NEW DELHI BAR ASSOCIATION (NDBA)
ELECTION COMMITTEE 2021

(Constituted in compliance of the judgment passed by Hon'ble High Court of Delhi in WP (C) No. 8106/2010 titled P.K DASH, ADVOCATE and ORS versus BAR COUNCIL OF DELHI AND ORS dated 31.05.2016 & further modified vide orders dated 18.10.2016)

Minutes of Meeting dated 29.09.2021

Quorum:

1. Sh. **Sanjiv Jain**, District Judge (Commercial Court-03), Patiala House Courts- Chairperson.
2. Sh. **Akshay Anand**, Advocate- Member.
3. Sh. **Sandeep Verma**, Advocate- Member.

1. The New Delhi Bar Association Election Committee 2021 (hereinafter referred to as NDBA Election Committee) has held its first/maiden meeting on 29th day of September, 2021 in the chamber of Sh. Sanjiv Jain, District Judge (Commercial Court-03), Patiala House Courts.

2. At the outset, the members of the Committee extend thanks to all concerned for reposing faith in them and seek divine blessings to perform their duties to the best of their abilities and also look forward to the support of all the members of the New Delhi Bar Association in carrying out the task entrusted to them.

3. The NDBA Election Committee 2021 has its origin/genesis from the judgment passed by Hon'ble High Court of Delhi in the case titled ***"P.K Dash, Advocate and Ors v/s Bar Council of Delhi and Ors." reported as WP (C) No. 8106/2010*** dated 31.05.2016 and further modified vide order dated 18.10.2016.

4. It is pertinent to make a mention of para-52 of the said judgment dated 31.05.2016, which reads as under:

> "52. In the light of the above findings and conclusions, the following directions are issued:
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> (a) The following rule, incorporating the one-bar, one vote principle shall stand incorporated forthwith in relation to every Bar Association in Delhi (including the Delhi High Court Bar Association, the Delhi Bar Association, the New Delhi Bar Association, the Rohini, Shahdara, Saket and Dwarka Courts Bar Association and all other Court/Tribunals attached Bar Associations):
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> "A member who exercises her or his right to vote in any year in the High Court or a District Court Advocate"s/Bar Association election shall not be eligible to contest for any post - either as WP(C) Nos.8106/2010, 6851/2012, 7549/2012 & 2689/2014 Page 46 member of the executive or of an office Bearer of any other Association or to cast her or his vote at the election. Every member before casting his vote shall in the prescribed form furnish a „Declaration" that she/he has not voted and is not voting in any other election of the Supreme Court Bar Association, Delhi High Court Bar Associations, any other District Court Bar Association, and has not done so in the past one year. Provided, however, that if such a declaration is found to be false, it shall entail automatic suspension of the member giving such false declaration from membership of the Association for a period of three years.

5. *Vide* order dated 18.10.2016 in the same lis, it has been held by Hon'ble High Court as under:

> "13. The following directions shall be added by way of modifications:
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> (a)(i) For every election, the Bar Association shall constitute an Election Committee of three members. This Committee shall be formed three months before the end of the tenure of the office bearers of the Bar Association. The Committee shall comprise of two advocates with not less than 20 years' standing, who would not contest in the forthcoming elections, chaired by a Judicial Officer not below the rank of Additional District Judge of five years' standing nominated by the concerned District Judge.
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> (a)(ii) The Chairman of the Election Committee, i.e. the concerned judicial officer shall ensure the preservation of the records relevant to verify the declarations. Such records, including the declarations given by the C.M. APPL..36262/2016 IN W.P.(C) 8106/2010 Page 9 members, the final list of voters and the final list of candidates with their declarations shall be kept in the custody of the concerned District Judge and available for scrutiny. The District Judge shall in turn ensure that such documents are digitized and kept in safe custody."

6. Complying with the directions given by Hon'ble High Court in the abovementioned judgment and on the recommendations of New Delhi Bar Association, The Principal District and Sessions Judge (New Delhi) has nominated Sh. Sanjiv Jain, presently posted as District Judge (Commercial Court)-03, Patiala House Courts as Chairperson of the Election Committee. The New Delhi Bar Association has accepted the same and nominated two members of the Committee namely Sh. Akshay Anand, Advocate and Sh. Sandeep Verma, Advocate, whereafter the Election Committee was formed by NDBA vide their letter dated 08.03.2021 addressed to the Principal District and Sessions Judge, Patiala House Court complex, who vide his endorsement dated 10.03.2021 requested the Election Committee to initiate the process.

