

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA**

Constitutional Petition No.D-636 of 2022.

**Before:**

Mr. Justice Adnan-ul-Karim Memon,  
Mr. Justice Abdul MobeenLakho,

Petitioners : Ali Hassan Buriro & 3 others.

Respondents : Returning Officer, Union Councils, Jacobabad  
& others.

Mr. Athar Ali Bhutto, advocate for the petitioners.

Mr. Munawar Ali Abbasi, Asst. Advocate General.

Mr. Mohammad Imran Abbasi, Asst. Attorney General.

Date of hearing : 27.07.2022.

Date of order : 27.07.2022.

**ORDER**

**ADNAN-UL-KARIM MEMON, J.-** The petitioners, who were the contesting candidates in the Local Bodies Elections (Phase-1) for the seat of Councilor from their respective union councils of Taluka Thul, District Jacobabad, have maintained this petition with the following prayer(s):-

- a. *That, this Honourable Court may graciously be pleased to direct the respondents No.1 and 2 not to change the polling station Muhammad Ramzan Golo School as Ghous Bux Sarki, Ward-3 polling station Noor Muhammad Bhatti as Bolaki at Karim Bux Sarki, Ward-1 polling station main primary school Thull as Noor Muhammad Bhatti, Ward-10 polling station veterinary hospital to as Luqman Sarki Village and Sultan Sarki polling station as Shaadi Khan Sarki polling station.*
- b. *That, this Honourable Court may graciously be pleased to direct respondents No.3 and 4 to take legal action against respondents No.1 & 2, who had illegally violated the Election Commission Law.*

2. Learned Counsel for the petitioners contended that respondent No.1/ Returning Officer has shifted the polling stations, as referred to in the prayer clause under the political influence of rival candidates of the petitioners, in total disregard of the election laws. He further contended that despite being approached in black and white by the petitioners to the District Returning Officer, the grievance of the petitioners has not been redressed, therefore, the respondents have extended undue favor to the

opponent candidates of the petitioners. He further contended that due to the shifting of said polling stations the voters of the said blocks have been caused inconvenience.

3. Respondent No.1 has filed a written statement along with a copy of the order dated 24.6.2022 passed by Deputy Commissioner/District Returning Officer, Jacobabad on the application of petitioner No.1 Ali Hassan in compliance with the order of this Court dated 23.6.2022, which shows that the application made by the said petitioner against shifting of the polling station was dismissed.

4. The learned Asst. Attorney General as well as the learned Asst. A.G. Sindh contended that since the election process of Local Bodies Elections, 2022 (Phase-I) is over, this petition has become infructuous and is liable to be dismissed accordingly.

5. We have heard learned Counsel for the parties and have perused the available record.

6. As the question has also been raised as to the propriety of interfering in Constitutional Petition under Article 199 of the Constitution with orders passed by the Election Authority, as discussed supra, as election process of Local Bodies Elections, 2022 (Phase-I) has already been concluded with the announcement of the results, now the vires of the process could be assailed before the Election Tribunal constituted by the Election Commission of Pakistan. On the aforesaid analogy, we express our opinion that the jurisdiction of this Court to issue writ, at this stage, against the order of the election authority, after the election process, is liable to be assailed before the Election Tribunal, for the simple reason that it is well-settled that where there is another remedy provided, the Court may properly exercise its discretion in declining to interfere under Article 199 of the Constitution. However, it should be remembered that under the election law, as amended up to the date, the Constitutional Petition could be dismissed on the aforesaid preliminary ground; and, the correctness of the decision of the District Returning Officer could not be challenged before the Election Tribunal.

7. The general rule is well-settled that the statutory requirements of election law must be strictly observed and that an election contest is not an action at law or a suit in equity, but is a purely statutory proceeding. It is also well-settled that it is a sound principle of natural justice that the success of a candidate who has won an election should not be lightly interfered with and any petition seeking such interference must strictly conform to the requirements of the law, as discussed supra.

8. In this view, it would be a proper exercise of discretion under Article 199 of the Constitution to decline to interfere with such an election process in terms of the provision of Appeal under the Sindh Local Bodies Elections, Rules 2015, against the declaration of result of the returned candidate. As it is well-settled law that the Courts and Tribunals are constituted to decide the matters between the parties within the confines of statutory limitations and undue emphasis on technicalities or enlarging their scope would cramp their powers, diminish their effectiveness and defeat the very

purpose for which they are constituted. Besides the order dated 23.6.2022 has already been complied with by the District Returning officer vide order dated 24.6.2022, which decision is available on record.

9. We are, therefore, of the view that this petition does incur dismissal on the ground that the petitioners have to avail of their legal remedy before the Election Tribunal, by raising all his pleas as agitated in the instant petition.

10. This petition is dismissed.

JUDGE

JUDGE