

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

Present:

Yousuf Ali Sayeed, J
Mohammad Abdur Rahman, J

C. P. No. D – 2682 of 2023

Saifuddin and Usman Farooq, Advocate for the Petitioner.

Hassan Akbar, Advocate General, Sindh alongwith Saifullah, Sandeep Malani, Rafiq Rajorvi, and Syed Mohsin Shah, AAGs.

Riaz Ahmed, Director (Law) ECP alongwith Abdullah Hanjrah, Sr. Law Officer, and Sarmad Sarwar, Law Officer.

AIG-II Legal Mushtaq Ahmed; Syed Musadiq Amjad Bukhari, DSP (Legal), PI Asif and PI Sajjad.

Date of hearing **09.06.2023.**

YOUSUF ALI SAYEED, J.- This Petition pertains to the upcoming Election of Mayor and Deputy Mayor, Chairman and Vice Chairman of the Karachi Metropolitan Corporation, which, we are informed, are scheduled to take place on 15.06.2023. Per the Petitioner, several persons who are eligible to cast their votes in each of those elections are being detained in custody and it is apprehended that they would be prevented from exercising their right of franchise. Four such persons have been specifically identified in para-10 of the Petition, being:

1. Firdous Shamim Naqvi¹ - Elected Chairman UC-2, Jamshed Town, Karachi
2. Umar Daraz - Elected Chairman UC-10, North Nazimabad Town
3. Syed Amjad Hussain - Elected Chairman UC-5, Korangi Town, Karachi
4. Muhammad Mustafa - Elected Chairman UC-1 Mominabad Town, Karachi

A statement has been filed today under signature of the Senior Law Officer, of the Election Commission of Pakistan (the “ECP”) along with various attached documents, foremost amongst which is an order dated 02.06.2023. The Senior Law Officer states that the ECP had received certain complaints on the same subject, and having taken cognizance, has passed the aforementioned Order to address the matter at hand, which reads as follows:

“ELECTION COMMISSION OF PAKISTAN

Islamabad, the 2nd June, 2023

ORDER

Whereas, according to the schedule issued by the Election Commission, the elections to the heads of local councils in Sindh Province i.e. Metropolitan Corporation, Municipal Corporations, Town Municipal Corporations, Municipal Committees, Town Committees and District Councils are scheduled to be held on 15.06.2023;

And whereas, the Election Commission has notified the District Returning Officers, Returning Officers for the said elections and also established polling stations for the elections to the heads of local councils (i.e. Mayors, Deputy Mayors, Chairman and Vice Chairman) in Sindh Province:

And Whereas, under Section-18 of the Sindh Local Government Act, 2013, the directly elected members and members elected on reserved seats in the above-mentioned local councils are the Electoral College for the said elections, which are to be conducted through show of hands;

¹ Incorrectly stated as Firdous Shamim Nagori in the memo of Petition

And whereas, the Commission has been approached by various political parties and contesting candidates and intimated that their candidates have been arrested and are under detention in different cases in the province of Sindh;

And whereas, under Article 218 (3) of the Constitution of Islamic Republic of Pakistan, the Election Commission is under obligation to ensure that the election is conducted honestly, justly, fairly and in accordance with law and the corrupt practices are guarded against;

Now therefore, the Government of Sindh is directed to ensure that voters for the elections of heads of local councils are brought on polling stations with all safety measures so that they could use their right of franchise in the aforesaid elections.”

Sikandar Sultan Raja
Chairman/Chief Election Commission

Mr. Nisar Ahmed Durrani
Member

Mr. Shah Muhammad Jatoi
Member

Mr. Babar Hassan Bharwana
Member”

The learned Advocate General, Sindh has also filed para-wise comments on behalf of the Inspector General of Police under signature of AIGP Legal-II, which reflect that three of the aforementioned persons are presently under detention in relation to FIRs registered against them. The particulars of those persons are as follows:

S #	District	Name of PS	Detainee Name & Father Name	Criminal Record	Detained
1	Malir	Ferozabad	Umar Daraz s/o Malik M. Yousuf	FIR No.297/23 u/s 147/148/149/427/353/186/337-A(i)/435/337-H(ii) r/w 7-ATA of P.S Ferozabad (Arrested)	Central Prison Mirpurkhas
2	Malir	Quaidabad	Amjad Hussain s/o Gull Hassan	Arrested in case FIR No.249/2023 u/s 147/149/186/353/505/131/427/341 PPC of Quaidabad PS	Central Prison Jacobabad
3	West	Mominabad	Muhammad Mustafa s/o Yousuf Afridi	199/2023 u/s 147/148/149/353/324/186/427/34 PPC of PS Mominabad (Arrested)	District Prison Dadu

Additionally, he submits that Syed Firdous Shamim Naqvi son of Syed Shamim ul Hassan Naqvi has also been detained in relation to a pending FIR but due to his ill health is presently admitted at NICVD Sukkur. While he contends that he has objections to the maintainability of this Petition, without prejudice to those objections, he undertakes that the Government of Sindh will abide by the Order dated 02.06.2023 issued by the ECP in both letter and spirit as regards the aforementioned four persons and all other voters that are in its custody. In view of the Order of the ECP and the undertaking given on behalf of the Government of Sindh by the learned Advocate General in Court today with reference to that Order, the Petition stands disposed of accordingly in such terms.

A copy of this order shall be sent through fax to the Inspector General of Police, Sindh, Inspector General of Prison, Sindh and the Home Secretary, Home Department, Government of Sindh for information and compliance.

JUDGE

JUDGE