

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
(Appellate Tribunal)

Election Appeal No. S- 02 of 2019

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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Haji Khan Mahar.Appellant.

Vs.

Chief Election Commissioner and Others.....Respondents

Election Appeal No. S- 03 of 2019

Aitzaz Ali Pitafi.....Appellant.

Vs.

Returning Officer, Bye-Election NA-205 and Others.....Respondents

Election Appeal No. S- 04 of 2019

Agha Qurban AliAppellant.

Vs.

Returning Officer, Bye-Election NA-205 and Others.....Respondents

M/s A.R Faruq Pirzada and Ghulam Hyder Dawoodpota Advocates for Appellant in Election Appeal No.S-02 of 2019.

Mr. Mukesh Kumar G. Karara Advocate for Appellants in Elections Appeals Nos.S-3 & 4 of 2019 and for respondent No.4 in Election Appeal No.S-02 of 2019.

Mr. Ovais Ali Shah Advocate for respondent No.2 in Election Appeals Nos.S-3&4 of 2019.

Mr. Muhammad Mehmood Khan Yousifi, D.A.G.

Date of hearing: 25-06-2019
Date of order: 25-06-2019.

ORDER

Muhammad Junaid Ghaffar.J., All these Election Appeals involve a common question as to the eligibility of the contesting candidate(s) being disqualified or otherwise in terms of Article 63(1) (d) of the Constitution of Pakistan, 1973, and were therefore, heard together and are being decided through this common order.

2. Election Appeal No.02 of 2019 has been filed by the Appellant against order dated 18.06.2019, passed by the Returning Officer of Bye-Elections of NA-205 Ghotki-II, through which nomination papers of the Appellant have been rejected on the ground that he, being Chairman of District Council, Ghotki, is disqualified to contest the Election.

3. Election Appeals Nos.3 & 4 of 2019 have been filed by two Appellants/objectors against one candidate i.e. Respondent No.2, as they are aggrieved by order dated 18.06.2019, whereby nomination papers of the said respondent for contesting Bye-Election of NA-205 of Ghotki-II have been accepted. Their grievance is to the effect that Respondent No.2 being Chairman, Town Committee, Khangarh, is not eligible to contest this Election.

4. Learned Counsel for the Appellant in Election Appeal No.02 of 2019 submits that the Appellant is eligible to contest the said Election,

notwithstanding the fact that he is Chairman of the District Council, Ghotki, as in terms of Section 37(5) of the Sindh Local Government Act, 2013 (**the Act**), he is eligible to contest the Election and once he is elected as a member of Parliament, he can resign and vacate the same; that the Appellant is first a member of the District Council Ghotki, and thereafter the Chairman, and if a member is permitted under Section 37(5) of the Act, then there is no bar on the Appellant to contest the Election while holding the office of Chairman, Union Council, Ghotki; that the Appellant is not an employee of the Government and is an elected person, whereas, no salary is drawn, except honorarium notified by the Government, which even otherwise has been refused and instead donated to the Council; that other members of the Council are also entitled for various allowances and perks; that in terms of Article 260 of the Constitution, the post of the Chairman, Union Council is not a service of Pakistan and therefore appeal merits consideration and be allowed; that the Returning Officer has placed reliance upon few judgments which pertain to the Punjab Local Government Act, which is different from the Sindh Local Government Act and therefore those judgments are not applicable.

5. Learned Counsel for the respondent No.4 in Election Appeal No. 02 of 2019 and for Appellants in Election Appeals Nos. 3 & 4 of 2019 submits that in terms of Article 63(1)(d) of the Constitution, Appellant is disqualified as in terms of Section 37(5) of the Act only a member can contest the Election, and not the Chairman of a Council; that in terms of Section 79(2) of the Act, the Chairman exercises executive powers of the

Council and his office is an office of profit in Service of Pakistan, as defined under Article 260 of the Constitution, therefore, he is disqualified and the impugned order in Election Appeal No.02 of 2019 is correct in law; that the honorarium is substantial in nature and therefore it amounts to an office of profit; that a false declaration has been made by the Appellant without proper disclosure; hence he is disqualified.

