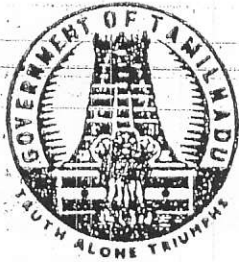


**COMMERCIAL TAXES AND RELIGIOUS
ENDOWMENTS DEPARTMENT**

***TAMIL NADU WAKF BOARD (CONDUCT OF
ELECTION FOR MEMBERS) RULES, 1997***

(G.O.Ms No. 56 Commercial Taxes and Religious Endowments, 14th
February, 1997)

Notified in the Tamil Nadu Government Gazette Extra ordinary
Part III – Section 1(a)
Chennai, Friday, February 14, 1997



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GOVERNMENT GAZETTE
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Part III—Section 1 (a)

General Statutory Rules, Notifications, Orders,
Regulations, etc., issued by Secretariat Departments.

COMMERCIAL TAXES AND RELIGIOUS ENDOWMENTS DEPARTMENT.

TAMIL NADU WAKF BOARD (CONDUCT OF ELECTION FOR MEMBERS) RULES, 1997.

(G.O. Ms. No. 56, Commercial Taxes and Religious Endowments, 14th February 1997.)

No. SRO A-18(b)/97.

In exercise of the powers conferred by clause (iv) of sub-section (2) of section 109 read with sub-section (2) of section 14 of the Wakf Act, 1995 (Central Act 43 of 1995), the Governor of Tamil Nadu hereby makes the following rules, namely:—

RULES.

1. *Short title.*—These rule may be called the Tamil Nadu Wakf Board (Conduct of Election for Members) Rules, 1997.
2. *Definitions.*—In these rules, unless the context otherwise requires—
 - (1) “Act” means the Wakf Act, 1995 (Central Act 43 of 1995);
 - (2) “annual income” means the gross income of the wakf from all sources including nazars and offerings which do not amount to contributions to the corpus of the wakf in a year;
 - (3) “Board” means the Tamil Nadu Wakf Board established under sub-section (1) of section 13 ;
 - (4) “Continuing Candidate” means any candidate not elected and not excluded from the poll at any given time;
 - (5) “Election Authority” means the officer appointed by the State Government under rule 3 of these rules ;
 - (6) “Electoral Malpractice” means the corrupt practices and electoral offences enumerated under the Representation of the People Act, 1951 (Central Act 43 of 1951);

(7) "Electoral Roll" means list of members of each of the following electoral colleges enumerated under clause (b) of sub-section (1) of section 14 of the Act:—

- (i) Members of Parliament ;
- (ii) Members of the State Legislature ;
- (iii) Members of the State Bar Council ;
- (iv) Mutawallis.

Provided that where there are no Muslim members in any of the categories mentioned in items (i) to (iii) above, the electoral roll shall consist of the ex-members of respective electoral college as specified in the second proviso to sub-section (2) of section 14 of the Act ;

(8) "Exhausted Paper" means a ballot paper on which no further preference is recorded for a continuing candidate:

Provided that a paper shall be deemed to be exhausted in any case in which—

(a) the names of the two or more candidates, whether continuing or not, are marked with the same figure and are next in the order of preference; or

(b) the name of the candidate next in the order of preference, whether continuing or not, is marked—

- (i) by a figure not following consecutively after some other figure on the ballot paper; or
- (ii) by two or more figures ;

(9) "First Preference" means the figure 1, "Second Preference" means the figure 2 and so on, set opposite to the name of any candidate.

Explanation.—The figures referred to in this rule shall be marked in the international form of Indian numerals and shall not be indicated in words ;

(10) "Member of Parliament" means Muslim Member of Parliament elected or nominated from Tamil Nadu who is not disqualified under any law in force ;

(11) "Member of Legislature" means Muslim Member of the State Legislature who is not disqualified under any law in force;

(12) "Member of the Bar Council" means a Muslim from Tamil Nadu who is a member of the State Bar Council and who is not disqualified under any law in force;

(13) "Mutawalli" for purposes of election means Mutawalli of a Wakf having an annual income of rupees one lakh and above during the financial year which precedes the election or financial year for which accounts have been finalised that were prior to the election:

Provided that if a Wakf institution is managed by a Committee, the President or the Secretary nominated by the said Committee shall be the Mutawalli:

Provided further that where there is any dispute over the Mutawalliship pending before any authority, the tribunal or the court, no one shall be entitled to vote on behalf of that wakf during such pendency of dispute ;

(14) "Original Vote" in regard to any candidate means a vote derived from a ballot paper on which a first preference is recorded for such candidate;

(15) "Quota" means the value of votes sufficient to secure the return of a candidate at the election ;

(16) "Returning Officer" and "Assistant Returning Officer" mean the officers appointed by the State Government under rule 3 of these rules ;

(17) "State" and "Government" respectively mean the State of Tamil Nadu and the Government of Tamil Nadu ;

(18) "Surplus" means the number by which the value of the votes of any candidate, original or original and transferred exceeds the quota as defined in these rules ;

(19) "Transferred vote" in regard to any candidate, means a vote the value or part of the value of which is credited to such candidate and which is derived from a ballot paper on which a second or subsequent preference is recorded for such candidate;

(20) "Unexhausted paper" means a ballot paper on which a further preference is recorded for a continuing candidate.

