

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P No. D – 444 of 2023

Date of hearing	Order with signature of Judge
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Hearing of case (Priority)

1. For orders on Office objection at Flag 'A'
2. For hearing of CMA No.1894/2023 (S/A)
3. For hearing of main case

02.05.2023

Mr. Nisar Ahmed Bhanbhro, Advocate for the petitioners
Mr. Sher Muhammad Leghari, Advocate for Respondent No.1
Mr. Zeeshan Hyder Qureshi, Law Officer of Election Commission of Pakistan
Mr. Muhammad Aslam Jatoi, Assistant Attorney General for Pakistan

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ORDER
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ZAFAR AHMED RAJPUT, J;- Through instant petition, the petitioners have impugned the order dated 30.01.2023, whereby the Election Tribunal, Naushahro Feroze dismissed an application under Order VII Rule 7, C.P.C read with Section 145 of the Election Act, 2017, Rule 64 of Sindh Local Councils (Election) Rules, 2015, filed by the petitioners in Election Petition No.19 of 2022.

Learned counsel for the petitioners contends that the impugned order suffers from material illegalities and irregularities as the same has not been passed by considering the aforementioned provision of law read with connected Rules 60 and 61 of the Sindh Local Councils (Election) Rules, 2015 and the Election Tribunal has rejected the application of the petitioners by holding that the "points are procedural in nature and same can be corrected to determine the rights between the parties".

We have gone through the above referred provision of law. Section 145 of the Election Act, 2017 provides that if any provision of Sections 142, 143 or 144 has not been complied with, the Election Tribunal shall summarily reject the Election Petition. Likewise, Rule 64 of the Sindh Local Councils (Election) Rule, 2015 provides that if the Tribunal is

satisfied that all or any of the preceding provisions have not been complied with, the petition shall be dismissed forthwith and submit its report to the Election Commission. Rule 61(a) provides that petitioner shall join as respondents to his election petition all contesting candidates. In the instant petition, it appears that in fact there were two candidates by name as Dhani Bux, who contested elections for the Seat of Vice Chairman UC-47 Masur Ji Wai, Taluka and District Naushahro Feroze. One Dhani Bux was in penal of Saadat Ali Dahri, the candidate for the Seat of Chairman of the said Union Council and the other Dhani Bux was in the penal of Samar Raheem; however, the latter candidate Dhani Bux has not been added as respondent in the Election Petition.

When this position was confronted, learned counsel for Respondent No.1, learned Assistant Attorney General for Pakistan as well as Law Officer, Election Commission of Pakistan recorded their no objection for disposal of this petition by directing the Election Tribunal to decide the issue of maintainability of Election Petition No.19 of 2022 by framing primarily legal issue of the maintainability. We, therefore, disposed of this petition by directing to Election Tribunal, Naushahro Feroze to frame such primarily issue regarding maintainability of the Election Petition No.19 of 2022 in view of Section 145 of the Election Act, 2017, Rule 64 and 61 of the Sindh Local Councils (Election) Rule, 2015 within 20 (twenty) days hereof.

The petition stands **disposed of** in the above terms along with listed application.

Judge

Judge

ARBROHI