



4<sup>th</sup> March 2021

To,

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

Sub: - Representation regarding removal of Administrators in various Municipalities in West Bengal.

Sir,

The 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendments, in addition to several provisions for taking democracy closer to grassroots, also accorded constitutional status to local bodies; rural and urban. In the constitutional scheme, there exists no provision in article 243 of the Constitution of India to supersede elected municipal bodies.

Article 243U (1) and 243U (3.a) clearly provides that elections must be held well before the expiry of the 5 year term of the elected body.

The constitution of India does not provide for continued supersession of Municipal bodies and hence makes it mandatory for such elections to be conducted. It is also relevant to point out that in terms of section 14(2) of the West Bengal Municipal Act 1993, it is incumbent upon the State Election Commission to conduct elections of local bodies before the expiry of tenure of five years.

In several order issued by the TMC led West Bengal State Government, appointed the very elected representatives who had completed their statutory term of 5 years as members of the Board of Administrators, in blatant violation of constitutional and legal provisions. A few sample order of appointment of Board of Administrators in case of Kolkata Municipal Corporation, Bhatpara Municipal Corporation, is enclosed for your perusal



But, in case elections could not be conducted in view of certain circumstances, as per section 14(4) of the Act, the Board of Municipality shall stand dissolved. In such eventuality, section 431 of the Act, the powers vest with the State Government, which is exercised through designated Administrators, who as per the canons of constitutional and administrative law should be the non-partisan serving officials of the government.

There are 135 Municipal bodies in the State of West Bengal, out of which 125 have completed their term of five years as far back as April-May 2020. Apprehending failure in the Municipal elections on loss of public support which would have had ramifications in Legislative Assembly elections as well, the Trinamool Congress influenced the State Election Commission and postponed Municipal Elections. Thereafter, TMC led Government of West Bengal in utter disregard to the mandate of the Act and the Constitution of India and by colorable exercise of power, appointed ex-Mayors and elected representatives belonging to TMC and their party workers as administrators in most of the municipalities.

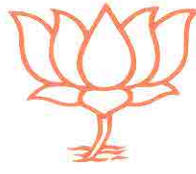
It is a settled constitutional principle that what cannot be done directly can also not be done indirectly. Since the tenure of former elected representatives has expired, they cannot be conferred with powers to manage affairs of the municipality under any pretense.

It may also please be noted that there are around 2 crores voters residing within the municipal limits that are currently under the illegal control of TMC workers. Such an arrangement is in clear denial of Commission's avowed objective of free & fair elections.

The schedule of election to the Legislative Assembly has been announced and Model Code of Conduct is in force. In order to ensure free, fair and transparent elections and to provide equal level playing field, it was incumbent upon the Chief Electoral Officer to remove administrators illegal appointed by the State Govt. These administrators being political functionaries of ruling party in West Bengal are likely to influence elections at local level in favor of their party.

We had also preferred a complaint to the CEO, West Bengal on 2<sup>nd</sup> March highlighting similar issues. The copy of the complaint dt. 02.03.2021 and the list of municipalities along with their administrators are annexed herewith.

The Hon'ble Supreme Court of India in its order in *Mohd. Karim Khan and others verses Shyam Sunder Shrivastava and others 1987 (Supp) SCC 244* in para 3 directed that the



State Government cannot appoint any political persons to such posts in an arbitrary manner. It was held that:

*“We fully endorse the observation of the High Court that if the government was of the opinion that a committee of public men should be appointed to run the municipal administration, it could have taken as members public men with no political affiliations, or given representation to all the political parties. It must accordingly be held that the action of the State Government in issuing the impugned notifications under Section 328 (6)(b) of the Act constitutes flagrant abuse of power for ulterior purposes”*

The commission is requested, in exercise of powers vested in it under Article 324 of the Constitution of India, to eject the political appointees from the various boards of administrators appointed by the State Government of West Bengal and take other necessary steps for ensuring free, fair and transparent elections.

