

**From:**

Mrs Vakul Cowshik  
President, National Citizens Movement and  
Member Core Committee of Mission Gurgaon Development  
543, Sector 23, Gurgaon 122017

**Dated: 27<sup>th</sup> March 2010****To:**

1. The Chief Secretary,  
Govt of Haryana, Chandigarh 160003.
2. Shri Bhupinder Singh Hooda,  
Hon'ble Chief Minister of Haryana,  
Kothi No. 1, Sector 3, Chandigarh - 160003
3. The State Election Commissioner,  
State Election Commission, Haryana,  
Nirvachan Sadan, Plot No. 2, Sector 17,  
Panchkula, Haryana 134117
4. The Financial Commissioner & Principal Secretary,  
Urban Local Bodies Department, Govt of Haryana, Chandigarh.
5. The Commissioner,  
Municipal Corporation of Gurgaon, Gurgaon 122001
6. The Deputy Commissioner, Gurgaon  
Mini Secretariat, Gurgaon 122001
7. The Chief Electoral Officer, Haryana  
30 Bays Building, Sector 17, Chandigarh – 160017
8. The Secretary  
Department of Administrative Reforms & Public Grievances,  
Government of India, Room No. 514, Sardar Patel Bhawan,  
Parliament Street, New Delhi - 110001

**REF: (1)** State Election Commission Haryana letter No. SEC/2 ME/2010/384 dt 26 Feb 2010 & A "Citizens Charter of Demands" received vide Chief Secretary Haryana Office Diary No. 12024 dt 17/9/2008.

**(2)** 2nd Administrative Reforms Commission in para 3.3.1.7 of 6th Report, Local Governance, dated 22nd October 2007 and para 2.2.2 Local Governance, 15th Report of 2nd Administrative Reforms Commission, State and District Administration, April 2009.

**SUB:** Legal Notice - Registration of voters for Municipal Corporation Gurgaon for elections due within six months of dissolution of erstwhile Gurgaon Municipal Council on 2nd June 2008.

Dear Sir,

On behalf of the citizens of Gurgaon, suffering from the apathy of the political leadership of the State of Haryana in delaying and diminishing the intention of the Central and State legislatures expressed in the "Statement of Objects and Reasons" of the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Acts, to effectively devolve powers of local governance, as cogently brought out in the date wise summary below, I am enjoined to serve this legal notice as under:-

1. That the State Election Commission, Haryana, vide a letter dated 9<sup>th</sup> November 2006, had drawn attention of the State Government to a judgement of the Hon'ble Supreme Court dated the 19<sup>th</sup> October 2006. This judgement makes it abundantly clear that elections to a municipal body, once dissolved, shall always be held within six months of the dissolution. (Article 243U).

