BEFORE THE ELECTION TRIBUNAL AT KARACHI

Election Petition No. 07 of 2018

Petitioner	:	Mst. Nusrat Anwar, through Mr. Abdul Hamid Yusufi, Advocate.
Respondent No. 4	:	Muhammad Abbas Jaffari, through Mr. Abdul Khursheed Khan, Advocate.

Election Petition No. 13 of 2018

Petitioner	:	Saleheen, through Mr. Syed Hafeezuddin, Advocate.
Respondent No. 1	:	Malik Shehzad Awan, through Mr. Hasnain Ali Chohan, Advocate.

Election Petition No. 30 of 2018

Petitioner	:	Mian Muhammad Shahbaz Sharif, through Mr. Khalid Javed, Advocate.
Respondent No. 14	:	Muhammad Faisal Vawda, through Mr. Moiz Ahmed, Advocate.
Dates of hearing	:	29.05.19, 30.05.19, 03.06.19, 10.06.19 and 12.06.19.

ORDER

YOUSUF ALI SAYEED, J – These Petitions under Section 139 of the Election Act 2017 (the "**Act**") call into question the general election held on 25.07.2018 in relation to (a) PS-128 Karachi Central-III ("**PS-128**), (b) PS-116 Karachi West-V ("**PS-116**") and (c) NA-249 Karachi West-II ("**NA-249**") respectively, with each of the Petitioners having placed second in their respective electoral race by a narrow margin.

2. Briefly stated, the electoral result in each of the aforementioned constituencies as between the respective Petitioners and the returned candidates are as follows:

(a) As per the final consolidated result for PS-128, being the subject of E.P. No. 7 of 2018 ("**EP-7**"), from amongst 237,062 registered voters, a total number of 93,960 votes were cast, and the Respondent No.4 is shown to have secured 29,480 votes to the Petitioners 27771 votes, with the differential being only 1709 votes, and 1156 votes having been held to be invalid.

(b) As per the final consolidated result for PS-116, being the subject of E.P. No. 13 of 2018 ("**EP-13**"), from amongst 97,851 registered voters, a total number of 34,843 votes were cast, and the Respondent No.1 is shown to have secured 9,966 votes to the Petitioners 9,711 votes, with the differential being only 255 votes, and 973 votes having been held to be invalid.

(c) As per the final consolidated result for NA-249, being the subject of E.P. No. 30 of 2018 ("**EP-30**"), from amongst 331,430 registered voters, a total number of 128,506 votes were cast, and the Respondent No.14 is shown to have secured 35,349 votes to the Petitioners 34,626 votes, with the differential being only 723 votes, and 2,684 votes having been held to be invalid.

3. Each of the Petitioners then sought to assail the result vide a Petition filed before the Honourable High Court of Sindh at Karachi under Article 199 of the Constitution, being C.P. Nos. D-5804/2018, D-5732/2018 and D-5746/2018,all of which were disposed of by leaving the Petitioners at liberty to avail their remedy under the Act before this Tribunal vide a Petition along with an application for recounting, and in the case of C.P. Nos. D-5732/2018 and D-5746/2018, with it being observed/directed by the learned Division Bench that "*the learned Tribunal at the first instance will consider the application for recount in accordance with law before proceeding on merits*".

4. Ergo, the Petitions proceed on common ground in as much as each the Petitioners has accordingly moved a miscellaneous Application within the framework of his or her Petition seeking a recount of votes, and the Petitions have also been met with Applications under Section 145 of the Act, seeking rejection/dismissal thereof, which, in the case of EP-7 and EP-30, are predicated on the ground that the same do not satisfy the requirements of Section 144 of the Act, whereas, in the case of EP-13, the ground raised for rejection is essentially that the Petitioner had previously filed other proceedings before different fora seeking a recount, which had been declined.

5. In this framework, the Applications presently arising for consideration from the side of the respective Petitioners seeking a recount are CMA No. 342/2018 in EP-7, CMA No. 325/2018 in EP-13, and CMA No. 350/2018 in EP-30. Additionally, in EP-30, an Application has also been filed seeking that a forensic audit be carried out of the thumb impressions on counterfoils so as to determine the genuineness of the votes cast, being CMA No. 351/2018.

