

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P.No.D-3204 of 2018

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar
Mr. Justice Agha Faisal

Dr. Moiz Khan.....Petitioner

V E R S U S

Dr. Mohsin Ali & others.....Respondents

11.12.2018

Mr. Abbad-ul-Hussnain, Advocate for the Petitioner.
Mr. Ahmed Shakir, Advocate for Respondent No.1.
M/s. Ameer-Uddin & Shoaib Mohiuddin Ashraf,
Advocates for University of Karachi.
Mr. Asif Mukhtiar, Director (Legal), University of Karachi.

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Muhammad Ali Mazhar, J: Through this Constitution Petition the petitioner has approached this court for a declaration that elections to the syndicate of University of Karachi for the post of one Professor, one Associate Professor, one Assistant Professor and one Lecturer held on 09.04.2018 are liable to be declared null and void which elections were conducted by the respondent Nos.5 and 6. The case of the petitioner is that he contested the elections for the post of Assistant Professor and lost the election only by one vote. The learned counsel further argued that for the contest of the aforesaid candidature, the Registrar of Karachi University provided a copy of list of Assistant Professors eligible to cast their votes, however, on the date of elections, another list was circulated with addition of eight names inserted through handwriting. He further argued that had the names of those eight persons brought into the

knowledge of the petitioner, he could have approached those persons also as a part of election campaign which right has been deprived by the inclusion of those names on the election date. He further referred to page 91 which is a copy of circular "Statutes for Election to the Syndicate (under Section 28(1)(f) of the University of Karachi Act, 1972". In clause 13 of this circular, it is clearly provided that all disputes arising out of the election will be referred to the Vice-Chancellor whose decision will be final. After referring to this circular, the learned counsel referred to page 129 which is a complaint lodged to the Vice Chancellor on 10.04.2018 keeping in mind clause 13 of the circular but according to the learned counsel for the petitioner this complaint has not been decided by the Vice Chancellor. The learned counsel for the respondent No.1 and Karachi University conceded to this argument that the difference of vote between the petitioner and the respondent No.1 was one vote only. So far as the contention raised by the learned counsel that another list was circulated on the date of election after inclusion of eight more names, the learned counsel pointed out clause 15 of the same circular which is available at page 91 which provides that in case of a change in the person of a voter (nominated, elected or ex-officio) after the notification of the date of election but prior to polls, the voters' list already notified shall continue to hold good and the changed person shall be deemed to have been included in it at the time of its notification. However, the learned counsel admits that the complaint of the petitioner has not been decided by the Vice Chancellor.

2. It is well settled exposition of law that the factual controversy and disputed questions of facts cannot be decided in the writ jurisdiction. In this case we noted that a circular was also issued before the polls to handle the

election dispute and for which the ultimate authority is the Vice Chancellor to decide and the petitioner by invoking the provisions contained in clause 13 has already moved a complaint to the Vice Chancellor which was a right course of action. Since no action was taken on the complaint, the petitioner has approached this court for some directions.

3. As a result of above discussion, we dispose of this petition with the directions to the learned Vice Chancellor, University of Karachi, to decide the complaint of the petitioner within a period of thirty (30) days after providing ample opportunity of hearing to the petitioner and the respondent No.1. Pending applications are also disposed of.

A copy of this order may be transmitted to the learned Vice Chancellor, Karachi University to ensure compliance. The compliance report may be submitted to the MIT of this court by the counsel for the University of Karachi.

Judge

Judge

Asif

