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दिल्ली नगर निगम

I am in receipt of a file from the Municipal Secretary regarding nomination of Presiding Officers for the election of Chairman, Deputy Chairman and one member to Standing Committee of Ward Committees on 04.09.2024 in accordance with Regulation 54 (1) of the D.M.C. (Procedure & Conduct of Business) regulation, 1958. Before making any decision on the said matter, I would like to draw the attention of the Commissioner to the notice of elections dated 28.08.2024, issued by the Municipal Secretary of Municipal Corporation of Delhi, which schedules the First Meeting of Wards Committees for election of Chairman, Deputy Chairman and one member to Standing Committee on 04.09.2024.

O/o THE MAYOR
Municipal Corporation of Delhi

M. O/Dy. No. 1025

Dated : 03/09/2024

D.M.C.

The election notice was issued by the Commissioner on 28.08.2024, and was received by the Municipal Councillors (including the undersigned) late in the evening of the same day. This notice fixed 04.09.2024 as the date for the election of the Chairman, Deputy Chairman, and one member to the Standing Committee from the Ward Committees. It also set 30.08.2024, as the deadline for filing nominations, allowing only one clear day between the issuance of the notice (28.08.2024) and the nomination deadline (30.08.2024). Such a short time frame between issuance of notice and deadline for filing nominations is unprecedented in the history of the Municipal Corporation of Delhi.

This scheduling appears to be a significant departure from fair democratic practices. The dates for the election process have been arranged in a way that has deprived many eligible councillors of their legal right to file nominations, while others may be entirely excluded from participating in the election process.

On the morning of 29.08.2024, two councillors submitted representations stating that they were out of town and requested an extension of the deadline set by the notice dated 28.08.2024. They request that this extension would allow them sufficient time to file their nomination forms and complete the necessary formalities. One councillor mentioned that he was unwell and unable to proceed with the nomination process, which involved identifying a proposer and a seconder—tasks that required time and effort. These councillors were not seeking a significant postponement of the election, but merely an extension of two or three days. Given that the nomination period began on a Friday, just one clear day after the election announcement, and was set to close that evening, their request was not at all unreasonable.

These representations were submitted to both the undersigned and the Commissioner of the Municipal Corporation of Delhi. Concerned about the potential violation of the democratic process, I formally requested the Commissioner to extend the nomination deadlines. Despite these concerns, no action was taken on the representations, and the Commissioner chose to proceed in a manner that clearly undermines the integrity of the democratic process. This situation also raises serious questions about whether there is an underlying agenda behind these actions.

Upon reviewing the election schedules of previous years, I was surprised to find that such undue haste in the scheduling of elections to the Ward Committees is unprecedented. The details of election schedule in past elections are as below:

S.	YEAR	DATE OF ELECTION NOTICE	DATE OF LAST DAY OF NOMINATION FILING	TOTAL NO. OF DAYS FOR NOMINATION	DATE ON WHICH ELECTIONS WERE HELD	TOTAL DAYS FROM DATE OF NOTICE OF ELECTION
1	2017	04.08.2017	09.08.2017	05	16.08.2017	12
2	2018	13.04.2018	19.04.2018	06	28.04.2018	17
3	2019	20.05.2019	27.05.2019	07	31.05.2019	11
4	2020	12.06.2020	18.06.2020	06	26.06.2020	14
5	2021	18.06.2021	25.06.2021	07	30.06.2021	12
6	2024	28.08.2024	30.08.2024	1 clear day	04.09.2024	7

The election schedules referenced above reflect reasonable past practices; however, the 2024 schedule has provided an unreasonably short timeframe for the filing of nominations, i.e., only one clear day for filing nominations.

Not all individuals, including Councillors, are always present or available in Delhi due to social obligations, engagements, and travel to distant locations. If the election schedule had been communicated in advance, eligible individuals could have planned their commitments accordingly. However, the elections to the Ward Committees were neither scheduled in advance nor accompanied by an election calendar, which would have allowed Councillors to plan their activities well ahead of time. It is important to note that not all Councillors have the means to afford air travel and, therefore, cannot be expected to return to Delhi within a day. The election authorities must consider the interests of those Councillors who rely on ordinary means of transportation, such as trains or buses, which require more time compared to air travel.

The election period is typically defined by statutes, regulations, or bylaws of the governing authorities overseeing the process. However, the municipal regulations, that is, the DMC Act and the DMC Regulations are silent on this matter. Although the regulations do not specify a timeframe between the issuance of notice and the nomination process, the principles of natural justice must be adhered to throughout the proceedings.

The statutory requirements for filing nomination petitions should not be so restrictive as to deny candidates their legal right to file nominations, particularly when the process requires a proposer and a seconder. Identifying two councilors to fulfill these roles may necessitate engaging with multiple voters before securing the agreement of two councilors to act as proposer and seconder. This process requires time and cannot reasonably be completed by everyone within a single day.

Now, several councilors have approached this office, expressing concerns that the current election schedule is overly restrictive and undemocratic, thereby depriving them of their right to participate in the nomination process due to the very short timeframe of approximately one day allotted for filing nominations. Among the affected councilors, some are out of town, others are unwell and undergoing treatment, one lady councilor is caring for a newborn child, and another is attending a religious function. They all share a common grievance that the election notification has severely and adversely impacted their ability to participate, and they request an extension of time to file nominations. The representations from these councilors are enclosed herewith for your consideration.

