

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI
C.P. No. D-5904 of 2018

DATE	ORDER WITH SIGNATURE OF JUDGES
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Fresh Case.

1. For orders on Misc. No. 25617/2018
2. For orders on Misc. No. 25618/2018
3. For orders on Misc. No. 25619/2018
4. For hearing of main case.

16.08.2018

Mr. Sardar Sher Afzal, Advocate for the Petitioner

1. Urgency granted.
 2. Exemption granted subject to all just exceptions.
- 3&4. The petitioner contested the General Elections, 2018 from PS-121, Karachi West-X. He moved an application for recounting to the Returning Officer of PS-121 of Karachi West-X, which was dismissed vide order dated 27.07.2018, available at page-527-529 of the petition. Learned Returning Officer observed in the order that with regard to allegation of rigging during polling hours, applicant has failed to provide any evidence to support his claim. Learned RO further observed in his order that entire polling process was carried out peacefully and no complaint of rigging received to him from any other contesting candidate during the poll hours. He further observed that no proof has been attached by the applicant with regard to allegation of rigging in polling stations during poll hours. Instant petition has been presented by the petitioner on 13.08.2018. Under sub-section (5) of Section 95 of the Elections Act, 2017, the Returning Officer has power for recounting before commencement of the consolidation proceedings whereas, under sub-Section 6, ECP has powers for the recounting before conclusion of the consolidation of results. At present, not only the result has been consolidated but ECP has issued notification of returned candidates. After completion of election process, neither the Returning Officer nor ECP even has the powers to order for recounting, hence the best appropriate and available remedy is to file election petition before Election Tribunals constituted under the provision of Election Act, 2017. No interference can be made out by this court keeping in view Article

225 of the Constitution and Section 139 of Elections Act, 2017, in which it is clearly provided that no election shall be called in question except by an election petition filed by a candidate for that election. In view of above situation, instant petition is dismissed with all pending applications. However, at the time of filing election petition, petitioner may also move application for recounting, which shall be decided by learned Election Tribunal in accordance with law.

JUDGE

JUDGE

FAISAL MUMTAZ/PS*