7. Immediately on the formation of this Committee, the first meeting is being held today to give effect to the directions given by Hon'ble High Court in the abovementioned judgment.

8. **Sh. Akshay Anand**, Advocate, Member of this Committee states and declares that he has been in practice for last more than two decades and shall not contest the election of New Delhi Bar Association in the forthcoming elections, therefore, in his opinion he complies with the qualifications required for being a member of the Election Committee in terms of the abovementioned judgment of the Hon'ble High Court of Delhi.

9. In the same vein, **Sh. Sandeep Verma**, Advocate states and declares that he has been in practice for last more than 20 years and shall not contest the election of New Delhi Bar Association in the forthcoming elections, therefore, in his opinion he complies with the qualifications required for being a member of the Election Committee in terms of the abovementioned judgment of the Hon'ble High Court of Delhi.

10. The Chairman of the Committee, **Sh. Sanjiv Jain**, District Judge, Commercial Court-03, New Delhi also states that in his opinion he does not attract any disqualification from functioning as the **Chairman** of the Election Committee.

11. In consonance to the directions given by Hon'ble High Court in the abovementioned judgment dated 31.05.2016 and orders dated 18.10.2016, the scope and purview of formation of this Committee, which it is supposed to perform, is as under:

(i) Calling for the "Declaration Forms" from the members of NDBA, in the prescribed format given in the judgment;

(ii) Verifying the said "Declaration Forms" and preparing the list of members eligible to vote having regard to the directions in para 52(a) of the above referred judgment;

(iii) Displaying the list of members "Eligible to vote" and calling for objections, if any, to the same;

(iv) Preparing the final "list of voters" at least four weeks before the date of actual voting;

(v) Preserving the records relevant to verification of the declarations with the following compliances;

(a) Such record, including the declarations given by the members, the final list of voters and the final list of candidates with their declarations shall be kept in the custody of the concerned District Judge and available for scrutiny.

(b) The District Judge shall in turn ensure that such documents are digitized and kept in safe custody.

INFRASTRUCTURAL REQUIREMENTS:

12. To give effect to the aforementioned objects for which the Election Committee has been constituted and in order to prepare, issue, receive and preserve the correspondance with different authorities as well as the records so received in digitized form as well, there is requirement of some infrastructure, including manpower.

13. The Committee has deliberated upon this requirement and unanimously resolved as under:-

i. That, a Nodal Officer be nominated who should be an official not below the rank of Senior Judicial Assistant, and for that a request letter be sent to the Principal District and Sessions Judge, New Delhi, for the needful.

ii. That, one Stenographer for preparing minutes of the meetings, for issuance of correspondance, scanning of the received records, is required.

iii. That, two Junior Judicial Assistants (JJAs) are required for receiving of the 'Declaration Forms' from the Members of New Delhi Bar Association and one peon-cum-orderly.

iv. That, the Committee during its tenure for the purposes of functioning to achieve the objects of its formation, requires a room/office, from where it can effectively operate.

v. That, the Committee requires a Computer System i.e. Desktop, a Printer, Scanner, Pen Drives, Tables, Chairs and Office Stationery.

14. It is unanimously resolved that a request letter to that effect be written to the Principal District and Sessions Judge, New Delhi under signatures of the Chairperson of this Committee, for doing the needful, so that the Committee can proceed to carry out its functions in a smooth and fair manner.

Main Resolutions:-

15. Having deliberated upon the infrastructural requirements, the Committee with the prime task of its constitution in the backdrop, has deliberated upon the matter and has further resolved as under:

(I) To invite the "Declaration Form" from the eligible members of New Delhi Bar Association, as per the directions of Hon'ble High Court of Delhi, in *W.P.(C) No.8106 of 2010 titled "P.K.Dash Advocate and Others vs. Bar Council of Delhi & Ors.*", in following format discerning as per the directions of Hon'ble High Court, given in the said writ petition:

> I, ... (State name, and full description, ie. Parentage, age, particulars of Bar Council Enrolment and Membership of the Bar Association of the Court Complex where chamber allotment is sought) do hereby solemnly declare and affirm that I have not voted for and / or have not contested for any elective post, in any other Bar Association of which I am also a member in the immediately preceding election and that I will not do so in any election during this year in such Bar Association. In case, this declaration is detected to be false, my right to vote shall remain suspended for three years, after such declaration is detected to be false."

