

MINUTES OF THE MEETING OF THE ELECTION COMMITTEE HELD ON 04.07.2018 (WEDNESDAY) AT 4 PM IN THE CHAMBER OF SH. ARUN BHARDWAJ, LD. SPECIAL JUDGE (PC ACT), CBI-05, ROOM NO.35, MAIN BUILDING, PATIALA HOUSE COURTS COMPLEX, NEW DELHI DISTRICT TO DISCUSS THE OBJECTIONS TO THE DRAFT VOTER'S LIST FOR THE ELECTIONS OF NDBA, 2018.

CORAM :-

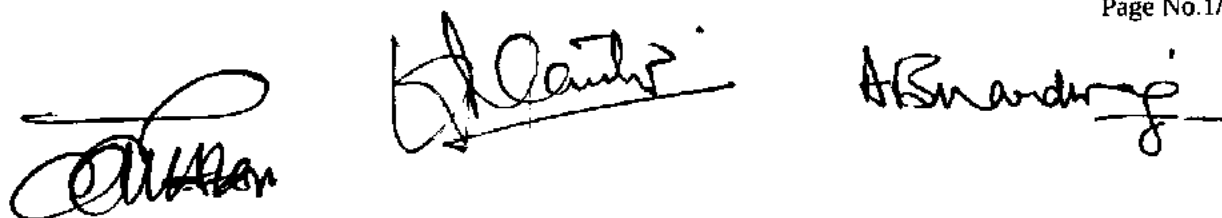
- Sh. Arun Bhardwaj, Ld. Spl. Judge (PC Act), CBI-05/ Chairperson
- Sh. Suresh C. Sharma, Advocate, (Member)
- Sh. Kishan Nautiyal, Advocate (Member)

In Attendance :-

- Sh. Nitin Prakash, JJA, Judicial Branch, PHC, ND.

DECISION OF THE ELECTION COMMITTEE ON 312 NUMBER OF OBJECTIONS RECEIVED FROM MEMBERS OF NDBA TO THE DRAFT VOTER'S LIST

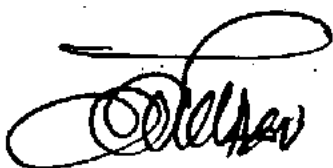
1. The Election Committee had received 312 numbers of objections from members of NDBA to the Draft Voter's List.
2. The objections pertain to mainly following grounds:-
 - a) Seeking permission to sign the unsigned Declaration Form.
 - b) AIBE certificate not filed.
 - c) Declaration Form filed for elections of other Bar Associations but vote not cast.
 - d) Declaration Form disowned with the allegation that the same was filed fraudulently by somebody.
 - e) Earlier Declaration Form was not filed within this year and was filed beyond one year.
 - f) Name of member not in the voter's list of BCD elections.
 - g) Request seeking permission to withdraw the Declaration Form filed inadvertently/filed by somebody mischievously earlier/presently.
 - h) Dues not cleared.
3. Broadly, the decision of the Election Committee on these objections is as under:-
 - a) **Seeking permission to sign the unsigned Declaration Form:-** The last date for filing the Declaration Forms was 23.04.2018. An unsigned Declaration Form is no Declaration. Allowing any member to sign the Declaration Form after the last date would tantamount to extending the last date for submitting the Declaration Forms. Therefore, the Committee has decided not to allow any member to sign his unsigned Declaration Form, at this stage.
 - b) **AIBE certificate not filed:-** Members have given copies of their AIBE certificates/print out



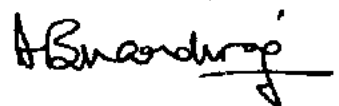
of results of AIB Examination downloaded from the website of BCI/letters from Joint Secretary/Asstt. Secretary of BCI etc. certifying that the member has passed AIB Examination. The Committee has accepted all the three modes of showing passing of AIB Examination with an exception for the facts and circumstances of that individual case.

c) **Declaration Form filed for elections of other Bar Associations but vote not cast:-** There are several objections stating that they had filed Declaration Form for elections of other Bar Associations but they did not cast their vote and hence, they are entitled to cast vote in this election. The Hon'ble High Court in the case of P. K. Dash, Advocate & Ors. has used the expression "A member who exercises her or his right to vote in any year in the High Court or District Court Advocate's/Bar Association shall not be eligible to cast her or his vote and / or contest for any post-either as Member of the Executive or of an Officer Bearer, at the Election of any other Bar Association". Thus, merely filing a Declaration Form during the election of a Bar Association tantamounts to exercising the right to cast vote in the election. The Committee has therefore, decided that even if a member has not cast vote in the election but had given the Declaration Form seeking permission to cast vote in that Bar Association Elections, would not be entitled to cast vote in elections of other Bar Association. Therefore, filing of Declaration Form is the determining factor and not actually casting the vote. Moreover, the Election Committees in the Districts are maintaining the records of Declaration Forms received and not the details of voters who have cast vote in the elections. This is the mandate of Hon'ble High Court also in as much as the directions given in the case of P. K. Dash, Advocates & Ors. are that "The Election Committee would be responsible for the task of verifying the Declarations and preparing the list of members eligible to vote ..."