3. *Appointment of Election Authority, Returning Officer and Assistant Returning Officer.*—(1) The State Government may, by notification in the Official Gazette, appoint—

- (a) an officer of the Government in the rank of the Secretary to Government as Election Authority ;
- (b) an officer of the Government not below the rank of Deputy Secretary to Government as Returning Officer ;
- (c) One or more number of officers of the Government not below the rank of Under Secretary to Government as Assistant Returning Officers—

for the purpose of conducting election of Members of the Board as specified in clause (b) of sub-section (1) of section 14 of the Act.

(2) The officers appointed shall not have any subsisting personal interest in the affairs of Wakfs in the State.

(3) The Returning Officer appointed shall, subject to these rules, do all thing necessary for the conduct of the election.

(4) Every Assistant Returning Officer appointed shall be competent to perform all or any of the functions of the Returning Officer.

4. *Electoral roll.*—There shall be an electoral roll for each of the electoral college specified in clause (b) of Sub-section (1) of section 14 of the Act. The Electoral Authority shall obtain the roll of members of the Parliament and the State Legislature from the Secretary, State Legislative Assembly Secretariat, that of the Bar Council from the Secretary, State Bar Council and that of the Mutawalli from the Chief Executive Officer cum Secretary, Tamil Nadu Wakf Board.

5. *Publication of draft electoral roll.*—The draft electoral roll shall be published in the notice board of the Election Authority, the Tamil Nadu Wakf Board and the Zonal Superintendents of wakfs atleast four weeks prior to the issue of notification under rule 8 hereunder.

6. *Filing of objections and disposal.*—(1) Any person who is entitled for inclusion in the electoral roll of the electoral college is aggrieved against inclusion or non-inclusion of name in the draft electoral roll, may file objection petition before the Election Authority within one week from the date of display of the draft electoral roll under rule 5 above.

(2) The Election Authority, after going through the objection petition and after obtaining any further information from any source, as he may deem fit shall pass orders on the objection petition within three weeks from the date of display of draft electoral roll. Before passing the said orders the Election Authority may if he considers necessary give personal hearing to the objection petitioner, the person whose inclusion or non-inclusion is being questioned or any other person, he considers fit.

7. *Publication of final electoral roll.*—In the light of the orders passed under rule 6, if the electoral roll requires any addition, deletion or modification, the Election Authority, after incorporating such changes, shall publish the final electoral roll not less than one week before the date of election notification under rule 8. The electoral roll published shall be final and it shall not be questioned before any civil court.

8. *Notification of election.*—(1) The Election Authority shall notify in the Official Gazette.—

- (a) the electoral college or colleges for which nomination is called for ;
- (b) the last date for making nomination ;
- (c) the date for the scrutiny of nomination ;
- (d) the last date for withdrawal of candidature; and
- (e) the date on which a poll by voting in person or voting by postal ballot shall, if necessary, be taken.

9. *Filing of nomination by candidates.*—(1) The candidate whose name finds place in the final electoral roll may file his nomination in Form I signed by him and delivered to the Returning Officer before the last date specified for making nomination under rule 8.

(2) The nomination of candidate belonging to the electoral colleges of Members of Parliament, the State Legislature or the State Bar Council, as the case may be, shall be proposed and seconded by members belonging to the respective electoral college :

Provided that there is no need for a proposer or seconder when total number of members belonging to each of the said electoral college is six or less than six.

(3) The nomination of each candidate belonging to the electoral college of Mutavallis shall be proposed and seconded by not less than five members from the said electoral college.

Explanation (i).—The proposer and the seconder shall belong to the electoral college of the candidate nominated.

Explanation (ii).—Any member belonging to a particular electoral college may be subscribed either as proposer or as seconder to as many nomination paper as there are vacancies to be filled to the said category, but not more.

Explanation (iii).—If a candidate belongs to more than one category of electoral colleges, he shall choose one of the electoral colleges. He shall contest, propose or second a candidate belonging to the said electoral college only.

Explanation (iv).—A member of an electoral college, who proposes or seconds the candidature of another member shall not be eligible for himself contesting the election.

(4) Any candidate may withdraw his candidature by a notice in writing as specified in Form-III signed by him and delivered to the Returning Officer before the last date specified for withdrawal of candidature under rule 8.

(5) When the number of Members of Parliament, the State Legislature or the State Bar Council, as the case may be, is only one such Member shall be declared to have been elected to the Board as provided in the first proviso to sub-section (2) of section 14 of the Act.

(6) If the number of candidates who were duly nominated and who have not withdrawn their candidature is equal to the number of vacancies to be filled, the Election Authority shall declare all such candidates to have been duly elected.

(7) (i) If the number of candidates who have duly filed nomination and who have not withdrawn their candidature is less than the number of vacancies to be filled from the electoral college of Members of Parliament, State Legislature or the State Bar Council or if there is no valid nomination or otherwise, the State Government may nominate persons choosing from sitting Members of Parliament, State Legislature or the State Bar Council, as the case may be, and if there are no sitting members, from Ex-Members of the respective category as Members for the remaining vacancies.

