

ORDER SHEET  
HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Present:

Justice Arbab Ali Hakro-J  
Justice Muhammad Jaffer Raza-J

C.P No.D-454 of 2026

[Asadullah Khan v. Federation of Pakistan and others]

Petitioner : Asadullah Khan s/o Junaid Ahmed Khan.  
Through Mr.Ghulam Shabbir Mari, Advocate

Respondents by : Mr.Muhammad Sharif Solangi, Assistant  
Advocate General, Sindh a/w Sarmad  
Sarwar, Assistant Director (Law), Pervez  
Ahmed Kalhoro, Regional Election  
Commissioner, Mirpurkhas and Qamaruddin  
Rahupoto, Assistant Commissioner,  
Shahdadpur/Returning Officer of Ward No.7  
of Town Committee, Shahpurchakar, Taluka  
Shahdadpur.

Date of hearing : 13.05.2026

Date of decision : 13.05.2026

ORDER

ARBAB ALI HAKRO-J: The petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution, calling into question the legality of the orders passed by the Returning Officer, Ward No.07, Town Committee Shahpur Chakar, dated 21.04.2026 and the consequential appellate order dated 27.04.2026, whereby his nomination papers for the seat of General Member were rejected on the ground of alleged default in payment of Dhal/Abiyana.

2. The record reflects that the petitioner submitted his nomination papers on 15.04.2026 for contesting the local government election from Ward No.07, Town Committee Shahpur Chakar. The nomination papers were received, and scrutiny was fixed for 21.04.2026. During scrutiny, the Returning Officer recorded that the petitioner had declared agricultural land as his source of income but had failed to produce the receipts for Dhal; he is therefore a defaulter of Dhal (Abiyana) and the nomination was accordingly rejected.

3. The petitioner preferred Election Appeal No.01 of 2026 before the District & Sessions Judge, Sanghar, who, vide order dated 27.04.2026, upheld the rejection, observing that the petitioner's reliance on agricultural income tax exemption was misconceived, as the rejection was based on non-payment of Dhal/Abiyana, which is distinct from agricultural income tax.

4. Learned counsel for the petitioner submits that neither the Sindh Local Government Act, 2013, nor the Sindh Local Councils (Election) Rules, 2015, prescribe Dhal/Abiyana default as a ground for rejection of nomination papers. It is argued that Rule 18 of the 2015 Rules exhaustively enumerates the grounds on which a Returning Officer may reject a nomination paper, and default in payment of Dhal does not fall within any of the statutory categories. Counsel further submits that the Returning Officer failed to conduct any meaningful inquiry, failed to provide an opportunity to the petitioner to clarify or cure the alleged defect and rejected the nomination on a ground extraneous to the statutory framework.

5. Conversely, learned A.A.G. supports the impugned orders, contending that the Returning Officer acted within his authority in determining whether the petitioner fulfilled the statutory qualifications. It is submitted that the petitioner, having declared agricultural land as his income source, was obliged to demonstrate that no government dues were outstanding. Learned A.A.G. argues that the petitioner's failure to produce Dhal receipts justified the Returning Officer's conclusion that he was a defaulter, and therefore not eligible.

6. Heard and perused the record.

7. It is a settled principle that the Returning Officer, while scrutinizing nomination papers, is confined strictly to the statutory grounds enumerated in Rule 18(3) of the Sindh Local Councils (Election) Rules, 2015. The Rule authorizes rejection only where: (a) the candidate is not qualified under the Act; (b) the proposer or seconder is not qualified; (c) any provision of Rule 16 or 17 is not complied with; or (d) the signatures of the proposer or seconder are not genuine.

8. Notably, default in payment of Dhal/Abiyana is not a statutory ground for rejection. The Returning Officer's order does not identify any provision of the Act or Rules that renders such default a disqualification. The appellate authority similarly failed to anchor its reasoning in any statutory text. The Returning Officer was further required under Rule 18(2) to conduct scrutiny in the presence of the candidate and to decide objections based on material placed before him. The record does not show that any elector or rival candidate objected. The Returning Officer acted solely on his own assumption that non-production of receipts equated to default, without conducting any inquiry or affording opportunity to the petitioner to clarify or produce documents. This omission violates the mandatory procedural safeguards set forth in Rule 18.

9. In the case of Aamir Raza<sup>1</sup>The Divisional Bench of this Court held that where the Returning Officer and Appellate Authority reject nomination papers on grounds extraneous to the statutory scheme, or without affording opportunity to cure alleged defects, such rejection cannot be sustained. It was further held that disputed questions, such as alleged default or non-declaration of assets, cannot be used to disenfranchise a candidate at the nomination stage. The present case falls squarely within that principle. The Returning Officer's conclusion that the petitioner is a "defaulter" is unsupported by any statutory provision, unaccompanied by any inquiry and based solely on non-production of receipts at the moment of scrutiny. Even assuming arguendo that some dues were outstanding, the Returning Officer was obliged to allow the petitioner an opportunity to clarify or rectify the matter, as held in the above-cited judgment.

10. The right to contest elections is a valuable statutory right, and its curtailment must be justified strictly within the four corners of the law. The impugned orders, being founded on a non-statutory ground, cannot be sustained.

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<sup>1</sup> Aamir Raza v. Provincial Election Commission (2016 YLR 431)

11. For the foregoing reasons, the impugned orders dated 21.04.2026, passed by the Returning Officer and dated 27.04.2026, passed by the Appellate Authority, are hereby set aside. The Returning Officer is directed to accept the nomination papers of the petitioner, treat him as a validly nominated candidate and include his name in the list of validly nominated candidates in accordance with Rule 19 of the Sindh Local Councils (Election) Rules, 2015.

JUDGE

JUDGE

\*Adnan Ashraf Nizamani\*