

ORDER SHEET
**BEFORE THE ELECTION TRIBUNAL,
HIGH COURT OF SINDH, BENCH AT SUKKUR**
Election Petition No. S - 04 of 2018

Date of hearing : 13.02.2023.

Date of judgment : 02.06.2023.

Mr. Nisar Ahmed Bhanbhro, Advocate for the petitioner.
Mr. Mukesh Kumar G. Karara, Advocate for respondent No.1.
Mr. Zeeshan Haider Qureshi, Law Officer of Election Commission of Pakistan.
Mr. Muhammad Aslam Jatui, Assistant Attorney General.
Mr. Shafi Muhammad Chandio, Additional Advocate General Sindh.

ORDER

ZAFAR AHMED RAJPUT, J. - The Election Commission of Pakistan ('ECP') issued schedule for holding General Elections-2018 on 25.07.2018. The petitioner and respondents No.1 to 16 filed their nomination papers to contest the election for the National Assembly of Pakistan on the seat of NA-206 (Sukkur-I). The respondent No.1 was declared returned candidate. Through instant Election Petition, the petitioner has sought directions for holding fresh poll in the aforementioned constituency, *inter alia*, on the ground that the election of respondent No.1 as the returned candidate is *void ab initio* on account of concealment of immovable properties in his own name and in the names of his spouses and the bank accounts in the names of his spouses.

2. The respondent No.1 contested instant Election Petition by filing written statement, wherein he denied the claim of the petitioner and allegations against him. Respondent No.1 specifically pleaded that he filed correct statement of assets and liabilities of his own and his spouses and he has declared his as well as spouses holdings properly at time of filing his nomination papers, while rest of the respondents were declared *ex parte* vide order dated 22.10.2018.

3. On the divergent pleadings of the petitioner and respondent No.1, this Tribunal framed following issues on 31.10.2018:

- “ 1. Whether the nomination of the returned candidate was invalid?*
- 2. Whether the returned candidate was not, on the nomination day, qualified for, or was disqualified from, being elected as a Member?*
- 3. Whether the election of the returned candidate has been procured or induced by any corrupt or illegal practice?*
- 4. Whether a corrupt or illegal practice has been made by the returned candidate or his election agent or by any other person with the consent or connivance of the candidate or his agent?*
- 5. What should the order be? ”*

4. On 26.11.2018, evidence of the petitioner as well as his witnesses was recorded and they were cross-examined. Thereafter, on 28.01.2019, the respondent No.1 (*returned candidate*) was examined/cross-examined.

5. Learned counsel for the petitioner, while inviting attention of this Tribunal towards Para No.5 of the petition, has stated that as many as five immovable properties/business/assets and liabilities have been concealed by the respondent No.1, which are as follows:

- (i) 100 acres of land in Deh Khahi Jagir, Tapa Arore purchased by the respondent No.1 in the year 2014 and for that Entry No.19 dated 13.03.2014 is maintained in the record of rights.*
- (ii) 200 acres of land in Deh Khahi Jagir, Tapa Arore, Taluka Rohri in the names of two wives of the respondent No.1, transferred by the respondent No.1 vide Entry No.167 in the year 2005.*
- (iii) Plots No.178 & 179 owned by the spouses of respondent No.1 in Professors Colony, Sukkur.*
- (iv) Bank accounts of the spouses of respondent No.1.*

- (v) Bank account details in the name of spouse of respondent No.1 though he has shown business concerns viz. Denim Enterprises in the name of his spouse.

Learned counsel for the petitioner has further contended that the respondent No.1 in his nomination papers has shown total land holdings of 123 acres, whereas, as per record he and his spouses are jointly holding 323 acres of land and such fact has been established in the evidence of PW-1 Syed Zahir Ali Shah. In support of his contentions, he has relied upon the cases of Nida Khuhro versus Moazzam Ali Khan and others (2019 SCMR 1684), Rai Hassan Nawaz versus Haji Muhammad Ayub and others (PLD 2017 Supreme Court 70), Speaker National Assembly of Pakistan, Islamabad and others versus Habib Akram and others (PLD 2018 Supreme Court 678) and Saeed Ahmed and others versus Federation of Pakistan and others (PLD 2022 Sindh 508).

