

Decision of 241st Executive Committee meeting held on 17/08/2016 at Hotel The Leela, Mumbai.

Matter approved by 241st Executive Committee meeting for placing on Council's website regarding deposit of Rs. 1 lacs along with nomination for contesting election to the Executive Committee of the Council.

Quote

AEPC's election rules regarding requirement of a deposit of Rs. 1,00,000 as a pre-condition for filing nominations for contesting the election for the post of members of the Executive Committee of AEPC was challenged by M/s Affordable Exports before the Hon'ble Delhi High Court in writ petition no. 11201 of 2015 on the alleged ground of it being in violation of notification no. 466(E) issued by the Ministry of Corporate Affairs on 05.06.2015 exempting Section 8 companies from the requirement of a pre-deposit of Rs. 1,00,000 under S. 160 of the Companies Act, 2013.

The writ petition was disposed of on 21.04.2016 holding that:

"The petitioner, having participated in the election process, though remaining unsuccessful and having also got refund of the deposit made by him, has not suffered any real injury to have a locus standi to continue with the challenge. This proceeding cannot be used by the petitioner to have a second chance to convince the electorate to elect him or have the election of the candidate elected set aside."

The Ld. Single Judge also directed that with respect to future elections, AEPC should take a decision on the said election rule and publish it on AEPC's website.

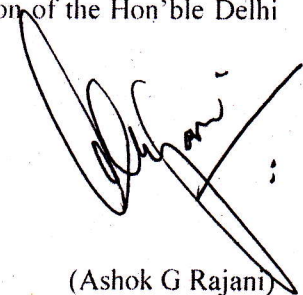
This order of the Ld Single Judge in writ petition 11201 of 2015 was challenged by M/s. Affordable Exports in an appeal LPA no. 368 of 2016 before the Hon'ble High Court of Delhi. The LPA was heard by a Ld. Division Bench of the Hon'ble High Court on 30.05.2016 and judgment was reserved on that date. However, the judgment has not been pronounced to date.

The directions issued by the Ld. Single Judge in order dated 21.04.2016 to AEPC for taking a decision on the election rules for future election was considered at the Executive Committee meeting of the Council held on 17/08/2016 at Mumbai.

It may be noted that the EC after deliberation decided that as per the provisions of clause 11 of Rules for election of members to the Executive committee of AEPC, a member interested to contest for the post of member of the Executive Committee can submit his nomination papers on the prescribed form duly completed in all respect along with deposit of Rs. 1,00,000/- (Rs. One lac only).

However, in light of the fact that the appeal filed by Affordable Exports is pending adjudication by the Ld. Division Bench of the High Court in LPA No. 368 of 2016, it was further decided that this decision of requirement of deposit of Rs. 1,00,000 shall be subject to outcome of the decision of the Hon'ble Delhi High Court, Ld Division Bench in LPA No. 368 of 2016.

Unquote



(Ashok G Rajani)
Chairman, AEPC