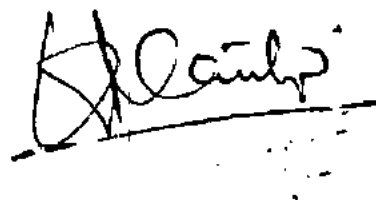
d) **Declaration Form disowned with the allegation that the same was filed fraudulently by somebody:-** There are certain objections denying filing of Declaration Forms in the earlier Bar Association Elections and in the present NDBA Elections with the allegation that the same was filed fraudulently by somebody. The Committee has observed that few members have disowned Declaration Forms filed in their names or NDBA elections although, those Declaration Forms also bear their photographs and their other details as well. In the opinion of the Committee it is difficult for a third party to have the photograph of a member for pasting on Declaration Form fraudulently. So far as disowning the earlier Declaration Forms is concerned, the Committee has taken a decision that once the name of the member has appeared in the voter's list of any other preceding Bar Association elections supplied by the Election Committee of that District, he cannot be permitted to vote in ensuing NDBA elections.



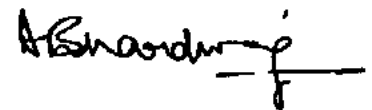
Page No.2/5



- e) **Earlier Declaration Form was not filed within this year and was filed beyond one year:-** There are objections that the member had given Declaration Form and cast his vote more than one year ago and therefore, the said Declaration Form was valid for that particular one year only. In this regard, the Committee has noted that the directions of the Hon'ble High Court inter alia are "Every member before casting his vote shall in the prescribed form furnish a "Declaration" that she/he has not voted in the immediately preceding election to any other Bar Association and is not voting in any election of the Supreme Court Bar Association or any other Bar Association". Therefore, the determinative factor is "immediately preceding election" and not "this year".
- f) **Name of member not in the voter's list of BCD elections:-** The Election Committee had called for clarification from the office of BCD with regard to 153 members whose names were not appearing in the voter's list of last BCD elections whether these 153 members were enrolled with BCD or not. In response to the query of the committee, a communication dated 19.05.2018 was received from BCD clarifying that except for 12 members named in that letter all the remaining members are enrolled with BCD. The remaining 141 members have been treated by the Committee as enrolled with BCD and entitled to vote unless held not entitled to vote for some other reason.
- g) **Request seeking permission to withdraw the Declaration Form filed inadvertently:-** The Committee came across three types of instances seeking withdrawal of Declaration Forms, one where the member had requested for withdrawal before 23.04.2018 when the Declaration Forms were still with NDBA, second, where the member had requested for withdrawal of the Declaration Form after 23.04.2018 when the Declaration Forms were given to the Committee by NDBA for scrutiny and third where, the withdrawals were requested after the Draft voter's list was circulated/displayed on the website of NDBA as well as New Delhi District. The Committee has permitted withdrawal of Declaration Forms where the request was made before 23.04.2018 and has declined the requests which were made during the scrutiny of Declarations and after circulation of Draft Voter's List. The Committee has noted that there are no directions given by Hon'ble High Court of Delhi in the case of P. K. Dash, Advocate & Ors. to give an opportunity to the members to withdraw their Declaration Forms.
- h) **Dues not cleared:-** NDBA vide letter dated 25.05.2018 has clarified that 12 members named in that letter have cleared their dues and the Committee has removed objections against 12 members with regard to dues. NDBA vide letter dated 31.05.2018 has further clarified that one member named therein has also cleared his dues. The Committee has removed objection against the said member with regard to dues.

