

# IN THE HIGH COURT OF SINDH KARACHI

Before :

Mr. Justice Muhammad Iqbal Kalhoro  
Mr. Justice Adnan-ul-Karim Memon

## **Constitutional Petition No.D-1025 of 2023**

(Muhammad Akram Khan v. Federation of Pakistan and 04 others)

Mr. Pervaiz Khurram, advocate for the petitioner  
Mr. Mahar Ali, advocate for respondents No.3 & 4  
Mr. Ghulam Murtaza Saryo, advocate for respondent  
No.5  
Mr. Yasir Ahmed Shah, Assistant Attorney General

Date of hearing  
& Decision: 09.03.2023.

## **ORDER**

The petitioner through the captioned petition is asking for setting aside the order dated 07.02.2023 passed by the Authorized Officer, National Industrial Relations Commission (NIRC) Islamabad in Case No.13(269)/2022 and Case No.13(297)/2022, *inter alia*, on the ground, that the names of 05 members were illegally deleted who were terminated/dismissed and their cases are pending before the competent court of law. The petitioner is also aggrieved with the fixation of Rs.25000/- for each contesting candidate through the election schedule dated 07.02.2023. An excerpt of the order dated 07.02.2023 is as under:

“9. It would be appropriate to add here that if any member/employee approach the undersigned for deletion his name with his free will, that he is not member of the TRI-Pack Employees Union, the said name will be excluded from the list. Both the contestant groups as well as the management of the TRI-Pack Company are directed not to pressurize any employee/worker for exclusion his name. In the light of above observations the objections filed by either side are disposed of. The selection schedule is also issued today separately.”

2. The case of the petitioner is that he is the General Secretary of TRI-Pack Employees Union; there was a dispute in respect of the internal election of TRI-Pack Employees Union, which was challenged before Single Member NIRC-Islamabad in Case No.13(269)/2022 & Case No.13(297)/2022 and vide order dated 12.12.2022, Mr. Naveed Anwar Khokhar, Deputy Registrar was assigned to conduct the internal election of TRI-Pack Employees Union under the supervision of NIRC and while finalizing the voter list, the respondent No.4 passed the impugned orders dated 07.02.2023.

3. Mr. Pervaiz Khurram, learned counsel for the petitioner, submitted that the impugned orders passed by the learned Member and Authorized Officer of NIRC Islamabad are not under the law and are liable to be set aside; that 05 deleted members namely (i) Akram Khan son of Suleman Khan (ii) Abdul Hannan son of Saeed ur Rehman (iii) Kashif Salam son of Raja Abdus Salam (iv) Abdul Razzak son of Haji Mehrab Khan (v) S Naveed Qamar son of S M Laiq are workmen under section 2(xxxiii) and section 8(ii)(a)(explanation) of IRA 2012 whereas their cases of termination from employment are pending before the competent court of law, therefore, the above 05 workers/members of the union are legally entitled to cast their vote in the election of the union. It is contended by the learned counsel that neither under the provisions of IRA 2012 nor under the regulation of NIRC 2016 nomination fees of contesting candidates of the union has been prescribed, therefore, impugned nomination fees of Rs.25000/- for contesting candidate is very excessive and unaffordable.

4. Respondent No.5 present in court has submitted that the internal election of Tri-Pack Employees Union Pakistan has been conducted and approved vide office order dated 24.02.2023 and new office bearers have been selected. He further submitted that this petition has become infructuous and prayed for its dismissal.

5. Respondents 3 and 4 have submitted the report on the premise that the petitioner is terminated employee and cannot be considered a member of the Union in terms of section 8 of the IRA-2012. He further submitted that the petitioner has not submitted the nomination form within time and after the expiry of the scheduled time approached this court and succeeded in obtaining the order dated 27.02.2023, though the election had already taken place on 24.02.2023. They prayed for the dismissal of the instant petition.

6. Since the subject election has already been conducted and the result of the election has been announced vide office order dated 24.2.2023, therefore, without touching the merits of the case, this petition is disposed of in terms of the latest development, leaving the petitioner to call in question the vires of the office order dated 24.02.2023 before the appropriate forum if the petitioner feels that his cause still subsists.

**JUDGE**

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