

ORDER SHEET
HIGH COURT OF SINDH, KARACHI

C.P. No.D-4670 of 2018

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.
Mr. Justice Omar Sial.

Nazir Ahmed Shoro & anotherPetitioners

Versus

Chief Election Commissioner of Pakistan

& others.....Respondents

Date of hearing 29.06.2018

M/s. Kafeel Ahmed Abbasi and Jawaid Farooqui, Advocates for the petitioners. a/w Wali Muhammad Shaikh, Additional Commissioner, IR, Head Quarter, RTO-III, Karachi and Akhlaq Ahmed, Chief Security Officer, FBR.

Mr. Salahuddin Khan Gandapur, Advocate for the Election Commission of Pakistan.

Mr. Shaikh Liaquat Hussain, DAG.

Ms. Rukhsana Mehnaz Durrani, State Counsel.

Mr. Abdul Razzak, MIT-II, High Court of Sindh.

Mr. Kamran Ata Soomro, (Additional District & Sessions Judge, Karachi East) Returning Officer NA-243.

Muhammad Ali Mazhar, J: The petitioner No.1 is the Chief Commissioner, whereas, petitioner No.2 is the Additional Commissioner-IR. They have sought the declaration that their building constructed on plot No.FL-16/17, Block-15, Inland Revenue House, Gulistan-e-Jauhar, Karachi which is being used as Head Quarter, RTO-III should not be included in the final list of Polling Stations of constituencies NA-242, 243,

244 & PS-99 and 101 for general elections 2018. They had also approached the District Returning Officer and filed their objection No.1007/2018 which were rejected vide order dated 24.06.2018 by the learned District Returning Officer, East and Korangi, Karachi. The order reflects that the petitioners averred before the learned District Returning Officer that the building is being used as Head Quarter of RTO-III since August, 2015 prior to that this building was being used partially for training and its further construction for extension was in progress, therefore, in 2013 general elections only one time this building was used as polling station. However, on shifting of the RTO-III Head Quarter, all the taxpayer record as well as court litigation record, public accounts committee record and NAB related cases have been secured in the building. It was further contended that all the private and public salaried individuals fall within the jurisdiction of this same RTO. It was further contended that record is frequently required in the proceedings before the Apex Court as well as High Court in large number of cases and in addition to the physical record, extensive computer networking has been made throughout the building containing sensitive data which is also connected to the central data bank of FBR, Islamabad. It was further argued before the learned District Returning Officer that the networking comprising of sophisticated IT equipment as well as physical record involves billions of rupees of government revenue which is to be kept secure and confidential and using FBR premises for polling

and influx of huge numbers of people in the building would carry serious risk to the safety and security of the sensitive record and its system data, therefore, a request was made to exempt this building.

2. The petitioners' counsel argued that despite placing all crucial details and apprehensions, the contentions were not appreciated and the objections were rejected, therefore, they have approached this court. Learned counsel for the petitioner further argued that except office of FBR, Karachi no other office of FBR has been requisitioned by the ECP in Pakistan. Learned counsel for the petitioner on the last date of hearing also presented the reasons for avoiding this building requisition as polling station which are reproduced as under:-

“i). There are 776,400 registered taxpayers with this Region i.e. RTO-III, Karachi. The assessment record of all taxpayers is kept in this building.

ii). This region has jurisdiction of all public and private salaried individuals including high judicial and administrative officers. Case records of taxpayers are frequently required by the Hon'ble Supreme Court of Pakistan and Hon'ble High Court of Sindh under various litigation cases. Besides NAB, FIA, Anti Narcotics Force etc, agencies require records of various taxpayers from time to time. More importantly the tax of candidates contesting elections is also lying in this building. Hence the use of this RTO building as a polling station will jeopardize this sensitive record of the taxpayers.

iii). Moreover room of every officer is connected with a PRAL networking system containing soft data and correspondence of the taxpayers which is subsequently connected with the FBR (HQrs) Islamabad.

iv). The data involves billion of rupees of government revenue. By law it is prime responsibility to keep it secure and confidential which may be exposed to risk if any misadventure occurs during the polling process in the forthcoming general elections.

v). The building is located in a very sensitive area of Gulistan-e-Jauhar, Karachi which is also evident from the incident took place on 28-8-2017 and two (02) employees of RTO-III were killed by the terrorist at the gate of the

building. Hence it is likelihood that this building if declared as a polling station, might come under any sort of incident which can carry risk to billions of rupees revenue cases.

vi). Except this RTO-III, Karachi office no other RTO in Pakistan has been listed in the list of polling stations probably because of its revenue collection nature of work and sensitivity of taxpayers' record.

vii). Alternatively, there are about 20 schools available in the vicinity of this office and a few of them having more than the size of this building. That can easily accommodate the requirements of polling station."

3. Learned Returning Officer argued that under sub-section 10 of Section 59 of the Elections Act, 2017 it is a requirement under the law that polling station shall be situated in any government building in the constituency and where no government building is available, a polling station may be established in a building owned by private educational institutions registered with the concerned education authorities. He further added that according to his information, there is no government building adjacent to the FBR building, therefore, keeping in view an exigency, requisition of FBR building was processed.

4. At this juncture, the petitioner No.2 pointed out four government's building which according to him very much adjacent to FBR building which are as follows:-

- i. Evacuee Trust Building.
- ii. Government Mono-Technique Institute.
- iii. Karachi University, Institute of Clinical Psychology.
- iv. FIA Cyber Crime building near Dar-ul-Sahat Hospital.

5. The petitioner No.2 while reiterating their difficulties and problems suggested that the learned Returning Officer may visit the area once again and if the aforesaid four

buildings are found adjacent then they can decide an alternate move. On this proposal, learned Returning Officer agreed to make a visit of the area once again including the four premises mentioned in this order and if these premises have not been already occupied for the elections purpose, the District Returning Officer and Returning Officer will make endeavor to shift the polling stations from FBR building to any other location.

6. After hearing the arguments, we are of the firm view that the problems highlighted by the petitioners seem to be quite rationale which cannot be considered without substance and at the same time we also appreciate that learned Returning Officer has agreed to make some efforts for shifting the polling stations on any other location.

7. As a result of above discussion, this petition is disposed of in the following terms:-

- i. On proper and diligent survey of the Returning Officer with the nominee of the petitioners, if any other suitable place is found for establishing polling stations for the general elections 2018 including the buildings mentioned in this order, the District Returning Officer and Returning Officer will change the polling stations and remove the name of FBR building from the list of polling stations.

- ii. The learned District Returning Officer and the Returning Officer both shall seriously consider the difficulties of petitioners and shall make all best possible efforts and endeavor to search out an alternate premises and remove the building in question from the list of polling stations.
- iii. The compliance report shall be submitted to the court on 03.07.2018 according to roster.

JUDGE

JUDGE

Aadil Arab