

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

C.P No. D-662 of 2026

[Aitbar Ali Larik Vs. Asfandiyar Kharal & others]

**PRESENT: Mr. Justice Zulfiqar Ali Sangi
Mr. Justice Ali Haider 'Ada'**

Petitioner : Through Syed Jamal Shah,
Advocate

Date of Hearing : 20.08.2026

Date of Order : 20.08.2026

O R D E R

ZULFIQAR ALI SANGI, J:- Through the instant Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner, claiming himself to be a voter of Constituency PS-30 Khairpur-V, has called in question the order dated **23.07.2026** passed by the learned Election Appellate Tribunal, High Court of Sindh, Bench at Sukkur, in Election Appeal No. S-01/2026, whereby the appeal preferred by the petitioner against acceptance of the nomination papers of respondent No.1 was dismissed in limine on the ground of limitation. The petitioner has also sought to assail the order of the Returning Officer whereby the nomination papers of respondent No.1 were accepted for the forthcoming by-election.

2. Briefly stated, the facts necessary for adjudication of the instant petition are that, following the unfortunate demise of MPA Naeem Ahmed Kharal, a by-election was announced for Constituency PS-30 Khairpur-V. Respondent No.1 submitted his nomination papers as a candidate of Pakistan Peoples Party Parliamentarians. The petitioner, being a voter of the constituency, submitted objections before the learned Returning Officer, placing reliance upon certain documents and contending, inter alia, that respondent No.1 had previously been serving as **Assistant Advocate General, Sindh**, and was receiving salary and other benefits from the Provincial Government. According to the petitioner, such position rendered respondent No.1 ineligible to

contest the election unless the period prescribed under the Constitution and the relevant election law had elapsed following his resignation. It was further alleged that respondent No.1 had failed to disclose his previous appointment and service as Assistant Advocate General, Sindh, and had also concealed the material fact relating to his alleged resignation in the nomination papers.

3. The learned Returning Officer, however, after considering the nomination papers and objections, accepted the nomination papers of respondent No.1. The petitioner states that although the order is dated **13.07.2026**, it was passed/signed on **17.07.2026**, and a copy thereof was supplied to him on **20.07.2026 after 02:30 p.m.** Being aggrieved, the petitioner preferred an Election Appeal before the learned Election Appellate Tribunal under Section 63 of the Elections Act, 2017. The learned Tribunal, vide order dated **23.07.2026**, dismissed the appeal in limine, holding that the same had been presented after expiry of the statutory period prescribed under Section 63 of the Elections Act, 2017.

4. Learned counsel for the petitioner has contended that the learned Tribunal adopted an overly technical approach in dismissing the appeal on limitation and failed to examine the substantive objections raised against the eligibility of respondent No.1. It is argued that the delay, if any, occurred on account of late supply of the order of the Returning Officer and that the petitioner could not reasonably have preferred an appeal without obtaining the order sought to be challenged. It is further contended that the alleged disqualification of respondent No.1 goes to the very root of his eligibility and, therefore, ought to have been examined on merits, particularly when material documents were placed before the Returning Officer.

5. We have heard learned counsel for the petitioner and have carefully examined the material available on record, including the impugned order of the learned Election Appellate Tribunal, the objections raised before the Returning Officer and the relevant provisions of the Elections Act, 2017.

6. At the outset, it is necessary to observe that election matters are governed by a special statutory and constitutional regime. The

Constitution, as well as the Elections Act, 2017, prescribes a complete mechanism regulating the conduct of elections, scrutiny of nomination papers, appeals against the decisions of Returning Officers and, ultimately, adjudication of election disputes. Such statutory timelines are not ordinary periods of limitation applicable to routine civil litigation; rather, they constitute an integral part of the election programme and are intended to ensure that the electoral process proceeds uninterrupted and culminates within the time prescribed by law.

7. The Election Commission of Pakistan, while notifying the election programme on **02.07.2026**, specifically prescribed **20.07.2026** as the last date for filing appeals against decisions made on scrutiny of nomination papers. Section 63 of the Elections Act, 2017 provides a specific and expeditious remedy against acceptance or rejection of nomination papers. The legislative object behind prescribing such a short and definite period is manifest: questions concerning candidature are required to be settled at the threshold so that the election schedule may proceed without uncertainty or disruption.

8. The learned Election Appellate Tribunal, therefore, was required to determine, in the first instance, whether the appeal was presented within the period prescribed by law. The record, as noticed by the Tribunal, establishes that the appeal was filed on **21.07.2026**, whereas **20.07.2026** was the last date notified for filing such an appeal. Thus, irrespective of the merits of the objections raised by the petitioner, the appeal was presented after expiry of the prescribed period.

9. The contention that the order of the Returning Officer was supplied to the petitioner after 02:30 p.m. on 20.07.2026 does not, by itself, confer jurisdiction upon the Tribunal to enlarge or extend the statutory period. The petitioner admittedly had participated in the scrutiny proceedings and was aware of the decision concerning respondent No.1. More importantly, the statutory election schedule had fixed an unambiguous terminal date. In an election process, where each stage is dependent upon the timely completion of the

preceding stage, permitting enlargement of such period on equitable considerations would introduce uncertainty into the entire electoral programme.

