DELHI SIKH GURDWARA MANAGEMENT COMMITTEE (ELECTION OF PRO-TEMPORE CHAIRMAN, PESIDENT, OTHER OFFICE-BEARERS AND MEMBERS OF THE EXECUTIVE BOARD) RULES, 1974.

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GOVT. OF N.C.T. OF DELHI

DIRECTORATE OF GURDWARA ELECTIONS

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PART IV

DELHI ADMINISTRATION, DELHI

LITIGATION DEPARTMENT

NOTIFICATION

Delhi, the 21st January, 1974

No. F. 18/29/73-Judl. - In exercise of the powers conferred by sub-sections (1) and (3) of section 39 of the Delhi Sikh Gurdwara Act, 1971 (82 0f 1971) read with the Government of India, Ministry of Home Affairs' Notification S.O.No. U-11030/1/73-(i)-UTL dated the 3rd May 1973 and S.O. No. U-11030/1/73 (ii)- UTL dated the 3rd May 1973, the Administrator of Delhi is pleased to make the following rules, namely: -

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PART 1

1. **Short title and commencement**. -(1) These rules may be called the Delhi Sikh Gurdwara Management Committee (Election of Pro-tempore Chairman, President, other office-bearers and Members of the Executive Board) Rules, 1974.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. **Definition:** In these rules, unless the context otherwise requires-

(a) "Act" means the Delhi Sikh Gurdwara Act, 1971 (82 of 1971);

(b) "Director" means the Director Gurdwara Elections appointed under section 13 of the Act;

(c) "section" means a section of the Act;

(cc) "Committee" means the Delhi Sikh Gurdwara Management Committee established under section 3;

(d) "Election Officer" means the election officer appointed under the Delhi Sikh Gurdwara Management Committee (Election of Members) Rules, 1974;

(e) "Returning Officer" in relation to the biennial election or bi-election of the Executive Board, means the officer designated or nominated by the Director for conducting biennial election or bi-election of the Executive Board under rule 7 A of these rules.

PART-II

3. **Election of a pro-tempore Chairman-** At the first meeting of the Committee called by the Director under section 15, the Director shall call upon the elected members present to elect from amongst themselves a pro-tempore Chairman of the meeting.

4. **Nomination of candidates for election of pro tempore Chairman-** Any member present may propose the name of any other member present to be a pro-tempore Chairman and when the proposal has been seconded, the Director shall enter the name of the person so nominated in the list of nominated candidates, provided the member so nominated signifies his assent to such nomination or has already signified such assent in writing to the Director.

5. **Procedure in contested and uncontested elections -** (1) If only one member is nominated, he shall be deemed to be elected and shall be declared by the Director to be the pro tempore Chairman of the meeting.

(2) If more than one member is duly nominated as a candidate under the provisions of rule 4, the Director shall read out the list of duly nominated candidates and each member present at the meeting may write on a paper provided for the purpose the name of candidate whom he wishes to be elected and shall then fold up the paper and place it in a receptacle provided for the purpose.

Provided that if any member is unable to write, he may cause any other member on his behalf to write the name of the candidate whom he wishes to be elected.

6. **Counting of votes-** (1) When all the members present who wish to vote, have recorded their votes in the manner prescribed in rule 5, the Director shall count the votes recorded for each candidate or cause them to be counted under his supervision.

(2) In counting the votes, the Director shall reject as invalid any paper on which the name of more than one candidate are written.

(3) The Director shall prepare and sign the statement showing the number of votes recorded in favour of each candidate and shall declare to be elected the candidate in whose favour the largest number of votes is shown in the statement to have been recorded.

(4) If two or more candidates are shown to have received an equal number of votes but a larger number of votes than any other candidates, the Director shall decide by draw of lot which of such candidate shall be declared to have been elected.

(5) The Director's decision as regards the election of pro-tempore Chairman shall be final.

PART –III

7. **Election of President, other office bearers and member to the Board to take place in the order specified-** When office bearers and members of the Executive Board are to be elected at the first meeting of the Committee or at the subsequent annual general meeting under the provisions of section 16, the election of the President shall first take place and then the election of the Senior Vice-President, Junior Vice-President, General Secretary and Joint Secretary and finally the election of ten members to the executive Board.

