

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

% *Judgment Reserved on : June 30, 2015*
Judgment Delivered on : July 14, 2015

+ **LPA 269/2015**

NORTH DELHI MUNICIPAL
CORPORATION & ORS

..... Appellants

Represented by: Mr.Gaurang Kanth, Advocate with
Ms.Biji Rajesh, Advocate

versus

ONIKA MEHROTRA & ORS

..... Respondents

Represented by: Mr.A.S.Chandhiok,
Sr.Advocate instructed by
Mr.N.Tripathi, Advocate for
R-1 to 3
Mr.Subodh Kumar, Mr.Anil
Kumar, Advocates for
R-4

LPA 283/2015

EAST DELHI MUNICIPAL CORPORATION

..... Appellant

Represented by: Mr.Gaurang Kanth, Advocate with
Ms.Biji Rajesh, Advocate

versus

SHRI NARENDER JAIN & ORS

..... Respondent

Represented by: Mr.A.S.Chandhiok,
Sr.Advocate instructed by
Mr.N.Tripathi, Advocate for
R-1 to 9
Mr.Raman Duggal, Advocate for R-
10

LPA 284/2015

SOUTH DELHI MUNICIPAL CORPORATION Appellant
Represented by: Mr.Gaurang Kanth, Advocate with
Ms.Biji Rajesh, Advocate

versus

SH SURENDER SOLANKI & ORS Respondents
Represented by: Mr.A.S.Chandhiok,
Sr.Advocate instructed by
Mr.N.Tripathi, Advocate for
R-1 to 9
Mr.Raman Duggal, Standing
Counsel for R-10

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

PRADEEP NANDRAJOG, J.

1. The respondents of the above captioned appeals, other than the Government of NCT Delhi, are persons who have been nominated by the Administrator of the Union Territory of Delhi to the South, North and East Delhi Municipal Corporation, exercising his power under Section 3(3)(b)(i) of the Delhi Municipal Corporation Act, 1957, (hereinafter referred to, as 'the Act'). Being denied the right to vote in the meeting of their respective Wards Committee, to elect Chairperson/Deputy Chairperson as also being denied the right to offer their candidature to be elected to the post of Chairperson/Deputy Chairperson of their respective Standing Committee and Wards Committee and/or as members of the Standing Committee, or as Deputy Chairperson of the said Committee, the said respondents filed writ petitions in this Court and the prayers made gave rise to the following issues of law:

- (i) Whether the persons nominated by the Administrator under Section 3(3)(b)(i) of the Act are disentitled to vote in the meetings of their respective Wards Committee and Standing Committee?
- (ii) Whether the persons nominated by the Administrator under Section 3(3)(b)(i) of the Act are disentitled to offer their candidature to be elected as members of Standing Committees?
- (iii) Whether the persons nominated by the Administrator under Section 3(3)(b)(i) of the Act are disentitled to offer their candidature to be elected to the post of Chairperson and/or Deputy Chairperson of their respective Wards Committees and Standing Committees?

2. The three questions have been answered by the learned Single Judge as under:-

“42. Thus, to summarize the above, the petitioners – being constituent members of Wards Committees, can participate and vote in any meeting of the respective Wards Committee. However, the petitioners cannot file their nomination or offer their candidature for being elected as Chairperson of the Wards Committee. The petitioners may also offer their candidature for being elected as member of the Standing Committee. In the event any of the petitioners are elected as member of the Standing Committee, they may vote at any meeting of the Standing Committee and also offer their candidature for being elected as Deputy Chairperson of the Standing Committee; but, they cannot offer their candidature for being appointed as a Chairperson of the Standing Committee.”

3. Issue before the learned Single judge was debated with reference to Article 243R and 243S of the Constitution of India, which formed the backdrop of the reasoning given by the learned Single Judge, as also Section 2(27), Section 3(3)(b)(i), Section 44, Section 45, Section 47, Section 50 and Section 51 of the Act.

4. It would thus be appropriate if we commence our journey, which obviously would be to re-charter the Articles of the Constitution and the Sections of the Act which have been considered by the learned Single Judge, by noting the same.

Article 243R : Composition of Municipalities.

(1) Save as provided in clause (2), all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies to be known as wards.

(2) The Legislature of a State may, by law, provide –

(a) for the representation in a Municipality of -

(i) persons having special knowledge or experience in Municipal administration;

(ii) the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area;

(iii) the members of the Council of States and the members of the Legislative Council of the State registered as electors within the Municipal area;

(iv) the Chairpersons of the Committees constituted under clause (5) of article 243S:

Provided that the persons referred to in paragraph (i) shall not have the right to vote in the meetings of the Municipality;

(b) the manner of election of the Chairperson of a Municipality.

x x x x x

Article 243S : Constitution and composition of Wards Committees, etc.

