

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Before: Mr. Muhammad Shafi Siddiqui, J.
Mrs. Kausar Sultana Hussain, J.

C.P. No.D-290 of 2019

Mohammad Owais Yousuf
Versus
Province of Sindh & others

Date	Order with signature of Judge
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For order on Nazir report dated 24.8.19, 20.1.20
(R/A, reply statement and objection filed as flagged)

Date of hearing: 09.09.2020

M/s. Jaffar Raza and Rabia Khan for petitioner.

Mr. Abdul Jaleel Zubedi, Assistant Advocate General.

Mr. Khalid Rashid for applicant/intervener/objector Syed Shafqat Ali.

Mr. Dhani Bux Lashari for Administrator of the Society.

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Muhammad Shafi Siddiqui, J.- This petition primarily concerns with the elections of Society. After hearing parties/counsels, petition was disposed of on 19.02.2019 and the elections were ordered to be conducted under the supervision of Nazir of this Court and in consultation with Registrar Cooperative Societies, Karachi, within 60 days. List of the members of the Society was ordered to be prepared and verified by the Nazir.

Thereafter Nazir submitted his report on 29.03.2019, which was taken on record. Respondent No.4 Assistant Registrar Cooperative Societies-I filed a statement on 02.04.2019 along with letter dated 21.03.2019 with regard to compliance of the notice dated 04.03.2019 issued by Nazir to him. In terms of the available correspondence, list of

the members of the Society was finalized by the authorized election officer. Nazir was then further directed to proceed in terms of earlier order dated 19.02.2019.

The report of the Nazir dated 24.08.2019 in compliance of the orders to conduct election was then filed on 26.08.2019 disclosing the nominees who participated in the elections and the outcome of the elections. It was on 02.10.2019 when objections to the Nazir report dated 24.08.2019 and filed on 26.08.2019 were filed and despite lapse of more than a year the elected body has not assumed the charge in view of pendency of objections.

The first objection in this regard, as taken by one Syed Shafqat Ali, is that the elections were not held in terms of bylaws. It is contended that Committee comprises of nine members of the Managing Committee and each three of them are due to retire after every year and hence the elections of all nine members could not have been held at one point of time. Counsel for the objector has further raised objection to the effect that some of the members who were elected had not paid their dues and consequently their membership was cancelled at the relevant time when the earlier managing committee of 2013 was conducting/running the affairs of the Society. These are two primary objections of the objector, as orally argued.

At the very outset general objections of the nature, which require probe, cannot be undertaken in a disposed of matter. However, these objections are such which could be decided on the basis of material placed before us. Insofar as first objection of the objector is concerned that deals with the tenure of members of the managing committee, admittedly the last elections were held in 2013-14 and since then almost 6 to 7 years have passed and all managing committee would have retired had the elections been conducted in due course of time. These members of the managing

committee cannot be given premium/ advantage on account of the fact that the elections were not held during such period. Since each three members of the managing committee would have retired in these seven years and now after seven years if the elections of the entire managing committee were held by the Nazir, it is just and proper.

Similarly, the list of candidates/members was finalized in consultation with Assistant Registrar Cooperative Housing Society who submitted its list on 21.03.2019 which is available at page 89 onwards. The attached list is apparently signed by objector and all current elected members and office bearers were admittedly included in the list.

On 03.12.2019 this Court was pleased to call report from the Nazir in view of objections of the objector, which are being heard, and the Nazir submitted his report on 20.01.2020, which disclosed that list of the members and election schedule was provided by Assistant Registrar Cooperative Societies-I vide letter dated 30.05.2019 and 11.07.2019 respectively and accordingly elections were conducted. The letter submitted by the Section Officer on 05.08.2019 was too late, despite ample opportunities given by the Nazir for providing list of the members while publication was also made in newspapers and process in the light of election schedule was almost completed, such as dispatch of election schedule to the members of the Society, scrutiny, publication, display of list of members on notice board of Nazir office on 23.07.2019, last date for filing of objection on 26.07.2019, hearing of objections which were supposed to be held on 27.07.2019, had any objection been filed, display of final list on 29.07.2019 on notice board, issuance of nomination forms on 31.07.2019, last date of filing nomination forms on 03.08.2019, display of provisional list of contesting candidates, hearing of objection

on contesting candidates on 08.08.2019 as a result such letter dated 05.08.2019 was not considered by the Nazir.

It appears that objector Syed Shafqat Ali filed these objections on 29.07.2019 whereas cut of date in terms of the schedule provided in the election schedule was 26.07.2019. The Nazir further explained about the elected body in his report dated 20.04.2020. It is thus too late for the alleged objector to come forward insofar as the alleged objections are concerned, which otherwise merits no consideration.

Learned counsel for petitioner in addition to the above has also pointed out that the only object, which compelled the objector to come forward, is to save his own skin with regard to malpractices that have been committed by him. He submitted that precious properties of the Society were sold by the objector on 30.12.2018 and surreptitiously the sale deed was executed on 21.02.2019. Such documents are available on record. These documents demonstrate that he (objector) continued to act as Honorary General Secretary of the Society though there is no report and/or material available on record if any elections were conducted/held after 2013, except the present one.

It is also surprising to note that the amount of sale consideration in one of the sale deed, which is available at page 405 and annexed with the statement filed on 07.11.2019 by the petitioner, was acknowledged in the personal account of the objector. When inquired the objector had no answer except that since he had spent money out of his own resources therefore he received sale consideration in his personal account and also that since the accounts were seized by the Court in other pending proceedings, therefore, there was no other way to receive such amount in the official accounts. This is a very bold statement given by the objector. This property should not have been sold out in case the accounts were seized in any other proceedings. The property should

have been disposed of at least with the permission of the Bench which was seized of such proceeding.

Having heard the learned counsel, we did not find any legitimate excuses to overturn the elections held under the supervision of the Nazir of this Court and consequently by a short order we overruled the objections of objector Syed Shafqat Ali and further direct that the elected body, as disclosed in the Nazir report, shall resume the charge of the office which tenure shall commence from the day when they assume charge. In case defunct office bearers or managing committee failed to hand over the charge including but not limited to handing over of registers, documents, transcripts, accounts, cheque books etc. the newly elected body shall be at liberty to take appropriate action including but not limited to lodging FIR, if it so desires.

Above are reasons of our short order dated 09.09.2020.

Dated: 12.09.2020

Judge

Judge