

THE HIGH COURT OF SINDH, KARACHI

Present:

Mr. Justice Adnan Iqbal Chaudhry &
Mr. Justice Jawad Akbar Sarwana.**C.P. No. D – 69 of 2024**Yasir Uddin s/o Naseer Uddin Siddiqui
Versus
Returning Officer, PS-109, Karachi South,
Karachi and another

For the Petitioner : Mr. Hassan Sabir and Ms. Soofia Saeed, Advocates.

For the Respondent 1 : Mr. Abdul Hafeez, Assistant Returning Officer, PS109, is present in Court.

For the Respondent 2 : Election Commission of Pakistan, through Election Commissioner Sindh Karachi, through Qazi Ayazuddin Qureshi, Assistant 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 order : 09-01-2024

JUDGMENT

Adnan Iqbal Chaudhry J. – The Petitioner is aggrieved of order dated 30-12-2023 passed by the Returning Officer, PS-109, Karachi South (IV), Karachi, rejecting the Petitioner's nomination papers; which has been upheld by the learned Election Tribunal by order dated 05-01-2024 passed in Election Appeal No. 10/2024.

2. The ground on which the Petitioner's nomination paper was rejected is that there was a liability of Rs.977,521/-, outstanding against him in respect of electricity account No.0400001703507, therefore, the fora below concluded that the Petitioner was disqualified under Article 63(1)(o) of the Constitution.

3. The Petitioner does not deny that as a tenant, he is in use of the aforesaid electricity connection/account, but submits that pursuant to a facility extended by K-Electric to him, arrears of electricity are being paid in installments and that there is no default in the payment of such installments. Such fact is also affirmed by a letter dated 08.01.2024 issued by the K-Electric, which has been placed on the record today. Therefore there is an agreement between the Petitioner and K-Electric for settlement of arrears in installments, and admittedly there is no default in the payment of such installments. Consequently, the disqualification under Article 63(1)(o) of the Constitution is not triggered. This aspect of the matter escaped the attention of the fora below.

4. For the aforesaid reason, we are inclined to allow this petition. Resultantly, order dated 30-12-2023 passed by the Returning Officer, PS-109, Karachi South (IV), Karachi, and order dated 05-01-2024 passed by the learned Election Tribunal in Election Appeal No. 10/2024 are set-aside and the 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 officer of ECP present acknowledges the same. Petition disposed of.

JUDGE

JUDGE