

BEFORE THE HIGH-POWERED ELECTION SUPERVISORY COMMITTEE
comprising of

Hon'ble Mr. Justice Sudhanshu Dhulia,
Former Judge, Supreme Court of India
Chairperson, High-Powered Election Supervisory Committee

Hon'ble Mr. Justice Ravi Shankar Jha,
Former Chief Justice, Punjab & Haryana High Court
Member, High-Powered Election Supervisory Committee

Mr. V. Giri,
Learned Senior Advocate, Supreme Court of India
Member, High-Powered Election Supervisory Committee

ORDER DATED 19.09.2026

1. On 09.02.2026, this Supervisory Committee has passed an order elaborating as to what is going to be the procedure and the mechanism to count the votes for the women candidates so as to give them 20% representation through election (10% is through co-option), in the ongoing State Bar Council elections.
2. However, apprehensions have been raised before the Apex Court with regard to this methodology decided by this

Committee. The Apex Court, vide order dated 04.08.2026 passed in W.P(C) No. 581/2024, referred the matter back to this Committee for hearing and deciding the concerns raised by the stakeholders.

3. Accordingly, this Committee held a hearing on 19.09.2026 in two sessions, from 11 AM to 2 PM and then from 3 PM to 4:30 PM. The Committee heard representatives of both elected candidates and candidates who contested but were not elected, from all State Bar Councils. However, despite due notice, representatives from certain State Bar Councils did not appear before the Committee to present their views.
4. Before we go ahead with this aspect, we must place on record that the procedure for the elections of members of State Bar Councils is given in Section 3(2) of the Advocates Act, 1961 (hereinafter referred to as 'the Act') and Part III of the Bar Council of India Rules made under the Act. Section 3(2) of the Act reads as follows:

(2) A State Bar Council shall consist of the following members, namely:—

- (a) in the case of the State Bar Council of Delhi, the Additional Solicitor-General of India, ex officio; in the case of the State Bar Council of Assam, Arunachal Pradesh, Mizoram and Nagaland, the Advocate-General of each of the States*

of Assam, Arunachal Pradesh, Mizoram and Nagaland], ex officio; in the case of the State Bar Council of Punjab and Haryana, the Advocate-General of each of the States of Punjab and Haryana, ex officio;] and in the case of any other State Bar Council, the Advocate-General of the State, ex officio;

-(b) in the case of a State Bar Council with an electorate not exceeding five thousand, fifteen members, in the case of a State Bar Council with an electorate exceeding five thousand but not exceeding ten thousand, twenty members, and in the case of a State Bar Council with an electorate exceeding ten thousand, twenty-five members, elected in accordance with the system of proportional representation by means of the single transferable vote from amongst advocates on the electoral roll of the State Bar Council.

Provided that as nearly as possible one-half of such elected members shall, subject to any rules that may be made in this behalf by the Bar Council of India, be persons who have for at least ten years been advocates on a State roll, and in computing the said period of ten years in relation to any such person, there shall be included any period during which the person has been an advocate enrolled under the Indian Bar Councils Act, 1926 (38 of 1926).

(Emphasis Provided)

5. In short, a voter in these elections who is a practising lawyer casts his vote by a mechanism called “single transferable vote”, as given above in Section 3(2)(b) of the Act. Therefore,

instead of exercising just one vote or choice in favour of a single candidate, he or she would grade these candidates in the election in order of his preference. Then, in an event a voter's first preferred candidate gets eliminated for any reason, his votes then go to the 2nd preferred candidate, and so on.

6. Under this mechanism, carving out a procedure which could best fit in while at the same time giving 20% reservation (through election) to women candidates as well, we had decided as under vide our order dated 09.02.2026:

20. How the elections are to be held is given in the Supreme Court order dated 18.11.2025 and 08.12.2025. To clarify as to the manner of counting of votes, we must record that a well-established procedure is being followed in all elections in the past, where voting is done by way of single transferable vote. The same shall continue, though clarification here is needed only to the extent of the newly introduced women reservation/representation. Now, in a given case, let us say where 5 members are to be elected from amongst women candidates, their election will be as follows:

(a) Where there are only 5 women candidates in fray, then, subject to the validity of their documents and nomination papers, all of them will be declared elected as unopposed. There will be no contest for the women candidates.