2. That the Haryana Government issued a notification on 2<sup>nd</sup> June 2008, resulting in the automatic dismissal of the elected Municipal Council Gurgaon, and its re-constitution as the Municipal Corporation Gurgaon.
3. That the elections to the said Municipal Corporation Gurgaon were required to be held by 2<sup>nd</sup> December 2008 as per the constitutional mandate of Article 243U, and this fact was well known to the State Government.
4. That the Haryana Government issued a notification on 20<sup>th</sup> June 2008 appointing adhoc Body under the chairmanship of Deputy Commissioner, Gurgaon for carrying out ward delimitation of the Municipal Corporation Gurgaon to be completed by 31<sup>st</sup> July 2008.
5. That, on 24<sup>th</sup> July 2008, the Municipal Corporation of Gurgaon took up a case for amendment of sub-section 4 of Section 4 of the Haryana Municipal Corporation Act, 1994 to extend the period within which elections must be held (this is 6 months under Article 243U ) from mandated 6 months to one year, without first amending the Constitution of India.
6. The Deputy Commissioner, Gurgaon did not convene the adhoc Body which was ordered to complete its work by 31<sup>st</sup> July 2008 till finally convened on 12<sup>th</sup> September 2008. The second meeting was fixed for 26<sup>th</sup> September 2008 but actually convened only on 4<sup>th</sup> November 2008.
7. That on 17<sup>th</sup> September 2008, the office of the Chief Secretary, Government of Haryana confirmed vide Diary No. 12024 of the date, receipt of "A Citizens Charter of Demands" of the 15<sup>th</sup> September 2008 submitted to Haryana Government on local governance and peoples representation in accord with 74<sup>th</sup> Constitutional Amendment Act, 1992.
8. That on 10<sup>th</sup> October 2008 the Governor of Haryana promulgated Haryana Act No. 34 of 2008 for amendment of sub-section 4 of Section 4 of the Haryana Municipal Corporation Act, 1994 to extend the period within which elections must be held (this is 6 months under Article 243U ) from mandated 6 months to one year, without first amending the Constitution of India.
9. The Municipal Corporation of Gurgaon informed the adhoc Body at its meeting on 4<sup>th</sup> November 2008 that "collection of door to door data is in progress which will be supplied to the Adhoc Committee up to 31st January, 2009."
10. The Municipal Corporation of Gurgaon informed the citizen who had submitted the Citizens Charter of 15<sup>th</sup> September 2008 in an RTI Reply dated 2<sup>nd</sup> May 2009 that "Municipal Corporation Gurgaon has carried out door to door population survey which shall be placed before the Adhoc Body."
11. Mission Gurgaon Development addressed a charter of demands to the Hon'ble Chief Minister Haryana on 3<sup>rd</sup> June 2009, requesting that citizens of Gurgaon be granted true local governance; including notification of functions under Section 42 of Haryana Municipal Corporation Act, 1994 and grant of provisions envisaged for local bodies under the 2<sup>nd</sup> Administrative Reforms Commission in para 3.3.1.7 of 6<sup>th</sup> Report, Local Governance, dated 22<sup>nd</sup> October 2007 and para 2.2.2 Local Governance, 15<sup>th</sup> Report of 2<sup>nd</sup> Administrative Reforms Commission, State and District Administration, April 2009. That repeated reminders and protests, on a matter of vital importance to a vibrant and democratic local governance guaranteed by the 73<sup>rd</sup> & 74<sup>th</sup> Constitutional Amendment Acts have been stonewalled by total silence of the Government, that is trampling on the hopes and aspirations of its citizens.
12. That on 21<sup>st</sup> November 2009 another letter was addressed to the Hon'ble Chief Minister Haryana stating **"All sections of Gurgaon have united to place this Charter of Demands before you. We the citizens of Gurgaon have resolved that the above demands be implemented in letter and spirit. Gurgaon demands completion of each and every enabling State legislation for true devolution of powers to PRIs and ULBs under 73<sup>rd</sup> and 74<sup>th</sup> Amendment, in accord with the Constitution of India."**
13. That on 9<sup>th</sup> January 2010 another letter was addressed to the Hon'ble Chief Minister Haryana and the State Election Commissioner Haryana, requesting that the Election Commission of India voter rolls of Gurgaon were unsuitable for elections to the Municipal Corporation Gurgaon on account of heavy duplication and massive non enrolment of voters, there being only 3 to 4 lakhs

voters for a population of about 20 lakhs, whereas all India average is 60 percent of the population are registered as voters. Gurgaon should therefore have 12 lakh voters.

14. That by a letter of the 27<sup>th</sup> January 2010 the State Election Commissioner Haryana informed us to our great shock, that door to door survey has not yet been commenced whereas vide a letter dated 2<sup>nd</sup> May 2009 citizens were informed "Municipal Corporation Gurgaon has carried out door to door population survey which shall be placed before the Adhoc Body." The State Election Commission has taken a view that the State Government has to first complete ward delimitation and door to door survey (in its letter dated 14<sup>th</sup> July 2008 SEC recommended/ directed that door to door survey includes voter registration). The State Election Commission sees its only task being the actual conduct of the elections after the State Government hands it all the above on a platter. The extended period for election also expired on 2<sup>nd</sup> June 2009 but the State Election Commission has not seen fit to exert itself in favour of the democratic aspirations of the citizens as enjoined in the Hon'ble Supreme Court ruling of 19<sup>th</sup> October 2006. The State Government in the meanwhile has not seen fit to make any reply to the concerned citizenry, either on the delay in the elections or in the matter of true devolution of powers as demanded by the citizens as their constitutional right which has been upheld by the 2<sup>nd</sup> Administrative Reforms Commission. There has also not been any public notice on the matter. This amounts to nothing less than a grave constitutional breakdown as rampant violation of Articles 243K, 243U, 243W & 243X amongst others are continuing unabated, unchecked and unanswered for over 15 months.

15. That by a letter of the 6<sup>th</sup> February 2010 the grave situation thus created was once again highlighted to the State Election Commissioner Haryana.

