

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

C.P. No. D-4812 of 2018

Date Order with signature(s) of Judge(s)

Present:

**Mr.Justice Muhammad Ali Mazhar
Mr.Justice Omer Sial**

1. For order on Misc. 21257/2018
2. For order on Misc. 21258/2018
3. For order on Misc. 21259/2018
4. For hearing of main case.

26.06.2018

MUHAMMAD ALI MAZHAR,J.- The petitioner has approached this Court for directions against Respondents No. 4 & 5 (Returning Officer Constituency PS-108 and the Election Commission of Pakistan through its Provincial Election Commissioner, Sindh) to initiate appropriate proceedings against Respondent No.1 due to submission of his nomination paper with some disinformation. Petitioner has also prayed for the restraining order against Respondents No. 2 and 3 (President and General Secretary, (PML-N) Sindh) from issuing party ticket to the Respondent No.1.

We raised a query to the learned counsel for petitioner as to whether any appeal was filed against the scrutiny order passed by the Returning Officer accepting the nomination paper of Respondent No.1, he submitted that one application was sent to the Election Commission of Pakistan, Islamabad and Returning Officer on 25.6.2018(TCS receipts are attached), whereas the Returning Officer accepted the nomination form on 13.6.2018.

Mr. Salahuddin Gandapur, Advocate, who is appearing for Election Commission of Pakistan is present in Court in some other cases, however, he assisted us and referred to Section 63 of the Election Act,2017.

Under Section 63 of the Election Act,2017, right of appeal against scrutiny order is provided to a candidate and the objector against the

decision of the Returning Officer rejecting or accepting the nomination paper to an Appellate Tribunal. It is an admitted fact that the petitioner has not filed any appeal to the Appellate Tribunal but directly approached this Court in a Constitution Petition which is not maintainable. Petitioner has also sought directions of this Court against the President and General Secretary (PML-N, Sindh) not to issue party ticket to Respondent No.1 which is otherwise not in the dominion of this Court. The nomination form was accepted on 13.6.2018 and the petitioner sent a letter to the Returning Officer and ECP Islamabad on 25.6.2018 which is demonstrated from TCS receipts attached at page 45 though in the letter the date is mentioned as 21.6.2018 which is otherwise a date after acceptance of the nomination form by the Returning Officer.

As a result of the above discussions, petition is dismissed in limine alongwith the listed applications due to non-availing of alternate, adequate and expeditious remedy provided under the Elections Act, 2017.

J U D G E

J U D G E

sharif

