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भारतीय जनता पार्टी, दिल्ली प्रदेश
Bharatiya Janata Party, Delhi Pradesh

30.01.2020

The Chief Election Commissioner
& Companion Election Commissioners
Election Commission of India
Nirvachan Sadan, Ashoka Road,
New Delhi - 110001

Sub: REPRESENTATION TO INCLUDE EXPENDITURE INCURRED ON PROTESTS AGAINST THE CITIZENSHIP AMENDMENT ACT, 2019 (CAA) -WHICH IS A PROXY CAMPAIGN OF CANDIDATES OF THE AAM AADMI PARTY (AAP) IN THE TOTAL EXPENDITURE INCURRED BY THE AAM AADMI PARTY ELECTION CANDIDATE FOR USING THE STAGE OF PROTEST FOR THE ELECTION CAMPAIGN.

Sir(s),

This is to bring to your notice that the leaders of the Aam Aadmi Party (AAP) are doing election campaign in the guise of protests against the Citizenship Amendment Act, 2019 (CAA) in various places throughout the territory of NCT of Delhi.

That various protest throughout the NCT of Delhi, in the form of *Dharnas* have been staged by persons acting in concert and on behalf of the AAP, for the purposes of electoral gains. In the process the whole of environment of Delhi has been poisoned by several such motivated protests seeking to benefit the AAP, by acting as its proxy.

That the leaders of AAP are openly supporting as well as encouraging such protests and the same can be clearly made out from the following facts and circumstances:

1) <https://www.news18.com/news/politics/delhi-elections-sisodia-says-i-stand-with-shaheen-bagh-kejriwal-openly-opposes-caa-is-aap-shifting-strategy-ahead-of-polls-2470477.html>

Delhi's deputy chief minister Manish Sisodia on Thursday extended support to the women protesting at Shaheen Bagh against the contentious Citizenship Amendment Act and the National Register of Citizens.

Speaking at a conclave organised by News18 network, Sisodia said he stands with the people of Shaheen Bagh, where the sit-in agitation entered its 40th day, in what could signal a major shift of stand for the Aam Aadmi Party two weeks ahead of the assembly elections in the Capital.

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Earlier in the day, Delhi chief minister and AAP president Arvind Kejriwal also described the CAA as "an issue" and said his party does not support the divisive exercise or the proposed NRC. He said the party had voted against the CAA in Parliament, and he has opposed it in every rally and interview.

A true copy of the said article is attached herewith and annexed as ANNEXURE - 1.

2) <https://www.indiatoday.in/india/story/delhi-waqf-board-announces-rs-5-lakh-each-to-kin-of-those-dead-in-anti-caa-clashes-1630408-2019-12-21>

The Delhi Waqf Board on Saturday announced that it will give financial assistance of Rs 5 lakh each to the families of those killed during violent protests against the Citizenship Amendment Act.

In a controversial move, the chairman of the Delhi Waqf Board Amanatullah Khan today announced Rs 5 lakh grant from the board for the families of people who allegedly have died in clashes with police.

In a Facebook post, Amanatullah Khan claimed that several people were killed in Uttar Pradesh and Karnataka's Mangalore during protests against the CAA and NRC, due to "police bullets".

Amanatullah Khan, who is also an AAP MLA from the Okhla assembly constituency, said, "The decision has been taken that DWB will grant Rs 5 lakh to the victims of police action."

The move raised eyebrows as the AAP MLA said the grant would be provided to kin of the victims who have died in the BJP-ruled states.

A true copy of the said article is attached herewith and annexed as ANNEXURE - 2.

That it is pertinent to mention here that Sh. Arvind Kejriwal, Sh. Manish Sisodia, Sh. Amanatullah Khan and many other leaders of AAP have been openly supporting the protest because they are doing the election campaign under the garb of aforesaid rallies. Amanatullah Khan gave a controversial speech that led to riot-like situation in the Okhla area. He incited people after which violence erupted in Shaheen Bagh area and a CNG bus was set on fire and vehicles were damaged. Despite being a public servant and a leader of AAP, Amanatullah Khan induced the youngsters by offering them jobs and lakhs of rupees. He even asked these youngsters to delude people and spread hatred in the society. This caused panic among a particular community over the Citizenship Amendment Act. Similarly, Abdul Rehman has played an active role in inciting violence in Seelampur -Mustafabad area during the

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14, पण्डित पंत मार्ग, नई दिल्ली, 110001, दूरभाष / फ़ैक्स : 23712323, 23712744, 23712509

14, Pt. Pant Marg, New Delhi- 110001, Telefax : 23712744, 23712323, 23712509

ई-मेल : bjpdelhioffice@gmail.com, वेब : www.bjpdelhi.org

ई-मेल : bjpdelhioffice@gmail.com, वेब : www.bjpdelhi.org



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anti-CAA protest. Sh. Sanjay Singh, MP and Leader of AAP facilitated the Shaheen Bagh protest by shying away from their responsibility and made a statement that making way for vehicles in Shaheen Bagh is not the job of his government. Most of the rallies, which are being organized by the general public against the CAA have become their election rallies.

A CD containing the speech of Amanatullah Khan is attached herewith and annexed as ANNEXURE-3.