7A. **Appointment of Returning Officer:-** (1) The outgoing President shall summon the meeting of the general body for conducting the biennial election of the Executive Board not later than two months after the date of completion of two years' tenure of the Executive Board under intimation to the Director for

conducting biennial elections of the Executive Board, at least a fortnight before the date of such meeting. If the outgoing President fails to summon the general body for biennial elections of the Executive Board within two months of the expiry of tenure of the Executive Board, the Lt. Governor, Delhi may direct the Director to convene meeting of the general body for conducting elections of that Executive Board at a date not later than four months of completion of tenure of Executive Board, unless the tenure of Executive Board is extended by the Lt. Governor for the reasons to be recorded in writing.

(2) At the meeting of the Committee called by the Director under sub-section (6) of Section 16 of the Act for biennial election of President and other office-bearers and members of the Executive Board of the Committee, a Returning Officer may be appointed by the Director to conduct such elections.

8. **Nomination of office-bearers;** (1) When a member of the Committee is to be elected as President, Senior Vice-President, Junior Vice-President, General Secretary or Joint Secretary, the pro-tempore Chairman in the matter of election of President under section 16 (1) or section 16-A (1) of the Act and President in the matter of subsequent biennial elections or bi-election of President or in the mater of election of other office-bearers shall call upon the members present at the meeting to nominate candidates for the vacant office.

(2) Subject to the provisions of sub-clause (ii) of clause (b) of section 4, any member present may propose the name of any other member of the Committee for the office of President or for other offices of the Executive Board and if any other member present seconds such a proposal, the pro tempore Chairman or the President, as the case may be, shall if the person so proposed agrees to such nomination in case he is present in the meeting or the member proposing the name produces a certificate signed by the person so nominated to the effect that he agrees to such nomination, enter the names of the members so nominated in the list of nominated candidates.

(3) The pro tempore Chairman of the President's decision, as the case may be, on the question whether the candidate should or should not be included in the list of duly nominated candidates shall be final.

9. **If only one candidate is nominated, he is to be declared elected-** If only one member is nominated as a candidate under the provisions of rule 8, he shall be deemed and shall be declared to have been elected as President, Senior Vice-President, Junior Vice-President, General Secretary or Joint Secretary, as the case may be.

10. **Method of voting-** If more than one member is duly nominated as a candidate under the provisions of rule 8, the pro tempore Chairman of the meeting or the President or the Returning Officer, as the case may be, shall read out the list of duly nominated candidates and subject to the provisions of sub-section (ii) of clause (b) of section 4, each member present at the meeting may write on a paper the name of the candidate whom he wishes to be elected and shall then fold up the paper and place it in a receptacle to be provided for the purpose:

Provided that if any member is unable to write, he may cause any other member to write on his behalf the name of the candidate whom he wishes to be elected.

11. **Count of Votes-** (1) When all the members present who wish to vote have recorded their votes in the manner prescribed in rule 10, the pro-tempore Chairman of the meeting or the President or the Returning Officer, as the case may be, shall count the votes recorded for each candidate or cause them to be counted under his supervision.

(2) In counting the votes, the pro tempore Chairman or the President or the Returning Officer, as the case may be, shall reject as invalid any paper on which the name of more than one candidate is written or any indication is given of the identity of the member whose vote is recorded on it other than such indication as is afforded by the writing of the name of the candidate.

(3) When counting of the votes is concluded the pro tempore Chairman or the President or the Returning Officer, as the case may be, shall prepare and sign a return showing the number of votes recorded in favour of each candidate and rejected votes, if any.

(4) The pro tempore Chairman of the meeting or the President or the Returning Officer, as the case may be, shall declare to be elected the candidate in whose favour the largest number of votes is shown in the return to have been recorded.

(5) If two or more candidates are shown to have received an equal number of votes but a larger number of votes than any other candidate, a fresh election shall be held in which only such candidates shall be deemed to be the candidates.

12. **Nomination of members to the Executive Board-** (1) When members of the Executive Board are to be elected, the President or the Returning Officer, as the case may be, shall call upon the members to nominate candidates for election and any member of the Committee may propose the name of any other member of the Committee as a candidate for election and if any other member present seconds such a proposal and the member so nominated signifies his assent to such nomination or has already signified such assent in writing, the President or the Returning Officer, as the case may be, shall enter the name of the member so nominated in a list of nominated candidates;

13. **If number of candidates is equal to the number of vacancies, such candidate to be declared elected-** If the number of candidates nominated under the provisions of rule 12 is equal to the number of members to be elected, such candidates shall be deemed and shall be declared to have been elected members of the Executive Board.

14. **If number of candidates is in excess of number of vacancies, a poll to be taken-** (1) If the number of candidates nominated under the provisions of rule 12 is in excess of the number of members to be elected, the President or the Returning Officer, as the case may be, shall read out the list of duly nominated candidates and a poll shall be taken in the manner provided in rule 10.

