

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constitutional Petition No. D – 605 of 2022

Date of hearing	Order with signature of Judge
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Fresh case

1. For orders on office objections at Flag-A
2. For orders on CMA No.2381/2022 (Ex./A)
3. For hearing of main case

08.06.2022

Mr. Sunder Khan Chachar, Advocate for the petitioners.

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NADEEM AKHTAR, J. – The petitioner submitted nomination papers for the seat of General Member, Ward No.3, U.C. No.7 Drib, Taluka Pano Akil, District Sukkur. He also submitted nomination papers in the same Union Council for the seat of Vice Chairman. In both the said nominations, the proposer of the petitioner was the same i.e. one Ali Mardan. His nomination papers for the seat of General Member were rejected by the Returning Officer, however, those submitted by him for the seat of Vice Chairman were accepted. Against the rejection of his nomination papers for the seat of General Member, Election Appeal No.04 of 2022 was filed by the petitioner, which was dismissed by the Appellate Authority vide order dated 25.05.2022 which has been impugned by him through this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

2. Sub-Rule (3) of Rule 16 of The Sindh Local Councils (Election) Rules, 2015 (**'the Rules'**) provides that every proposal shall be signed by the proposer and seconder, and shall contain, *inter alia*, a declaration, as per clause (b) of the said Sub-Rule, signed by the proposer and the seconder that neither of them has subscribed to any other nomination paper either as proposer or seconder. The word "shall" used in Sub-Rule (3) *ibid* is significant, which clearly shows that a declaration to the above effect both by the proposer and the seconder is mandatory for the consideration and or acceptance of the nomination. It is not the case of the petitioner that his nomination papers for both the seats were misread by the Returning Officer or the Appellate Authority or were not signed by the same proposer as it is an admitted position that he was nominated for both the seats by the same proposer. The provisions of Rule 16(3)(b) *ibid* imply that if the declaration to the above effect is not signed by the

proposer and/or seconder or if such declaration is found to be incorrect, the nomination proposed and/or seconded by the proposer and/or seconder, respectively, would be liable to be rejected.

3. Sub-Rule (6) of Rule 16 *ibid* deals with such situations as it provides that 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. Admittedly, the petitioner's nomination for the seat of Vice Chairman was accepted by the Returning Officer. Perusal of the impugned order shows that the same was passed after applying the above provisions of the Rules.

4. In the above circumstances, the petitioner has not been able to make out a case for interference by this Court in its constitutional jurisdiction. Accordingly, the petition and listed application are **dismissed in limine** with no order as to costs.

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Abdul Basit