

ORDER SHEET  
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR  
C.P No.D-52 of 2024

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Date	Order with signature of Judge
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1. For orders on office objections
2. For hearing of main case.

**16.01.2024**

Petitioner Muhammad Suleman in person  
Mr. Dareshani Ali Haider 'Ada', DAG  
Mr. Zeeshan Haider Qureshi, Law Officer, ECP  
Mr. Ali Raza Balouch, AAG

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**ARBAB ALI HAKRO, J:** Through instant petition under Article 199 of Constitution of Islamic Republic of Pakistan, 1973, the petitioner has prayed to set-aside the impugned order dated 08.01.2024, passed by Election Appellate Tribunal for Sindh at Sukkur, in Election Appeal No.S-23 of 2024 (re-Muhammad Suleman vs. Federation of Pakistan and others), whereby Election Appeal has been dismissed and the order of Returning Officer NA-204, District Khairpur, has been maintained, and the petitioner has been non-suited to contest the election-2024 for NA-204, which is scheduled to take place on **08.02.2024**, on the ground that he is defaulter of Sukkur Electricity Power Company (SEPCO).

We have heard learned Counsel for the parties, perused the record and also examine the relevant election laws and rules.

The first argument of the petitioner is that he has challenged the monthly electricity bill of SEPCO for the month of September, 2023 amounting to Rs.246412/- before the Consumer Protection Court, Khairpur, under Consumer Claim No.07 of 2023 for declaration to the effect that the bill issued by SEPCO is illegal, null and void in the eyes of law and same is not binding upon him and liable to be waived and such application in this regard is still pending adjudication.

A Perusal of order shows that nomination form of the petitioner has been rejected by Returning Officer and Election Tribunal. The main ground for rejection of form is under Article 63 (1)

(O) of the Constitution of Islamic Republic of Pakistan, 1973, under which disqualification of membership of Majlis-e-Shoora (Parliament) is with regard to default in payment of utility bills including electricity for over six months at the time of filing of nomination paper.

We have also examined Section 62(9)(ii), (10) & (11) which requires Returning Officer to allow the candidate to remove the defect, which is not substantial one. In the instant case, petitioner was disallowed to contest the election by Returning Officer without attending to scheme under Section 62(10) of the Election Act, which provides an opportunity to the candidate to make good of the default, and become eligible for contesting election, and summarily rejected the nomination papers. We have seen the record and are of the considered view that, in principle, the petitioner has challenged electricity bill of SEPCO before the Consumer Court, which is not denied and hence the amount has become disputed. It cannot be said authentically what amount, the petitioner is defaulter of, therefore. The default as defined in black law dictionary is "*The omission or failure to perform a legal or contractual duty; esp., the failure to pay the debt when due.*".

However, learned Law Officer for Election Commission of Pakistan, argued that petitioner is a defaulter in payment of electricity bill and his form was rightly rejected by the Returning Officer and Election Tribunal as well.

Keeping in view of above factual as well as legal position of the case, we are of the considered view that actual amount is yet to be figured out after adjudication of the claim of petitioner pending before the Consumer Court, so at this stage in summary inquiry, he cannot be declared as defaulter *stricto sensu* in view of Article 63 (1) (O). Therefore, petitioner is found eligible to contest the election subject to payment of disputed alleged amount of bill (SEPCO) before the Consumer Court under Claim No.07 of 2023 and production of its receipt before the Returning Officer, for the reasons that prima facie

all the questions about default of petitioner raised by the Respondents would be attended only after the decision of Consumer Court under which the disputed electricity bill of SEPCO is challenged. Accordingly, if petitioner deposits the said amount before the Consumer Court within two (02) days, the Returning Officer concerned is directed to accept the nomination of the petitioner under the law.

Instant petition is hereby **allowed** in the aforesaid terms.

JUDGE

Faisal Mumtaz/PS

JUDGE