Explanation- (1) Each member present at the meeting shall subject to the proviso to sub-clause (ii) of clause (b) of section 4, be entitled to vote in favour of ten candidates or the number of vacancies available, as the case may be, and the President or the Returning Officer, as the case may be, shall reject as invalid any paper in which the name of more than one candidate is written.

(2) When all the members present who wish to vote have recorded their votes in the manner prescribed in sub- rule (1), the President or the Returning Officer, as the case may be, shall count the votes recorded for each candidate or cause them to be counted under his supervision.

(3) In counting the votes, the President or the Returning Officer, as the case may be, shall reject as invalid any paper on which the name of more than one candidate is written or any indication is given of the identity of the member whose vote is recorded on it other than such indication as is afforded by the writing of the name of the candidate.

(4) When counting of the votes is concluded the President or the Returning Officer, as the case may be, shall prepare and sign a return showing the number of votes recorded in favour of each candidate and rejected votes, if any.

(5) Those candidates upto the number of members to be elected, who after the counting of votes has been concluded are shown in the return prepared by the President or the Returning Officer, as the case may be, to have obtained the largest number of votes shall be declared to have been elected:

Provided that if it is impossible to determine which candidates have obtained the largest number of votes upto the number of members to be elected owing to the fact that two or more candidates have obtained an equal number of votes, the President or the Returning Officer, as the case may be, shall decide by draw of lot which of such candidates shall be deemed to have been elected.

15. **Return of results of election & election papers to be forwarded to Government-** (1) At the conclusion of any election under these rules, the pro tempore Chairman of the meeting or the President, as the case may be, shall forward to the Election Officer a return showing the names of persons elected as President, Senior Vice-President, Junior Vice-President, General Secretary or a Joint Secretary or members of the Executive Board, as the case may be, together with a sealed packet containing the list of duly nominated candidates prepared under the provisions of rule 8 or rule 12 the return prepared by him under the provisions of sub-rule (3) of rule 11 and or sub-rule (4) of rule 14 and the papers on which votes were recorded under the provisions of rule 10 or rule 14 and such packets shall be retained by the Election Officer, in his custody until the expiry of one year from the date of the election when its contents shall be destroyed subject to any direction to the contrary made by the competent court.

(2) Upon receipt of the result of election from the Returning Officer, the Director shall notify the names of elected President, office-bearers and members of the Executive Board in the Delhi Gazette.

15A. **Convening of special meeting :-** On receipt of a written request from not less than thirty-four members of the Committee alleging gross violation of the provisions of the Act or financial irregularity or impropriety, the Government may direct the Director to conduct an enquiry into such allegations. If on the basis of the report submitted by the Director, the Government is satisfied that the allegations leveled in the request are prima-facie established, it may direct the Director to convene a special meeting of the Committee for the removal of the office-bearers and the members from their office in the Executive Board by a resolution under Section 17 of the Act and for a fresh election of the Executive Board. For the purpose of conducting elections of the Executive Board, the Director may appoint any officer of the Government of National Capital Territory of Delhi of the rank of at least an Additional District Magistrate as Returning Officer, subject to the Superintendence and control of the Director.

PART-IV

DISPUTE REGARDING ELECTIONS

16. **Definitions-** In this part, unless the context otherwise requires-

(a) "Agent" includes any person held by a person enquiring into the conduct of an election under the provisions of these rules to have acted as an agent in connection with an election with the knowledge or consent of the candidate;

(b) "candidate" means a person who has been or claims to have been duly nominated as a candidate at any election and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate;

(c) "costs" means all costs, charges and expenses of, or incidental to, a trial of an election petition;

(d) "Court" means the Court of District Judge of Delhi;

(e) "electoral right" means the right of a person to stand or not to stand as, or to withdraw or not to withdraw from being, a candidate or to vote or refrain from voting at an election;

(f) "High Court" means the High Court of Delhi;

(g) "Pleader" means any person entitled to appear and plead for another in a civil court and includes an advocate, a vakil and an attorney of a High Court;

(h) "Returned candidate" means a candidate who has been declared under rule 9 or rule 11 or rule 13 or 14 as duly elected.

17. **Election petition** - (1) No election of an office-bearer or a member of the Board shall be called in question except by an election petition presented to the court within fifteen days from the date of declaration of the result of the election under rule 9, 11, 13 or 14.

(2) An election petition calling in question any such election may be presented on one or more of the grounds specified in rule 25 by –

(a) any candidate at such election; or
(b) any elected member or co-opted member.

