



2026:DHC:5082-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment Reserved on: 01.06.2026

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Judgment Delivered on: 06.06.2026

+ **W.P.(C) 7531/2026 & CM APPL. 38415/2026**

RAMAN GANDHI

....Petitioner

Versus

BAR COUNCIL OF DELHI & ORS.

....Respondents

AND

+ **W.P.(C) 7532/2026, CM APPL. 38198/2026, CM APPL. 38381/2026 & CM APPL. 38416/2026**

BIRENDER SANGWAN

....Petitioner

Versus

HIGH-POWERED ELECTION SUPERVISORY & COMMITTEE AND ORS.

....Respondents

AND

+ **W.P.(C) 7533/2026, CM APPL. 38417/2026 & CM APPL. 38418/2026**

SHAILY TARAR AND ORS

....Petitioner

Versus

BAR COUNCIL OF DELHI AND ORS.

....Respondents

AND

+ **W.P.(C) 7972/2026 & CM APPL. 38276/2026**

RUDRA VIKRAM SINGH

....Petitioner

Versus

BAR COUNCIL OF DELHI AND ORS.

....Respondents

COUNSEL FOR THE PETITIONERS

Ms. Sangita Malhotra, Adv. with Petitioner(s) in person in W.P.(C) No.7531/2026, 7532/2026 & 7533/2026.

Mr. Sunil Dalal, Ms. Priya Hingorani, Sr. Advs. along with Mr. B. S. Jakhar, Mr. Rajesh Mishra, Mr. Ramit Sehrawat, Ms. Garima Bhardwaj, Mr. Vikram Singh Jakhar, Mr. Murari Tiwari, Mr. Rahul



Sharma, Mr. Rajpal and Mr. Neeraj Jakhar, Advs. in W.P.(C) 7532/2026.

Ms. Shobha Gupta, Mr. Gaurav Kumar Meena, Ms. Simranjeet Kaur, Ms. Akshita Mishra and Ms. Manasvi Negi, Advs. along with Petitioner in person in W.P.(C) 7532/2026.

Ms. Anushkaa Arora, Ms. Aarti Tyagi, Mr. Manish Jain and Ms. Anju Tanwar, Ms. Shaheen Mansoori and Mr. Kunal Israney, Advs. in W.P.(C) No.7532/2026.

Ms. Aarti Tyagi, Mr. Shaheen Mansoori, Mr. Udit, Ms. Shalu Sharma, Ms. Anju Dixit, Mr. Prakash Dwevdi, Mr. Dev Raj Sharma, Ms. Sunita Bhaskar, Dr. Lalit Bhasin and Ms. Nina Gupta, all candidates in person in W.P.(C) 7533/2026.

P-2 & P-4 in-person in W.P.(C) 7533/2026.

Ms. Kiran Bala, Adv. in W.P.(C) No.7532/2026, 7533/2026 & 7972/2026.

Mr. Udit Kumar, Adv. in W.P.(C) No. 7533/2026.

Mr. Vaibhav Jain, Mr. Sahin, Mr. Rajiv Khosla, Advs. in W.P.(C) 7533/2026.

Ms. Mannu Singh, Adv. in person in W.P.(C) 7533/2026.

Mr. Sunil Dwivedi, Adv. / Petitioner No. 86 in W.P.(C) 7533/2026.

Mr. Rudra Vikram Singh, Mr. Tarshith Bhardwaj, Mr. Ashirvad Kumar Yadav, Mr. Avdhesh Kumar Varshney and Ms. Rashmi, Advs. in W.P.(C) No.7972/2026.

COUNSEL FOR THE RESPONDENTS

Mr. T. Singhdev and Mr. Tanishq Srivastava, Ms. Yamini Singh, Ms. Anum Hussain, Mr. Abhijit Chakravarty, Mr. Bhanu Gulati, Mr. Sourabh Kumar, Advs. for R-1/BCD and R-2/RO in W.P.(C) 7531/2026.

Mr. Preet Pal Singh, Ms. Tanupreet Kaur, Ms. Medha Sharma, Ms. Pooja, Ms. Simran Kumari and Mr. Gaurav, Advs. for R-3/BCI in W.P.(C) 7531/2026.

Dr. Lalit Bhasin, Adv. for Nina Gupta (Ballot No. 5) with candidate in



person in W.P.(C) No.7531/2026.

Mr. Manish Jain, Adv. for Impleader in W.P.(C) 7531/2026.

Mr. T. Singhdev and Mr. Tanishq Srivastava, Ms. Yamini Singh, Ms. Anum Hussain, Mr. Abhijit Chakravarty, Mr. Bhanu Gulati, Mr. Sourabh Kumar, Advs. for R-2/BCD and R-3/RO in W.P.(C) 7532/2026.

Mr. Sunil Dalal, Sr. Adv., Ms. Priya Hingorani, Sr. Adv. Mr. Kirtiman Singh, Sr. Adv., Mr. Gautam Narayan, Sr. Adv. with Mr. B. S. Jakhar, Mr. Rajesh Mishra, Mr. Ramit Sehrawat, Ms. Garima Bhardwaj, Mr. Vikram Singh Jakhar, Mr. Neeraj Jakhar, Ms. Bhawna Jakhar, Mr. Viraj Rathee, Mr. Shubham Dabas, Mr. Murari Tiwari, Mr. Rahul Sharma, Mr. Mohit Yadav, Mr. Mahavir Sharma, Ms. Chetna Sharma, Ms. Purna Singh, Ms. Aastha Advs. for the Applicants in W.P.(C) 7532/2026.

Dr. Lalit Bhasin, Adv. for Nina Gupta (Ballot No. 5) with candidate in person in W.P.(C) 7532/2026.

Mr. Preet Pal Singh, Ms. Tanupreet Kaur, Ms. Medha Sharma, Ms. Pooja, Ms. Simran Kumari and Mr. Gaurav, Advs. for BCI in W.P.(C) 7532/2026.

Mr. T. Singhdev and Mr. Tanishq Srivastava, Ms. Yamini Singh, Ms. Anum Hussain, Mr. Abhijit Chakravarty, Mr. Bhanu Gulati, Mr. Sourabh Kumar, Advs. for R-1/BCD, R-2/RO and R-3/EC in W.P.(C) 7533/2026.

Mr. Preet Pal Singh, Ms. Tanupreet Kaur, Ms. Medha Sharma, Ms. Pooja, Ms. Simran Kumari and Mr. Gaurav, Advs. for R-4/BCI in W.P.(C) 7533/2026.

Dr. Lalit Bhasin, Adv. for Nina Gupta (Ballot No. 5) with candidate in person in W.P.(C) 7533/2026.

Mr. Manish Jain, Advocate for Impleader in W.P.(C) 7533/2026.

Mr. T. Singhdev and Mr. Tanishq Srivastava, Ms. Yamini Singh, Ms. Anum Hussain, Mr. Abhijit Chakravarty, Mr. Bhanu Gulati, Mr. Sourabh Kumar, Advs. for R-1 in W.P.(C) 7972/2026.

Mr. Manish Jain, Advocate for Impleader in W.P.(C) 7972/2026.



CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

INTRODUCTION

1. The present batch of Petitions has been received on transfer from the Hon'ble Supreme Court of India, whereby the Special Leave Petitions being SLP(C) Nos. 17499–17501 of 2026, titled *Birender Sangwan v. High Powered Election Supervisory Committee & Ors.* (“SLPs”) filed before the Hon'ble Supreme Court have been transferred to this Court and re-numbered as W.P.(C) 7531/2026, W.P.(C) 7532/2026 and W.P.(C) 7533/2026 (“Writ Petitions”). W.P.(C) No. 7972/2026, *Rudra Vikram Singh v. Bar Council of Delhi & Ors.*, was not part of the SLPs filed before the Hon'ble Supreme Court and was directly filed before the learned Single Judge of this Court, who *vide* order dated 29.05.2026 transferred the said petition to this Bench in view of constitution of this Bench to hear the Writ Petitions.

2. All these petitions arise out of the election of Bar Council of Delhi (“BCD”) held in the precincts of this Court on 21.02.2026, 22.02.2026 and 23.02.2026, in which 221 candidates contested for 23 posts under the preferential voting system (“BCD Election”). First-preference counting was undertaken from 07.03.2026 to 09.04.2026. Elimination-based counting of subsequent preferences began on 13.04.2026, when 45 candidates were eliminated, followed by 28 more on 14.04.2026.

3. During the 80th elimination, a member of the counting staff was found to have altered / manipulated voter preferences on certain ballot papers. Accordingly, counting was halted, FIR No. 45/2026 (“FIR”) was registered



at P.S. Tilak Marg, and the accused was identified and produced before the police on 15.04.2026.

4. The Petitioners contend that the BCD Election process stands vitiated by the admitted ballot-tampering incident of 15.04.2026, along with other alleged irregularities in the conduct of the election, counting, and non-compliance with the Model Code of Conduct (“MCC”).

5. The Petitioners in the Writ Petitions then approached the High-Powered Election Supervisory Committee (“HPESC”), constituted by the Hon’ble Supreme Court by order dated 18.11.2025 in *M. Varadhan v. Union of India & Ors.*, W.P.(C) No. 1319/2023, seeking, *inter alia*, a re-poll of the BCD Election on account of the admitted ballot-tampering incident. By order dated 06.05.2026 (“**Impugned Order**”), the HPESC rejected the prayer and directed that counting to recommence from the stage immediately after completion of first-preference counting on 09.04.2026, with the RO to make suitable arrangements and resume counting from the elimination stage.

6. Aggrieved thereby, the Petitioners approached the Hon’ble Supreme Court by way of SLPs and *vide* Order dated 18.05.2026, the Hon’ble Supreme Court transferred the SLPs to this Court and directed that further counting of ballot papers shall remain in abeyance until final adjudication of the matter by this Court.

FACTUAL BACKGROUND & PROCEDURAL HISTORY:

7. Respondent No. 1, BCD, is a statutory body constituted under Section 3 of the Advocates Act, 1961 (“**Advocates Act**”). Under Section 6 of the Advocates Act, one of its functions is to hold elections to its members,



whose term is five years from publication of the election result. The previous election for reconstitution of the BCD was held in 2018.

8. Section 8A of the Advocates Act provides that if a State Bar Council fails to hold elections before expiry of its term or extended term, the Bar Council of India (“BCI”) must constitute a Special Committee from the following day.

9. Accordingly, by letter dated 10.10.2025, the BCI constituted a Special Committee for the BCD under Section 8A of the Advocates Act, which presently exercises the powers and functions of the BCD.

10. By Advisory dated 03.11.2025, the Special Committee directed prospective candidates to remove hoardings, ballots, posters and similar material, and cautioned them against conduct bringing disrepute to the legal profession.

11. In *M. Varadhan* (*supra*), by order dated 18.11.2025, the Hon’ble Supreme Court directed that elections to the State Bar Councils of Andhra Pradesh, Delhi and Tripura, including counting and declaration of results, be concluded by 28.02.2026. The relevant extract is reproduced below:

“12. With a view to facilitate the effective conduction of these elections. we deem it appropriate that elections to different State Bar Councils ought to take place in a phased manner. To that end. we issue the following directions:

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II. In the second phase, the elections of the State Bar Councils of Andhra Pradesh, Delhi, and Tripura shall be conducted. The entire election programme, including counting of votes and subsequent declaration of results shall, in any case. be concluded on or before 28.02.2026. The elections in Andhra Pradesh and Tripura will be conducted under the direct supervision of the High-Powered Election Committee-Phase II, comprising the following three members:



- (i) *Justice Virender Singh. former Chief Justice. Jharkhand High Court (Chairperson);*
- (ii) *Justice Chander Shekhar. former Judge. Delhi High Court; and*
- (iii) *Justice D.C. Chaudhary. former Judge. Himachal Pradesh High Court.*

We are informed that, so far as Delhi is concerned, a Special Committee has been constituted to conduct elections to the State Bar Council of Delhi. The three member Special Committee includes two eminent Senior Advocates one of whom is also serving as Additional Solicitor General of India. We see no reason to interfere in the composition of that Committee, and it shall perform the same function as envisaged for High Powered Election Committees in this order. At the same time, in light of the directions passed hereinabove. we impress upon the Special Committee that it may seek guidance from the High-Powered Election Supervision Committee for ensuring fair and transparent elections.

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14. In addition to the High-Powered Election Committees constituted above, we also deem it appropriate to constitute a three member High-Powered Election Supervisory Committee, on a pan India basis, which shall be headed by a former Judge of this Court and shall also comprise one former Chief Justice of a High Court and one renowned Senior Advocate, who does not contest election(s) of the Bar Councils or the Bar Associations. For the same, in this regard, we appoint the following as members of such Supervisory Committee:

- (i) *Justice Sudhanshu Dhulia. former Judge. Supreme Court of India (Chairperson);*
- (ii) *Justice Ravi Shankar Jha. former Chief Justice. Punjab & Haryana High Court; and*
- (iii) *Shri V. Girdhar, Senior Advocate.*

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19. During the course of hearing, it is seen that several lawyers have individual and varied grievances. We are afraid such individual grievances cannot be addressed in these proceedings. Liberty is, hence, granted to them to apply before the High—Powered Election Committee(s) for redressal of their individual issue(s).



20. Any person who is aggrieved by the decision of the High-Powered Election Committee shall be at liberty to approach the High-Powered Supervisory Committee. The decision taken by the Supervisory Committee shall be final. No civil court or High Court shall entertain any. petition(s) against such decision.”

12. Accordingly, in *M. Varadhan (supra)*, the Hon’ble Supreme Court constituted the HPESC on a pan-India basis and provided that if any person is aggrieved by decisions of the Special Committee / High-Powered Election Committees, he/she may approach the HPESC.

13. At its meeting on 01.12.2025, the Special Committee appointed Hon’ble Mr. Justice Talwant Singh, former Judge of this Court, as Returning Officer (“RO”) for the BCD Election, and communicated the decision by letter dated 02.12.2025.

14. On 08.12.2025, in *Yogamaya M.G. v. Union of India & Ors.*, W.P.(C) No. 581/2024, the Hon’ble Supreme Court held that 30% of the seats in the State Bar Councils shall be reserved for women.

15. On 18.12.2025, the Special Committee and the RO constituted a five-member Election Committee for the BCD Election, headed by the RO.