16. That, finally on 26<sup>th</sup> February 2010 the State Election Commissioner Haryana took up the matter of elections to Municipal Corporation Gurgaon with the Chief Secretary, Government of Haryana, but has failed to point out the grave constitutional impropriety in breaching Article 243U by amending Section 4 of the 1994 Haryana Act to extend the period within which elections must be held beyond 6 months as mandated in the Constitution of India.

<b>Date</b>	<b>Reference</b>	<b>Constitutional Provisions Required To Be Honoured</b>
19-Oct-06	Judgement dated 19.10.2006 of the Hon'ble Supreme Court of India in case No. Appeal(Civil) 5756 of 2005-Kishan Singh Tomar V/s Municipal Corporation of the city of Ahemdebad	"Article 243-U .... (3) An election to constitute a Municipality shall be completed,..... (b) before the expiration of a period of six months from the date of dissolution:"..... Taking into account these factors and applying the principles of golden rule of interpretation, the object and purpose of Article 243-U is to be carried out."
9-Nov-06	State Election Commission Haryana letter No.SEC/1 ME/2006/8537 dt 9 Nov 2006 to Chief Secretary, Govt of Haryana	Attention of the State Government was invited towards the judgement dated 19.10.2006 of the Hon'ble Supreme Court of India in case No. Appeal(Civil) 5756 of 2005-Kishan Singh Tomar V/s Municipal Corporation of the city of Ahemdebad
2-Jun-08	Haryana Govt Notification No. 18/1/95/2008-3C1 dt 2nd June 2008 "the Governor of Haryana hereby declares the Municipal council, Gurgaon.... to be a Corporation....	Municipal Council Gurgaon automatically stands dissolved. On this date Haryana Govt. was well aware that elections must be held within 6 months of the automatic dissolution of Municipal Council Gurgaon, that is, by 2nd December 2008.

4-Jun-08	The Tribune, Chandigarh, 5 June 2008	Municipal Corporation Gurgaon (MCG) has decided to impose 2 per cent stamp duty in ...villages ..included in the boundaries of this newly declared corporation ... disclosed by the first commissioner of the MCG, Rajeev Sharma, today while interacting with mediapersons ... Sharma said the declaration of the municipal council, Gurgaon, as the Municipal Corporation Gurgaon would automatically lead to the dissolution of the council and the end of the period of elected representatives.
20-Jun-08	Haryana Govt order No. 19/4/2008-6CI dt 20th June 2008 "The Governor of Haryana is pleased to constitute an adhoc Body..... Under Rule-4 of the Haryana Municipal Corporation delimitation of Ward Rule 1994 for... functions as mentioned in Rule 5 ....in respect of Municipal Corporation Gurgaon."	"adhoc Body shall submit his report before 31st July 2008."
14-Jul-08	State Election Commission Haryana letter No.SEC/2 ME/2008/6481 dt 14 Jul 2008	At the Meeting held by SEC Haryana at Gurgaon on 10th July 2008, SEC Haryana advised that population survey be combined with voter registration and ward delimitation be done keeping in view the existing polling stations and voter lists.
24-Jul-08	Municipal Corporation of Gurgaon letter No. ME/MCG/2008/1140 dt 24th July 2008.	Request for extending the period within which elections to be conducted under Section 4(4) of Haryana Municipal Corporation Act, 1994 from existing 6 months to 1 year. This was done without advise of the Adhoc Body which had not yet been convened.
31-Jul-08	Adhoc Body was not convened till the last date of submission by the Chairman, Deputy Commissioner, Gurgaon.	No action taken by convening authority for this gross failure to implement a vital democratic process.
12-Sep-08	First meeting of adhoc Body attended by 8 persons much after the due date of submission of its report..	Decided to hold next meeting on 26 Sep 2008 at 3 PM.
15-Sep-08	A "Citizens Charter of Demands" submitted to Haryana Govt on local governance and peoples representation in accord with 74th Constitutional Amendment Act, 1992.	Received vide Chief Secretary Haryana Office Diary No. 12024 dt 17/9/2008.

