

**BEFORE THE CHIEF ELECTION COMMISSIONER(BPP)**

**COMMODORE ASPI MARKER**

**COMPLAINT NO.4 OF 2022**

**Kaikhushroo Sam Irani ....Complainant**

**Vs.**

**Maharukh Noble .....Respondent**

1. Mr. Kaikhushroo Sam Irani (“**Complainant**”), a voter and a candidate has filed the present Complaint praying that the Election Commission should declare Mrs. Maharukh Noble (“**Respondent**”) also a voter and a candidate to be ineligible to file her candidature as a trustee at the forthcoming elections on the ground that she does not satisfy the eligibility criteria set out in Clause 6.1(i) of the Scheme.
2. Clause 6.1(i) of the Scheme provides: *“Any Parsi desirous of contesting elections for the office of Trustee must satisfy each of the following eligibility criteria:- .....(i) he has not been convicted by a Court of law anywhere in the world and sentenced to imprisonment of not less than six months (suspended or otherwise);”*
3. According to the Complainant, the Respondent has been convicted by a court of law and sentenced to rigorous imprisonment of one year. Consequently, the Respondent is not eligible to contest the forthcoming elections.
4. The Complainant relied on the following documents in support of his complaint:
  - a. Email dated 11<sup>th</sup> May 2022 (**Annexure ‘A’** hereto (without enclosures)) to which were attached:

- i. An uncertified copy of an Affidavit in Support of Notice of Motion No. 2698 of 1994 in Suit No. 2999 of 1994 filed by Ms. Nelie Noble (the sister in law of the Respondent); and
    - ii. An uncertified copy of a Supplemental Written Statement filed by Ms. Nelie Noble in the above Suit;
  - b. Hard copies of his Written Submissions which were also provided in soft copy by his email of 19<sup>th</sup> May 2022 post the hearing of the Complaint (**Annexure 'B'** hereto).
5. The Respondent denied the Complainant's allegations. According to the Respondent the present Complaint is based on an order convicting her. However, the Complainant has not produced the same. According to her there is, therefore, no basis for the present Complaint. According to the Respondent, without any substantiation or proof the Complainant has tarnished her reputation in the Parsi Media which has published the correspondence exchanged in this case.
6. The Respondent, relied on the following documents in support of her defence:
  - a. Email dated 15<sup>th</sup> May 2022 (**Annexure 'C'** hereto);
  - b. Email dated 17<sup>th</sup> May 2022 (**Annexure 'D'** hereto (without enclosures)) to which were attached:
    - i. The certified copy of the order of the Court of Sessions at Mumbai dated 21<sup>st</sup> February 2002;
    - ii. Settlement dated 30<sup>th</sup> April 2011 between her sister in law and her husband;

iii. True copy of the probate of the will of Ms. Nelie Noble;

iv. A power of attorney dated 22<sup>nd</sup> December 2011 issued by Ms. Nelie Noble in favour of the Respondent.

7. It is not necessary for the determination of this Complaint to set out the detailed facts here. In any event, the same are contained in the Annexures stated above.

8. A personal hearing was given to the parties by the Election Commission, on 19<sup>th</sup> May 2022 at 3 p.m., where they made oral submissions.

9. Based on the documents produced and oral submissions made, the following position emerged:-

a. The Additional Chief Metropolitan Magistrate Mumbai by an Order and Judgement dated 31<sup>st</sup> August 2000 convicted the Respondent for having committed an offence under Section 325 of the Indian Penal Code (causing grievous hurt) in respect of a physical assault made on her late sister-in-law Ms. Nelie Noble. The Court sentenced the Respondent to one year's rigorous imprisonment (**'Order of Conviction'**). It is pertinent that neither party has produced the Order of Conviction. However, the existence of the same has not been denied by the Respondent.

b. The Respondent filed an Appeal before the Sessions Court at Mumbai against the Order of Conviction. The Sessions Court by its Order dated 21<sup>st</sup> February 2002, (**'Order of Acquittal'**) held that it was hazardous to rely only upon the uncorroborated evidence of Ms. Nelie Noble and accordingly, set aside the Order of Conviction.