I would like to emphasize that the timeframe for filing nominations and other procedural aspects of election law is of paramount importance to the entire electoral process. Providing sufficient time for candidates to complete the nomination process is essential to upholding the democratic principles of fairness and reasonableness. Any procedure that unduly limits the time available for candidates to file their nominations can be perceived as undemocratic and an arbitrary action. I must reiterate that any attempt to restrict this timeframe to an unreasonably short period compromises the fairness of the elections to the ward committees and the members of the standing committee.

C.D.M.C.

I would also like to draw the attention of the Commissioner and the Municipal Secretary to Section 30 of the Representation of the People Act, which serves as a foundational legal framework for electoral laws in the country. This section mandates that a minimum of seven days must be provided for filing nominations from the date of notice. Although the DMC Act is silent on this matter, the guiding provisions of the Representation of the People Act should not be disregarded, particularly concerning the issue of the minimum timeframe for filing nominations.

I would also like to draw your attention to a similar matter decided by Hon'ble Punjab & Haryana High court in W.P.(C.) No. 4860/2011 in case titled *Haryana Wrestling Association Vs. Wrestling Federation Of India* in which the issue of a tight schedule to the election of president came into question before the High Court. The Hon'ble court made the following observations on the unreasonable election schedule as under :

"43. I also find merit in the petitioner's submission that the election has not been fairly held, on account of the tight time schedule fixed by the then General Secretary for conduct of elections vide his notice dated 12.03.2011. Pertinently, the publication of the Electoral College was scheduled for 05.04.2011, i.e. on the same day on which the process of filing of nomination papers of candidates for various posts members of the Executive Committee started. The said process concluded on the following day, i.e. on 06.04.2011. Therefore, the eligible members, who could be interested in filing their nomination papers and offer their candidature for various posts of members of the Executive Committee, were granted hardly any time to verify as to whether, or not, they were themselves eligible and, if so, as to who all were eligible to either contest the elections or to sponsor/support the nominations. It is well-known that unless an eligible member, who may be desirous of contesting the elections is made aware of the electoral college, he may not be able to take a call on whether, or not, to file his nomination. A candidate is entitled to know as to who all constitute the electoral college sufficiently in advance so as to enable him to assess his chance on the basis of the support that he may enlist. It is for this reason that not only the Government Observer, but even the Government itself called upon the respondent/WFI to fix a time schedule which would lead to conduct of elections in a transparent manner and to maintain the purity of the election process. The learned Returning Officer before whom the grievance was raised, obviously could not have tempered that the election schedule given to him for conduct of elections even though he agreed with this grievance of the petitioner."

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The Hon'ble High court , while setting aside the elections, passed the following orders :

47. The election for the post of President of WFI, held in the election process between 05.04.2011 and 15.04.2011 is hereby set aside. The orders dated 05.04.2011 and 08.04.2011 of the learned Returning Officer, insofar as they hold that Article XIII(d) was effective and operative in relation to the election process in question, and insofar as the petitioners nomination for the post of President was rejected, are set aside. The respondent no.1 is directed to initiate fresh process for holding the election to the post of President in terms of its amended constitution forthwith. The notification for conduct of elections should be issued within the next two weeks.

The Commissioner and Municipal Secretary are, therefore, urged to adhere to the aforementioned observations made by the High Court, which specifically stated that "unless an eligible member, who may be desirous of contesting the elections is made aware of the electoral college, he may not be able to take a call on whether, or not, to file his nomination." The Hon'ble Court has explicitly noted that authorities should establish a time schedule that ensures the conduct of elections in a transparent manner and preserves the integrity of the electoral process. It is perplexing how the authorities issuing the election notice could overlook such fundamental requirements.

S.D.M.C.

It is noteworthy that I had directed the Municipal Secretary to conduct elections for the posts of the ward committees and the standing committee timely, yet it took approximately 4-5 days for the Municipal Secretary to issue the election notice following that directive. If there had been an urgent need, the notice could have been issued on the same day. However, the authorities took several days to act on the Mayor's directions however provided only a single day for the filing of nominations. This clearly demonstrates the arbitrary nature of the election process, which is entirely unfair and contrary to the democratic principles governing this municipal corporation.

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Now, I must state, with the utmost conviction, that my conscience does not permit me to be a party to an unreasonable, unfair and undemocratic election process where a notice with an unduly short nomination period has been issued, adversely affecting a large number of councilors. The regulations empower the Mayor to nominate a member for the first meeting, and this authority must be exercised carefully and judiciously, in a manner that upholds democratic norms and protects the rights of all councilors. I would feel deeply responsible if I were unable to protect the highest standards of democracy in the leading municipal body of Delhi.

In light of the circumstances outlined above, I request the Commissioner to direct the Municipal Secretary to revise the election notice and extend the timeframe for filing nominations for the positions of Chairman, Deputy Chairman, and members of the standing committee by a few more days. An extension of even one week would adequately address the concerns raised, without impacting the overall election process.

.D.M.C.

Furthermore, the proposal for the nomination of members of committees as presiding officers, in accordance with Regulation 54 (1) of the D.M.C. (Procedure & Conduct of Business) Regulations, 1958, should be resubmitted following the issuance of a revised election notice. Only when this undemocratic process is rectified and a sufficient timeframe is provided for all eligible candidates to file their nominations can my conscience allow me to proceed with my duties in the elections.


Mayor

To,
Commissioner,
Delhi Municipal Corporation.



DR. SHELLY OBEROI
MAYOR
Municipal Corporation of Delhi