26-Sep-08	Scheduled Meeting of adhoc Body for ward delimitation not held.	No action taken by convening authority for this gross failure to implement a vital democratic process.
10-Oct-08	Haryana Govt Notification No. Leg. 36/2008 dt 10th October 2008. "Haryana Act No. 34 of 2008" For the proviso to sub-section (4) of section 4 of Haryana Municipal Corporation Act, 1994, the following proviso shall be substituted, namely:- "Provided that the first election to the Corporation constituted after the commencement of this Act may be held within a period of one year of its being notified as a Corporation."	The said amendment violates "Article 243U(3) An election to constitute a Municipality shall be completed,-(a) before the expiry of its duration specified in clause (1); (b) before the expiration of a period of six months from the date of its dissolution:" and also breaches the Statement and Objects of the 74th Constitutional Amendment Act, 1992 Clause 3(f) - "fixed tenure of 5 years for the Municipality and re-election within six months of end of tenure. If a Municipality is dissolved before expiration of its duration, elections to be held within a period of six months of its dissolution;"
4-Nov-08	Meeting of adhoc Body for ward delimitation held.	Shri R.P. Makkar, Assistant Director Election, o/o Director Haryana Local Bodies, informed that notification regarding fixation of seats will be issued by the govt. when data of Door to Door population will be received from the Corporation. Shri Y.S. Gupta, Executive Officer, Municipal Corporation informed that matter (data of Door to Door population) was referred to the government through Deptt of Urban Local Bodies for approval of rate contract but the government has asked to re-examine the matter regarding the rate given by the NGO. Now the Government has directed that the Municipal Corporation should go for open tenders regarding collection of door to door and thereafter proposal be sent to government for approval. In compliance of the government directions, work relating to calling of tender and collection of door to door data is in progress which will be supplied to the Adhoc Committee up to 31st January, 2009.
2-May-09	Municipal Corporation of Gurgaon letter No. JC/MCG/2009/7677 dt 2nd May 2009.	"Municipal Corporation Gurgaon has carried out door to door population survey which shall be placed before the Adhoc Body."

3-Jun-09	Mission Gurgaon Development letter dt 3rd June 2009 to Chief Minister, Haryana with copies to State Election Commissioner and the Governor of Haryana	<p>Town Planning and Other Urban Functions - 4. The 18 functions that are mandatory to be devolved under Article 243W (Twelfth Schedule) of Part IX-A of the Constitution of India must be notified under Section 42 of HMCA 1994 and properly backed by operational procedures to be issued under the HMCA 1994 ...School education, Public health including community health centres/area hospitals, Traffic management and civic policing activities, Urban environment management and heritage, and Land management including registration, should be devolved to urban local bodies, as recommended by ..the 2nd Administrative Reforms Commission in para 3.3.1.7 of 6th Report, Local Governance, dated 22nd October 2007. (On 16th February 2006, the Supreme Court in M.C. Mehta Vs. Union of India 2006 AIR 1325, stated "Town planning is now part of constitutional obligation on insertion of Part IX-A in the Constitution of India w.e.f. 1st June, 1993.") 5. Para 2.2.2 Local Governance, 15th Report of 2nd Administrative Reforms Commission, State and District Administration, April 2009, has made some pathbreaking recommendations for amendment/ implementation of the 74th Constitution Amendment Act. We therefore make the following suggestions, for implementation as soon as may be practicable, which will go a long way in making Gurgaon a vibrant, democratic, energetic and ultra-modern urban settlement: A. Establish a local body Ombudsman for .. districts .. Complaints of public and also State and other government bodies against elected local bodies, shall be referred to the Ombudsman who shall investigate and send his report through the Lokayukta, to the Governor. B. Establish the District Council for rural &amp; urban Gurgaon with representation from both rural and urban bodies, as the true third tier of government in accordance with Articles 243G and 243W of the Constitution as soon as may be practicable. C. ..All parastatals such as HUDA, HSIIDC, PWD, police, fire, health and other services shall work within one common town planning code, ..on the pattern of National Building Code of India 2005, under the direct superintendence, technical and financial control of the local body so constituted. Parastatals shall not be allowed to undermine the authority of the local body. D. Upon setting up of the Municipal Corporation of Gurgaon and Gurgaon District Council, ..the State Government shall not have powers to suspend or rescind any resolution of the elected local bodies, or to supersede/dissolve them on grounds of abuse/ corruption etc. except through the mechanism of the local body Ombudsman. E. Municipal Corporation of Gurgaon shall be constituted at three levels, namely, Municipal Corporation, Ward Committees and Area Sabhas, with full powers for its own budget which shall not require any approvals at the District Council or the State level. F. The Mayor of the Municipal Corporation of Gurgaon shall be its Chief Executive and should be elected directly for a period of 5 years. G. For election infringements and other election related complaints, the authority to investigate should be the State Election Commission who should send its recommendation to the Governor. H. School education, Public health including community health centres/area hospitals, Traffic management and civic policing activities, Urban environment management and heritage, and Land management including registration, should be notified under Section 42 of HMCA 1994 and properly backed by operational procedures to be issued under the HMCA 1994..</p>
----------	-------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