16. Pursuant to *M. Varadhan (supra)* and *Yogamaya (supra)*, the BCD issued Notice dated 24.12.2025 stating that the elections would be held on 20, 21 and 22 February 2026. The Notice fixed 27.12.2025 for issuance of election notification, 10.01.2026 for publication of the provisional electoral roll, and 17.01.2026 for publication of the final electoral roll, and set out the election programme as under:

“Programme of the Election:

- i) Total Number of seats : 25
ii) a) Number of seats for which election : 23
is to be held



- b) *To be Co-opted* : 02
- iii) a) *Minimum number of seats that have to be filled from amongst the advocates who have been on the State Rolls for at least 10 years as on 30.11.2025* : 12
- b) *Minimum number of seats that have to be filled from amongst the Women candidates* : 5
- iv) *Receipt of nomination papers at the office of the Bar Council at Siri Fort.* : 17th January 2026 to 24th January 2026 From 10:00 AM to 4:00 PM
- v) *Date of scrutiny of nomination papers* : 25th and 27th January 2026
- vi) *List of eligible candidates after scrutiny (to be put on the notice board of Council / Website)* : 28th January 2026
- vii) *Last date of withdrawal of the candidature* : 31st January 2026 up to 3:00 PM
- viii) *List of final candidates after withdrawal (to be put up on the notice board of Council / Website)* : 31st January 2026 at 5:00 PM
- ix) *Date & Time of Polling / Election* : 20th February 2026, 21st February 2026 and 22nd February 2026 From 09:00 AM to 5:00 PM
- x) *Place of Polling / Election* : High Court of Delhi premises, Sher Shah Road, New Delhi – 110003
- xi) *Counting of Votes* : 25th February 2026 onwards”



17. By communication dated 27.12.2025, the BCD circulated the election schedule, MCC and undertaking format for the BCD Election. At its meeting on 09.01.2026, the Special Committee considered representations in ***Umesh Kumar & Ors. v. Union of India & Ors.***, W.P.(C) 158/2026 and resolved to include in the final / supplementary electoral roll candidates provisionally enrolled with the BCD who had qualified the All India Bar Examination and submitted the verification form on or before 30.11.2025. It further resolved to include candidates permitted to take the examination prior to enrolment who had also submitted the verification form by that date, notwithstanding that their names appeared in the deferred / withheld list, provided they had qualified the examination.

18. By Notices dated 16.01.2026 and 17.01.2026, the BCD notified the Additional Returning Officers appointed by the RO. By Public Notice dated 16.01.2026, it also cautioned against surrogate campaigning and MCC violations, stating that advocates organising or facilitating such events to circumvent the MCC would face immediate disciplinary enquiry.

19. On 16.01.2026, the Election Committee appealed to members to assist in curbing unfair means, money and muscle power to ensure a level playing field and free and fair elections. On 04.02.2026, the Office of the RO wrote to the Station Commander, Air Force Station, Delhi, regarding a candidate-linked event scheduled for that day and requested that no MCC violation be permitted at the venue.

20. The Office of the RO also issued advisories warning voters and candidates against MCC violations, including off-site parties, disguised gatherings, outside interference and misuse of media, and warned of



consequences including deletion of a candidate's name from the ballot and cancellation of voting rights.

21. On 11.02.2026, the BCI issued Guidelines for uniformity in scrutiny and counting of ballot papers ("**BCI Guidelines**"), which, *inter alia*, provided as follows:

"9. It is further requested that a ballot may be treated as valid and counted where the first preference is clearly indicated against one candidate only and the marking does not create uncertainty as to the voter's intention; and a ballot may be treated as invalid where the first preference is marked against more than one candidate, or where the first preference is not clearly ascertainable, or where the marking makes the voter's intention uncertain, or where the ballot bears any identifying mark or defect violating secrecy or making the voter's intention doubtful.

10. In order to address apprehensions relating to possible later addition or alteration at the stage of unfolding or handling, it is requested that unfolding and scrutiny is conducted under direct and continuous supervision with uniform instructions at all counting tables; that no member of the counting staff adds to, overwrites, retraces, corrects, or otherwise alters any preference marking on any ballot paper and confines the role strictly to scrutiny and counting of preferences as actually cast by the voter; and that any ballot showing overwriting, erasures, additions, physical alteration, or suspicious features is immediately segregated as doubtful and dealt with strictly in accordance with the prescribed procedure with brief reasons recorded.

11. It is also requested that rejected and doubtful ballots are segregated table-wise in separate sealed bundles or packets with brief reasons endorsed and preserved, so that uniformity, transparency, and an objective record are maintained in the event any grievance is raised before the competent committee(s).

12. It may be noted that such segregation and preservation of rejected and doubtful ballots, with brief endorsed reasons, assists in ensuring transparency and in maintaining an objective record, should any issue be raised before the competent committee(s)."



22. Pursuant to the BCI Guidelines, the BCD issued voter instructions on the method of voting and grounds of invalidity, including where first preference was marked for more than one candidate or was otherwise unclear or doubtful. On 12.02.2026, the Office of the RO issued a Final Urgent Notice declaring zero tolerance for MCC violations, stating that despite repeated advisories, show-cause notices and warnings, violations persisted and would henceforth attract immediate disqualification without further notice.

23. On 20.02.2026, the Election Committee, under the RO, wrote to the SHO, P.S. Tilak Marg, seeking preventive measures against imposters/non-advocates likely to disrupt the BCD Election from 21.02.2026 to 23.02.2026. Polling was held from 21.02.2026 to 23.02.2026 using white, yellow and pink ballot papers respectively. The recorded votes on those dates were 17,585, 16,300 and 23,800.

24. On 22.02.2026, the RO summarily suspended 79 candidates for MCC violations, including sloganeering near the polling area, distribution of campaign material and display of flex hoardings. By Notices dated 23.02.2026, the RO stated that, after considering their replies, the Election Committee withdrew the suspension notices issued to the 79 candidates and directed strict compliance with the MCC.

25. On 22.02.2026, the RO was pushed and manhandled by Mr. Deepak Tyagi, Advocate. The incident was reported to the Special Committee on 24.02.2026, and by order dated 27.02.2026 the BCI Sub-Committee placed him under interim suspension from practice and restrained him from entering or approaching the counting venue.



26. After polling, the sealed ballot boxes were stored in the Extension Block of this Court. Unused stationery was placed in one empty ballot box for return to the BCD office, videographed by the Delhi Police, and later circulated on social media by certain candidates/representatives on 24.02.2026 and 25.02.2026. On 25.02.2026, the Election Committee and the RO decided to lodge a complaint, and a complaint was filed the same day at P.S. Tilak Marg against unidentified persons for allegedly spreading malicious misinformation, criminal conspiracy and inciting public unrest.

27. By Notice dated 25.02.2026, the RO changed the counting venue and schedule due to lack of space in the Extension Block, notifying that counting would commence on 07.03.2026 in the lounges on the 6th and 7th Floors of S-Block, High Court of Delhi.

28. By Resolutions dated 05.03.2026 and 08.03.2026, the Election Committee appointed Mr. Sanjeev Jain and Mr. Virender Kumar Bansal, former District and Sessions Judges, as Special Returning Officers (Vote Counting). It also appointed 20 Counting Observers and 21 Additional Returning Officers.

29. In the interregnum, Mr. Raman Gandhi submitted representations dated 06.03.2026 and 07.03.2026 to the Special Committee alleging serious MCC violations and other irregularities, including campaigning near this Court during polling, mobbing, obstruction of the polling area, and blockades at the entrance. He then approached the HPESC seeking intervention, stoppage of counting and countermanding of the election, including on the ground that restoration of the candidature of certain previously suspended candidates was arbitrary and conferred an undue



advantage. As no action was taken, he filed W.P.(C) No. 337/2026, **Raman Gandhi v. Bar Council of Delhi & Ors.**, before the Hon'ble Supreme Court, which was withdrawn on 23.03.2026 with liberty to avail remedies before the prescribed authority.

30. Counting commenced on 07.03.2026 on 7th Floor of S-Block, High Court of Delhi. The ballot boxes were stored on the Ground Floor of S-Block under CCTV surveillance and para-military and security cover and were later shifted to the 7th Floor in the presence of the candidates. There were 5 cameras on the 6th Floor and 23 cameras on the 7th Floor. The entire counting process was video-graphed and live-streamed on YouTube, and live camera feeds were also made available through the High Loop App.

31. The ballot papers were unfolded and placed on the podium in a manner visible to the candidates and their representatives through CCTV and the High Loop App. Large display screens were also installed on the 6th Floor, where the candidates and their representatives were seated.

32. Each ballot box was brought to the counting podium under continuous camera surveillance and opened in the presence of the Election Committee, the Special Returning Officers, and the candidates and their representatives virtually. The ballot papers were scrutinised by the Election Committee and the Special Returning Officers, and the votes were announced during counting. For the counting process, 8 senior officials of the High Court of Delhi were deputed to oversee the exercise, in addition to the following staff arranged by the BCD:

- i. Delhi State Election Commission-3
- ii. Team organised through Mr. Prabodh Kumar-60



- iii. Retired staff from the Institute of Chartered Accountants-20
- iv. Group L (Outsourced manpower agency)-60
- v. Delhi Police and Para-military-60
- vi. Bar Council of Delhi-30 (on administrative duties)
- vii. NGO-Arya Bal Grah-20
- viii. Technical Team (CCTV and cameras)-10
- ix. Catering Staff-7
- x. Housekeeping Staff-5
- xi. Waiter-5

Total-277

33. The First-preference votes were counted between 07.03.2026 and 09.04.2026. After recording, the ballot papers were kept in open baskets allotted to each candidate, with one counting staff member assigned to two candidates. As some candidates sought reconciliation of votes, by order dated 20.03.2026, the RO stated that reconciliation would be undertaken after completion of counting. In W.P.(C) 4316/2026, *Anushkaa Arora & Ors. v. BCD & Ors.*, filed challenging the order dated 20.03.2026 passed by the RO this Court, by order dated 02.04.2026, directed that the BCD election result be declared only after reconciliation.

34. Ms. Anushkaa Arora later sought immediate reconciliation before elimination, citing discrepancies in the Day 1 and Day 2 tallies and seeking reconciliation of records, voter lists, counterfoils and ballot papers. By order dated 07.04.2026, the RO rejected the request, holding that reconciliation would be carried out only after completion of counting and before declaration of the result. That order was challenged in W.P.(C) 4907/2026.



By order dated 13.04.2026, this Court recorded that the result would not be declared before reconciliation and that candidates or their authorised representatives would be allowed to remain present when reconciliation was undertaken. The petition was accordingly disposed of.

35. After completion of first-preference counting, a report was submitted to the Chairman of the Special Committee, and elimination and counting of subsequent preferences commenced on 13.04.2026. On 15.04.2026, during the 80th elimination of Mr. Syed Mohd. Arif (Ballot No. 17), Mr. Pawan Narang, Senior Advocate and Member of the Election Committee, noticed that several ballot papers bore altered next-preference markings in favour of a particular candidate. Finding the same pattern on multiple ballots, the RO and Election Committee halted counting. The same day, the Election Committee decided that the 18 affected ballots be recalled and the votes transferred to the candidate against whose name the original next preference “2” appeared to have been marked, it having been made to resemble “12” by prefixing “1”. The ballots were photographed and flagged for future reference. The RO then re-announced the votes on those ballots and transferred them accordingly. Counting then continued until about 1:00 p.m., during which three more candidates were eliminated, after which the staff broke for lunch.

36. During the lunch interval, the Election Committee reviewed the camera recordings, identified one member of the counting staff as the suspected person handling the ballots of Mr. Syed Mohd. Arif, and located him within the building. He was identified as Mr. Nikhil Kumar.



37. On inquiry, it was found that Mr. Nikhil Kumar had joined the counting process on 02.04.2026 through Mr. Prabodh Kumar and admitted that candidate Mr. Vishnu Sharma (Ballot No. 132) was his maternal uncle. A formal complaint was then sent to P.S. Tilak Marg, and the police took him for investigation. Thereafter, the FIR was lodged, and no further counting took place that day.

38. On 16.04.2026, before counting recommenced, the candidates and their authorised representatives sought reconciliation of the counting undertaken on 15.04.2026. A comprehensive reconciliation up to the 80th elimination of Mr. Syed Mohd. Arif was, accordingly, carried out. Later that day, at about 12:15 p.m., when the 87th elimination was about to begin, candidate Mr. Prakash Chandra Dwivedi, along with Ms. Sangita Malhotra, Mr. Vaibhav Jain, Ms. Arti Tyagi, three representatives of Ms. Anushkaa Arora, and some unidentified persons, entered the counting area on the 7th Floor, S-Block, High Court of Delhi, raised slogans and used defamatory language against the RO and counting officers. Counting did not resume thereafter on 16.04.2026.

39. The Chairman and Members of the Special Committee, the RO, and the Special Returning Officers then reached the counting area and decided that counting would not continue until further orders.

40. On 16.04.2026, 116 contesting candidates jointly sought re-polling from the Secretary, BCD. Candidates were directed to submit any grievance in writing to the Secretary, BCD, by the evening of 18.04.2026. At its meeting on 18.04.2026, the Election Committee resolved to report the incident to the Special Committee for prompt action against the four



candidates involved and for identifying others who had supported them. It further recommended immediate suspension of those candidates, stating that counting could not continue under apprehension of physical threats. The Election Committee also resolved that eliminated candidates and their representatives would no longer be allowed on the 6th Floor, S-Block, and that, where counting of votes cast in favour of the four candidates proposed for suspension remained pending, one representative of each would be permitted on that floor. It further decided that fresh identity cards, signed by the Secretary, BCD, would be issued to all counting staff after personal interviews and undertakings confirming that they had no proximity to any candidate, and that entry to the Counting Hall would be permitted only on the basis of those new identity cards. On 20.04.2026, communications were sent to the learned Registrar General, High Court of Delhi, and the Commissioner of Police, Delhi, seeking stricter access control to the 7th Floor, S-Block, and deployment of adequate security and paramilitary personnel for the safety of the counting officers and staff.

41. At its meeting on 20.04.2026, the Special Committee considered the Secretary's report of 15.04.2026 and the Election Committee's resolutions of 18.04.2026 and decided to issue a show-cause notice to candidate Mr. Vishnu Sharma, having regard to Mr. Nikhil Kumar's admission that Mr. Vishnu Sharma was his maternal uncle. At the same meeting, the Special Committee also recorded its concern over the events of 16.04.2026 and the threatening behaviour directed at the Election Committee, which was conducting the counting process *pro bono* under the mandate of the Hon'ble Supreme Court.



42. Acting on the Election Committee's report and recommendations, the Special Committee suspended four candidates from the BCD election process, while permitting their representatives to participate in the remaining counting so long as those candidates remained in the fray, subject to behavioural and disciplinary norms.

