

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
ELECTION APPEAL No.73 of 2018

Date	Order with signature of Judge
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For hearing of main case.

25.06.2018.

M/s. Ali Almani and Jam Zeeshan, Advocates for the Appellant.
 Mr. Shabbir Shah, Addl. Advocate General.

Appellant has challenged the order dated 19.06.2018 of the Returning Officer in respect of PS-75 Sujawal-I, whereby his nomination papers were rejected largely on account of the fact that the appellant was a bank defaulter.

Learned counsel for the appellant submits that he is not a bank loan defaulter and that he has filed a civil suit bearing No.67/2015 seeking leave to defend in respect of money, which is outstanding against him by Faysal Bank Limited. Both the Law Officers appearing on behalf of the State Bank of Pakistan and ECP respectively are of the view that the appellant is a bank defaulter largely based on a report provided by the State Bank of Pakistan.

Learned Addl. Advocate General, on Court notice, submits that since the decree has not reached finality, it cannot be said that the appellant is a loan defaulter.

I have heard the parties, scanned the record and considered the relevant law.

In my view, a person cannot be conclusively declared to be a defaulter until and unless a decree or execution order has been made against him in respect of such outstanding amount. In this case, the appellant has been granted leave to defend in the recovery suit which has been filed against him by the creditor bank. As

such the fate of the amount which he owes to the bank, if any, is still yet to be decided.

Under these circumstances, I do not consider it appropriate that the appellant be declared as a defaulter and be disqualified from contesting the election. In this respect reliance is placed on 2010 CLC 165. Accordingly, the order of the Returning Officer is set-aside. The instant appeal is allowed in the above terms and the appellant is allowed to contest the election 2018.

MAK/PS