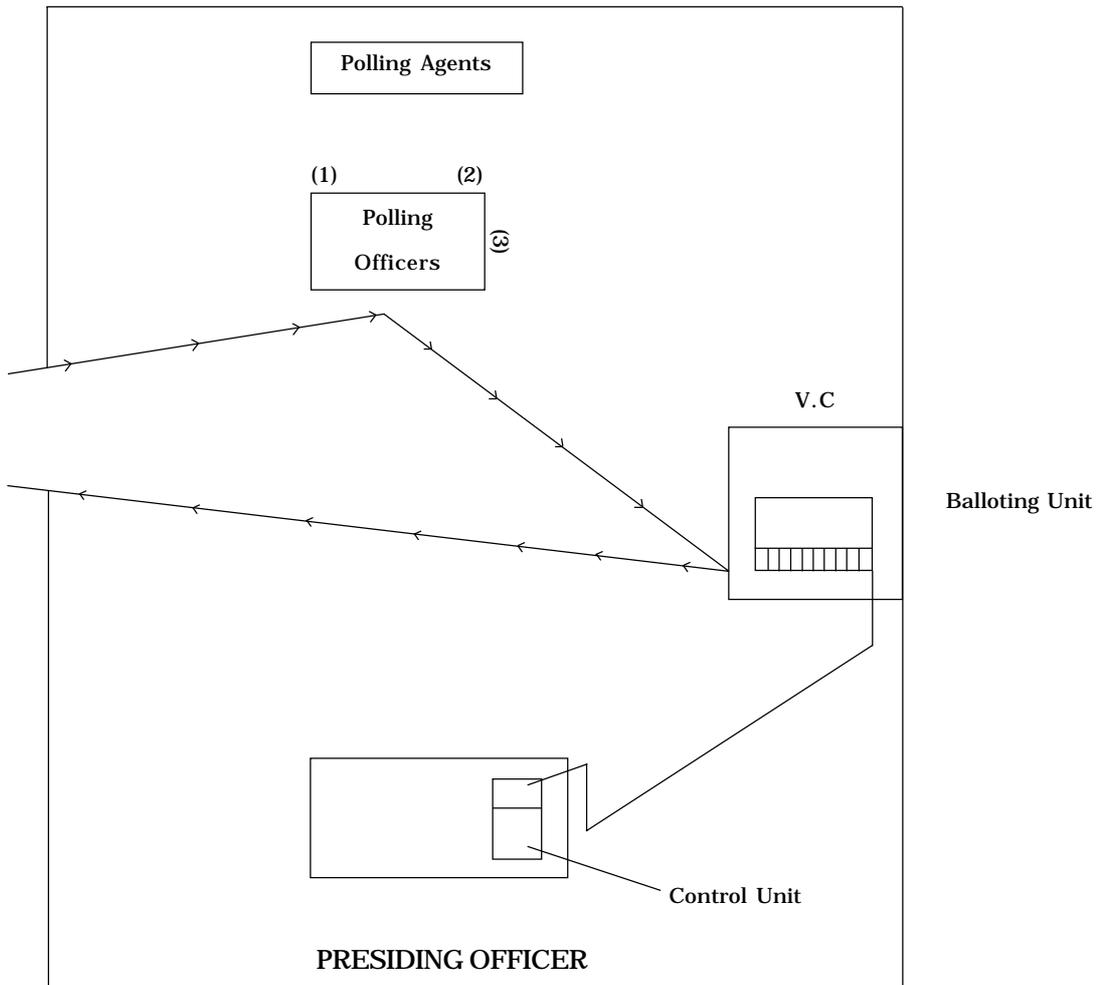
36.	Passes for Polling Agents	Depending upon the number of contestants
37.	Notice for specifying polling area	2 copies
38.	Form for list of tendered votes (Form 16B)	2
39.	Form for list of blind or infirm voters (Form 15)	2
40.	Form for companions of blind or infirm voters	5
41.	Form for declaration by Presiding Officer before commencement of the poll, and at the end of poll	
42.	(i) Form for declaration by elector about his age	10
	(ii) List of electors who voted after giving declaration about their age	
43.	Cover for unused ballot papers	1
44.	Cover for tendered ballot papers (duly marked) and list of tendered votes	1
45.	Cover for unused paper seals	1
46.	Cover for account of votes recorded and paper seal account (Form 16C)	1
47.	Cover for marked copy of electoral roll	1
48.	Cover for other copies of electoral roll	1
49.	Cover for letters of appointment of polling agents	1
50.	Cover for receipt book and cash forfeited	1
51.	Cover for declarations of companions	1
52.	Cover for list of challenged vote (Form 14)	1
53.	Cover for Presiding Officer's Diary	1
54.	Cover for list of blind or infirm voters	1
55.	Cover for any other paper that the Municipal Returning Officer has directed to be kept in a sealed packet	1
56.	Polythene bag/Gunny bag to contain polling materials	1

ANNEXURE VIII

(CHAPTER IV, Para 5)

MODEL POLLING STATION FOR ELECTRONIC VOTING MACHINE

LAYOUT OF POLLING STATION



Note:—The cable connected to the Balloting Unit should come out of the Voting Compartment through an opening on the back side and through this opening the Presiding Officer should be able to see the full length of the cable right up to its joint with the Balloting Unit from his seat so that no elector will be able to tamper with the Cable from inside the Voting Compartment without being detected by the Presiding Officer. However, this opening in the Voting Compartment should not be so big as to reveal any portion at the top of the Balloting Unit.