

**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD**

**C.P. No. D- 3354 of 2018**

**Present**

**Mr. Justice Muhammad Iqbal Kalhoro  
Mr. Justice Adnan-ul-Karim Memon.**

Rizwan Ali ..... Petitioner

Vs.

Akhtar Hussain Chairman  
Appeal Committee Pakistan Bar  
Council at Karachi & others ..... Respondents

Date of Hearing: 29.01.2019

Mr. Abdul Majeed Lashari, advocate for the petitioner

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**O R D E R**

**ADNAN-UL-KARIM MEMON, J.-** The petitioner has impugned the order dated 12.12 2018 passed by the Chairman Appeal Committee (Sindh) Pakistan Bar Council. An excerpt of the order sheet is as under: -

“ The appellant is present in person and contends that he is a candidate for the post of President in the ensuing elections of District Bar Association, Tando Allahyar which elections are scheduled to be held on 15.12.2018 as per schedule given by the Respondents and they requested to the District and Sessions Judge, Tando Allahyar to point a returning officer and hold the elections. The learned District and Sessions Judge, Tando Allahyar appointed the returning officer who has given the schedule of elections. The nominations papers were filed and the scrutiny of the nomination papers took place on 08.12.2018 and the final list of candidates was affixed on the notice board on the same day. Thereafter time was given for withdrawal of the nomination papers and final list of candidates has been notified on 10.12.2018. He further contends the appellant has received copy of the impugned order just yesterday where under the Respondents have changed the date of elections from 15.12.2018 to 19.01.2019. He further states that the entire elections process has been completed and at this stage the postponement of elections is not only violative of law but also smacks malafides.

I have gone through the record and the impugned order dated 11.12.2018 where under the holding of elections has been extended, it is without showing any reason for such postponement of elections. It is a settled principle of law that the orders without reasons are

nullity in law. Rule 175-G(b) of Legal Practitioners and Bar Council Rules 1976 specifically provides that “*in the province of Sindh all the elections of the District/Taluka Bar Association shall be held on second Saturday of December each year*”. The rules have been made holding of elections in the second week of December each year mandatory and the extension, if any, can be only be in exceptional circumstances to be explained with reasons, therefore, notice of this Appeal be issued to the Respondent to clarify on the next date of hearing and in the meanwhile the orders communicated vide reference No.905/Elec/SBS/18 dated 11.12.2018 rescheduling the date of elections to 19.01.2019 is hereby suspended with directions that elections of the District Bar Association, Tando Allahyar be held on 15.12.2018 has already scheduled.

2. Mr. Abdul Majeed, learned counsel for the petitioner has submitted that basically he is contesting annual elections of District Bar Association, Tando Allahyar as per rules; that Sindh Bar Council issued notice dated 15.12.2018 for conducting annual elections of 2018-19; that the last date of submitting the nomination form of candidates was 6.12.2018 and 6 MMC seats were vacant as such the respondent No. 3 issued letter to Secretary Sindh Bar Council for extending the date of annual election and rescheduling it; that respondent No.2 announced the annual election schedule of District Bar Association to be conducted on 19.1.2019; that on the very next day respondent No.1, Chairman Committee, Pakistan Bar Council interfered in election matter and around 18 members were added; that the petitioner and other members of the bar has been deprived of their legal and vested right of casting vote, therefore order of the chairman is liable to be declared as void; that the act of respondent No.1 is illegal, void ab-initio, unjustified, corum non judice, having been passed without lawful authority and as such is of no legal effect; that fundamental rights of the petitioner has been denied by the order of Respondents. He lastly prayed for allowing the instant petition.

3. On query from the learned counsel for the petitioner that how this petition is maintainable, when the election 2018-19 of District Bar Association Tando Allahyar has already taken place by the directives of the competent authority. In reply, he has submitted that since the post of six (06) MMC members were vacant for conducting annual elections, therefore, the whole process of election of 2018-19 of District Bar Association, Tando Allahyar is nullity in the eyes of law.

4. We have heard learned by the petitioner and perused the material available on record.

5. We have noted that respondents Sindh Bar Council announced schedule of election of District Bar Association Tando Allahyar 2018-19 and notified to all concerned that the polling will be held on 19.1.2019 i.e. Saturday in the premises of Sessions Court building Tando Allahyar. We have noticed that under Rule 175-G(b) of Pakistan Legal Practitioner and Bar Council Rules 1976 the election of District/ Taluka Bar Associations in the province of Sindh shall be held on second Saturday of December of each year and as per record the respondent rescheduled the election of District Bar Association Tando Allahyar.

6. During the course of arguments learned counsel for the petitioner informed that the elections of District Bar Association Tando Allahyar has already taken place and the elected body has been selected as per schedule announced on 11.12.2018. From the aforesaid, it is glowing that free exercise of any electoral right is paramount. If there is any direct or indirect interference or attempt to interfere on the part of the candidate, it amounts to undue influence. Free exercise of the electoral right is paramount consideration. A voter is entitled to have an informed choice, which has already been done by the respective Bar Council under the law.

7. In view of such state of affairs, we are of the considered view that this petition has become infructuous as the election of District Bar Association Tando Allahyar has already taken place; therefore this petition is dismissed accordingly along with listed applications.

JUDGE

JUDGE