



RAJEEV CHANDRASEKHAR
MEMBER OF PARLIAMENT
RAJYA SABHA

Member of Standing Committee on Defence
Member of Consultative Committee on Defence
Member of Central Advisory Committee for the National Cadet Corps
Co-Chairman, Vigilance & Monitoring Committee, Bangalore Urban District
Vice Chairman, National Military Memorial Management Trust, Bangalore

April 09, 2015

Excellency,

Bengalureans should not be denied their Constitutional Right to timely elections

Over the past few weeks, there have been attempts by the Siddaramaiah Government to delay or defer the election to the Bruhat Bengaluru Mahanagara Palike (BBMP), which, according to constitutional mandates, was to be held on or before April 22, 2015. Such a move creates a situation where Bengalureans will be denied an opportunity to have a democratically elected city council and instead will be subject to a municipal administrator controlled by the Chief Minister and the State Government - reinforcing a perception that this is being done to further propagate the rampant culture of ad-hocism, discretion and corruption in governance.

Needless to say, denying our citizens an opportunity to vote, denies them their fundamental right to have their say and elect new corporators to govern the local bodies. Despite publication of census figures 2013, the State Government has deliberately failed to take up the task of delimitation of wards, which again is another ruse for the Government to defer the BBMP elections.

Article 243-U of the Constitution of India in unequivocal terms mandates that elections to a municipal corporation shall be conducted and completed before the expiry of its duration i.e., a period of five years. It further mandates that even in the event of the appointment of an administrator, elections to municipal corporations shall be conducted within the said five year period. Consequently, it is constitutionally impermissible to defer the BBMP elections, on the ground of trifurcation or on any other ground whatsoever.

The Hon'ble Supreme Court has unequivocally declared the above position and indicated in the case of *Kishansing Tomar* (2006) that elections to a local body should



necessarily be conducted and completed before the expiry of five years as contemplated under Article 243-U except in exceptional circumstances such as natural calamities.

In the last 2 years, this Government has done little to start a genuine effort of addressing the real problems of the city, including rampant corruption and conflicts of interest. Even the effort at constituting the Metropolitan Planning Committee under Article 243-ZE of the Constitution was a delayed process.

The inaction of the Government in holding BBMP elections has been frowned upon by the High Court of Karnataka. A Single Judge of the High Court has by her order dated March 30, 2015 directed the State to complete the process of elections to BBMP on or before May 30, 2015. The High Court has further directed that the State Government shall publish a notification regarding rotation of seats for reserved categories on or before April 13, 2015.

Trifurcation: An Excuse to Delay BBMP Elections

The Government is attempting to use the proposed trifurcation of BBMP as an excuse to delay BBMP elections. It is equally preposterous that those in Government claim that the trifurcation was a part of the party's manifesto which is being honoured. This only begs the question- why didn't the Government ensure this was done much earlier rather than the haste it resorts to now? Why did the Government not propose the trifurcation 6 months ago if it harboured the same concerns for the city it now espouses?

Given the weight of evidence against benefits of trifurcation, the haste shown by the Government conveys the truth - an intention to delay BBMP elections. If one needed any proof of this, consider how it attempted to promulgate an Ordinance.

After deciding on an Ordinance in a hushed meeting, the Cabinet mystically cancelled a press briefing, a routine that follows any Cabinet meeting! Similarly, keeping with its set pattern of only providing lip-service to any consultative process, by completely disregarding recommendations of a three-member BBMP restructuring committee it set up, specially to consult on the move! While well-meaning citizens, RWAs and NGOs made representations to the Committee, none them were considered by the Government, which set up the Committee in the first place! BBMP was created by an amalgamation of the existing city corporation with a whole host of neighbouring city municipal councils. One cannot fathom the reasons for an emergent action of trifurcation dehors consultations.

The entire notification of the Reservation List too, is erroneous, pointing to the lackadaisical approach of the Government. It has made a slapdash decision to reserve



50% of seats for women, in the guise of positive reinforcements to ensure women corporators are adequately represented. The ad-hoc nature of identifying these reserved constituencies though, reveals the handiwork of those in Government. Even a cursory look at the reservation list reveals that most reserved constituencies are those where sitting corporators are from rival parties- corporators who will lose their seats in the upcoming polls by virtue of this reservation. This however is a calculated move that ensures Government wins both ways. Were anyone to go to court questioning the reservation list, court proceedings would delay the elections, ultimately allowing the Government to further its agenda.

Trifurcation Ordinance impinges on Judicial Process

The proposal of the Government to promulgate an Ordinance to trifurcate BBMP and on that pretext, delay elections to BBMP, is unconstitutional and impinges upon judicial process and independence of the judiciary. A Single Judge of the High Court of Karnataka has on March 30, 2015 directed the State to conduct and complete the entire electoral process for the BBMP elections on or before May 30, 2015. The Hon'ble Court has rejected the arguments of the State that elections to the BBMP could be deferred owing to the proposed trifurcation. The State has preferred an Appeal to the Division Bench of the High Court. Even before the Appeal is considered by the judiciary, the State is attempting to override a judicial decision through an Ordinance, which action is *per se* unconstitutional and is an incursion on the judicial power of the Hon'ble Court. His Excellency the Governor as the protector of the Constitution in the State, ought not to subscribe his assent to such an Ordinance.

Bengaluru needs reforms and transparency not trifurcation

BBMP is already divided into 198 wards as administrative and governance units. A sincere Government would focus on ensuring reach of public services and infrastructure to each of these 198 wards directly. Common sense tells us with 198 wards, there is no need for any other restructuring or division.

The Government should focus on real problems of Bengaluru - rampant corruption, a blatant misuse of contracts for private enrichment, numerous instances of administrative discretion being used to benefit vested interests at the cost of citizens and a total lack of accountability of city municipal agencies. Adding to this, is the lack of a code of conduct amongst the class of elected representatives and bureaucrats who have on innumerable occasions, demonstrated a clear conflict of interest in the disposal of public assets. These are core issues that confront the city and none of which are likely to be resolved if the city is divided into smaller units. In fact, the Government's solution of trifurcation is worse



than the malady it hopes to cure, as it increases the cost of governance and creates turfs of vested interests.

The problems that Bengalureans face are a result of years of negligence and can only be solved by deep rooted reforms in the way the city government serves the people of all 198 wards including starting consultation through the MPC for a metropolitan regional development plan. Real reforms instead of trifurcation!

Trifurcation is deeply flawed and creates more problems

Trifurcation has another significant negative impact. It creates three structures, increasing costs of Governance and dividing Bengaluru into three pockets of very different economic viability, without understanding the implications of such action on the citizens that would be forced to be in these three pockets. The three new corporations will just be pockets of economic haves and have-nots where a resource-rich corporation will house enclaves of prosperity, while resource-starved corporations will be unable to provide basic services to citizens. Look to New Delhi for proof. The Delhi Corporation was similarly trifurcated in 2011. However, the municipalities suffering from unequal revenues are being considered for a re-merger now. Bengaluru can surely foresee a similar future if this trifurcation is done in such haste.

Trifurcation is not a solution to any of the problems and challenges of the city. It is simply a smokescreen hiding the real political intent - delay BBMP elections.

I appeal to you to return the Ordinance, direct the Government to comply with the directions of the Hon'ble High Court and ensure that BBMP elections are conducted and completed on or before May 30, 2015.

Very truly yours,

RAJEEV CHANDRASEKHAR

Shri Vajubhai Vala

His Excellency Governor of Karnataka
Raj Bhavan
Bengaluru