

Statement issued by Shri Ram Niwas Goel, Hon'ble Speaker
Legislative Assembly, NCT of Delhi
09 November, 2016

At the outset, I must place on record my admiration for the 21 fellow Members of the Legislative Assembly of NCT of Delhi who have been bravely fighting the adverse, motivated and demoralising campaign unleashed against them on the basis of frivolous charges that are being pursued before Election Commission of India for the last few months. I have been watching with pain and agony the goings on in the proceedings before the ECI against these 21 MLAs. Being a holder of a Constitutional Office, I have been maintaining restraint, knowing fully well that the treatment being meted out to these 21 MLAs is totally unjust and unfair. I am confident that sooner than later it will be known to all that the charges against the 21 MLAs do not stand judicial scrutiny. They deserve best wishes of every well meaning citizen who values democracy in the country.

Now that I am also at the receiving end of one such malicious campaign, which unfortunately has gained traction primarily due to the indiscretion of high Constitutional Offices, I am compelled to break my silence. My speaking out now is solely aimed at protecting the dignity of the office of Elected Representative, the Speaker, and of the other Constitutional Offices which are increasingly becoming - willingly or unwillingly - the tools in the hands of those who intend to arm-twist the democratic institutions through means that are totally anti-democratic.

I have received a communication dated 02 November, 2016 from the office of the Chief Electoral Officer, Delhi forwarding a notice from the Election Commission of India in reference to case No.3 of 2016 wherein I was made a Respondent (at Sl.No.10). From the news reports that appeared in print and electronic media on 02 and 03 November, 2016, it is obvious that the said communication reached the media much in advance. It is not difficult to guess who facilitated the advance publicity.

The notice,*inter-alia*, reads as follows:-

“Whereas, a question has been raised before the President of India in terms of Section 15 (3) of the Govt. of NCT of Delhi Act, 1991, in the petition dated 21.6.2016, filed by the petitioner above named (copy enclosed), alleging that you have become subject to the disqualification mentioned therein; and

...

Whereas, Shri Vibhor Anand was asked to submit a duly sworn affidavit in support of allegations made in the aforesaid petition; and

Whereas, Shri Vibhor Anand, Advocate vide his letter dated 27.10.2016 has furnished affidavit in support of his petition dated 21.06.2016 (copy enclosed);

Now, therefore, you are hereby called upon to file a written statement, with six spare copies, on or before 11.11.2016 supported by proper affidavit(s) in reply to the allegations made in the aforesaid petition, if any, on which you may like to rely in support of your contentions.”

The documents enclosed with the notice include a copy of what was claimed to be a mere “complaint/representation” by Shri Vibhor Anand which was generously accorded the legally elevated status of a petition, without even a preliminary inquiry. Welcoming the reference from the highest Constitutional Office of the country, Election Commission of India chose to repeat the same blunder which it had committed in the matter of 21 Members of the Legislative Assembly of NCT of Delhi. The Commission so very quickly forgot that, upon being challenged by the MLAs barely two months ago, it was forced to discard the complaint that it got overzealously padded up by the complainant. Yet, it once again decided to give the complainant in the instant matter an opportunity to pad-up his representation so that it could be elevated to the status of a petition. May I ask as to what is the compulsion under which ECI is resorting to such illegality repeatedly? Is Election Commission under any obligation or pressure to proceed against certain MLAs irrespective of all the legal infirmities in the so-called petitions? As a quasi-judicial body, is it not duty bound to examine the legal validity of letters/complaints/representations as referred to it and decide on the merits accordingly, rather than begging and pleading with the publicity-hungry sponsored authors of frivolous representations to revise them with the hope that they can be treated as valid petitions? Is it under directions to harass the hapless Elected Representatives? If yes, is it under directions to perpetuate such harassment across the Country irrespective of party affiliations? I am saddened to observe that this harassment is confined to Members of the House that I am presiding over. And the party affiliation of the victims is too very well known.

Let me elaborate on the shocking specifics of matter concerning me:

The affidavit that the ECI had graciously procured from the complainant claims that “... the Deponent have filed a petition seeking disqualification of 27 MLAs of Delhi Legislative Assembly, for being member of Legislative Assembly Disqualification of 27 AAM AADMI PARTY MLA’s for holding the ‘Office of Profit’ under the post of Chairpersons of the RogiKalyanSamities (RKSs) of different Govt. Hospitals in Delhi without any sanctity of law.”