6. Insofar as Election Appeals Nos. 3 & 4 of 2019 are concerned, on behalf of Appellants, he has argued that admittedly respondent in these Appeals is the Chairman, Town Committee, Khangarah and falls within the definition of service of Pakistan holding an office of profit and is disqualified under Article 63(1)(d) of the Constitution; that the Returning Officer has accepted nomination papers on the ground that he has subsequently resigned; however, the cutoff date for filing of nomination had already elapsed; hence, even the resignation cannot cure the defect. In support of his contention, he has relied upon the judgments reported as *Pakistan People's Party V/S Government of Punjab* (PLD 2014 Lahore 330), *Suo Moto Case No. 8 of 2018* (PLD 2019 Supreme Court 201), *Fozia Khalid V/S Election Appellate Tribunal* (PLD 2018 Lahore 895), *Sadiq Ali Memon V/S Returning Officer, NA 237-Thatta-1* (2013 SCMR 1246), and *Mrza Muhammad Tufail V/S District Returning Officer* (PLD 2007 Supreme Court 16).

7. Learned Counsel for the respondent No.2 in Election Appeals Nos. 3 & 4 of 2019 submits that a Council or Town Committee does not fall within

the service of Pakistan, as defined in Article 260 of the Constitution and further, it is only relatable with the affairs of the Federation and a Province, but does not include a Local Government; that in terms of Article 140(A) of the Constitution, Local Government has been separately defined and in fact it mandates devolution of powers of the Government to the elected representatives; that under Article 199 of the Constitution, a local authority is specifically included, hence as per interpretation of the Statutes, as enunciated from time to time by the Superior Courts, Article 260 of the Constitution must be interpreted in a manner to the effect that a specific omission / exclusion has been provided in respect of Local Government or a Council; that members of the Council as well as its Chairman are elected representatives and mere exercise of certain executive powers would not ipso facto, disqualify them; that a strict interpretation has to be applied in case of disqualification; that various provisions of the Act not only empowers the Chairman to perform certain executive functions; but even other members are also required to do so, and therefore if a member is eligible to contest Provincial or National Elections, then the Chairman cannot be debarred under Article 63 (1)(d) read with Article 260 of the Constitution; that the disqualification in respect of being in Service of Pakistan would only apply to people who have been appointed in terms of Article 240 of the Constitution and not on the elected representatives of the people of Pakistan; that all ingredients of being in service of Pakistan must be present, including the authority of hiring and firing a person, which is admittedly lacking in this case and therefore, such disqualification would not apply. In support of his contention, he has relied upon the cases

reported as *Salahudin and others V/S Frontier Sugar Mills and Distillery Ltd* (PLD 1975 Supreme Court 244), *Syed Wajih-ul-Hassan V/S Muhammad Khalid Alvi* (2010 PLC (C.S) 1308), *Sharaf Faridi V/S The Federation of Islamic Republic of Pakistan* (PLD 1989 Karachi 404), *Muhammad Mubeen-us-Salam V/S Federation of Pakistan* (PLD 2006 Supreme Court 602), *Muhammad Hanif V/S Jahangir Khan Tareen* (PLD 2018 Supreme Court 114), and *Shahid Nabi Malik V/S Chief Election Commissioner, Islamabad* (PLD 1997 Supreme Court 32).

8. Learned D.A.G. appearing on behalf of the Election Commission has supported the impugned orders in Election Appeals Nos. 3 & 4 of 2019.

9. I have heard all the learned Counsel and perused the record. In all these Appeals there is only one legal controversy and that is in respect of eligibility of the contesting candidate(s) viz-a-viz their holding of office of Chairman, District Council Ghotki and Chairman, Town Committee, Khangarah. In Election Appeal No. 02 of 2019, the Returning Officer has rejected nomination on the ground that he is ineligible and disqualified. However, while doing so, he has not given any reasons except contention raised by the parties and the case law relied upon respectively. Insofar as Election Appeals Nos. 3 & 4 of 2019 are concerned, in both these cases, nomination of the respondent has been accepted as after raising of objection by the Appellants, he has tendered his resignation; however, the learned Counsel for the Appellant has still disputed such acceptance of resignation

and has prayed for decision of the appeal on merits on the ground that the respondent at the time of filing of nomination was disqualified.

10. In order to have a better understanding of the controversy in hand, it would be advantageous to refer to the relevant provisions of the Act and the relevant Articles of the Constitution, including s.37(5) of the Act, Article 63(1) (d) and Article 260 of the Constitution.