6. Conversely, the Applications filed on behalf of the returned candidates under S. 145 of the Act are CMA Nos. 96/2019 in EP-7, CMA 453/2018 in EP-13 and CMA No.117/2019 in EP-30. As stated, of these Applications, those filed in EP-7 and EP-30 allege that the Petitions do not meet/satisfy the mandatory requirements of Section 144 of the Act, it hence being sought that the same be rejected under Section 145 thereof, the two Sections mandating as follows:

"**144. Contents of petition.** — (1) An election petition shall contain—

(a) a precise statement of the material facts on which the petitioner relies; and

(b) full particulars of any corrupt or illegal practice or other illegal act alleged to have been committed, including names of the parties who are alleged to have committed such corrupt or illegal practice or illegal act and the date and place of the commission of such practice or act.

(2) The following documents shall be attached with the petition—

(a) complete list of witnesses and their statements on affidavits;

(b) documentary evidence relied upon by the petitioner in support of allegations referred to in para (b);

(c) affidavit of service to the effect that a copy of the petition along with copies of all annexures, including list of witnesses, affidavits and documentary evidence, have been sent to all the respondents by registered post or courier service; and

(d) the relief claimed by the petitioner.

(3) A petitioner may claim as relief any of the following declarations—

(a) that the election of the returned candidate is void and petitioner or some other candidate has been elected; or

(b) that the election of the returned candidate is partially void and that fresh poll be ordered in one or more polling stations; or

(c) that the election as a whole is void and fresh poll be conducted in the entire constituency.

(4) An election petition and its annexures shall be signed by the petitioner and the petition shall be verified in the manner laid down in the Code of Civil Procedure, 1908 (Act V of 1908) for the verification of pleadings.

"**145. Procedure before the Election Tribunal.** — (1) If any provision of section 142, 143 or 144 has not been complied with, the Election Tribunal shall summarily reject the election petition.

(2) If an election petition is not rejected under sub-section (1), the Election Tribunal shall issue notice to each of the respondents through—

(a) registered post acknowledgement due;

(b) courier service or urgent mail service;

(c) any electronic mode of communication, which may include radio, television, email and short message service (sms);

(d) affixing a copy of the notice at some conspicuous part of the house, if any, in which the respondent is known to have last resided or at a place where the respondent is known to have last carried on business or personally worked for gain;

(e) publication in two widely circulated daily newspapers at the cost of the petitioner; and

(f) any other manner or mode as the Tribunal may deem fit."

7. Before turning addressing the Applications for recount, it would be appropriate to firstly address the Applications impugning the maintainability of the Petitions.

8. The grounds raised by the Respondent No.4 in E.P. No. 7 and the Respondent No.14 in E.P. No. 30 in support of their plea for dismissal of those Petitions are essentially that the Petitions have not been verified in the manner laid down in the Code of Civil Procedure, 1908 (the "**CPC**"), as required in terms of Section 144(4) of the Act. For the purpose of addressing such objection as to maintainability, it merits consideration that Order 6, Rule 15 CPC reads as follows:

> "**15.** *Verification of pleadings*. --- (1) Save as otherwise provided by any law for the time being in force, every pleading shall be verified [on oath or solemn affirmation) at the foot by the party or by one of the parties pleading or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case.
>
> (2) The person verifying shall specify, by reference to the numbered paragraphs of the pleading, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.
>
> (3) The verification shall be signed by the person making it and shall state the date on which and the place at which it was signed."

9. In support of the contention that the verifications in EP-7 and EP-30 were not in consonance with Order 6, Rule 15 CPC, learned counsel for the returned candidates in those Petitions submitted that the verifications did not specify which paragraphs of the petitions were being verified upon the Petitioners own knowledge and which upon information received and believed to be true, that the verification in EP-7 did not properly bear the statement that the contents of the Petition were being verified on oath, whereas the verification in EP-30 was rife with discrepancies as to the specified place of verification and the stamp of the Oath Commissioner, which cast a cloud over the exercise and made the verification doubtful, hence the dictate of Section 144(4) remained unfulfilled. Reliance was placed on the judgments of the Honourable Supreme Court in the cases reported as Lt. Col (Rtd.) Ghazanfar Abbas Shah v. Khalid Mehmood Sargana and others 2015 SCMR 1585 and Sultana Mahmood Hinjra v Malik Ghulam Mustafa Khar and others 2016 SCMR 1312. Whist these judgments pertained to the verification of petitions under the erstwhile Representation of the People Act, 1976 ("**ROPA**"), it was contended that the same were squarely applicable as the relevant provisions of the statutes were *in pari materia*.