43. The request dated 16.04.2026 made by 116 contesting candidates seeking the re-polling was declined by communication dated 20.04.2026 by the Secretary, BCD observing that the election process was conducted pursuant to specific directions of the Hon'ble Supreme Court *vide* order dated 18.11.2025 in *M. Varadhan (supra)* and is exceptional in nature, that once the election process has commenced, it should not be interrupted and must be carried through to its logical conclusion and that if any person is aggrieved by the results it is always open to him to file an election petition.

44. On 21.04.2026, show-cause notices were issued to four candidates regarding suspension of their licences to practise and disciplinary proceedings under Section 35(1) of the Advocates Act. A separate show-cause notice of the same date was also issued to Mr. Vishnu Sharma.

45. By communication dated 23.04.2026 circulated on the candidates' WhatsApp group, the candidates were informed that the Investigating Officer ("IO") had visited on 22.04.2026 and would visit the counting premises again on 23.04.2026 so that the original Digital Video Recorder ("DVR") of the CCTV cameras could be seized and replaced to avoid automatic overwriting of the recordings, and that the process would be videographed and live-streamed on YouTube. Accordingly, the DVR was handed over to the IO on 23.04.2026.



46. On 24.04.2026, certain candidates and their representatives / supporters assembled outside Gate No. 5 of the High Court of Delhi and raised banners and slogans against the RO and the Election Committee.

47. By notice dated 24.04.2026, the BCD informed that counting would resume from 25.04.2026. It was ultimately decided that candidates and their representatives would continue to view the counting from the 6th Floor, S-Block, while eliminated candidates and their representatives, as well as the four suspended candidates, would not be permitted entry there, though the representatives of the suspended candidates were allowed.

48. On 25.04.2026, when counting was to resume, certain candidates and their representatives/supporters obstructed the counting staff and members of the Election Committee from reaching the 7th Floor, S-Block, and blocked the main gate. Apprehending harm, the counting staff left the premises.

49. On 25.04.2026, the Special Committee issued show-cause notices to the candidates/advocates, their representatives and supporters involved in the incident of that date, calling upon them to explain why action for gross professional misconduct under Section 35 of the Advocates Act, including suspension of licences to practise for three years, should not be taken.

50. By way of letter dated 25.04.2026, Hon'ble Mr. Justice Talwant Singh (Retd.) resigned from the position of the RO citing vilification campaigns and false aspersions. The Special Committee requested him on 28.04.2026 to withdraw it, but he reiterated on 30.04.2026 that he could not continue and that his resignation would take effect from 01.05.2026. Hon'ble Mr. Justice Dharmesh Sharma (Retd.), former Judge of this Court was appointed



RO on 02.05.2026, but he resigned by letter dated 05.05.2026 citing personal and professional commitments.

51. The Special Committee then appointed Mr. Rakesh Munjal, Senior Advocate, to assume the office of RO on 06.05.2026 and Ms. Justice Sangita Dhingra Sehgal (Retd.), former Judge of this Court was appointed Observer, whereupon the Election Committee stood reconstituted.

52. By notification dated 27.04.2026, the BCD restrained ten advocates from entering the precincts of the High Court of Delhi until declaration of the BCD election result, on allegations of obstructing the movement of a member of the Election Committee and the Secretary, BCD, making false allegations, issuing threats, and misbehaving with the RO.

53. The 116 candidates who had made request for re-polling, approached the HPESC by way of Appeal Nos. 79/2026, 94/2026 and 95/2026, seeking, *inter alia*, stoppage of counting, recall of the election process and a re-poll on the ground of ballot tampering and other alleged irregularities, including counting discrepancies, lack of transparency and MCC violations. On 29.04.2026, the HPESC heard the stakeholders and reserved orders.

54. By the Impugned Order, the HPESC directed that counting recommence from the stage immediately after completion of first-preference counting on 09.04.2026, and that the RO make suitable arrangements and recommence counting afresh from the elimination stage. Pursuant to the Impugned Order, the counting resumed on 13.05.2026.

55. Aggrieved by the Impugned Order, the Petitioners filed SLPs. By order dated 18.05.2026, the Hon'ble Supreme Court transferred the SLPs to this Court while observing that:



“SLP(C) Nos.17499-17501/2026, SLP(C) No(s).17604/2026 and SLP(C) No.17460/2026

1. *The hearing in SLP(C) No.17460/2026, shown to be listed on 19.05.2026, is preponed on the oral prayer made by Mr. Raman Gandhi, the petitioner-in-person. The same is being heard along with Item Nos. 25 and 54.*
2. *All these matters have arisen out of the recently conducted elections of the Bar Council of Delhi. Several representations were filed alleging various irregularities in the conduct of the elections and the counting of votes. However, the prayer for re-polling having been declined by the High-Powered Election Supervisory Committee, constituted by this Court vide order dated 06.05.2026, the petitioners have approached this Court.*
3. *Some of the contesting respondents are also on caveat.*
4. *We have heard Ms. Shobha Gupta, learned counsel and Mr. Sushil Kumar Jain, learned Senior Counsel for the petitioner(s).*
5. *During the course of the hearing, the learned counsel for the parties have fairly agreed to our suggestion that since the effective adjudication of the controversy might require summoning of original records, including ballot papers, etc., it would be appropriate if the matter is entrusted to a Division Bench of the Delhi High Court.*
6. *Consequently, we transfer these petitions to the Delhi High Court with a request to the Hon'ble Chief Justice of the High Court to list these matters before a Special Bench this week itself. The Division Bench, to whom the matter will be entrusted, is requested to take up the matter on a day-to-day basis and, accordingly, dispose of the same at the earliest.*
7. *We have no reason to doubt that learned counsel/Senior Counsel for the parties will extend full cooperation to the Division Bench of the High Court.*
8. *Till the High Court decides the matter finally, further counting of ballot papers shall be kept in abeyance.*
9. *It is clarified that we have not expressed any opinion on the merits of the case.*
10. *The parties shall be at liberty to raise all the contentions before the High Court.*



11. *The Special Leave Petitions stand disposed of accordingly. Pending interlocutory applications, if any, also stand closed.*

Writ Petition(s)(Civil) No(s).1319/2023

We may also add here that a confidential letter dated 02.05.2026 has been received from Justice Talwant Singh, a former Judge of the Delhi High Court. We have perused the contents of the same. Without divulging the contents of the letter at this stage, we direct the Registry to re-seal the same and send it to Hon'ble the Chief Justice of the Delhi High Court for necessary action."

56. Some of the candidates of the BCD Election preferred a Miscellaneous Application before the Hon'ble Supreme Court seeking modification of the order dated 18.05.2026 passed in ***Birender Sangwan*** (*supra*), transferring the SLPs to this Court to the limited extent that the counting process of the BCD Elections may not be kept in abeyance and may be directed to continue. The Hon'ble Supreme Court *vide* Order dated 21.05.2026 gave liberty to the said applicants to raise their respective contentions and seek appropriate interim directions before this Special Bench. The relevant extract of the said Order dated 21.05.2026 is reproduced below:

"2. Heard learned Senior Counsel/counsel for the parties.

3. Owing to the urgent nature of the matter, in continuation of order dated 18.05.2026, Hon'ble Chief Justice of the Delhi High Court is requested to list the matters before a Division Bench, preferably on Monday, i.e., 25.05.2026.

4. The parties shall be at liberty to raise their respective contentions and seek appropriate interim directions, which may be considered by the High Court on Monday, i.e., 25.05.2026.

5. The M.A., along with all interlocutory applications stands, accordingly, disposed of."



57. Pursuant to the orders dated 18.05.2026 and 21.05.2026 passed in *Birender Sangwan* (*supra*), this Special Bench was constituted, and the matters were listed on 25.05.2026.

58. Accordingly, the SLPs along with Miscellaneous Application bearing Diary No. 31625/2026 were renumbered and listed as the Writ Petitions and CMA No. 38198/2026 (“CMA”) before this Court.

59. At the hearing of 25.05.2026, as the lawyers were abstaining from work, the matters were directed to be re-notified on 26.05.2026. On 26.05.2026, the Parties were directed to complete the pleadings, and the matters were listed on 29.05.2026 on account of holidays on 27.05.2026 and 28.05.2026. On 29.05.2026, the Parties were heard on the aspect of maintainability of the Writ Petitions and the further proceedings were scheduled on 30.05.2026.

60. On 30.05.2026, W.P.(C) No.7972/2026 was listed pursuant to order dated 29.05.2026 passed by the learned Single Judge. On 30.05.2026, 31.05.2026 and 01.06.2026, Dr. Lalit Bhasin, Ms. Nina Gupta, Ms. Shobha Gupta, Ms. Anushkaa Arora, Mr. Raman Gandhi, Mr. Prabhat Jain, Mr. Rajiv Khosla, Advocates, some of whom have appeared in-person for the Petitioners' side, Mr. T. Singhdev for BCD and Mr. Sunil Dalal, Ms. Priya Hingorani, Mr. Kirtiman Singh and Mr. Gautam Narayan, Senior Advocates for the Applicants in CMA were heard at length.

61. We have also watched the videos produced by the Parties during the course of the hearings conducted in open Court.

62. *Vide* order dated 31.05.2026, the IO was directed to appear in person on 01.06.2026 along with the DVR. On 01.06.2026, Mr. Santosh, Sub



Inspector, IO for the FIR appeared in person along with the DVR in sealed condition and apprised the Court that the DVR contained recordings from 17.03.2026 to 23.04.2026. Accordingly, it was directed that an appropriate order with regard to DVR shall be passed after consulting the Technical Team of High Court of Delhi. After the hearing, Mr. Kapil Kumar, Senior System Analyst, High Court of Delhi was requested to examine the DVR in sealed condition produced by the IO to assist the Bench to locating the exact portions of the recordings where the alleged interpolation, if any, is stated to have occurred. After discussing the matter with the IO, Mr. Kapil Kumar, Senior System Analyst, High Court of Delhi informed the Bench in Chamber that there were 21 cameras in the room where counting of voting was taking place and each camera had a separate recording. Having considered the entire matter, it was found appropriate to return the sealed DVR to the IO as it was not practical to view all the recordings. Further, since the DVR was the case property, it was also not found appropriate to copy the data from the same.

63. As the hearing on interim relief for recommencement of the counting process would have required the same time as the hearing on the merits, the matters were finally heard on a day-to-day basis, and Judgment was reserved on 01.06.2026.

SUBMISSIONS ON BEHALF OF THE PETITIONERS:

64. The following submissions were made on behalf of the Petitioners:

64.1. As regards the maintainability of the present Writ Petitions, it was submitted that, by order dated 18.05.2026 passed in the



SLPs, the Hon'ble Supreme Court transferred the matters to this Court for adjudication on merits, including, if necessary, upon summoning the original records. The Petitioners contended that the limited question before this Court is whether the facts and circumstances of the case warrant a direction for re-polling and, therefore, no objection to maintainability can now be sustained, particularly when the Hon'ble Supreme Court entertained the SLPs despite the pendency of the electoral process, reserved liberty to all parties to raise their contentions before this Court, and directed that further counting remain stayed pending adjudication.

64.2. It was further submitted that the rule against judicial interference in an ongoing election is not absolute and admits of exception in cases involving grave irregularities affecting the integrity of the electoral process. In that context, reliance was placed on the distinction between the present case and *Mohinder Singh Gill v. Chief Election Commr.*, (1978) 1 SCC 405 and *N.P. Ponnuswami v. Returning Officer, Namakkal Constituency & Ors.* (1952) 1 SCC 94, neither of which, it was urged, concerned admitted and *prima facie* criminal manipulation of ballot papers during counting, registration of an FIR, and an ongoing investigation.

64.3. Reference was also made to the order dated 18.05.2026 passed by the Hon'ble Supreme Court in *Savita Devi @Savita Dhanda & Ors. v Union Of India & Ors.*, W.P. (C) 589/2026 to submit



that, even while being aware of the constitution of additional Election Tribunals and of Paragraph No. 20 of *M. Varadhan (supra)*, the Hon'ble Supreme Court nonetheless transferred the present matters to this Court. According to the Petitioners, the present case stands on a distinct footing by reason of the seriousness of the allegations, which are stated to strike at the root of the electoral process.

64.4. The Hon'ble Supreme Court was fully conscious of the gravity of the issues arising in the present Writ Petitions, including the alleged irregularities in the conduct of the Elections and the counting of votes and, therefore, considered it appropriate, in the interest of justice, to transfer the SLPs to this Court, particularly as effective adjudication of the alleged conspiracy might require summoning of original records, including ballot papers. The Hon'ble Supreme Court requested expeditious day-to-day hearing and early disposal, and that, having transferred the matters for adjudication by this Court, it must be taken to have upheld the maintainability of the present proceedings as transferred cases.

64.5. On merits, it was submitted that the Impugned Order proceeds on an erroneous assumption that the ballot-tampering incident was isolated. The Petitioners contended that, once criminal tampering of ballot papers stood admitted and an FIR had been registered, the fairness of the electoral process stood seriously compromised. It was urged that the finding that the first round



of counting remained unaffected is unsupported by investigation, ignores the continuous presence of the accused in the counting process, and proceeds merely on the stage at which the fraud was detected rather than when it may have occurred.

- 64.6. It was further urged that the re-verification exercise cannot be regarded as conclusive, as it was not conducted by an independent authority, the methodology and safeguards were not disclosed, candidates were excluded from meaningful participation, and the exercise was confined to selected tables notwithstanding allegations of a wider conspiracy. The subsequent live display of counting could not cure defects arising from prior tampering.
- 64.7. The Petitioners also submitted that the Impugned Order failed to deal with several objections raised on behalf of 116 candidates, including discrepancies in vote counts, MCC violations, irregular polling practices, unauthorised canvassing, misuse of mobile phones, and procedural lapses in counting. Such non-consideration, according to the Petitioners, amounts to non-application of mind and denial of reasoned adjudication.
- 64.8. It was further contended that the investigation was incomplete, that the FIR itself contemplated the involvement of unidentified persons, and that the full extent of the conspiracy and ballot manipulation had not been ascertained when the Impugned Order was passed. In such circumstances, any conclusion that



the fraud was a lone act with no impact on the wider electoral outcome was premature and unsupported by an adequate evidentiary foundation.

64.9. There were discrepancies in the first-preference tally, unauthorised access to the ballot room and strong room, non-functional CCTV coverage, inadequate livestreaming, presence of unauthorised persons within the polling environment, and the alleged absence of institutional separation between administrative and adjudicatory functions of the Special Committee and Election Committee. These factors cumulatively undermine the credibility, transparency and fairness of the electoral process.