10. The Complainant, during the course of the hearing submitted that once a

Parsi has been convicted and sentenced to more than 6 months of imprisonment, such Parsi is ineligible to contest the upcoming elections. The Complainant relied upon the words “*suspended or otherwise*” used in Clause 6.1(i) of the Scheme, in support of his contention.

11. The word “*suspended*” in Clause 6.1(i) of the Scheme covers a situation where a sentence is handed out by a Court and then kept in abeyance. For example, if there is a recurrence of the offense, the sentence will be implemented and enforced. The word “*otherwise*” must be construed as meaning something similar to a suspended sentence above (doctrine of *ejusdem generis*). It cannot be given a wider meaning than the word “*suspended*”.

12. In the present circumstances, however, these words have no relevance. This is because the present case has nothing to do with a sentence which has been suspended or otherwise. In the present case the conviction contained in the Order of Conviction has been overturned and the Respondent acquitted. The effect of an acquittal is as if the conviction never occurred. In light of the above, the Complainant’s interpretation of Clause 6.1(i) of the Scheme cannot be accepted.

13. The Complainant further argued, without any documentary proof, that the Order of Acquittal may not pertain to the complaint in respect of which the Order of Conviction was passed but to a different complaint. This contention is difficult to accept as the Order of Acquittal:

- a. Specifically refers to the Order of Conviction dated 31<sup>st</sup> August 2000;
- b. Specifically states that the Order of Conviction was passed under Section 325 of the IPC (causing grievous hurt); and
- c. Specifically sets aside the same.

14. Further, the pleadings annexed to the Complaint do not refer to any criminal complaint under Section 325 of the IPC other than the one which initially resulted in the Order of Conviction dated 31<sup>st</sup> August 2000. Thus, the question of the Order of Acquittal applying to a complaint other than the above does not arise.

15. We are constrained to observe that the Complainant ought to have exercised greater due diligence before filing the Complaint. He made no effort to ascertain whether the Order of Conviction was set aside by an Appeal Court. Instead, the Complainant based his Complaint on uncertified copies of pleadings in a Civil Case. At the hearing on 19<sup>th</sup> May 2022, when specifically asked in respect of the above he categorically stated that he was not aware of the conviction being set aside, and that he had made an enquiry under the Right to Information Act 2005 and in respect of which information was awaited.

16. The other documents furnished by the Respondent essentially show that there was a rapprochement within her family subsequent to the Criminal Complaint which resulted in the Order of Conviction and Acquittal. The same are not relevant to the crux of the present complaint as set out above.

17. Accordingly we pass the following directions and order:-

- (i) We hold that the Respondent, Mrs. Maharukh Noble is eligible to be a candidate at the forthcoming elections. This is because her conviction and sentencing have been set aside by the Sessions Court.
- (ii) There is no merit in the Complainant's i.e. Kaikhushroo Sam Irani's complaint and the same is dismissed. However, we must record that making an unsubstantiated allegation in public against any person or candidate is an extremely serious allegation. He ought to have fully

verified the allegations made by him before filing the present Complaint.

(iii) Accordingly, the Complaint stands disposed of.

Commodore Aspi Marker.  
Chief Election Commissioner  
21<sup>st</sup> May 2022.



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## Complaint under clause 6.1 (i)

1 message

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Parvez <kaikhushroo@gmail.com>

Wed, May 11, 2022 at 6:16 PM

To: "electioncommissionbpp@gmail.com" <electioncommissionbpp@gmail.com>

Cc: "aspimarker@hotmail.com" <aspimarker@hotmail.com>, "berjis@berjisdesai.com" <berjis@berjisdesai.com>, "sinorster@gmail.com" <sinorster@gmail.com>, "sanaya.d@mkaco.com" <sanaya.d@mkaco.com>, "cy.bharucha@gmail.com" <cy.bharucha@gmail.com>

There is a technical error in the mail account of mine my son's name is being shown.

1. One of the candidates, Ms. Maharukh Kobad Noble, for the election on 29th May 2022, does not satisfy the eligibility criteria specified by clause 6.1 (i) Of the Scheme.