Article 63 Disqualifications for membership of Majlis-e-Shoora (Parliament);-(1) A person shall be disqualified from being elected or chosen as, and from being, a member of the Majlis-e-Shoora (Parliament) if-

(d) he holds an office of profit in the service of Pakistan other than an office declared by law not to disqualify its holder; or

Section 37. Prohibition on dual membership.

(5). If a member of a council is elected as a member of the Parliament or Provincial Assembly, his seat as member of the Council shall stand vacated on his taking oath as a member of the Parliament or Provincial Assembly, as the case may be”.

Article 260 (Service of Pakistan)

“*Service of Pakistan*” means service, post or office in connection with the affairs of the Federation or of a Province, and include all Pakistan-Service, services in Armed Forces and in other service declared to be a service of Pakistan by or under the Act of [Majlis-e-Shoora (Parliament)] or of Provincial Assembly, but does not include service as Speaker.....”

11. Perusal of Article 63(1)(d) of the Constitution reflects that a person shall be disqualified from being elected or chosen as a member of Parliament, if he holds an office of profit in the service of Pakistan other than an office declared by the law not to disqualify its holder, whereas,

under Article 260, service of Pakistan is defined and means service, post or office in connection with the affairs of the Federation or of a Province and includes all Pakistan-Service, services in Armed Forces and other service declared to be a service of Pakistan by or under the Act of Parliament or Provincial assembly, but does not include various other persons which are not relevant for the present purposes. For the present purposes, the matter which requires appreciation is that whether a Chairman of a Council or Town Committee, or for that matter a Mayor of a City can be called to be holding an office of profit in the service of Pakistan. Learned Counsel for the respondent in Election Appeals Nos. 3 & 4 of 2019 has also referred to Article 140(A) of the Constitution in support of his contention that a Local Government does not fall within the Province anymore. The same reads as under:

140A. Local Government. (1) Each Province shall, by law, establish a Local Government system and devolve political, administrative and financial responsibility and authority to the elected representatives of the Local Governments”.

This Article provides that each Province shall, by law, establish a Local Government system, and devolve political, administrative and financial responsibility and authority to the elected representatives of the Local Government. This Article was inserted in the Constitution of Pakistan through 18th Amendment in 2010 and was not part of the Constitution earlier. Hence, this insertion is of much relevance so as to decide that whether elected representatives of a Local Government would fall within the service of Pakistan or not. On a plain reading of the same it

can be readily inferred that if the intention would have been to include the same in the service of Pakistan, then perhaps a corresponding amendment would have been made in Article 260 of the Constitution. On the contrary the intention appears to be to take it out of the ambit of the Province and hand it over to the elected representatives of the people of Pakistan. It is also noteworthy that when Article 260 was incorporated in the Constitution, the establishment of "Local Government" through Article 140A *ibid* was not there; and consciously, a corresponding amendment has not been made in Article 260 so as to include "Local Government" within the service of Pakistan. The reason being, that it had the intention of introducing "*devolution*" to the elected representatives of the people, and if this is kept in mind, then there would not be any question of including the said representatives within Service of Pakistan, as then it would negate the very concept of introducing Local Government concept and its devolution.

12. There is also another aspect of the matter which needs to be appreciated. It is not that not only a person must be in service of Pakistan; but he must also be holding an office of profit as well. The question that whether a person is holding an office of profit or not cannot be decided by this Tribunal in summary proceedings and can only be adjudicated through proper proceedings including an Election petition through evidence led by the parties. Therefore, even if it is held that the office of Chairman Union Council and Town Committee is an office in the service of Pakistan, the other question regarding the same being an office of profit, still cannot be decided summarily.

13. Insofar as reliance placed on the case of **Pakistan People's Party** (*supra*) by the Counsel for the Appellants in Election Appeals Nos. 3 & 4 of 2019 is concerned, wherein a learned Divisional Bench of Lahore High Court has been pleased to hold that the office of Chairman and Mayor of Local Government falls within the definition of service of Pakistan, it may be observed that in that matter, learned Lahore High Court was not confronted with the qualification and disqualification, as provided in the Election Act, 2017 read with Articles 62 & 63 of the Constitution. In fact in that case, the learned Lahore High Court was seized of a petition by a political party seeking enforcement of Article 17(2) of the Constitution to the effect that the Elections of the Local Government must be held on party basis. Even otherwise, observation in para-39 in the said judgment clearly says that “*prima facie such persons do fall within the definition of service of Pakistan*” and therefore this Tribunal is of the view that it is not a binding precedent *per-se* in respect of Article 63(1) (d) of the Constitution. Insofar as other judgment reported as ***Fozia Khalid*** (*supra*), by another Divisional Bench of Lahore High Court and relied upon by same Counsel is concerned, with respect, I may observe that the same has no relevance to the present facts of the case as well as law in discussion, as the provisions of Section 28(1) of the Punjab Local Government Act, 2013, are not analogous to the provisions Sindh Local Government Act, 2013, and therefore the ratio of the said judgment is also not applicable. Moreover, in the said judgment, again disqualification provided in the Punjab Local Government Act, 2013, has been interpreted and not the disqualification

