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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
(APPELLATE TRIBUNAL)

Election Appeal No.06 of 2024

Samiullah Abro

v/s.

Assistant Commissioner Ratodero and others

DATE	ORDER WITH SIGNATURE OF JUDGE
	<p>1. For orders on office objections at flag "A". 2. For hearing of main case.</p>

09.01.2024

M/s. Shakeel Ahmed Abro, Qazi Manzoor Ahmed and Muhammad Hanif Noonari, Advocates for the Appellant.

Mr. Shafqat Rasool Narejo, Assistant Director/Law Officer, Election Commission of Pakistan, Larkana Division a/w Ms. Kainat Tufail, Assistant Commissioner, Ratodero / Returning Officer, P.S-10, Larkana-I.

Mr. Abdul Hamid Bhurgri, Additional Advocate General, Sindh assisted by Mr. Abdul Waris Bhutto, Assistant Advocate General, Sindh.

Mr. Ghulam Asghar Khichi, Deputy Attorney General for Pakistan.

ORDER

Muhammad Saleem Jessar, J.:- Through this appeal, the appellant has assailed the impugned order dated 30.12.2023, whereby nomination form submitted by him to contest General Election-2024 for the seat of Member Provincial Assembly at PS-10, Larkana-I was rejected by the Returning Officer/Respondent No.1 *inter alia* on the ground that income tax return was revised for three years and the income assets provided by the appellant were unexplained.

2. Learned counsel for appellant mainly contended that, before filing of his nomination form the appellant clarified each and every thing and obtained "No-Dues-Certificates" from the office of the Executive Engineer Operation Division SEPCO Larkana (City), SSGC and PTCL, but the Returning Officer with malafide intention and ulterior motives on the instance of the rivals of the appellant rejected the nomination form of the appellant by showing reason that the tax return was revised on 22.12.2023 and concealed some facts. He therefore, requests that the impugned order issued by the Returning Officer may be set aside and the appellant may be permitted to contest the current elections.

3. The Law Officer of Election Commission of Pakistan, Larkana Division duly assisted by learned Additional Advocate General, Sindh and Deputy Attorney General for Pakistan oppose the appeal on the ground that the appellant has not come with clean hands as at the time of scrutiny, he produced revised income tax return for three years on 22.12.2023 with intention to conceal his tax liabilities in order to frustrate scrutiny process, which creates discrepancy because time limit for filing income tax returns is limited to 60 days as stated under section 114(6) of Income Tax Ordinance, 2001. He lastly submits that the impugned order passed by the Returning Officer in terms of Section 62(9)(c) of the Elections Act, 2017 is speaking one and same may be maintained.

4. Heard arguments of the learned counsel for the parties and perused the material available on record.

5. Admittedly, as per F.B.R Rules, there is no bar with regard to revising income tax returns for three years before the deadline of filing nomination form for the elections. Further seemingly the appellant has not suppressed any fact or concealed any source of income, which debar him from contesting elections and even No-Dues-Certificates were also issued in favor of the appellant in respect of electricity connection, SSGC and PTCL. This *prima-facie* leads to a presumption that the returning officer has acted malafidely as the revised income tax returns for three years is not barred under the income tax rules.

6. In view of above, the impugned order dated 30.12.2023 with regard to rejection of nomination form of the appellant passed by respondent No.1 (Returning Officer P.S-10-Larkana-I) is not sustainable, as such it is hereby set aside and the appeal is allowed. Consequently, Returning Officer P.S-10 Larkana-I, is hereby directed to revise Form-32 within stipulated period in respect of the appellant.

Judge

Manzoor