(1) There shall be constituted Wards Committees, consisting of one or more wards, within the territorial area of a Municipality having a population of three lakhs or more.

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition and the territorial area of a Wards Committee;

(b) the manner in which the seats in a Wards Committee shall be filled.

(3) A member of a Municipality representing a ward within the territorial area of the Wards Committee shall be a member of that Committee.

(4) Where a Wards Committee consists of—

(a) one ward, the member representing that ward in the Municipality; or

(b) two or more wards, one of the members representing such wards in the Municipality elected by the members of the Wards Committee, shall be the Chairperson of that Committee.

(5) Nothing in this article shall be deemed to prevent the Legislature of a State from making any provision for the constitution of Committees in addition to the Wards Committees.

x x x x x

Section 3 : Establishment of the Corporation

(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be a Corporation charged with the municipal Government of Delhi, to be known as the Municipal Corporation of Delhi.

(2) *The Corporation shall be a body corporate with the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and may by the said name sue and be sued.*

(3)(a) *The Corporation shall be composed of the councillors;*

(b) *the following persons shall be represented in a Corporation, namely:—*

(i) *ten persons, who are not less than 25 years of age and who have special knowledge or experience in municipal administration, to be nominated by the Administrator:*

Provided that the persons nominated under this sub-clause shall not have the right to vote in the meetings of a Corporation;

(ii) *members of the House of the People representing constituencies which comprise wholly or partly the area of a Corporation and the members of the Council of States registered as electors within the area of a Corporation;*

(iii) *as nearly as possible one-fifth of the members of the Legislative Assembly of the National Capital Territory of Delhi representing constituencies which comprise wholly or partly the area of a Corporation to be nominated by the Speaker of that Legislative Assembly, by rotation, every year:*

Provided that while nominating such members, by rotation, the Speaker shall ensure that as far as possible all the members are given an opportunity of being represented in a Corporation at least once during the duration of a Corporation;

(iv) *the Chairpersons of the Committees, if any, constituted under sections 39, 40 and 45, if they are not councillors.*

(4) *Councillors shall be chosen by direct election on the basis of adult suffrage from various wards into which Delhi shall be divided in accordance with the provisions of this Act.*

(5) *The total number of seats of councillors and the number of seats reserved for the members of the Scheduled Castes in each Corporation, shall, at the time of establishment of such*

Corporation, be as determined by the Government by notification in the Official Gazette.

Provided that twelve out of the eighty seats of councillors shall be reserved for the members of the Scheduled Castes.

(6) Upon the completion of each census after the establishment of a Corporation the number of seats shall be on the basis of the population of the area of the Corporation as ascertained at that census and shall be determined by the Central Government by notification in the Official Gazette and the number of seats to be reserved for the members of the Scheduled Castes shall, as nearly as may be, bear the same ratio to the total number of seats as the population of Scheduled Castes bears to the total population of Delhi:

Provided that the total number of seats in all the Corporations in Delhi shall in no case be more than two hundred and seventy-two and the number of seats in each Corporation shall be determined by the Government at the time of establishment of such Corporations.

Provided further that the determination of seats as aforesaid shall not affect the then composition of a Corporation until the expiry of the duration of a Corporation:

Provided also that for the first election to the Corporation to be held immediately after the commencement of the Delhi Municipal Corporation (Amendment) Act, 2011, the population figures of every such Corporation as published in relation to 2001 census shall be deemed to be the population thereof as ascertained in that census:

Provided also that the seats reserved for the Scheduled Castes may be allotted by rotation to different wards in such manner as the Central Government may, by order published in the Official Gazette, direct.

(7) Seats shall be reserved for women belonging to the Scheduled Castes, from among the seats reserved for the Scheduled Castes, the number of such seats being determined by the Government by order published in the Official Gazette which shall not be less than one-half of the total number of seats reserved for the Scheduled Castes.

(8) Seats shall be reserved for women, the number of such seats being determine by order published in the Official Gazette by the Government which shall not be less than the one-half of total number of seats other than those reserved for the Scheduled Castes.”