under Article 63(1) (d) of the Constitution; hence the same also does not apply.

14. On the other hand, Hon'ble Supreme Court in case of **Shahid Nabi Malik (supra)** has been pleased to interpret Article 63(1)(d) of the Constitution and the Hon'ble Supreme Court has observed that the provisions of Article 63 are to be construed strictly, as they relate to the disqualification of a person from being elected or becoming a member of the Parliament. Relevant observation of the Hon'ble Supreme Court reads as under:

“Article 63(1) (d) of the Constitution declares a person who holds an office of profit in the service of Pakistan from being elected or being the member of Parliament, unless the office held by him is declared by law, not to disqualify its holder. It is, therefore, quite clear that a person who does not hold an office of profit in rite service of Pakistan, is not debarred from being elected or being the member of the Parliament. As a necessary corollary a person merely by virtue of his being in the service of Pakistan is not debarred from being elected to the member of the Parliament under Article 63(1)(d) *ibid*, unless he also holds an office of profit in such service. The expression "he holds an office of profit in the service of Pakistan" used in Article 63(1) *ibid*, clearly implies that in order to attract the disqualification mentioned in this provision, the person must be holding the office of profit in the service of Pakistan on the date of his Election to the Parliament. Therefore, a person who ceases to hold the office of profit in the service of Pakistan before the date of such Election does not fall within the mischief of this Article. We need not emphasize here that the provisions of Article 63 of the Constitution are to be construed strictly as they relate to the disqualification of a person, from being elected or being the Member of Parliament. It is a well-established rule of interpretation that while construing a provision of this nature and holding a person disqualified, the case must fall both within the letter and spirit of the provision.

15. The aforesaid judgment has recently been followed by the Hon'ble Supreme Court in the case reported as ***Ghazafar Ali V/S Appellate Authority/Additional District Judge, Sahiwal and others (PLD 2016 Supreme Court 151)***, wherein qualification and disqualification of a

candidate for Elections of Local Government was in question; however, the issue was some-what similar, as the Appellants were Member and Chairman, respectively of the Local Zakat and Ushr Committee and filed their nominations, but certain objections were raised that they were disqualified in terms of Section 27(2) (e) of the Punjab Local Government Act, 2013 as according to objectors they were in service of a statutory body and a period not less than two years has elapsed since their resignation or retirement. The Hon'ble Supreme Court after a detailed examination of the entire case law on the subject has been pleased to hold as under:

"10. Notwithstanding the above discourse, considering the concept and the purview of the term "in the service of" in the light of various dictionary meanings and those assigned by the Superior Court, it shall not be appropriate to read the word "service" in isolation, hermetically or insulated from "in the" and "of". In *Corpus Juris Secundum* (79 CJS. P. 1139) it has been explained that the word "service" has a variety of meanings various connotations and significations, thus in our view the word "service" has to be construed along with its syntax. When considered in this perspective "in the service of" would mean "in the employment of" meaning thereby that there is a relationship of employer and employee. However because the Appellants have not been taken into the employment of any statutory body (as envisaged by law) therefore the question of them being "in the service of such statutory body does not arise. The above reason is fortified by the provisions of Section 23 of the Ordinance (reproduced earlier in this opinion). In the said provision, the words "every person engaged in, or employed for, the administration of this Ordinance" provides for two distinct categories of persons who perform functions vis-a-vis the Zakat and Ushr bodies created under the statute-one is that of persons "engaged in" and the second is that of persons "employed for". In our candid view the Appellants are part of the first category. This interpretation is also strengthened by the explanation to Section 23 in which it is clearly mentioned that the Members and the Chairman of the Local Committee are to be considered persons "engaged in", and not "employed for" the administration of the Ordinance. Therefore, in our opinion the Members and the Chairman of the Local Committee are persons who are engaged in the administration of and not employed in any statutory body on account of the above. The view set out by the learned High Court that the Appellants are in the service of the statutory body is absolutely unfounded and is misconceived.