(ii) If there are no valid nominations from the electoral college of Mutawallis, the Election Authority shall start afresh the election process as if for a new election and if there are no valid nominations in the second election process also, the vacancy shall be left unfilled :

Provided that when 20 per cent of the electoral college make representation in writing to the Election Authority to fill the said vacancy, the Election Authority shall start afresh the election process as if for a new election .

(8) If the number of candidates who were duly nominated and who have not withdrawn their candidature exceeds the number of vacancies to be filled, the Election Authority shall cause notice to be given of the date and place of poll and shall publish the final list the candidates contesting the election in his office.

(9) One copy of the final electoral roll of the electoral college shall be supplied to the candidates contesting from the said electoral college free of cost and additional copies if required on payment of cost as specified by the Election Authority from time to time.

(10) No person who suffers from any of the disqualifications under the Act shall be eligible to contest the election.

10. *Persons entitled to vote.*—All members whose names are included in the final electoral roll of the respective electoral college published under rule 7 shall be entitled to vote for the candidates belonging to that particular electoral college.

11. *Voting.*—(1) Election of the members specified in clause (b) of sub-section (1) of section 14 of the Act shall be held in accordance with the system of proportional representation by means of a single transferable vote. The voting shall be by secret ballot. The Returning Officer or the Assistant Returning Officer shall ascertain that the person desiring to vote is a member entitled to vote and who has not already voted and shall enter his name upon the counterfoil of the ballot paper and shall then tear out the ballot paper corresponding to that counterfoil and handover the same to the member.

(2) Every ballot paper shall be in Form-II and bear an official mark as the Returning Officer may direct.

(3) When a member has received a ballot paper, he shall take the paper to a desk provided for the purpose and signify in the manner provided for whom he desires to vote. The member shall then fold the ballot paper so that the official mark there on may be visible and having held up the paper in such manner as to enable the Returning Officer to see the official mark, shall drop the ballot paper in a ballot box to be placed in front of the Returning Officer.

(4) If a member inadvertently spoils a ballot paper, he may return it to the Returning Officer, who shall, if satisfied of such inadvertence, give him another paper and retain the spoiled paper, and this spoiled paper shall be immediately cancelled and the fact of such cancellation shall be noted upon the counterfoil.

(5) No vote shall be exercised by proxy.

12. *Members to exercise their preference :* (1) Each member shall have one vote only. A member while giving his vote;

(a) must place on his ballot paper the figure 1 in the space opposite the name of the candidate for whom he votes ;

(b) may, in addition, place on his ballot paper, the figures 2,3, etc., in the space opposite the name of contesting candidates according to his preferences.

(2) Any violation shall invalidate his vote under rule 14.

13. *Voting by Postal Ballot* :—(1) The Election Authority may in his discretion order voting by Postal Ballot.

(2) The Returning Officer shall send the ballot papers by registered post to the addresses of members belonging electoral college. The ballot papers marked by members may either be returned by registered post to the Returning Officer or deposited in a ballot box provided for the purpose in the office room of the Returning Officer so as to be received by him before the hour and the date fixed for their receipt.

(3) If a member represents, in writing that he has not received the ballot paper, he may be issued a duplicate ballot paper on the understanding that he has not used and will not use the original ballot paper already sent to him.

(4) All the ballot papers that are received after the expiry of the prescribed hour shall be rejected.

(5) Except as aforesaid, the rules regarding the personal voting shall apply to voting by postal ballot also.

14. *Invalidation of ballot paper* :—(1) A ballot paper shall be invalid,

(a) upon which a member signs his name or writes any word, or makes any mark by which it becomes recognizable; or

(b) which does not bear the official mark referred to in rule 11; or,

(c) on which the figure 1 is not marked; or

(d) on which the figure 1 is set opposite the name of more than one candidate; or

(e) on which the figure 1 and some other figure is set opposite the name of the same candidate; or

(f) which is unmarked or void for uncertainty; or

(g) on which there is any figure marked other wise than with the marking article supplied for the purpose.

(2) The fact that a voter has not marked every preference correctly will not invalidate the whole of his preference. His paper shall be treated as exhausted only when the wrongly marked preference is reached.

Illustration.— A ballot paper contains the following preference :—

A—1

B—2

C—2

The preference for A would be valid. If the second preference were reached, the paper would be treated as exhausted as it would be impossible to say for which candidate the voter really intended to give his second preference and will not be taken as second preference for either of the candidate.

15. *Counting of Votes*.—The ballot paper shall be examined and the Returning Officer or the Assistant Returning Officer, after rejecting any invalid ballot papers, shall divide the remaining papers into parcels according to the first preferences recorded for each candidate separately for each electoral college for which election has been conducted. He shall then count and record the number of papers in each parcel and the total number and credit to each candidate the value of the papers in his parcel. The value of the ballot paper shall be as provided for in rules 16 and 17 as the case may be.

16. *Election of candidate where only one seat is to be filled*.—(1) In any election where only one seat is to be filled every valid ballot paper shall be deemed to be of the value of 1, at each count and the quota sufficient to secure the return of a candidate at the election shall be determined as follows :—

(a) add the values credited to all the candidates under rule 15;

(b) divide the total by 2; and

(c) add 1 to the quotient ignoring the remainder, if any, and the resulting number is the quota.

