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IN THE HIGH COURT OF SINDH AT KARACHI
C.P.No.D-198 of 2024

*Siraj-ud-Din.....Vs.....Election Commission
Of Pakistan & others*

Date Order with Signature of Judge

PRESENT:

MR. JUSTICE AQEEL AHMED ABBASI, CJ

MR. JUSTICE ABDUL MOBEEN LAKHO, J

17-01-2024.

Mr.Qurban Ali Halo, Advocate for the Petitioner.

Mr.Saifullah, A.A.G.

Mr.Naeem Akhtar Talpur, A.A.G.

Mr.Irshad Ali, Assistant Attorney General.

Mr.Abdullah Hanjrah, Deputy Director (Law), and
Mr.Sarmad Sarwar, Assistant Director (Law), E.C.P. are
present in person.

Mr.Khalid Hussain, Assistant Returning Officer PS-76 is
present in person.

M/s.Muhammad Haseeb Jamali & Muzzamil Jalbani,
Advocates for Respondent No.4 (Objector)

ORDER

Mr.Muhammad Haseeb Jamali, Advocate has filed
Vakalatnama on behalf of Respondent No.4 (Objector), which
is taken on record.

Through instant petition, the petitioner has impugned
the order dated 09.01.2024 passed by Returning Officer
PS-76 Thatta-II, whereby, according to learned counsel for
the petitioner, after remand of the matter pursuant to order
dated 06.01.2024, passed by learned Election Appellate
Tribunal, in Election Appeal No.55/2024 directing the
concerned Returning Officer to allow the petitioner to remove
the defects, as the impugned order has been passed on
extraneous consideration, while ignoring the material placed

on record by the petitioner including Form-A, Form-B and Affidavit, wherein, deficiencies/discrepancies have been removed, therefore, according to learned counsel for the petitioner, the Returning Officer under legal obligation is required to accept the nomination papers of the petitioner in compliance of the relevant provisions including Section 62(9)(2)(ii) of the Elections Act, 2017. According to learned counsel for the petitioner, through impugned order the Returning Officer has recorded findings with regard to the land, which is not owned by the petitioner, however, such documents in the name of his deceased mother were produced. Per learned counsel for the petitioner, the petitioner has completed all codal formalities, which reflects that the petitioner has produced all the relevant documents pursuant to order passed by learned Election Appellate Tribunal, whereas, the concerned Returning Officer has not taken the cognizance of such documents of land allotted to the deceased mother of the petitioner for which the documents HBFC loan were also produced, but the same has not been taken into consideration, whereas, nothing has been produced on record either by the Objector or by the Returning Officer to substantiate that the land is owned by the petitioner. Learned counsel for the petitioner further argued that the petitioner may not be disfranchised or prevented from contesting elections, which is fundamental right of every citizen. Reference in this regard can be made

in the case of ***Aitbar and another.....Vs.....Provincial Election Commission through DEO, District N'Feroze, through A.A.G. Sindh & others [(2017 ClC Note 179 Sindh (Sukkur Bench)]***

Under such facts and circumstances of the case, we are of the opinion that the impugned order has been passed by the Returning Officer is without lawful mandate, which is hereby set-aside and the nomination papers of the petitioner may be treated as valid.

The petition is allowed in the above terms.

Chief Justice

Judge

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