10. The submission that the expression “**may**” occurring in Section 63 confers an unrestricted discretion upon the Tribunal to entertain an appeal after the expiry of the prescribed period is equally untenable. The provision has to be construed in the context of the entire electoral scheme and not in isolation. The use of a permissive expression cannot be construed as conferring a power upon the Tribunal which would defeat the express timeline incorporated into the election programme and the statutory scheme. The jurisdiction of an Election Appellate Tribunal is circumscribed by the Elections Act, 2017, and cannot be enlarged on the basis of equitable considerations or an expansive interpretation of a single word occurring in the statute.

11. It is also settled that in election matters, certainty, expedition and finality carry considerable weight. The electoral process cannot be permitted to remain in a state of uncertainty merely because a contestant or objector seeks adjudication of a matter after expiry of the period prescribed by the statute. Once a particular stage of the election process has attained finality in accordance with law, the same cannot ordinarily be reopened except through the remedy and in the manner specifically provided by the Constitution and the law.

12. There is yet another, and more fundamental, impediment in the maintainability of the present Constitutional Petition. Article 225 of the Constitution expressly provides that **no election to either House or a Provincial Assembly shall be called in question except by an election petition presented in such manner and to such authority as may be determined by Act of Parliament.** The constitutional command contained in Article 225 is of particular significance in the present case. The petitioner, through the instant proceedings, seeks not merely correction of some procedural irregularity but, in substance, seeks adjudication upon the eligibility and qualification of a candidate and annulment of the acceptance of his nomination

papers. Such matters fall within the special electoral jurisdiction created by the Constitution and the Elections Act, 2017.

13. The constitutional jurisdiction under Article 199 is discretionary, extraordinary and supervisory in nature. It cannot ordinarily be invoked to circumvent or substitute a specific statutory remedy provided by the election law, particularly where the petitioner has already availed such remedy and the competent Election Appellate Tribunal has dismissed the appeal as barred by limitation. To entertain the present petition on the merits would, in effect, amount to permitting the petitioner to revive a statutory appeal which had already become incompetent by efflux of time and thereby circumvent the express scheme governing election disputes.

14. The grievance relating to alleged concealment of previous government service, alleged resignation, or alleged constitutional disqualification of respondent No.1 may undoubtedly be a matter of legal significance. However, the existence of a potentially arguable ground on merits does not dispense with the requirement of invoking the appropriate remedy within the period prescribed by law. A right to challenge candidature must be exercised in accordance with the procedure and within the time stipulated by the election law. The Court cannot, under Article 199, create an alternative avenue where the Constitution itself directs that an election may be called in question only through an election petition in the prescribed manner.

15. It is also pertinent that the petitioner has not demonstrated any patent lack of jurisdiction, mala fide, violation of a mandatory statutory provision, or perversity in the impugned order of the learned Election Appellate Tribunal warranting interference in constitutional jurisdiction. The Tribunal considered the relevant election schedule and the date of filing of the appeal and, upon finding that the appeal had been instituted after the prescribed last date, dismissed the same in limine. Such view is neither arbitrary nor without lawful basis.

16. The argument that the substantive question of eligibility should prevail over procedural limitation cannot be accepted in the circumstances of the present case. Procedural requirements prescribed in election law are not mere technicalities. They are designed to secure

the orderly, expeditious and uninterrupted conduct of elections. If every stage of the electoral process were permitted to be reopened on the ground that an arguable question of eligibility or qualification exists, the very purpose of prescribing definite election timelines would be defeated.

17. We are, therefore, of the considered view that the learned Election Appellate Tribunal committed no illegality or jurisdictional error in dismissing Election Appeal No. S-01/2026 in limine on account of limitation. The petitioner has failed to establish any exceptional circumstance warranting exercise of the extraordinary constitutional jurisdiction of this Court against the impugned order.

18. Consequently, the instant Constitutional Petition, being **not maintainable, misconceived and devoid of merit, is dismissed in limine**, and the order dated **23.07.2026** passed by the learned Election Appellate Tribunal, High Court of Sindh, Bench at Sukkur, in Election Appeal No. S-01/2026, is hereby **maintained**. Consequently, the order of the learned Returning Officer whereby the nomination papers of respondent No.1 were accepted also remains undisturbed.

19. It is clarified that this Court has not expressed any opinion on the merits of the allegations regarding the alleged previous appointment of respondent No.1 as Assistant Advocate General, Sindh, his alleged resignation, alleged concealment of facts, or his substantive eligibility to contest the election. The present petition fails principally on account of the statutory bar of limitation and the constitutional scheme governing election disputes. Any question which may legally and properly be raised through the remedy of an election petition shall be dealt with by the competent forum strictly in accordance with law, without being influenced by any observation contained herein.

20. The petition is accordingly **dismissed in limine**. Pending applications, if any, also stand disposed of.

JUDGE

JUDGE