(2) If, at the end of the first or any subsequent count, the total value of the ballot papers credited to any candidate is equal to, or greater than, the quota or there is only one continuing candidate, the candidate shall be declared elected.

(3) If, at the end of any count, no candidate can be declared elected, the returning officer shall—

- (a) exclude from the poll the candidate who upto that stage has been credited with the lowest value;
- (b) examine all the ballot papers in his parcels and sub-parcels arrange the unexhausted paper in sub-parcels according to the next available preferences recorded thereon for the continuing candidates, count the number of papers in each such sub-parcel and credit it to the candidate for whom such preference is recorded, transfer the sub-parcel to that candidate and make a separate sub-parcel of all the exhausted papers; and
- (c) see whether any of the continuing candidate has after such transfer and credit, secured the quota.

(4) If, when a candidate has to be excluded under clause (a) of sub-rule (3), two or more candidates have been credited with the same value and stand lowest on the poll, the candidate for whom the lowest number of original votes are recorded shall be excluded and if this number is also the same in the case of two or more candidates the Returning Officer shall decide by lot as to which of them shall be excluded.

17. *Election of candidates where two seats are to be filled.*—(1) In any election where two seats are to be filled, every valid ballot paper shall be deemed to be of the value of 100 and the quota sufficient to secure the return of a candidate at the election shall be determined as follows:—

- (a) add the values credited to all candidates under rule 15;
- (b) divide the total by a number which exceeds by 1 the number of vacancies to be filled; and
- (c) add 1 to the quotient ignoring the remainder if any, and the resulting number is the quota.

(2) In carrying out the rule hereinafter contained, the Returning Officer shall—

- (a) disregard all fractions;
- (b) ignore all preferences recorded for candidates already elected or excluded from the poll.

(3) If at any time a number of candidates equal to the number of persons to be elected obtained the quota such candidates shall be treated as elected and no further steps shall be taken.

(4) (a) Any candidate the value of whose parcel, on the first preference being counted, is equal to or greater than the quota, shall be declared elected.

(b) If the value of the papers in any such parcel is equal to the quota, the papers in such parcel shall be set aside as finally dealt with.

18. *Transfer of surplus value of vote to the continuing candidate.*—(1) If the value of the papers in any such parcel is greater than the quota, the surplus shall be transferred to the continuing candidates indicated on the ballot papers as next in the order of the voters' preference, in the manner prescribed hereunder.

(2) (a) If the surplus of any candidate to be transferred arises from original votes only, the Returning Officer shall examine all the papers in the parcel belonging to the candidate whose surplus is to be transferred and divide the unexhausted papers into sub-parcels according to the next preference recorded thereon. He shall also make a separate sub-parcel of the unexhausted papers.

(b) He shall ascertain the value of the papers, in each sub-parcel and of all the unexhausted papers.

(c) If the value of the unexhausted papers is equal to or less than the surplus, he shall transfer all the unexhausted papers at the value at which they were received by the candidate whose surplus is being transferred.

(d) If the value of the unexhausted papers is greater than the surplus, he shall transfer all the unexhausted papers and the value at which each paper shall be transferred shall be ascertained by dividing the surplus by the total number of unexhausted papers.

(3) If the surplus of any candidate to be transferred arises from transferred as well as original votes, the Returning Officer shall re-examine all the papers in the sub-parcel last transferred to the candidate and divide the unexhausted papers into sub-parcels according to the next preferences recorded thereon. He shall thereupon deal with the sub-parcels in the same manner as is provided in the case of the sub-parcels referred to in sub-rule (2).

(4) The papers transferred to each candidate shall be added in the form of a sub-parcel to the papers already belonging to such candidate.

(5) All papers in the parcel or sub-parcel of an elected candidate not transferred under this rule shall be set aside as finally dealt with.

19. *Process of exclusion of candidates having lowest value of votes*.—(1) After all surpluses have been transferred, as herein before directed, if less number of candidates than required has been elected, the Returning Officer shall exclude from the pool, the Candidate lowest on the poll and shall distribute his unexhausted papers among the continuing candidates according to the next preference recorded thereon and any exhausted paper shall be set aside as finally dealt with.

(2) The papers containing original votes of an excluded candidate shall first be transferred, the transfere value of each paper being one hundred.

(3) The papers containing transferred votes of an excluded candidate shall then be transferred, in the order of the transfers in which and at the value at which he obtained them.

(4) Each of such transfers shall be deemed to be a separate transfer :

(5) The process directed by the rule shall be repeated on the successive exclusions one after another of the candidates lowest on the poll until the last vacancy is filled either by the election of a candidate with the qucta or as herein after provided.

(6) If as the result of the transfer of papers under these rules the value of the votes obtained by a candidate is equal to or greater than the quota, the transfer then proceeding shall be completed, but no further papers shall be transferred to him.

(7) If after the completion of any transfer under these rules the value of the votes of any candidate shall be equal to or greater than the quota, he shall be declared elected.

(8) If the value of the votes of any such candidate shall be greater than the quota, his surplus shall thereupon be distributed in the manner herein before provide, before the exclusion of any other candidate.

