

BEFORE THE ELECTION APPELLATE TRIBUNAL FOR SINDH AT SUKKUR

Election Appeal No. S-14 of 2024

Imam Bux son of Haji Ihsanullah by caste Phulpoto

Adult, Muslim r/o Mohalla Bhurgari

Taluka and District Khairpur - - - - - Appellant

V E R S U S

1. Returning Officer, PS-26 Khairpur-I
The Assistant Commissioner (R) Khairpur
2. Election Commission of Pakistan, through its Secretary
Sector G-5/2 Constitution Avenue Islamabad
3. District Election Commissioner Khairpur
4. Federal Board of Revenue through Commissioner RTO Sukkur
Tax House Queens Road Sukkur
5. Federation of Pakistan through DAG

- - - - - Respondents

Mr. Safdar Ali Bhatti, Advocate for appellant

Mr. Zeeshan Hyder, Law Officer, Election Commission of
Pakistan

Mr. Dareshani Ali Hyder 'Ada' DAG

Mr. Umair Ali Election Officer

Mr. Muhammad Ali Returning Officer PS-26 Khairpur-I

Mr. Tahir Hussain Shah, Assistant Commissioner FBR

Date of hearing; 08.01.2024

Date of order; 08.01.2024

ORDER

Zulfiqar Ali Sangi J:- Through this Appeal, the appellant has challenged the impugned order dated 30.12.2023 passed by the Returning Officer PS-26 Khairpur-I, whereby his nomination form was rejected on the ground that he is defaulter of Income Tax Department.

2. It is contended by the learned counsel for appellant that on knowledge in respect of demand of Income Tax through the Returning Officer, he approached the department where filed an appeal and on his appeal stay order was passed. He next contended that there is no outstanding against the appellant and demand is under challenged for

which he has not received any notice from the Income Tax Department and prays that his appeal be allowed and his nomination form be accepted.

3. The learned DAG assisted by the Counsel of Election Commission contended that the appellant is a defaulter of Income Tax and disqualified in terms of Article 63 (1) (o) of the Constitution of Pakistan 1973, therefore, his nomination form was rightly rejected by the Returning Officer and prayed for dismissal of appeal.

4. Heard and perused.

5. It is observed that notices are necessary to be issued under section 114 (4) of the Income Tax Ordinance and on failure to file proper Return by a person against whom notices are issued then the department will proceed against him under section 121 of the “**Ordinance 2001**” and who is liable to penalize under section 182 of the “**Income Tax Ordinance 2001**” thereafter has an opportunity to challenge such decisions under section 127 of the “**Ordinance 2001**”. The appellant on knowledge furnished by Returning Officer has immediately filed an appeal wherein the Commissioner (Appels) Inland Revenue, Sukkur, RTO Sukkur passed an stay order which as per Mr. Tahir Hussain Shah, Assistant Commissioner FBR is operating till 17.01.2024. Since the dispute of appellant in respect of demand made by Income Tax authorities is pending for adjudication and the same has not been decided finally. As per appellant he has not received any notice prior to the information furnished by Returning Officer, such fact is also to be decided by the authority in the appeal filed by the appellant. In such circumstances, on that score alone the nomination form cannot be rejected.

6. In view of the above, this Election Appeal is allowed, the nomination form of appellant is accepted. The Returning Officer is directed to include the name of appellant in the list of contesting candidates as provided under the law.

J U D G E

M. Ali/steno