10. Conversely, learned counsel for the Petitioners in E.P. No. 7 and in E.P. No. 30 submitted that the verifications were substantially compliant with Order 6, Rule 15 CPC. They placed reliance on the judgments of the Honourable Supreme Court in the cases reported as Sardarzada Zafar Abbas and others v Syed Hassan Murtaza and others PLD 2005 Supreme Court 600 and Feroze Ahmed Jamali v. Masoor Ahmed Khan Jatoi and others 2016 SCMR 750. Reliance was also placed on an Order made by this Tribunal on 25.04.2019 in Election Petition Number 6 of 2018 ("**EP-6**"), dismissing an Application assailing the maintainability of that Petition.

11. Whilst the general proposition is undoubtedly well established that an election petition is necessarily required to be verified accordingly, with the judgments cited on behalf of the concerned Respondents in E.P. No. 7 and in E.P. No. 30 being illustrative of this point, the text and manner of verifications in both Petitions merit scrutiny for the purpose of determining whether there has been compliance in the particular case.

12. As such, it is to be noted that in EP-7, no verification appears at the end of Petition. Instead, a separate Affidavit titled "Affidavit in support of Memo of Election Petition" has been executed, which reads as follows:

> "I, Mst. Nusrat Anwar W/o Anwar Ahmed Muslim, Adult, Resident of Flat No. 102, First Floor, Sky Castle Apartment, Nazimabad No. 1, Near K-Electric Office, Karachi, do hereby solemnly affirm and state on oath as under:
>
> 1. I say that I am the Petitioner in the above matter as such fully conversant with the facts of the Petition which is drafted under my instruction.

2. I say that it is in the interest of justice that the Memo of Election Petition may be granted.

3. I say that unless the Election Petition is granted the Petitioner shall be seriously prejudiced.

WHATEVER has been stated hereinabove as well as in the Memo of C.P is true and correct to the best of my knowledge and belief.

DEPONENT
NIC No. 42101-4502993-8
Cell No. 0333-3783041"

13. Such Affidavit is supplemented with a continuation page reflecting biometric identification carried out through the Identity Section of the High Court of Sindh at Karachi and bears the signature of the Petitioner along with the signature and stamp of the Assistant Registrar, Affidavit & Identity (A.S.), with that page bearing the narration that it is "To be attached with Affidavit as last Page". The verification appearing thereon reads as follows:

"Ms. Nusrat Anwar Wife of Anwar Ahmed, resident of Flat No. L-6 C Area Liaquatabad Karachi, Presently residing at Flat No. 102 1st Floor Sky Castle Apartment Nazimabad Karachi, affirmed on oath before me at Karachi on this 13-SEP-2018 in the 'Identity Section' of this court."

14. On the other hand, in EP-30, there is no biometric verification or reference to the CNIC of the Petitioner, and the verification appearing at the end of the Petition proceeds on the basis of affirmation before an Oath Commissioner upon identification through counsel, with the same reading as follows:

"**VERIFICATION**

I, Mian Muhammad Shahbaz Sharif son of Mian Muhammad Sharif, Muslim, adult, R/O H. No.96-H, Model Town, Lahore do hereby verify on oath that I am the Petitioner in the above titled Petition & whatever is stated hereinabove is true and correct to the best of my personal knowledge, information and advice received through my Counsel which also I verily believe to be correct

Karachi:
Dated 15.09.2018

DEPONENT

The deponent is identified by me to the Commissioner for taking affidavits.

ADVOCATE

Solemnly affirmed on oath before me at Karachi on this the 15th day of August, 2018 by the Deponent above named who is identified to me by MR. SHAIKH JAWAID MIR, ADVOCATE SUPREME COURT, who is personally known to me.

COMMISSIONER FOR TAKING AFFIDAVITS"

15. Whilst the aforementioned text accordingly alludes entirely to verification at Karachi, the stamp of the Oath Commissioner appearing along with his signature, reads "Sheikh Muhammad Younus, Oath Commissioner, District Courts, Lhr, Pakistan, Advocate High Court" and within the confines such stamp there appears a signature and the date 15/9/17 written by hand.