(II) That, for the purposes of inviting "Declaration Form" from the eligible members, a clear 15 working days time, be given to the members of NDBA. Having regards to the forthcoming Dussehra and Diwali Vacations, this working days time, shall start from 21st October 2021 (Thursday) to 12th November 2021 (Friday). On all these working days, members can deposit their "Declaration Forms" at the Facilitation Centre, Patiala House Courts New Delhi, with a designated official who shall sit there to receive the same from 10 am till 5 pm.

(III) That, the abovementioned format on which "Declaration Form" is required to be submitted by the eligible members of NDBA, shall be put on the notice board of Patiala House Court Complex.

(IV) This format be also sent to the Existing New Delhi Bar Association, who be requested to put up the same on its notice board and on the notice boards in the Lawyers Chambers Block.

(V) That, the said format, shall also be available at the Facilitation Centre of Patiala House Court Complex, from where it can be obtained by the members of New Delhi Bar Association.

(VI) That, the eligible members of New Delhi Bar Association, after filling the "Declaration form" in above- mentioned format, shall affix a latest passport size photograph of theirs and get the same certified from New Delhi Bar Association, regarding his / her having cleared the dues for his / her being eligible to vote in the forthcoming elections, as per the Constitution of New Delhi Bar Association.

(VII) That, the members of New Delhi Bar Association are called upon to deposit such duly filled "Declaration Form" alongwith the certificate from New Delhi Bar Association, at Facilitation Centre of Patiala House Courts with the designated official, on or before the last date so fixed ie. 12.11.2021 till 5 pm.

16. The members of the Election Committee have reminded themselves of the directions given by Hon"ble High Court of Delhi in case titled "Pankaj Yadav Vs. Union of India & Anr."W.P. (C) 7718/2015 & CM 15135/2015 & 26986/2015 vide orders dated 24.02.2016, which are as under:

> "Another issue which has been highlighted is the issue of pasting of posters on the walls by vendors and by advocates contesting elections of the Delhi Bar Association/Bar Council. It is agreed by all that this should not happen. It is the prime responsibility of the Bar Associations to ensure that no vendor or election candidate should put up a poster in the buildings of the Court Complexes. This directions pertains to the all Court Complexes and is not limited to Tis Hazari Court or the Karkardooma Courts. In fact, the Bar Associations should incorporate an election rule of the concerned Bar Association indicating that if any candidate puts up a poster on the walls of the Court Complex, he would be disqualified. With regard to vendors' defacing the wall, the District & Sessions Judge shall take immediate action for having them removed. Action may be taken under the Delhi Prevention of Defacement of Property Act, 2007 (Delhi Act 1 of 2009)."

18. In the same matter, Hon'ble High Court of Delhi vide orders dated 11.01.2017 has issued further directions, which are reproduced as under:-

> "It has been brought to our notice by the petitioner that there is rampant defacement of property by pasting of poster in the Tis Hazari Complex both in the main building and in the chamber complex. There are posters of vendors as well as of advocates contesting elections to the Delhi Bar Association. As far back as on 24.02.2016, it had been agreed by all the counsel for the parties including the counsel for Delhi Bar Association that this should not happen. It is also noted in the aid order that it is the prime responsibility of the Bar Associations to ensure that no poster is put up in the buildings of court complexes which includes the Tis Hazari Court Complex. We had also indicated that the Bar Associations should incorporate an election rule indicating that if any candidate puts up posters on the wall in the court complexes, he would be disqualified. Unfortunately, no such rule has been incorporated in the rules of the Delhi Bar Association. We had also directed that in case there were posters pasted by vendors, the District & Sessions Judge Should take immediate action for having them removed and that action could also be taken under the Delhi Prevention of Defacement of Property Act, 2007.
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> A copy of this order be placed before that District & Sessions Judge, Headquarters to ensure that the defacement of the Tis Hazari Complex by pasting of posters does not take place. We also direct the election committee of the Delhi Bar Association to take serious action with regard to the posters passed on the walls of the court complex. The bar association should also take steps immediately to have all such posters removed which are contrary to our directions dated 24.02.2016 and to the order passed today."

19. Having gone through the directions given by Hon'ble High Court in ***"Pankaj Yadav's Case" (supra)***, members of the Committee are of unanimous that, it is the prime responsibility of the New Delhi Bar Association to ensure the compliance of the aforesaid directions.