64.10. There were widespread and unaddressed violations of the MCC, summary rejection of objections during counting, deficient voter verification, absence of an undertaking from Mr. Nikhil Kumar despite his proximity to a contesting candidate, unexplained movement of empty ballot boxes, insecure handling of ballot papers, poor visual display during scrutiny, and multiple procedural irregularities in polling and counting. It was submitted that the cumulative effect of these deficiencies, read with the admitted ballot tampering and the pending criminal investigation, evidences a systemic breakdown of safeguards.

64.11. Reliance was also placed on video material shown during the hearing to contend that several ballot papers were wrongly



treated as valid, that manipulation and interpolation were visible in both first-preference and elimination rounds, and that, in many instances, the camera angle did not permit verification of the basis on which preferences were transferred. Once the foundational integrity of the ballot stood compromised, continuation of counting would be futile, and a re-poll remained the only efficacious remedy.

64.12. The Petitioners further submitted that the Impugned Order proceeds on an erroneous premise that the ballot-tampering incident was isolated, notwithstanding the admitted manipulation of voter preferences and the registration of an FIR. Once criminal tampering of ballot papers stood admitted, the fairness and integrity of the electoral process stood seriously compromised, and any conclusion that the incident had no wider impact was premature in the absence of a completed investigation the Impugned Order is internally inconsistent inasmuch as, while recording the existence of ballot tampering and criminal proceedings, it nevertheless permits continuation of the election process and declines the prayer for a re-poll. The Petitioners contended that recognition of fraud could not be reconciled with validation of the electoral outcome without independent and conclusive scrutiny.

64.13. The Petitioners submitted that the investigation remained incomplete, that the FIR itself contemplated the involvement of unidentified persons, and that the full extent of the alleged



conspiracy and ballot manipulation had not been ascertained as on the date of the Impugned Order. On that basis, it was contended that any finding limiting the impact of the fraud lacked an adequate evidentiary foundation.

64.14. The observation in the Impugned Order that the first round of counting remained unaffected is unsupported by investigation, overlooks the continuous presence of the accused in the counting process, and proceeds merely on the stage at which the fraud was detected rather than the stage at which it may have occurred.

64.15. The re-checking exercise was also assailed as inconclusive, it being the Petitioners' case that the exercise was not conducted by an independent authority, that no clear methodology or safeguards were disclosed, that candidates were excluded from meaningful participation, and that the exercise was confined to selected tables despite allegations of a wider conspiracy. The Petitioners submitted that subsequent live display of counting could not cure defects arising from prior tampering. Enhanced transparency in subsequent stage cannot restore the integrity of ballot papers allegedly compromised in an earlier and completed stage of counting.

64.16. The Impugned Order failed to address several objections raised on behalf of 116 candidates, including discrepancies in vote counts, violations of the MCC, irregular polling practices, unauthorised canvassing, misuse of mobile phones, and



procedural lapses in counting, which reflected non-application of mind and denial of reasoned adjudication.

64.17. The cumulative effect of the alleged irregularities, including discrepancies in the first-preference tally, unauthorised access to the ballot and strong rooms, deficient CCTV coverage and livestreaming, presence of unauthorised persons in the polling environment, inadequate verification of voters and candidates, widespread MCC violations, insecure handling of ballot papers, unexplained movement of empty ballot boxes, and summary rejection of objections along with the admitted tampering and the pending criminal investigation, evidenced a systemic failure of safeguards.

64.18. Mr. Nikhil Kumar, who was stated to be involved in the incident, had access to the counting process over a substantial period and was released on the date of registration of the FIR without custodial interrogation. Confidence in the integrity of the ballot papers could not be restored unless the investigation conclusively established the full extent of the alleged manipulation. Once the ballot papers themselves had become the subject-matter of a criminal inquiry, the election outcome could not attain finality unless the investigation conclusively restored confidence in their integrity.

64.19. The HPESC could not have ruled out the possibility of involvement of unidentified co-conspirators operating at other stages or locations within the counting process. Any finding as



regards the limited impact of the fraud lacked an adequate evidentiary foundation.

64.20. The excess and deficit figures recorded at the close of first-preference counting disclosed a net unexplained variance of 1,469 votes, which, according to the Petitioners, remained insufficiently explained and further undermined confidence in the process. Reliance was placed on the following judgments of the Supreme Court:

- (i) ***L. Chandra Kumar v. Union of India***, (1997) 3 SCC 261 in which the question whether the power of judicial review vested in the High Courts and in the Hon'ble Supreme Court under Articles 226 / 227 and Article 32 of the Constitution is part of the basic structure of the Constitution is considered. The Hon'ble Supreme Court in ***L. Chandra Kumar*** (*supra*) observed as under:

“79. We also hold that the power vested in the High Courts to exercise judicial superintendence over the decisions of all courts and tribunals within their respective jurisdictions is also part of the basic structure of the Constitution. This is because a situation where the High Courts are divested of all other judicial functions apart from that of constitutional interpretation, is equally to be avoided.

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91. It has also been contended before us that even in dealing with cases which are properly before the Tribunals, the manner in which justice is dispensed by them leaves much to be desired. Moreover, the remedy provided in the parent statutes, by way of an appeal by special leave under Article 136 of the Constitution, is too costly and inaccessible for it to be real and effective.



Furthermore, the result of providing such a remedy is that the docket of the Supreme Court is crowded with decisions of Tribunals that are challenged on relatively trivial grounds and it is forced to perform the role of a first appellate court. We have already emphasised the necessity for ensuring that the High Courts are able to exercise judicial superintendence over the decisions of the Tribunals under Article 227 of the Constitution. In R.K. Jain case [(1993) 4 SCC 119 : 1993 SCC (L&S) 1128 : (1993) 25 ATC 464] , after taking note of these facts, it was suggested that the possibility of an appeal from the Tribunal on questions of law to a Division Bench of a High Court within whose territorial jurisdiction the Tribunal falls, be pursued. It appears that no follow-up action has been taken pursuant to the suggestion. Such a measure would have improved matters considerably. Having regard to both the aforesaid contentions, we hold that all decisions of Tribunals, whether created pursuant to Article 323-A or Article 323-B of the Constitution, will be subject to the High Court's writ jurisdiction under Articles 226/227 of the Constitution, before a Division Bench of the High Court within whose territorial jurisdiction the particular Tribunal falls.

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92. We may add here that under the existing system, direct appeals have been provided from the decisions of all Tribunals to the Supreme Court under Article 136 of the Constitution. In view of our above-mentioned observations, this situation will also stand modified. In the view that we have taken, no appeal from the decision of a Tribunal will directly lie before the Supreme Court under Article 136 of the Constitution; but instead, the aggrieved party will be entitled to move the High Court under Articles 226/227 of the Constitution and from the decision of the Division Bench of the High Court the aggrieved party could move this Court under Article 136 of the Constitution.”



- (ii) ***Manoj Narula v. Union of India***, (2014) 9 SCC 1 considered the challenge to the appointment of some of the respondents therein as Ministers to the Council of Ministers of Union of India despite their involvement in serious and heinous crimes. It was observed that it is not for the Court to issue any direction to the Prime Minister or the Chief Minister, as the case may be, as to the manner in which they should exercise their power while selecting the colleagues in the Council of Ministers, but the Prime Minister and the Chief Minister of the State, who themselves have taken oath to bear true faith and allegiance to the Constitution of India and to discharge their duties faithfully and conscientiously, will be well advised to consider avoiding any person in the Council of Ministers, against whom charges have been framed by a criminal court in respect of offences involving moral turpitude and also offences specifically referred to in Chapter III of the Representation of the People Act, 1951.
- (iii) ***Mohinder Singh Gill*** (*supra*), wherein the Hon'ble Supreme Court, *inter alia*, while dealing with a question whether Article 329(b) of the Constitution of India is a blanket ban on all manner of questions which may have impact on the ultimate result of the election, observed that:

“10. Before we proceed further, we had better have a full glimpse of the constitutional scheme of elections in our system and the legislative follow-up regulating the process of election. Shri Justice Mathew in Indira Nehru Gandhi [Indira Nehru Gandhi v. Raj Narain, 1975 Supp



SCC 1, 120 : (1976) 2 SCR 347, 504-505] summarised, skeletal fashion, this scheme following the pattern adopted by Fazl Ali, J. in Ponnuswami [N.P. Ponnuswami v. Returning Officer, (1952) 1 SCC 94 : (1952) SCR 218 : AIR 1952 SC 64 : 1 ELR 133]. He explained : (SCC p. 120, paras 268 & 269)

“The concept of democracy as visualized by the Constitution presupposes the representation of the people in Parliament and State Legislatures by the method of election. And, before an election machinery can be brought into operation, there are three requisites which require to be attended to, namely, (1) there should be a set of laws and rules making provisions with respect to all matters relating to, or in connection with, elections, and it should be decided as to how these laws and rules are to be made; (2) there should be an executive charged with the duty of securing the due conduct of elections; and (3) there should be a judicial tribunal to deal with disputes arising out of or in connection with elections. Articles 327 and 328 deal with the first of these requisites. Article 324 with the second and Article 329 with the third requisite (see N.P. Ponnuswami v. Returning Officer, Namakkal Constituency).

Article 329(b) envisages the challenge to an election by a petition to be presented to such authority as the Parliament may, by law, prescribe. A law relating to election should contain the requisite qualifications for candidates, the method of voting, definition of corrupt practices by the candidates and their election agents, the forum for adjudication of election disputes and other cognate matters. It is on the basis of this law that the question whether there has been a valid election has to be determined by the authority to which the petition is presented. And, when a dispute is raised as



regards the validity of the election of a particular candidate, the authority entrusted with the task of resolving the dispute must necessarily exercise a judicial function, for, the process consists of ascertaining the facts relating to the election and applying the law to the facts so ascertained.”

SUBMISSIONS ON BEHALF OF BCD:

65. The following submissions were made on behalf of BCD:

65.1. It was submitted that, as held by the Hon’ble Supreme Court in *N.P. Ponnuswami (supra)*, the expression “election” in Part XV of the Constitution, and in particular Article 329(b) of the Constitution, must be construed broadly so as to comprehend the entire process from the notification of the election to the declaration of the returned candidate. Article 329(b) of the Constitution bars judicial interference, including in exercise of jurisdiction under Article 226 of the Constitution, in matters arising during the pendency of the electoral process. The allegations in the Writ Petition are factual in nature and would require evidentiary adjudication, and must, therefore, await consideration in appropriate election proceedings after conclusion of the election.

65.2. The Petitioners, having invoked the extraordinary jurisdiction of this Court during the pendency of the electoral process, have approached this Court at a stage expressly interdicted by the Constitution. Any grievance touching upon the conduct of the election including the subject matter of the present Petitions cannot be entertained by this Court at this stage and must await



its proper ventilation exclusively through the statutory mechanism of an election petition once the said elections have concluded. In support of this submission reliance was placed on the following judgments:

- (i) ***N.P. Ponnuswami (supra)***;
- (ii) ***Mohinder Singh Gill (supra)***;
- (iii) ***Shahji K. Joseph v. V. Vishwanath & Ors.***, (2016) 4 SCC 429;
- (iv) ***Vishyanath Agarwal v. Election Commission of India***, 2025 SCC OnLine Del 349
- (v) Judgment dated 06.11.2024 passed by the Hon'ble Supreme Court in ***Mandeep Singh & Anr. v. Collector & Ors.*** SLP (C) No. 26170/20243
- (vi) ***Abhay Kumar Verma v. Bar Council of Delhi & Ors.*** 2004 (78) DRI 1

65.3. In ***M. Varadhan (supra)***, the Hon'ble Supreme Court devised a specific grievance-redressal framework for State Bar Council elections, under which any person aggrieved by a decision of the Special Committee was required to approach the HPESC in the first instance. The Hon'ble Supreme Court further directed that the decision of the HPESC would be final and that no civil court or High Court would entertain a challenge thereto. In support of this submission, reliance was placed on the following orders passed by this Court:



- i. Order dated 03.12.2025 in *Surendar Kumar v. Bar Council of Delhi & Anr.* - W.P.(C) 13355/2025;
- ii. Order dated 07.01.2026 in *Umesh Kumar & Ors. v. Union of India & Ors.* - W.P.(C) 158/2026;
- iii. Order dated 27.03.2026 in *Ramesh Chandra Singh v. Bar Council of Delhi & Anr.*-LPA No. 161/2026.

65.4. The right to vote, the right to contest an election, and the right to challenge an election are not fundamental or common-law rights, but rights of a purely statutory character, governed entirely by the enactment and rules under which the election is held. In that regard, reliance was placed on *Jyoti Basu v. Debi Ghosal*, (1982) 1 SCC 691 and *Javed v. State of Haryana*, (2003) 8 SCC 369 to contend that, election rights being creatures of statute, the conditions, limitations and remedies governing them must be found within the statutory framework itself, and a court cannot travel beyond that framework on considerations of common law or equity. In support of this submission, reliance was further placed on the following decisions:

- i. *K. Krishna Murthy (Dr.) & Ors. v. Union of India & Anr.*- (2010) 7 SCC 202;
- ii. *Vishwanath Pratap Singh v. Election Commission of India & Anr.* SLP (C) No. 13013 of 2022 Judgment dated 09.09.2022; and



iii. *Supreme Court Bar Association & Ors. v. B.D Kaushik*
— (2011) 13 SCC 774

- 65.5. The BCD Election are governed by the Advocates Act, the Bar Council of India Rules, 1975, and the Bar Council of Delhi Rules, 1963 (“**BCD Rules**”). Rules 34 and 86 of the BCD Rules provide for adjudication of election disputes by an Election Tribunal. Reliance was also placed on the order dated 18.05.2026 passed by the Hon’ble Supreme Court in *Savita Devi (supra)*, whereby two dedicated Election Tribunals were constituted to expeditiously decide disputes arising out of the ongoing elections, including applications for interim relief. Therefore, the Petitioners have an efficacious alternative remedy before the said Tribunals.
- 65.6. Reliance was also placed on the decision of this Court in *Abhay Kumar Verma (supra)*, to submit that a writ petition challenging an election at an intermediate stage is not maintainable and that the election process must be permitted to run its course, leaving the aggrieved party to pursue an election petition after declaration of the result.
- 65.7. The Petitioners, having themselves participated in the election process and having allegedly committed repeated violations of the Bar Council of India Rules, the BCD Rules and the MCC, cannot seek discretionary relief in writ jurisdiction. Accordingly, the Petitioners acted in breach of the undertakings furnished with their nomination papers and have, by reason of



their own conduct, disintitiled themselves from invoking the equitable jurisdiction of this Court.