2. Clause 6.1(i) states as follows :-

Any Parsi desirous of contesting elections for the office of Trustee must satisfy each of the following criteria :

(i) He has not been convicted by a court of law anywhere in the world and sentenced to imprisonment of not less than six months (suspended or otherwise);

3. The said candidate, Ms. Maharukh Noble, has been convicted for physically assaulting a senior citizen, Dr. Nelly Noble, a former Trustee of the Bombay Parsi Punchayet, causing grievous hurt including injuring the retina of the victim's eye, and who had to be hospitalized.

Dr. Nelly Noble was forced to leave her residence and spent the last years of her life at a friend, Dr. Khan's home.

4. This episode led to a complaint No. 3793/1990 dated 25th November 1990 being registered by the Bombay Police in case no. 207/P/1991 in the court of metropolitan magistrate at Mumbai (40th Court at Girgaum ('Case'), the Court not only convicted Ms. Maharukh Kobad Noble but sentenced her to rigorous imprisonment of One Year.

5. Further, it is critical to note that Clause 6.1(i) applies even if such conviction is 'SUSPENDED OR OTHERWISE'. Thus, even if any appeal filed against the order of conviction by Ms. Maharukh Noble, such conviction has been stayed by the Appellate / higher Court, nevertheless, she does not satisfy the eligibility criteria to be a Trustee.

6. Thus, Ms. Maharukh Noble does not satisfy the eligibility criteria set out in Clause 6.1(i) as cited above; in as much as Ms. Maharukh Noble has been convicted by a Court of Law and sentenced to imprisonment of not less than six months (in her case, one year).

7. The CEC be pleased to record and declare that Ms. Maharukh Noble, a candidate does not satisfy the Eligibility Criteria specified by Clause 6.1(i); and her name as a candidate be removed from the ballot, and the voters be informed by the EC through the Parsi Media accordingly.

8. The Complainant urges that the CEC acts expeditiously on this complaint, as the Elections are scheduled on 29th May 2022; and the election arrangements are in process of being finalized.

9. The Complainant will rely upon papers and the proceedings in the Case, as also the suit filed by Maharukh Noble's late husband, Kobad Noble, against Dr. Nelly Noble in the Bombay High Court being suit no. 2999 of 1994 ('Suit') including :

(a) An affidavit sworn by late Dr. Nelly Noble before the High Court dated 17th day of October, 1994. (Please refer to para 2 on Page 2) which is attached : and Marked as Annexure "1"

and

(b) The supplemental written statement filed and solemnly declared by late Dr. Nelly Noble before the High Court dated 18th day of January 2003 which is attached and marked as Annexure '2'. (Please refer to paragraph 24 on page no. 23)

The said candidate, Ms. Maharukh Noble be directed to file an affidavit disclosing all the facts and circumstances leading to her conviction and sentencing; substantiated by supporting documents.

THE EC be pleased to notify in the Parsi Media whether any person has any relevant information in this regard.

10. The Complainant is a registered voter and himself a candidate; and therefore, has locus to maintain this complaint.

Kaikhushroo Sam Irani


9820159916

ENCL: ANNEXURE 1

ANNEXURE 2

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**2 attachments**

 **annexure 1.pdf**  
185K

 **Annexure 2.pdf**  
2465K

## ANNEXURE B

### WRITTEN SUBMISSIONS OF THE COMPLAINANT

1. The following is the undisputed truth, admitted by Mrs. Maharukh Noble herself, that: -
  - (1) There was indeed an order passed by the <sup>6001.</sup> Chief Metropolitan Magistrate's Court dated 31<sup>st</sup> August 2000 convicting her of a criminal offence under Section 325 of the Indian Penal Code (Causing Grievous Hurt) and sentencing her to rigorous imprisonment of one year.
  - (2) Following this order of conviction, she was on bail, for several years.
  - (3) She filed a Criminal Appeal to the Sessions Court against the order, and on 21<sup>st</sup> February 2002, the Sessions Court set aside the order, on the ground that it is hazardous to rely upon the uncorroborated version of the complainant (Dr. Nelie Noble) only, and therefore, the Accused, Maharukh Noble, 'deserves the benefit of reasonable doubt'.
  