Thanking you,

Yours Sincerely,

  
Dharmendra Pradhan

  
Bhupender Yadav

  
Kailash Vijayvargiya

  
Anuraag Roy

  
Om Pathak

  
Shishir Bajoria

  
Neeraj

  
(SANJAY MAYUKH)

2 March 2021

CEO West Bengal  
Election Commission of India  
21, Netaji Subhas Road  
Kolkata 700001

Sub: Municipalities and Corporations being run by political appointees as Administrators

Dear Sir,

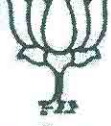
This is to bring to your notice that boards of 118 Municipalities and 7 Corporations whose term ended are being run by erstwhile Chairman / Mayor re-designated as administrators who are political people and not Government servant.

As an example Shri Firad Hakim who was the Mayor of Kolkata Municipal Corporation has been appointed Chairman Board of Administrator along with 13 Administrators (List enclosed) all of who were elected members till their term ended. All of them belong to the ruling AITC party.

On similar lines all the 118 Municipalities (list attached) and 7 Corporations whose elected term have ended are being run by so-called administrators who were elected representatives during the term of their respective office.

In clear violation of the spirit of the provision of Sec 14 (4) of the West Bengal Municipal Act (1993) the State Government designated the erstwhile elected representatives as Administrators / Board of Administrators, who are neither elected representatives nor Government servants.

A  
SM  
SD.



भारतीय जनता पार्टी, प० बं०

ভারতীয় জনতা পাৰ্টি

পশ্চিমবঙ্গ


Bharatiya Janata Party, W.B.

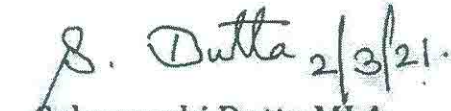
(033) 2241-0281  
Fax : (033) 2241-7460  
E-mail : paschim.banga@bjp.org  
wbbjpo@office@gmail.com

Accordingly the Bharatiya Janata Party requests the Commission, in the interest of free and fair elections to the State Assembly to use its authority and remove such Administrators / Board of Administrator.

Regards

  
Mukul Roy  
National Vice President

  
Swapan Dasgupta  
MP RS

  
Sabyasachi Dutta MLA  
State Secretary

  
Shishir Bajoria  
Election Com Team Convener

encl. list of KMC Administrator  
list of 118 Municipalities

cc Chief Election Commissioner and Election Commissioners  
Election Commission of India



Government of West Bengal  
Department of Urban Development & Municipal Affairs  
(Municipal Affairs Branch)  
Nagarayan, Block-DF-8, Sector-I  
Salt Lake City  
Kolkata - 700 064

NOTIFICATION

No. 334/MA/O/C-4/1A-1/2020

Dated, Kolkata, the 6<sup>th</sup> day of May 2020

WHEREAS in terms of Article 243-U read with the provisions contained in sub-section (1) of section 81 of Kolkata Municipal Corporation Act, 1980 (West Ben. Act LIX of 1980) (hereinafter referred as the "said Act"), a Councillor shall hold office for a term of 5 (five) years from the date appointed for the first meeting of the Corporation under section 95 of the said Act and no longer.

AND WHEREAS the first meeting of the Kolkata Municipal Corporation (hereinafter referred to as the "said Corporation"), after the last general election to the said Corporation was held on 8th May 2015, and, the term of 5 (five) years of the office of Councillors of said Corporation is going to expire on 7th May 2020.

AND WHEREAS before the expiry of the 5 (five) year term of office of the Councillors, elections were to be held under the superintendence, direction and control of the West Bengal State Election Commission (hereinafter referred to as "the Commission"), in accordance with the provisions of the West Bengal Municipal Elections Act, 1994 read with the West Bengal State Election Commission Act, 1994.

AND WHEREAS in view of the pandemic prevailing in the State and rest of India, the measures taken for its containment and spread of the disease including the measures contained in the guidelines issued by the Government of India as aforesaid as also by this Government from time to time, and considering that the Commission has primacy in the matter of conduct of elections, the State Government sought for an opinion from the

Commission as to whether, during this period when comprehensive restriction guidelines are in operation in West Bengal and it is difficult to estimate the period required for restoration of normalcy in public life, it is possible for the Commission to hold elections to the said Corporation, or whether it is expedient to continue to keep the elections to the said Corporation on hold for the present.