- 65.8. Even prior to formal notification of the MCC, the Special Committee had taken action against unauthorised campaigning and allied violations by issuing 29 show-cause notices to prospective candidates, including in relation to unauthorised use of the BCD logo, hoardings, banners and posters causing public inconvenience or defacement. Only after personal hearings held on 12.12.2025 and upon receipt of undertakings to maintain electoral and professional decorum, the Disciplinary Committee of the BCD dropped the said proceedings.
- 65.9. Following constitution of the Election Committee and formal notification of the MCC on 27.12.2025, the Election Committee issued 71 show-cause notices for various alleged MCC violations, including unauthorised campaigning, financial inducements, social-media campaigning, professional misconduct and related infractions.
- 65.10. The RO and the Election Committee continuously monitored compliance with the MCC and issued show-cause notices, advisories and communications to law-enforcement and other authorities to prevent violations and ensure orderly conduct of the election.
- 65.11. During polling on 21.02.2026, 22.02.2026 and 23.02.2026, the Election Committee, the RO, the Additional Returning Officers, members of the Special Committee, police officials and other



civil authorities continuously monitored the precincts of this Court and adjoining areas to prevent MCC violations. The issuance of voter slips, and ballot papers was handled by court and other authorised staff, and that advocates or volunteers present within the polling area were confined to guiding voters, thereby ensuring a fair and transparent polling process.

65.12. On 22.02.2026, the RO and the Election Committee issued 79 show-cause notices and placed the concerned candidates under summary suspension for alleged MCC violations. Upon receipt of their replies on 23.02.2026, the suspension was revoked in the interest of preserving democratic participation, with a direction for strict future compliance. Accordingly, it was urged that the temporary suspension did not affect the validity of polling and that the contention that such candidates thereby became ineligible to continue in the election is misconceived.

65.13. On 22.02.2026 Mr. Deepak Tyagi, Advocate, pushed and manhandled the Returning Officer. Upon a *prima facie* assessment, he was placed under interim suspension from practice by order of the BCI dated 27.02.2026, which was thereafter implemented by the BCD through notification dated 28.02.2026.

65.14. The issue concerning the alleged discrepancy in vote figures and the timing of reconciliation already stood addressed by the RO and by orders of this Court dated 02.04.2026 in W.P.(C) 4316/2026 and 13.04.2026 in W.P.(C) 4907/2026, whereby it



was directed that reconciliation be undertaken before declaration of the result. The Petitioners were, therefore, stated to be precluded from reagitating the same grievance in the present proceedings.

65.15. Reference was made to repeated incidents of disruption allegedly involving some of the Petitioners, including those dated 22.02.2026, 16.04.2026, 24.04.2026, 25.04.2026 and 05.05.2026, which were stated to have obstructed or delayed the counting process. Such conduct is wholly inconsistent with the standards of professional decorum expected of advocates and that persons who obstruct institutional processes cannot simultaneously seek equitable relief. On that basis, it was urged that any grievance relating to counting or segregation of ballots ought to be pursued before the designated Election Tribunals and not through writ proceedings at an intermediate stage.

65.16. It is a settled canon of judicial discipline that litigants who resort to extra-constitutional, unruly methods and undermine institutional integrity cannot simultaneously seek the indulgence of this Court. In view of such untoward and contemptuous conduct, the Petitioners do not deserve any audience or interim protection from this Court. Therefore, the Writ Petitions are not maintainable and are liable to be dismissed.

65.17. The ballot papers remained stored in sealed boxes under CCTV surveillance, that their movement took place in the presence of



candidates, and that the counting process was fully videographed, live-streamed on YouTube, and made available to stakeholders through the High Loop App and the candidates' WhatsApp group wherein all notices / updates, including day-wise counting update is informed to all the candidates.

65.18. Upon discovery on 15.04.2026 of manipulation in 18 ballot papers, counting was immediately halted, the ballots were documented by photography and videography, an FIR was lodged against Mr. Nikhil Kumar, and the original DVR recordings were handed over to the investigating agency. It was submitted that, in accordance with the BCI Guidelines, the affected ballots were segregated, and the votes were transferred to reflect the voters' original next preference, thereby preserving the true intent of the ballot.

65.19. There was no realistic possibility of tampering during first-preference counting, as each ballot box was brought to the counting dais under continuous surveillance, opened in the presence of the Election Committee and Special Returning Officers, and its contents displayed on the podium in a manner visible to candidates and their representatives through live video feeds. On that basis, any manipulation could only have occurred during the subsequent elimination stage between 13.04.2026 and 15.04.2026.

65.20. In complete alignment with the BCI Guidelines, the Election Committee carried out meticulous reconciliation process aimed



entirely at protecting and honouring the true intention of the voter. The manipulated ballots were safely segregated, and the votes were transferred to clear, uncompromised next-best preference marked by the voters.

65.21. Accordingly, all actions required under law were promptly taken by the RO and the Election Committee upon discovery of tampering and manipulation with the ballot papers.

65.22. In view of the same, the entire election process is not vitiated since all adequate steps in accordance with law are already taken to protect the integrity and sanctity of the BCD Election.

65.23. The Election Committee and the RO have given effect to the true intention of the voter by giving benefit to the actual beneficiary of all the 27 ballot papers by transferring the vote to the beneficiary in favour of whom the voter had actually intended to cast the vote by ignoring the manipulation.

65.24. Hence, there is no irregularity or any kind of manipulation of the election process. Therefore, the HPESC has correctly passed the Impugned Order rejecting the prayer for re-polling / annulment of the BCD Election.

65.25. It was lastly submitted that the Petitioners, having participated in the election process without demur, cannot now challenge the rules governing it after the process has advanced. According to the BCD, no objection was raised to the constitution of the Special Committee, the Election Committee, the appointment of the RO, or the conduct of first-preference counting until after



the tampering incident of 15.04.2026 and the apparent electoral disadvantage to certain Petitioners. Their present challenge was, therefore, stated to be belated, inconsistent with their prior conduct, and liable to be rejected on principles of acquiescence and delay.

65.26. From the above submissions, it is clear that the BCD is fully committed to its Special Committee to conclude the BCD Election for reconstitution of the BCD at the earliest in compliance with the order dated 18.11.2025 passed in *M. Varadhan (supra)* by taking all steps to ensure the compliance with the MCC and the applicable rules and taking actions against the person, who manipulated the ballot papers. Accordingly, the BCD has initiated all requisite steps to complete the election process with all promptitude, good faith and right earnest.

66. Accordingly, the present Petitions deserve to be dismissed as no interference is required with the Impugned Order passed by the HPESC.

SUBMISSIONS ON BEHALF OF THE APPLICANTS IN CMA:

67. The following submissions were made on behalf of the Applicants in CMA:

67.1. The Petitioners approached the Hon'ble Supreme Court by way of Special Leave Petitions against the Impugned Order without impleading the candidates, who were still in the fray. On 18.05.2026, while remanding the matters for consideration by this Court, the Hon'ble Supreme Court directed that further



counting of ballot papers shall be kept in abeyance till the matter is decided finally. Thereafter, the Applicants in MA approached the Hon'ble Supreme Court seeking the modification of the order dated 18.05.2026 passed in ***Birender Sangwan*** (*supra*) to the extent that counting should recommence.

- 67.2. The Hon'ble Supreme Court *vide* order dated 21.05.2026 passed in ***Birender Sangwan*** (*supra*) gave liberty to the Applicants to seek interim directions from this Court.
- 67.3. Accordingly, CMA was numbered and listed before this Court and the Applicants prayed for grant of the same interim relief on the basis of contentions discussed below.
- 67.4. The constitution and functioning of the Bar Council is governed by the BCD Rules. The BCD Rules also lay down provisions for challenging the election of any person to the Council as also the resolution of disputes pertaining to defacement / tampering of ballot papers.
- 67.5. As per Rule 23(2) of the BCD Rules, any erasures, obliterations or alterations in the voting paper constitute defacement and votes cast by such papers shall not be taken into account and that the decision of the Additional Solicitor General on whether a voting paper has been defaced shall be final as per Rule 23(3) of the BCD Rules.
- 67.6. The election of any candidate can be challenged by way of an Election Petition presented under Rule 34(1) of the BCD Rules



by an Election Tribunal appointed by BCI under Rule 34(5) of the BCD Rules.

67.7. Reliance was placed on *Abhay Kumar Verma (supra)* to submit that this Court where the election to the Bar Council in 2003 was sought to be challenged on the basis of allegations similar to the ones raised in the present Petitions such as tampering discovered after the first stage of counting, held that writ petitions challenging the election at the intermediate stage are not maintainable and the election process is required to be completed forthwith. This Court in *Abhay Kumar Verma (supra)* further held that any person aggrieved by the result of the election can challenge the same by way of an election petition in terms of Rule 35 of the BCD Rules and directed the counting to be completed expeditiously and fixed a timeline for the same.

67.8. Reliance was further placed on *Kuldeep Kumar v UT Chandigarh & Ors.*, (2024) 3 SCC 526 to submit that countermanding the election due to the allegation of tampering of certain ballot papers would compound the destruction of fundamental democratic principles due to such tampering and that therefore, in *Kuldeep Kumar (supra)* as a remedial measure, the Hon'ble Supreme Court directed the votes which had been tampered to be counted in favour of the duly chosen candidate.



67.9. It is settled law that an election process once started should not be interdicted by exercise of writ jurisdiction and the appropriate remedy against the result of an election is by way of institution of an election petition before an election tribunal after the election is over. In support of the submissions, the reliance was placed on the following judgments:

- a. The Hon'ble Supreme Court in *Sandeep Singh Bora v Narendra Singh Deopa & Ors.*, 2026 INSC 105, in the context of elections to Panchayats and the bar under Article 243-O of the Constitution has reiterated that in respect of individual grievances, the ultimate remedy lies by way of election petitions, The election process should not be stalled due to individual grievances and Courts should remain mindful of the overarching public interest in ensuring expeditious and smooth conclusion of the election process.
- b. In *N.P. Ponnuswami (supra)*, in the context of a challenge to the judgment of the High Court rejecting the Petitioner's challenge to rejection of his nomination by the RO relying on Article 329(b), the Hon'ble Supreme Court upheld the judgment of the High Court and laid down that elections should be concluded as expeditiously as possible and irregularities in the conduct of the process should only be questioned by way of an election petition before a special tribunal and not while the election is in progress.



- c. The law laid down in *N.P. Ponnuswami (supra)*, was reiterated in *Mohinder Singh Gill (supra)* and the Hon'ble Supreme Court once again laid down that challenge which seek to stall the election process as opposed to petitions which seek its expeditious conclusion ought to wait till culmination of the process which includes counting and the declaration of the return of a candidate.
- d. In *Election Commission of India v. Shivaji*, (1988) 1 SCC 277, the Hon'ble Supreme Court held that even in cases where allegations of non-compliance with the statutory regime or provisions of the Constitution was raised in the context of an election, any challenge to it could only be entertained after the election process had culminated by way of a duly instituted election petition.
- e. Similarly, in *Election Commission of India v. Ashok Kumar*, (2000) 8 SCC 216 once again the Hon'ble Supreme Court reiterated that invoking of a judicial remedy for calling in question an election or any challenge which has the effect of interrupting, obstructing or protracting the election proceedings must wait till completion of the election process.
- f. The law that the High Court should not interdict an election process in motion has also been applied in the context of elections other than to legislative bodies such as in the case of *Shri Sant Sadguru Janardan Swami (Moingiri Maharaj*



Sahakari Dugdha Utpadak Sanstha v. State of Maharashtra, (2001) 8 SCC 509 where the election was to a Central Society registered under the Maharashtra Cooperative Societies Act, 1960. The writ petition was dismissed, and the Hon'ble Supreme Court upheld the order of the High Court.

67.10. The Impugned Order notes that the allegations pertaining to tampering of ballot papers relate to the stage after the first round of counting was over and no specific allegations of misdeeds during the first round of counting have been made. The Impugned Order further notes that the person who had tampered with the ballot papers was caught tampering after the first round of voting was over while distributing the votes of one eliminated candidate. Thereafter, all the ballot papers of the tables on which the accused had worked were re-checked and corrections were made.

67.11. Mr. Nikhil Kumar joined the counting process on 02.04.2026, that no counting took place on 10.04.2026 and 12.04.2026, and that, after the incident was detected on 15.04.2026, immediate corrective steps were taken, including reconciliation on 16.04.2026. It was further submitted that, as recorded by the HPESC, all ballot papers at the tables where Mr. Nikhil Kumar had worked were rechecked and necessary corrections made. A total of 27 manipulated ballots were ultimately identified, comprising 18 on 15/16.04.2026 and a further 9 after counting



resumed on 13.05.2026. According to the BCD, in each instance the vote was transferred to the candidate in whose favour the voter had originally marked the preference.

67.12. On that basis, it was urged that the incident did not vitiate the entire election process and that the HPESC rightly declined the prayer for re-polling or annulment.

REJOINDER SUBMISSIONS:

68. The learned Counsel for the Petitioners made the following Rejoinder-submissions:

68.1. BCD has failed to point out any provision under the Advocates Act or the BCI Rules, 1975 providing for an election petition in respect of BCD Election. Further, as no election result has yet been declared, any such remedy would in any event be premature. The present Writ Petitions are, therefore, maintainable.

68.2. The expenditure allegedly incurred by BCD cannot justify continuation of a process that stands affected by serious allegations of ballot tampering and forgery. Financial considerations cannot override electoral integrity. The alleged inconvenience arising from reservation of premises for counting is not a sufficient reason to resume counting despite the stay granted in *Birender Sangwan* (*supra*).

68.3. The reliance placed on CCTV cameras, surveillance and livestreaming is misplaced. Despite these safeguards, ballot tampering was admittedly detected, raising serious concerns about the fairness and reliability of the counting process.



Having acknowledged the incident of ballot tampering and initiated criminal proceedings, BCD cannot now contend that continuation of the same counting process would be fair or in the interests of justice.

