

## IN THE HIGH COURT OF SINDH, AT KARACHI

### PRESENT:

MR. JUSTICE AQEEL AHMED ABBASI,  
CHIEF JUSTICE;

MR. JUSTICE ABDUL MOBEEN LAKHO

### C.P. No. D-199 of 2024

Petitioner	Hafiz Aurangzeb Farooqi through Ms. Samreen Ali Rizvi, Advocate
Respondent	Mr. Ashraf Ali Butt and Ms.Rehmat-un-Nisa, Advocates for Respondent No.4 along with Respondent No.4.
Respondent	Through M/s. Naeem Akhtar Talpur, AAG, Irshad Ali, Asst: Advocate General Sindh, Saifullah, AAG, Abdullah Hanjrah, Deputy Director [Law], E.C.P and Sarmad Sarwar, A.D. [Law], E.C.P.
Date of hearing	17.01.2024
Date of order	17.01.2024

### ORDER

**Abdul Mobeen Lakho, J.** The Petitioner is aggrieved by the order dated 08.01.2024 passed by the learned Election Appellate Tribunal in Election Appeal No. 96 of 2024, *wherein*, the order passed by the Returning Officer rejecting the Nomination Paper of Petitioner on the grounds that the candidate is not a voter of the Electoral College of Provisional Assembly of Sindh, dismissed the Election Appeal filed by the petitioner contesting the forthcoming election for P.S. 88.

2. Learned counsel for the Petitioner submits that both the orders have been passed without going through the actual and real facts of the case and passed the orders on the erroneous grounds, which have no legal value in the eye of law and are liable to be set aside; the fundamental rights of the Petitioner and general public especially

citizens of Karachi are in danger and being violated vigorously hence this Petition. It is further submitted that the petitioner took the highest votes in the provincial assembly from the said constituency in previous election but the official respondents and opponent political parties with collusion of each other just to refrain the petitioner from contesting the said election from the said constituency has illegally and unlawfully changed the voters address of the petitioner as legally the change of voter could not be done without submitting form of change of voters from one constituency to other but the official respondents illegally and unlawfully just to refrain the petitioner from contesting the election from the said constituency has changed the address without any lawful authority hence the said act has no legal affect and liable to be set aside in the extraordinary jurisdiction of this Honorable Court; the officials of the respondents have violated the rule and regulation and have illegally and unlawfully changed the location of the vote of the petitioner from the constituency of Sindh to the constituency of KPK and disregarded to their powers and are liable to be dealt in accordance with law; the petitioner is permanent resident of Karachi and has been living with his family at the above said address and has never requested for change of his constituency but the respondents have illegally and unlawfully changed his vote location without his consent and permission and without adopting due procedure for change of vote location; due to the said acts of the respondents, the fundamental rights of the petitioner have seriously been infringed and unless the same are not reversed, and the petitioner is allowed to contest the election from the above constituency, the petitioner shall suffer irreparable loss; the officials of respondents have misused their powers entirely for fulfilment of ulterior motive and their acts are called for; the counsel of Petitioner craves leaves to urge other grounds at the time of hearing of this petition

3. Learned Asstt: A.G and A.A.G have opposed the contention of learned counsel for the Petitioner and submitted that petitioner did not raise such plea before Returning Officer or Appellate Authority.

4. We have heard learned counsel for the parties and perused the record as well as considered the relevant facts. Admittedly in para-5 of the petition, the petitioner has stated as under:-

*“During further scrutiny of record from the election office / respondents, it transpired that as per new certificate, being Shumariati Block Code, 022021403, Silsila No. 773, Gharaza No. 335, Electoral Area, Sijjikut, Tehsil / District Abotabad, the petitioner is voter of above constituency of KPK.*

whereas, the learned Election Appellate Tribunal rightly observed that the appellant has failed to provide anything for the year 2023 to show that he belongs to the Electoral College of Sindh. Constituencies change due to the process of delimitation and if the appellant was to contest elections, he should have been cautious and perused electoral rolls prior to submitting his nomination papers. Rather, he should have raised objections before the delimitation authority.

5. We find that the impugned order is unexceptionable, apt to the facts and circumstances of the case and not suffering from jurisdictional defect, hence, it does not call for any interference by this Court in exercise of its Constitutional jurisdiction. We vide our short order dated 17.01.2024 had dismissed this petition and these are the reasons thereof.

J U D G E

CHIEF JUSTICE