

ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Constt. Petition No. D- 1087 of 2015.

Date of hearing 22.10.2015.	Order with signature of Judge
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For Katcha Peshi.


Mr. Shamasuddin Abbasi, Advocate for petitioner.
Mr. Abdul Hamid Bhurgri, Addl. A.G.
Mr. Mushtaq Ahmed Korejo, Standing Counsel for DAG.
M/S Ashfaque Hussain Abro, and Habibullah Ghouri, Advocates for
respondent No.5.
Mr. Muhammad Afzal Jagirani, Advocate for respondent No.6.

Syed Saeed-u-ddin Nasir, J.- Through instant constitutional petition, the petitioner impugns the validity of order dated 18.09.2015, whereby the respondent No.4 (Returning Officer U.C Dadar) accepted nomination papers of respondent No.5, with the following prayers:

- a) That, this Court may graciously be pleased to reject the nomination papers of respondent No.5 on account of his dishonest and illegal actions in the wake of having 02 CNICs with different names and 02 votes in same locality and being defaulter of SEPCO of Rs.53,818/-.
- b) Award costs to the petitioner.
- c) Any other equitable relief be granted to the petitioner.

The brief facts of the case are that the respondent No.5 filed nomination for contesting upcoming Local Bodies Elections 2015 as Vice Chairman from U.C No.9, Dadar with one Asghar Ali, who was impleaded as necessary party the respondent No.6 vide; Order dated 15.10.2015 after filing the petition.

The main grievance of the petitioner is that the respondent No.5 is having 2 CNICs with two different numbers and having two vote certificates; that the respondent No.5 has filed nomination paper disclosing his name bearing as Muhammad, whereas in other CNIC the respondent NO.5's name is disclosed as Firdos Chachar s/o Jamaluddin,



and such facts have been concealed. On 01.10.2015 and the respondent No.5 is defaulter of SEPCO in the sum of Rs.53,818/-. The petitioner's counsel was directed to satisfy this court with regard to the maintainability of the instant petition on account of the fact that the petitioner neither raised any objection before the Returning Officer at the time of scrutiny of nomination papers of the respondent No.5, nor did he file any appeal against the acceptance of nomination papers of respondent No.5 by the Returning Officer, before the Appellate authority and directly approached this court.

4. The learned counsel for the petitioner has inter alia argued that as per law laid down in Sindh Local Government Act, 2013, any person who is defaulter of Govt. institutions cannot contest the Local Bodies elections and his nomination papers are liable to be rejected, therefore, the nomination papers of respondent No.5 are also liable to be rejected, inasmuch as he is defaulter of SEPCO in the sum of Rs.53,818/- ; that the respondent No.5 is having two CNICs with different names and numbers viz CNIC No. 43103-9049238-3 is registered in the name of Muhammad Firdos Chachar s/o Jamaluddin and CNIC No. 43103-6687630-9 is registered in the name of Muhammad S/o Jamaluddin. It is also submitted that respondent No.1 is also having 02 vote certificates viz. (1) At. S.No. 126, Family No.66 available in the name of Muhammad Firdos Chachar while (2) At S.No.414, Family No. 197 available in the name of Muhammad. It is also submitted that respondent No.1 has filed his nomination paper as Muhammad though having 02 CNICs with different names and votes and such fact has been concealed by him; that as per Articles 62 and 63 of the Constitution of Islamic Republic of Pakistan, 1973, the respondent No.5 is dishonest person and not trustworthy because of the aforesaid facts and therefore, his nomination paper is liable to rejected.

5. Controverting the arguments of learned counsel for the petitioner, Mr. Habibullah G. Ghori advocate has vehemently argued inter alia that the electricity bill produced by the petitioner as annexure "A" to the petition appearing at page No.11 of the file in the name of one Molvi Jamaluddin Shikarpur Road, Kandhkot, does not concern the respondent No.5, and he is not liable to pay the same; the petitioner is not residing with his father, therefore, he is not liable to pay the liabilities of his father assuming for the sake of arguments that the electricity bill is in the name of his father.

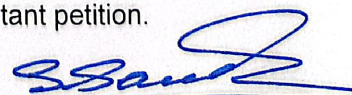
6. The learned counsel for the respondent No.5 has vehemently argued that there is only one CNIC that the respondent No.5 holds bearing No. 43103-6687630-9. The learned counsel has also produced the previous identity card, which bears the same number as the new CNIC. Mr. Mushtaque Ahmed Korejo, the learned counsel appearing for the Federal Government and NADRA has also endorsed arguments advanced by the learned counsel for the respondent No.5 and has categorically stated that the respondent No.5 holds only one CNIC as aforesaid.

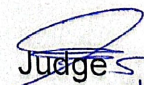
7. We have heard the learned counsel for the parties and perused the material available on the record of the case. It is an admitted position that the respondent No.5 holds only one CNIC, which has been verified by the Standing Counsel appearing on behalf of NADRA authorities, the learned counsel for the respondent No.5 has also produced the old and new CNICs of the respondent No.5, which bear the same number. The electricity bill produced by the petitioner as aforesaid is not in the name of the petitioner and is in the name of one Molvi Jamaluddin.

8. Turning now to the question of maintainability of the instant petition, the learned counsel for the petitioner has miserably failed to satisfy us as to why he did not avail the opportunity of filing objections against the nomination of the respondent No.5 before the Returning Officer, and once the nomination papers were accepted, why he failed to prefer an appeal before the Appellate Authority against the acceptance of nomination papers by the Returning Officer, and directly approached this court without availing the alternate remedies available to him as aforesaid.

9. For the aforesaid reasons, we are of the considered view that since the petitioner did not avail alternate remedies available to him under the law, the instant petition is not maintainable and the same is liable to be dismissed.

Above are the reasons of the short order announced in the open court on 22.10.2015, whereby we dismissed the instant petition.


Judge


Judge
29/10/2015