16. As can be seen, neither of the verifications contains a reference to the numbered paragraphs of the Petition so as to specify what is being verified on personal knowledge and what is being verified upon information received and believed to be true. In this regard, it merits consideration that in Sultana Mahmood Hinjra's case (Supra), after considering the relevant provisions of ROPA and Order 6, Rule 15 CPC, the Honourable Supreme Court held as follows:

> "From the above it is crystal clear that verification of an election petition in the prescribed manner is a mandatory requirement and that too in accordance with the provisions of Order VI, Rule 15, C.P.C. specifying to numbered paragraphs of the pleadings what he verifies of his own knowledge and what he verifies upon information received and believed to be true. From the record it reveals that the Appellant while filing his election petition did not comply with the mandatory requirements with regard to the verification of the election petition and to cure such defect subsequently submitted an affidavit in this regard, wherein the entire contents of his election petition were reproduced. It would be pertinent to mention at this juncture that although the provisions relating to the verification of pleadings are generally directory in nature, the position is different in election laws by virtue of section 63 of the ROPA, 1976 which casts upon the Tribunal a duty to dismiss the election petition if the provisions of section 54 or 55 of the ROPA, 1976 have not been complied with, as such its compliance has been held to be mandatory in nature by virtue of the penal consequences prescribed under section 63 of the ROPA, 1976."

17. Furthermore, in that very case, after examining the verification of the underlying Election Petition from the standpoint of examining the relevant High Court Rules and Orders, the Apex Court went on to hold that:

> "When the affidavit at hand is examined in the light of the above it transpires that certain essential requirements are missing therefrom. Firstly, it has not been mentioned whether the Respondent No.1 was administered oath by the Oath Commissioner before the attestation was made. Secondly, it has not been specified whether the Respondent No.1 was duly identified before the Oath Commissioner. In this regard, it has simply been stated at the foot of the affidavit that the Respondent No.1 was present before the Oath Commissioner in person, however, the details of the person identifying the Respondent No.1 have not been mentioned whereas according to the above quoted provisions, the Oath Commissioner is bound to specify at the foot of the affidavit the

> name and description of the person by whom identification of the deponent was made and in this regard a certificate has to be appended. Furthermore, it is also not clear from the affidavit that the Respondent No.1 was identified with reference to his ID card and in this regard, no ID card number is given, as such the identification does not seem to have been made. There is yet, another aspect to the matter. The affidavit in question does not make any reference to the numbered paragraphs contained therein which the Respondent No.1 verifies on his own knowledge and what he verifies upon information received and believed to be true. Further, the affidavit in question also does not make any reference to the verification of the annexures appended along with the petition, which although have been mentioned in the said affidavit."
>
> [Underlining added]

18. In an endeavor to mitigate the effect of the judgment in the case Sultana Mahmood Hinjra (Supra), reliance was placed on behalf of the Petitioners on the observations and findings of the Apex Court in the case of Feroze Ahmed Jamali (Supra), it being submitted that the objection as to the failure of the Petitioner to give reference in the verification to the numbered paragraphs of the pleading so as to state what was being verified of their own knowledge and what was being verifies upon information received and believed to be true had been held in that case and the earlier case of Sardarzada Zafar Abbas (Supra) not to be very material. Attention was drawn to a passage from the latter of those two judgments which reads as follows:

> "For resolving the first question it may be stated that the learned Tribunal has non-suited the appellant on the reasoning that he has not specifically mentioned as to which paragraphs of the election petition are verified upon his own knowledge and which are upon information received and believed to be true, suffice it to say that this Court in the case reported as *and others v. Syed Hassan, Murtaza and others (PLD 2005 SC 600)* has held such objection to not be very material. Although the Court in *Zafar Abbas* (supra) held that the validity of the

> verification shall depend on the facts of each case, but in the instant matter we do not find the so-called lapse indicated by the learned Tribunal to be of any material consequence, warranting dismissal of the election petition on this ground simpliciter.

Furthermore, it was submitted with reference to the Order made by this Tribunal in EP-6, that such principle had been applied so as to uphold the verification in that Petition.

19. Having considered the matter, it is apparent that the ratio of those judgments is that the materiality of the objection depends on the facts of each case, because at times the entire statement happens to be given on the basis of one's knowledge and at time on the basis of information received, and it depends upon the facts of each case as to what category the assertions belong. As such, the finding as to materiality was in the context of those particular case, and not as to immateriality of the requirement set out in Order 6, Rule 15(2) per se. Indeed, when the Memos of Petition of EP-7 and EP-30 are examined, it is apparent that the substance of the allegations in EP-7 relate to expulsion/exclusion of polling agents and manipulation of the result, and in EP-30 to illegalities and irregularities said to have been committed by the election staff during the election process of which complaints are said to have been received by the Petitioner, as such it is apparent that the requirement cannot be said to be immaterial under the given circumstances. Furthermore, on the point of the Order made in EP-6, it is to be observed that the case is entirely distinguishable as in that matter the verification had in fact been made with reference to the numbered paragraphs of the Petition, and the objection raised was merely that the sources as to information said to have been received had not been specified in the verification.