The complainant also claims that MLAs should not have been appointed as Chairpersons as it amounts to conferring them with some executive powers thereby weakening the ability of Legislature to hold the executive accountable. In the same affidavit, citing some guidelines purportedly issued by the Government of India, he goes on to argue that it is, among others, local MP who is entitled to become Chairperson of RKS and not the MLA. It is clear that he has no problems with Parliament’s powers vis-à-vis executive being compromised. Even after he was

generously permitted by the ECI to augment his frivolous representation, all that the complainant could produce was a bunch of papers in the name of affidavit which is full of contradictions and falsehood.

Assuming that what was filed was a legally valid petition, as a first step, one would expect the charges to be verified by ECI against the The Delhi Members of Legislative Assembly of Delhi (Removal of Disqualification) Act, 1997. It is clear from the said Act that the positions of Chairperson and Member of RKSs are secured from disqualification as early as in 2006, that too with retrospective effect.

Most unfortunately, the ECI not only decided to entertain such a trash as a petition but also has decided to initiate the proceedings on the basis of rubbish which in normal circumstances would have been consigned to the dustbin.

In his original representation as was referred to the ECI by Hon'ble President and also in the affidavit obtained from him subsequently by the ECI (it could not be ascertained if it was done with or without the knowledge of Hon'ble President) the complainant listed the names of 27 MLAs belonging to AamAdmi Party (AAP) who according to him are holding the 'office of profit' by way of occupying the office of Chairperson of RKS. My name figures at serial number 10 in the lists given in original representation as well as in the affidavit magnanimously procured by ECI. **The fact is that I have never been and nor am I at present either a Chairperson or a Member of any of the RKSs.** Yet, I am served with the notice and the same was maliciously publicised giving the impression that I am wrongfully holding an office to which I am not entitled. The expression 'Office of Profit' which is hardly understood even by majority of media persons leaves the impression among common people that some body is making undue profits by occupying a particular office. When you use its Hindi equivalent "laabhka pad" it hits the elected representative harder.

Today, I am compelled to ask a few questions to ECI?

Are you truly independent? Your actions suggest you are not. Unfortunately.

Who is pressuring you to pursue us with these malicious notices when no case exists at all?

In the instant case, the office referred to above is clearly exempt under law. Moreover, I am not holding the office of Chairperson as was alleged in the affidavit. The complaint is false. The sworn affidavit is bundle of lies. Yet, you went ahead and decided to serve the notice. What is the reason for this selective malaise?

First, you serve the notice. Then you gather thousands of pages worth information from various sources. When asked to share the hard copies of the same for individual

defence, you refuse. Principles of natural justice appear so alien in the proceedings before ECI. Think you can really justify illegalities perpetrated by you as a quasi-judicial body in the Courts of Law? Do you seriously believe in the assurances of those pressuring you to walk the illegal path that they are capable of coming to your rescue when the matters reach higher judiciary?

Now that I have brought these glaring infirmities in the proceedings initiated, will the ECI rescind the notice served on me and initiate action against the complainant who approached the Hon'ble President of India with a frivolous complaint?

It is a sad commentary on our democracy that the democratic institutions and constitutional offices which were once highly respected by all and feared by miscreants are allowing themselves to be used by anti-democratic, narrow minded, sectarian elements for their short term gains which are at variance with larger national interest. I hope the holders of high offices realise the grave danger such tendencies pose to our country, our democracy and our future.

Unfortunately, the media which is increasingly becoming vulnerable to hand-out and leaks based malicious propaganda, is hardly making any attempt to understand the finer aspects of subject under examination and is easily falling prey to anti-democratic machinations. Media has simply stopped asking questions. It stopped reading. It stopped examining. All that it needs at the end of the day is some information – verifiable or otherwise. The result is simple reproduction of untruths. The result is a person like me who is holding a constitutional office is pilloried as a person holding an 'office of profit'. Media can not escape the blame. I am charging the media with failing to ask questions and examine the available material for truth. The recent developments clearly suggest that your turn to be at the receiving end is not too far off. I wish you all the best.

Thank you.