That the fact that AAP, being a political party has put up candidates in all Assembly Constituencies of Delhi and any attempt to indulge in proxy campaign for political party has to be seen in that light and any expenditure on such campaign accounted accordingly to the account of candidate for whose benefit the proxy campaign was done.

That it is to be clearly borne in mind that the benefits accrue to a political party not in a vacuum but in a set of specified conditions as per law.

That the para 3.8 of the Model Code of Conduct provides for guidelines in relation to election related campaign undertaken by persons other than political parties and candidates.

"3.8 Whether Election Related Campaign Activities Undertaken By Persons Other Than Political Parties and Candidates Are Covered Under Model Code

xxx

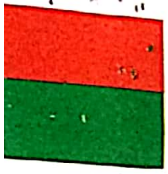
3.8.2 The Election Commission has laid down the following guidelines to be observed in the matter of such campaigns by organizations and persons other than political parties/candidates, during the period when Model Code is in operation. (Annexure-III):-

(i) Nobody should invoke, in any manner, religion or religious grounds in any manner, or any activities likely to create disharmony among different classes or groups of people, in his campaign. Such activities/ statements are prohibited being offences under various provisions of the law, like, Section 125 of the Representation of the People Act, 1951, Sections 153A, 153B, 171C, 295A and 505(2) of the Indian Penal Code and Religious Institutions (Prevention of Misuse) Act, 1988.

(ii) Nobody should indulge in any activities or make any statements that would amount to attack on personal life of any person or statements that may be malicious or offending decency and morality.

(iii) When persons and organizations seek permission to hold public programmes, they should be asked to give a declaration/undertaking to abide by the above guidelines.

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(iv) The public programmes of such persons and organizations should be closely monitored through videography. If anyone indulges in violation of the above guidelines, the state and district authorities concerned with the maintenance of proper law and order should take appropriate remedial and penal actions expeditiously in all such cases. Further, the District Administration shall ensure that such persons who violated the undertaking are not granted permission to hold any further programmes during the period of that election.

(v) If the programmes involve incurring expense and amounts to directly promoting the electoral prospects of any particular candidate or candidates, prior special authority from the candidate concerned for incurring the expense shall be obtained, in writing, as required under Section 171 H of the Indian Penal Code, and such authorization should be submitted to the District Election Officer within 48 hours. *Any violation should result in action for prosecuting the person concerned.*

That further para 16.2 of Compendium of Election Expenditure Monitoring at page 52 enumerate the role of political parties as follows:

"The political parties are required to file the statement of their election expenses with the ECI within 75 days of Assembly election or 90 days of elections to Lok Sabha the statement of election expense should include all lump sum amounts given to the individual candidates, the expense on travel of Star Campaigners and other party functionaries, details of expenses on banners, posters, dais, cutouts arches and hoardings, advertisement in Press and Electronic media etc., both for general party propaganda and for individual candidates."

Further in Annexure 16 at page 115 of Compendium of Election Expenditure Monitoring titled 'Details of Expenditure on Public Meetings/ Rallies etc.' specified the following requirement *"To be given by the candidate/ his election agent at the time for applying for permission to hold the Public Meeting/ Rally etc."*

That it is amply clear from the public statements of AAP leaders that they are openly supporting the protests and this is only with the end purpose of campaigning so as to improve the prospects of candidate belonging to AAP.

That such skullduggery by AAP violating the Model Code of Conduct, provisions of rules relating to election expenditure and all other electoral laws should be called out. Such unscrupulous acts by AAP and its leaders are distorting the level playing field in elections which is *sine qua non* for free and fair elections in a democracy. That the candidate of AAP in addition to the limit of Rs. 28 lakh on election expenditure are benefitting by the expenses done on such public protests under the guise of opposing CAA, whereas all the acts at such sponsored public protests is to improve the electoral prospects of AAP candidates and harm the electoral prospects of candidates put up by BJP.



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That in light of the aforesaid facts and circumstances, we hereby demand the following:

- i) That the expenditure incurred on Shaheen Bagh and other such protests against the CAA, 2019 must be added to the expenditure accounts of the respective Aam Aadmi Party candidates since these are turning out to be proxy election campaigns in the guise of protests;
- ii) Appoint an Independent Election Expenditure Observer to enquire and verify the facts on grounds so that appropriate action can be taken against the culprits;
- iii) Appoint an Independent Observer to keep an eye on the rapid pace at which these protests are spreading throughout NCT of Delhi as a result of irresponsible remarks by AAP leaders at these platforms;
- iv) Call for the expenditure records of AAP to reveal the real intention behind these protests and issue a show cause notice to AAP seeking their explanation as to why stringent action should not be taken against their leaders and candidates;

The letters of endorsement by the Hon'ble Members of Parliament of Delhi are attached herewith and annexed as ANNEXURE-4.

Regards,

(Dr. Harsh Vardhan)
Union Minister

(Mukhtar Abbas Naqvi)
Union Minister

(Bhupender Yadav)
National General Secretary

(Meenakshi Lekhi)
Member of Parliament (LS)

(Sanjay Mayukh)
National Spokesperson

(Neeraj)
Member, ECC

ANNEXURE(s):

- 1) News Article dated 23rd Jan 2020 from News 18 website
- 2) News Article dated 21st Dec 2020 from India Today
- 3) A CD containing the speech of Amanatullah Khan
- 4) Endorsement Letters of the Hon'ble Members of Parliament of Delhi