5. Section 2(27) of the Act reads as under:-

“2(27) “member” in relation to a Corporation means a councillor”

6. Section 44 of the Act reads as under:-

“44. Enumeration of municipal authorities –

For the efficient performance of its functions, there shall be the following municipal authorities under each Corporation, namely:-

- (a) The Standing Committee;*
- (b) The Wards Committee; and*
- (c) The Commissioner*

7. Section 45 of the Act reads as under:-

“45. Constitution of the Standing Committee-

(1) The Standing Committee shall consists of -

(i) Six members elected by the councilors from among themselves at the first meeting of a Corporation;

(ii) One member each elected by the members of each Wards Committee from among themselves at the first meeting of the Wards Committee;

after each general election or as soon as possible at any other meeting subsequent thereto.

(2) On and from such date as may be determined by a Corporation by resolution the Standing Committee shall be deemed to have been constituted.

(3) One-half of the members referred to in clause (i) of sub-section (1) and one-half of the members referred to in clause (ii) of that sub-section shall retire on the expiration

of one year from the date of the constitution of the Standing Committee after the commencement of the Delhi Municipal Corporation (Amendment) Act, 1993, and for that purpose they shall be selected by lot from amongst their respective categories before the said expiration in such manner as the Chairman of the Standing Committee may determine.

- (4) During each succeeding year the members who have been longest in office shall retire therefrom:*

Provided that in the case of a member who has been re-elected the term of his office shall for the purpose of this sub-section be computed from the date of his re-election.

- (5) A Corporation or the concerned Wards Committee, as the case may be, shall in a meeting held immediately before the occurrence of the vacancies, caused by the retirement of the members under sub-section (3) of sub-section (4) elect the requisite member or members from amongst the councilors or from amongst members of the Wards Committee, as the case may be, to fill up those vacancies.*

- (6) Any councillor who ceases to be a member of the Standing Committee shall be eligible for re-election.”*

8. Section 47 of the Act reads as under:-

“47. Chairman and Deputy Chairman of the Standing Committee-

- (1) The Standing Committee shall at its first meeting in each year elect one of its members who is a Councillor to be the Chairman and another member to be the Deputy Chairman.*

- (2) The Chairman or the Deputy Chairman of the Standing Committee shall hold office from the date of his election until the election of his successor in office unless in the meantime he resigns his office as Chairman or Deputy Chairman or his term of office as member of the Standing Committee is in any manner determined or unless in the case of the Deputy Chairman he is elected as Chairman.*

- (3) On the concurrence of any casual vacancy in the office of the Chairman or the Deputy Chairman, the Standing*

Committee shall within one month of the occurrence of such vacancy elect one of its members who is a Councillor as Chairman or Deputy Chairman and the Chairman or Deputy Chairman, as the case may be, and the Chairman or the Deputy Chairman so elected shall hold office for the remainder of his predecessor's term.

9. Section 50 of the Act reads as under:-

“ 50. Constitution of the Wards Committee-

(1) For each Zone there shall be a Wards Committee which shall consist of, -

(a) All the councillors elected from the wards comprised in that Zone; and

(b) The person, if any, nominated by the Administrator under sub-clause (i) of clause (b) of sub-section (3) of Section 3 if his name is registered as an elector within the territorial limits of the Zone concerned.

(2) The Wards Committee shall be deemed to have been constituted from the date on which a Corporation is constituted after each general election.”

10. Section 51 of the Act reads as under:-

“51. Application of section 47 and 48 -

The provisions of section 47 and 48 shall apply in relation to a Wards Committee as they apply in relation to the Standing Committee.”

11. Succinctly stated the reasoning of the learned Single Judge is that the constitutional scheme revealed by Article 243R and Article 243S of the Constitution is that persons nominated in the Municipalities would not have a right to vote in the meetings of the Municipality (expressly prohibited by the proviso to Article 243R (2) of the Constitution of India. If these persons become members of the Wards Committees, the Constitution does not prohibit their powers and functions and it is left to the legislature of each

