



# Bar Council of Maharashtra & Goa

2<sup>nd</sup> Floor, High Court Extension, Fort, Mumbai- 400 032. Tel.-22656567

## **Pramod N. Joshi**

B.Sc. LL.B. Advocate, High Court,  
Member, Special Committee

Ref. No.: BC/Ele./37 /2009

November 27, 2009

To  
The Editor / Chief Reporter,

---

Sir,

I am forwarding herewith a "Press Note" issued by the Bar Council of Maharashtra & Goa for publication in your renowned newspaper. You are requested to give wide publicity to the said "Press Note" at the prominent place in your newspaper.

Thanking you,

Yours faithfully,

Sd/- Sd/-  
(PRAMOD N.JOSHI) (M.T.Q.SAYYED)  
MEMBER, SPECIAL COMMITTEE

---

### **"PRESS NOTE"**

The election of the Bar Council of Maharashtra and Goa are scheduled to be held on 07.01.2010. For the purpose of preparation of voters list, the Bar Council of Maharashtra and Goa has published a final electoral roll on 05.11.2009. In the said Final Electoral Roll, only those members who have paid the advocates' welfare fund contribution as required to be paid under the provisions of Rule 2(h) of the Bar Council of India Rules, are only supposed to be included in the said Electoral Roll. There has been some confusion in respect of the eligibility criteria in respect of the voters to be included in the final electoral roll. It is, therefore, clarified that the Division Bench Judgement given by Hon'ble Rebello and Mohta, JJ. on 13.12.2006, though Rule 6(h) is held invalid, paragraph (11) of the said Judgement clearly holds that the said Rule has been held invalid only on account of technical ground. It is clearly observed that in any case, every voter has to qualify himself to be voters and has to comply with Rule 2(h) of the Bar Council of India Rules. This rule clearly provides that when the State Bar Council prepares and finalizes the Electoral Roll, the voter has to pay/subscribe the required amount of the advocates welfare fund as per the provisions of Rule 2(h) of the Bar Council of India Rules. The Committee has, therefore, considered the aforesaid legal position and has taken a decision that only those voters who have cleared or paid the amount towards the welfare fund by 26.10.2009 are eligible to be included into the Final Electoral Roll. Accordingly all the earlier contrary clarifications are hereby cancelled. The Final Electoral Roll has been prepared and published and is available in the Bar Council of Maharashtra and Goa office.

---

**Resi.:-** 8, Ameya Apartment, Shrish Co-Op. Hsg. Society, Behind Anupama Society, Hajuri Road, Near Murphy Radio Co., Thane (West)- 400 604. Mobile :- 9819331088.  
Tel. No. 022-25821088, Tel-Fax. .No.- 022-2582 4791,

---

**Office :-** 311-B "Commerce House", N.M. Road, Fort, Mumbai- 400 023. Tel.No.022- 22677592.  
Email :-lawyer.pj@gmail.com



# Bar Council of Maharashtra & Goa

2<sup>nd</sup> Floor, High Court Extension, Fort, Mumbai- 400 032. Tel.-22656567

## **Pramod N. Joshi**

B.Sc. LL.B. Advocate, High Court,  
Member, Special Committee

..2..

It is also further clarified that earlier Rule 32(g) of the Bar Council of Maharashtra and Goa Election Rules, by which it was provided that the ballot papers shall be invalid, if the voter does not cast minimum number of 10 votes. The said rule has been declared ultra-virus/invalid by the Division Bench Judgement referred above. In view of the said Judgement, it is, therefore, clarified that the votes cannot be invalidated on the ground that the voter does not cast minimum number of 10 votes. Though, the matter is now pending before the Hon'ble Supreme Court, the Hon'ble Supreme Court has not granted any stay to the said portion of the Order. Therefore, in the prevailing position, the said Rule 32(g) has been declared ultra-virus and cannot be enforced. This means that it is not compulsory for the voters to give 10 preference while voting.

It is also necessary that the candidates and their supporters while canvassing for the candidature of the candidate, are supposed to note and follow Rule 44 [7(2) and 7(3)] of the Election Rules that defines "undue influence". The said rule provides as under :-

(44)7(2) Undue influence that is to say, any direct or indirect interference or attempt to interfere with the free exercise of any electoral right including the issuing or sending of any appeal or manifesto for votes whether direct or indirect.

Provided that, a mere intimation of candidature with a bare request for a vote shall not amount to undue influence.

And provided further that, a candidate or his agent may also orally ask for vote from voters; but on the date of election such requests shall not be made within a radius of 200 yards from the polling station.

And a candidate may issue a written intimation to his voters announcing his candidature and seeking their votes or their first preference votes, which intimation shall not contain any other publicity or his eulogy. Such written intimation shall also not amount to undue influence.

Attempt to secure from any voter his ballot paper with intent to prevent him from transmitting it directly or with intent ensure that the vote has been cast or is to be cast for a particular candidate shall be deemed to interfere with the free exercise of the electoral right of the said voter.

7(3) The hiring or procuring whether on payment or otherwise of any vehicle or vessel or the use of such vehicle or vessel for the free conveyance of any elector to or any polling station.

The candidates and supporters should take note of the same.

Sd/- Sd/-  
(PRAMOD N.JOSHI) (M.T.Q.SAYYED)  
MEMBER, SPECIAL COMMITTEE

---

**Resi.:-** 8, Ameya Apartment, Shrish Co-Op. Hsg. Society, Behind Anupama Society, Hajuri Road, Near Murphy Radio Co., Thane (West)- 400 604. Mobile :- 9819331088. Tel. No. 022-25821088, Tel-Fax. .No.- 022-2582 4791,

---

**Office :-** 311-B "Commerce House", N.M. Road, Fort, Mumbai- 400 023. Tel.No.022- 22677592. Email :-lawyer.pj@gmail.com