68.4. The following material facts have remained unrebutted by BCD:

- a. On 15.04.2026, large-scale tampering of ballot papers was detected during counting, allegedly resulting in votes being altered in favour of a particular candidate.
- b. The FIR was registered and Mr. Nikhil Kumar was arrested. The FIR records that the investigation extends to other unidentified persons, indicating a larger conspiracy.
- c. Mr. Nikhil Kumar was part of the counting process from 02.04.2026 to 09.04.2026 and was present at the counting tables throughout the first round.
- d. The subsequent re-check of ballot papers was carried out without adequate disclosure regarding the extent of tampering, the methodology adopted, or the involvement of other persons.
- e. The representation submitted by 116 candidates highlighted several additional irregularities, including discrepancies in vote counts, breach of ballot secrecy, presence of unauthorized persons, unexplained breaks during counting, improper identity verification, canvassing within polling premises and lack of transparency in the counting process. These concerns remain unanswered.



- f. The issue is not the integrity of the RO. The issue is that the ballot papers were admittedly tampered with, and detection of the fraud does not remove the effect of such tampering.
- g. Mr. Vishnu Sharma, the candidate who allegedly benefited from the tampering, himself stated that the fraud could not have been committed without the involvement of multiple insiders, thereby supporting the Petitioner's case that the conspiracy extends beyond one individual.
- h. Mr. Vishnu Sharma also referred to allegations that approximately 400 forged or duplicate ballot papers had entered the election process. This serious allegation remains unaddressed.
- i. He further raised concerns regarding lack of security at the counting venue and the accessibility of ballot papers to persons other than authorised counting staff.
- j. Mr. Vishnu Sharma himself suggested that the ballot papers should be examined by an independent committee and subjected to forensic examination by CFSL.
- k. He also referred to allegations that CCTV cameras were removed during the crucial stage of second-preference counting, thereby raising serious doubts regarding transparency.
- l. The statements made by Mr. Vishnu Sharma support several concerns raised by the Petitioner and other candidates, including the possibility of a wider conspiracy, forged ballot



papers, security lapses, removal of cameras and the need for an independent forensic examination before counting is allowed to continue.

- 68.5. BCD's claim that the counting process was clearly visible through the live telecast is also incorrect. According to the Petitioners, most viewers watching the proceedings on YouTube could not properly see the ballot papers, as no zoom-in or zoom-out facility was available during the livestream.
- 68.6. It was further submitted that the application / platform used for streaming the counting process was not functioning properly, thereby affecting the transparency of the process.
- 68.7. In response to BCD's submissions regarding the intention of the voters, it was submitted that different coloured inks were used to mark preferences on the ballot papers. This, according to the Petitioners, raise concerns of tampering of the ballot papers and therefore the disputed ballot papers cannot be justified on the basis of voter intention.
- 68.8. The candidates, who were suspended on account of failure to comply with the applicable rules cannot be treated in the same manner as those who complied with them. Such candidates should not be granted the same benefit as rule-abiding candidates.
- 68.9. BCD has not specifically denied or rebutted the Petitioners' allegation that eight to ten cameras deployed during the counting process were removed.



68.10. The Election Committee cannot be vested with unrestricted powers to supervise the election process, appoint members, monitor the conduct of elections, and simultaneously perform functions akin to those of an election tribunal.

68.11. Lastly, it was submitted that the suspension of candidates ought to have resulted in their elimination from the electoral process, with the votes cast in their favour being transferred in accordance with the applicable preferential voting system. According to the Petitioners, the failure to do so has affected the counting process.

ANALYSIS AND FINDINGS

69. Having considered the submissions made by the Parties, the main issues that arise for our consideration are as under:

- i. Whether these Petitions are maintainable and this Court can entertain the present Petitions?
- ii. Whether the Special Committee of the BCD exceeded its powers and function as the RO or Election Committee?
- iii. Whether the violation of MCC vitiated the entire election process?
- iv. Whether reconciliation must be undertaken before the commencement of second-preference counting or after completion of counting and before declaration of the result?
- v. Whether the criminal act of tampering with the ballot papers have vitiated the entire election process so as to require re-polling for the BCD Election?



- vi. Whether there was any chance of tampering during the counting of the first preference votes?
- vii. Whether there was any poor visual display of ballot papers to the candidates during the counting of votes?

Maintainability and jurisdiction

70. The learned Counsel for the BCD and the learned Senior Counsel for the Applicants in CMA No. 38198 have raised a preliminary objection with regard to the maintainability and jurisdiction of this Court to entertain and decide the present Petitions.

71. It was submitted by the learned Counsel for the BCD that these Petitions seek to set aside the Impugned Order and re-polling for the BCD Election or in the alternative a Court-supervised forensic examination of the ballot papers before the results are declared, however, the present Writ Petitions are not maintainable as the writ jurisdiction is ousted once the election schedule is declared and the election process has commenced. It was further submitted that Article 329(b) of the Constitution stipulates an absolute bar against entertaining any writ petition under Article 226 of the Constitution relating to elections while an election remains in progress.

72. The learned Counsel for the BCD submitted that all grievances touching upon the conduct of election must await their proper ventilation exclusively through the mechanism of an election petition presented before the appropriate Election Tribunal after the conclusion of the election. It was further submitted that the ongoing counting of votes is part of the electoral process and the term 'election' provided in Part-XV of the Constitution has to be construed in the widest sense and encompasses the entire proceedings



from the date of notification of the election schedule till the declaration of the results. It was also submitted that the allegations in the present Petitions are factual in nature and require evidence to be led and, therefore, such disputed questions of fact cannot be decided in the writ jurisdiction. It was submitted that such grievances must await the conclusion of the election process and can only be ventilated through an election petition.

73. The learned Counsel for the BCD submitted that the Hon'ble Supreme Court in *M. Varadhan (supra)* vide order dated 18.11.2025 in Paragraph No. 20, has categorically held that:

“20. Any person who is aggrieved by the decision of the High-Powered Election Committee shall be at liberty to approach the High-Powered Supervisory Committee. The decision taken by the Supervisory Committee shall be final. No civil court or High Court shall entertain any petition(s) against such decision.”

74. In view of the above, it was contended that this Court has no power to entertain the present Petitions against the decisions of the HPESC.

75. The learned Senior Counsel for the Applicants in CMA has submitted that the Petitioners approached the Hon'ble Supreme Court by way of the SLPs against the Impugned Order without impleading the candidates who were still in the fray. Therefore, the Applicants, who are leading in the BCD Election have filed CMA to oppose these Petitions. It was submitted that the election process once started should not be interdicted by exercise of writ jurisdiction and relied upon the decisions of the Hon'ble Supreme Court in *Sandeep Singh Bora (supra)*, *N.P. Ponnuswami (supra)*, *Mohinder Singh Gill (supra)* to submit that the present batch of Writ Petitions is not maintainable as any challenge in the context of an election could only be



entertained after the election process has culminated by duly instituted election petition.

76. The Petitioners-in-person as well as their Counsel submitted that the present Petitions are maintainable as these are transferred Petitions converted from the Special Leave Petitions filed before the Hon'ble Supreme Court for adjudication on merits after recording agreements of the Parties for referring these Petitions to this Bench. The orders dated 18.05.2026 and 21.05.2026 passed in ***Birender Sangwan*** (*supra*) clearly indicate that the Hon'ble Supreme Court has consciously transferred these Petitions to undertake the factual exercise to ascertain whether there were gross irregularities and malpractices in the election process including the counting of the votes while staying the process of counting of votes till the disposal of the present Petitions by this Court. Accordingly, it was submitted that the preliminary objection with regard to the maintainability and jurisdiction being raised by the BCD and the Applicants in the CMA is misconceived.

77. We have considered the rival submissions on the issue of maintainability and jurisdiction. As regards Paragraph No. 20 of the order dated 18.11.2025 passed by the Hon'ble Supreme Court in ***M. Varadhan*** (*supra*), it is directed that the decision taken by the HPESC shall be final and no Civil Court or High Court shall entertain any petition against such decision. Therefore, the Petitioners preferred SLPs against the Impugned Order passed by the HPESC. During the course of the hearing of the SLPs, the Hon'ble Supreme Court *vide* order dated 18.05.2026 observed that the parties agreed to the suggestion by the Hon'ble Supreme Court that it would



be appropriate if the matter is entrusted to a Division Bench of this Court. Consequently, the SLPs were transferred to this Court and re-numbered as the Writ Petitions. The said order further records that the parties shall be at liberty to raise all the contentions before this Court.

78. Accordingly, the Hon'ble Supreme Court was conscious of its own direction in Paragraph No. 20 of *M. Varadhan (supra)* while transferring the Special Leave Petitions to this Court for effective adjudication, while reserving the liberty of all parties to raise all the contentions before this Court. In view of the same, the order dated 18.11.2025 passed in *M. Varadhan (supra)* will not put any embargo on this Bench for hearing the Writ Petitions in view of the order dated 18.05.2026 passed in *Birender Sangwan (supra)*.

79. Since the Hon'ble Supreme Court has granted liberty to all parties to raise all contentions before this Court, it remains open to the BCD and the Applicants in the CMA to urge the jurisdictional objection notwithstanding that the same was not raised before the Hon'ble Supreme Court.

80. The principal objection urged by learned counsel for the BCD and learned Senior Counsel for the Applicants in the CMA pertains to judicial interference with an electoral process once the same has commenced. It is well settled that, once the election process has been set in motion, the writ jurisdiction ought not ordinarily to be invoked so as to interdict the same, and the aggrieved parties are generally required to pursue their grievances by way of an election petition after conclusion of the election. The exercise of writ jurisdiction in such matters is, therefore, exceedingly limited and can be justified only in rare and exceptional circumstances where the election



process is shown to stand vitiated in its entirety, warranting judicial scrutiny notwithstanding the pendency of the electoral process.

81. It is the case of the Petitioners that widespread irregularities, commencing from the inception of the electoral process for the BCD Election and culminating in the lodging of FIR in respect of manipulation of ballot papers, have so eroded the credibility of the process that this Court, while exercising jurisdiction in these transferred petitions, ought to direct a re-poll for the BCD Election.

82. In view of the aforesaid submissions, the issue that falls for consideration is whether, in the facts and circumstances of the present case, the high threshold for exercise of writ jurisdiction stands satisfied so as to justify interference with the electoral process after its commencement.

83. The learned Counsel for BCD placed reliance on decisions of the Hon'ble Supreme Court in *N.P. Ponnuswami (supra)*, *Ashok Kumar (supra)*, *Shaji K. Joseph (supra)*, *Mandeep Singh (supra)*, *Jyoti Basu (supra)*, *Vishwanath Pratap Singh (supra)* and *Kuldeep Kumar (supra)* to submit that there is an absolute bar against judicial interference in the process of elections once the elections have commenced and that contesting for election is not a fundamental right but a statutory right.

84. There is no cavil with the propositions laid down in the aforementioned authorities. However, the issue of maintainability of the Writ Petitions is required to be examined from a different perspective:

- i. *Firstly*, the order dated 18.05.2026 in the case of *Birender Sangwan (supra)* also shows that the case of *M. Varadhan (supra)* was also listed on the same date since the order passed



in *Birender Sangwan* (*supra*) mentions the number of the case of *M. Varadhan* (*supra*), which is Writ Petition (Civil) No. 1319/2023 and consequently, the order dated 18.11.2025 passed in *M. Varadhan* (*supra*) stood modified *vide* order dated 18.05.2026 passed in *Birender Sangwan* (*supra*).

- ii. *Secondly*, Hon'ble the Chief Justice of India was a member of the Bench which passed the order in the case of *M. Varadhan* (*supra*) on 18.11.2025. He was also member of the Bench which passed the order dated 18.05.2026 in *Birender Sangwan* (*supra*).
- iii. *Thirdly*, the jurisdiction of the High Court under Article 226 of the Constitution is a constitutionally conferred jurisdiction which cannot be ordinarily taken away unless specifically prohibited under the statute.
- iv. *Fourthly*, the order dated 18.11.2025 passed in *M. Varadhan* (*supra*) is only an interlocutory order passed by the Hon'ble Supreme Court as the main cases are still pending before the Hon'ble Supreme Court. Interlocutory orders can be modified and changed. In this view of the matter, the order passed on 18.11.2025 in the case of *M. Varadhan* (*supra*) cannot be treated as final order.

85. Additionally, the order passed on 18.11.2025 is in exercise of power under Article 142 of the Constitution, which is exercised by the Hon'ble Supreme Court in order to do complete justice in a particular case, but it does not result in declaration of law which is binding under Article 141 of



the Constitution of India. Reference can be made to a Three Judges Judgment of the Hon'ble Supreme Court in *State of Punjab v. Rafiq Masih (White Washer)*, (2014) 8 SCC 883. Relevant Paragraph is extracted herein under:

“12. Article 142 of the Constitution of India is supplementary in nature and cannot supplant the substantive provisions, though they are not limited by the substantive provisions in the statute. It is a power that gives preference to equity over law. It is a justice-oriented approach as against the strict rigours of the law. The directions issued by the Court can normally be categorised into one, in the nature of moulding of relief and the other, as the declaration of law. “Declaration of law” as contemplated in Article 141 of the Constitution: is the speech express or necessarily implied by the highest court of the land. This Court in Indian Bank v. ABS Marine Products (P) Ltd. [(2006) 5 SCC 72], Ram Pravesh Singh v. State of Bihar [(2006) 8 SCC 381 : 2006 SCC (L&S) 1986] and in State of U.P. v. Neeraj Awasthi [(2006) 1 SCC 667 : 2006 SCC (L&S) 190] has expounded the principle and extolled the power of Article 142 of the Constitution of India to new heights by laying down that the directions issued under Article 142 do not constitute a binding precedent unlike Article 141 of the Constitution of India. They are direction issued to do proper justice and exercise of such power, cannot be considered as law laid down by the Supreme Court under Article 141 of the Constitution of India. The Court has compartmentalised and differentiated the relief in the operative portion of the judgment by exercise of powers under Article 142 of the Constitution as against the law declared. The directions of the Court under Article 142 of the Constitution, while moulding the relief, that relax the application of law or exempt the case in hand from the rigour of the law in view of the peculiar facts and circumstances do not comprise the ratio decidendi and therefore lose its basic premise of making it a binding precedent. This Court on the qui vive has expanded the horizons of Article 142 of the Constitution by keeping it outside the purview of Article 141 of the Constitution and by declaring it a direction of the Court that changes its complexion with the peculiarity in the facts and circumstances of the case.”