(b) Where there are no women candidates, then 5 women, in addition to the already 10% reserved by way of co-

option, will be nominated by co-option, to fill 30% seats by women.

(c) Where there are less than 5 women candidates, then all of them will be declared elected, and the remaining seats will be filled by co-option.

(d) If there are more than 5 women candidates, then counting shall be done in the regular normal manner except that eliminated women candidates would be placed in a separate list/category 'R' in the reverse order of elimination, i.e., the last eliminated woman candidate would be placed at Sr. No. 1, second-last eliminated woman candidate at Sr. No. 2 and so on. Counting would continue till the requisite number of candidates (after deducting the number of women candidates to be elected to the extent of 20% seats reserved for them) are declared elected. In case any women candidates are elected in the normal course, the regular and normal process of election would be extended further by adding such a number of women candidates to the list of candidates to be elected in the normal course. Thereafter, the deficiency, if any, in the 20% seats reserved for women candidates shall be filled up from the separate category/list 'R' by declaring the requisite number of women candidates elected in order of merit, i.e., the one eliminated last being declared elected first and so on. To clarify and to explain further, in a given case where a woman candidate or candidates get elected in the ordinary process by getting a good number of 1st preference votes or in the last few rounds by crossing the Quota, or normally like others, then that many seat or seats will be reduced from the reserved Quota of 5 seats. All the Bar Councils will follow the process where there is a reservation for women.

(e) In a case of women candidates obtaining equal votes/value, the same procedure that is prescribed for General candidates would be adopted to select the woman candidate to be declared elected from amongst them.

7. An issue has now been raised as to whether under the procedure prescribed in paragraph 20(d) of this Committee's order dated 09.02.2026, the votes which stand to the credit of an eliminated woman candidate can be transferred to the remaining candidates and at the same time such woman candidate can also be declared elected on account of her position in List "R" i.e. for "Reservation". It is contended that this would amount to counting the same votes twice, and hence this procedure is flawed.
8. The aforesaid contention proceeds on a misconception regarding the manner in which the single transferable vote system operates and the purpose for which List "R" has been prescribed.
9. As reiterated above, Section 3(2)(b) of the Act provides for election to the State Bar Councils by proportional representation through the single transferable vote system. Part III Chapter II of the Bar Council of India Rules lays down the procedure to be followed in counting of votes. Rule 1(a) provides that the said Rules apply to elections of members of all State Bar Councils and Rule 1(b) provides that in case of

any repugnancy with the Rules of a State Bar Council, the Bar Council of India Rules shall prevail to the extent of such repugnancy.

- 10.** Under the single transferable vote system, when a candidate receives the requisite “quota”, he or she is declared elected. Rule 4(A) of the Bar Council of India Rules specifically provides for declaration of a candidate as elected where the value of voting papers credited to such candidate is equal to or greater than the quota. In case there is any surplus standing to the credit of an elected candidate, the same is transferred in accordance with the applicable Rules, including the relevant Rules of the concerned State Bar Council as contemplated under Rule 4(B)(1)(ii).
- 11.** On the other hand, in a case where a candidate is eliminated from the race, then Rule 4(B)(2)(i) specifically provides that the unexhausted voting papers of such excluded candidate shall be distributed amongst the continuing candidates according to the next preference recorded therein. Rule 4(B)(2)(ii) and (iii) further prescribe the manner in which the original votes as well as the votes earlier received by such candidate by way of transfer are thereafter to be transferred.