20. In view of the foregoing, it is apparent that the objections as to the verifications of EP-7 and EP-30 are borne out. As such, CMA Nos. 96/2019 and 117/2019 are allowed, with the result that EP-7 and EP-30 stand rejected, with other applications being dismissed as having become infructuous.

21. As to CMA 453/2018 seeking rejection of EP-13, the same proceeds on a different note and turns on the assertion that as the Petitioner previously filed C.P. Nos. D-5732/2018 before the High Court of Sindh and also preferred an Application to the Election Commission of Pakistan (the "**ECP**") under Section 9(4) of the Act, this Petition under Section 139 of the Act is barred. In this regard, it is to be observed that the final Orders made in such proceedings specifically envisage that the Petitioner would be at liberty to agitate his grievance before the Election Tribunal and counsel for the Respondent No.1 was not able to point out any provision of the Act whereby a Petition was barred on such ground. As such, the Application appears to be misconceived and is dismissed accordingly.

22. Turning then to CMA No. 325/2018, being the Application on behalf of the Petitioner in EP-13 seeking a recount of the votes in the following terms:

> "It is submitted on behalf of Petitioner that in the light of Order of High Court of Sindh in CP No. 5732 of 2018 (copy attached herewith) for the recounting of the ballot papers as the learned RO of 116 had violated the provision of the Election Act 2017 90(5) by refusing to recount the ballots before the consideration of proceeding Order of R.O and application for recounting is attached herewith for ready reference.
>
> In the light of above submission it is prayer to order for recounting as per order of the High Court of Sindh.
>
> Prayed accordingly."

23. The Affidavit filed by the Petitioner in support of CMA No. 325/2018, merely reads as follows:

> "I, Salheen S/o Mir Ahmed, Muslim, adult R/o House No. 1129, Block-A, Sector-9 Nai Abadi, Saeedabad, Baldia Town, Karachi west hereby state on oath as under:-
>
> 1. That I say that I am petition in the instant matter as well as deponent of this affidavit hence fully conversant with the facts of the case.
>
> 2. That I say that to pass an Order in the light of Order of High Court of Sindh in CP No. 5732 of 2018 for recounting of the ballot papers as the Learned RO of 116 had violated the provision of the Election Act 2017 90(5).
>
> 3. That I say that until and unless the instant petition is granted I shall be seriously prejudiced and shall bear repairable loss.
>
> 4. That I say that whatever is stated above is true and correct to the best of my knowledge and believe."

24. Whilst the particular section invoked in terms of the Application was Section 90(5), learned counsel for the Petitioner had clarified during the course of his submissions that such reference was erroneous and inadvertent, and that the relevant statutory provision of the Act on which the Petitioner placed reliance was Section 95(5), and the further submissions of counsel in support of the Application were advanced accordingly, that particular sub-section reading as follows:

> "(5) Before commencement of the consolidation proceedings, the Returning Officer shall recount the ballot papers of one or more polling stations if a request or challenge in writing is made by a contesting candidate or his election agent and the margin of victory is less than five percent of the total votes polled in the constituency or ten thousand votes, whichever is less, or the Returning Officer considers such request as not unreasonable:
>
> Provided that the recount shall be made by the Returning Officer only once."

25. Learned counsel for the Petitioner argued that sub-section (5) of Section 95 sets out a two-pronged test. One objective and purely quantitative, under which the Returning Officer (the "**RO**") has no discretion, and the other, qualified and subject to reasonable cause being demonstrated for a recount. He submitted that as the case of the Petitioner fell within the parameters of the objective standard specified in the sub-section, the RO was required to undertake a recount upon a written Application having been made in that regard on 27.07.2018. He invited attention to the copy of such Application, as filed with CMA No. 325/2018 along with a copy of the Order made thereon on the same date, and submitted that the RO had erred in dismissing the same. He submitted that the Tribunal could give effect to the sub-section so as to order a recount.