86. Ordinarily, the present Writ Petitions would not merit entertainment in exercise of writ jurisdiction, inasmuch as the facts pleaded do not, at first blush, disclose circumstances falling within the narrow exception warranting judicial interference with an ongoing electoral process. The allegations raised in the Writ Petitions pertain to irregularities during polling and to issues arising in the course of counting, each of which may appropriately be examined by the Election Tribunals constituted pursuant to the directions of the Hon'ble Supreme Court, once the BCD Election stand concluded, in accordance with Rule 34(1) of the BCD Rules, which reads as under:

“34. Disputes as to the validity of elections: (1) Any voter may contest the validity of the election of a candidate declared to have been elected to the Bar Council by a petition signed by him and supported by an affidavit and delivered to the Secretary personally or sent by registered post so as to reach him within 15 days from the date of publications of the results of the election.”

87. However, having regard to the order dated 18.05.2026 passed by the Hon'ble Supreme Court transferring the present Writ Petitions to this Court for adjudication on merits, it would not be appropriate to non-suit the Petitioners in those transferred matters on the ground of maintainability alone. We, therefore, proceed to examine the rival contentions on merits as well.

88. Moreover, in the Writ Petition, the correctness of Impugned Order passed by the HPESC, which has been constituted by the Hon'ble Supreme Court to supervise the elections of the Bar Councils of all the States, has been challenged. Consequently, objection for refusing to entertain the Writ Petition does not have merit. Nonetheless, at this stage this Court is conscious of limited scope of interference when counting is ongoing and its results are yet to be announced.



89. As regards W.P.(C) 7972/2026, titled *Rudra Vikram Singh v. Bar Council of Delhi & Ors.*, the same has been filed directly before this Court without approaching the Hon'ble Supreme Court against the order of HPESC for seeking the following reliefs:

“a) Issue an appropriate writ, order, or direction directing Respondents not to count the votes casted to the 79 Suspended candidates during their suspension period.

b) Issue an appropriate writ, order, or direction directing Respondents to clarify on what grounds the suspension of 79 candidates revoked without filling any appeal by those 79 candidates against the suspension order dated 22.02.2026.

c) Issue an appropriate writ, order, or direction directing Respondents to submit the action taken report against the candidates who violated Model Code of Conduct.”

90. Although, the Petitioner in W.P.(C) No.7972/2026 was part of the representations considered by the HPESC while passing the Impugned Order, as no Special Leave Petition was filed before the Hon'ble Supreme Court challenging the Impugned Order, the Petitioner in W.P.(C) No.7972/2026 does not have the benefit of order dated 18.05.2026 passed by the Hon'ble Supreme Court in *Birender Sangwan* (supra) as the directions therein were confined to the matters transferred from the Hon'ble Supreme Court to this special Bench.

91. However, since the issues sought to be urged in W.P.(C) 7972/2026 substantially overlap with those raised in the transferred Writ Petitions, which are being examined on merits in view of the orders dated 18.05.2026 and 21.05.2026 passed by the Hon'ble Supreme Court in *Birender Sangwan* (supra), W.P.(C) No.7972/2026 is also being considered on merits along with the Writ Petitions.



92. Hence, we do not find any merit in the jurisdictional objection raised by the BCD and the Applicants in the CMA and the same is rejected.

Role and Function of the Special Committee of BCD

93. Pursuant to Section 8A of the Advocates Act, BCI constituted the Special Committee on 10.10.2025 to exercise the powers and perform all the functions of the BCD since the election of BCD was not conducted before the expiry of the term of five years since its last election, which was held in 2018.

94. In the order dated 18.11.2025 passed in *M. Varadhan (supra)*, the Hon'ble Supreme Court has recognized the constitution of the Special Committee consisting of two eminent Senior Advocates, one of whom is also serving as the Additional Solicitor General of India and entrusted the Special Committee to perform the function of the High Powered Election Committee as envisaged in the said order.

95. The Petitioners contended that the functions of the Special Committee and the Election Committee overlapped, as both operated under the same administrative framework. They further alleged that the Special Committee and the RO functioned as a single entity, thereby compromising the Special Committee's role as the High-Powered Election Committee.

96. The RO, a former Judge of this Court, was appointed by the Special Committee. The Special Committee also constituted the five-member Election Committee on 18.12.2025, with the RO as its Chairperson.

97. Before notification of the BCD Election, the Special Committee, acting as the BCD, issued an advisory dated 03.11.2025 directing removal of hoardings, ballots, posters and similar material, and cautioning prospective



candidates against conduct bringing disrepute to the legal profession. After the appointment of the RO and constitution of the Election Committee, all correspondence, notices and advisories were issued by the office of the RO or the Election Committee. The Special Committee also functioned as the High-Powered Election Committee, as evidenced by its consideration of candidates' representations and its resolutions thereon.

98. The examination of record placed on record indicates that the RO and the Election Committee functioned independently of the Special Committee. Nothing on record suggests any overlap, or that the RO acted under the Special Committee's instructions.

99. The Special Committee performed a dual role: as the BCD under Section 8A of the Advocates Act and as the High-Powered Election Committee under the order of the Hon'ble Supreme Court in *M. Varadhan* (*supra*). Those functions were discharged independently, while supervision of the election and counting remained with the RO and the Election Committee.

100. Accordingly, we find no merit in the Petitioners' contention that the functions of the Special Committee and the RO overlapped.

Violation of MCC and other irregularities during the polling for the BCD Election

101. The Petitioners contended that the entire electoral process stood vitiated by violations of the MCC and other irregularities during polling. In support, they relied on the incident of 22.02.2026, when 79 candidates were issued suspension notices for alleged breaches of Clause 9.1 of the MCC, including sloganeering near the polling area, distribution of campaign material, display of flex hoardings, and similar prohibited acts.



102. The Petitioners further contended that votes cast in favour of those 79 candidates during the period of suspension, from 22.02.2026 until revocation of the suspension by the Election Committee, ought not to have been counted.

103. At the outset, the MCC is intended to secure a free, fair, and transparent electoral process by regulating the conduct of candidates and their supporters and preserving the dignity and integrity of the election. However, not every infraction of the MCC vitiates the entire electoral process.

104. The MCC itself prescribes the consequences of breach. Clause 10.1 treats any violation as misconduct; Clause 10.2 provides for immediate elimination of the candidate concerned; Clause 10.3 contemplates redistribution of votes already received by such candidate; and Clause 10.4 declares the Election Committee's decision final and binding. Thus, while the MCC provides specific consequences for its breach, it does not contemplate that every violation would, by itself, vitiate the entire electoral process or require a re-poll.

105. In our *prima facie* view, the counting of votes cast in favour of the 79 candidates during the period of suspension does not establish that the election process stood vitiated as no prejudice to the Petitioners has been shown at this stage. The suspension notices issued on 22.02.2026 were answered by the concerned candidates and, upon consideration of their explanations, the Election Committee withdrew the notices on 23.02.2026, before commencement of polling on that day, and permitted them to continue in the election. The decision to revoke the notices and direct strict



adherence to the MCC was taken by the authority entrusted with supervision of the election upon assessment of the prevailing facts and circumstances.

106. The material placed on record further shows that the Election Committee and the RO actively addressed MCC violations throughout the election process. Advisories, notices, and warnings were issued from time to time cautioning candidates against surrogate campaigning, unauthorised canvassing, organisation of parties, financial inducements, and other prohibited conduct. The Election Committee also adopted a zero-tolerance approach and repeatedly warned that MCC violations would invite serious consequences. The notice dated 12.02.2026, captioned “Final Urgent Notice: Zero Tolerance Policy for MCC Violations”, itself demonstrates that compliance with the MCC was being closely monitored and remedial measures taken wherever necessary.

107. The Petitioners also contended that many voters were permitted to vote without proper verification. According to them, several candidates whose enrolment status on the BCD website still reflected pending degree verification were nevertheless allowed to contest the election. They further submitted that many advocates enrolled in 2024, 2025, and earlier, whose names appeared in the final voter list, also showed pending verification on the BCD website. It was argued that, if such candidates or voters were later found to possess fake or invalid degrees, the votes cast by them would be invalid and that the inclusion of such votes furnished a further ground to invalidate the entire election process.

108. We find no merit in the above contention. The Resolution dated 09.01.2026 passed by the Special Committee, pursuant to the direction in



Umesh Kumar (supra), expressly included candidates provisionally enrolled with the BCD who had qualified the All India Bar Examination and submitted the verification form on or before 30.11.2025. It also included candidates permitted to take the examination prior to enrolment who had submitted the verification form by that date, notwithstanding their appearance in the deferred/withheld list, provided they had qualified the examination. In any event, it would not be possible in writ jurisdiction to invalidate the entire election process on disputed questions of fact. The Petitioners also have an alternative remedy of filing an election petition before the Election Tribunal under the BCD Rules after completion of the election process, which right is always available and kept open despite filing these Petition.

109. Given that these allegations principally concern campaign-related misconduct, polling grievances, and breaches of electoral discipline, such complaints may justify action against individual candidates, including disqualification or disciplinary proceedings. However, the material available on record falls short of establishing that the alleged MCC violations or other irregularities vitiated the electoral process as a whole to warrant the extraordinary relief of a re-poll.

110. Accordingly, the Petitioners shall be at liberty to take up all other contentions with regard to allegation of violation of MCC, irregular polling practice, unauthorised canvassing, misuse of mobile phones and unauthorised access to ballot papers and strongroom in the Election Petition before the Election Tribunal after declaration of results.



111. In view of the above, the challenge to the BCD Election founded on alleged MCC violations and other polling irregularities is rejected, while reserving the rights of the Petitioners to approach the Election Tribunal by way of Election Petition(s), if any, after the conclusion of the BCD Election in accordance with the applicable rules and law, if so advised.

Allegations with regard to excess votes and the timing for reconsideration of the votes

112. The Petitioners contend that, at the close of first-preference counting, there remained an unexplained variance of 1,469 votes. According to them, although 17,585 votes were recorded on 21.02.2026, an excess of 404 votes was found at closure; on 22.02.2026, 16,300 votes were recorded with an excess of 200; and on 23.02.2026, 23,800 votes were recorded with a deficit of 865.

113. By order dated 20.03.2026, the RO informed the candidates that reconciliation would be undertaken after completion of the counting process. That order was challenged in W.P.(C) 4316/2026, which was disposed of on 02.04.2026 with a direction that the results of the BCD Election shall be declared only after reconciliation.

114. Thereafter, a request for immediate reconciliation before commencement of eliminations was rejected by the RO by order dated 07.04.2026, recording the Election Committee's decision that reconciliation would be carried out only after completion of counting and before declaration of results. The challenge thereto in W.P.(C) 4907/2026 was disposed of on 13.04.2026, this Court recording that the result would not be declared prior to completion of reconciliation.



115. The orders dated 02.04.2026 in W.P.(C) 4316/2026 and 13.04.2026 in W.P.(C) 4907/2026 have not been challenged. The issue concerning the alleged excess votes and the timing of reconciliation is, therefore, no longer open for re-agitation in these proceedings. The learned Single Judge has already protected the interests of the candidates by directing that no result be declared before reconciliation.

116. In view thereof, the Petitioners cannot be permitted to reopen the controversy regarding the alleged excess votes or the stage at which reconciliation is to be undertaken. The directions recorded in the aforesaid orders bind the BCD, the RO and the Election Committee.

117. No further directions are, therefore, required on the issue of alleged excess votes or reconciliation prior to declaration of the results as the same has already been adequately addressed in W.P.(C) 4316/2026 and W.P.(C) 4907/2026 and the orders passed therein were not assailed in the SLPs and, therefore, do not form part of the present Writ Petitions.

118. Accordingly, the directions contained in the orders dated 02.04.2026 and 13.04.2026 in W.P.(C) 4316/2026 and W.P.(C) 4907/2026 respectively are hereby reiterated, and the objection on this score stands disposed of.

Whether tampering with the ballot papers have vitiated the entire election process

119. The Petitioners have contended that once the tampering of the ballot papers has been admittedly discovered, the continuation of the process of counting without independent scrutiny would defeat the legitimate expectation of free and fair elections.

120. The Petitioners have also submitted that since the FIR has already been filed against the culprit and the investigation is ongoing, till such time



the investigation is completed, it would not be possible to determine the impact of the manipulation of the ballot papers carried out during the counting process. It was also submitted that, admittedly, the culprit, Mr. Nikhil Kumar, was present during the counting process from 02.04.2026 till 15.04.2026 and, therefore, the exact damage committed by him would be unknown till such time the forensic analysis and the investigation is completed.

121. The BCD has contended that although Mr. Nikhil Kumar joined the counting on 02.04.2026, during the initial six days until 09.04.2026 the first preference votes were being recorded directly from the ballot boxes placed on the podium in a manner visible to the candidates. No counting was undertaken during 10.04.2026 and 12.04.2026. The counting resumed on 13.04.2026 and the tampering of the ballot papers was discovered on 15.04.2026. Accordingly, it was submitted by the BCD that the tampering of the ballot papers would have taken place only between 13.04.2026 and 15.04.2026. It was further submitted by the BCD that immediate and appropriate legal action was taken by the RO / Election Committee on 15.04.2026 itself. It was further submitted by the BCD that on 16.04.2026, a comprehensive reconciliation of the votes was undertaken by rechecking the ballot papers of the tables on which Mr. Nikhil Kumar had worked from 02.04.2026. Accordingly, it was submitted that even though the tampering / manipulation of the ballot papers was discovered, it did not impact the entire election process as the appropriate steps under law as well as BCI Guidelines have been taken to ensure that the results of the BCD Election is not impacted.



122. It was further submitted by the BCD that when the counting resumed on 16.04.2026, the reconciliation of votes was carried out as per the BCI Guidelines by giving effect to the true intention of the voters by giving benefit to the actual beneficiary. It was further submitted that on 16.04.2026, total 18 ballot papers were found to be manipulated and thereafter, when the counting process resumed on 13.05.2026 pursuant to the Impugned Order, 9 manipulated ballot papers were discovered. Accordingly, till the passing of the order by the Hon'ble Supreme Court directing to not continue with the counting till such time the present Writ Petitions are decided, total 27 ballot papers were found to be manipulated.

123. We have considered the impact of the incident occurred on 15.04.2026, when the Election Committee discovered the manipulation of the ballot papers. Immediately upon discovery of the manipulation in the ballot papers, the counting was halted and the FIR was registered by the police. The Election Committee, thereafter, recalled the 18 effected ballots and transferred the votes to a candidate against whose name the original next preference was marked by ignoring the manipulation / tampering done on the ballot papers thereby giving the effect to true intention of the voters.

124. When the counting re-commenced on 16.04.2026, a comprehensive reconciliation up to 80th elimination was carried out by the Election Committee and 18 ballot papers were found to be manipulated. When the counting was carried out pursuant to the Impugned Order from 13.05.2026, additional 9 ballot papers were found to be manipulated. Accordingly, till such time the counting was stopped on 18.05.2026 pursuant to order dated



18.05.2026 passed by Hon'ble Supreme Court in *Birender Sangwan (supra)*, total 27 manipulated ballot papers were identified.