20. It is unanimously resolved by the Committee to write a letter to NDBA under signatures of the constituents of this Committee, drawing their attention to the orders dated 24.02.2016 and 11.01.2017 regarding various directions passed by the Hon"ble High Court of Delhi, in ***Pankaj Yadav's Case (supra)*** and to ensure that the directions contained therein are complied with in letter and spirit.

21. It is further unanimously resolved that alongwith the said letter to the New Delhi Bar Association, a notice as per "ANNEXURE B" be forwarded and NDBA be requested to prominently display the same on all its Notice Boards, for the compliance of all concerned and report removal of all notices, banners, writings etc if any within a period of 10 days from today, to this Committee.

22. It has further been unanimously resolved by Members of the Committee that for the purposes of verification of the declaration forms so submitted, the Election Committee apart from verifying the same from the records of other Bar Associations, can also call upon the said Eligible Member(s) of NDBA to appear before it, in person for clarifications, if any, failing which Declaration Form will be rejected.

Request Letter to be sent to the Principal District and Sessions Judge (New Delhi District):-

23. It is unanimously resolved that a request letter be sent to Ld. Principal District and Sessions Judge (New Delhi District) mentioning the aforementioned format of "Declaration Form" for giving the same adequate publicity for the benefit of members of NDBA, by putting the same on the notice boards of the Court Complex and for giving requisite directions to the official posted at Facilitation Centre, Patiala House Courts to remain present there from 10 am to 5 pm on all working days with effect from 21.10.2021 till 12.11.2021 for the purposes of providing the format of "Declaration Form" as well as for receiving the duly filled declaration forms after making the requisite entry in the Register to be maintained by him.

24. It is further resolved that vide said request letter itself, notice as per Annexure B, be also forwarded to Ld. Principal District and Sessions Judge (New Delhi District) with a request to get the same displayed on all the notice boards of the Court Complex, for compliance thereof, by all concerned.

Request Letter to be sent to NDBA:-

25. It is unanimously resolved by Members of the Committee that New Delhi Bar Association be written a letter under signatures of all the constitutes of Election Committee, requesting it to provide certified copy of the Constitution of New Delhi Bar Association alongwith list of its members as on date, within 10 days from today.

26. It is further unanimously resolved that alongwith the said written letter, NDBA be forwarded the aforementioned format of "Declaration Form" as per Annexure A, for giving the same adequate

publicity for the benefit of its members by putting the same on the notice board of the Bar Office, as well as on the notice boards of Lawyers Chamber Complex.

27. It is also resolved that alongwith this letter itself, a 'Circular' be also forwarded to NDBA mentioning the duration, during which members of NDBA are required to submit the "declaration form" with a request that the said circular be prominently displayed on all the notice boards.

28. It has further been resolved that alongwith the said letter to NDBA, copy of a notice as per Annexure B, be forwarded with a request to prominently display the same on its notice boards for compliance of all concerned and report removal of all notices, banners, writings etc., within a period of 10 days from today.

Request letters to be sent to various Bar Associations of Delhi:-

29. It has also been unanimously resolved by Members of the Committee that as for the purposes of verification of the "Declaration Form", records from various Bar Associations in Delhi, is required, therefore, separate letters of request be sent to various Bar Associations of all District courts / Tribunals under the signatures of all the constituents of this Committee, through Ld. Principal District and Sessions Judge, New Delhi District, requesting them to send the record of declaration forms and final list of voters, prepared by them in hard copy as well as in electronic form in Excel Sheets.

30. In this regard, it has been resolved that for those District Courts, wherein elections of Bar Association of that District have already been held after 31.08.2018, request letter for the records be sent to Ld. Principal District and Sessions Judge of the concerned District Court.

31. It is resolved that the aforementioned request letters be sent accordingly to all concerned, immediately asking them for the records.

32. A copy of these minutes be sent to Ld. Principal District and Sessions Judge (New Delhi District), for his kind information and records.

Meeting ended with vote of thanks to the Chair.

(Akshay Anand)
Advocate, Member

(Sandeep Verma)
Advocate, Member.

(Sanjiv Jain)
District Judge-03, Commercial Court, Patiala House Courts.
Chairperson

Ld. Principal District & Sessions Judge,
New Delhi District, Patiala House Courts
New Delhi.