2. By her mail dated 15<sup>th</sup> May 2022, two days before her present reply, Maharukh Noble wrote to the Election Commission that: -

*'as this matter is about 20 years old, and also considering that the records of that period are not easily available, I am not able to produce, the relevant orders.'*

Within 48 hours, Mrs. Maharukh Noble miraculously produces detailed Court records, which shows her blatant disregard for the truth.

**If the conviction order had been set aside in 2002, why was she so reluctant to say so, on 15<sup>th</sup> May 2022?**
  
3. In light of the above facts, my central submission to the Election Commission remains as follows: -
  - (1) Rule 6.1 (i) of the Scheme reads: -

*6.1 (i) he has not been convicted by a Court of law anywhere in the world and sentenced to imprisonment of not less than six months (suspended or otherwise);*

Having regard to the words, '**SUSPENDED OR OTHERWISE**'; once a Parsi has been sentenced to imprisonment for more than 6 months (in her case one year), he or she becomes **INELIGIBLE** to file her candidature for BPP Trusteeship.
  - (2) The underlined words have been sanctioned by the Bombay High Court, while approving the Scheme on 1<sup>st</sup> March 2022. There is a valid reason behind this, namely,

that such a criminal convict is not fit and proper trustee material. It is entirely irrelevant and immaterial whether such order of conviction and sentencing has been subsequently set aside or not (that too on the technical ground of 'benefit of reasonable doubt').

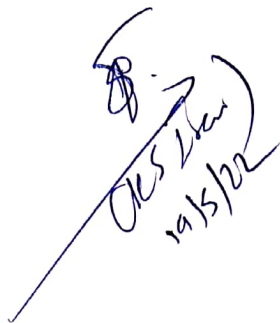
- (3) It may please be appreciated that the underlined words (SUSPENDED OR OTHERWISE) are not to be found in any other legislation or regulations in India containing this standard or common disqualification clause (that is, if criminally convicted and sentenced to 6 months or more imprisonment). Thus there is a logic and purpose behind the Hon'ble Bombay High Court approving these **extraordinary additional words in the Election Scheme**. These words are certainly **not superfluous or redundant**. They cannot be ignored.
- (4) Hence my submission is that Maharukh Noble is ineligible under Rule 6.1 (i) of the Scheme.
- (5) The Election Commission must appreciate that she has been held guilty (after a full trial and examination of witnesses and evidence) of causing serious injury (grievous hurt) to a Senior Citizen and a Woman doctor, and that too, her **own** sister-in-law, and a trustee of the Bombay Parsi Panchayet, to the extent that the **victim's retina of the eye was torn, and she was hospitalised for several days**.
- (6) In this regard, it is important to reproduce the following passages from the Sessions Court judgement: -
  - (a) In the morning on 23/11/1990 the appellants-accused assaulted the complainant Dr. Ms. Nelie Noble. The complainant Dr. Ms. Nelie Noble sustained injuries on face, forehead and neck as a result of fist blows given by the appellants-accused.
  - (b) A few days later the complainant started getting headaches and tried to subdue the pains with some pain-killer tablets. After about 8 to 10 days the complainant discovered blurring of vision in the left eye. This prompted the complainant to approach Dr. Bamboat. Thereafter Dr. Bamboat made diagnosis that the retina of the left eye of the complainant had got detached. Later on she was operated.
  - (c) Dr. Ms. Nelie Noble deposed that while she was offering prayers before the Holy Fire the appellant-accused No. 1 Kobad started ridiculing her; and when reminded of his promise to look after her the appellant-accused No. 1-Kobad

Noble got annoyed, caught hold of her neck and started throttling her neck. She added that she was choking and hence she screamed and about that time the appellant-accused No. 2 – Maharukh Noble and the deceased accused Navaz Mehta threw away her specs and gave fist blows on her face.

- (d) One cannot, therefore, come to the conclusion that no incidents, which prompted the parties to lodge the N.C. complaints, had ever occurred. This material only calls for cautions approach in appreciating the evidence of PW 1- Dr. Nelie Noble.
- (e) Dr. Villie Bamboat deposed that the PW 1- Dr. Miss Nelie Noble approached her with a history of alleged injury with blows on left temple followed by headache and blurring of left eye vision for 2 to 3 days.
- (f) Cross-examination of PW 2- Dr. Bamboat did not efface the fact of the retinal detachment sustained by PW 1 Dr. Ms. Nelie Noble.