AND WHEREAS it appears from a communication dated 22<sup>nd</sup> April 2020, that the Commission is of the opinion that, considering the situation of the global pandemic COVID-19 prevailing in the State and rest of India, the measures taken for its containment and the fact that election process involves aggregation of large number of public servants, political party representatives and members of public during different phases of the election process, like nomination, campaign, training, poll, counting of votes and on careful examination of pronouncement of several judgments of the High Court and Supreme Court of India and in exercise of the powers conferred under Article 243ZA of the Constitution of India read with the West Bengal State Election Commission Act, 1994, the Commission agrees with the view of the Government that the situation is not conducive to hold elections at present and in such circumstances, the Commission held its view that it would not be prudent at present to move forward with the process of such election.

AND WHEREAS the Kolkata Municipal Corporation Act, 1980 vests in the Kolkata Municipal Corporation the responsibility to restrain infections and to take measures for prevention of dangerous diseases or any epidemic disease as outlined in Chapter XXIX, apart from providing other essential municipal and other public utility services within the areas under its jurisdiction.

AND WHEREAS in exercise of the powers conferred under the Disaster Management Act, 2005 the Government of India has issued directions and guidelines regarding continuation of essential services during the lockdown period and also directions regarding uninterrupted health services, for prevention and containment of COVID-19.

AND WHEREAS the State Government has also issued several orders under the Epidemic Diseases Act, 1897 and Disaster Management Act, 2005 from time to time for the purpose of preventing transmission of the disease.

AND WHEREAS the said Corporation has been discharging duties and obligations under Chapter XXIX of the Act and actively taking measures for preventing and/or transmission of COVID-19 in Kolkata.

AND WHEREAS the State Government is of the opinion that, in view of the pandemic of COVID-19 and various restrictions imposed within the territorial limits of the said Corporation, exceptional circumstances have arisen requiring postponement of the elections to the said Corporation and to give directions for exercise of all the powers and duties under the provisions of the Act and any rules or regulations made there under, including for effective implementation of the orders and directions issued by the Appropriate Government(s) under the Disaster Management Act, 2005 and Epidemic Diseases Act, 1897.

AND WHEREAS it is necessary and expedient in public interest, public safety, public health and law and order to provide for effective measures for continuance of the municipal administration in Kolkata in the manner contained in the said Act, not only for the containing infections but also for rendering essential services and civic services, including water supply, drainage and sewerage, solid waste, community health, environmental sanitation and public safety.

AND WHEREAS the State Government is of the opinion that since no election can be held for the time being after expiry of the term of office of the Councillors, difficulties will arise in giving effect to the provisions of the said Act during the period commencing 8th May 2020 till the first meeting of the Corporation is held after a general election.

AND WHEREAS it would be expedient in the public interest to constitute and appoint a Board of Administrators to ensure municipal administration in Kolkata in the manner contained in the said Act not only for the containing infections and taking measures to combat COVID-19, like insulating the community from transmission of the disease, but also for rendering essential services and civic services, including water supply, drainage and sewerage, solid waste, community health, environmental sanitation and public safety till the elections are conducted and the first meeting of the Corporation after a general election is held and further to facilitate seamless transition with a continuity in administration of the said services and thereby difficulties in giving effect to the provisions of the said Act will stand removed.

AND WHEREAS the constitution and appointment of a Board of Administrators is also necessitated for effective implementation of the orders and directions issued by the Appropriate Government(s) under the Disaster Management Act, 2005 and Epidemic Diseases Act, 1897.



AND WHEREAS having regard to the supervening public equity the State Government finds it absolutely necessary to invoke the power conferred under Section 634 of the said Act, which enables the State Government to issue an order for removal of difficulty, read with the executive power of the State conferred by the Constitution of India, to constitute and appoint a Board of Administrators for the said Corporation.