(9) When the number of continuing candidates is reduced to the number of vacancies remaining unfilled, the continuing candidates shall be declared elected.

(10) When only one vacancy remains unfilled and the value of the votes of some continuing candidate exceeds the total value of all the votes of the other continuing candidates together with any surplus not transferred, that candidate shall be declared elected.

(11) When only one vacancy remains unfilled and there are only two continuing candidates and those two candidates have each the same value of votes and no surplus remains capable of transfer, one candidate shall be declared excluded as specified in the next succeeding sub-rule and the other declared elected.

(12) If at any time it becomes necessary to exclude a candidate and two or more candidates have the same value of votes and are lowest on the poll regard shall be had to the number of original votes credited to each of these candidates and the candidate with the fewest original votes shall be excluded. If the value of original votes are equal, the Returning officer shall decidedly lot which candidate shall be excluded.

20. *Declaration of result by the Returning Officer*.—(1) Upon the completion of counting, the Returning Officer shall subject to the foregoing provision, declare the candidate or candidates elected from the electoral college of Members of Parliament, State Legislature, State Bar Councils or Mutawalli for which election was conducted in Form-IV and send signed copies thereof to the Election Authority.

(2) The Returning Officer shall thereafter—

(a) place the valid ballot papers in one packet and the rejected ballot papers in another;

(b) seal with the seals of the Returning Officer and of such of the candidates, as they may desire, and affix their seals, on each of the packets referred to in clause (a) above.

(c) record on each of the sealed packets the description of its contents and the date of election.

21. *Grant of Certificate of Election to returned candidate*.—As soon as may be after a candidate has been declared to have been elected, the Returning Officer shall grant to such candidate a certificate of election in Form-V and Obtain from the candidate an acknowledgement of its receipt duly signed by him.

22. *Election Expenses*.—(1) Every candidate at an election shall keep a separate and correct account of all the expenditure incurred by him in connection with the election between the date on which he has been nominated and the date of declaration of result thereof, both dates inclusive.

(2) The accounts shall be submitted by the candidate to the Election Authority within thirty days from the date of announcement of election result by the Returning Officer. If the accounts are not furnished within the time specified Returning Officer shall report the fact to the Election Authority.

- (3) The Election Authority may call for any additional particulars in connection with expenses of the election.
- (4) The total of the said expenditure shall not exceed rupees ten thousands.

(5) The Election Authority shall take action against the candidate for violation of this rule if any. He may impose such punishment including debaring the candidate from contesting the election for a period not exceeding six years, for violation of this rule.

23. *Appeal.*—(1) Prior to declaration of result of election, if any person who is a voter or a candidate who contests the election and who is aggrieved against the procedure followed or adopted in the election process, may appeal to the Election Authority who after making enquiry as he considers necessary shall pass such orders for rectification of procedure followed or adopted, as he deems fit. The orders of the Election Authority shall be final and it shall not be questioned before any civil Court.

(2) After the declaration of result of election if a candidate who has contested the election or a voter whose name is included in electoral roll is aggrieved of election malpractices or procedures prescribed in these rules or on election of a candidate may file an appeal before the High Court, Chennai within thirty days from the date of declaration of result by the Returning Officer.

(3) While disposing the appeal under sub-rule (2) above, the court may impose one or more of the punishment specified herein :—

- (1) to set aside the election of the candidate ;
- (2) to debar the candidate from contesting the election for a period of six years ;
- (3) any other punishments as the court deems fit.

24. *Candidate other than returned candidate declared elected.*—Notwithstanding anything contained in these rules, the Election Authority shall declare the candidate who is next in order to be elected, to have been duly elected to the vacancy cause due to setting aside of the election of the returned candidate under rule 23.

25. *Nomination of Members.*—The Government shall make nominations for filling up of one and not more than two members of the Board, as they consider necessary, representing eminent Muslim organisations and recognised scholars in Islamic Theology and an Officer of the State Government not below the rank of Deputy Secretary to Government as specified in clauses (c), (d) and (e) of sub-section (1) of section 14 of the Act.

26. *Establishment of the Board.*—After receipt of the result of the election as specified in clause (b) of sub-section (1) of section 14 and the nomination as specified in clauses (c), (d) and (e) of sub-section (1) of section 14 of the Act, Government shall issue a notification under sub-section (9) of section 14 read with sub-section (1) of section 13 of the Act establish the Tamil Nadu Wakf board. The term of office of the Members of the Board shall be five years. The notification shall be published in the Official Gazette.

27. *Election of the Chairperson of the Board.*—The Board at a meeting convened for the purpose of election of the Chairperson shall elect one from among themselves as the Chairperson.

28. *Filling-up of a casual vacancy.*—If the election has been conducted for any casual vacancy under clause (b) of sub-section (1) of section 14 of the Act, on receipt of result of the election from the Returning Officer, the State Government shall issue a notification in the Official Gazette under sub-section (9) of section 14, of the Act, Appointing such elected person as Member of the Board.

29. *Vacancies etc., not to affect the Office of Chairperson.*—No election of the Chairperson of the Board shall be questioned merely because of any vacancy that exist or that may arise in the Board.