1-Sep-09	Mission Gurgaon Development letter dt 1st September 2009 to Chief Minister, Haryana and Municipal Commissioner, Municipal Corporation of Gurgaon	<p>4. ....Empowerment of local governments must conform to four critical principles: (a) Principle of subsidiarity. Functions shall be carried out closest to citizens at the smallest unit of governance possible, delegated upwards only when the local unit cannot perform the task. The citizen delegates those functions she cannot perform to the community, functions that the community cannot discharge are passed on to the local governments at the lowest possible tier, and so on, from lower tiers to higher tiers, from Local government to the State governments, and from the States to the Union. In this scheme, the Citizen and the Community are the center of governance. In place of traditional hierarchies, we will have ever-enlarging concentric circles of government, and delegation is outward depending on necessity. (b) Greater linkage between citizen's vote and public good. (c) Effective tracking of resource deployment and of their utilization with productive outcomes. (d) Fusion of authority with accountability. Evaluation of Basic and Enabling Legislation by State Government 5. Even to enact basic legislation to conform to the spirit of the 73rd Amendment and 74th Amendment pressure had to be exerted on many states by the Centre. Most of the states have not shown any commitment in going beyond the basic legislation. Enabling legislation in devolving powers, functionaries and finance to local bodies is woefully inadequate. Powers of superintendence over the bureaucracy have not been devolved from the State level elected representatives to the District level elected representatives.. Political Will 6. Since it is a political and bureaucratic exercise, at different levels strong coordination and direction are essential. This direction has to be given by the Chief Minister of the State. The Chief Minister should have the political will and determination to devolve powers, functionaries and finance. The subjects mentioned in the 11th Schedule/12th Schedule are not in the hands of the Minister of Panchayati Raj / Minister of Urban Local Bodies respectively. Several ministries have to be coordinated. This can only be done by the Chief Minister. The Chief Minister should have political commitment to "give power to the people." Anyone who was in the Lok Sabha on 2 December 1992 would have heard one Member of Parliament state, "I have been the Chairman of Panchayat samiti in Rohtak..(Bhupinder Singh Hooda)...the contribution of Shri Rajiv Gandhi too has been considered in this respect. ... But he also admitted that only 15 percent of the total funds reaches the rural areas. What is the reason? Complete hold of bureaucracy in these matters is the reasons. The situation cannot be changed unless the interference of bureaucracy in the development works at .. (local).. level is removed. .... "</p>
16-Sep-09	Mission Gurgaon Development letter dt 16th September 2009 to Chief Minister, Haryana	<p>The major demands pertain to implementation of 73rd and 74th Amendments: • an elected body to govern Municipal Corporation of Gurgaon. • district Planning Committee drawn from elected members of PRIs and ULBs. • all district officials made accountable to district planning committee, PRI or ULB. • provision of Ombudsman procedure for premature dismissal of any local body. • frame rules for implementing effective devolution of all twelfth schedule powers to ULBs. • proper door to door registration of electors in Municipal Corporation of Gurgaon. • holding of time bound elections within the constitutional framework. • frame rules to enable State Finance Commission and State Election Commission to fulfil their constitutional mandate.</p>

