

**IN THE HIGH COURT OF SINDH,
AT KARACHI**

Present:

Ahmed Ali M. Shaikh, CJ
Yousuf Ali Sayeed, J

C.P No. D-4164 of 2022

Petitioner : Sanaullah Chandio through Saify Ali Khan, Advocate.

Respondent No.1 : Provincial Election Commission of Sindh.

Respondent No.2. : Election Appellate Tribunal/District Judge, Dadu.

Respondent No.3. : Returning Officer, UC-13 Mangwani Through Sandeep Malani, Asstt. Advocate General, Sindh alongwith Abdullah Hanjrah, Sr. Law Officer and Sarmad Sarwar, Law Officer, ECP.

Respondent No.4 : Muhammad Saleem through Shoaib Ali Khatiyani, Advocate

Respondent No.5 : Sarfaraz Ali through Muhammad Dawood Narejo alongwith Muhammad Yousuf, Advocate.

Kazi Abdul Hameed Siddiqui, D.A.G.

Date of hearing : 25.08.2022

ORDER

YOUSUF ALI SAYEED, J. The captioned Petition pertains to the candidature of the Respondents Nos. 4 & 5 for the post of Chairman and Vice Chairman, from UC No.13, Mangwani, Taluka Mehar, District Dadu, as opposed by the Petitioner.

2. Apparently, the Respondents Nos. 4 & 5 submitted their respective nomination paper/form in relation to the aforementioned post from the said constituency, against which objections were filed by the Petitioner on the ground that they and their late father were defaulters towards Sukkur Electric Power Company (“**SEPCO**”) and Zarai Taraqiati Bank Limited (“**ZTBL**”). However, their nominations were accepted on 20.06.2022, and Election Appeal No.54 of 2022 subsequently filed by the Petitioner before the Election Tribunal / District and Sessions Judge, Dadu, also came to be dismissed vide an Order dated 24.06.2022 (announced on 25.06.2022).
3. In that backdrop, the Petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution, seeking that the Orders made on 20.06.2022 and 25.06.2022 by the fora below be set aside and the Respondents Nos. 4 & 5 be declared as disqualified from contesting the forthcoming Local Government Election.
4. Advancing her submissions, learned counsel for the Petitioner argued that the factum of default stood from the very Order of the Appellate forum in as much as it reflected that an amount of Rs.9,10,000/- had been deposited by the Respondent No.3 towards discharge of liability owed to ZTBL. In support of the Petition, she placed reliance on certain as yet unreported Orders made by the learned Division Bench of this Court at Hyderabad in C.P Nos. D-1960, 2034 and 2035 of 2022.
5. On the other hand, learned counsel appearing in the matter on behalf of Respondent Nos. 4 & 5 pointed out that those Respondents had submitted No Dues Certificate issued by SEPCO and ZTBL at the time of scrutiny of their nomination papers, which reflected that they personally had no liability towards those entities, but certain amounts were said to have been owed paid by their late father. It was argued that upon

coming to have knowledge at such time, they then paid the claimed amount(s) by way of abundant caution. The comments filed by Returning Officer of the constituency also reflect the No Dues Certificates were produced at the time of scrutiny.

6. Under the given circumstances, we are not inclined to interfere with the concurrent orders made by the statutory fora entrusted with the function of examining the aspect of candidature, as it would not be possible close the circle of guilt around the Respondents Nos. 4 & 5 without recording of evidence, which cannot be undertaken at the this stage in the present proceedings, and could be carried out in a post-election proceeding before the appropriate forum constituted under the relevant law, should the Respondent No.4 and/or 5 prevail in the forthcoming election. Furthermore, as it transpires, the Order on which reliance was placed on behalf of the Petitioner were made in circumstances that are the mirror image of that marking the matter in hand, as in those cases the petitioner was himself assailing the rejection of his nomination paper.
7. The Petition thus stands dismissed, but with no order as to costs.

JUDGE

CHIEF JUSTICE