4. I deny the rest of the abuse heaped on me by Mrs. Noble for daring to file this Complaint. In any event, neither such false allegations, nor details about how she has now inherited wealth from the victim (Dr. Nelie), are at all relevant in deciding this Complaint.

5. It is very significant that Maharukh Noble has produced several Court documents but not the order and judgement dated 31<sup>st</sup> August 2000 of the Court sentencing her to one year's rigorous imprisonment. She produces the order setting aside the conviction but not the order of conviction itself. In the absence of the order of conviction, she cannot rely upon the Sessions Court order setting aside the conviction. The Election Commission cannot decide her eligibility in the absence of this order being brought on the record.

A handwritten signature in blue ink, possibly reading 'A.S. Khan', with the date '19/5/02' written below it. The signature is written over a diagonal line.

## ANNEXURE C



Election Commission <electioncommissionbpp@gmail.com>

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### Re: Complaint under clause 6.1 (i)

1 message

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**Maharukh Noble** <maharukhnoble@gmail.com>  
To: Election Commission <electioncommissionbpp@gmail.com>  
Cc: "Kaikhushroo@gmail.com" <Kaikhushroo@gmail.com>

Sun, May 15, 2022 at 3:12 PM

Dear Sir,

I am in receipt of your email dated 13.05.2022 and have perused its contents. You have asked me to file a reply to the Complaint dated 11.05.2022 made by Kaikhushroo Sam Irani ('Complainant') against me, within four days from receipt of your email, i.e. on or before 17.05.2022.

I deny that I do not satisfy the eligibility criteria specified by Clause 6.1(1) of the Scheme for the reasons alleged by the Complainant in his complaint. Relevant information has been deliberately suppressed by the Complainant in his complaint. However, as this matter is about 20 years old, and also considering that the records of that period are not easily available, I am not able to produce the relevant Orders with this Reply.

I also do not admit the veracity of the documents relied upon by the Complainant.

To enable me to file a fuller Reply, I require certified / true copies of the documents relied upon by the complainant in his complaint. Though the complaint is based on an Order of conviction referred to in the complaint, on the basis of which the Complainant alleges that I do not satisfy the eligibility criteria specified by Clause 6.1(1) of the Scheme, the Complainant has not provided any copy of the same. Please issue necessary directions to the Complainant in this regard.

Please note, that furnishing me with certified / true copies of the documents relied upon by the Complainant, including copy of the Order of conviction is a requirement of the principles of natural justice, which is applicable to the process to be followed in deciding this Complaint.

Yours faithfully,  
Maharukh Noble

On Fri, 13 May 2022 at 11:44 PM, Election Commission <electioncommissionbpp@gmail.com> wrote:

Dear Mrs. Noble,

Candidate Kaikhushroo Sam Irani has filed a Complaint dated 11th May 2022 at 6.17pm [in trailing] with the EC seeking the disqualification of your nomination for the post of Trustee of the BPP. You are requested to file an appropriate reply along with relevant supporting documents if any and serve it upon the EC as also the Complainant no later than 4 days from receipt of this email.

Your email (containing your reply along with annexures if any) must be addressed to the EC with copy to Complainant at the above email address.

In view of the above, please remain present on 19th May 2022 at 3 pm in the Board Room of BPP. Please note that apart from the members of the Election Commission



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**Detailed Reply to the complaint dated 11th May, 2022 filed by Kaikhushroo Sam Irani**

1 message

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**Maharukh Noble** <maharukhnoble@gmail.com>  
To: Election Commission <electioncommissionbpp@gmail.com>  
Cc: kaikhushroo@gmail.com

Tue, May 17, 2022 at 11:09 PM

Dear Sir,

In response to the Complaint dated 11th May, 2022, filed by Kaikhushroo Sam Irani – Advocate, forwarded to me by the Election Commission vide email dated 13th May, 2022, and the subsequent reply/ response received by me both from the Election Commission and Advocate Kaikhushroo Sam Irani in response to my email dated 15th May, 2022, I am filing my detailed reply as under:

At the outset I state that Kaikhushroo Sam Irani – Advocate is in the habit of filing false complaints / circulating material against individuals with a view to mislead the members of the Parsi Community. To substantiate my statement, I draw your attention to certain allegations made by him on an earlier occasion against Ms. Homavazir, and upon a complaint being filed against him by Ms. Homavazir before the Bar Council of Maharashtra and Goa, Advocate Irani had to tender an apology before the Bar Council of Maharashtra and Goa thereby exposing the false and mischievous statements made by him against her. I verily believe that he is doing this at the instance of certain individuals whose names may not be difficult to guess, only with a view to tarnish the image of individuals and to pressurize those who do not toe their line qua the issues concerning the Bombay Parsi Panchayat.