9-Oct-09	E-mail letter dt 9 Oct 2009 sent by Lt Col SS Oberoi, Vice President National Citizens Movement and Member Core Committee of Mission Gurgaon Development to SEC Haryana.	The wardbandhi was to be notified for objections, objections were to be received and door to door registration of voters was to be completed and elections were to be held by 2nd Dec 2008. The present status/ condition is woeful, a reflection of the national shame of suppression of local governance by "politics, selfish motive and states," as stated by Sonia Gandhi on 2nd Oct 2009: 1. Wardbandhi not yet notified for objections. 2. Door to door registration of voters of added areas of municipality yet to be commenced. 3. Elections were .. postponed by six months to 2 Jun 2009 by an ordinance of Governor Haryana (in breach of Article 243-U (3) (b) of the Constitution of India). .. The Supreme Court in Kishan Sing Tomar.. had also ordered: "The words, 'superintendence, direction and control' as well as 'conduct of elections' have been held in the "broadest of terms" by this Court in several decisions ...and the question is whether this is equally relevant in respect of the powers of the State Election Commission as well. From the reading of the said provisions it is clear that the powers of the State Election Commission in respect of conduct of elections is no less than that of the Election Commission of India in their respective domains..... It is accordingly to be noted that in the matter of the conduct of elections, the concerned government shall have to render full assistance and co-operation to the State Election Commission and respect the latter's assessment of the needs in order to ensure that free and fair elections are conducted. Also, for the independent and effective functioning of the State Election Commission, where it feels that it is not receiving the cooperation of the concerned State Government in discharging its constitutional obligation of holding the elections to the Panchayats or Municipalities within the time mandated in the Constitution, it will be open to the State Election Commission to approach the High Courts, in the first instance, and thereafter the Supreme Court for a writ of mandamus or such other appropriate writ directing the concerned State Government to provide all necessary cooperation and assistance to the State Election Commission to enable the latter to fulfill the constitutional mandate."
21-Nov-09	Mission Gurgaon Development letter dt 21st November 2009 to Chief Minister, Haryana	..major demands ... • an elected body • district Planning Committee • district officials made accountable • provision of Ombudsman • frame rules for ... twelfth schedule .. • door to door registration of electors • time bound elections within the constitutional framework. • frame rules to enable State Finance Commission and State Election Commission to fulfil their constitutional mandate. <b>All sections of Gurgaon have united to place this Charter of Demands before you. We the citizens of Gurgaon have resolved that the above demands be implemented in letter and spirit. Gurgaon demands completion of each and every enabling State legislation for true devolution of powers to PRIs and ULBs under 73rd and 74th Amendment, in accord with the Constitution of India.</b>



9-Jan-10	Mission Gurgaon Development letter dt 10th January 2010 to Chief Minister, Haryana and State Election Commissioner, Haryana	1. We the citizens of Gurgaon had placed a charter of demands before Hon'ble Chief Minister, Haryana, in our letters dated 3rd June 2009, 1st September 2009, and 21st November 2009. 2.The major demands pertained to implementation of 73rd and 74th Amendments: • An elected body to govern Municipal Corporation of Gurgaon. • District Planning Committee drawn from elected members of PRIs and ULBs. • All district officials made accountable to district planning committee, PRI or ULB. • Provision of Ombudsman procedure for premature dismissal of any local body. • Framing rules for implementing effective devolution of all twelfth schedule powers to ULBs. • Proper door-to-door registration of electors in Municipal Corporation of Gurgaon. • Holding time-bound elections within the constitutional framework. • Framing rules to enable State Finance Commission and State Election Commission to fulfil their constitutional mandate.
27-Jan-10	State Election Commission Haryana letter No.SEC/2 ME/2010/62 dt 10 Jan 2010 to Mrs Vakul Cowshik, President National Citizens Movement and Member Core Committee of Mission Gurgaon Development	<u>Proper door-to-door registration of electors in Municipal Corporation of Gurgaon</u> - The delimitation of wards is yet to be done by the State Government. At once, the work of delimitation of wards is completed by the State Government, the preparation of electoral rolls of Municipal Council, Gurgaon shall be done after conducting the door to door survey... <u>Holding time-bound elections within the constitutional frame work</u> - As per mandatory provision in Section 6 of Haryana Municipal Corporation Act, 1994, the delimitation of wards of the Corporation shall be done by the State Government. As per information to the Commission, the matter regarding extension of Municipal limit and the delimitation of ward of Municipal Corporation, Gurgaon is active under consideration of the State Government. Once, the State Government completes its job, the Commission shall start the process for the conduct of election to Municipal Corporation, Gurgaon, after the preparation of electoral rolls. <u>Framing rules to enable State Finance Commission and State Election Commission to fulfil their constitutional mandate</u> - There is already notified Haryana Municipal Corporation Act, 1994 and the Haryana Municipal Corporation Election Rules, 1994. It is further informed that a copy of charter of demand have been forwarded to the Chief Electoral Officer, Haryana and to the Deputy Commissioner, Gurgaon for taking necessary action at their end.

