

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA**

Constitutional Petition No.D-684 of 2022.

**Before:**

Mr. Justice Adnan-ul-Karim Memon,  
Mr. Justice Abdul Mobeen Lakho,

Petitioners : Ali Hassan Buriro & others.

Respondents : Returning Officer, Municipal Committee, Thul,  
District Jacobabad & others.

Mr. Athar Ali Bhutto, advocate for the petitioners.

Mr. Munawar Ali Abbasi, Asst. Advocate General.

Mr. Mohammad Imran Abbasi, Asst. Attorney General.

Date of hearing : 27.07.2022.

Date of order : 27.07.2022.

**ORDER**

**ADNAN-UL-KARIM MEMON, J.-** The petitioners, who were contesting candidates in the Local Bodies Elections (Phase-1) for the seat of Councilor of Municipal Committee from Ward No.1, 3, 9, and 10 of Taluka Thul, District Jacobabad, have filed this petition seeking directions for re-election at Polling Stations GPS Muhammad Ramzan Golo, GPS Noor Muhammad Bhatti, GPS Latif Abad and Sultan Sarki of Taluka Thul.

2. Respondent No.1/Returning Officer has filed para-wise comments, which are taken on record; copy whereof is supplied to learned Counsel for the petitioners.

3. Learned Counsel for the petitioners contended that the rival candidates of the petitioners in collusion with the respondents not only made rigging in the election process, but also created disputes at the polling stations, and there erupted free fight, due to which the voters of the petitioners could not cast their votes; that the bogus votes were cast in favor of rival candidates of the petitioners, who were belonging to the ruling party; that Form-9 showing index and details of votes cast in favor of all the contesting candidates was not provided to the petitioners and that the results were announced by the respondents at their own, declaring the petitioners unsuccessful.

Learned Counsel contended that despite being approached by the petitioners, respondents No.1 and 6 refused to even entertain the petitioners' complaint.

4. The learned Asst. Attorney General as well as the learned Asst. A.G. Sindh have opposed the petition and contended that the petitioners have not placed on record any evidence in support of the allegations raised in the petition, therefore, the petition is liable to be dismissed. They further contended that Election Tribunals are to be established to resolve, *inter alia*, the dispute as raised in the petition, and the petitioners may agitate their grievance over there.

5. We have heard learned Counsel for the parties and have perused the available record.

6. As the question has also been raised as to the propriety of interfering in Constitutional Petition under Article 199 of the Constitution with orders passed by the Election Authority, as discussed supra, as election process of Local Bodies Elections, 2022 (Phase-I) has already been concluded with the announcement of the result, now the vires of the process could be assailed before the Election Tribunal constituted by the Election Commission of Pakistan. On the aforesaid analogy, we express our opinion that the jurisdiction of this Court to issue writ, at this stage, against the order of the election authority, after the election process, is liable to be assailed before the Election Tribunal, for the simple reason that it is well-settled that where there is another remedy provided, the Court may properly exercise its discretion in declining to interfere under Article 199 of the Constitution. However, it should be remembered that under the election law, as amended up to the date, the Constitutional petition could be dismissed on the aforesaid preliminary ground; and, the correctness of the decision of the District Returning Officer could not be challenged before the Election Tribunal.

7. The general rule is well settled that the statutory requirements of election law must be strictly observed and that an election contest is not an action at law or a suit in equity, but is a purely statutory proceeding. It is also well-settled that it is a sound principle of natural justice that the success of a candidate who has won an election should not be lightly interfered with and any petition seeking such interference must strictly conform to the requirements of the law, as discussed supra.

8. In this view, it would be a proper exercise of discretion under Article 199 of the Constitution to decline to interfere with such an election process in terms of the provision of Appeal under the Sindh Local Bodies Elections Rules 2015, against the declaration of result of the returned candidate. As it is well-settled law that the Courts and Tribunals are constituted to decide the matters between the parties within the confines of statutory limitations and undue emphasis on technicalities or enlarging their scope would cramp their powers, diminish their effectiveness and defeat the very purpose for which they are constituted.

9. We are, therefore, of the view that this petition does incur dismissal on the ground that the petitioners have to avail of their legal remedy before the Election Tribunal, by raising all their pleas as agitated in the instant petition.

10. This petition is dismissed.

JUDGE

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