State to regulate the powers and functions of these persons when they become the members of either a Municipality or a Ward Committee. The proviso to Section 3(3)(b)(i) of the Act mirrors the proviso to Article 243R(2) of the Constitution of India and expressly states that members nominated to the Corporations in the Union Territory of Delhi do not have the right to vote in the meetings of the Corporations. Though not expressly stated by the learned Single Judge the reasoning is that persons nominated to the Municipalities would have all the rights in relation to the Municipalities save and except what is/are expressly taken away. Since the Constitution empowers the legislature of each State to make laws in conformity with the constitutional scheme, it would be open to the legislature of a State to curtail the rights of these nominated members in relation to the working of the Municipalities and Section 45 of the Act is clear that any member of the Wards Committee can be represented on the Standing Committee. Concerning the election of the Chairman and Deputy Chairman of the Standing Committee, vide sub-section (1) of Section 47 mandates that the Standing Committee has to elect from one of its members a Chairman, who is a councillor. Therefrom the learned Single Judge has concluded that the clear legislative intent is that, of the members of the Standing Committee, only those who are councillors can be elected as a Chairman. There being no such stipulation in the statute for being elected as a Deputy Chairman, the learned Single Judge has held that these nominated persons can offer their candidature to be elected as a Deputy Chairman of the Standing Committee. Because Section 51 of the Act makes applicable Section 47, as it applies in relation to Standing Committees to Wards Committee, the learned Single Judge has held that this would mean that these nominated persons cannot offer their candidature to be elected as the Chairman of the Wards Committee but can offer their candidature to be elected as a Deputy

Chairman of the Wards Committee. Since there is no embargo either under the Constitution or under the Act to these nominated persons voting at the meetings of the Standing Committee or the Wards Committee, the learned Single Judge has held that these nominated persons have a right to vote at the meetings of the two Committees when voting takes place to elect a Chairman and a Deputy Chairman. In the analysis of the law the learned Single Judge has taken note of the fact that Section 2(27) of the Act defines the word '*Member*' only in relation to a Corporation; and has highlighted that the word would mean '*a councillor*'. Though not expressly stated, implicit in the reasoning of the learned Single Judge is that the Act uses two expressions : (i) '*councillor*' and (ii) '*member*'. The two would have different meanings and since Section 2(27) of the Act defines a member only in relation to a Corporation to mean a councillor, it would mean that in relation to not the Corporation, the expression member would be given its natural meaning which would mean councillors as well as nominated persons. The learned Single Judge has fortified his reasoning with reference to Section 44 of the Act by highlighting that Standing Committees and Wards Committee are Municipal Authorities under the Corporation and are bodies under the Corporation i.e. the Corporation is a body distinct, being the larger body and the Standing Committees and Wards Committee are the authorities under it.

12. Both parties were not at variance, either before the learned Single Judge nor in the appeal, that by virtue of the 74th Amendment to the Constitution of India, Part-IXA was inserted in the Constitution of India containing Articles 243P to 243Z, 243ZA to 243ZG with effect from June 01, 1993, necessitating corresponding amendments to be made in the Act and that the Administrator of the Union Territory of Delhi could nominate, to the three Corporations which exist in Delhi, ten persons not less than

twenty five years of age who had special knowledge or experience in municipal administration, and that by virtue of Section 50 of the Act these nominated persons would become members of the Wards Committee if the name of the person is registered as an elector within the territorial limit of the Zone concerned. The parties were not at variance that for the different Zones contemplated by the Act there shall be a Wards Committee. The parties were not at variance that each of the Municipal Corporation in Delhi would have a Standing Committee.

13. Meaningfully understood, the contention of the appellants before the learned Single Judge which was repeated in the three appeals was that since Section 2(27) of the Act defines a member to be a councillor, may be in relation to a Corporation, the tag to the persons nominated to the Corporation would be '*nominated member*' and thus the scheme of the Act has to be understood as limiting the powers of the nominated members to either vote or offer their candidature to be elected as Chairman or Deputy Chairman of the Standing Committee or the Wards Committee. Learned counsel for the appellant was at pains to argue that these nominated persons could not be equated as members of either the Corporation or of the Standing Committee or the Wards Committee. Learned counsel argued that these persons were nominated to the Corporations because of their special knowledge in municipal administration and the purpose of their appointment was to assist the elected members of the Corporation for a better functioning of the municipal affairs. Learned counsel relied upon the authorities reported as AIR 2004 SC 2258 Ramesh Mehta vs. Sanwal Singh, 2015 (1) RCR (civil) 991 Sanjeev Kumar Verma vs. The Director, Urban Local Bodies & Ors., (2006) 1 GLR 382 Batou & Ors. State of Nagaland, AIR 2003 Raj.128 Prem Raj Bohra vs. Jairoopa & Ors., AIR 2007 Gau 98 Miehlo Manasia vs. State of Mizoram. Learned counsel for the appellant

