

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.
C. P. No.D-1152 of 2015

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
22.10.2015.	

For Katcha Peshi.

Mr. Manzoor Hussain Khoso, advocate for the petitioner.

Mr. Abdul Hamid Bhurgri, Addl. A.G and Mr. Munawar Ali Abbasi, Asst. A.G.

Mr. Mushtaque Ahmed Kourejo, Standing Counsel.

Mr. Khadim Hussain Khooharo, D.P.G.

For the reasons to be recorded later-on, instant petition is accepted. Accordingly, nomination form of petitioner is accepted. Returning Officer shall proceed further by placing the name of petitioner in required forms and he shall be allowed to contest the election by allotting symbol.



**IN THE HIGH COURT OF SINDH CIRCUIT COURT
LARKANA.**

Const. Petition No.D-1152/2015.
For Katcha Peshi.

Mr. Manzoor Hussain Khoso, Advocate for petitioner.
Mr. Abdul Hamid Bhurgri Addl.A.G.
Mr. Mushtaq Ahmed Kourejo Standing Council.
Mr. Khadim Hussain Khooharo D.P.G.

Syed Saeed-ud-din Nasir,-J, Through the instant petition, the petitioner has assailed his rejection of nomination Form by Returning Officer, for contesting the election of General Counselor from Union Council Kandi Chukhi Taluka Khairpur Nathan Shah District Dadu as well as the order dated 2.10.2015 of learned District Judge/Appellate Election Tribunal Dadu, whereby his Election Appeal was not entertained and dismissed due to non-production of certified copy of nomination form and order of Returning Officer, with the following prayer:-

“a) To call record and proceedings of the learned Returning Officer U.C Kandi Taluka K.N Shah and declare his act by not issuing/supplying copy of impugned order dated 30.09.2015.

b) To direct the District Election Commission of District Dadu to extend the date of nomination of form and period of Appeal till the operation of election in U.C Kandi Chukhi Taluka K.N Shah District Dadu be stayed.

c) Anyt other relief this Honourable Court deems fit and proper under the circumstances of the case.”

1- The learned counsel for the petitioner has contended that the nomination form of the petitioner was rejected by the Returning Officer on the ground that the petitioner is involved in criminal cases, whereas the petitioner has been acquitted from the cases. He has further contended that the opposite ~~group~~ of the petitioner got published a notice in newspaper regarding the affiliation/connection of the petitioner a

65

“Defunct Organization” but the petitioner has no concern whatsoever with the said Organization. He has also submitted that the petitioner is neither a convict nor has acted contrary to law. He stressed upon his arguments that the petitioner was verbally informed by the returning Officer that since he is involved in criminal cases, therefore, his form is being rejected, otherwise there was no ground before the Returning Officer to reject the Nomination form of the petitioner.

2- Conversely, the learned Addl.A.G, Standing Counsel as well as learned D.P.G though opposed this petition but they were not in a position to controvert the averments made by the learned counsel for the petitioner.

3- We have heard the learned counsel for the parties and perused the record made available before us.

4- From the perusal of record it *shows* that the Returning Officer did not pass any order on the Nomination form of the petitioner in either way, as such, the petitioner was unable to produce the order of Returning Officer, hence the order of learned District Judge/Appellate Election Tribunal is not sustainable in law. So far the involvement of the petitioner in criminal cases is concerned, it is not a ground for rejection of Nomination form of the petitioner, because it is well settled principle of law that mere involvement of a person does not make him disqualify to contest the election until and unless he is convicted in a criminal case. In the instant case, the petitioner has been acquitted from the case vide judgment dated 13.10.2014, thus his nomination form was wrongly and illegally rejected by the Returning Officer.

5- In view of the above facts and circumstances, we have allowed this petition by short order dated 22.10.2015 and these are the reasons for the same.