

**BEFORE THE ELECTION APPELLATE TRIBUNAL FOR SINDH AT SUKKUR**

Election appeal No.S-11 of 2024

Saadat Ali son of Irshad Ali by caste Dahri  
r/o Village Masurji Wah,  
Taluka and District Naushehro Feroze ----- Appellant

**V E R S U S**

1. Shah Nawaz son of Imam Bakhsh  
Adult, Muslim by caste Jatoi r/o Village New-Jatoi  
Taluka Moro, District Naushehro Feroze
2. The Returning Officer PS-35 Naushehro Feroze-IV  
Office of the Assistant Commissioner Moro
3. The Election Commission of Pakistan  
To be served through District Election Commissioner  
Naushehro Feroze  
----- Respondents

Mr. Nisar Ahmed Bhambhro and Mr. Sheraz Fazal,  
Advocates for appellant

Mr. Mureed Ali Shah, Advocate for respondent No.1

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 Mustaqem RO PS-35 Naushehro Feroze-IV

Date of hearing: 08.01.2024

Date of order: 10.01.2024

**ORDER**

**Zulfiqar Ali Sangi J:-** Through this Election Appeal, the appellant has challenged the impugned order dated 29.12.2023, passed by the Returning Officer PS-35 Naushehro Feroze-IV, whereby nomination form of the respondent No.1, was accepted mainly on the ground that the candidate has not declared the property viz agricultural land possess by his wife namely Amna and that the assets were increased such reasons for increased has not been shown by the candidate in the affidavit. Learned counsel for appellant also challenged the agricultural land showed by candidate in the nomination form by relying on the return based on self-assessment as per Agricultural Income Tax Rules, 2001 submitted by candidate along with the nomination form. Lastly he submit that respondent No.1, has filed false declaration, therefore the

nomination form may be rejected. Reliance is placed on the case of Nida Khuhro v. Moazam Ali Khan and others 2019 SCMR 1684.

2. Syed Mureed Ali Shah, Advocate files vakalatnama on behalf of respondent No.1 and filed statement along with certain document including the nomination form of one Ghulam Murtaza Khan son of Ghulam Mustafa Khan and contended that the disputed land which has not been declared by the respondent No.1, in his nomination form belongs to his father-in-law who purchased the same in the name of his daughter Amna (wife of respondent No.1) in the year 2008 and 2011 and at the time when she was un-married and subsequently was married in the year 2021. He next contended that the said land had declared by the father-in-law of the respondent No.1, in the FBR returns so also in the nomination form and the affidavit submitted by him for the General Election 2024 to be his own property purchased in the name of her daughter Amna (wife of respondent No.1).

3. Learned counsel for Election Commission and learned DAG by filling para-wife comments of Returning Officer have supported the impugned order and prayed that the appeal may be dismissed.

4. Heard and perused.

5. From perusal of the documents produced by counsel for respondent No.1, viz nomination form and affidavit attached thereto so also the copy of returns of FBR reflects that the disputed property in the name of Amna has been declared by her father to be his own purchased in her name and the documents so produced by appellant on assessment disclosed that the same agricultural land was purchased in the year 2008 and 2011 in the name of Amna (wife of respondent No.1) when she was unmarried and her marriage was performed in the 2021 with the respondent No.1, which has not been denied by the appellant side and the declaration by her father in his nomination form and the affidavit attached thereto has also not been rebutted. The increase and decrease of assets is a natural for which no provision is provided to disclose as to wherefrom the same were increased. No any evidence has been brought on record by the appellant that the increase or decrease in the assets is illegal or a result of any mal-practice. No any proof in respect of taking

benefit from the land by the wife of respondent No.1, has been produced by the appellant. The case relied upon by learned counsel for appellant is on some distinguishable circumstances as in that case the property which was not declared by Moazam Ali Khan to be of his own, however there was no denial of the fact that the Government has acquired the same land and the compensation determined by the Land Acquisition Collector was received by the said Moazam Ali Khan. It is observed that the appeal is to be decided summarily in view of Section 63 (2) of the Election Act, 2017 as the Election Tribunal has been constituted for a limited purpose in terms of Section 63 of Election Act, 2017 and is not an Election Tribunal form in terms of Section 140 of the Election Act, 2017. The difference is to be kept in mind, as any order of Election Tribunal in respect of allegation and, acceptance of nomination form cannot be equated with an order or decision/judgment of Election Tribunal constituted in Terms of Section 140 of the aforesaid Act, for deciding the Election Petition. Under these circumstances, when the same property has been declared by the father-in-law of the respondent No.1, to be his own, who is enjoying its possession and taking produce of the same so also paying all relevant taxes, the candidate/respondent No.1, cannot be declared to be disqualified on this score.

6. In the light of above, the returning officer has rightly accepted the nomination form of respondent No.1, and the order passed by Returning Officer is hereby maintained. The appeal stands dismissed.

**J U D G E**