

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 603 & 604 of 2022

Date of hearing	Order with signature of Judge
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Hearing of case

1. For orders on Office objection at Flag 'A'
2. For hearing of main case

01-06-2022

M/s Sardar Akber F. Ujjan and Mehmood Ahmed Ujjan, Advocates for the Petitioner

Mr. Muhammad Hamzo Buriro, Deputy Attorney General

Mr. Ali Raza Baloch, Assistant Advocate General

Mr. Zeeshan Haider Qureshi, Law Officer, Election Commission of Pakistan

ORDER

Mr. Ameenuddin Khaskheli, Advocate has filed Vakalatnama on behalf of Respondent No.1 in both Petitions, which are taken on record.

Through these Petitions, the Petitioner(s) have impugned Order(s) dated 25-05-2022 passed by Appellate Tribunal, Naushahro Feroze in Election Appeal Nos. 163 and 164 of 2022 both filed by Respondent No.1, respectively, whereby, appeals have been allowed, and the orders of Returning Officer through which the second Nomination Paper of the Petitioner No.1 namely Imdad Ali along with another Vice Chairman had been accepted, and the first Nomination Paper along with Respondent No.1 along as Vice Chairman has been permitted to be withdrawn, has been set-aside.

We have heard the learned Counsel for the Petitioner, Respondent No.1, DAG and AAG and Law Officer of the Election Commission of Pakistan and perused the record.

Learned Counsel for the petitioners has argued that it is the prerogative of the Chairman to file and withdraw nomination form, whereas, he could not align himself with Respondent No.1, as his Vice Chairman, hence, withdrew the first nomination and filed the second along with another Vice Chairman, which was correctly permitted and accepted by the Returning Officer, and therefore, the impugned order warrants correction.

However, we are not inclined to accept this contention for a number of reasons. It appears that in terms of Rule 16(5) of the Sindh Local Councils (Election Rules) 2015, a person may be nominated in the same Electoral Unit by not more than five nomination papers, whereas, in terms of sub-rule (6) *ibid* if any person subscribes to more than one nomination paper, all such nomination papers, except the one received first by the Returning Officer, shall be void. In that case, without dilating upon the contention of the Petitioners Counsel, the Petitioner has no case, as apparently in the final outcome the first nomination paper stands restored and the second one stands dismissed / withdrawn.

The Petitioner's case is that initially though he filed his nomination as Chairman along with Respondent No.1 as Vice Chairman, but thereafter withdrew such nomination and he filed the second nomination along with another Vice Chairman, which was accepted by the Returning Officer. However, we are of the view that since the first nomination was a joint nomination by the Petitioner and Respondent No.1 as Chairman and Vice Chairman, hence, could not be withdrawn unilaterally by the Petitioner alone and the withdrawal can only be made by both the persons *i.e.* the Chairman and the Vice Chairman.

In addition to that we are also in agreement with the case law referred to by the Counsel for Respondent No.1 *i.e.* ***cases of Hafiz Basheer Ahmad v. Appellate Authority / Additional District Judge (2016 Y L R 1367) [Lahore]; and Mst. Sumera Bano v. Additional District and Sessions Judge / Appellate Authority and others (2017 Y L R 2135) [Lahore]***, which is on identical facts and has arrived at the same conclusion.

In view of such position, both these Petitions being misconceived are hereby dismissed.

Let copy of this order be communicated to the Election Commission of Pakistan for information and compliance. ***Office is directed to place a signed copy of this order in the connected captioned matter.***

Judge

Judge

ARBROHI