He is one of the candidates contesting the election of the Trustees of the Bombay Parsi Panchayat, to be held on 29th May, 2022 and, so am I. In order to defame me and tarnish my image, he has filed a false and mischievous complaint against me on 11th May, 2022 before the Election Commission by alleging that I do not satisfy the eligibility criteria specified in Clause 6.1.(1) of the Scheme which reads as under :

“Any Parsi desirous of contesting elections for the office of Trustee must satisfy each of the following criteria :

(i) He has not been convicted by a court of law anywhere in the world and sentenced to imprisonment of not less than six months (suspended or otherwise);”

A copy the said Complaint was forwarded to me by the Election Commission on 13th May, 2022 at 11:44 p.m., along with:

(i) a copy (not a true or certified copy) of the Affidavit of Dr. Nelie R. Noble dated 17th October, 1994 filed in Notice of Motion No. 2698 of 1994, which Notice of Motion was filed by Mr. Kobad R. Noble against Dr. Nelie R. Noble in Suit No. 2999 of 1994 and

(ii) a copy (not a true or certified copy) of the Supplemental Written Statement of Dr. Nelie R. Noble dated 18th January, 2003.

Though it appears that Mr. Irani has unofficially procured the records / proceedings, he has intentionally annexed only an Affidavit dated 17th October, 1994 and Supplemental Written Statement dated 18th January, 2003, both filed by Dr. Noble, which obviously suit his purpose, and has **not** filed any documents / pleadings filed by Mr. Kobad R. Noble. Though Mr. Irani has sought my disqualification on the ground that my late husband and myself were convicted for a period of one year by the Magistrates Court, Girgaon, he has failed to annex/provide a copy of the said conviction order in his Complaint, which is vital to substantiate his allegation, and the importance of which could not have been missed by Mr. Irani, who is himself a practicing Advocate. Instead, Mr. Irani proceeds to rely on a mere statement made in the Supplemental Written Statement filed by Dr. Nelie R. Noble that we were convicted for a period of one year by the Magistrates Court, Girgaon. It is pertinent to note that much before the Supplemental Written Statement was filed by Dr. Noble, I and my late husband Kobad R Noble were **acquitted** by a Judgement dated 21st February, 2002, passed in Criminal Appeal No. 191 of 2000 by his Honour Additional Sessions Judge Shri U. D. Salvi, who was later elevated as the Judge of the Bombay High Court.

I have today obtained a certified copy of the Order dated 21st February, 2002 passed in Criminal Appeal No. 191 of 2000, wherein after inter alia observing / holding that, “*on the background of the strained relations between the parties, it is hazardous to rely on the uncorroborated version of the complainant PW1 – Dr. Nelie Noble. The Appellant – accused No. 1 & 2, therefore, deserve the benefit of reasonable doubt.*” the Hon’ble Court proceeded to pass the following operative Order :

“

ORDER

- (1) The appeal is allowed.
- (2) **Conviction of the appellants-accused under Section 325 read with Section 34 of the I.P.C is set aside and they are acquitted of the said offence.**
- (3) Bail bonds of the appellant accused stand cancelled.
- (4) Fine amounts, if deposited in the Court, shall be refunded to the appellants-accused.

(5) R. & Ps. In C.C. No. 232/P/99 be sent to the Addl. Chief Metropolitan Magistrate, 20<sup>th</sup> Court, Girgaon, Mumbai.”

Attached hereto and marked **Annexure 1** is a copy of the said Order of acquittal.