NOW THEREFORE in the exceptional and extraordinary circumstances existing at present, to ensure continuity of functioning of the said Corporation, for providing all emergency and normal public utility services in terms of the said Act and, for effective implementation of the orders/directions issued under the Disaster Management Act, 2005, Epidemic Diseases Act, 1897, COVID-19 Regulations and other laws from time to time, the Governor in exercise of the power conferred under Section 634 of the said Act read with the executive power of the State conferred by the Constitution of India is pleased to constitute and appoint a Board of Administrators (hereinafter referred to as the "Board") of the said Corporation with effect from 8th May 2020 till the first meeting of the Corporation is held after a general election; the Board shall have power(s) and functions as vested in the municipal authorities and the following persons shall be the members of the Board –

- 1) Sri Firhad Hakim
- 2) Sri Atin Kumar Ghosh
- 3) Sri Debabrata Majumder
- 4) Sri Debasish Kumar
- 5) Manzar Iqbal
- 6) Shamsujjaman Ansari
- 7) Sri Tarak Singh
- 8) Smt. Indrani Saha Banerjee
- 9) Sri Swapan Samadhar
- 10) Amiruddin (Bobby)
- 11) Sri Ratan Dey
- 12) Sri Ram Payre Ram
- 13) Sri Avijit Mukherjee
- 14) Sri Baiswanor Chatterjee

Sri Firhad Hakim is hereby appointed as the Chairperson of the Board. The Municipal Commissioner of the said Corporation and such other person or persons who may be appointed by the Board shall assist the Board in discharge of its functions.

By order of the Governor

Sd/-

Principal Secretary

Page 4 of 5

No. 334/1(14)/MA/O/C-4/1A-1/2020

Dated, Kolkata, the 6<sup>th</sup> day of May 2020

Copy forwarded for information and taking necessary action to:-

- 1) Sri Firhad Hakim with the request to take over charges as member and Chairperson of Board of Administrators of Kolkata Municipal Corporation w.e.f. 08.05.2020.
- 2) ..... with the request to take over charges as member of Board of Administrators of Kolkata Municipal Corporation w.e.f. 08.05.2020.

Sd/-  
Principal Secretary

No.334/2(11)/MA/O/C-4/1A-1/2020

Dated, Kolkata, the 6<sup>th</sup> day of May 2020

- 1) Additional Chief Secretary, Home & Hill Affairs Department
- 2) Principal Secretary to Hon'ble Chief Minister
- 3) Commissioner, Kolkata Municipal Corporation
- 4) Chief Executive Officer, KMDA
- 5) OSD to Chief Secretary
- 6) Director, ILGUS
- 7) Director of Local Bodies
- 8) Director, State Urban Development Agency
- 9) Secretary, Municipal Engineering Directorate
- 10) Private Secretary to Hon'ble Minister-in-Charge, Urban Development & Municipal Affairs Department
- 11) OSD to Hon'ble Mayor, Kolkata Municipal Corporation.

  
Principal Secretary

GOVERNMENT OF WEST BENGAL  
DEPARTMENT OF URBAN DEVELOPMENT AND MUNICIPAL AFFAIRS  
(MUNICIPAL AFFAIRS BRANCH)  
DF-8, SECTOR-I, SALT LAKE, KOLKATA- 700 064

NOTIFICATION

No. 378/MA/O/C-4/1M-1/2001(Pt-II)

Dated, Kolkata, the 18<sup>th</sup> May 2020

WHEREAS in terms of provisions of sub-section (2) of section 14 of the West Bengal Municipal Act, 1993 (West Ben. Act XXII of 1993) (hereinafter referred to as the said Act), the Board of Councillors, unless dissolved earlier, shall hold office for a period of five years from the date appointed for its first meeting after the general election and no longer;

AND WHEREAS the first meeting of the Board of Councillors of the Municipality (hereinafter referred to as the said Municipality) mentioned in column (I) of the Table below (hereinafter referred to as the said Table) in the district mentioned in column (II) of the said Table, after the last Municipal general election to the said Municipality, was held on the date mentioned in column (III) of the said Table;

