

MINUTES OF THE TRIPARTITE MEETING AMONG THE EXECUTIVE COMMITTEE, ELECTION COMMISSION AND PAST PRESIDENTS

Date: January 1, 2010
Place: Madras Midlands
Time: 2:00 – 5:00 pm
Present: S Ahmed, S Rashid, A Salam, MN Haque, MA Hossain, MS Islam, MG Rabbani,
M Saleh, K Anwar, K Anam, Q Halim, A Siddiqui

1. Introduction

The General Secretary welcomed everyone and thanked for their presence. He explained that the objective of the meeting is to find a path forward over the impasse related to the election of 2009. In the absence of the President, the Vice President presided over the meeting. He thanked the participants, apologized for the venue and expressed condolence for the death of Tipu Sultan's son-in-law.

2. Background

S Ahmed: Due to refusal of the first nominated commission and resulting unforeseen circumstances, there was a delay in forming the final election commission. An alternate election commission was finally formed and accepted on November 16. Due to the delay in nominating and the remaining tight timeline, the executive committee extended an offer to help the commission in administrative matters. The commission accepted and requests for nominations were sent out the same day.

On November 16, 2009, the Election Commission mailed a letter to all the active members requesting to submit nominations for the 2010-2011 term. The deadline for sending nominations to the Election Commission was set for November 30, 2009. The deadline for withdrawing nomination was set for December 7, 2009. As planned, once the nominations are finalized, the election commission would send out the ballots to the members by December 12, 2009 with a deadline for returning ballots by December 30, 2009. This would allow the commission to count and complete the election by December 31, 2009.

During the Annual General Meeting of December 6, 2009, among other issues, a few members at attendance requested the Executive Committee to hold an extraordinary general meeting in the next two weeks and to ensure attendance of a minimum number of members so that a quorum is available to make decisions about the upcoming election, specifically to discuss and evaluate the options for delaying the election or allow for more participation.

Following the December 6, 2009 AGM, an emergency meeting of the Executive Committee was held on December 8, 2009. During the meeting each of the issues raised and discussed at the AGM were carefully reviewed. After a thorough review of the issues, the constitution and by-laws as well as the precedence of past executive decisions, the Executive Committee has come to the conclusion that there is no need for an extraordinary general meeting to decide on election procedures. Any deviations that may have happened in processing the election are due to lack of communication within the executive committee for various reasons, few inherent inefficiency in handling mails and unforeseen circumstances beyond the control of the Executive Committee. The Executive Committee has also determined that there were no extraordinary

circumstances that existed or created that may have affected the critical steps of the election process and participation of the active and willing members. However, the executive committee waited to hear from the election commission before any further action.

On December 29, 2009, the executive committee received a letter from the election commission stating that the Election Commission has come to a conclusion that they were unable to conduct the Election in accordance to the Constitution and therefore, request for extension of the time to complete the election as required by the constitution.

3. Clarification and fact finding from the election commission

At this point, the VP requested the election commissioners to present their perspective on the issue.

Serajul Islam: When approached by Daud Bhuiyan on November XX, he agreed to help out the executive committee by taking the responsibility of election commissioner. He however did not consult the constitution and the by-laws at that point. He also accepted executive committee's offer of help in copying and sending out the letters requesting nominations. On November 16 Shah Rashid delivered the letter of nomination to him and had him sign the letter requesting nominations from the general members. On November 30, he received nominations of 9 committee members. Meanwhile, he received anonymous calls to delay the election, derogatory comments by some known members and threats of litigation. In response to a question, he confirmed that their memorandum was not intended to be a verdict of the election rather an avenue to find a solution to the problem.

Golam Rabbani: Once the nominations were received by the commission, he verified it against the active membership list. All nominations were found valid. In response to a question by the executive committee, he confirmed that only the nomination of the election commission was not received within the recommended 60 day period. Other than that, all other timelines such as requesting nominations from the members and receipt of nominations were maintained in accordance with the by-laws.

4. Problem Statement

S Ahmed: We have reasons to believe that the decision of the election commission was not unanimous. As confided by the commissioners that it was not necessarily based on the constraints of the by-laws as they were aware of past precedents, rather due to pressures created on them through informal discussions, anonymous calls and threats of litigation. Also, the election commission confirmed that their memorandum was intended to find a solution to the problem.

Based on the information provided so far, the question we need to answer are the following:

Can the election commission complete the election and announce the results based on the assurance of this body that no violations were committed which have affected the outcome of the election?

If not, what is the way out of this impasse and what is the path forward since the constitution and by-laws do not provide guidance for such a scenario?

However, there are a few limitations and boundaries that we are operating within.

1. All regular memberships expire at the end of December 31, 2009. Therefore, any delay in the election will have to allow renewal of membership through March 31, 2010.
2. According to the constitution, the term of the executive committee expires on Jan 10, 2010. Therefore, any delay in handing over to the new committee requires a mandate by the general body.
3. This forum can not take decisions regarding this impasse. It can only recommend a solution to the executive committee and election commission.

5. Discussion

A Siddiqui: Although the membership expires on December 31, it is not cancelled until March 31 of the following year. Mr Halim also supported that interpretation. At this time the executive committee members accepted the explanation and agreed that the membership is considered to be valid until March 31.

