

ORDER-SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Constt. Petition No. D- 1135 of 2015.

Date of hearing	Order with signature of Judge
15.10.2015.	

Mr. Sajid Hassan Mahessar, Advocate for petitioner

Mr. Abdul Hamid Bhurgri, Addl. A.G.

Mr. Mushtaq Ahmed Korejo, Standing Counsel.

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Through instant petition, the petitioner has prayed as follows:-

- a) *to declare that the impugned order dated 29.9.2015 passed by Appellate Authority Local government Election 2015 is illegal, unjustified, violative of the constitution of Pakistan, 1973 and the Act, 2013 and same is liable to be set-aside;*
- b) *to declare that the petitioner is eligible to contest in the upcoming Local Bodies Elections 2015 and hi form may kindly be accepted;*
- c) *any other...*
- d) *award...*

2. The facts, describing necessary back-ground, are that petitioner filed his nomination form for General Member from W.No.1 UC Jean Abro Taluka Kamber which was rejected on ground that seconder belongs to another ward. The petitioner preferred appeal but same also met with same fate.


3. Learned counsel for petitioner argued that proposer and seconder of petitioner are resident of same area where petitioner is residing and change of vote of proposer of petitioner was not in active knowledge of petitioner therefore, petitioner be not penalized for such omission when the Rule 16(2), dealing with subscribing by proposer an seconder, is with may.

3. Before proceeding further, it is material to mention here that delimitation process continued upto July 2015; electoral process continued upto 28<sup>th</sup> August 2015 and since none has come forward to deny that proposer of petitioner is residing in same area where-from petitioner has filed nomination paper, thereof, therefore, the plea of bonafide mistake cannot be brushed aside as a whole. Continuity of electoral process, causing continuous changes without active notice/knowledge, be not taken as 'penal' when otherwise bonafide appears on part of victim. The AAG and DAG, when confronted with this aspect, conceded to it.

4. In view of specific plea, fitting in peculiar circumstances of instant matter, the petition was accepted by short order dated 15.10.2015.



Judge

  
 Judge 26/10/2015

For orders on Report dt 23-10-15  
 filed by returning officer Kamber

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01.12.2016

None present for the petitioners. The report is taken on record. No further orders are required.