30. *Miscellaneous.*—(1) The procedure that apply to maintenance of secrecy of voting, voting by invalid voters, challenging the identity, accounting of spoiled and returned ballot papers, opening of Ballot Boxes, Counting of votes, recounting etc. for conducting elections under the Representation of the People Act, 1951 (Central Act 43 of 1951), shall as far as possible be followed for election under these rules.

(2) If a contesting candidate dies and a report of his death is received before commencement of poll, the Returning Officer shall upon being satisfied of the fact of the death of the candidate, countermand the poll and election proceedings shall be started afresh in all respect as if for a new election :

Provided that no fresh nomination, shall be necessary in the case of a candidate who stood validly nominated at the time of countermanding of the poll.

(3) No election by the members of the electoral college under these rules shall be called in question on the ground merely of the existence of any vacancy in the Membership of such electoral college.

FORM I.

[See rule 9 (1)]

GOVERNMENT OF TAMIL NADU

Election of Members of the Tamil Nadu Wakf Board from the Electoral College consisting of.....

NOMINATION PAPER

I propose the name of Thiru..... as a candidate for election as a Member of the Tamil Nadu Wakf Board from the electoral college consisting of.....

Date :

Signature of the proposer.

I second the name of Thiru..... as a candidate for election as a Member of the Tamil Nadu Wakf Board from the electoral college consisting of.....

Date :

Signature of the Seconder.

I..... am willing to serve if elected as a member of the Tamil Nadu Wakf Board.

Date :

Signature of the Candidate.

Serial No.

CERTIFICATE OF DELIVERY.

This nomination paper was delivered to me at my office at (hour)..... on (date)..... by the candidate/proposer/seconder.

Returning Officer.

CERTIFICATE OF SCRUTINY.

I have scrutinised the above nomination paper and decided that this nomination paper is valid/not valid for the reason.

Returning Officer.

FORM II.

[See rule 11 (2)]

COUNTER FOIL No.

GOVERNMENT OF TAMIL NADU.

Election of Members of the Tamil Nadu Wakf Board from the electoral college consisting of.....
Serial number of the elector in the electoral roll (.....)

GOVERNMENT OF TAMIL NADU

Election of Members of the Tamil Nadu Wakf Board from the electoral college consisting of.....

BALLOT PAPER

Name of the candidate.

Order of Preference.

1.

2.

3.

4.

5.

Instructions to Members.

1. Each member has one vote only.

2. The member votes—

(a) by placing the figure "1" opposite the name of his first choice.

He is also invited to place—

(b) the figure "2" opposite the name of his second choice.

(c) the figure "3" opposite the name of his third choice and so on numbering as many candidates as he pleases in the order of his preference. The number of preferences is not "necessarily" restricted to the number of vacancies.

3. The vote will be spoiled if the figure "1" is placed opposite the name of more than one candidate.

FORM—III

[See rule 9(4)]

NOTICE OF WITHDRAWAL

Election of Members of the Tamil Nadu Wakf Board from the electoral college consisting of.....

To

The Returning Officer,

a candidate validly nominated at the above election.

I,
do hereby give notice that I withdraw my candidature,

Signature of validly
nominated candidate,

Place :

Date :

This notice was delivered to me at my office at.....(hour) on.....(date by)....
.....(name), [the candidate/candidate's proposer who has been authorised in writing by the candidate
to deliver it.

Returning Officer,

Date :

RECEIPT FOR NOTICE OF WITHDRAWAL.

(To be handed over to the person delivering the notice.)

The notice of withdrawal of candidature by.....validly nominated candidate at the election of the members of the Tamil Nadu Wakf Board from the electoral college consisting of was delivered to me by the Candidate/Candidate's proposer who has been authorised in writing by the candidate to deliver it at my office at.....(Hours) on.....(Date).

Date :

Returning Officer,

FORM-IV

[See rule 20(1).]

DECLARATION OF THE RESULT OF ELECTION UNDER THE TAMIL NADU WAKF BOARD (CONDUCT OF ELECTION FOR MEMBERS) RULES, 1997.

In accordance with sub-rule(1) of rule 20 of the Tamil Nadu Wakf Board (Conduct of Election for Members) Rules, 1997, I declare that the following candidate has been duly elected for the office of the Member of the Tamil Nadu Wakf Board in the category.....of clause (b) of sub-section (1) of section 14 of the Wakf Act, 1995 (Central Act 43 of 1995).

Name :

Address :

Place :

Signature of the Returning Officer,

Date :

FORM-V

(See rule 21.)

CERTIFICATE OF ELECTION.

I,.....Returning Officer for the election of Member/Members of the Tamil Nadu Wakf Board hereby certify that I have on the (day) of.....19.....declared Thiru.....son of.....to have been duly elected to the office of the Member of the Tamil Nadu Wakf Board in the category.....of clause (b) of sub-section (1) of section 14 of the Wakf Act, 1995 (Central Act 43 of 1995) and that in token thereof I have granted to him this certificate of election.

Place :

Returning Officer.

Date :

APPENDIX

ILLUSTRATION-I.

Illustration of the procedure as to the election of candidate at an election on the single transferable vote system when only one seat is to be filled.