6-Feb-10	Mission Gurgaon Development letter dt 6th February 2010 to State Election Commissioner, Haryana and Chief Minister, Haryana - Legal Underpinnings	<p>7. The Supreme Court ruled "From the reading of the said provisions it is clear that the powers of the State Election Commission in respect of conduct of elections is no less than that of the Election Commission of India in their respective domains. These powers are, of course, subject to the law made by Parliament or by State Legislatures provided the same do not encroach upon the plenary powers of the said Election Commissions. The State Election Commissions are to function independent of the concerned State Governments in the matter of their powers of superintendence, direction and control of all elections and preparation of electoral rolls for, and the conduct of, all elections to the Panchayats and Municipalities. Article 243 K (3) also recognizes the independent status of the State Election Commission. It states that upon a request made in that behalf the Governor shall make available to the State Election Commission "such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause (1). It is accordingly to be noted that in the matter of the conduct of elections, the concerned government shall have to render full assistance and co-operation to the State Election Commission and respect the latter's assessment of the needs in order to ensure that free and fair elections are conducted. Also, for the independent and effective functioning of the State Election Commission, where it feels that it is not receiving the cooperation of the concerned State Government in discharging its constitutional obligation of holding the elections to the Panchayats or Municipalities within the time mandated in the Constitution, it will be open to the State Election Commission to approach the High Courts, in the first instance, and thereafter the Supreme Court for a writ of mandamus or such other appropriate writ directing the concerned State Government to provide all necessary cooperation and assistance to the State Election Commission to enable the latter to fulfill the constitutional mandate. Taking into account these factors and applying the principles of golden rule of interpretation, the object and purpose of Article 243-U is to be carried out." 8. The wardbandhi was to be notified for objections, objections were to be received and door to door registration of voters was to be completed and elections were to be held by 2nd Dec 2008. The extension beyond 2nd Dec 2008 is therefore clearly ultra vires the Constitution of India</p>
----------	---------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

6-Feb-10	Mission Gurgaon Development letter dt 6th February 2010 to State Election Commissioner, Haryana and Chief Minister, Haryana - Request Made to State Election Commission	13. In any case we place below our request as mandated by the Constitution and the existing law on elections / law on municipalities. (a) Immediate, and on the spot, public declaration of the new notified area of Municipal Corporation of Gurgaon without further delay, since Gurgaon Municipality was dissolved on 2nd Jun 2008. (b) Immediate, and on the spot, door to door population survey of area notified for Gurgaon Municipality, under Section 6 and Explanation thereto, of Haryana Municipal Corporation Act 1994. There is no need to wait for ward delimitation to be finalised as Locality/Road/Street/House of Gurgaon Municipality are well known to the Gurgaon Administration. (c) Ward/Locality/Road/Street/House wise registration of eligible voters residing in Gurgaon Municipality, to be carried out afresh by intensive revision without any reference to any past lists of Election Commission of India. Any attempt to hold elections based on the defunct lists of Election Commission of India would be no election at all in the facts and circumstances of this case. Many electoral registration complaints are pending resolution. The basis documents related to electoral registrations for 2008, 2007, 2006, 2005 and 2004 are stated to be not traceable/ missing by Gurgaon Administration and hence Form 7 complaints cannot be fairly processed/ adjudicated. There is also no need to wait for ward delimitation to be finalised as Locality/Road/Street/House of Gurgaon Municipality are well known to the Gurgaon Administration. (d) In case State machinery thwarts efforts of State Election Commission to hold elections "stricto sensu" State Election Commission may approach the High Courts, in the first instance, and thereafter the Supreme Court for a writ of mandamus or such other appropriate writ, as desired.
26-Feb-10	State Election Commission Haryana letter No.SEC/2 ME/2010/384 dt 26 Feb 2010 to The Chief Secretary, Govt. of Haryana, Chandigarh	As soon as, the work of delimitation of wards of the Corporation is completed by the State Government, the State Election Commission shall start the process for preparation of wardwise State Election commission, Haryana, electoral rolls. The Commission has received a representation from A People's Movement (Mission Gurgaon Development), Gurgaon with the request to conduct the General Election of Municipal Corporation, Gurgaon at the earliest.. I am further directed to enclose herewith a copy of said representation with the request to direct the department concerned to complete the work of delimitation of wards of Municipal Corporation, Gurgaon at the earliest so that the Commission could start the work of its preparation of electoral rolls

