

ORDER SHEET

THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANO

C. P No. D-691 of 2022

C. P No. D-692 of 2022

Before:

Justice Adnan-ul-Karim Memon
Justice Abdul Mobeen Lakho

The petitioner
(in CP No. D-691/2022)

Sharafuddin Junejo,
Through Mr. Tufail Ahmed Kumbhar,
advocate

The petitioner
(in CP No. D-692/2022)

Khalil Ahmed Arain,
Through Mr. Tufail Ahmed Kumbhar,
advocate

Federation

Through Mr. Muhammad Imran Abbasi,
Assistant Attorney General

The State

Through Mr. Munwar Ali Abbasi, A.A.G.

Date of hearing & order: 19-07-2022

.....

ORDER

Adnan-ul-Karim Memon, J. Through instant petitions under Article 199 of the Constitution of the Islamic Republic of Pakistan, the petitioners have prayed to set aside the impugned orders dated 25.06.2022 passed by the learned Election Tribunal/District & Sessions Judge, Dadu in Election Appeal Nos. 77/2022 and 78/2022, whereby the petitioners have been non-suited to contest the ensuing Local Government Election-2022, which is scheduled to take place on 24.07.2022, on the premise that they are defaulters of Sukkur Electric Power Company (SEPCO) dues.

We have heard the learned counsel for the parties on the subject issue of default, perused the record of the case, as well as examined the case law on the subject point.

Primarily, the provisions of Rule 18(3) of Sindh Local Councils (Election), Rules, 2015 require Returning Officer to allow the candidate to remove the defect if the same is not substantial.

In the instant cases, the petitioners have been disallowed to contest the election as discussed supra on the ground of non-payment of SEPCO dues against their late father and grand father.

We have perused the record; and, are of the considered view that, in principle, the petitioners are not actual defaulters of the subject electricity bills, however, the respondents have alleged that their fathers, who are no more in this temporary inn, had defaulted in paying the dues. Prima-facie the petitioners cannot be held responsible for the alleged default under the Sindh Local Councils (Election), Rules, 2015. Since the present matters are of a summary nature and the said question could be attended, after the election process is over, before the concerned forum.

Keeping in view the above factual proposition as well as the legal position of the case, we are of the considered view that the prima-facie, petitioners are eligible to contest the election subject final say of the learned Election Tribunal if approached by the aggrieved party, for the reason that, prima facie there is no alleged default in respect of payment of the aforesaid charges on the account of the petitioners, and all the questions raised by the SEPCO could be attended by the learned Election Tribunal by recording evidence. On the aforesaid proposition, we seek guidance from the decision rendered by the Honourable Supreme Court in the case of *Rana Muhammad Arshad V/s Additional Commissioner, Revenue, Multan, and others* (1998 3CMR 1462).

Accordingly, the impugned orders are set-aside. Resultantly, the Returning Officer is directed to accept the nomination papers of the petitioners to contest the subject election, under the law.

Instant petitions are hereby allowed in the aforesaid terms.

Judge

Judge