125. Accordingly, the possibility that additional ballot papers may have been manipulated, beyond the 27 already identified, cannot be ruled out. The question for consideration is whether such manipulation has vitiated the entire BCD election process so as to warrant a re-poll.

126. Further, the HPESC has in the Impugned Order has already taken sufficient steps by directing recounting of votes from the stage when counting of the second preference votes started in order to rule out the impact of alleged tampering of ballot papers.

127. Under Rule 23(2) of the BCD Rules, any voting paper containing erasures, obliterations, or alterations is deemed to be defaced, and no vote purportedly cast thereon can be taken into account. Rule 23(3) of the BCD Rules further provides that the decision of the learned Additional Solicitor General as to whether a voting paper has or has not been defaced shall be final. Rules 23(2) and 23(3) of the BCD Rules are reproduced below:

“23. Method of Voting

(2) A voting paper shall not be signed by a voter, and in the event of any erasures, obliterations or alterations in the voting paper or of the voting paper purporting to have been signed by the voter, the voting paper shall be deemed to have been defaced and no votes purporting to have been given thereby shall be taken into account for the purposes of the election.”

(3) The decision of the Additional Solicitor General whether a voting paper has or has not been defaced shall be final.”

128. Further, the BCI Guidelines issued to ensure uniformity in the counting of ballot papers provide that no member of the counting staff shall



add to, overwrite, retrace, correct, or otherwise alter any preference marking on any ballot paper, and that such staff shall confine their role strictly to scrutiny and counting of preferences as actually cast by the voter. The Guidelines further provide that any ballot paper showing overwriting, erasures, additions, physical alteration, or other suspicious features shall be immediately segregated as doubtful and dealt with strictly in accordance with the prescribed procedure, with brief reasons recorded. They also require that rejected and doubtful ballots be segregated table-wise in separate sealed bundles or packets, endorsed with brief reasons, and preserved to maintain an objective record in the event of any grievance. The safeguards are to be applied uniformly during scrutiny and counting to prevent avoidable invalidation of ballots where the voter's intention is clearly expressed, while preserving the integrity and credibility of the counting process. The relevant extract of the BCI Guidelines dated 11.02.2026 is reproduced below:

- “10. *In order to address apprehensions relating to possible later addition or alteration at the stage of unfolding or handling, it is requested that unfolding and scrutiny is conducted under direct and continuous supervision with uniform instructions at all counting tables; that no member of the counting staff adds to, overwrites, retraces, corrects, or otherwise alters any preference marking on any ballot paper and confines the role strictly to scrutiny and counting of preferences as actually cast by the voter; and that any ballot showing overwriting, erasures, additions, physical alteration, or suspicious features is immediately segregated as doubtful and dealt with strictly in accordance with the prescribed procedure with brief reasons recorded.*
11. *It is also requested that rejected and doubtful ballots are segregated tablewise in separate sealed bundles or packets with brief reasons endorsed and preserved, so that uniformity,*



transparency, and an objective record are maintained in the event any grievance is raised before the competent committee(s).

12. *It may be noted that such segregation and preservation of rejected and doubtful ballots, with brief endorsed reasons, assists in ensuring transparency and in maintaining an objective record, should any issue be raised before the competent committee(s).*
13. *The present communication is being circulated to all State Bar Councils, all High-Powered Election Committees, and all Returning Officers to inform that the above clarification has already been issued in one such case, and that the same principles and safeguards should be applied uniformly during scrutiny and counting in all State Bar Council elections, so as to prevent avoidable invalidation of ballots where voter intention is clearly expressed, while simultaneously preserving the integrity and credibility of the counting process.”*

129. In view of the above, Rules 23 (2) and 23(3) of the BCD Rules read with the relevant provisions of the BCI Guidelines contemplate that ballot papers bearing overwriting, corrections, erasures, additions, or other suspicious variations shall be treated as “doubtful”, and the decision in that regard shall be taken by the learned Additional Solicitor General, which shall be treated as final.

130. Accordingly, we are of the considered view that the admitted manipulation of ballot papers by a member of the counting staff must be dealt with in the manner prescribed by the BCD Rules and the BCI Guidelines instead of directing re-polling as demanded by the Petitioners, especially having considered the effect of such manipulation and applicable the BCD Rules and the BCI Guidelines that already provide adequate safeguards for counting votes in cases involving tampered ballot papers. No prejudice would, therefore, be caused to any candidate if effect is given to



the true intention of the voter in accordance with those provisions. Consequently, the entire BCD Election does not warrant a fresh poll merely because such manipulated ballot papers were identified during the counting process.

131. The proper consequence of such manipulation is that any ballot paper bearing erasures, overwriting, corrections, additions, or other suspicious variations shall be segregated and kept in sealed bundles or packets marked as “doubtful ballots”. Such doubtful ballots shall be placed before the learned Additional Solicitor General, who shall determine the manner in which they are to be counted and record brief reasons in respect of each such ballot. Upon reasons being so recorded, the decision of the learned Additional Solicitor General shall be final, and preferences shall be allocated accordingly. The doubtful ballots and the reasons so recorded shall be preserved separately.

132. This procedure shall ensure that effect is given to the voter’s intention without causing prejudice to any candidate. It also obviates the need for a re-poll and avoids the substantial expense of conducting the BCD Election afresh, since the alleged manipulation does not go to the root of the electoral process, the manner of dealing with such an eventuality being already provided for in the BCD Rules read with the BCI Guidelines.

133. We, therefore, do not consider it appropriate to direct a re-poll for the BCD Election, as the incident of manipulation of ballot papers did not vitiate the electoral process in its entirety. We, accordingly, uphold the Impugned Order insofar as it declined the prayer for a re-poll or annulment of the BCD Election.



134. Additionally, to obviate the recurrence of any such incident, we direct that no counting staff shall be engaged through Mr. Prabodh Kumar. All counting staff shall be engaged only after due verification, issuance of photo identity cards, and submission of an undertaking confirming that no conflict of interest exists with any contesting candidate.

Whether there was any chance of tampering during the counting of the first preference votes?

135. Having held that no re-poll is warranted in respect of the BCD Election, the next question is whether recount of the first-preference votes is required.

136. The Petitioners contended that, by reason of the admitted manipulation of ballot papers, the entire election process, including the counting of first-preference votes, stood affected, since Mr. Nikhil Kumar, who was identified as having engaged in such manipulation, was present between 02.04.2026 and 09.04.2026 when first-preference counting was undertaken.

137. On that basis, it was submitted by the Petitioners that the counting of first-preference votes stood vitiated solely by the presence of the said individual during that stage of the counting process.

138. We have viewed the video recordings of the first-preference counting. They show that each sealed and locked ballot box was brought to the counting podium under continuous camera surveillance, and that the seals and locks were opened on the podium in the presence of members of the Election Committee and the Special Returning Officers, and in the virtual presence of the candidates and their authorised representatives seated on the 6th Floor, S-Block, High Court of Delhi. Each ballot paper, upon being taken



out of the ballot box, was placed on the podium in a manner visible to the candidates and their representatives. The ballot papers were scrutinised by the Election Committee and the Special Returning Officers in accordance with the applicable procedure, and the votes recorded thereon were announced during the counting process.

139. In view of the above, we are unable to accept the Petitioners' submission that the counting of first-preference votes stood vitiated. In our considered view, there was no real possibility of tampering during the counting of first-preference votes.

140. Although Mr. Nikhil Kumar was present between 02.04.2026 and 09.04.2026, no possibility of tampering arises in relation to the counting of first-preference votes. Any such tampering could only have occurred between 13.04.2026 and 15.04.2026, as no counting took place on 10.04.2026 and 12.04.2026, and the manipulation of ballot papers was detected on 15.04.2026 after counting resumed on 13.04.2026. Upon discovery of the manipulation, immediate and appropriate action was taken by the RO and the Election Committee on 15.04.2026 itself.

141. Further, interpolation of ballot papers during first-preference counting appears inherently improbable, as the identities of the candidates likely to be eliminated in subsequent rounds were not then known.

142. On 16.04.2026, the Election Committee undertook a comprehensive reconciliation of all ballot papers from the tables at which Mr. Nikhil Kumar had worked since 02.04.2026. This fact was placed before the HPESC, which recorded in the Impugned Order that all ballot papers from those tables had been rechecked and the necessary corrections made. The HPESC



accordingly concluded that fresh recounting shall take place from the second-preference stage.

143. We concur with the finding of the HPESC that the counting of first-preference votes was valid and that no recount of first-preference votes is required as although manipulation of ballot papers was discovered, it did not affect the counting of first-preference votes.

144. In view of our observations, we hold that no recount of first-preference votes is warranted.

Allegations regarding poor visual display during counting

145. The Petitioners contended that, although CCTV cameras were installed on the 7th Floor of S-Block, High Court of Delhi, where the counting was taking place, the video quality was hazy and the camera angle did not permit the entire ballot paper to be seen, making it impossible to verify the basis on which preferences were transferred.

146. The videos shown during the hearing lend some credence to the Petitioners' contention. They indicate that a high-resolution camera was positioned behind the officials engaged in counting, with the result that the entire ballot paper was not visible during the process. The videos further indicate that not all tables at which the open baskets were kept after counting of first-preference votes were within the field of view of the CCTV cameras installed in the Counting Hall.

147. Although adequate arrangements were made during the counting process, upon consideration of the Petitioners' grievance and the videos shown during the hearing, we find that there remains scope for improvement in the recording of the entire counting process.



148. The HPESC, in the Impugned Order, has already directed that effective arrangements be made for the live display of the counting process and such display must not be a mere formality, but it must ensure that the counting of votes is shown live and that the ballot papers are clearly visible.

149. Accordingly, we are of the view that a high-resolution camera should be placed above the counting table so as to ensure that each ballot paper is captured in full and with clarity, and that all preferences are visible to the candidates and their authorised representatives present on the 6th Floor of S-Block, High Court of Delhi, as well as on the YouTube channel on which the counting process is live-streamed and High Loop App, as previously.

150. We further direct that, if the existing CCTV cameras do not capture each counting table, the Election Committee and the RO shall make arrangements for installation of additional CCTV cameras so that every counting table and every box containing ballot papers is clearly visible.

151. We also direct that all ballot papers presently kept in open baskets, whether in cloth bags or otherwise, shall be transferred to lockable boxes or bags prior to recommencement of counting to prevent any further tampering. The lockable boxes or bags shall remain locked during every break and at the close of each counting day.

CONCLUSION:

152. In view of the foregoing analysis, we find no merit in any prayer sought in W.P.(C) Nos. 7531/2026, 7532/2026, 7533/2026 and 7972/2026 and we reiterate the directions in Impugned Order with the below additional directions to alleviate any apprehension in mind of any one and to ensure the transparency, purity, and sanctity of the BCD Election process:



- i. The counting of the votes for BCD Election shall recommence from the stage it has stopped pursuant to the interim order passed by the Hon'ble Supreme Court on 18.05.2026.
- ii. Before the counting recommences, all ballot papers presently kept in open baskets, whether in cloth bags or otherwise, shall be transferred to lockable boxes or bags. Such boxes or bags shall remain locked during every break and at the close of each counting day.
- iii. A high-resolution camera shall be placed above / top of the counting table to ensure that each ballot paper is captured in full and with clarity. The entire counting process shall be continuously videographed without interruption and live-streamed in real time to all contesting candidates and their authorised representatives at the display provided on 6th Floor of S-Block, High Court of Delhi and through YouTube and the High Loop App, as previously.
- iv. The Election Committee and Returning Officer shall examine the CCTV camera system installed at 7th Floor of S-Block, High Court of Delhi to ensure that all cameras shall continuously capture all counting tables and all persons stationed thereat and shall be positioned so that no material stage of handling, scrutiny, or movement of ballot papers falls outside their field of view.
- v. The Returning Officer shall ensure that no counting staff for the next stage of counting is engaged through Mr. Prabodh Kumar. Entire counting staff shall be engaged only after proper verification, issuance of photo-identity cards, and submission of an undertaking confirming that no conflict of interest exists with any contesting candidate.



- vi. Counting shall recommence as soon as the CCTV and Hi-resolution cameras, lockable boxes, and counting staff are in place and shall be endeavored to be completed expeditiously. The Returning Officer shall notify the date and time of recommencement of counting at least 24 hours in advance. A complete digital recording of the counting process shall be preserved in its original form on a backup storage device, and shall not be overwritten, altered, or destroyed until expiry of the limitation period for filing an election petition before the Election Tribunal. If any Election Petition(s) are filed, such preservation shall continue subject to the directions of the Election Tribunal.
- vii. Any ballot paper bearing erasures, overwriting, corrections, additions, or other suspicious variations shall be segregated and kept in sealed bundles or packets marked as “doubtful ballots”. Such doubtful ballots, including the 27 ballot papers that have already been identified as manipulated, shall be placed before the learned Additional Solicitor General to determine how they are to be counted and record brief reasons for each decision. The decision of the learned Additional Solicitor General shall be final, and the preferences shall be allocated accordingly. The doubtful ballots and the recorded reasons shall be preserved separately.
- viii. The Counting Hall and all areas connected with the custody or handling of ballot papers shall remain under continuous CCTV surveillance, and entry thereto shall be regulated strictly through



identity cards. A complete digital and physical log of every entry and exit shall be maintained and preserved as part of the election record.

- ix. If any Petitioner or their authorized representative obstructs the counting process, misbehaves with any member of the Election Committee or Special Committee, the Returning Officer, the Observer, or any counting staff, restricts access to S-Block of the High Court of Delhi, or enters the 7th Floor of S-Block without authority, the Election Committee shall take appropriate steps in accordance with law.
- x. All rights and contentions of the Petitioners are reserved. They shall remain at liberty to pursue the same by way of Election Petition(s) before the Election Tribunal upon conclusion of the BCD Election, if so advised. We clarify that the observations contained herein are *prima facie* in nature and shall not be construed as a final expression on the merits of the case. Any Election Petition(s), if filed, shall be decided independently by the Election Tribunal, uninfluenced by the observations hereinabove.

153. Accordingly, W.P.(C) Nos. 7531/2026, 7532/2026, 7533/2026 and 7972/2026 along with all pending Application(s), if any, stand disposed of with the aforesaid directions.

ANIL KSHETARPAL, J

TEJAS KARIA, J

JUNE 06, 2026

HK/N/HR/sms/ap/gsr