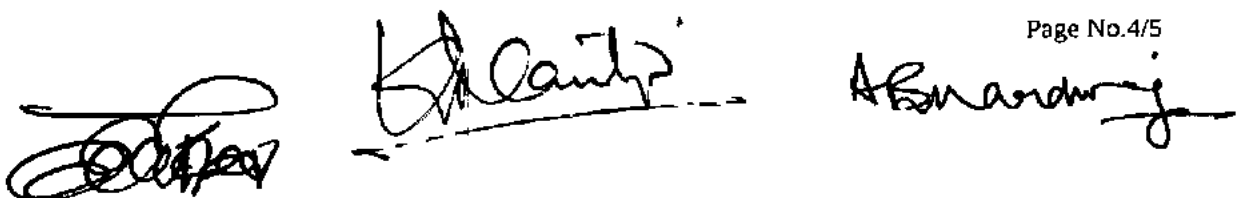


Page No.3/5



4. NDBA vide letter dated 13.05.2018 has sent photocopy of Declaration Form Sh. Ram Bhagat Sharma, Advocate stating therein that the original was misplaced at the time of attaching the copy of BCD and AIBE certificate etc. in their office. It is stated that the name of this member was uploaded in the website of NDBA on 28.03.2018 and thus, requested to consider the photocopy of Declaration Form since the fault is on the part of NDBA itself. The Committee, considering the peculiar request of the BAR has considered the photocopy of Declaration Form of Sh. Ram Bhagat Sharma, Advocate having BCD No.D/204/2010 and after scrutiny of voters' lists of different courts and tribunal has found him entitled to vote. Vide letter dated 31.05.2018 from Sh. Shiv Dulare, Office Superintendent of NDBA, two photocopies of Declaration Forms of Sh. Jeetendra Kumar Nayyar, Advocate and Sh. Ramesh Kumar, Advocate have also been sent with a similar request to consider their names for voting in the election of NDBA, 2018. Whereas, the Committee has found Sh. Jeetendra Kumar Nayyar, Advocate, D/563/1982 eligible to vote but Sh. Ramesh Kumar, Advocate having BCD No.D/462/1987 is not entitled to vote as his name is common in the voter's list of Saket Bar Association.
5. Vide letter dated 19.05.2018 of NDBA, letter of Sh. Rajesh, Advocate, D-3970/14 is enclosed requesting withdrawing the Declaration Form for the year 2018. Since, the request for withdrawal was made after 23.04.2018, the request is declined. A letter is also enclosed from Sh. Pritpal Singh, Advocate dated Nil requesting to consider his Declaration Form. Since, this Declaration Form has been given after the last date for filing the Declaration Forms which was 23.04.2018, the same cannot be considered at this stage. Vide letter dated 18.05.2018, Sh. Shivinder Chopra has also requested for permission to withdraw the Declaration Form. Since, this request is also made on 18.05.2018, the Committee refused to accept the request. There is another letter dated 17.05.2018 from Sh. Sudhir Kumar, Advocate, D/1561/1995 stating that he has not submitted any Declaration Form for the elections of NDBA, 2018 and has requested that the same be treated as Null & Void. The Committee has seen the Declaration Form of Sh. Sudhir Kumar which is having the photograph of the member and the cheque number and name of Bank and Branch through which dues were cleared on 09.04.2018. The Committee therefore, decided to reject his request.
6. The Committee has received letter dated 30.05.2018 written by Sh. Karan Singh, Advocate, Ex. Secretary and Vice President, NDBA and formal Member, Disciplinary Committee, BCD with a request that the Voter's List should also include photographs, Chamber Number, residential addresses, e-mail IDs and Mobile Numbers of the Members. The Committee is of


Page No.4/5

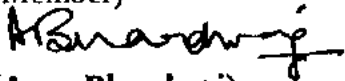



the opinion that the Returning Officer may satisfy himself about the identity of the voters in the best manner as may be possible for him. Further, the Voter's List gives information about Membership Number of NDBA of the Voter and Enrollment Number with Bar Council of Delhi which is sufficient for the purposes of identification of a Member.

7. The final Voter's List (including the names of members entitled / not entitled to vote) for the NDBA Elections 2018 is enclosed as Annexure A.
8. The decision of the Election Committee on 312 number of objections received is enclosed as Annexure B.
9. The List of Members found entitled to vote in the elections of NDBA 2018 is enclosed as Annexure C.
10. The List of Members found not entitled to vote in the elections of NDBA 2018 is enclosed as Annexure D.
11. NDBA vide letter dated 25.06.2018 has requested to provide photocopy of Declaration Forms of 46 Members named in that letter as photocopies thereof had been misplaced by NDBA in their office. By way of these Minutes, the Committee is making a request to the Ld. District & Sessions Judge, New Delhi District, Patiala House Courts, New Delhi, for passing directions for digitization of the entire record i.e. Declaration Forms, Draft Voter's List, 312 number of objections received, various letters of NDBA received during this period, Final Voter's List so that the same can be uploaded on the Website of New Delhi District as well as for providing a copy to the NDBA for its records.


Sh. Suresh G. Sharma, Advocate
(Member)

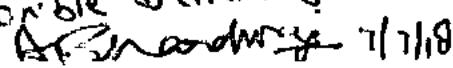

Sh. Kishan Nautiyal, Advocate
(Member)


(Arun Bhardwaj)
Spl. Judge (PC Act), CBI-05/Chairman,
Committee for Election of NDBA, New Delhi.


(Poonam A. Bamba)
District & Sessions Judge,
Patiala House Courts,
New Delhi District, New Delhi.

6/7/18

Ld chairman

- (i) Branch in charge (computers) to display minutes, decision on objections, consolidated voter's list, list of members found entitled / not entitled on website immediately.
- (ii) A copy of above be sent to NDBA and a soft copy be also sent through email id of NDBA with a request to display the same on website of NDBA, all notice boards, and publicise through every other means possible such as whatsapp etc.
- (iii) Be sent to O-in-C of Digitisation Cell along with declaration forms for digitisation towards compliance of judgment in the case of "P.K. v. Bar Council of India" passed by the Hon'ble Delhi High Court.  7/7/18