

THE HIGH COURT OF SINDH, KARACHI

Present:

Mr. Justice Adnan Iqbal Chaudhry &
Mr. Justice Jawad Akbar Sarwana.

C.P. No. D - 92 of 2024

[Dr. Mah Jabeen Mughal v. Returning Officer, PS-11, Larkana & others]

Petitioner : Dr. Mah Jabeen Mughal daughter of Late Abdul Fatah Mughal, through Mr. Nasrullah Korai, Advocate.

Respondent 1 : Mr. Ghulam Shabbir Kalohro, Mukhtiarkar/ ARO, P.S-11, Larkana, is present.

Respondent 2 : Nemo.

Respondent 3 : The Secretary, Election Commission of Pakistan, through Qazi Ayazuddin Qureshi, Asst: Attorney General, alongwith Mr. Riaz Ahmed, Director (Law), ECP & Mr. Sarmad Sarwar, Assistant Director (Law), ECP, Karachi.

Date of hearing : 09-01-2024

Date of decision : 09-01-2024

JUDGMENT

Adnan Iqbal Chaudhry J. - The Petitioner is aggrieved of order dated 22-12-2023 passed by the Returning Officer, PS-11, Larkana, rejecting the nomination form of the Petitioner, and by the order dated 04-01-2024 passed by the Election Tribunal in Election Appeal No. 24/2024, dismissing the Petitioner's appeal on the ground that it was not in the proper form.

2. The ground taken by the Returning Officer for rejecting the Petitioner's nomination form was that the Petitioner was in default of electricity bill payable to the Sukkur Electric Power Company (SEPCO) and, therefore, disqualified under Article 63(1)(o) of the Constitution of Pakistan.

3. The findings of the Returning Officer are based upon an electricity bill for Rs. 200,000/- allegedly issued by the SEPCO, which is strangely filled out in hand-writing, describes the Petitioner as wife of Abdul Fateh, who is in fact her father. Such bill also does not mention the billing month or the due date. On the other hand, the Petitioner has filed her actual electricity bill issued by the SEPCO for the month of December, 2023, which is in the regular format and was duly paid by her. This bill bears a different reference number than the one relied upon by the Returning Officer and such bill does not show any arrears outstanding against the Petitioner. As compared to the bill relied upon by the Returning Officer, the bill relied upon by the Petitioner appears to be genuine.

4. The reference number mentioned in the bill relied upon by the Returning Officer appears to pertain to the Petitioner's father namely, Abdul Fateh. However, a copy of his bill for the month of December, 2023, has also been filed by the Petitioner to show that it was duly paid and no arrears were outstanding.

5. In these circumstances, it appears that the electricity bill relied upon by the Returning Officer was a questionable document which did not constitute material sufficient to disenfranchise the Petitioner. As regards the order of the Election Tribunal dismissing the appeal for want of proper form, we have not been able to discern the irregularity in the memo of appeal.

6. For the foregoing reasons, we are inclined to allow this petition. Therefore, the order dated 22-12-2023 passed by the Returning Officer, PS-11, Larkana, and the order dated 04-01-2024 passed by the Election Tribunal in Election Appeal No. 24/2024 are set-aside and said appeal is allowed. The office shall convey this order forthwith, also by fax and email to the Returning Officer concerned, who shall revise the list of validly nominated candidates accordingly. The officers of the Election Commission present acknowledge the same.

JUDGE

JUDGE

SHABAN*