(3) An election petition–

(a) shall contain a concise statement of the material facts on which the petitioner relies;

(b) shall, with sufficient particulars, set forth the grounds on which the election is called in question; and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings.

18. Additional contents of petition - (1) where the petitioner alleges any corrupt practice, an election petition shall, in addition to complying with the provisions of rule 17 also set forth full particulars of that corrupt practice including as full statements as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each corrupt practice and shall also be accompanied by an affidavit in the prescribed form in support of such corrupt practice and the particulars thereof.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

19. Relief that may be claimed by the petitioner- A petitioner may claim-

(a) a declaration that the election of the returned candidate is void; and
(b) in addition thereto a further declaration that he himself or any other candidate has been duly elected.

20. **Petition to be dismissed** - If the provisions of rule 17 or rule 18 or rule 32 are not complied with, the court shall dismiss the petition:

Provided that the petition shall not be dismissed without giving the petitioner an opportunity of being heard.

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21. **Procedure before the court** - (1) As soon as the court receives the petition. it shall serve on each respondent a notice in such form as it thinks fit directing the respondent (s) to appear before the Court and answer the claim made in the petition on a day to be specified therein.

(2) Any candidate not already a respondent shall, upon an application made by him to the court within fourteen days from the date fixed for the respondent (s) to appear and subject to the provisions of rule 32 be entitled to be joined as a respondent.

22. **Appearance before the court**- Any appearance, application or act before the court may be made or done by the party in person or by a pleader duly appointed to act on his behalf:

Provided that it shall be open to the court to direct any party to appear in person whenever the court considers it necessary.

23. **Powers of the court**- The court shall have the powers which are vested in a civil court when trying a suit in respect of the following matters: -

(a) discovery and inspection;

(b) enforcing the attendance of witnesses and requiring the deposit of their expenses;

(c) compelling the production of documents;

(d) examining of witnesses on oath;

(e) granting adjournments;

(f) reception of evidence taken on affidavit; and

(g) issuing of commissions for the examination of witnesses.

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24. **Documentary evidence** - Notwithstanding any thing contained in any other law to the contrary, no document shall be inadmissible in evidence at the trial of an election petition on the ground, that it is not duly stamped or registered.

25. **Grounds for declaring elections to be void**- (1) Subject to the provisions of sub-rule (2), if the court is of opinion-

(a) that any corrupt practice has been committed by a returned candidate or by any other person with the consent of a returned candidate; or

(b) that any nomination has been improperly rejected; or

© that the result of the election. in so far as it concerns a returned candidate. has been materially affected-

(i) by the improper acceptance or refusal of any nomination; or

(ii) by any corrupt practice committed in the interest of the returned candidate by a person other than that candidate, or a person acting with the consent of such candidate; or

(iii) by the improper acceptance or refusal of any vote or reception of any vote which is Void; or

(iv) by the non-compliance with the provisions of these rules or any orders made thereunder the court shall declare the election of the returned candidate to be void.

(2) If in the opinion of the court, a returned candidate has been guilty by an agent of any corrupt practice, but the court is satisfied-

(a) that no such corrupt practice was committed at the election by the candidate and every such corrupt practice was committed contrary to the orders, and without the consent of the candidate;

(b) that the candidate took all reasonable means for preventing the commission of corrupt practices at election; and

© that in all other respects the election was free from any corrupt practice on the part of the candidate;

then the court may decide that the election of the returned candidate is not void.

26. Procedure to the followed by the District Judge - The procedure provided in the Code of Civil Procedure Code 1908 in regard to suits shall be followed by the court of the District Judge as far as it can be made applicable, in the trial and disposal of an election petition under these rules.

27. Secrecy of voting not to be infringed- No witness or other person shall be required to state for whom he has voted at an election.

28. Decisions of the District Judge- (1) At the conclusion of the trial of an election petition the court shall make an order-

(a) dismissing the election petition; or

(b) declaring the election of the returned candidate to be void; or

© declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected.

(2) If any person who has filed an election petition has in addition to calling in question the election of the returned candidate, claimed declaration that he himself or any other candidate has been duly elected and the court is of the opinion-

(a) that in fact the petitioner or such other candidate received a majority of the valid votes; or

(b) that but for the votes obtained by the returned candidate by corrupt practice, the petitioner or such other candidate would have obtained a majority of the valid votes;

The court shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected.

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29. **Procedure in case of equality of votes-** If during the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared elected, then, the court shall decide between them by lot and proceed as if one on whom the lot falls had received the additional vote.

