

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Election Appeal No.250 of 2024

Date	Order with signature of Judge
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For order as to non-prosecution

Date of hearing and order: 09.1.2024

None present for the appellant
Mr. Sarmad Sarwar, Assistant Director (Law),
Election Commission of Pakistan

ORDER

Adnan-ul-Karim Memon, J. Appellant Muhammad Yousuf Bawany through instant election appeal has called into question the order dated 30.12.2023 passed by the Returning Officer PS-103 Karachi East-VII, whereby nomination papers of the appellant have been rejected.

The appellant and his counsel are called absent without intimation, though notice was given to them vide order dated 08.01.2024 to appear and assist this Court, but they have chosen to remain absent today.

I have gone through the memo of the election appeal and grounds raised therein, which shows that the appellant has filed this election appeal because the Returning Officer/respondent No.1 did not provide any opportunity to clear his age issue; that the appellant is residing in the constituency of PS-103 since birth; and, he has right to participate in the ensuing elections as a candidate. The appellant claims that he needs the eligibility criteria as set forth under Articles 62 and 63 of the Constitution to contest the elections from the subject constituency; and that the act of respondent No.1 / Returning Officer is in contravention of the fundamental rights vested to the appellant. He, therefore, prayed for setting aside the impugned order dated 30.12.2023.

At the outset, the learned Law Officer present in Court on behalf of the Election Commission of Pakistan has waived notice due to paucity of time and states that the appellant is underage as his date of birth as per his CNIC number 42201-0633020-9 is 10.8.2000, thus he is not qualified to contest the elections in terms of Articles 62 and 63 of the Constitution of the Islamic Republic of Pakistan, 1973 as he has not attained the age of 25 years as required under the Constitution.

I have considered the submissions of the appellant as disclosed in the memo of Appeal and the record as produced before this Election Tribunal.

I begin by noting that the matter proceeded purely on the legal plane of whether the appellant can contest the Election 2024 being below the age of 25 years in terms of Articles 62 and 63 of the Constitution.

The Returning Officer's reasons are that the appellant was/is not of proper age (set at 25 by the Constitution) to contest the election at the time he filed his nomination papers. This meant that he was not qualified to contest the election for the PS 103 Karachi East-VII, as required by Article 62(1) (b) (read with Article 113).

A perusal of the impugned order shows that this is the sole allegation against the appellant considered by the Returning Officer who accepted it by rejecting his nomination papers on the aforesaid analogy. This fact is evident from the copy of his CNIC which has been produced along with a memo of appeal. According to the said CNIC date of birth of appellant is 10.8.2000. All this leads to an irresistible conclusion that as per the record of NADRA appellant was/is below the age of 25 years at the time of filing his nomination papers, as required under the Constitution. Because the appellant at the time of filing his nomination papers had an inherent defect of disqualification, therefore, he is not qualified to contest the ensuing Election. On the aforesaid proposition, reliance is placed on the cases of *Muhammad Salman Vs Naveed Anjum* **2021 SCMR 1675** and *Syed Mehmood Akhtar Naqvi v. Federation of Pakistan through Secretary Law and others* (**PLD 2012 SC 1054**).

In view of the aforesaid legal position, this Court is left with no option but to dismiss this election appeal, which is accordingly dismissed.

JUDGE