Assume that there are five candidates for one seat and 200 voters.

The valid ballot papers are arranged in separate parcels according to the first preference recorded for each candidate and the paper in each parcel counted.

Let it be assumed that the result is as follows :—

A	..	..	88
B	..	..	25
C	..	..	21
D	..	..	49
E	..	..	17
Total	..	..	<u>200</u>

Each valid ballot paper is deemed to be of the value of 1 and the values of all the papers are added together and the total 200 is divided by 2 and the quotient 100 increased by one namely 101 is the required quota to secure the return of a candidate.

The operation may be shown thus :—

$$\text{Quota} = \frac{200}{1+1} = 100+1 = 101.$$

As none of the candidates has secured the quota, the candidate who has been credited with the lowest value, has now to be excluded. E is the lowest with 17 and is therefore excluded. His papers are divided into sub-parcels according to the next preferences recorded thereon, a separate parcel of the exhausted papers being also made.

A	is marked as next available preference on	papers,	6
B	is marked as next available preference on		1
C	is marked as next available preference on		2
D	is marked as next available preference on		5
	Total of unexhausted papers	..	<u>14</u>
	Number of exhausted papers	..	<u>3</u>
	Total number of papers	..	<u>17</u>

The value of the sub-parcels (Value of each Ballot papers in sub-paragraph is also 1) are added to the values of the votes already credited to the candidates A, B, C and D.

The result would be as follows :—

Candidates.	Value of Original Votes.	Value of transferred votes from "E".	Total.
A	88	6	94
B	25	1	26
C	21	2	23
D	49	5	54

As no candidate has secured the quota the candidate lowest on the poll at this stage also has to be eliminated, C being the lowest with 23 is therefore eliminated. His original as well as the transferred votes are examined and their values transferred to other continuing candidates in accordance with the preferences indicated therein.

Let it be assumed that the result is as follows :—

	Papers.
A is marked as next available preference on	2
B is marked as next available preference on	2
D is marked as next available preference on	16
Total number of unexhausted papers	20
Number of exhausted paper	3
Total number of papers	23

Value of each transferred paper is being 1, the above values are added to the values of votes already credited to A, B and D.

The result would be as follows :—

Candidate	Value of votes so far secured.	Value of transferred votes from "C".	Total.
A	94	2	96
B	26	2	28
D	54	16	70

Even at this stage as no candidate has secured the quota, B who is lowest in the poll with 28 is eliminated and the votes secured by him in his main as well as sub-parcels are examined and their value transferred to the continuing candidates in accordance with the preference indicated therein.

Let it be assumed, that the result is as follows :—

	Papers.
A is marked as next available preference on	14
D is marked as next available preference on	10
Total unexhausted papers	24
Number of exhausted papers	4
Total number of papers	28

The result would be as follows :—

Candidates.	Votes so far secured.	Value of transferred votes from "B".	Total.
A	96	14	110
D	70	10	80

As "A" has secured more than the quota required, he would be declared elected by the Returning Officer.

ILLUSTRATION II

Illustration of the procedure as to the election of candidates at an election on single transferable vote system when more than one seat is to be filled.

Assuming that there are two members to be elected, six candidates and twenty-seven voters. The valid ballot papers are arranged in separate parcels according to the first preference recorded for each candidate and the papers in each parcel counted.

Let it be assumed that the result is as follows :—

A	—		1
B	...		11
C	..		4
D	..		1
E	...		8
F	...		2
Total			27

Each valid ballot paper is deemed to be of the value of one hundred and the value of the votes obtained by the respective candidates are as shown in the first column of the result sheet.

The values of all the papers are added together and the total 2700 is divided by three (that is the number which exceeds by one, the number of vacancies to be filled) and 901 (that is the quotient 900, increased by one) is the number sufficient to secure the return of a member and is called the quota. The operation may be shown as follows:—

$$\text{Quota} = \frac{2700}{2+1} = 900 + 1 = 901$$

The candidate B, the values of whose votes exceeds the quota is declared elected.

As the value of the papers in the parcel of B exceeds the quota, the surplus, which must be transferred from B's surplus is 199. (1100—901).

The surplus arises from original votes and therefore the whole of 'B' s papers are divided into sub-parcels according to the next preferences recorded thereon, a separate parcel of the exhausted papers being also made.

Let it be assumed that the result is as follows :—

	Papers.
A is marked as next available preference on	5
E is marked as next available preference on	5
Total unexhausted papers	10
Number of exhausted paper	1
Total number of papers	11

Value of votes in the sub-parcels are as follows :—

A	..	500
E	..	500
Total value of unexhausted paper		1000
Value of exhausted paper		100
Total Value		1100

The value of the unexhausted paper is 1000 and is greater than the surplus. The surplus is therefore, transferred as follows : All the papers are transferred but at a reduced value, which is ascertained by dividing the surplus by the number of un-exhausted papers.