Since Advocate Irani has suppressed relevant facts and filed a complaint falsely alleging that I do not satisfy the eligibility criteria specified in Clause 6.1.(1) of the Scheme and since 14th, 15th and 16th May, 2022 were holidays, I addressed an e-mail dated 15th May, 2022 and marked a ‘CC’ to Mr. Irani, inter alia stating that:

**“Relevant information has been deliberately suppressed by the Complainant in his complaint. However, as this matter is about 20 years old, and also considering that the records of that period are not easily available, I am not able to produce the relevant Orders with this Reply.**

**I also do not admit the veracity of the documents relied upon by the Complainant.**

**To enable me to file a fuller Reply, I require certified / true copies of the documents relied upon by the complainant in his complaint. Though the complaint is based on an Order of conviction referred to in the complaint, on the basis of which the Complainant alleges that I do not satisfy the eligibility criteria specified by Clause 6.1(1) of the Scheme, the Complainant has not provided any copy of the same. Please issue necessary directions to the Complainant in this regard.”**

Any advocate worth his salt, would before filing such a complaint, first obtain a copy of the Order relied upon by him, and further ascertain whether the said Order on which he seeks to disqualify me has been set aside or confirmed in Appeal. Mr. Irani surely has that much knowledge of law. However, Mr. Irani suppressed the fact of my acquittal and proceeded to mislead the Election Commission by seeking my disqualification only on the basis of a mere statement made in the Supplemental Written Statement filed by Dr. Nelie R. Noble as late as 18th January, 2003, by which time I and my husband were acquitted, but which fact was not disclosed in the Supplemental Written Statement.

Since Mr. Irani being conscious of the fact that the baseless bogey raised by him of me not being eligible to contest the elections in view of Clause 6.1(1) of the Scheme, shall fail miserably, upon the acquittal Order being produced by me in my detailed reply, which I am required to file by today, has already proceeded to provide copies of the earlier correspondence between me and the Election Commission and which copies were marked to Mr. Irani by me, to the Parsi media, who in turn have already started giving unrequired publicity to his Complaint, before any Orders are passed by the Election Commission

thereon, thereby causing grave and unjust damage to my reputation, especially with the elections being scheduled to be held in about 12 days.

I request the Election Commission to take a serious note of the above conduct of Adv. Irani and his supporters who have filed the present Complaint only with a view to defame me and tarnish my image before the Parsi electorate by and prejudicing them against me. In light of the above facts placed by me, I urge the Election Commission to pass strictures against Adv. Irani and all concerned who are a party to the conspiracy of defaming me with the sole motive of initiating a negative campaign against me in the forthcoming elections.

### **FURTHER SUPPRESSION OF FACTS BY ADV. IRANI**

Mr. Irani has relied on the allegations made by Dr. Nelie R. Noble in the Affidavit filed by her in the year 1994 and the Supplemental Written Statement filed in the year 2003 in Suit No. 2999 of 1994. Though as stated earlier, it is obvious that Adv. Irani has unofficially procured the Court records and selectively relied upon the same, he has chosen to suppress the fact that by a Consent Order dated 18th September, 2008, passed by the Hon'ble Bombay High Court in Appeal No. 322 of 2008 in Suit No. 2999 of 1994 and Consent Order dated 17th September, 2008, passed by the Hon'ble Bombay High Court in Suit No. 1611 of 1991, executed between Dr. Nelie Rustomji Noble (Claimant) and Kobad Rustomji Noble (Respondent) all the disputes between them pertaining to the subject matter of Suit No. 1611 of 1991 and Suit No. 2999 of 1994 were referred to the sole arbitration of Mr. Justice S. P. Kurdukar (Former Judge of the Supreme Court of India). The disputes were amicably settled and the Learned Arbitrator recorded the settlement between them in the form of an Arbitral Award on agreed terms on 30th April, 2011 under Sections 30 and 31 of the Arbitration and Conciliation Act, 1996. Paragraphs 25 and 26 of the said Terms reads thus :

**“25. The Claimant and the Respondent agree that save and except what is set out herein, neither of them have any claim of whatsoever nature against the other.**

**26. The Claimant and the Respondent unconditionally withdraw allegations made against each other in any proceedings/ complaints.”**

Attached hereto and marked as **Annexure 2** is a copy of the Settlement recorded by the Learned Arbitrator (without Annexures). The Original copy of the same along with its annexures will be produced before the Election Commission at the time of hearing on 19th May, 2022.