urged that the language of Section 2(27) of the Act was clear and unambiguous and clearly defined a member in relation to a Corporation to mean the councillor and thus urged that the literal rule of construction as enunciated in the decisions reported as (2005) 2 SCC 271 Nathi Devi vs. Radha Devi Gupta, (2006) 5 SCC 745 A.N.Roy, Commissioner of Police vs. Suresh Sham Singh, (2009) 9 SCC 92 Vijay Narayan Thatte vs. State of Maharashtra, (2010) 10 SCC 744 Competition Commission of India vs. Steel Authority of India, (2013) 10 SCC 772 Union of Indis vs. National Federation of Blind, (2004) 9 SCC 686 Prakash Nath Khanna vs. Commissioner of Income should be applied. Referring to the decision reported as AIR 1976 SC 888 Executive Committee of Vaish Degree College, Shamli vs. Lakshmi Narain & Ors. learned counsel argued that where a statutory authority which is sui generic is constituted by a legislation it would be all embracing body/authority and bodies under the authority cannot be termed as separate authority. Learned counsel urged that since the right of the nominated persons to vote at the meetings of the Corporation is specifically barred under Article 243R and Section 3(3)(b)(i) of the Act these persons cannot vote at the meeting of anybody under the Corporation. Learned counsel relied upon the decisions reported as 2014 (141) DRJ 157 Manohar Lal Sharma vs. Union of India and ILR 1998 Karnataka 1005 Jayashankara Gowda vs. Chief Secretary.

14. Per contra, learned senior counsel for the respondents urged that the view taken by the learned Single Judge is correct and the reasoning of the learned Single Judge which encapsulates the arguments of the respondents may be adopted as the arguments of the respondents and that they had nothing more to urge.

15. At the hearts of the argument advanced by the parties lies the basic issue, determination whereof would take us to the destination. The basic

issue would be whether the definition of the word '*member*' as per Section 2(27) of the Act, which means a councillor, but only in relation to the meetings of the Corporation, would colour the word member used in Section 45 of the Act as also Section 47 of the Act and thereby in Section 51 of the Act.

16. A perusal of the constitutional scheme and in particular Article 243R of the Constitution of India would evince that seats in a municipality shall be filled by persons chosen by direct election by electors residing in the territorial constituencies in the municipal area and for this purpose each municipal area shall be divided into Wards. Thus, every voter in a Ward would elect, by direct election, a person to the Ward. It may be called a seat. In addition it is permissible for the legislature of a State, by law, to provide for representation in a municipality of persons having special knowledge or experience in municipal administration. In other words, the executive body of a municipality would be composed of two kinds of persons : (i) directly elected by voters to the Wards; and (ii) nominated to the municipality as per law made by a State. Article 243R does not use the expression member in relation to the said two categories of persons. A plain reading of Article 243R would show that it draws no distinction between these two category of persons who compose the executive body of a municipality, save and except by virtue of the proviso to Article 243R(2), which carves out an exception under the proviso by expressly excluding the right to vote in the meetings of the municipality of the persons represented in a municipality as per law made by the legislature of a State i.e. persons having special knowledge or experience in municipal administration.

17. A perusal of Section 3 of the Act makes it evident that for the municipal governance of Delhi three corporations have to be established having named and limits as per the 14th Schedule to the Act in terms of sub-

Section 1(A) of Section 3 of the Act. By virtue of sub-Section 2 of Section 3 of the Act each Corporation so established is a body corporate with the name duly notified by the Government having perpetual succession and a common seal with power to acquire, hold and dispose of property and may by the said name sue and be sued. Clause (a) of sub-Section 3 of Section 3 of the Act, reads : '*A corporation shall be composed of the councillors.*' Clause (b) of sub-Section 3 of Section 3 of the Act makes provisions for, by virtue of clause (i) representation in each Corporation of ten persons by the Administrator having special knowledge or experience in municipal administration. Section 44 of the Act enumerates three municipal authorities : (i) Standing Committee; (ii) Wards Committee; and (iii) The Commissioner. Thus the Corporation as a body corporate is not the same as its executive body consisting of humans.

18. It is apparent that the juristic entity would be the Corporation because of sub-Section 2 of Section 3 of the Act. The juristic entity would not be the councillors. Section 3(3)(a), when it refers to a Corporation as being composed of the councillors, simply means that councillors shall compose the Corporation and does not mean that the composition of councillors is the juristic entity called the Corporation. The scheme of the Act is in conformity with the scheme of the Constitution : to give two sources of persons who would discharge the functions of the juristic body called the Corporation. The two sources would be : directly elected persons and nominated persons. By whatever nomenclature the directly elected persons may be called and by whatever nomenclature the nominated persons may be called, their rights would be governed by specific legislation framed by the legislature of each State, subject of course to the constitutional limitation by virtue of the proviso to Article 243R(2) of the Constitution of India.