11. With respect to the argument that as per Section 23 of the Ordinance the petitioners are deemed to be public servants within the meaning of

Section 21 of the P.P.C., and are thus disqualified from contesting the Elections, suffice it to say that this is a deeming clause and it is only by fiction of law that for the purposes of applicability of the P.P.C. and for the object of enabling them to perform certain functions envisaged by the P.P.C. that a legal status has been conferred upon them and that they are considered and deemed to be public servants otherwise they are not public servants at all. In this respect reliance has been correctly placed by the learned counsel for the respondents upon Kalam Daraz Khan's case, although the case of Rana Muhammad Jamil (supra) does not seem to be relevant. Besides in Section 27 of the Act, there is no bar upon a person who is deemed to be a public servant from contesting the local bodies Elections, and as has been mentioned above the qualifications and disqualifications of a person have to be construed and applied strictly and, therefore, on the basis of the deeming provisions of Section 23 of the Ordinance, which is meant for other objects and purposes, a person cannot be debarred from contesting the Elections for local bodies.

12. As far as the view set out by the learned High Court of Balochistan in the cases of Zulikha Bibi and Muhammad Khan is concerned, that a Member/Chairman of a District Committee is not qualified to be elected as a member of a local body as it is a political activity which is prohibited under Section 14(4) of the Balochistan Zakat and Usher Act, 2012, suffice it to say that the said judgments held Member/Chairman of the District Committee to be "in the service of" a statutory body etc. and thus did not qualify for Election to the local bodies by virtue of Section 24(1)(f) of the Balochistan Local Government Act, 2010 and a period of at least six months had not elapsed since such persons' resignation/retirement from such service. In the instant matter(s), the interpretation of a very similarly worded provision of law is involved, i.e. Section 27(2)(e) of the Act which provides that a person shall be disqualified from being elected as a member of the Local Government if he is "in the service of" any statutory body etc. and a period of not less than two years has elapsed since his resignation/retirement. However as we have held above, that being a Member/Chairman of the Local Committee does not fall within the meaning of being "in the service of" a statutory body etc., thus the two year post-resignation/retirement bar does not apply. The prohibition against participation in political activities is only relatable to the period whilst a person holds the post/position of Member/Chairman of the District Committee, but once he resigns, such bar disappears. In this respect, the judgments of the learned High Court of Baluchistan (supra) do not enunciate proper law and are therefore set aside to the extent of the law laid down therein"

16. It is also pertinent to observe that firstly, it must be established that the office in question i.e. service of Pakistan is an office of profit, controlled by the Provincial Government, having authority to appoint and remove the Chairman. This admittedly is not the position as the contesting candidates are firstly elected representatives, and secondly, after their

Elections as member of the District Council or Town Committee, they have been further elected as Chairman by the elected members and can only be removed from such post through a no confidence motion, as provided in law.

17. In *Shivamurthy Swami vs. Agadi Sanganna Andanappa (1971)3 SCC 870*, the question before the Indian Supreme Court for consideration was whether a Member of Koppal Taluk Development Board as well as a member of the District Development Council could be said to be holding an 'office of profit' under the Government. After analyzing the factual situation, besides relevant provisions, including provisions of Article 102(1)(a) of the Indian Constitution (*i.e. A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament (a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder*) which is somewhat similar to Article 63(1) (d) of our Constitution, it was held as under:

".. Therefore before the provisions of that Article can be attracted, it must be established that he was holding an office under the Union or the State Government and that that office was an office of profit and thereafter we must see whether the disqualification relating to that office has been removed by any Parliamentary legislation. In other words, the office in question must have been held under a Government and to that some pay, salary, emoluments or allowance is attached. The word 'profit' can notes the idea of pecuniary gain. If there is really a gain, its quantum or amount would not be material; but the amount of money receivable by a person in connection with the office he holds may be material indicating whether the office really carries any profit..".

