

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
C.P No.D-50 of 2024

Date	Order with signature of Judge
Kalhoro	Before: Mr. Justice Muhammad Iqbal Mr. Justice Arbab Ali Hakro
Petitioner:	Through M/s. Nisar A. Bhanbhro and Sheeraz Fazal, advocates
Respondent No.1:	Through Syed Mureed Ali Shah, advocate
Federation of Pakistan:	Through Mr. Dareshani Ali Haider 'Ada', DAG
Election Commission of Pakistan:	through Mr. Zeeshan Haider Qureshi, Law Officer, ECP
Province of Sindh:	Through Mr. Ali Raza Balouch, AAG
Date of hearing:	17.01.2024
Date of decision:	17.01.2024

ARBAB ALI HAKRO, J: Through instant petition under Article 199 of Constitution of Islamic Republic of Pakistan, 1973, the petitioner has prayed to set-aside the impugned order dated 10.01.2024, passed by Election Appellate Tribunal for Sindh at Sukkur, in Election Appeal No.S-15 of 2024 (re-Muhammad Khan vs. Masroor Ahmed Khan and others), whereby Election Appeal has been dismissed and the order of Returning Officer PS-35, District Naushahro Feroze-IV, has been maintained, whereby nomination form of Respondent No.1 was accepted.

We have heard learned Counsel for the parties, perused the record and also examine the relevant election laws and rules.

The first argument of the petitioner is that the Respondent No.1 omitted to disclose his daughters' assets in the nomination form rendering the nomination invalid. The contention was based on the premise that the Respondent's daughters, although unmarried, and major but dependent individuals. Therefore, their assets should have been included in the nomination form to provide a comprehensive financial disclosure. The Returning Officer, after careful consideration

of the challenge and hearing both the parties, ruled in favour of the Respondent No.1. The learned Appellate Court reasoned that Respondent's daughters being major and independent individuals, were not subject to the same financial disclosure requirement as their father, as such, the Returning Officer and the Appellate Tribunal determined that the non-disclosure of daughters' assets did not constitute a valid ground for challenging the Respondent No.1's nomination.

Learned DAG along with Law Officer, ECP contend that there are concurrent findings need not to be interfered by this Court as the same are based upon well and sound reasons. Learned AAG also supported the impugned orders and submits that since Respondent's daughters are major and independent individuals, therefore, their assets need not to be disclosed in the nomination form of their father.

We have gone through the available record of Court file and are of the opinion that the reasons that the Respondent's daughters despite unmarried are of legal age and independent. As such, their father was not legally obliged to disclose their assets in his nomination papers is valid and sustainable in law. The Returning Officer rightly accepted the nomination papers of Respondent No.1. The acceptance order has been upheld and as a result, appeal was dismissed. The decision underscores the importance of considering the independence and legal right of individual when evaluating the validity of nomination papers. Additionally, the daughters of Respondent No.1 are unmarried, but major (i.e. 18 years old), their assets are generally considered to be their own and not required to be disclosed by their father in his nomination paper. The second ground of learned Counsel for the Petitioner that Respondent No.1 did not disclose complete assets of agricultural land in the nomination form.

We have perused the form-B, available at page-57 of Court file and find that cost of total assets has been mentioned along with remarks with detail attachment (annexure-A) regarding the assets. In

support of such disclosure, learned Counsel for the Respondent No.1 has also drawn our attention to the Income Tax Returns, available at page-155 onwards for the financial years upto 2022 to 2023. Learned Counsel for the Petitioner is unable to point out any illegality or jurisdictional defect with the findings of learned Appellate Court particularly observed in para-6 of the impugned order.

In view of above stated facts and circumstances, we have come to the conclusion that learned Appellate Tribunal has rightly allowed Respondent No.1 to contest the election by rejecting the case and claim of the petitioner through valid and sound reasons. No interference is required by this Court in the impugned order of Returning Officer as well learned Appellate Tribunal. Needless to say that generally in an election process, the High Court cannot interfere by invoking its constitutional jurisdiction in view of Article 225 of the Constitution of Islamic Republic of Pakistan, 1973; however, this is a subject to exception where no remedy is available to the aggrieved person during the process of election or after its completion against the order of election functionaries, which is patently illegal, without jurisdiction being coram non-judice, he can press it into service constitutional jurisdiction of the High Court in terms of Article 199 of the Constitution. In view of aforesaid facts and discussion, the captioned petition, having no merits for consideration, is hereby dismissed.

JUDGE

Faisal Mumtaz/PS

JUDGE