6. On the other hand, learned counsel for the respondent No.1 has maintained that the petitioner has failed to prove any concealment of assets by the respondent No.1 and the petitioner has attempted to take advantage of typo errors made in the declaration form, wherein instead of Taluka Rohri, Deh Rohri has been mentioned, while admittedly it is the same property which has already been shown by respondent No.1 in his declaration. He has also maintained that the referred plots were never leased in favour of respondent No.1 nor any business was carried out by him; hence, the same does not fall within the purview of “assets and liabilities” required to be declared mandatory by the respondent No.1. Even the respondent No.1 is not in physical possession of the said plots as per the admission of official of the SITE. In support of his submissions, learned counsel for respondent No.1 has relied upon the cases of Inayatullah versus Syed Khurshed Ahmed Shah and others (2014 SCMR 1477), Engr. Iqbal Zafar Jhagra and others versus Khalilur Rehman and 4 others (2002 SCMR 250), Sardarada Zafar Abbas and others versus Syed Hassan Murtaza and others (PLD 2005 Supreme Court 600), Malik Umar Aslam versus Sumera Malik and another (PLD 2007 Supreme Court 362), Ch. Muhammad Ashraf versus Rana Tariq Javed and others (2007 SCMR 34), Lt.-Col. (Rtd.) Ghazanfar

Abbas Shah versus Mehr Khalid Mehmood Sargana (2015 SCMR 1585), Feroze Ahmed Jamali versus Masroor Ahmed Khan Jatoi and others (2016 SCMR 750), Ch. Muhammad Ayaz verus Asif Mehmood and others (2016 SCMR 849), Muhammad Nawaz Chandio versus Muhammad Ismail Rahu and others (2016 SCMR 875), Sultan Mehmood Hinjra versus Ghulam Mustafa Khar and others (2016 SCMR 1312), Khawaja Muhammad Asif versus Muhammad Usman Dar and others (2018 SCMR 2128), Rai Hassan Nawaz versus Haji Muhammad Ayub and others (PLD 2017 Supreme Court 70) and Muhammad Hanif Abbasi versus Imran Khan Niazi and others (PLD 2018 Supreme Court 189).

7. I have heard the learned counsel for the parties and perused the material available on record.

8. My findings on the above issues are as under:

Issues No. 1 to 4 ----- **Negative**

Issue No. 5 ----- **Petition Dismissed**

Issues No.1 to 4

9. Since aforementioned four (04) issues are interconnected and dependent upon the outcome of the reasoning and findings of this Tribunal regarding the qualification and disqualification of respondent No.1 on account of corrupt or illegal practice, they are discussed and answered together.

10. Though the petitioner claims that five immovable properties/ business/assets and liabilities have been concealed by the respondent No.1 in his nomination form, however, it is a matter of record that the respondent No.1 has shown in Form-B of the nomination papers that he has land holdings as 123 acres. 100 acres land is in the name of Bibi Talat, the wife of respondent No.1, which is situated in Deh Khahi Jagir, Tapo Arore, Taluka Rohri regarding that the petitioner claims that the same has been concealed by the respondent No.1. The petitioner has failed to bring on record any material to show that the said land owned by the wife of respondent No.1 is different than the land referred to by him in Para No.5 of the petition. It is also a matter of record that plot No.178 allegedly

situated in Professors' Society, Sukkur is owned by Bibi Gulnaz, the second wife of respondent No.1, which he has disclosed as located in Akhuwat Nagar Society, Sukkur. The petitioner has failed to bring on record any evidence that the plots referred to in his pleadings situated at Professors' Society, Sukkur are owned by the respondent No.1 or any of his spouse, so also any business is carried out by them, which fact also finds supports from the evidence of official of the SITE. Bibi Gulnaz also owns 100 acres of land at Salehpat, which has also been disclosed by Bibi Gulnaz in her statement of assets. Prima facie, there are some typographical errors in description/ location of the immovable properties; otherwise, same have been disclosed by the respondent No.1 in his relevant nomination papers. So far concealment of business and liabilities is concerned, the petitioner has failed to bring on record any documentary evidence to substantiate his claim; hence, my findings on these issues are in **negative**.

Issue No.5

11. In view of above reasons, the petition is **dismissed** along with pending application(s), if any.

JUDGE

Abdul Basit