26. Learned counsel for the Respondent No.1 strongly opposed CMA No. 325/2018, submitting that neither the Application nor supporting Affidavit disclosed any ground for recount, and though the margin of victory was less than five percent as well as below ten thousand votes, yet, the RO had rightly declined the request for recount as the Petitioners application in that regard had been filed belatedly, after commencement of consolidation proceedings, and, as in the instant case, had also not disclosed any valid ground, as was necessary. In support of such contention, reliance has been placed on a judgment of the Honourable Supreme Court reported as Syed Khalique Shah v. Abdul Raheem PLD 2017 SC 684, where the Apex Court had held that where a unsuccessful candidate wished to obtain a recount, he was required to satisfy the RO that this request was firstly reasonable; secondly, prima facie there were errors, omissions or flaws in the counting process and thirdly, the allegations of impersonation or bogus votes being cast were reported in a timely manner through written applications to the

competent authority. He also contended with reference to the expression "*or the Returning Officer considers such request as not unreasonable*" that the word "or" should be read conjunctively rather than disjunctively and hence apart from the threshold specified as the margin of win, the RO may also dismiss the application/request for recount if he considers it unreasonable.

27. Having considered the submissions advanced by counsel and examined the pleadings and material on record, it merits consideration at the outset that the Application submitted by the Petitioner before the RO on 27.07.2018, whilst referring to sub-section (5) in the Subject line, proceeds on the allegation that the polling agents of the Petitioner had been expelled from the polling stations during the count and that the result was prepared in their absence, and that the Form-45 of various specified polling stations were prepared mistakenly in relation to the count by the concerned Presiding Officers. The Application was found to have been filed with delay and allegations were found to be vague and bereft of any proof, hence the request for recount of all polling stations of the constituency was found to be unwarranted.

28. Addressing the aspect of delay and the question of whether the Application had been made by the Petitioner to the RO before commencement of the consolidation proceedings in satisfaction of the condition imposed in that regard in terms of sub-section (5), it is apparent that CMA No. 325/2018 and the supporting Affidavit are silent as to the satisfaction of such condition and even the Petition does not clearly state whether the same was met by the Petitioner when he filed his application for recount before the Returning Officer. On the contrary, it has been pleaded in the Petition that the RO issued the Consolidated Result soon after the submission of the

application, from which it can be inferred that consolidation proceedings had already commenced by then.

29. The powers of this Tribunal in so far as the current issue aspect of recount is concerned, are encapsulated in Section 101 of the Act, read with Rule 139 of the Election Rules, 2017. Section 101 subsections (1), (2) and (3) of the Act read with Rule 139(7) provide that an Election Tribunal may order the opening of packets of counterfoils and certificates or the inspection of any counted ballot papers. However, the Election Tribunal may refuse to issue an order if it is not likely to have an impact on the result of the election or where a recount was not sought before consolidation of the result.

30. In the present case, in view of the narrow differential between the votes polled by the Petitioner and Respondent No.1 and the quantum of rejected votes, a recount could have a material bearing on the result of the election. Be that as it may, as observed, the Petitioner's application to the RO under Section 95(5) was not made in a timely manner, and Section 95(6) was apparently not invoked by means of an Application to the Election Commission before conclusion of the consolidation proceedings. Furthermore, a lot of water has flown under the bridge since the elections and that during such time the Respondent No.1 has been declared the winner in light of the result and notified as the returned candidate. That being said, the powers of the Tribunal are, in my view, to now be exercised in accordance with the firm principles laid down by the Honourable Supreme Court in the case of Syed Khalique Shah (Supra) as well as the judgment reported as Jam Madad Ali v. Asghar Ali Junejo 2016 SCMR 251. It also has to be borne in mind that the

substance of the main Petition does not gravitate around a mere plea for recount *per se*, as envisaged under Section 95(5), but is predicated on allegations that the Respondent No. 1, the RO and the Presiding Officers colluded, and in connivance with each other committed corrupt and illegal practices in terms of large scale rigging, fabrication, forgery and manipulation of the count so as to engineer the results of the election in favour of the Respondent No. 1. Additionally, it has also been alleged by the Petitioner that in the Affidavit filed by the Respondent No.1 along with his nomination papers, he had concealed the fact that certain FIRs had been registered against him and that a motor vehicle stood in his name, hence he had violated Article 62(1) f of Constitution and stood disqualified from being a member of the Provincial Assembly. All of these allegations raised by the Petitioner in relation to the electoral process and the disqualification of the Respondent No.1 are yet to be adjudicated upon, and I am of the opinion that in view of the foregoing the bare plea for complete recount in reliance on Section 95(5) is not merited at this stage.

31. As such, CMA No. 325/2018 stands dismissed accordingly.

32. Let a copy of this Order be placed in the files of connected Petitions.

JUDGE

Karachi
Dated _____