

ORDER SHEET
**HIGH COURT OF SINDH CIRCUIT COURT,
HYDERABAD**
C.P No.D-2053 of 022

DATE

ORDER WITH SIGNATURE OF JUDGE

15.06.2022

Mr. Sher Ali Behan, advocate for petitioner

Mr. Ashfaque Nabi Qazi, Assistant Attorney General

Mr. Muhammad Ismail Bhutto, Additional A.G Sindh

Senior Law Officer ECP (**Abdullah Hanjra**), Law Officer
ECP (**Zaheer Abbas**) & District Election Commissioner
Sanghar (**Shahnawaz Brohi**)

The grievance of the Petitioner is that at the time of filing nomination papers it was found by the Petitioner that his proposer is not qualified to be proposer and as such his name was replaced by the proposer, who was duly qualified; however, the Appellate Authority/District and Sessions Judge Sanghar vide order dated 25.05.2022 found this to be a substantial defect which could not be curable.

Based on Rule 16(8) of Sindh Local Councils (Election) Rules, 2015 and order of Hon'ble Supreme Court reported in PLD 2016 SC 944, we find this scenario to be a defect of substantial nature, which is not curable. Relevant extract, as set out in aforesaid reported case, is reproduced herein below:

“.....Therefore, should it be discovered that the proposer and/or seconder are not voters of the said constituency it would be tantamount to no nomination at all and thus a defect of a substantial nature. Rule 14(7) of the Act 2013 Rules only empower a Returning Officer to allow a defect other than one of a substantial nature to be remedied, such as the name, or the corresponding serial number in the electoral roll or other particulars of the candidates or his proposer or seconder and son as to ensure that the same are accurate. But if the name of the candidate and his particulars are altogether missing and/or same is the position of the proposer/seconder the Returning Officer cannot be allowed to add these afresh.....”

Under these circumstances the order of Appellate Authority dated 25.05.2022 is maintained and the petition is dismissed accordingly.

JUDGE

JUDGE

Sajjad Ali Jessar