- 12.** Rule 4(B)(2)(iv) further specifically provides that each such transfer is to be treated as a separate transfer but not as a separate count. The process is required to continue on successive exclusion of candidates in terms of Rule 4(B)(2)(vi).
- 13.** Transfer of votes on elimination of a candidate is therefore an essential part of the STV system. If the votes standing to the credit of an eliminated candidate are not transferred, the remaining candidates would be deprived of the benefit of the subsequent preferences indicated by the voters and the normal STV system itself would stand disturbed.
- 14.** The same principle necessarily applies where the eliminated candidate happens to be a woman candidate. Merely because the name of such eliminated woman candidate is also required to be placed in List "R" cannot mean that the votes standing to her credit are not to be transferred in the normal course.
- 15.** It is for this very reason that paragraph 20(d) of this Committee's order dated 09.02.2026 provides that counting shall be done in the "regular normal manner", except that whenever a woman candidate is eliminated, her name would also be placed in a separate List "R" in the reverse order of

elimination, i.e. the woman candidate eliminated last being placed at Serial No.1, the woman candidate eliminated immediately before her at Serial No.2 and so on.

16. The words “regular normal manner” necessarily mean that the normal consequences of elimination under the STV system continue to apply. Thus, on elimination of a woman candidate, her unexhausted voting papers are transferred amongst the continuing candidates in accordance with the next preference indicated therein. At the same time, her name is separately placed in List “R”.

17. The preparation of List “R” therefore does not interfere with the normal counting process. Once a woman candidate is eliminated, her transferable votes are dealt with in the normal manner. What is retained in List “R” is only her name and her relative position amongst the eliminated women candidates. This List “R” can also be treated to be as a “select list” as it also has a separate identity as the one of women candidates which will fill the seats reserved for women.

18. Counting thereafter continues till the requisite number of candidates, after deducting the number of women candidates

required to be elected to the extent of 20% seats reserved for them, are declared elected in the normal course.

- 19.** In case one or more women candidates themselves get elected in the normal course, whether by getting a good number of first preference votes, by crossing the quota in subsequent rounds or otherwise in the normal manner, the regular process of counting is extended by the same number of seats. The number of women candidates thereafter required to be taken from List "R" is correspondingly reduced.
- 20.** Thus, where there are 23 seats and 5 seats are required to be filled by women, the normal counting would initially continue till 18 candidates are elected. If 2 women candidates get elected in the normal course, the normal counting would be extended till 20 candidates are elected. As 2 women candidates have already been elected in the normal course, only the remaining deficiency of 3 women candidates would thereafter be filled from List "R".
- 21.** Thereafter, the deficiency, if any, in the 20% seats reserved for women is filled by declaring the requisite number of women candidates from the top of List "R" as elected, the woman eliminated last being declared elected first and so on.

Paragraph 20(e) further provides that in case women candidates obtain equal votes/value, the same procedure as prescribed for the other candidates would be adopted.

- 22.** It is therefore an absolute misconception to contend that under this procedure the votes cast in favour of an eliminated woman candidate are counted twice, firstly in the account of the candidate to whom such votes are transferred on her elimination and secondly in the account of the woman candidate herself when she is subsequently declared elected on account of her position in List "R".
- 23.** No such double counting takes place as is being made out.
- 24.** Once a woman candidate is eliminated, the transferable value of the unexhausted voting papers standing to her credit is transferred in accordance with the next preference indicated by the voter. After such transfer, those votes no longer stand to her credit.
- 25.** If the said woman candidate is subsequently declared elected from List "R", none of the votes earlier transferred from her are brought back, restored or again credited to her. Her subsequent election is not on account of any second counting of those votes but only on account of her position in

List "R", which is determined by the stage at which she was eliminated during the normal counting process.

