

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
**Election Appeal No.239 of 2024**

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| Date | Order with signature of Judge |
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1. For order on CMA No.649/2024
2. For order on CMA No.650/2024
3. For hearing of main case

**Date of hearing and order: 08.1.2024**

Mr. Aamir Rizwan Yousufzai, advocate for the appellant  
Mr. G.M Bhuto Assistant Attorney General along with  
Mr. Sarmad Sarwar Assistant Director (Law) Election Commission of  
Pakistan

**ORDER**

**Adnan-ul-Karim Memon, J.** Appellant Abdul Ghaffar through instant Election Appeal has called in question the order dated 30.12.2023 passed by the Returning Officer, PS-113, District Keamari Karachi, whereby the nomination paper of the appellant has been rejected on the following allegations:

- “1. *Only one inactive account*
2. *Incomplete form with irrelevant information*
3. *Uneducated although matric*
4. *Don't have the ability to fill a document or a form.”*

At the outset, learned counsel referred to the impugned order and submitted that the Returning Officer had erroneously nonsuit the appellant to contest the ensuing Election. Per learned counsel, the case of the appellant is squarely out of the ambit of Section 62 (9) (ii) of the Elections Act, 2017. An excerpt whereof is reproduced as under: -

*“62(9)(ii). The Returning Officer shall not reject a nomination paper on the ground of any defect which is not of a substantial nature and may allow any such defect to be remedied forthwith.....”*

Learned counsel submits that due to bonafide mistake and lack of knowledge, the appellant mentioned the names of his two married daughters in Clause-D of his previous affidavit. Learned counsel referred to the affidavit by the candidate for Election to the Assemblies in General Elections 2023 (*Annexure-D Page 31*) and submitted that after filling the affidavit afresh with relevant information, the appellant produced the same before the Returning Officer, but he did not accept. So far as the issue of the inactive account is concerned, he would get it active within two days. He prayed for setting aside the impugned order dated 30.12.2023.

The learned Assistant Attorney General assisted by the learned Law Officer representing the Election Commission of Pakistan present in Court has waived the notice of this appeal due to paucity of time, however, they have opposed this appeal on the analogy so put forward by the Returning Officer.

I have heard the learned counsel for the parties and perused the record with their assistance.

The question involved in the present appeal is whether the rejection of the nomination papers of the appellant is justified under the election law. Whether the defect as pointed out by the learned Law Officer is substantial or curable?

From the perusal of the order passed by the Returning Officer dated, it is clear that no one has objected that the appellant has suppressed assets and liabilities. So far as the issue of qualification of the appellant being Matric is concerned, Articles 62 and 63 of the Constitution are clear in its terms. As regards the bank account, the bank account in the name of the appellant has also been mentioned, thus no material concealment or misstatement in the nomination paper has been established. It may be observed here that process for General Elections, 2024 is in progress, under Article 225 of the Constitution, this Court cannot interfere with the election process without any legal justification. Let the appellant produce an active Bank Account certificate before the Returning Officer and complete the codal formalities within two days and the appellant shall be allowed to contest the ensuing Election, without fail.

The appeal is allowed and the impugned order dated 30.12.2023 is set aside and the appellant shall be allowed to contest the election from PS-113 District Keamari Karachi.

**JUDGE**