

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

C.P. No.D-5682 of 2020

Date	Order with signature of Judge
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Before:-

Mr.Justice Muhammad Ali Mazhar

Mr.Justice Arshad Hussain Khan

Asim Ghani Usman**Petitioner**

V/s

Federation of Pakistan

& others....**Respondents**

16-12-2020

Mr.Rehan Kayani, Advocate for the Petitioner.

Mr.Khalid Jawed, Advocate for the Respondent No.4

Mr.Usman Tufail Sheikh, Advocate for Respondent No.3

Mr.Hussain Bohra, Assistant Attorney General.

Muhammad Ali Mazhar, J: The petitioner has challenged the impugned letter dated 9.11.2020, available at page-175 of the court file, issued by Election Commission-FPCCI. The letter is reproduced as under:-

“Subject: ELECTION RESULT FOR THE POST OF S.V.P,
FPCCI ELECTION -2020”

In view of the Judgment dated 19.10.2020 passed by the Hon’ble Islamabad High Court Islamabad in Writ Petition Nos.4321/2019 and 4172/2019, whereby the Order dated 27.11.2019 passed earlier by the DGTO directing Secretary General FPCCI to include the name of Mr. Mian Anjum Nisar of S.A Trading Corporation being nominee of Pakistan Footwear Manufacturers Association, has been set aside, Mr. Muhammad Hanif Gohar nominee of Association of Builders & Developers, a candidate for the post of Senior Vice President FPCCI has requested through his Advocate’s letter dated 07.11.2020 to the Election Commission to declare the said result by excluding one

vote cast by Mr. Mian Anjum Nisar being nominee of Pakistan Footwear Manufacturers Association. The Members Election Commission FPCCI after going through the referred Judgment and considering the facts of the matter, hereby declare Mr. Muhammad Hanif Gohar as duly elected Senior Vice President FPCCI Election-2020 having secured 176 votes as against 175 votes of Mr. Asim Ghani Usman. Mr. Muhammad Hanif Gohar, therefore, stands elected as Senior Vice President FPCCI for the year-2020.”

2. The learned counsel for the petitioner pointed out page-141 of the court file, which is result of election of Senior Vice President, FPCCI. According to the result the petitioner and respondent No.4 both secured 176 votes and due to equal votes and certain litigation, nobody could be declared successful to the post of Senior Vice President. The impugned letter was issued in connection with the judgment passed by Islamabad High Court in Writ Petition Nos.4321/2019 and 4172/2019, whereby the vote of nominee of Pakistan Footwear Manufacturers Association was excluded from consideration.

3. Today the learned counsel for respondent No.4 along with statement filed judgment passed by this court on 07.12.2020 in C.P.No.D-314/2020, whereby the petition filed by respondent No.4 was dismissed and in that petition the present petitioner was also respondent No.6. Learned counsel argued that once in that petition this court observed that the petition is not maintainable as the adequate remedy was provided under the law, which should have been availed. He further argued that at present the

petitioner has challenged the letter issued by Election Commission-FPCCI on 9.11.2020. The members of Election Commission-FPCCI are not person within the meaning of Article 199 of the Constitution, therefore, this petition on this count is also not maintainable. The petitioner could have availed alternate remedy provided under the law. The learned counsel for respondent No.3 has also taken the same stand.

4. At this juncture, learned counsel for the petitioner argued that against the same impugned letter they have already filed complaint to DGTO. Since no timely action was taken by DGTO, therefore, this petition was filed. The learned counsel for the petitioner admitted that they have already approached to the DGTO and availed an alternate remedy provided under Section 14(3)(f)(iii) of Trade Organization Act, 2013, therefore, this petition is dismissed, however, the DGTO may pass appropriate order in accordance with law after providing right of audience to all stakeholders.

Judge

Judge