

75
23

ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Constt. Petition No. D- 890 of 2016.

Date of hearing	Order with signature of Judge
24.08.2016.	

1. For Katcha Peshi.
2. For hearing of M.A. No. 4020/2016.

Mr. Riaz Hussain Khoso, Advocate for petitioner.
Mr. Ashfaq Hussain Abro, Advocate for respondent No.1.
Mr. Nisar Ahmed G. Abro, D.A.G.

~~~~~

Through instant Constitutional petition, the petitioner has assailed the Order, dated 13.8.2016 passed by the learned District and Sessions Judge, Shikarpur/Election Appellate Authority, District Shikarpur in Election Appeal No.23/2016, whereby the order passed by the Returning Officer for Town Committee Madeji, accepting the nomination of respondent No.1 as Chairman, Town Committee Madeji, District Shikarpur has been maintained.

2. Learned counsel for the petitioner submits that the respondent No.1 is running a petrol pump with name and style of Bhitai Petrol Pump within the territorial jurisdiction of Town Committee, Madeji and he is under contract with the Town Municipal Administration, Garhi Yasin for supply petrol and diesel, therefore, in terms of clause (i) of Subsection (1) of Section 36 of the Sindh Local Government Act, 2013 (hereinafter referred as the "Act of 2013"), the respondent No.1 does not qualify to contest the election to the seat of Chairman, Town Committee Madeji, as the respondent No.1 has direct pecuniary interest in the affairs of Town Committee, Madeji, therefore, the order impugned is illegal, which is liable to be set aside and in result thereof the nomination form of the respondent No.1 is liable to be rejected.

3. On the other hand learned counsel for the respondent No.1 admitting the fact that the respondent No.1 is running a petrol pump within the territorial area of Town Committee Madeji submits that the



respondent No.1 is neither under any contract with Town Committee Madeji to supply petrol or any other oil product to said Town Committee nor he has any pecuniary interest in the affairs of said Town Committee. He added that officials of Town Committee Garhi Yasin used to purchase fuel for the vehicles of said Town Committee, but not under any contract, when urban area of Madeji was part of Town Committee, Garhi Yasin, however the respondent No.1 is neither under any contract nor he ever supplied any goods to Town Committee Madeji, as such, the provisions of clause (i) of Subsection (1) of Section 36 of the Act 2013 are not applicable to the candidature of the respondent No.1, therefore, the lower authorities rightly rejected the objections and appeal of the petitioner.

4. Learned D.A.G has fully supported the impugned order and submits that the same has been passed by the lower authority after going through the facts in the light of the applicable laws.

5. We have heard the learned counsel for the parties and perused the material available on record.

6. Clause (i) of Subsection (1) of Section 36 of the Sindh Local Government Act, 2013, provides that a person shall be disqualified from being elected/chosen and from being a member of the council, if he is under contract for work to be done or goods to be supplied to a council or has otherwise any direct pecuniary interest in its affairs.

7. In the instant case it is an admitted position that the respondent No.1 is contesting election from Town Committee Madeji, which has been declared as "Town Committee" after bifurcating Town Committee Garhi Yasin by the Govt. of Sindh under the Act of 2013. The bill annexed to the petition (page 35 of memo of petition) pertains to Town Committee Garhi Yasin. The petitioner has not produced any contract showing that the respondent No.1 is supplying any goods to Union Council Madeji or by any means he has any direct pecuniary interest in its affairs. We therefore, do not find any illegality or



(2)

irregularity in the impugned order passed by the lower authority; this petition for the aforesaid reasons is hereby dismissed.

  
Judge

  
Judge