

IN THE HIGH COURT OF SINDH KARACHI

Present:

Mr. Justice Adnan Iqbal Chaudhry

Mr. Justice Jawad Akbar Sarwana.

Const. Petition No. D-71 of 2024

[Hassan Sabir versus Returning Officer & others]

Petitioner : Hassan Sabir son of Sabir Mahmood
through Ms. Soofia Saeed Shah, Advocate.

Date of hearing : 09-01-2024

Date of Decision : 09-01-2024

JUDGMENT

Adnan Iqbal Chaudhry J. - 1. Urgency granted. 2. Exemption granted subject to all just exceptions.

3&4. The Petitioner is aggrieved of the common order dated 04.01.2024 passed by the Election Tribunal in Election Appeals No. 20, 21 and 22 of 2023 to set-aside the rejection of the nomination papers of the Respondent No.3 in respect of NA-236, Karachi East-II as a candidate of the Pakistan-Tehrik-e-Insaf (PTI). The Petitioner was the Objector before the Election Tribunal.

The Returning Officer (R.O.) had rejected the nomination papers of the Respondent No.3 on the ground that the Election Commission of Pakistan (ECP) had recalled the election symbol earlier granted to PTI and therefore, the Respondent No.3 was not eligible to contest election. The reasons assigned by the Election Tribunal for setting-aside the aforesaid finding of the R.O. are as follows:

“Invariably, there is not a single mention of anything related to election symbols above. Merely because of election symbol of PTI had been rejected did not mean that every single candidate related to that party had to have their nomination papers rejected; the legislature did not provide for such extreme measures or the same would have been expressly provided for under the Act. A perusal of section

217(5) of the Act also shows that it is for the RO to allocate symbols. Even by reason of logic, the impugned orders fall short of any favour because where the symbol of a party had been rejected; any other symbol could still be allocated to the candidate wishing to contest fair elections as per mandate of the law. An RO must confine findings pertaining to nomination papers to the contents therein while keeping in view regulatory provisions pertaining to the same, allowing for greater and maximal participation in the electoral process. A perusal of the election schedule also shows that the allotment of election symbols to contesting candidates is set for 13th of this month, two weeks after the last date for scrutiny; therefore the RO could not have rejected the appellant's nomination papers on the ground that his party failed to obtain their election symbol."

Counsel for the Petitioner is unable to point out any material error in the aforesaid reasons of the Election Tribunal. Therefore, we are not inclined to interfere with the same. The petition is dismissed *in limine*.

JUDGE

JUDGE

*PA/SADAM