I, therefore, call upon you on behalf of all our citizens to take all appropriate steps to ensure greater linkage between the citizen's vote and public good by recognizing that the Citizen and the Community are the center of Governance, and thus to re-instate the lost faith of the citizens in our democratic polity by either instituting the following measures or in the alternative provide cogent reasons as to why local governance democracy herein demanded under existing constitutional mandate be not provided, since we all know that our towns and cities are crumbling to dust and ashes in front of our eyes, even as powerless and helpless citizen watches, unable to do anything in the face of a Chandigarh centric bureaucracy and a total lack of meaningful and democratic local governance systems in line with the 73<sup>rd</sup> & 74<sup>th</sup> Constitutional Amendment Acts and para 3.3.1.7 of 6th Report of 2nd Administrative Reforms Commission, Local Governance, dated 22nd October 2007 and para 2.2.2 Local Governance, 15th Report of 2nd Administrative Reforms Commission, State and District Administration, April 2009.

I. Establish a local body ombudsman for a district or group of districts to report to the State Lokayukta and thereupon to the State Governor.

II. Establish District Council/ District Planning Committee in accord with Articles 243G and 243W.

III. All parastatals such as HUDA, HSIIDC, PWD, police, fire, health and other services shall work under the direct superintendence, technical and financial control of the local body duly constituted. Parastatals shall not be allowed to undermine the authority of the local body. All the above shall work within one common town planning code, on the pattern of National Building Code of India 2005. National Building Code was adopted by all municipalities in Haryana on 21<sup>st</sup> December 2000, by Department of Town & Country Planning Haryana on 9<sup>th</sup> September 2003 for HUDA and again by Department of Town & Country Planning Haryana on 11<sup>th</sup> April 2007 for private developers. In case local governance had been in the hands of citizens we would have adopted National Building Code across municipalities, HUDA and private developers areas on 21<sup>st</sup> December 2000 itself, saving us from many fire and construction accidents and deaths.

IV. The State Government shall only have resort to the District Ombudsman/ State Lokayukta in case of complaints of malfeasance against a Municipal Corporation/ Council or District Council/ District Planning Committee.

V. The State Government shall not counter the legitimate taxation powers of the Municipal Corporation/ Council or District Council/ District Planning Committee, as the case may be, except through the mechanism of the District Ombudsman/ State Lokayukta.

VI. Municipal Corporation shall be constituted at three levels, namely, Corporation, Ward Committees and Area Sabhas with full powers for its own budget which shall not require approval at the District or State Level.

VII. Mayor of the Municipal Corporation shall be its Chief Executive and should be elected directly for a period of five years. All 18 functions under Twelfth Schedule (Article 243W) should be notified under Section 42 of Haryana Municipal Corporation Act, 1994.

VIII. School education, Public health including community health centers/area hospitals, Traffic management and civic policing activities, Urban environment management and heritage, and Land management including registration, should be notified under Section 42 of Haryana Municipal Corporation Act, 1994 and properly backed by operational procedures to be issued under the Haryana Municipal Corporation Act, 1994 and other relevant Acts.

IX. State Finance Commission (Articles 243I & 243Y) is a toothless tiger at present. Rules should be framed to make it an effective instrument of the State in apportioning the revenue between and from Local, State and Central Governments. Presently JNNURM Funds are being denied to Haryana cities since exemption from house tax may only be given by a Municipal Corporation on grounds of poverty, but State Government has exempted all self-occupied residential and commercial properties causing bankruptcy of municipalities which have to maintain services without adequate incoming funds and also face loss of subsidy from the Central Funds.

X. Proper door to door population survey, ward delimitation and full/fresh voter registration in view of endemic voter roll deficiencies (Deputy Commissioner Gurgaon declared the voter roll as a dead body that cannot be revived) is a crying need for a truly democratic local governance by the people of the people.

XI. Lastly, it was the present Chief Minister of Haryana, Shri Bhupinder Singh Hooda himself, who stood up on that fateful day in Parliament on 2<sup>nd</sup> December 1992 to declare, *"I have been the Chairman of Panchayat samiti in Rohtak... the contribution of Shri Rajiv Gandhi too has been considered in this respect. ... But he also admitted that only 15 percent of the total funds reaches the rural areas. What is the reason? Complete hold of bureaucracy in these matters is the reasons. The situation cannot be changed unless the interference of bureaucracy in the development works at .. (local).. level is removed. .... "*

Mrs Vakul Cowshik  
President, National Citizens Movement  
and Member Core Committee  
Mission Gurgaon Development, 543, Sector 23, Gurgaon 122017