The reduced value of all the papers, when added together with the addition of any value lost as the result of the neglect of fractions, equals the surplus. In this case, the new value of each.

$$\frac{\text{Paper transferred is } 199 \text{ (the surplus)}}{10 \text{ (the number of unexhausted paper)}} = 19$$

The value of the sub-parcels transferred are--

A = 95 (that is five papers at the value of 19)

B = 95 (that is five paper at the value of 19)

These operations can be shown on a transfer sheet as follows :--

TRANSFER SHEET

Value of surplus (B's) to be transferred	..	..	..	..	199
Number of papers in (B's) parcel	..	..	..	..	11
Value of each paper in parcel	..	..	..	..	100
Number of unexhausted papers	..	..	..	..	10
Value of unexhausted papers	..	..	..	..	1000

New value of each paper transferred =

$$\frac{\text{Surplus } 199}{\text{Number of unexhausted papers } 10} = 19$$

Name of candidates marked as the next available preference :--

	Number of papers to be transferred.	Value of sub-parcel to be transferred,
A	5	95
E	5	95
	10	190
Number of exhausted paper	1	..
Loss of value owing to neglect of fractions	..	9
	11	199

The values of the sub-parcels are added to the values of the votes already credited to the candidates A and E. This operation is shown on the result sheet.

As a result of this operation, no candidate receives the quota. There being no further surplus, the candidate lowest on the poll has now to be excluded. D has 100.

Being an original vote, D's paper is transferred at the value of 100 to E whom the elector had marked as second preference. He now exceeds the quota and the election is complete. Full details are shown in the Result Sheet,

RESULT SHEET (FIRST COUNT)

Value of votes 2700.

$$\text{Quota} = \frac{2700}{3} = 900 + 1 = 901.$$

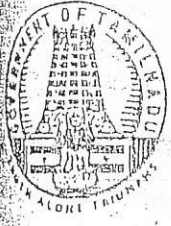
Name of Candidate.	Value of votes at first count.	Distribution of B's surplus.	Result.
(1)	(2)	(3)	(4)
A	100	+ 95	195
B	1100	— 199	901
C	400		400
D	100		100
E	800	+ 95	895
F	200		200
Loss of value by neglect of fractions,		+ 9	9
Total	2700		2700

RESULT SHEET (SECOND COUNT)

Value of vote 2700. Quota = $\frac{2700}{3} = 900 + 1 = 901.$

Name of Candidate.	Value of votes after first round.	Distribution of D's Vote.	Result.
(1)	(2)	(3)	(4)
A	195	..	195
B	901	..	901
C	400	..	400
D	100	— 100	—
E	895	+ 100	995
F	200		200
Loss of value by neglect of fractions.	9		9
Total	2700		2700

K. DHARMARAJAN,
Secretary to Government.



TAMIL NADU GOVERNMENT GAZETTE

EXTRAORDINARY PUBLISHED BY AUTHORITY

[20]

CHENNAI, WEDNESDAY, APRIL 30, 2003
Chithirai 17, Subhanu, Thiruvalluvar Aandu-2034.

Part IV—Section 1

Tamil Nadu Bills.

BILL INTRODUCED IN THE LEGISLATIVE ASSEMBLY OF THE STATE OF TAMIL NADU

Under rule 130 of the Tamil Nadu Legislative Assembly Rules, the following Bill which was introduced in the Legislative Assembly of the State of Tamil Nadu on 30-04-2003 is published together with statement of Objects and Reasons for general information:-

L.A. Bill No. 9 OF 2003.

A Bill to amend the Wakf Act, 1995 in its application to the State of Tamil Nadu.

Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-fourth Year of the Republic of India as follows:-

1. (1) This Act may be called the Wakf (Tamil Nadu Amendment) Act, 2003.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

Short title,
extent and
commencement.

2. In the Wakf Act, 1995, section 16 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be added, namely:-

Amendment of
Section 16.

“(2) A Mutawalli shall be disqualified-

(a) for being elected as a member of the Board if, at the last date for filing of nomination or at the date of election, or

(b) for continuing as a member of the Board if, he is in arrears of-

(i) any due to the Central Government or State Government or Central Wakf Council, or

(ii) contribution under sub-section (1) of section 72,

exceeding a year from the date on which such due or contribution become payable”.

STATEMENT OF OBJECTS AND REASONS.

As per Section 50 of the Wakf Act, 1995 (Central Act 43 of 1995), a Mutawalli of every Wakf is bound to discharge all public dues. He is also bound to repay the loan received from the Central Wakf Council under section 10 (3) of the Act. Further, under section 72 of the Act, the Mutawalli of every Wakf shall pay contribution to the Board for the services rendered by such Board to the Wakf. It has come to the notice of the Government that many Wakfs have got large sums remain unpaid towards contribution to the Tamil Nadu Wakf Board and also not repaid the loan received from the State Government or Central Wakf Council, in time. If the Mutawallis of such Wakfs are allowed to become members of the Board or to continue as members of the Board, they may not evince interest in better management of Wakfs.

2. In view of the foregoing reasons, the Government have considered that the Mutawalli shall be disqualified for being elected as a member of the Board or for continuing as a member of the Board, if he is having arrear of the above dues or contribution, exceeding a year from the date on which such due or contribution becomes payable. The Government have therefore, decided to amend the said Act suitably in its application to this State for the said purposes.

3. The Bill seeks to give effect to the above decision.

A. ANWER RHAZZA,
Minister for Labour and Wakf.

V. RAJARAMAN,
Secretary.