Moreover, I also wish to place on record that **DR. NELIE R. NOBLE HAS IN HER WILL ADMITTED HAVING MADE VARIOUS FALSE AND UNFOUNDED ALLEGATIONS AND FILING OF CIVIL AND CRIMINAL PROCEEDINGS IN COURTS AGAINST ME AND MY HUSBAND AND HAS EXPRESSED REGRET FOR THE SAME.**

I am producing herewith a true copy of the Probated Will of (Late) Dr. Nelie R Noble dated 20th October, 2011 (minus the Schedule of her properties which is not relevant) wherein (Late) Dr. Noble has whilst bequeathing her entire estate recorded / declared as under :

“I am not married and have never adopted any child. I have no existing relatives, save and except my younger brother Kobad and his wife Maharukh (hereinafter referred to as “Kobad and Maharukh”). After the demise of my mother and the marriage of my younger brother Kobad in 1981, I was residing at Khalakdina Terrace with Kobad and Maharukh. Though Kobad and Maharukh always looked after me and cared for me, due to ill-fate and insecurity on my part quay my brother’s wife Maharukh, since over last 20 years my relations with Kobad and Maharukh were strained, so much so I made various false and unfounded allegations and filed Civil and Criminal proceedings in Courts against Kobad and Maharukh. At that time, I of my own accord left my permanent residence at Khalakdina Terrace, keeping my room therein locked and went to reside with my friend Ms. Arnie Khan at her residence at Khan Bungalow, Walkeshwar Road, Teen Batti, Mumbai – 400 006, where I am still residing as on date (of course now due to health reasons as I am not able to climb the three floors of Khalakdina Terrace which does not have the facility of a lift). I had also executed my earlier WILL/S giving away all my assets and personal belongings to others and nothing whatsoever to my brother Kobad and his wife Maharukh. However, though very late in the day, I have realized that I was wrong and my fears were ill-founded and my behavior with Kobad and Maharukh has only brought me unhappiness. I have much regretted the same and at the fag end of my life (in April 2011), to set things right and to clear my conscience; I have withdrawn the proceedings and settled all disputes with my brother Kobad and his wife Maharukh. Now Kobad and Maharukh have forgiven me and our relations are by the grace of Ahura-Mazda very normal and amicable and we talk on a daily basis and Maharukh visits me often.”

Attached hereto and marked **Annexure 3** is a copy of the Probate dated 28th January, 2015 granted in Petition No. 1502 of 2014 by the Hon’ble Bombay High Court in its Testamentary and Intestate Jurisdiction along with a copy of the Will (minus the Schedule of her properties) which is annexed to the Probate. It is well settled that a Probate is granted by the Court only upon the Court being satisfied that the Will has been executed as per Law by the testator. I undertake to produce before the Election Commission a notarized true copy of the said Probate along with all its annexures including the Schedule of properties.

(Late) Dr. Noble also executed a Power of Attorney dated 22nd December, 2011 appointing me as her lawful attorney to manage her day-to-day affairs and do all the acts, deeds, matters and things relating thereto. Attached hereto and marked as **Annexure 4** is a photocopy of a

notarized copy of the said Power of Attorney dated 22<sup>nd</sup> December, 2011. I will rely on the original Power of Attorney on 19<sup>th</sup> May, 2022, when I shall appear before the Election Commission in person.

In view of the above, I request you to dismiss the Complaint by strongly deprecating the aforestated conduct of the Complainant, Mr. Irani, and warning him of serious consequences if he persists in making false, baseless and mischievous allegations against me through the Parsi media or in any other manner whatsoever.

Yours faithfully,

**Maharukh K. Noble**

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**4 attachments**

 **Annexure 3 - True copy of the Probate (without Annexures).pdf**  
3099K

 **Annexure 4 - Power of Attorney.pdf**  
3478K

 **Annexure - 1 - Order of acquittal.pdf**  
7374K

 **Annexure 2 - Settlement between Dr. Nelie R. Noble and Mr. kobad R. Noble (without Annexures).pdf**  
6411K