

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

C. P. No. D-4664 of 2018

Present:-

Ahmed Ali M. Shaikh CJ &
Yousuf Ali Sayeed, J

Petitioner : Faique Ali Jagirani, in person.

Respondent : Federation of Pakistan, through
Khaleeqe Ahmed, DAG.

Date of hearing : 21.09.2021

JUDGMENT

YOUSUF ALI SAYEED, J. The Petitioner had invoked the jurisdiction of this Court under Article 199 of the Constitution on the cusp of the general elections of 2018, seeking that directions be issued to the Chief Election Commissioner of Pakistan (Respondent No.2) to take appropriate steps in order to restrict all electoral candidates, especially the Respondents No.3 to 5, being the Chairpersons/Party Leaders of the three main political Parties, namely the Pakistan Peoples Party, Pakistan Tehreek-e-Insaf and Pakistan Muslim League (N) respectively, from contesting that election on multiple seats and rather to confine their candidacy to one seat of their choice.

The case of the Petitioner is that some candidates, especially the Respondents No.3 to 5, make it a point to contest on multiple seats so as to increase the appeal of their parties in different regions of the country, and that this constitutes a violation of Article 218 (3) of the Islamic Republic of Pakistan,

1973, whereby the Election Commissioner of Pakistan (Respondent No.2) is under obligation to ensure an honest, fair and just elections with adequate safeguard against corrupt practices. Per the Petitioner, multiple candidature also places an unnecessary burden on the national exchequer as the cost of one individual contesting on multiple seats results in a significant waste of national resources.

Having considered the arguments advanced by the Petitioner, who appeared in person, it merits consideration at the outset that the subject of the instant Petition, being the General Elections 2018, has long since past. Be that as it may, even if the proposition advanced is considered in a more general sense, it is evident that the directions sought are contrary to the constitutional mandate in terms of Article 223, which stipulates as follows:-

“223. Bar against double membership.”---(1) No person shall, at the same time, be a member of,--

- (a) both Houses; or
- (b) a House and a Provincial Assembly; or
- (c) the Assemblies of two or more Provinces; or
- (d) a House or a Provincial Assembly in respect of more than one seat.

(2) Nothing in clause (1) shall prevent a person from being a candidate for two or more seats at the same time, whether in the same body or in different bodies, but if he is elected to more than one seat he shall, within a period of thirty days after the declaration of the result for the last such seat, resign all but one of his seats, and if he does not so resign, all the seats to which he has been elected shall become vacant at the expiration of the said period of thirty days except the seat to which he has been elected last or, if he has been elected to more than one seat on the same day, the seat for election to which his nomination was filed last.

Explanation:- In this clause, “body” means either House or a Provincial Assembly.

(3) A person to whom clause (2) applies shall not take a seat in either House or the Provincial Assembly to which he has been elected until he has resigned all but one of his seats.

(4) Subject to clause (2), if a member of either House or of a Provincial Assembly becomes a candidate for a second seat which, in accordance with clause (1), he may not hold concurrently with his first seat, then his first seat shall become vacant as soon as he is elected to the second seat."

From a reading of the said Article, it is apparent that it specifically contemplates multiple candidature, hence it is manifest that from a constitutional standpoint a person is not prevented from being a candidate for two or more seats at the same time.

That being so, it is apparent that the Petition is devoid of merit, and stands dismissed accordingly.

JUDGE

Karachi
Dated _____

CHIEF JUSTICE