- 26.** The vote and the position in List "R" are therefore two entirely different things. The vote is transferred in accordance with the preferences indicated by the voter under the normal STV system. List "R" merely records the relative position of the eliminated women candidates on the basis of the same counting process. No vote is again credited to a woman candidate merely because she is subsequently declared elected from List "R".
- 27.** There is therefore no question of the same voting value being simultaneously credited to two candidates or of any vote being counted twice. In fact, Rule 4(B)(2)(iv) itself specifically provides that every such transfer is a separate transfer but not a separate count.
- 28.** On the contrary, if the votes of an eliminated woman candidate are not transferred merely because her name has been placed in List "R", the remaining candidates would be deprived of the benefit of the subsequent preferences to which they are entitled under the STV system. Such a course could

materially alter the result of the normal count and seriously prejudice the candidates remaining in the fray.

- 29.** The procedure prescribed in paragraph 20(d) of this Committee's order dated 09.02.2026 avoids this difficulty. The normal STV count proceeds in the regular manner; the votes of eliminated women candidates are transferred like those of any other eliminated candidate; women candidates who get elected in the normal course are declared elected in that course and the normal counting is correspondingly extended; and only the remaining deficiency in the prescribed 20% representation is thereafter filled from List "R".
- 30.** This is the only possible manner in which the normal STV system can be allowed to operate without prejudicing the rights of the remaining candidates while at the same time ensuring that the mandatory 20% seats required to be filled by women are actually filled. The aforesaid procedure also preserves fairness, reasonableness and transparency in the selection of women candidates.
- 31.** The List "R" procedure therefore does not amount to a second counting of votes. It is only a mechanism for selecting, from amongst the eliminated women candidates and on the

basis of their relative position in the same counting process, the women candidates who are required to be declared elected for making good the remaining deficiency, if any, in the prescribed 20% representation.

32. There is another aspect to this matter. It is also worth a consideration that the arguments against this system either way would have always remained. The male candidates who have not been able to make it and are on the periphery are the ones who have challenged this system. The elected members who were represented before us have no complaints and have argued that under the present system of reservation for women, this was the only way out. But then, ensuring reservation for women and carrying on under the present system of STV, an unsatisfied candidate would have always remained. The only complaint before us is that votes have been counted "twice" for eliminated women candidates when they were effectively "elected". This is not permissible under the Rules. Had this been so, we would have stated in our order dated 09.02.2026 that once women candidates are elected their votes transferred to other candidates will revert

back to them in that situation but then there would have been an impossible situation of “counting” or “recounting” it all again. Further, the candidates who would have then lost due to this procedure would have been before us, pointing to us yet another anomaly- they have been denied their valuable votes!

33. To our mind, the present system of counting of votes, which we have laid down in our order dated 09.02.2026, is the only possible solution which would also ensure 30% reservation as has now been mandated by law.

34. Another argument which was raised before us was of wrong fixation of Quota. The argument was that the Quota¹ which is fixed is based on the number of seats on which elections have to take place, amongst other factors. But present elections have taken place under the newly introduced system of reservation, where 30% of seats are in any case reserved for women and therefore, effectively elections have taken place on a lesser number of seats, which ought to have

¹ Quota = $\frac{\text{Total Value of Valid Votes}}{\text{Total Number of Seats}} + 1$

been taken into account while determining 'Quota'. In our considered opinion, this argument cannot be accepted because the Rules governing these elections provide that while calculating the Quota, it is the number of seats to be considered for which elections are being held. Even though there is now a reservation for women yet elections have taken place on these seats as well.

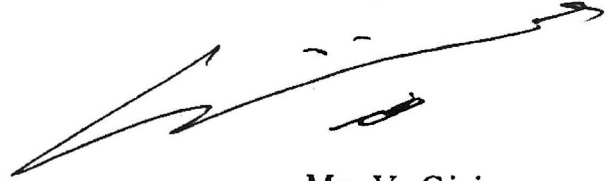
35. Apart from the above issues, some of the representatives argued that the procedure laid down by this Supervisory Committee vide order dated 09.02.2026 has not been followed. If that is the case, now since elections are complete and election petitions have already been filed, this Supervisory Committee does not deem it appropriate to examine these issues. All such issues can be raised by way of filing the election petitions before the election tribunals.

36. Consequently, all pleas and representations in this regard are hereby dismissed.



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