18. The Bench noticed that the concerned person Sangappa, became an ex-officio member of these bodies by virtue of his being elected as a member

of the Mysore Legislative Council and therefore "it could not be said that he was holding those offices under the Government." The Court further pointed that the allowances paid to the members of the Koppal Taluk Development Board and District Development Council were intended to meet their out of pocket expenses and were in the nature of compensatory allowances and not "profits". The Court summarized the tests which may be applied to determine whether an "office" is an office of profit under the State Government thus:

- (1) whether the Government makes the appointment;
- (2) whether the Government has the right to remove or dismiss the holder;
- (3) whether the Government pays the remuneration;
- (4) what are the functions of the holder and
- (5) Does the Government exercise any control over the performance of those function?"

19. In the case reported as *Karbhari Bimaji Rohamare vs. Shankar Rao Genuji Kolhe & Ors.* [1975] 2 SCR 753 , once again the Indian Supreme Court dealt with this issue and after referring to dictionary meaning of the word "honorarium" and its interpretation in some other judgments, the Indian Supreme Court agreed with the learned Judge of the High Court, who had refused to set aside the election of the first Respondent, that "the payment of honorarium to the first Respondent, apart from Daily Allowance and Travelling Allowance, for attending the meetings of the Board did not amount to the first Respondent 'making any pecuniary gain thereby'." It was opined that merely because part of the payment made to

the first Respondent was called 'honorarium', it did not lead to a conclusion that it was not meant to meet daily expenses, and was meant to be 'a source of profit'. In the words of the Court:

"..Merely because part of the payment made to the first respondent is called honorarium and part of the payment daily allowance, we cannot come to the conclusion that the daily allowance, is sufficient to meet his daily expenses and the honorarium is a source of profit. A member of the Wage Board cannot expect to stay in Taj Hotel and have a few drinks and claim the expenditure incurred, which may come perhaps to Rs. 150 to Rs. 200 a day, for his personal expenses. In such a case it may well be held to give him a pecuniary gain. On the other hand he is not expected to live like a sanyasi and stay in a dharmshala and depend upon the hospitality of his friends and relatives or force himself upon them. Nobody with a knowledge of the expenditure likely to be incurred by a person staying at a place away from his home could fail to realise how correct the assessment of the learned Judge is. We are satisfied that the payments made to the first respondent cannot be a source of profit unless he stays with some friends or relatives or stays in a dharamshala.

"The question has to be looked at in a realistic way....The law regarding the question whether a person holds an office of profit should be interpreted reasonably having regard to the circumstances of the case and the times with which one is concerned, as also the class of person whose case we are dealing with and not divorced from reality. The first respondent did not hold an office of profit."

20. It is also not conceivable that there could have been any intention of the creators of the Constitution to term the Elected Representative as being employees of and being in service of Pakistan, merely for the reason that they are being paid any honorarium or for that matter a salary. In Article 260 there is a very detailed category of persons who have been declared as not falling within the service of Pakistan, and all of them, perhaps, are elected representative of the people of Pakistan and are also involved in performing executive functions of the Government; but by no stretch of imagination, they could be called as being in Service of Pakistan. On the

same analogy, the Chairman of a District Council or a Town Committee or for that matter a Mayor of a city cannot be called to be in service of Pakistan.

21. The argument that a Chairman of a District Council or Town Committee can influence the Elections in which he or she is contesting, may sound attractive and be true to a certain degree; however, this alone in absence of a specific provision in the Election Act or the Constitution cannot be made basis of disqualification within itself. Even otherwise, this is the job of the Election Commission to see that no one is allowed to influence the Elections because of any official post being held. In fact it even applies to sitting Prime Minister, Chief Minister, Ministers and even Members of the Parliament and Provincial Assemblies, and from time to time, the Election Commission has been acting against them. Therefore, merely on the basis of this argument, a candidate cannot be disqualified

22. In view of the foregoing facts and circumstances of the case, this Tribunal is of the view that the Appellant in Election Appeal No.02 of 2019 being Chairman of the District Council Ghotki cannot be disqualified by virtue of his holding Chairmanship, and therefore his appeal merits consideration, and is accordingly allowed by setting aside the impugned order dated 18.06.2019 and his nomination papers are accepted. The Returning Officer / Election Commission to act accordingly.

23. Insofar as Election Appeals Nos.3 & 4 of 2019 are concerned, they are dismissed and the impugned order in both these Appeals are upheld. The Returning Officer / Election Commission to act accordingly.

J U D G E

Ahmad