

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

Present:

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

Constitutional Petition No. D-4424 of 2022

Ashraf Jabbar Qureshi.....Petitioner

Versus

Election Commission of Pakistan & another.....Respondents

Constitutional Petition No. D-4670 of 2022

Hafiz Naeem ur Rehman & anotherPetitioners

Versus

Election Commission of Pakistan & others.....Respondents

Raj Ali Wahid Kunwar, Advocate for the Petitioner in C.P No. D-4424 of 2022. Muhammad Zahid Khan and Usman Farooq, Advocates for the Petitioner in C.P No. D-4670 of 2022.

Mr. Khaleeq Ahmed, Deputy Attorney General.

Mr. Sandeep Malani, Asstt. Advocate General, Sindh.

Mr. Abdullah Hanjrah, Sr. Law Officer for Election Commission of Pakistan along with Mr. Sarmad Sarwar, Law Officer.

Date of hearing : 22.08.2022

ORDER

YOUSUF ALI SAYEED, J. The captioned Petitions under Article 199 of the Constitution essentially impugn a notification dated 20.07.2022 issued by the Election Commission of Pakistan whereby the 2nd phase of local government elections in Karachi and Hyderabad/Thatta divisions, which were apparently to have been held on 24th and 25th July, 2022, were postponed and put off for 28.08.2022.

While the notification itself is silent on the reason for postponement, a letter dated 18.07.2022 addressed by the Provincial Election Commissioner to the Secretary Election Commission of Pakistan, Islamabad has been filed alongwith C.P No. D-4424 of 2022, which reflects that such action was taken due to the forecast of thunderstorms and torrential rain in Karachi and Hyderabad Divisions. The said letter reads as under:-

No.F.30 (1)/2022-LGE-PEC(S)
OFFICE OF THE PROVINCIAL ELECTION COMMISSIONER SINDH

Pakistan Secretariat,
Block No.44-A Shahrah-e-Iraq, Saddar
Karachi, 18 July, 2022.

To

The Secretary,
Election Commission of Pakistan,
Islamabad.

Through: Zain-ul-Abideen Shah,
Deputy Director (LGE-S).

Subject: **POSTPONEMENT OF 2nd PHASE OF SINDH LOCAL GOVERNMENT ELECTIONS**

Dear Sir,

I have the honor to refer to ECP Islamabad's letter No F.3(1)/2022-LGE-S, dated 18th July, 2022 and to submit that the Local Government Elections for 2nd Phase and bye-elections in NA-245, Karachi East IV are scheduled to be held on 24th and 27th July, 2022 respectively. However, the prevailing weather conditions and continuous heavy rain fall in Sindh Province particularly in districts Badin, Thatta, Sujawal, Hyderabad and in Karachi city has created havoc and inundated the roads and communication system badly. The recent torrential rain fall has also claimed several lives besides destroying electrical supply to major part of Karachi, Hyderabad and Thatta Divisions.

It is further submitted that office of Pakistan Meteorological Department, has also forecast thunderstorm and more torrential rains in Karachi & Hyderabad Divisions in coming days most probably on 23rd, 24th and 25th July, 2022. In such a scenario conduct of Local Government Elections in 2nd Phase and bye-elections in NA-245, Karachi East-IV will be incredibly difficult due to the reasons explained below:

- a. Urban flooding/heavy rainfall in Karachi and Hyderabad may submerge roads, and routes of communication can be inundated. Most of schools/polling stations have reportedly been submerged under rain water in several districts in recently occurred heavy rain fall and thunderstorm as reported by Deputy Commissioners/District Returning Officers.
- b. Polling stations are established in Government buildings particularly in government schools. In case of expected torrential rains, most of polling stations are likely to be submerged under rain water, and may not be able to be used as Polling Stations.
- c. Electrical supply can be disturbed for several days due to heavy rain fall due to which various official assignments relating to the elections will suffer badly.

- d. Polling staff particularly female polling staff will find an excuse due to heavy rains and chances of severe shortage of staff.
- e. Transportation issues due to heavy rain falls may hamper dispatch and retrieval of election material and polling staff.
- f. Preservation of polling material can be a serious issue due to expected thunderstorm and rain falls.
- g. Voter turnout can badly be affected and may remain unexpectedly low due to rain fall
- h. Due to non-availability of electricity the connectivity issue internet issue will create problems in disposal of important official assignments and communication of results.
- i. That there are number of improvised polling stations established due to the non-availability of buildings. In case of heavy rains such polling stations cannot be established.
- j. The surge in COVID-19 cases has also been witnessed as cited by Senator Nasreen Jalil and Dr. Shahab Imam in the letter referred above. The pandemic may spread quickly in case of large gatherings of voters on poll day.

It is further submitted that in the meeting held on 15 July, 2022 with Chief Secretary, Sindh the Deputy Commissioner, Sujawal, Badin and Thatta informed that in coastal belt, polling stations are not in good condition, and if the rain falls, such buildings may become deplorable. The same kind of concern was also shared by Deputy Commissioners Dadu, who informed that communications of 9 to 10 Union Councils has been disconnected due to natural flow of streams from Mountains of Balochistan crossing through Johi Taluka of Dadu District (Such heavy flow of water is commonly called "Gaaj"). The Deputy Commissioner/ District Returning Officer, Jamshoro also informed that the polling stations established in mountainous areas of the district have been inaccessible due to heavy and continuous rainfalls since communication routes have been dilapidated.

It is further submitted that a few District Returning Officers for LG Elections have also shown apprehensions of occurring of issues in coastal and mountainous areas of their districts if the rain falls on 23 and 24th of the July, 2022. In case the rain continues falling, as has been forecast by the Metrological Department, Karachi, it will create grave issues for the poll on 24th of July, 2022. It would not be out of place to mention that in case there is thunderstorm or strong rainfall on 23rd or 24th of July, thirty to forty per cent (30 to 40%) areas of several districts will be severely affected and conducting poll would not be feasible in such areas due to range of issues as detailed above.

Submitted for kind perusal and further necessary action, please.

Yours Faithfully,
Sd/
(Aijaz Anwer Chohan)
Provincial Election Commissioner,
Sindh

Under the circumstances, it is apparent the Notification for postponement has been issued for due cause and it is a matter of public record that there has been heavy rainfall across the Province, causing widespread devastation, and several district have been declared to be calamity hit areas. Indeed, as it transpired, the weather conditions on the 24th and 25th of July were such as would have completely undermined any meaningful voter turnout. As such we see no cause for interference on that score, especially

when the functionaries of the Election Commission in attendance have also stated that the Elections are intended to take place as per the present schedule. Learned counsel for the Petitioners have nonetheless expressed their apprehension that there is a possibility of tempering with the printed ballot papers and sought that some directions be issued for their safe custody. However, we are not inclined to interfere on the basis of a mere apprehension in the absence of any cogent material to demonstrate that the concerned authorities are acting in dereliction of their responsibility under the relevant laws. As such, the Petitions stand dismissed in the above terms.

JUDGE

CHIEF JUSTICE