

*Order Sheet*

**IN THE HIGH COURT OF SINDH AT KARACHI**

Constitutional Petition No. D-2825 of 2012

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Date \_\_\_\_\_ Order with signature of Judge \_\_\_\_\_

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Present

1. Chief Justice
2. Mr. Justice Nadeem Akhtar

Petitioner. : 1. Engineer Dr. Bhawani S. Chodhry,  
2. Engineer Hussain Ahmed and  
3. Engineer Syed Ali Rizwan,  
through Mr. Ghulam Haider Shaikh.

Respondent : 1. Federation of Pakistan,  
2. Chairman, Pakistan Engineering Council,  
3. Election Committee, Pakistan  
Engineering Council and  
4. Registrar/Secretary, Pakistan  
Engineering Council,  
through Syed Murad Ali Shah,  
Advocate.

5. Engineer Bilal Ahmed Alvi,  
through Mr. Masood A. Noorani,  
Advocate.

6. Engineer Imtiaz Hussain Shah and  
7. Engineer Mahmood Ahmed Suleri,  
called absent.

Date of hearing : 28.03.2013.

**ORDER**

This Constitutional Petition has been filed by the petitioner in respect of the election held on 18.12.2011 for the member of the Governing Body of the Pakistan Engineering Council. The petitioner is a professional Engineer and Professor as a Dean of Electrical, Electronics and Computer Engineering of MEUT, and has been serving as the Chairman Electronics Department MUET since last more than 18 years. According to the petitioner, he possesses the requisite qualification that is required to be a member of the Governing Body of the Pakistan Engineering Council. In pursuance of the advertisement issued by the Pakistan Engineering Council, the petitioner filed his nomination papers and contested the election held on 18.12.2011 for the said post. As per the result announced by the Pakistan Engineering

Council, the petitioner was declared as the winner, and accordingly a notification in this behalf was published in newspapers on 24.12.2011 by the Pakistan Engineering Council, which created a vested right in favour of the petitioner.

2. The petitioner filed a written complaint before the Governing Body in relation to the violation of the balloting process at the polling station of Karachi East. The petitioner has alleged that the hearing of his complaint was unnecessarily postponed by respondents 2 to 5. It has been further alleged by him that the result of the polling station of Karachi East transmitted by the presiding officer was illegally included in the result by respondents 2 to 4 without recounting or verification. In this background, the petitioner has sought the following relief in this petition :

*“ It is, therefore prayed in the interest of justice that this Hon’ble Court may be pleased to order:-*

- A. Result of respondent No. 5, be struck down and as a result thereof, petitioner be declared as returned and successful candidate for the post of PEC member of governing body for 2012-2014 in Electronic Discipline,*
- B. Direct respondent No. 2 to 4 for recounting / verification of polled votes at disputed station of Karachi East in presence of all the parties along with scheduled date as earlier order of this Honourable Court dated 26.7.2012 and then the result be declared accordingly,*
- C. Restrain the respondent No. 5 from taking work as member of PEC governing body on provisional notification till disposal of written complaint filed by the petitioner,*
- D. Direct the respondents to act according to law and implement notification published in daily dawn on 27.6.2012 for redressal of petitioner grievances,*
- E. To grant cost of the petitioner, and*
- F. To grant any other/further/better relief or reliefs as this Hon’ble Court may find proper in the circumstances of the case. ”*

3. Prior to the filing of the instant petition, a similar Petition bearing Constitutional Petition No. D-2526/2012 was filed before this Court by one Engineer Inam Ahmad Osmani against the present respondents 1 to 4 and one Engineer Ali Kazim Mansoor. The said earlier petition was also filed in relation to the election held on 18.12.2011 and the balloting / result of the polling station of Karachi East, except that the subject post was that of the

Senior Vice Chairman of the Governing Body. For the sake of comparison and convenience, the prayer made in Constitutional Petition No. D-2526/2012 is reproduced below :

*“ It is, therefore, humbly prayed in the interest of justice that this Hon’ble Court may be pleased to:-*

- A. Result of respondent No. 5, be struck down and as a result thereof, petitioner be declared as returned and successful candidate for the post of Sr. Vice Chairman, PEC governing body for 2012-2014,*
- B. Direct respondent No. 2 to 4 for recounting / verification of polled votes at polling station of Karachi East may kindly be ordered to be made in presence of both the parties and then the result be declared accordingly,*
- C. Restrain the respondent No.5 from taking oath/work on 11.07.2012 as Sr. Vice Chairman of PEC till final disposal of petition and written complaint filed by the petitioner.*
- D. Direct the respondents to act according to law, rules and implement notification published in daily Dawn on 27.6.2012 for redressal of petitioner grievance, (Annexure E),*
- E. Restrain the respondents from taking any coercive action in any manner or any malafide action against the petitioner during pendency of complaint,*
- F. Direct the respondent No. 2 to 4 to decide the written complaint of the petitioner before/after oath taking ceremony for the post of Sr. Vice Chairman according to law and to take action against respondent No.5,*
- G. To grant cost of the petition ; and*
- H. To grant any other/further/better relief or reliefs as this Hon’ble Court may find proper in the circumstances of the case. ”*

4. After making their respective submissions before us at some length, the learned counsel for the parties submitted that the afore-mentioned Constitutional Petition No. D-2526/2012 has been recently disposed of by a learned Division Bench through a detailed judgment delivered on 07.03.2013. The learned counsel submitted that, since the facts and grounds of the instant petition and Constitutional Petition No. D-2526/2012 are identical, the parties would be satisfied if the instant petition is disposed of in terms of the judgement delivered in Constitutional Petition No. D-2526/2012. In view of this statement made on behalf of the parties, vide short order announced by us on 28.03.2013, this petition was allowed in terms of the judgment

recorded in Constitutional Petition No. D-2526/2012, Engineer Inam Ahmad  
Osmani V/S Federation of Pakistan and others.

Chief Justice

Judge