

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No.D-2281 of 2024

Date

Order with signature of Judge

FRESH CASE:

1. For order on CMA No.10404/2024 (Urgent).
2. For order on CMA No.10405/2024 (Exemption).
3. For order on CMA No.10406/2024 (Stay).
4. For hearing of main case.

Dated; 13th May 2024

Barrister Ali Tahir, Advocate for Petitioner.

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1. Urgency granted.

2. Exemption granted subject to all just exceptions.

3&4. After arguing the matter at some length and while confronted as to maintainability of instant petition in view of an alternate remedy available under the Elections Act, 2017 and in terms of Section 36(1)(k) of the Sindh Local Government Act, 2013, which in fact has already been elected, as the petitioner has filed Cases bearing No.231, 232 and 233 of 2024 before the Election Commission of Pakistan in respect of respondents No.4, 5 and 6, who according to learned counsel, being the members of the Pakistan Tehreek-e-Insaf (PTI) have since defected after elections. Learned counsel for the petitioner could not submit any reasonable explanation, however, submits that in view of the recent judgment passed by the Hon'ble Supreme Court of Pakistan in the case of **SUPREME COURT BAR ASSOCIATION OF PAKISTAN v. FEDERATION OF PAKISTAN [PLD 2023 SUPREME COURT 42]**, wherein it has been held that in case of any defection by a member of a party the vote of such member will not be counted on "No Confidence Motion" in terms of Article 63A of the Constitution of Islamic Republic of Pakistan, 1973, therefore, there is apprehension that member's vote will be counted for the purposes of

disqualification of the petitioner, who is the Chairman of TMC, Mominabad Town, Karachi.

Be that as it may, since the petitioner has already availed the remedy provided under the law, therefore, we are not inclined to interfere at this stage. Accordingly, instant Constitution Petition is dismissed in limine. However, the petitioner will be at liberty to approach the Election Commission of Pakistan, who may decide the representation of petitioner at an early date after hearing the parties in accordance with law and submit compliance to this Court through MIT-I, however, not latter than by four weeks from the date of receipt of this order.

CHIEF JUSTICE

JUDGE

Farhan/PS