30. **Orders as to costs-** The court may, while making an order under rule 28 also fix thereby total amount of costs payable:

Provided that where a petition is dismissed under clause (a) of Sub-rule (1) of rule 28, the returned candidate shall be entitled to the costs incurred by him in contesting the petition and accordingly the court shall make an order for costs in favour of the returned candidate.

31. **Communication of order to the Director and transmission of the record of the case-** The court shall, after announcing the order made by it under rule 28, send a copy of the order and records of the case to the Director.

32. **Deposit of security** - (1) The petitioner shall enclose with the petition a receipt showing that a deposit of five hundred rupees has been made by him with the Director or any officer designated by him for the purpose, as security for the costs of the petition.

(2) *No person shall be entitled to be joined as a respondent unless he has given such security for costs,* as the court may direct.

33. **Costs-** Costs, including pleader's fee, shall be in the discretion of the court and shall be paid out of the security deposit provided for in rule 32.

34. **Payment of costs out of security deposit and return of such deposits-** (1) If in any order as to costs under provision of this Part, there is a direction for payment of costs by any party to any person, such costs shall, if they have not been already paid, be paid in full, or so far as possible, out of security deposit made by such party under this Part on an application made in writing in that behalf within a period of six months from the date of the order of the court to the Director by the person in whose favour the costs have been awarded.

(2) If there is any balance left of the said security deposit after payment under sub-rule (1) of the costs referred to in that sub-rule, such balance, or where no costs have been awarded or no application as aforesaid has been made within the said period of six months, the whole of the said security deposit may, on an application made in that behalf in writing to the Director by the person by whom the deposit has been made, or if such person dies after making such deposit, by the legal representative of such persons, be returned to the said person or to his legal representative, as the case may be.

35. **Corrupt practices-** the following shall also be deemed to be the corrupt practices: -

(1) 'Bribery' that is to say—

(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his agent or any gratification, to any person whomsoever with the object, directly or indirectly of inducing-

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(a) a person to stand or not to stand as, or to withdraw or not to withdraw from being a candidate at an election; or

(b) an elector to vote or refrain from voting at an election or as a reward to-

(i) a person for having so stood or not stood, or for having or not having withdrawn his candidature; or

(ii) an elector for having voted or refrained from voting;

(B) the receipt of or agreement to receive any gratification, whether as a motive or a reward-

(a) by a person for standing or not standing, as or for withdrawing or not withdrawing from being a candidate; or

(b) by any person whomsoever for himself or for any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature.

Explanation- For the purpose of this clause, the term 'gratification' is not restricted to a pecuniary gratification or gratification estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses bona fide incurred at, or for the purpose of any election.

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent or of any other person with the consent of the candidate or his agent with the free exercise of any electoral right:

Provided that—

(a) without prejudice to the generality of the provisions of this clause, any such person as is referred to therein who-

(i) threatens any candidate or any elector, or any person in whom a candidate of an elector is interested, with injury of any kind including social ostracism and excommunication or expulsion from any caste, creed, sect;

(ii) induces or attempts to induce a candidate or any elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure;

shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his agent to vote or refrain from voting for any person on the ground of case, creed, sect or, the use of or appeal

to, national symbols such as the national flag or the national emblem for the furtherance of the prospects of that candidate's election.

(4) The publication by a candidate or by any other person with the consent of the candidate or his agent of any statement of fact which is false, and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal from contest of any candidate being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(5) The issuing of any circular, placard or poster having a reference to the election which does not bear the name and address of the printer and publisher thereof.

(6) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or by any other person with the consent of a candidate or his election agent, any assistance other than the giving of vote for the furtherance of the prospects of that candidate's election from any person.

(a) in the service of the Gurdwaras as defined in the Delhi Sikh Gurdwaras Act, 1971.

(b) in the service of the Government and belonging to any of the following classes, namely:

(i) gazetted officer;

(ii) judges and magistrates;

(iii) members of the Armed Forces of the Union;

(iv) members of the Police forces

(v) excise officers;

(vi) revenue officers other than village revenue officers known as lambardars, or by any other name whose duty is to collect land revenue and who are remunerated by a share of or commission on the amount of land revenue collected by them but who do not discharge any police functions; and

(vii) such other class of persons in the service of the Government as may be prescribed by the Central Government.

Explanation- For the purpose of this clause, a person shall be deemed to assist in furtherance of the prospects of a candidate's election if he acts as an agent of that candidate.

By Order,

Rajni Kant
Secretary (Law & Judicial)

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