AND WHEREAS due to sudden outbreak of pandemic COVID-19 in the month of March, 2020 and subsequent promulgation of lockdown orders throughout the entire country by the Government of India and consequential directives issued by State Government to combat this menace under the Epidemic Diseases Act, 1897 (3 of 1897) and Disaster Management Act, 2005, from time to time for the purpose of preventing transmission of the disease, it is not possible to hold the general election to the said Municipality before the expiry of the period of five years specified in sub-section (2) of section 14 of the said Act and in terms of provisions of sub-section (4) of section 14 of the said Act, the Board of Councillors of the said Municipality shall stand dissolved after expiry of its term on the respective date mentioned in column (IV) of the said Table;

NOW, THEREFORE, in exercise of the power conferred by sub-section (4) of section 14 of the West Bengal Municipal Act, 1993, the Governor is pleased hereby to appoint the persons mentioned in column (V) of the said Table as members of the Board of Administrators of the said Municipality with effect from the date mentioned in column (VII) of the said Table, till the new Board of Councillors of the said Municipality takes over charge after the election to be held or until further orders, whichever is earlier. The name of the person mentioned in column (VI) of the table shall be the Chairperson of the Board of Administrators of the said Municipality. The Board of Administrators shall exercise or perform, as the case may be, all the powers and functions vested with the municipal authorities under the said Act or under any other law for the time being in force in addition to effective implementation of the orders/directions issued under the Disaster Management Act, 2005 and the Epidemic Diseases Act, 1897 or under any other law for the time being in force, if any, for containment of the disease.

TABLE

Name of Municipality	District	Date of 1 <sup>st</sup> meeting after last election	Date of expiry of present Board of Councillors	Persons appointed as members of Board of Administrators	Chairperson of Board of Administrators	Board of Administrators to function with effect from
(I)	(II)	(III)	(IV)	(V)	(VI)	(VII)
Bhatpara Municipality	North 24 Parganas	19.05.2015	18.05.2020	Sri Arun Banerjee	Sri Arun Banerjee	19.05.2020
				Md. Maqsood Alam		
				Sri Manoj Guha		
				Sri Deba Prasad Sarkar		
				Sri Satyan Roy		
				Sri Himangshu Sarkar		
				Sri Lalan Choudhury		

By order of the Governor,

*Jt. Secy. to the Govt. of West Bengal*

No. 378/1(7) / MA/O/C-4/1M-1/2001(Pt-II)

Dated, Kolkata, the 18<sup>th</sup> May 2020

Copy forwarded for information and necessary action to \_\_\_\_\_, P.O. \_\_\_\_\_, Dist. \_\_\_\_\_.

He is requested to take over the charges of Bhatpara Municipality as Chairperson/ member of Board of Administrators w.e.f 19.05.2020.

*Joint Secretary*

No. 378/2(13) / MA/O/C-4/1M-1/2001(Pt-II)

Dated, Kolkata 18<sup>th</sup> May 2020

Copy forwarded for information and necessary action to the: -

- (1) Secretary, State Election Commission, West Bengal, 18, Sarojini Naidu Sarani, Kol - 17.
- (2) District Magistrate, North 24 Parganas, P.O. \_\_\_\_\_, Dist. \_\_\_\_\_.
- (3) Chairman, Bhatpara Municipality, P.O. \_\_\_\_\_, Dist-\_\_\_\_\_.
- (4) Director of Local Bodies, West Bengal, Poura Prashasan Bhawan, DDI, Salt Lake, Kolkata-700 064.
- (5) Director, State Urban Development Agency
- (6) Secretary, Municipal Engineering Directorate
- (7) Chief Engineer, Municipal Engineering Directorate
- (8) Principal A.G. (A & E), West Bengal
- (9) Examiner of Local Accounts, West Bengal
- (10) PS to Hon'ble Minister-in-Charge, UD & MA Department.
- (11) Executive Officer, Bhatpara Municipality
- (12) Sr. PA to Pr. Secretary, UD & MA Department.
- (13) Guard file of Statutory Wing.

*18/5/2020*  
*Joint Secretary*