

IN THE HIGH COURT OF SINDH, AT KARACHI

PRESENT:-

**MR. JUSTICE AQEEL AHMED ABBASI
ACTING CHIEF JUSTICE.**

MR. JUSTICE ABDUL MOBEEN LAKHO

C.P. No. D-4831 of 2023

Petitioner	Abdul Rauf, CEO of Rauf Enterprises, through Mr. Irfan Ahmed Suriya, Advocate
Date of hearing	31.10.2023.
Date of order	31.10.2023.

ORDER

Abdul Mobeen Lakho, J. Through this Petition, the Petitioner has sought the following relief(s):

- (1) To declare the election of KCCI, held on 23.09.2023 for Managing Committee, conducted by the Election Commission, illegal, unfair, due to lacking transparency in the process, showing undue favor to the rival group's returned candidates, exercising influence over the polling staff, misbehaving with the petitioner and harassing his agents by threats. Hence set aside.
- (2) To declare further that in view of amendment in the Trade Organization Act, dated August, 2023, election for one year is technically in valid and a nullity, hence set aside on this ground also.
- (3) To direct the Election Commission to hold fresh elections in view of amendment in the Act for two years tenure, ensuring fair and transparent casting of votes strictly in accordance with rules.
- (4) To grant permanent injunction restraining the Election Commission and General Secretary of KCCI from assigning the returned candidates responsibilities and holding office as members of Managing Committee, till final disposal of the petition.

2. The brief facts of the case as narrated in the memo of petition are that the petitioner being CEO of Rauf Enterprises (Private Firm) participated in Elections of Karachi Chamber of Commerce & Industry (KCCI) held on 23.09.2023. The petitioner failed to secure a seat of Managing Committee. According to the petitioner, during Elections rigging took place inside the polling station/booths by the polling agents of rival group/candidates with the connivance of staff of KCCI, however, despite of moving application by the Petitioner to Election Commission and General Secretary did not respond to the grievances, therefore, the petitioner has filed this petition against the KCCI.

3. The Petitioner, besides rigging in the aforesaid Elections has also alleged that in view of the amendment through Trade Organization Amendment Bill, 2023, passed on 07.8.2023 the Elections of KCCI should have been held for two years instead of one year. According to the petitioner, amongst the 15 vacant seats, the Petitioner contested the KCCI Elections of Managing Committee held on 23.09.2023 for the year 2023-2024 scheduled of which was published on 11.07.2023 as Annexure-A to the Petition. The Petitioner not being declared as a Returned candidate, challenged the Election raising disputed factual question(s) regarding rigging and not extending the tenure of newly elected Managing Committee of KCCI.

4. It is settled principle of law that disputed questions requiring recording of evidence cannot be challenged under the writ jurisdiction; therefore, the Petitioner could have approached the Forum provided in para-17 of the Schedule, annexed with the Petition as Annexure-A mentioned in KCCI's Annual Elections 2023-24 dated 11.07.2023, which was published well before the Election were held. Para-17 of the Schedule is as under:

“Appeal to the Regulator by aggrieved candidate(s) if any, Any aggrieved person against the decision of EC, may file an appeal to the Regulator upto Thursday, 31.08.2023”

5. The Petition seems to be an afterthought as the petitioner could not be declared a successful candidate. Prima facie, no case is made out

against respondent (KCCI), as the petitioner has not placed on record such material to show any illegality on the part of the Respondents, therefore, instant petition is not maintainable under the law, whereas, petitioner had efficacious remedy to approach the concerned Forum provided in para-17 of the Election Schedule cited above.

6. In view of the above, we are also not inclined to entertain instant petition, which is accordingly dismissed in *limine*.

7. The above are the reasons of the short order passed on 31.10.2023 in the instant matter.

JUDGE

ACTING CHIEF JUSTICE