A Siddiqui: Raised the question why the executive committee did not hold a general meeting as proposed during the AGM. The VP clarified that following the December 6, 2009 AGM, an emergency meeting of the Executive Committee was held on December 8, 2009. During the meeting each of the issues raised and discussed at the AGM were carefully reviewed. After a thorough review of the issues, the constitution and by-laws as well as the precedence of past executive decisions, the Executive Committee had come to the conclusion that there is no need for an extraordinary general meeting to decide on election procedures. Moreover, the executive committee had to wait for the election commission to make a decision about the election, which was not received until December 29.

Qazi Halim: From the background provided by the executive committee and the testimony of the election commissioners, it is clear that only the first part of the election process, i.e the nomination of election commission was compromised, the last three parts were not compromised. So, there was no violation that may have affected the outcome of the election. Therefore, the election commission should feel comfortable to conclude the remainder of the election.

Kazi Anam: The members had 2 years to think and prepare for this election. If anyone was interested they should have prepared and submitted their nominations. They can still come forward. The panel seems to be open to accommodate interested parties for the open positions. If someone is really interested then they should work with this committee and prepare for the next election. Therefore, the election commission should conclude the election and let us move forward.

N Haque: Although he agreed to be nominated for the committee, under the circumstance, he does not feel comfortable to be associated with the panel due this controversy.

K Anwar: This issue of minor irregularity was taken too far that has led us to this impasse. The election commission should have taken a strong and informed position on this and taken decisive actions. In response to his question about the real reason behind the indecisiveness, the commissioner confided that it was the threat of litigation that was the main factor that was holding them back from announcing the election results.

A Siddiqui: Why was the proposals raised at the AGM for another GM was not followed up.

S Ahmed: The executive went through the constitution and did not feel that it warranted an GM. Committee briefed the commission and agreed that there was no reason not to go ahead with the remainder of the process. However, due to pressures and threats, the commission did not decide until December 28. There was no time to call GM.

Qazi Halim: Based on the discussion, does the forum feel comfortable to assure the election commission to proceed with the election process and announce the result of the election. The majority of the participants agreed.

S Ahmed: Now, the election commission needs to confirm if we have given enough information and assurance for the commission to feel comfortable in proceeding with the election and announcing the result.

S Islam: Confirmed that the election commission feels comfortable to proceed and announce the results. G Rabbani confirmed his agreement.

Thereby a decision has been made to recommend that the election commission proceed with the election and announce the result.

Q Halim: Announced that M Saleh will be joining shortly and the meeting should continue after Asar prayer to decide on the practical aspect of this recommendation.

The VP adjourned the meeting for prayer.

The meeting resumed after prayer.

Q Halim: Informed Mr Saleh of the discussion and the decision of the forum.

M Saleh: Commission can not proceed with the election and announce the results because there are complaints about the procedure, about the delay and about the present committee.

Q Halim: only the first part of the election process, i.e the nomination of election commission was compromised, the last three parts were not compromised. So, there was no violation that may have affected the outcome of the election. Therefore, the election commission should feel comfortable to conclude the remainder of the election.

M Saleh: The opponents are adamant about their complaints and what if the organization is sued?

S Ahmed: There is always a potential for an organization to be sued. Anyone of the individuals who feels strongly that something was not done properly can sue the organization. Similarly, the candidates who submitted their nominations in good faith and has not been disqualified by the commission can also sue the organization for depriving them of their right to be elected uncontested. Because we are afraid of law suit, we want to give up the procedures and by pass the election commission and executive committee? If we are afraid of litigations, then we should dissolve the organization.

Q Halim: In that case, we should eliminate election and use select executive committee.

M Saleh: The real reason for this complaint is unhappiness with the current committee, its lack of communication with members as well as committee members. The membership is dropping, participation is less. There was no face to meeting during the last years. When they saw pretty much the same candidates, they are not happy. That's why they are asking for new election. They want the new committee to revive the organization.

S Ahmed: If some of the members were unhappy, they had all the time to come up with a panel or at least a few candidates. But none was submitted and none came forward and said he or she wanted to run but could not because of the delay in forming the election commission. Even when specifically asked by the election commission to the individuals who complained, they could not name a single individual who was interested to run. If you are not happy with the current status, you come forward and get involved, that is the democratic process.

Just because a few members are not happy with the current executive committee, you can not punish the nominated candidates or the organization for that.

As far as the communication and face to face meeting were concerned, the executive committee decided from the beginning to leverage technology to communicate with the members as well as the committee. The committee had scheduled monthly teleconference. In addition, the committee met face to face prior to important events. With one exception, all of the committee members felt very comfortable and found it very convenient to conduct committee functions that way.

Q Halim: If a general meeting is to be held, how long will it take to organize it? The executive committee informed that it takes at least 21 days to organize a general meeting.

At this point the proposal for an extraordinary general membership meeting was agreed upon by the members present.

S Ahmed: Since the term of the committee ends on January 10, 2010, and the executive committee no longer feels comfortable to continue to execute organizational affairs, we need to form an Interim Advisory Committee to organize and hold the GM. The same advisory committee can also oversee the conduct of an election if the general body recommends it. However, recommendation of general body is neither binding nor supported by the constitution.

It was then proposed that a referendum on the issue of the acceptability of this election or the need of a re-election may be conducted in a relatively short period of time. This is by far the most

direct method of getting the consensus of the general members. Obviously, it is better than the opinion of one fourth of the general members which is required by the constitution for a quorum.

M Saleh: Suggested that a referendum by mail may not get enough response. However, the participants reminded that BAPA election is conducted by mail and the response rate is about 99%.

6. Recommendation

At that point, the decision was made to recommend a referendum on the issue of the acceptability of this election or the need of a re-election. The executive committee is tasked with organizing the referendum.