19. Since the language of the Municipal statutes framed by the respective legislature which was under consideration in the decisions reported as AIR 2004 SC 2258 Ramesh Mehta vs. Sanwal Singh, 2015 (1) RCR (civil) 991 Sanjeev Kumar Verma vs. The Director, Urban Local Bodies & Ors., (2006) 1 GLR 382 Batou & Ors. State of Nagaland, AIR 2003 Raj.128 Prem Raj Bohra vs. Jairoopa & Ors., AIR 2007 Gau 98 Miehlo Manasia vs. State of Mizoram are concededly not pari materia with the provisions with which we are concerned of the Act, it would be of no use for us to go about distinguishing said decisions by noting the provision of the statute considered therein and it would be sufficient for us to record that unless it was shown that a pari materia provision was interpreted in the manner as alleged by learned counsel for the appellant, neither decision would either be a precedent or have any persuasive value. It being trite that a decision is an authority on the point which directly arose for consideration. If a decision concerns interpretation of a statute it would have relevance to interpret a statute which is pari materia. The decision in Vaish Degree College's case cited by learned counsel for the appellant is equally inapplicable because it concerns the law as to when can a private body be treated as a State.

20. The decisions cited by learned counsel for the appellants pertaining to the rule of literal interpretation, far from helping the appellants cut the very argument of the appellants for the reason the appellants themselves argue that an extended meaning be given to Section 2(27) of the Act which defines a member only in relation to a Corporation to apply to the authorities under the Corporation i.e. the Standing Committee and the Wards Committee. The rule of literal interpretation warrants to hold, that being aware of the fact that the legislature has used the word member in relation to the Corporation as also in relation to the Standing Committee and the Wards Committee, the legislature made it clear that only when the word member was used by it in

relation to a Corporation, the legislature meant a councillor. The legislature thus itself guides that the word member wherever used, other than in relation to a Corporation, would take its natural grammatical meaning.

21. After referring to the corporation being composed of councillors, the Act provides for representation in a Corporation by ten persons to be nominated by the Administrator. Enumerating the municipal authorities under Section 44, providing for the constitution of the Standing Committee, Section 45 guides that the Committee shall consists of six members elected by the councillors, one member each elected by members of each Wards Committee. The legislature has obviously used the word members for these two streams. It would be impermissible to make any distinction in the reservoir so constituted after the water from the two streams has merged into a single entity. Conscious of the fact that these members would be constituting the Standing Committee and the Wards Committee, which would have to elect a Chairman as also a Deputy Chairman, the legislature was conscious of the fact that any one of these members can offer their candidature to be elected as a Chairman as also a Deputy Chairman and thus expressly provided that only a councillor can be the Chairman of the Standing Committee. The rule of exclusion by the legislature would lead us to the conclusion reached by the learned Single Judge that be it a councillor or be it a person nominated, since both form the homogenous category of a member of the Standing Committee, any one of them could be elected as a Deputy Chairman. Inherent would be the right to vote at the meeting of the Standing Committee to elect a Chairman and a Deputy Chairman. Since Section 51 makes applicable Section 47 in relation to a Wards Committee as it applies in relation to a Standing Committee, it would mean that the Chairman of a Ward Committee has to be a councillor and no more.

22. As regards the rights of persons nominated, to be appointed as members of the Standing Committee, the constitution of the Standing Committee, as provided in Section 45, is to consist of (a) six members elected by the councillors from among themselves, and (b) one member each, elected by the members of each Wards Committee, from among themselves at the first meeting of the Wards Committee. It is thus clear that the section provides for the composition of Standing Committees to specifically include councillors (to be elected from among themselves), as well as members (who need not necessarily be councillors, as stated above) elected from Wards Committees. The language of the Section does not provide any ambiguity meriting the Court's interpretation of the Section, and the plain reading of the statute makes it clear that the Standing Committee would comprise of elected councillors, as well as members of the Wards Committee (which includes nominated members). Thus, in the absence of any constitutional or statutory restriction on the inclusion of nominated members into the Standing Committee, it may be stated that the Act permits nominated members to be members of the Standing Committee, if they are so elected in their respective Wards Committee.

23. We concur with the view taken by the learned Single Judge.

24. The appeals are dismissed but without any order as to costs.

(PRADEEP NANDRAJOG)
JUDGE

(MUKTA GUPTA)
JUDGE

JULY 14, 2015

Mamta/skb