

ORDER SHEET
BEFORE THE ELECTION APPELLATE TRIBUNAL FOR SINDH AT SUKKUR
(Before Mr. Zulfiqar Ali Sangi)

Election appeal No.S-28 of 2024

Gul Hassan v Federation of Pakistan and others

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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For hearing of main case.

Date of hearing 09.01.2024

Date of decision 09.01.2024

Mr. Alam Sher Bozdar, Advocate for appellant

Mr. Zeeshan Hyder, Law Officer, Election Commission of Pakistan

Mr. Dareshani Ali Hyder 'Ada' DAG

Mr. Muhammad Umair Election Officer Sanghar representative of Election Commission of Pakistan

Mr. Muhammad Usman Arif Returning Officer PS-33 Naushehro Feroze-II

Mr. Afsar Jalbani, DC Inland Revenue Sukkur

Mr. Muhammad Yaqoob DC Inland Revenue Sukkur

ORDER

Zulfiqar Ali Sangi J;- Through this Election Appeal, the appellant has challenged the impugned order dated 30.12.2023, passed by the Returning Officer PS-33 Naushehro Feroze-II whereby nomination form of the appellant was rejected on the ground that he is defaulter of Income Tax Department. It is contended by learned counsel that against the penalty order appeal has been filed by appellant which was heard and reserved for orders by the Commissioner (Appels) Inland Revenue, Sukkur, RTO Sukkur. It is further contended that High Court of Sindh at Karachi has passed an restraining order for taking coercive action on such outstanding/penalty of the FBR and till the final decision of appeal, appellant is not deemed to be defaulter. Counsel for Election Commission and learned DAG are also of the same view. Counsel for appellant also placed on record no objection certificate of Afsar Ali Jalbani, Deputy Commissioner Inland Revenue Sukkur, who himself is present and verified that the same was issued by him. He has filed a statement which is re-produced as under:-

“I have the honour to submit that outstanding Tax Liability at Rs. 368410699/- is pending against Mr. Gul Hassan bearing Registration No. 4230106766555 as the record of FBR. The Honourable High Court of

Sindh at Karachi has granted stay in same case vide CP No. D-6443/2023 till 24.01.2024. Therefore, coercive action shall be taken as matter is sub-judice before Honourable High Court and **he is not considered as tax defaulter till 24.01.2024.”**

2. Since the Income Tax Department declared the appellant as non-defaulter and his appeal is pending adjudication before Commissioner (Appels) Inland Revenue, Sukkur, RTO Sukkur and as per the Returning Officer present there appears no other disqualification against the appellant. Under such circumstance, instant appeal is allowed. The order dated 30.12.2023 passed by Returning Officer is set-aside by accepting the nomination form of appellant. The Returning Officer is directed to include the name of appellant in the list of contesting candidates as provided under the law.

J U D G E